

Michigan Journal of International Law

Volume 5 | Issue 1

1984

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Elizabeth A. Downey
University of Michigan Law School

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Recommended Citation

Elizabeth A. Downey, *A Historical Survey of the International Regulation of Propaganda*, 5 MICH. J. INT'L L. 341 (1984).

Available at: <https://repository.law.umich.edu/mjil/vol5/iss1/16>

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A Historical Survey of the International Regulation of Propaganda

Elizabeth A. Downey*

Customarily, states agree not to spread propaganda hostile to the governments of friendly foreign countries.¹ Nevertheless, hostile or aggressive messages crossing international borders continue to stir up controversy. No country formally disputes the goal of eliminating propaganda which incites to war or violence. The real and bitter disagreements concern the proper regulations to be applied to the media in all its operations, and particularly to those messages which do not incite violence but are nevertheless objectionable to the receiving country or to the country which is the subject of the communication.² These are the disagreements which the nations of the world have continued to address.

Two major periods are discernible in the history of propaganda regulation: one before the United Nations was established and one after. The pre-UN period is marked by the invention of communication forms which made the propaganda problem sufficiently pressing for countries to initiate formal negotiations. These efforts were unsuccessful; propaganda contributed to and flourished during World War II.³ After the war, and in light of an even greater explosion in communications technology, international cooperation resumed. Still, the UN period has been marked by East-West battles over the role of media, and by the less-developed nations' insistence that they acquire a voice in world media.

This article traces international efforts to regulate propaganda through the pre- and post-UN periods, charting its development from a rather peripheral concern of international law to its important role in the currently evolving law of international communication.

* Elizabeth A. Downey is a member of the class of 1984, University of Michigan Law School.

THE PRE-U.N. PERIOD

Until the end of the nineteenth century, propaganda was spread either in print or by word of mouth. Although states often complained about these forms of propaganda,⁴ few attempted to regulate them. With the invention of radio and telegraph, however, nations became concerned about the increased opportunities for transmitting hostile messages internationally. At first, nations sought to protect themselves by establishing regulations within the broader scope of treaties delineating the law of neutrality,⁵ or by inserting anti-propaganda provisions in their bilateral treaties of friendship.⁶ Later, they began to negotiate agreements dealing with international communications exclusively.⁷ Some of these agreements were motivated by a desire to promote world peace,⁸ while others were motivated by the need for mutual protection.⁹ All of them rested on uncertain foundations of international custom and practice, and none resulted in world-wide cooperation.

The obligation of states not to disseminate propaganda hostile to their neighbors has been accepted as customary international law since the French Revolution.¹⁰ At the same time, states have continually violated that law,¹¹ leaving the status of the international custom in confusion.

There has been less theoretical agreement—and just as much divergent practice—concerning the responsibility of a state for private propaganda; that is, for propaganda broadcast by its citizens to other countries. As early as 1802, Napoleon, in a dispute with Great Britain, declared that as a general maxim of international law states are bound to suppress private propaganda against other states and to punish those who purvey it. Great Britain rejected this view of international law¹² and has held to that position ever since.¹³ At the Paris Convention of 1856 France raised complaints against Belgium, and Belgium responded by enacting laws which made private activities directed against foreign governments punishable by a fine.¹⁴ Yet in the 1870s, when Bismark complained about the activities of Catholic bishops in France and Belgium, both those countries denied any governmental responsibility for the activities of the clergy.¹⁵

Similar disagreements and disparities surfaced in the early twentieth century. In the 1930s, Japan protested about China's government toleration of propaganda.¹⁶ Many other countries leveled similar complaints against the United States.¹⁷ The United States adhered to the position that its government could not interfere with private propaganda activities; yet in 1933, it imputed responsibility to the Soviet Union for anti-American propaganda circulated by private persons or groups.¹⁸ The Soviet Union denied responsibility for such actions.¹⁹ Germany in the 1930s allowed private propaganda against foreign countries, as did Czechoslovakia and Great Britain.²⁰

With international custom as to the public and private dissemination of propaganda already in dispute or disregarded in the early twentieth century, the propaganda problem was exacerbated by major improvements in radio and telecommunications technologies. Messages could be sent directly to countries hundreds and thousands of miles away. Thus, to be effective, international attempts to regulate propaganda ought to have regulated it at its source. But many of the technical agreements facilitating international communications in the 1920s and 1930s contained only clauses affirming the right of the receiving state to refuse to deliver messages considered dangerous to the peace and security of the country.²¹ That is, they did not respond to the propaganda capabilities of the new technologies in any realistic way.

