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<u>Chairman: Mrs. Georgette CISELET (Belgium).</u>	

AGENDA ITEM 34

Draft International Covenants on Human Rights (A/C.3/L.824 and Corr.1, A/C.3/L.833)

CIRCULATION OF TEXTS ADOPTED BY THE
COMMITTEE

1. Mr. CUEVAS CANCINO (Mexico), Rapporteur, said that, in accordance with the wish expressed by the Committee (974th meeting), he had made some drafting changes (A/C.3/L.833) in the texts adopted at the current session for articles 12, 13 and 14 of the draft Covenant on Civil and Political Rights, with a view to ensuring that the meaning of those articles should be conveyed as clearly as possible in the different languages.

2. The English-speaking delegations had indicated that they would prefer the text suggested for article 14, paragraph 5, to be replaced by the wording in the note by the Secretary-General giving the texts of articles adopted by the Committee as of 25 November 1959 (A/C.3/L.824 and Corr.1), while the Spanish-speaking delegations had asked that the words "Todos" and "Justicia", which were underlined in the Spanish text of article 14, paragraph 1, should be replaced by the corresponding phrases used in the Spanish text of the note by the Secretary-General and that the phrase "la importancia de" should be substituted for the words "que importa" in paragraph 4 of article 14. He said that he would amend those passages accordingly. He would like to know whether the wording of articles 12, 13 and 14, as amended, was now satisfactory to all the members of the Committee.

The Committee approved the various drafting suggestions concerning articles 12, 13 and 14 of the draft Covenant on Civil and Political Rights.

3. Mr. FARHADI (Afghanistan) said that, as the supply of the mimeographed version of document A/3824 had been exhausted, he would be glad if the Secretariat would issue a new and up-to-date version.

4. Mr. SCHWELB (Secretary of the Committee) announced that the Secretariat had made arrange-

ments to have copies of the mimeographed version of document A/3824 circulated in all languages on Wednesday, 4 December. The Afghan representative's request that the document should be brought up to date had been transmitted to the department concerned.^{1/}

AGENDA ITEM 35

Draft Convention on Freedom of Information (A/AC.42/7 and Corr.1, annex, A/3868 and Add.1-8, A/4173 and Add.1-2, A/C.3/L.826-828, A/C.3/L.829/Rev.1, A/C.3/L.830-832, A/C.3/L.834-838) (continued)

5. Mr. PENADES (Uruguay) said he was convinced of the need for a binding international instrument to safeguard freedom of information. Such information included: first, the right to be informed, that was to say, the right to a complete and accurate knowledge of the facts; secondly, the right to communicate information by all the available media; thirdly, the right to think, to arrive at an opinion on the basis of the known facts; and fourthly, the right to state one's opinion by all the means of expression. Those four rights were safeguarded by the Uruguayan Constitution. There was no preliminary censorship, but authors and printers were responsible a posteriori, being subject to prosecution in accordance with the law. Information was considered a public service in the full sense of the term. Under a democratic system of government, public opinion was sovereign and it was important that it should be well-informed.

6. His delegation was opposed to any preliminary censorship. To allow the public authorities to determine the accuracy of information before publication would open the gate to despotism. He therefore approved of article 1 of the draft Convention on Freedom of Information (A/AC.42/7 and Corr.1, annex), which was before the Committee.

7. During the consideration of article 2, his delegation would submit an amendment providing that there should be no preliminary censorship, but that the law should provide for a a posteriori responsibility in certain cases.

8. Under a system of complete freedom, the dissemination of inaccurate news was almost unavoidable. However, the influence of such news should not be exaggerated. The truth could be established by comparing information, by discussion and the exercise of individual judgement. The requisite remedies were built into the system itself. Moreover, a conflict of views was essential for the formation of public opinion. When erroneous information was circulated,

^{1/} The text of articles 7 to 14 of the draft Covenant on Civil and Political Rights adopted by the Committee at the thirteenth and fourteenth sessions of the General Assembly was subsequently circulated as document A/C.3/586.

particularly information regarding foreign countries, it was in the interest of friendly relations among States that the Government concerned had not exercised censorship and could therefore not be held responsible.

