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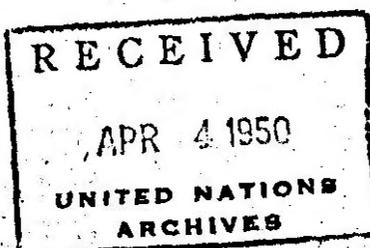
SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS

Fourth session

ADDITIONAL INFORMATION PROVIDED BY GOVERNMENTS
ON THE QUESTIONS ASKED IN THE REQUEST FOR INFORMATION
BASED ON THE AGENDA OF THE UNITED NATIONS CONFERENCE
ON FREEDOM OF INFORMATION

H A I T I

(Reply to the request for information based upon the provisional agenda of the Conference and transmitted to Governments in accordance with the resolution of the Economic and Social Council of 15 August 1947 (Document E/573, resolution 74 (V)).)



/(b) Does your

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(b) Does your Government maintain an information service which makes regular releases or provides information and documentation of any kind either free or for sale?

Yes. The Information, Press and Propaganda Service. For Sale.

(ii) Does your Government maintain any news agencies?

No.

(iii) Does your Government subsidize or in any way assist any news agencies or other enterprises in the field of information?

Yes, newspapers.

(iv) Does your Government own shares in or lend funds to private enterprises in the field of information?

No.

(v) Does your Government publish newspapers?

Yes, the "MONITEUR", a bi-weekly official publication.

(vi) Does your Government make official broadcasts?

Yes, through the "Voice of the Republic of HAITI", which transmits a daily programme.

(vii) Does your Government produce newsreels for public exhibition?

No.

(viii) Does your Government make its information services available only to domestic users, to foreign users or to both on equal terms?

To both, with priority to domestic users.

(c) Governments are invited to provide answers to the following questions:

(i) What conditions govern the establishment of a newspaper, news periodical, radio broadcasting station, or newsreel enterprise?

The Department of the Interior is notified.

(ii) What form of control, if any, exists covering the investment of capital in information enterprises, such as inquiry into the source of capital, publication of the source of capital, prohibition or limitation of foreign capital, or limitation of the proportion of capital invested which may be held by the individual or group?

None.

/(iii) What

(iii) What regulations, if any, exist concerning the ownership, control and administration of public or private enterprises in the field of information?

None.

(d) Governments are invited to provide answers to the following questions:

(i) To what extent, if any, and on what grounds does the law of your country provide for the suspension or suppression of media of information?

Whenever they engage in activities subversive of public order and likely to endanger the security of the State.

(ii) What body or authority is competent to suspend or suppress?

The Department of the Interior.

(iii) What is the procedure followed by this authority?

A notice published in the Press and by radio.

(iv) What provisions, if any, exist for administrative and judicial review?

Such review is possible to the extent permitted by Article 27 of the Constitution.

MEASURES TO FACILITATE THE GATHERING OF INFORMATION

3. Governments are invited to provide information about:

(a) Their law and practice governing the entry, residence, movement and travel of news personnel.

The press pass which is distributed to newspapers is the sole measure of control.

(b) Their experience, if any, in the use of international professional cards for news personnel.

None.

(c) Their law and practice, if any, governing the expulsion of news personnel.

None.

(d) Any special laws, regulations or practices, applying to or affecting foreign news personnel.

None.

MEASURES TO FACILITATE THE INTERNATIONAL TRANSMISSION OF INFORMATION

4. Governments are invited to provide information concerning:

/(a) The law

(a) The law and practice of any existing censorship.

None.

(b) To what extent there has been relaxation of censorship since the termination of hostilities in World War II, and how the present situation compares with pre-war peacetime censorship?

There has been no censorship since the end of the Second World War. The present system of government is characterized by the complete freedom enjoyed by the media of information since January 1946 as contrasted with the situation during the war.

(c) Governments are also invited to state:

(11) Whether censorship occurs before the transmission, and if not, to what extent news personnel are accountable for the contents of their dispatches.

For the responsibility of news personnel see the chapter on libel below.

LAWS OF LIBEL

I. Libel is a punishable offence under the Haitian Penal Code. It is defined by Article 313 of the Code as follows: "If a person, at a public gathering or meeting, or in a formal and public instrument, or in a writing, whether printed or not, which has been displayed, sold or distributed, imputes to another person any thing which is injurious to his good repute, he shall be deemed to be guilty of the offence of libel and slander".

The article continues: "This provision shall not apply to any matter the publication of which is authorized by law nor to any thing which the author of the defamatory matter is bound by the nature of his functions or duties to reveal or to prevent and punish."

The prevention and punishment of this offence is dealt with in Articles 314, and 315 to 323 inclusive. These texts are given below for the reader's information.

Article 314. The author of the defamatory matter shall not be allowed in his defence to demand that evidence of defamation shall be adduced. Furthermore, he shall not be allowed to allege by way of excuse that the documents or acts are notorious or that the defamatory matter which gave rise to the prosecution was copied or extracted from foreign papers or other printed material. Penal Code, 315 et seq., 390-100.

/Article 315.

Article 315. In the case of libel committed through the foreign press, proceedings may be taken against the persons who sent the articles or gave the order for their insertion.--Penal Code, 314.

Article 316. A person convicted of libel shall be liable to the following penalties:

If the act alleged to have been committed is a criminal act entailing the death penalty or a sentence of hard labour for life, the offender shall be liable to imprisonment for a term of not less than one year nor more than three years.-- Penal Code 9 to 10, 26 et seq.; 36, 319, 322.

In all other cases, imprisonment shall be for a term of not less than six months nor more than one year.--Penal Code 9 to 10, 26 et seq., 36.

