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CONTENTS

Draft international covenants on human rights and measures of implementation: part II of the draft covenant contained in the report of the seventh session of the Commission (E/1952, annex I annex III, section A: E/CN.4/528, E/CN.4/528/Rev.1, E/CN.4/L.125, E/CN.4/L.144/Rev.1, E/CN.4/L.156/Rev.1) (continued): article 14 (continued)

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<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. HISOT	Belgium
	Mr. VALDEZUELA	Chile
	Mr. CHENG FACHIAN	China
	Mr. GECRIAL	Egypt
	Mr. CASSIN	France

Members (continued)

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Mrs. KUSTA	India
Mr. AYKUL	Lebanon
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Mr. RYBUL	Rumania
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Mr. KUMZWA	Union of Soviet Socialist Republics
Mr. LOPEZ	United Kingdom of Great Britain and Northern Ireland
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International Confederation of Free Trade Unions (ICFTU)

Category B: Mrs. ALTA
Mrs. G. FINESEY }

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Mr. FANNI

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International Federation of University Women

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World Union for Progressive Judaism

Miss GARDNER

World Union of Catholic Women's Organizations

Secretariat:

Mr. LIS

Division of Human Rights

Mr. LIS

Secretaries of the Commission

Miss KITCHEN

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:
PART II OF THE DRAFT COVENANT CONTAINED IN THE REPORT OF THE SEVENTH SESSION OF
THE COMMISSION (E/1992, annex I and annex III, section A; E/CN.4/520,
E/CN.4/528/Add.1, E/CN.4/L.125, E/CN.4/L.144/Rev.1, E/CN.4/L.156/Rev.1)
(continued)

Article 14 (continued)

Mr. CHENG PAOMAN (China) said that article 14 had two purposes: to guarantee freedom of information, which meant the right to hold opinion, to express opinion, and to seek, receive and impart information; and to prevent abuses of that freedom.

The limitations placed on freedom of information should not go beyond the bounds of respect for the privacy of individuals, prevention of incitement to public disorder and prevention of disruption of friendly relations between States, and even such limitations should be exercised with the utmost discretion. The privacy of individuals must, however, be protected against the kind of invasion which tended to debase them. Thus in those parts of China temporarily under communist-control millions had been forced under the guise of self-criticism to reveal their past economic and social beliefs, and the revelations had later been used in evidence against them; they had not even been accorded the freedom of silence.

Freedom of information in the western world was still a luxury enjoyed by a few countries only. Weak and unstable governments could not afford it, lest they be overthrown; totalitarian governments had suppressed it entirely. Responsible leaders in free countries must recognize that the unwise use of freedom of information could lead to its own destruction, and that using the various media of information to create prejudice, intolerance and disrespect for the social order and political institutions of other States, particularly with a view to undermining the existing government, could be interpreted as an abuse of freedom of information.

It was obvious that limitations of that freedom should be imposed by persons engaged in information activities, in accordance with a code of their own, and that Governments should lay down only the broad general principles for emergency situations. As his delegation wanted a responsible press, which would promote social progress and friendly relations among States, it had no fear of self-imposed limitations, and would support the Egyptian and French amendments (E/1992, annex III, section A, and E/CN.4/L.156/Rev.1).

/Mr. WHITLAM

Mr. WITTELM (Australia) remarked that the Australian delegation was firmly opposed to placing any greater restrictions on freedom of information than were already contained in article 14. Recently, a nation-wide debate had been conducted in Australia in Parliament, in the Press, over the radio, and in public places on the subject of outlawing a political party; such a debate could not have taken place under the limitations on freedom of information proposed in some of the amendments to the Constitution. While he fully agreed that there was need for a responsible Press, he did not think that that result could be obtained by legislation limiting the areas of debate, as proposed by the Yugoslav and Egyptian representatives.

He was prepared to accept paragraph 1 of the United Kingdom amendment (E/TK.4/L.144/Rev.1) and either the French or the United Kingdom text, or possibly a composite of the two, for the following paragraph, since they avoided generalizations and provided relatively narrow limitations.