9. Although abuses of freedom were not as serious as some appeared to fear, they should not be accepted as inevitable. It would be possible to take preventive measures without restricting freedom of information. Steps should be taken to ensure that journalists were trained and had a sense of their responsibilities. In that connexion, the provisions of article 5 of the draft Convention were very much to the point. Another preventive measure would be to guard against the establishment of *de facto* monopolies, especially with regard to the dissemination of international news.

10. It would also be possible to take retroactive measures against abuses of freedom of information. The right of reply was of paramount importance in that connexion. In order to be fully effective, the correction must be published as soon as it was received, and in the same position as the incorrect news item in question. On the international level, a convention had been adopted on the subject in 1952 (General Assembly resolution 630 (VII), annex). Lastly, penalties must be imposed, in accordance with the provisions of the penal code, on persons who were guilty of Press offences or who, more generally, endangered national security, public order or morality or impaired peaceful relations among States. It went without saying that such penalties would apply only to a limited number of clearly defined offences.

11. Those were the principles that were applied in Uruguay. They were also set forth in article 10 of the Convention on Human Rights that had just been adopted at the Fourth Congress of the Inter-American Council at Santiago, Chile.

12. Some provisions of the draft Convention under discussion seemed to the Uruguayan delegation to be open to criticism. However, the preamble and article 1 were satisfactory and their adoption would certainly contribute to the strengthening of peace, friendship and understanding among peoples. He reserved his position with regard to the amendments.

13. Mrs. AGUILAR DE COLMANT (Honduras) considered that, as stated in the second preambular paragraph, there should be freedom of information both in the national and in the international spheres. If there was no freedom of information in the international sphere, it would be impossible to guarantee it in the national sphere; suspicion and distrust would breed, and peace would be endangered.

14. She approved of the text of the preamble and article 1, but thought that it might be improved by some of the amendments. The amendments to the preamble by France (A/C.3/L.830) and Romania (A/C.3/L.829/Rev.1) were complementary, since only "a full and accurate knowledge of the facts" would make possible "the free interchange of accurate and undistorted information". She asked that, when the French amendments were put to the vote, there should be a separate vote on the amendment to the existing sub-paragraph (a) of article 1, since she wished to vote against the deletion of the words "and opinions" proposed therein. She did not believe that it was possible to make a distinction between freedom of opinion and the free flow of news, which were the

subjective and objective aspects respectively of freedom of information in the broader sense. It should also be noted that article 19 of the Universal Declaration of Human Rights dealt with both information and ideas. She could not support the Afghan amendment (A/C.3/L.827), because she believed that freedom of expression should be referred to in the proposed second paragraph. She said that she would abstain from voting on the Peruvian amendment (A/C.3/L.834), because she considered it unnecessary, since article 1 began with the words "Subject to the provisions of this Convention".

15. She referred to the dangers of a *de facto* monopoly of the great Powers in the field of information, and stressed the need to supply the under-developed countries with the technical facilities that they lacked. She noted with satisfaction the work which UNESCO and ITU were doing in that respect.

16. Mr. FARHADI (Afghanistan) suggested that a time limit should be fixed for the submission of sub-amendments, which he feared might be very numerous.

17. He said that he would vote for the four-Power amendment (A/C.3/L.837) to the Afghan amendment (A/C.3/L.827), as he was in agreement with its provisions. However, he noted that the Afghan amendment was a purely formal amendment, whereas the four-Power amendment proposed a substantive change in the text, and was therefore an amendment to the original text rather than a sub-amendment to the Afghan amendment.

18. The CHAIRMAN proposed that the time limit for the submission of sub-amendments should be 5.30 p.m. on Thursday, 3 December.

It was so decided.

19. Mr. MANICKAVASAGAM (Federation of Malaya) felt that the importance of the international free flow of information had been rightly emphasized. In a world that was dwindling day by day it was essential to peace and understanding between peoples. His delegation therefore recognized the importance and urgency of a convention on freedom of information.