Article 317. If the acts alleged by the author of the defamatory matter are punishable by law, a stay of the proceedings for the offence of libel and slander shall be granted pending an investigation into the acts alleged.

Article 318. If a person brings a defamatory accusation in writing against a person or persons before the officers of Justice or the Police he shall be liable to imprisonment for a term of not less than one month nor more than one year.-- Civil Code 588-20, Code of Criminal Procedure, 21, 281, 282, Penal Code 9-10, 26 et seq., 36.

Article 319. In every case a person guilty of slander or libel shall be prohibited from exercising the rights mentioned in Article 28 of this Code for a period of not less than five years nor more than ten years, reckoned from the date on which he shall have completed his sentence.

Article 320. In the case of an insult or offensive utterance which does not allege any specific act but a particular vice and which was proffered in a public place or at a public meeting or contained in a writing, whether printed or not, provided that such writing was made public and distributed, the penalty shall be a fine of not less than 16 nor more than 80 gourdes. -- Penal Code 9, 10, 36, 382.

Article 321. Insults or offensive utterances which are not thus characterized both by the seriousness of the allegation and the publicity with which it was made, shall be punished only by police penalties for petty offences. -- Criminal Procedure, Articles 122 et seq.; Penal Code, Articles 1, 283 et seq.

Article 322. If any defamatory allegations or offensive expressions are included in the documents advanced in defence of the parties or in the pleadings, the judges conducting the case may, in passing sentence, either order that the

/allegations or

offensive expressions be expunged or issue an injunction against the offenders or suspend them from their duties and decide with respect to the damages to be paid.

The duration of such suspension shall not exceed six months. If the offence is repeated, the suspension shall be for not less than one year nor more than three years.

If the insult or offensive matter contained in the writing is of a seriously defamatory character and the judges dealing with the case are not competent to take cognizance of the offence, they may suspend the offenders from their duties only provisionally and commit them to the competent judges for trial of the offence in question.

Article 323. If a medical practitioner, surgeon or other public health officer, or a pharmacist, midwife or any other person comes into possession of any secret which is entrusted to him in virtue of his occupation or profession, reveals such secret he shall be liable to imprisonment for a term of not less than one month nor more than one year, provided always that he was not bound by law to lay an information.--Penal Code 9, 10, 26 et seq., 52, 59, 148.

II. No reform of the law of libel or slander is contemplated because no anomaly has been pointed out. Moreover, this offence which is punishable under the Penal Code of Haiti is not governed by special legislation.

III. In Haiti, the civil courts or courts of first instance have full jurisdiction. They sit with the ordinary competence of a judge, a member of the office of the public prosecutor, a member of the judicial department and the clerk of the court. These courts sit in the exercise of their powers sometimes as civil courts, sometimes as correctional courts, sometimes as commercial courts and sometimes as criminal courts, according to the nature of the case which is to be tried. If the case is a dispute between private and civil interests, the court of first instance, acting in virtue of its civil jurisdiction, is competent; if the case arises out of a dispute in commercial matters, the court of first instance, acting in virtue of its commercial jurisdiction, is competent; but if on the other hand it is an offence or a crime, the court of first instance, acting in virtue of its CORRECTIONAL or CRIMINAL jurisdiction, is competent.

In order therefore to reply directly to the question, we state that it is the court of first instance, acting in virtue of its CORRECTIONAL or CRIMINAL powers which is competent to deal with the contraventions of the law DESCRIBED as offences or crimes.

IV. When a newspaper

IV. When a newspaper article is signed by the editor, he bears full responsibility for that article. When the article is not signed, the responsible manager or the proprietor assumes responsibility, unless, where necessary, he gives the name of the editor.

In principle, the printers and selling agents incur no responsibility for the material circulated.

V. News personnel and linotype operators are only employees who print the texts delivered to them. They incur no responsibility in connexion with publications in the daily newspapers or other publications.

VI. The jury is a committee of twelve citizens called together when a crime has been committed to decide whether the accused is guilty or not guilty, and if he is guilty to decide whether there are any extenuating or aggravating circumstances.

The jury is called upon to sit when a BLOOD crime has been committed: murder or manslaughter.

Formation of the jury. Every year the communal council of each commune within the jurisdictional area draws up a general list of the citizens qualified to sit on the jury. From these lists are drawn the names of the citizens called upon to form the ASSEMBLY OF JURORS.

At the opening of the criminal session, at which the jury is present, the Dean convenes all the citizens forming the general assembly of jurors on the day appointed for each case. The names are called out, and first the accused and then the Government commissioner are entitled to challenge the jurors as their names are drawn out of the urn without being obliged to show cause for the challenge. As soon as twelve names have been chosen, the jury is formed.

The court is composed of the judge who presides over the hearing, the public prosecutor representing the public interest, the clerk of the court who is in charge of recording the proceedings, if they are to be recorded, and the twelve jurors, who are called upon to give their verdict concerning the guilt of the accused. They bring in a verdict of guilty or not guilty and decide concerning the circumstances of the crime.

VII. There is no special censorship of reports of parliamentary proceedings. Excessive distortion of the facts is, however, prohibited by the Press Act. If necessary, the distorted version may be corrected by a statement issued by the department concerned through the Bureau of Information.

When a case is being tried before the courts, the newspapers may freely express their opinions upon it. The judge is required not to allow himself to be influenced by freely expressed public opinion, and this opinion can have no influence upon the eventual decision. In Haiti the judiciary is the servant of the law.

N.B. We have not thought it necessary to reply to certain questions relating to organisms, formalities and details which do not exist here and which may be the subject of subsequent legislation.