The very earliest approaches to the regulation of propaganda in the twentieth century attempted to draw on the law of neutrality.²² For example, propaganda was included in the 1907 Convention Respecting the Rights and Duties of Neutral Powers and Persons.²³ Several of its articles required signatory states to limit and control propaganda activities in their countries.²⁴

In a few isolated instances shortly after World War I, nations were willing to address propaganda regulation as a separate subject for treaty-making, although they still relied on the law of neutrality. In 1922, the Commission of Jurists met at The Hague specifically to formulate rules for the control of radio in times of war. The rules were designed to protect the operation of radio stations in neutral countries,²⁵ and they outlined the duties of both belligerents and neutrals. The Reichs-Rund Funk-Gesellschaft Agreement of March, 1931 between Germany and Polskie Radio regulated propaganda in peacetime. Under its provisions, the parties were bound to take reasonable steps to prevent broadcasts prejudicial to the spirit of cooperation and understanding.²⁶

In fact, it was more usual for nations to approach the problem of propaganda during the 1920s and 1930s as a sub-topic appended to bilateral treaties of friendship or non-aggression. As early as 1922, the Soviet Union began inserting anti-propaganda articles in various of its bilateral agreements.²⁷ Some of these Soviet agreements provided that aggression between the contracting states could not be excused, even by revolution or international threats.²⁸ Others bound the contracting states not to spread propaganda against each other and not to permit anyone in their territories to spread such propaganda.²⁹ A few other countries also included anti-propaganda pledges in their bilateral treaties of friendship and non-aggression.³⁰

The first multilateral effort to regulate peacetime propaganda came in 1936.³¹ The Convention Concerning the Use of Broadcasting in the Cause of Peace, drawn up under the sponsorship of the League of Nations, was

the strongest anti-propaganda instrument written up to that time. Article I stated:

The high contracting parties mutually undertake to prohibit, and if occasion arises, to stop without delay the broadcasting within their respective territories of any transmission which to the detriment of good international understanding is of such a character as to incite the population of any territory to acts incompatible with the internal order or the security of a territory of a high contracting party.³²

Articles 1, 3,³³ and 5³⁴ specifically charged the signatory states with the responsibility to control the content of broadcasts originating within their borders, regardless of whether the transmissions were made by private or public agents. The Soviet Union and other countries which either had a government monopoly of the media or government-enforced regulation of the press approved of these provisions. They should have been unacceptable, however, to countries which advocated governmental non-interference in private broadcasting. Yet Great Britain, for one, signed the Convention. The United States, of course, was not a member of the League of Nations, and so was not a party to the Convention.

Twenty-eight states signed the Convention,³⁵ but many doubted that the League of Nations could enforce it and many were anxious to retain sovereignty over the flow of all information into and out of their territories.³⁶ Belgium and the Soviet Union reserved the right to retaliate against propaganda by jamming broadcasts in the event that the procedures outlined in the Convention proved ineffective.³⁷ Spain went even further, reserving the right to:

put a stop by all possible means to propaganda liable adversely to affect internal order in Spain and involving a breach of the convention, in the event of the procedure proposed by the convention not permitting of immediate steps to put a stop to such breach.³⁸

The Soviet Union also declared its intention to apply the Convention only on terms of reciprocity with other countries.