20. The Malayan Constitution guaranteed freedom of expression, assembly and association. Freedom of religion was respected, as were all the fundamental freedoms implied in freedom of information. The exercise of any freedom, however, entailed corresponding duties and responsibilities. The law therefore laid down certain limitations which were necessary for the protection of public order and morals and of national security and for the maintenance of friendly relations with foreign countries. Slander and incitement to crime were prohibited by law. Such limitations were indispensable in a young, developing country. The influence of any propaganda on a population that was still comparatively unsophisticated was considerable and in an under-developed or developing country the task of the information media was not only one of information but also one of education. It was in that spirit and bearing in mind the situation in Malaya that his delegation approached the question of freedom of information.

21. Mr. SANCHEZ (Costa Rica) said that he had been somewhat disturbed to hear speakers maintaining that in order to combat the deleterious influence of irresponsible and ill-intentioned journalism freedom of

information must be restricted. In his view, that freedom should be restricted only in circumstances where no other solution was possible. It was true that, in the information field, there were international monopolies which disseminated news that was prejudicial to various countries. Such a problem, however, could not be solved by imposing restrictions on freedom of information; the remedy would be worse than the disease. His delegation considered that it was both contradictory and illogical to stress the need to restrict freedom of information just when efforts were being made to guarantee that freedom by concluding an international convention. Freedom of information was democracy's strongest bulwark and restricting it without valid reason merely helped to undermine the democratic system.

22. In Costa Rica, the Press and all the information media had enjoyed complete freedom ever since the country's first newspaper had been founded, in 1833. That freedom was so profoundly rooted in the spirit of the Costa Rican people that even during a period of semi-dictatorship no Government had ever dared to muzzle the opposition Press or even to apply the censorship decrees too strictly. That did not mean that freedom of information in Costa Rica was synonymous with licence. There were laws under which legal proceedings could be taken against those responsible for slander or abuse. Those laws were not often applied, however, for the Press was fully conscious of its responsibilities. The public in any democratic country was perfectly capable of determining which papers really served the interests of the country and which deserved nothing but scorn because of their lack of principle.

23. His delegation hoped that the Committee would draft a convention which would fully guarantee the freedom of information media. It would vote in favour of the French amendment (A/C.3/L.830) to the preamble but regretted it was unable to support the Romanian amendment (A/C.3/L.829/Rev.1). The insertion proposed in the latter was pointless, for the information with which the convention was concerned could obviously be only "accurate and undistorted information". Furthermore, any wording which dictatorial Governments might use as a pretext for persecuting the Press and information media should be avoided.

24. Mr. HAMZAVI (Iran) said that the draft Convention dealt with one of the main problems of the current time. The Iranian delegation had always emphasized how important and urgent it was to draft the Convention, and it regretted that the draft had not been taken up until the end of the session.

25. One of the most fundamental questions which arose in connexion with freedom of information was that of the expulsion of foreign correspondents. Other speakers had already referred to the matter and he would merely emphasize that such expulsions were not always to be laid at the door of Governments or government services. In that connexion he cited the case of certain correspondents who had deliberately tried to get themselves expelled from a country and even boasted of having been expelled.

26. The essential aim of the draft Convention was to guarantee freedom of information and freedom of expression, without which man's other freedoms would be nothing but empty words. The history of

Iran abounded in examples of the sacrifices its people had made to preserve those fundamental freedoms. Nevertheless, although it was desirable to protect information media against abuses at the hands of tyrannical Governments, it should not be forgotten that misdeeds were constantly being committed in the name of freedom of information, and that such misdeeds disturbed the social order and were a danger to peace. Public opinion, which had gradually come, through the centuries, to play a primary role in social and political development and which must be sound and uncorrupted if the world was to be peaceful and prosperous, must not be hoodwinked or led astray. The risk was all the greater at the current time because information media were becoming increasingly influential. In its zeal to protect freedom of information, the Third Committee should not forget the evil which could be done in the world by media which imposed a tyranny of distortion, half-truths and biased reporting. In denouncing the few professional journalists who subordinated their conscience to their interests, and in trying to put a stop to their activities it would not be doing anything that was harmful to the vast numbers of journalists and radio and television commentators who were honest and could not be corrupted. In that connexion he recalled that doctors and lawyers, for instance, were very careful to protect the interests of the public and the good name of their profession against their unscrupulous colleagues.

