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REPORT OF THE COMMITTEE ON THE DRAFT CONVENTION
ON FREEDOM OF INFORMATION

Suggestions and Observations of Governments on the draft Convention

XVI Bolivia

The following suggestions and observations have been received from the Permanent Representative of Bolivia to the United Nations:

With reference to the Secretariat's communication (SOA - 112/5/04) of 23 March last to the Bolivian Ministry of Foreign Affairs, enclosing document A/AC.42/7 which contains the text of the Report to the Economic and Social Council of the Committee on the Draft Convention on Freedom of Information, I have the honour to inform you that I am instructed by my Government to reply to that communication and to give you its views as stated below on the Draft Convention reproduced in Annex A of the document in question.

Article 1(a) of the Draft Convention on Freedom of Information provides that "Each Contracting State shall secure to all its own nationals, and to such of the nationals of every other Contracting State as are lawfully within its territory, freedom to seek, receive and impart without governmental interference and regardless of frontiers, information and opinions orally, in writing or in print, in the form of art, or by duly licensed visual or auditory devices".

The above provision is similar to the rights and guarantees recognized by the Political Constitution of the State of Bolivia in respect of the freedom of ideas and opinions. Article 6(c) of the Constitution stipulates that "Every person has the right to express freely his ideas and opinions, by any means of diffusion, in conformity with the laws that regulate the exercise of such rights".

Among the laws adjective which implement the foregoing constitutional provision is the Law on Printing of 19 January 1925. Article 1 of this specifies that "Everyone has the right to publish his opinions in the press, without prior censorship, subject to such restrictions as are laid down in the present Law".

As the provisions quoted above indicate, freedom of opinion and information in the territory of the Bolivian Republic is both extremely liberal in scope and clearly defined. The only exception is that in the event of international war, Article 36 (5) of the Political Constitution authorizes the restriction of that fundamental right by means of censorship prior to publication. In cases of grave danger by reason of internal disturbance, the chief of the executive power

may declare a state of siege, but such decision shall not suspend or restrict the guarantees and rights in respect of freedom of thought and information.

Again, under the same provisions, foreign subjects and undertakings in Bolivia are in the same position and enjoy the same rights and guarantees as Bolivian nationals in respect of property and the exercise of civil rights.

Article 1(b) of the draft Convention also tallies with the constitutional principles of Bolivia in respect of religious freedom and the absence of discrimination on grounds of race, sex or language.

Article 2 of the draft Convention on Freedom of Information lists the possible limitations on the exercise of the freedoms referred to in Article 1. Most of the items in question are provided for and embodied in the following articles of the Law of 19 January 1925 at present in force:

Article 10. It is an offence against the Constitution to publish writings for the purpose of overthrowing, destroying or inciting to evasion of the whole or part of the provisions of the Constitution.

Article 11. It is an offence against society to commit acts which endanger the safety or integrity of the Nation, expose it to the risk of foreign war, which are calculated to disturb the peace and public order, or which foster or encourage civil disturbance and contempt for the law or the authorities, or which cause crime to be committed, or are obscene or immoral.

Article 13. It is an offence against an individual or group of individuals to publish statements calculated to cause them harm directly or indirectly, whether the harmful accusations are false or true.

Article 12 of the same Law on Printing grants the press the right to criticize legislative or judicial documents, with the object of pointing out errors and encouraging the reform of the Constitution by revealing any defects it may contain.

Article 3 of the draft Convention, which stipulates that none of its provisions may be interpreted as limiting or derogating from any of the rights

and freedoms guaranteed under the laws of any Contracting State or any Convention to which it is a party, is in keeping with the general spirit of Bolivian law.

Article 4 specifies that "A Contracting State may establish a right of reply or a similar corrective remedy". Parallel with this provision, Article 62 of the Bolivian Law on Printing provides that it is an obligation on the part of publishers and where it applies, to printers "to publish in the same publication at half rates, the vindication or defence of persons attacked therein. Such insertion shall be made within the prescribed time-limit, in respect of any person harmed or his agent who so requests".

With reference to the provisions of article 5 of the draft, Bolivia encourages the establishment and functioning of non-official organizations of all kinds, and the free expression of opinion by persons employed in dissemination of information to the public without restriction of any kind.

The Bolivian Republic is in agreement with the limitations prescribed in Articles 6, 7 and 8 of the draft Convention on Freedom of Information. In regard to Article 8, there is a draft Law on Publicity still awaiting approval by the Legislative Chambers, which stipulates Bolivian nationality by birth as a condition for exercising the functions of director or editor of a newspaper or director of a commercial broadcasting station. But there are no restrictions on the possession or operation by aliens of telecommunication services, including radio transmitters, the right to engage in industry and trade being granted to all persons resident in the country.

Article 9 of the draft states that nothing in the present Convention shall limit the discretion of any Contracting State to refuse entry into its territory to any person or to restrict the period of his residence therein. In that connection, it may be mentioned that Bolivia keeps her doors open to immigration, without discrimination as to race, politics or religion, subject to the sole condition that a permit to enter Bolivian territory is obtained beforehand.

Article 10 has some connection with the principles underlying the terms of the Declaration of Human Rights, to which Bolivia has acceded.

With regard to Article 11 of the draft, Article (XI) 34 of the Political Constitution of the State of Bolivia authorizes the chief of the executive power to declare a state of siege by reason of internal disturbance or foreign war. Article 35 (5) authorizes the imposition of censorship on correspondence and all means of publicity in the event of international war.

Article 12 is in keeping with Bolivia's international practice in the matter of arbitration and her respect for the decisions of the International Court of Justice in the settlement of disputes.

In the light of the foregoing considerations, which in general show that there is complete agreement between the provisions of the draft Convention on Freedom of Information as proposed by the Committee submitting it for consideration to the Economic and Social Council, and the current provisions of Bolivian law, I have the honour to inform the Secretary-General of the United Nations that the Bolivian Government approves the draft, and is in favour of convening a meeting of plenipotentiaries with a view to framing and opening for signature of a Convention on Freedom of Information, in accordance with the resolution quoted in Chapter IV of document A/AC.42/7¹ submitted for its consideration.