Mr. KOSCHENKO (Ukrainian Soviet Socialist Republic) recalled that the United States representative had objected to the USSR amendment (E/TK.4/L.125) on the grounds that subordinating freedom of information to the interests of democracy was a step backward; the best conclusion was that making freedom of information serve the interests of, say, freedom, would be a step forward.

In support of article 14, the Soviet delegation could be quoted by General Assembly resolutions 119 (II) and 127 (II), which contained recommendations or measures to be taken against propaganda and the incitement of a new war and on ensuring friendly relations among peoples by eliminating false or distorted reports. In spite of these resolutions, the United States delegation appeared to hold the view that freedom of information should not be restricted in any way. A Mississippi State law prohibited propaganda in favour of racial equality; perhaps the United States delegation was opposed to prohibiting propaganda of racial hatred because it shared that view.

He requested the United States representative's comparison between the Press of the United States and the USSR. Nowhere in the USSR Press were to be found articles inciting to war and to the extermination of peaceful populations such as appeared daily in the monopolistic Press of the United States,

operated by its owners entirely for profit and for the advancement of their own selfish interests -- a fact attested to by no less a person than President Truman in a campaign speech in 1948.

The Lebanese representative had said that if a State wanted to wage war, prohibition of war propaganda would not deter it from its purpose. Such a pessimistic attitude would serve as an encouragement to war propaganda; and it could not be taken with propriety by the United Nations, which had been created to prevent war.

Mr. WAHEED (Pakistan) thought that article 14 as drafted at the seventh session was carefully and judiciously worded; it was well-balanced, as it both established freedom of expression and information and laid down such limitations as were needed to prevent abuse. Most of the amendments to the article imposed additional limitations which were so broad that there could be no adequate guarantee of that freedom. Such restrictions were to be found in many penal codes, but were out of place in the covenant, and he would oppose all amendments which would vitiate rather than strengthen the principles set forth in article 14. He would, however, be prepared to support the French amendment (E/CN.4/L.156/Rev.1) if the French representative agreed to delete the words "liberties, restrictions and penalties" and "in a democratic society", as the wording would then be similar to that used in other articles.

Mr. BORATYNSKI (Poland) said that true freedom of the Press could exist only when the Press was owned by the people and operated in the interests of the people, as it was in his country. In the debate on article 14, statements were still being made in defence of unlimited freedom of information, in an attempt to distort the issues involved. Thus, the United States representative had asserted that the adoption of the USSR amendment would lead to the imposition of censorship and various other undesirable restrictions. Yet international agreements had been concluded in the past to prohibit the use of the press for immoral purposes, and the United States itself was a signatory of two conventions prohibiting the dissemination of obscene publications. He failed to see how the United States could consider such publications more dangerous than war propaganda, the incitement of hatred among the peoples, racial discrimination and the dissemination of slanderous rumours, or how it could consent to the

/suppression

suppression of the former but not of the latter. The United States found it possible to restrict freedom of the Press in the interests of national security, public order, health or morals, but not in the interests of preventing a new war. The question who would decide what was or was not war propaganda was equally answered: it was the same agency which would decide what was or was not dangerous to national security, public order, etc.

The USSR amendment would in no way prevent one people from criticising another. The Polish people expected no praise from the Head of State for their recent social and economic achievements; but there was a great difference, which he hoped the Commission would recognise, between honest criticism and incitement to war. An American journalist had recently published a plan to show American people how easily Poland could be conquered by the United States in the event of a new war; no such propaganda appeared in the Polish Press, which did not advocate the bombing of Washington or New York, or urge the people to demonstrate by arms the superiority of their social system over that of capitalist countries. The Polish delegation therefore felt that it had a right to ask the Commission to prohibit the exploitation of freedom of information and of the Press for immoral purposes, which endangered the very future of mankind. For those reasons, he would vote for the USSR amendment.