27. The great Powers, which had highly developed information media at their disposal, could not disregard the problems of the small countries, which all too often were the victims of abuses of freedom of information. They should take into consideration the very legitimate reservations made by some delegations regarding the granting of unrestricted freedom in that field. One of the essential purposes of information was to bring peoples closer together and to promote international understanding, but it was well known that the Press and radio of certain countries were used to undermine the unity and stability of other nations.

28. Freedom was not an end in itself and it imposed very strict responsibilities on those who enjoyed it. His delegation would support any effort to draft a convention which would guarantee the free dissemination of news and opinions and the individual's right to freedom of information and of opinion, while at the same time protecting mankind from the danger involved in the dissemination of false and distorted news. It supported the principles laid down in the text under discussion, particularly in the preamble, but felt that the preamble would be improved both in form and substance by the amendments of Afghanistan (A/C.3/L.827) and France (A/C.3/L.830). The idea contained in the Liberian amendment (A/C.3/L.828) was acceptable but it would be difficult to find a satisfactory wording for insertion in the draft Convention.

29. Mrs. ANEGAY (Morocco) recalled that information had always played an essential role in the education of peoples. That had already been the case in the days when the Arab story-tellers and the European minstrels and troubadours had been the only ones to spread the news and it was still more so at the current time, when technical devices made it possible to reach an ever wider public which was increasingly eager to enlarge its knowledge. The peoples of all countries were attaching more and more importance

to what went on beyond their frontiers. Thus information in the modern world not only had an important role to play but also bore very serious responsibilities, for mutual understanding between all the nations depended on it. Unfortunately it happened all too frequently that reporters neglected their duty and were guilty of errors, negligence or even acts which showed a complete failure to recognize the most elementary principles of that intellectual integrity which was the only guarantee of true information. That state of affairs did not, however, justify any restriction of freedom of information, which was an incontestable human right. Only those who enjoyed that freedom could effectively prevent its misuse and they would do so if they were fully aware of their responsibilities, if they fully understood that by using the right given to them to spread confusion they offended human dignity and did violence to freedom itself.

30. The Moroccan laws which constituted the charter of public freedoms established both freedom of information and its responsibilities. The Moroccan Government recognized the educational value of well-conceived and well-administered media of information. It gave the matter very close attention but its only concern was to protect public order and the nation's interests. The Press code fully guaranteed the freedom of the Press, as was shown by the very large number of newspapers and periodicals published. There was no restriction on foreign newspapers, whether they were published in Morocco or came from abroad. True to its liberal traditions, Morocco also welcomed many missions, which were able to carry on their information activities freely. Article 25 of the Press code guaranteed the right of reply and of correction, and articles 52 and 53 laid down penalties for offences against the Head of the State, the Minister of Foreign Affairs and the members of the foreign diplomatic corps. Moroccan broadcasting regulations were in conformity with article 7 of the draft Convention and the sole purpose of film censorship was to protect morality.

31. The Third Committee should draw up a draft convention which laid stress on the fact that information must be free and must be assured by people who were fully aware of their duty and responsibilities. If the text which was adopted made provision for restrictions, their sole purpose should be to prevent freedom of information from becoming an obstacle to the political, economic, social and cultural development of all countries, great and small, and a threat to world peace.

32. Her delegation had no objection to the preamble of the draft Convention. It would gladly support the Afghan, Romanian and French amendments, which, without changing the substance, made the text clearer and more precise. She also found the Liberian amendment acceptable but would like to see some slight changes in its form.

33. Mrs. DE ARENAS (Guatemala) said that she would like to comment briefly on the text of the draft Convention and the amendments submitted by various delegations.

34. In Guatemala there was complete freedom of information and the Press had access to all the sources of information, including official documents. The Guatemalan people had had to make great efforts

to acquire that right and they did not intend to give it up. She accordingly favoured the drafting of a convention in so far as it would strengthen freedom of information. She noted that while some of the articles in the draft Convention were in conformity with her country's legislation others differed considerably from it.