Despite these substantial reservations on the part of certain signatories, the League of Nations was gratified to note that the Convention seemed to inspire similar regional agreements in Latin America.³⁹ Indeed, a series of inter-American agreements of the 1930s did encourage the use of broadcasting to promote mutual understanding.⁴⁰ However, while the American regional agreements of the 1930s were motivated by a desire for improved mutual understanding, the communications agreements of the early 1940s were inspired by a desire for mutual protection against the Axis Powers. For example, at a 1942 meeting in Rio de Janeiro, representatives of Ameri-

can states adopted a resolution submitted by the United States calling for: the closing of telecommunication links between the Americas and the Axis Powers; the establishment of controls by licensing of facilities; the elimination of clandestine radio stations; and the prevention of "transmission and reception of information, public or private, which might directly or indirectly promote the purposes of the aggressor States, or of governments subservient to them."⁴¹ As with the executive orders authorizing governmental control of radio stations at the beginning of World War I,⁴² the United States demonstrated its willingness to limit the free flow of information in time of war.

Except for these regional agreements among allies, international cooperation on the subject of propaganda regulation collapsed during the war. The League of Nations Convention Concerning the Use of Broadcasting in the Cause of Peace was ignored, and propaganda liberally fueled the hostilities. It remained for the post-war world to resume the search for effective international telecommunications agreements.

THE U.N. PERIOD

The communications agreements drawn up under the auspices of the United Nations have been concluded only after extensive debate. As in the pre-UN period, countries like the United States and the United Kingdom would rely on the free flow of information to correct inaccuracies and hostile propaganda, whereas the Soviet Union and its allies would confer directly upon governments the responsibility for controlling the media. The underdeveloped countries have not embraced either position in its totality. Instead, they have been concerned with developing their own media and correcting inaccurate reports disseminated by other states, thereby injecting new concerns and controversies into the international debates concerning communications.

East-West Differences

The UN Charter, drawn up in 1947, does not directly mention propaganda, but UN authority over it may be implied under Article 39, which permits the Security Council to deal with peace-threatening situations.⁴³ During the initial sessions of the General Assembly, however, individual nations requested the UN to address the propaganda issue expressly.⁴⁴ In response, the Economic and Social Council sponsored an International Conference on Freedom of Information at Geneva in 1948. Its task was to study:

measures for counteracting the persistent spreading of demonstrably false or tendentious reports which confuse the peoples of the world, aggravate relations between nations, or otherwise interfere with the growth of international understanding, peace, and security against a recurrence of Nazi, Fascist or Japanese aggression.⁴⁵

The United States and the United Kingdom wanted to draft a strong, uncompromising "freedom-of-press" document, and tried to unite the West against the East to achieve that end.

Generally, they succeeded.⁴⁶ The Draft Convention on Freedom of Information, adopted by a majority at the Conference, affirmed freedom of information as a fundamental human right, affirmed the right to listen, and declared that no valid grounds other than military security existed for peacetime censorship over the international transmission of news material.⁴⁷

The Draft Convention departed from pre-war approaches to the regulation of propaganda in several significant ways. In itself, its condemnation of peacetime censorship, with an exception for reasons of military security, was not new. As early as the 1920s, international agreements on the use of the telephone and telegraph provided for the stoppage of communications considered dangerous to the security of the receiving state.⁴⁸ The Draft Convention broke new ground, however, by framing the exception strictly in terms of "military security," instead of the more widely-encompassing "state interest" or "national security." Thus the Draft Convention narrowed the grounds for peacetime censorship considerably. What was also new was that rather than couching the provisions in terms of neutrality,⁴⁹ or mutual aid and protection,⁵⁰ or even protection of the public order and promotion of mutual understanding,⁵¹ the Draft Convention began by recognizing the right to send and receive information as a human right.⁵² Overzealous censorship, like the overzealous regulation of propaganda generally, has the obvious potential to restrict the exercise of these two rights.

The Draft Convention was presented to the General Assembly in 1949.⁵³ For the next eleven years it was the subject of formal study and political debate in one UN organ after another.⁵⁴

Article 1 provided:

The right to know and the right freely to seek the truth are inalienable and fundamental rights of man. Everyone has the right, individually and collectively, to seek, receive, and impart information.