Mr. JAVORKVIC (Yugoslav) recalled that the French representative, in criticising his amendment, had implied that he was a visionary. The Yugoslav amendment was, on the contrary, based on bitter reality. His country, in a single lifetime, had endured four wars and two occupations; and in proposing the suppression of propaganda in favour of war, he was mindful of the Preamble of the Charter, which said that the peoples of the United Nations were determined to save succeeding generations from the scourge of war. The principles laid down in the Preamble were precisely the same as those contained in the Yugoslav amendment; and he did not think the French representative regarded the Charter as the work of visionaries. The Lebanese representative had thought the words "the establishment of unequal relations between peoples" vague; they were no more vague than the reference in the Charter to the equal rights of nations large and small. There was nothing in the Yugoslav amendment that was not already recognized in the Charter.

/In order

In order to dispel the doubts of the Greek and Australian representatives, he wished to repeat that the sole purpose of his amendment was to limit the restrictions contained in the existing text of article 14 by making them all directly subject to the purposes and principles of the United Nations.

Mr. STANSBURN (United States of America) observed all that the USSR representative had been able to state in reply to criticisms made by the United States delegation was that the USSR amendment (E/CH.4/L.11) did provide for freedom of information for a majority of the people. The United States delegation, however, believed that that freedom must be guaranteed to everyone, both to the majority and to any minorities there might be. The USSR amendment must be rejected because it was based upon a totalitarian view which had already been rejected in other United Nations organs. It would be short-sighted and dangerous to place specific curbs on journalists simply because some delegations claimed that certain foreign correspondents and newspapers had abused freedom of information. Article 14 should not be twisted into a punitive measure against journalists. The Commission realized, furthermore, that any curbs placed upon journalists would also apply to lawyers, artists, teachers and similar professionals, as article 14 dealt with all forms of expression. The covenant had never been intended to deal with the specific tasks of journalists. The Polish representative had frankly admitted that the authority which decided what constituted war propaganda would be the same as that which decided what might threaten national security, namely the government. With national security and the other limitations set out in the original text of paragraph 3 that function of government could be accepted; but, under the USSR amendment, such powers would be tantamount to complete control of the Press. The example of a State law in the United States cited by the Ukrainian representative was misleading. A more pertinent example was that of a law passed by the State of Illinois and held valid by a decision of the Supreme Court of the United States on 23 April 1952 making it unlawful to publish any matter that exposed any group to hatred and contempt on the grounds of race or colour. Such domestic legislation was highly desirable, but legislation against criminal libel was inappropriate in an international instrument, such as the covenant on human rights. The Egyptian amendment (E/1992, annex III, section A) seemed to be based upon justified

/resentment

resentment against the conduct of certain newspapers. Yet, the Commission's task was to promote greater freedom of expression, not its contraction. The maintenance of peace and good relations between States could best be promoted by the extension of the freedom of expression. The Egyptian representative had commented on the increasing responsibility of the American Press to promote good relations between States. The American Press was doing fine work in creating a better-informed public which itself would work for a better world. Thus, no new restrictions should be included in paragraph 3. The general limitations in the original text were fully adequate to protect the legitimate interests of the public.

The United States delegation would support the revised French amendment (E/CN.4/L.156/Rev.1) with a few drafting amendments. The word "limitations" should be substituted for the words "limitations, restrictions and penalties"; it adequately covered the meaning. The word "strictly" before "necessary" was perhaps not needed; if it was needed, it would have to be inserted where appropriate in other articles. The word "or" should be substituted for "and" in the list of limitations; otherwise, one limitation could not apply unless all the others did too, and that was certainly not intended. A separate vote should be taken on the words "in a democratic society", as they might give rise to confusion.

The revised United Kingdom amendment (E/CN.4/L.144/Rev.1) was an improvement over the initial draft since it omitted one limitation. The United States delegation would prefer the more general term "any other media" to "the medium of any lawfully operated devices". In the amendment to paragraph 3, the words "or crime" should be put to the vote separately, since there seemed to be no test for deciding what could be designated a crime by a State. The words "conditions and" should be put to the vote separately, since "limitations" seemed adequate. The two final restrictions were inappropriate in article 14 and should be omitted. The prevention of the disclosure of information received in confidence would compel a government to undertake to prevent the publication of any information received by its officials in the course of their duties, whereas normally the public was entitled to such information, except when it might endanger national security.