35. Freedom of information was essential both at the national and at the international levels. Tyrannical Governments must not be able to deprive their citizens of their right to information, and it was important that information should circulate freely between countries so that public opinion was conversant with all the reactions caused by any particular event. For that reason it seemed dangerous to restrict freedom of information. Doubtless there were abuses; it had happened that by giving false or tendentious information newspapers had done irreparable harm to certain individuals, even allowing for the right of reply. Furthermore, it frequently happened—Guatemala had had the experience itself—that countries which were not great Powers and lacked the necessary technical means to establish the facts in their true light were the victims of lying propaganda. To remedy that state of affairs, the standard in schools of journalism should be raised and journalists obliged to respect a code of honour. The members of the Press were often upright, honest and competent, but sometimes individuals devoid of all moral sense set themselves up as journalists without any training and did a great deal of harm to their profession to people and to nations by falsifying the truth, through ignorance or ill will, without even having the courage of their deeds. She was none the less convinced that to introduce restrictions on freedom of information would be to resort to a remedy which was worse than the evil.

36. Her delegation had been prepared to vote in favour of the original text of the preamble, but it would support the French amendment (A/C.3/L.830). The Romanian amendment (A/C.3/L.829/Rev.1) seemed useful at first sight but it might be asked who would be authorized to say whether the information was accurate and undistorted; she would therefore abstain in the vote on that amendment because of the difficulties of application to which it might give rise. The text of the Liberian amendment (A/C.3/L.828) seemed a little obscure. Her delegation would support the Afghan amendment (A/C.3/L.827). She would speak later, if necessary, on the four-Power sub-amendment (A/C.3/L.837), of which she was a sponsor.

37. Mr. BARRATT (Union of South Africa) recalled that his delegation did not think it was expedient to examine the provisions of a convention on freedom of information in detail, not because it was opposed to the principle of the preparation of an international instrument on the subject but because there were too many theoretical and practical divergences between countries to allow of the drafting of a text which would be acceptable to the majority of States. It was not his intention to raise objections to the Committee's decision but he felt he should point out that a convention designed to guarantee the free exchange of information would be a dead letter if it were not accepted by the majority of countries and particularly by those which had powerful information media.

38. In the Union of South Africa the free flow of information was almost complete, since the restrictions, which were moreover laid down by law, were

designed solely to safeguard morality, the reputation of individuals and good feeling between the various groups in the population. It was certain, however, that, as was indicated in the fourth paragraph of the preamble, such freedom must be exercised with moderation and that those who provided information must have a sense of their responsibilities; the Union of South Africa, like many other countries, had had to suffer from the dissemination of false information which was prejudicial to its national dignity. Moreover, it was not only the freedom of the Press which was abused; broadcasting was sometimes used for propaganda purposes. Distorted interpretations of events were, for instance, sometimes given in the form of news services. Unfortunately, such propaganda was often aimed at the peoples of the underdeveloped areas, where the media of information were still too limited. The danger was all the more serious in that broadcasting stations were becoming more numerous and more powerful. To combat such abuses, which, far from promoting peace and mutual understanding, could only breed dissension, some countries might consider jamming the broadcasts. That, however, was a serious measure and it would be better if the perpetrators of the abuses were more conscious of their responsibility. Where information intended for foreign countries was concerned, the desire to disseminate sensational news often led to the distortion of the truth. Censorship could of course be introduced, but that in turn could easily give rise to abuses and provide means of hiding the truth. The fourth paragraph of the preamble recognized that the media of information should be free from pressure or dictation. It was therefore important that individuals and groups which had the task of informing the public should develop an understanding of their responsibilities. Moreover, like the representative of India (973rd meeting), he wished to emphasize that Government officials should supply accurate information, especially when other countries were concerned. Where radio broadcasting was under State control, the State had to bear the responsibility for any deliberate distortions which were broadcast.

39. It was difficult to pass final judgement on the preamble before considering the articles of the draft. He therefore suggested that the preamble should be adopted on first reading, on the understanding that it might later be reconsidered. The Secretariat would be able to inform the Committee whether any such procedure had ever been followed.

