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Supplementary Paper

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Freedom of Information

Statement by Mrs. Jean Casselman, Canadian  
Representative on the 3rd Committee of the  
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Mr. Chairman,

When we began our discussion on this article, my delegation indicated its preference for the existing text. I have listened with great interest to the many excellent speeches which have been made, reflecting as they do the various points of view held by different delegations on this important subject. It seems to me that despite these differences, which tend at times to obscure the main issue with which we are concerned, ... there is a good deal of common ground. It is significant that we have accepted the Universal Declaration of Human Rights, which contains in Article 19 substantially the same provisions as those set forth in the first two paragraphs of Article 19 of the Covenants. With this in mind I should like, if I may, to take this opportunity to inform the Committee of the reasons why we prefer the text of Article 19 as it stands.

In dealing with a subject, by its very nature so diffuse and intangible, there is much to be said for trying to achieve a clear concise statement of the principles involved. The truly memorable declarations on freedom, with which all here are familiar, have followed this general rule. They continue to appeal to us, not only because of the historic events with which they are associated, but also because they are written in clear simple terms and can be readily understood by every man. By way of example, for English-speaking peoples, the rights enumerated in the 1689 Bill of Rights are assertive, lucid statements of principle which continue to inspire in the minds of people who are free a fundamental respect for the liberties of the individual. To French-speaking peoples, and even more relevant to the topic we are discussing is Article II of the Declaration of the Rights of Man in 1789, which, translated into English, had this to say: "The unrestrained communication of thoughts and opinions being one of the most precious rights of man, every citizen may speak, write and publish freely, provided he be responsible for the abuse of this liberty, in the cases determined by law".

In my own country, which has always had the basic freedoms guaranteed by English Common Law and the Quebec Civil Code, Parliament enacted in 1960 a Canadian Bill of Rights which states that: "It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely: the freedom of speech; the freedom of the press". I shall not, Mr. Chairman, go on to enumerate those freedoms which are irrelevant to Article 19 of the Covenants.

As a newcomer to this Committee, Sir, I trust I may be forgiven, if throughout our discussion of this article, I have sometimes had the impression that we have been more concerned with the abuses of freedom of information, than with our efforts to ensure that everyone shall have the right to freedom of opinion and expression. The experience of history has shown all too clearly that governments do possess the means to apply any necessary restrictive measures and that these measures have sometimes been used to curb the voices of freedom. Should we not consider this matter in a positive rather than a negative sense? Surely, the most important aspect of this article is the need to ensure that people everywhere shall have the right to hold opinions without interference and the right to express them freely. This is admirably and succinctly phrased in the first and second paragraphs of Article 19. The third paragraph goes on to express the general limitations placed upon these fundamental freedoms. Those who drafted the third paragraph have been wise in not going beyond these general considerations, and I suggest, Sir, that we will be wise in confining ourselves to them. Many delegations can, I am sure, go on to specify a great many other limitations which are of particular concern to them. But it is our opinion that by adopting further limitations we weaken the article itself, perhaps defeat its intent, and run the risk of making it an instrument which would countenance the suppression of the very freedom we seek to preserve.

This is not to say, Mr. Chairman, that we regard the present text as in any way sacrosanct - indeed, many nations now represented on this committee were not present here when it was drafted and have had no other opportunity to discuss it. We welcome their comments and agree wholeheartedly that where we can improve the text we should most certainly do so. We sympathize with the fears of many of those who have spoken about the need for further limitations in the third paragraph of this article, and with the difficulties they have encountered in dealing with this subject. The vast technical improvements in the media of communication have most certainly created new and complex problems for all of us. We are not convinced, however, that the remedy lies in further restrictive measures. In Canada we believe that it lies instead in having the courage to permit our people and those engaged in the press, radio and television, to develop within themselves a sense of public responsibility, with which they can best serve the interest and welfare of the community as a whole. To us this is a vital element in the heritage of democracy.

I listened with great interest to the comments of the distinguished representative of Chile when he spoke on this subject on Friday last. He made a number of most useful suggestions. I was also impressed by the statement made by the distinguished representative of Pakistan, and with her comment that some of the amendments which have been proposed relate more appropriately to Article 26 than they do to Article 19.

I have endeavoured, Sir, to outline the point of view on this article of my delegation, and I shall not take up the time of the Committee to indicate our position on each of the amendments before us. Where we think such amendments will improve the text, or result in an acceptable compromise, we will support them, provided they do not in our opinion prejudice in any way the intention of those who drafted the article, to ensure the basic freedoms set forth in the first two paragraphs. We should not, Sir, lose sight of our basic objective in our endeavours, however worthy, to prohibit licence.

The Canadian Prime Minister, the Rt. Hon. John G. Diefenbaker, had this to say in the House of Commons when the Bill of Rights was given its third reading: "The principles of freedom are never final. Freedom is not static. It cannot be fixed for all time. It either grows or it dies. It grows when the people of a country have it in their hearts and demand that it shall be preserved. I would be the last to contend that any document made by man, however impressive, can assure freedom; but I think that what we have done will provide an anchor for Canadian rights. The ultimate assurance of them must always be a vigilant people, vigilant to invasions of and intrusions on their freedom; when the spirit of freedom dies in the hearts of men no statute can preserve it". It is considerations such as these, Mr. Chairman, which compel us to recognize that ultimately the real effectiveness of the Covenants will depend upon the spirit with which they are administered.