The CHAIRMAN, with the concurrence of the Commission, invited the representative of the International League for the Rights of Man, a non-governmental organization in category A, in consultative status, to address the Commission.

Mr. DEER (International League for the Rights of Man) said that his organization regarded article 14 as the keystone of both covenants and of the measures of implementation. Indeed, the covenants could have no real existence unless a clear-cut article was drafted to guarantee the broadest possible freedom of opinion and expression with the fewest possible limitations. That had been done in the American Bill of Rights, in the French Declaration of the Rights of Man and of the Citizen and in the Universal Declaration of Human Rights, and it could be done for the covenant. There was, however, some danger that the Commission, composed as it was of experts, might, as experts sometimes did, lose sight of basic realities when trying to elaborate the limitations. A limitation such as "national security" needed far closer definition. He could support the imposition of censorship in the interests of military secrecy in time of war, but there should be more latitude in peace time; otherwise, national security might be invoked to stifle any criticism of the head of a State. Admittedly, some limitations might be imposed by the state of a country's economy or by the policies of a newspaper's owners. Every journalist knew the difficulties to be encountered in finding a vehicle for the free expression of his opinion. Yet, a system which hampered free expression was preferable to a system in which the State permitted no freedom of expression whatever.

In any case, the distinction between the journalist and the citizen was fallacious. Journalists were not a separate category of human beings, but merely the agents of other people who could not obtain information at first hand and could not, for one reason or another, express themselves. The journalist had just as much right as anyone else to the freedom to hold an opinion and to express it or not as he wished. Journalists had always protested in the United Nations against any limitations to the freedom of expression. The real purpose of article 14 was simply to guarantee the right of freedom of expression to everyone. Unless there was such freedom of expression, the rights stated in the covenants would be nugatory and the measures of implementation valueless, since those whose rights had been violated would be unable to inform the world.

/Mr. VALENZUELA

Mr. VALENZUELA (Chile) observed that the discussion had turned mainly on the limitations to be imposed on freedom of information, and, in particular, on the Press, radio broadcasting, and the cinema. The representatives of the non-industrialized countries could not but wonder whether the whole debate was not purely academic. They had only to see how many newspapers, radio sets and cinemas there were in the world and where they were concentrated to realize that most of the world lived in silence, deprived almost entirely of any access to information. Only when that vast problem had been solved would it be of any use to discuss the relative merits of Pravda and the New York Times. In existing circumstances, the debate could not be expected to reach any conclusion and was merely moving further and further away from the real question raised by article 19, the right of the individual to freedom of opinion and expression. The discussion could have relevance only to countries in which the State controlled the Press. In other countries, the Press was an industry, so that not the individual but a corporation or limited company was concerned. In any case, the abstract individual journalist who strove to publish the full truth about events and the free expression of his opinion was merely a romantic figment of the Western imagination; the character did not exist in real life. If the State did not control the Press, the government could not be held responsible for what it printed. Thus, the whole debate was a waste of time and was simply bringing into the Commission on Human Rights the old battle which had been fought out so bitterly at the 1948 United Nations Conference on Freedom of Information in 1948. The Commission should concentrate on the modest aim of article 19 as they were now stated, simply the right to hold opinions and to express them through the very scanty media available to poor countries, and it should refrain from trying to solve political problems which did not concern it. The Chilean delegation would support the original text of article 19 since further limitations only invited censorship.

Mrs. RÖRSTEDT (Sweden) supported the United Kingdom amendment (E/CN.4/L.144/Rev.1), with the amendments proposed orally by the United States representative, since that coincided most closely with the Swedish delegation's views. If the United Kingdom amendment was rejected, she would support the French amendment (E/CN.4/L.145/Rev.1), but would prefer the phrase "in a democratic society" to be deleted or replaced by a reference to the United Nations Charter or to the Universal Declaration of Human Rights. She opposed all the other amendments.