40. He had no serious objection to the Romanian amendment (A/C.3/L.829/Rev.1) but he wondered whether the insertion of the proposed words was necessary; it seemed obvious that the information referred to in the preamble should be accurate and undistorted. The Cambodian sub-amendment (A/C.3/L.826) to the Liberian amendment (A/C.3/L.828) appeared to offer a preferable means of emphasizing the need to respect the truth. The South African delegation had no criticism of the Afghan amendment (A/C.3/L.827). The purpose of the four-Power sub-amendment (A/C.3/L.837) seemed to be unobjectionable but his delegation would first like to hear the comments of the sponsors. The French amendment (A/C.3/L.830) appeared to be very appropriate. The Liberian amendment (A/C.3/L.828) gave rise to no objection with regard to substance but its wording would be improved if the Cambodian sub-amendment were adopted.

41. Mr. TCHOBANOV (Bulgaria) was glad to note that a majority of the members of the Committee had decided in favour of drafting a convention on freedom of information and of using a draft text which—though it was not perfect and would have been worded somewhat differently if the Bulgarian delegation had been responsible for drafting it—had the advantage of providing a basis for discussion and for the settlement of problems on which there would continue to be divergent views for a long time to come. There was no doubt that a convention would contribute substantially to the strengthening of mutual understanding and international co-operation.

42. The advantages of freedom of information were well known; for one thing, it was obvious that, the more the peoples knew about each other, the more constructive would be international co-operation. That freedom could, however, be misused; many delegations had cited the abuses to which it could give rise and it was only because he did not wish to exacerbate the debate that he would refrain from speaking of the conspiracy of silence to which his country was subjected. He was convinced that an effort should be made to conserve the positive elements of the principle while taking precautions against its possible harmful effects.

43. At the 972nd meeting the representative of Belgium had expressed certain ideas which the Bulgarian delegation would have endorsed wholeheartedly if they had referred to good international understanding as something which was worth protecting. With regard to the statement of the French representative at the same meeting, it required much idealism to seek a remedy for abuses in self-discipline within the media of information. Since under domestic legislation Press offences came within the provisions of the law, it would be only natural for the same conditions to apply in respect of offences on the part of the international Press.

44. Some delegations were of the opinion that the abuses were accessory or temporary in nature and that it would be unwise to sacrifice essential matters to secondary ones. The Bulgarian delegation did not share that view; it agreed with the representative of the Philippines (970th meeting) that technical progress merely increased the danger. The first concern of any legislator in setting forth a right was to define its limits, in order to prevent abuses. The Committee should adopt the same attitude and state in the preamble that freedom of information was not absolute. Most of the amendments that had been submitted would improve the text but some of them expressed similar ideas in different terms. Their sponsors should therefore consult each other with a view to arriving at a joint text.

45. Mr. RUDA (Argentina) said that the question of freedom of information was of great importance because the free dissemination of information and opinions was a prerequisite of political freedom and the touchstone of democracy. There could be no doubt that journalists bore a great responsibility, for any distortion of facts was likely to have serious consequences, both for democratic institutions and for international relations. It behoved them to be conscious of their duties; the public authorities, for their part, should guarantee freedom of expression and free access to sources of information in order to

enable journalists to fulfil their task of making known the facts.

46. The Convention should state the principle of freedom of information in explicit terms and should contain no provision open to an interpretation which would be tantamount to the negation of the guarantees provided. The restrictions should be set out clearly and succinctly and the list of them should be limited. Argentina was opposed to censorship and held that it was necessary to guarantee the free circulation of ideas and opinions, regardless of their form and independently of any consideration of frontier. In Argentina, limitations were laid down by law and their only purpose was to protect the reputation of

individuals and to safeguard morality. He would therefore vote against any provision in the draft Convention or any amendment the effect of which would be to restrict freedom of information and expression.

47. Mr. SAHNI (India) said that he intended to submit a sub-amendment to the Afghan amendment. The Indian delegation was trying to draft a text which was in keeping with the intentions of the sponsors of the main amendments and which would be satisfactory to all delegations.

The meeting rose at 6 p.m.