Mr. BRATCO

Mr. RIACCO (Uruguay) said that his delegation had repeatedly and at considerable length expressed its view in favour of the broadest possible freedom of information and against any limitation on it. Its vote would be consistent with that stand.

Mr. AZKUL (Lebanon) had been misunderstood by the Ukrainian representative. He had meant that as between a situation in which some individuals preached war and others peace and a situation in which a State which wanted war wholly controlled the Press, the chances for peace were better in the former case, because if a State controlling the Press wanted war, nothing could prevent it from advocating it in print, whereas, in the latter situation, most people wanted peace and would therefore tend to listen to those who advocated it rather than to the newspapers. Thus, he was optimistic rather than pessimistic and thus, too, he was opposed to the control of the Press by the State.

He understood the terms borrowed from the Charter in the Yugoslav amendment (E/1992, annex III, section A) as well as the Yugoslav representative did, but they could not be left at the mercy of those who might be interested in interpreting them contrary to what was intended. Furthermore, those terms were used in Article 1 of the Charter to express the ideals of the United Nations, whereas in the Yugoslav amendment they were being used as limitations on freedom of information. To take them out of their original context would be dangerous.

Mr. CAJJIX (France) was unable to support the United Kingdom proposal for the deletion of paragraph 1 of article 14 which accorded the individual the essential right to hold opinions without interference.

The French delegation would not be in a position to vote in favour of the USSR proposal because of its conviction that any general restrictions would stifle freedom of the Press. For the same reasons, the United Kingdom proposal to replace paragraph 3 was unacceptable.

In connexion with topics relating to international relations, he pointed out that the experience of pre-war years had proved the danger of stifling criticism of other nations in the interest of maintaining peace and fostering friendly relations. Full freedom must be granted to draw

/attention

attention to all threats to the peace of an internal or external character. The French delegation was unable to accept paragraph 1 or paragraph 2 of the United Kingdom proposal which contained a detailed and restrictive enumeration.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the discussion of article 14 had served to make plain that the United States and others were unwilling to implement General Assembly resolution 119 (II) condemning incitement to war. A disgraceful campaign of war propaganda had been unleashed in the United States Press and was exemplified by the issue of Collier's of 25 October 1951, by an article by Mr. Hugh Baillie, the head of United Press, asserting that atomic bombardment was, in certain circumstances, a "humane" method of warfare, and by articles advocating the bombing of Warsaw and favouring the use of bacterial warfare. Without entering into the question of the prohibition of the publication of such items, he was certain that the United States delegation would not even be prepared to express public condemnation of such articles because the United States Government was dominated by the very group which controlled the American Press. It was significant to note, in contrast, that newspapers published in the Soviet Union contained no articles inciting to war.

When the USSR called upon the Commission to prohibit war propaganda, it was told that such a limitation was unacceptable because it would stifle the Press. Despite the contention that it opposed restrictions on the Press, the United States was one of the delegations which had voted in favour of paragraph 3 of article 14 providing for limitations which were more comprehensive than the four restrictions contained in the USSR proposal. In addition it was interesting to note that the legal codes of many countries reflected the restrictions set forth in the USSR text.

It must be made clear that the final USSR restriction would prohibit the dissemination of slanderous rumours only and would not authorize the withholding of news to which given authorities or groups objected. Thus the USSR proposal provided specific limitations while paragraph 3 would cover almost any restriction. The United States which claimed to be the champion

of freedom of the Press was thus revealed as the advocate of increased international tension, war, propaganda and hatred, and of curbs on freedom in order to protect the interests of monopolies and big business. It would however be unsuccessful in its manoeuvre to distort the truth of the USSR position prohibiting the use of freedom of the Press for war propaganda.

Mrs. MEHTA (India) noted that both paragraph 2 of the original article and of the United Kingdom text placed restrictions only on the right to seek, receive and impart information. She asked whether it was the intention of the United Kingdom that there should be no limitation on the right of expression. If that were the case, everyone would have the right to slander and the person slandered would have no redress. The law of defamation would then be inconsistent with the article if no limitation was introduced.

Mr. HOWE (United Kingdom) said that the United Kingdom, as one of a group of West European countries, approached the problem of freedom of expression in the light of its history and tradition. Because it was an essential concomitant of a free democracy, freedom of the Press was most jealously guarded and any proposals to restrict it were strongly opposed.

In its proposal, the United Kingdom attempted to follow the general lines of article 14 which had been accepted and proposed categories of limitation that experience and practice had proved necessary. While it was true that it was difficult to formulate restrictions without permitting abuse, the United Kingdom had sought within the limits possible to formulate the restrictions as narrowly and precisely as possible.

The United Kingdom delegation objected to the Yugoslav and USSR proposals because the restrictions it considered necessary were not specifically included but were replaced by a general statement of criteria which, though unexceptionable in themselves, were unsuitable as restrictions on the Press. Each of the terms was open to differences of opinion and to divergent interpretation. Unlike the elements in the United Kingdom formulation which were familiar to the courts and generally applicable to all individuals, the vague criteria proposed by the USSR were new and had never served as guides for the application of legal sanction. In his opinion the aims

/sought

sought by the USSR could best be achieved by improving the general level and standards of the Press in a democratic society.

The United Kingdom had issued a revision of its amendment (E/CN.4/L.144/Rev.1) in the light of the Greek representative's criticism that the original United Kingdom text provided possible restrictions on freedom to hold opinion. In order to make it clear that that was not the intention the United Kingdom had altered the first part of its second paragraph in accordance with paragraph 5 of the present text of article 14.

In reply to the representative of India, he said that in his opinion nothing had been omitted in the revised United Kingdom amendment. Two points were involved: freedom to hold opinions and freedom to impart and receive information. It was his view that freedom of expression would fall under the second heading. He would however be prepared to consider the point further if it was felt that something had been omitted.

In deference to criticism, he had also made other slight changes in his amendment. He had introduced the expression "conditions and limitations" but agreed to a separate vote on it. He had dropped the reference to "territorial integrity" but had been unable to find a better expression than "prevention of disorder" instead of "public order". In his opinion the words "or crime" were essential although he realized the difficulties of some delegations and consented to a separate vote on them. In addition he had retained the last two provisions because he was not satisfied that those two general classes admitted in the law of most countries would be covered by the preceding provisions of his text.

Referring to the revised French amendment, he stated that a separate vote on the words "in a democratic society" would be desirable because he considered it unwise to include words which were capable of such different interpretations.

Mr. GEORBAL (Egypt) concurred in the views of the representative of the International League for the Rights of Man and noted that it was true that the journalist, being the agent of the public, had a duty to educate the public. But the public also had a right to receive accurate information and not to have its mind distorted. Lack of understanding and misunderstanding among peoples must be remedied to ensure world peace.

/No disagreed

He disagreed to some extent with the representative of Lebanon who had said that the purposes and principles of the United Nations were more ideals and should not be used as limitations to freedom of information. He wondered how those ideals could be achieved if the most influential power in any country was free to work against the purposes and principles of the United Nations.

He wished to make it clear that the Egyptian delegation's criticism of United States newspapers should not be interpreted as a criticism of all American newspapers. Some American newspapers were performing valuable educational work but unfortunately others were using information to distort the truth and to do great harm. With that concern in mind, the Egyptian delegation had submitted its amendments to article 14.

Mr. YROU (Greece) referred to his statement at the preceding meeting favouring the retention of the original text of article 14. The statement of the representative of the International League for the Rights of Man had confirmed his position in favour of freedom of the Press on as broad a scale as possible.

Referring to the USSR contention that his amendment was an improvement because it contained only four limitations, he indicated that the last of those limitations would in itself open the door to interference of all kinds.

The Greek delegation considered that the revised French amendment greatly improved the original text of paragraph 3 of article 14 and would therefore vote in favour of the new French proposal.

It felt however that the United States sub-amendment to replace the words "liabilities, restrictions and penalties" by the word "limitations" would be psychologically unwise. The French text was preferable because it made clear that the intention was to limit abuse rather than to limit exercise of freedom of the Press.

The meeting rose at 1 p.m.