A French amendment stressing the right of choice among different sources of information, was adopted in conjunction with this Article.⁵⁵

Article 2 has been the focus of intense debate:

All Governments should pursue policies under which the free flow of information, within countries and across frontiers, will be protected. The right to seek and transmit information should be assured in order to enable the public to ascertain facts and appraise events.

Some countries had wanted to draft the article as precisely as possible, to leave no doubts about what was required of the media of each country.⁵⁶ Others had objected to the article on the grounds that it limited the free flow of information too much.⁵⁷

Other provisions of the final document required: sufficient freedom of information to encourage diversity of sources of information and access of the individual to those sources;⁵⁸ the development of independent national media of information;⁵⁹ the obligation to "strive in good faith to ensure the accuracy of the facts reported and to respect the rights and the dignity" of others;⁶⁰ and the prohibition of any limitation on freedom of information other than those "determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and to meeting the just requirements of national security, public order, morality, and the general welfare in a democratic society."⁶¹

The Draft Convention on Freedom of Information was similar to some of the earlier agreements, such as the Hague agreements of 1922, which provided that war should not unnecessarily disturb the flow of information.⁶² The Convention encouraged Member States to take action to regulate propaganda, as did Article 3 of the International Convention Concerning the Use of Broadcasting in the Cause of Peace (1936).⁶³ But unlike the early agreements, the Convention declared the right to give and receive information to be a fundamental human right, although that right might be limited by national security concerns or the demands of public order.⁶⁴ Although the Draft Convention was never ratified by the full General Assembly,⁶⁵ it provided a new focus and direction for the ensuing discussion of the Draft Convention on Civil and Political Rights. The Draft Convention demonstrated that information, as a substantive issue of international law, had evolved from a purely political question to a question of human rights.

Since information rights had thus been elevated in status, it was not surprising that in 1962 the Draft Covenant on Civil and Political Rights dealt with freedom of information in Article 19:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and

- ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in the foregoing paragraph carries with it special duties and responsibilities. It may therefore, be subject to certain restrictions, but these shall be such only as are provided by law and are necessary, (1) for respect of the rights or reputations of others, (2) for the protection of national security or of public order ("ordre public"), or of public health or morals.⁶⁶

Those countries, including the United States, which had been pleased with the Draft Convention on Freedom of Information, had no objections to Article 19.⁶⁷ Other countries, however, disapproved of paragraph three because: (1) there was no prohibition of governmental interference by way of censorship and prior restraint; (2) the article did not stipulate that additional restrictions could be imposed by the courts or at least could be reviewed by the courts; and (3) the article did not say that courts alone have the power to impose penalties for violation of the article.⁶⁸ One proposed amendment to Article 19 stated merely that everyone has the right of free expression subject to only necessary restrictions.⁶⁹ Another excluded war propaganda and racial discrimination as subjects of free speech.⁷⁰ Ultimately, the Article was adopted as written.⁷¹

While paragraph 3 of Article 19 ended up, therefore, with an extremely abstract admonition against propagandistic communications, Article 26, the other information-related Article of the Draft Covenant declared illegal the publication or broadcasting of information constituting an incitement to war or hatred.⁷² By implication, it contemplated that such communication should be restricted by each state. Although the United States was sympathetic to the aim of not inciting violence, it refused to support any article giving governments an excuse to limit free speech and press. The proposed Article 26, the United States felt, would undermine Article 19.⁷³ The Soviets thought the article too weak because it did not allow other justifications for the regulation of information.⁷⁴ They would have preferred an article authorizing governmental regulation of any information advocating discrimination or qualifying as propaganda. Still other nations worried that "incitement to hatred" was too vague to be very helpful.⁷⁵ In the end, Article 26 prohibited by law propaganda for war or any advocacy of hatred that constitutes incitement to discrimination, hostility, or violence.⁷⁶

Given the inevitable tension between establishing rights to information and recognizing legitimate state interests in suppressing propaganda, the article was a good compromise. It did not, as the United States charged, undermine Article 19. Instead, it supplemented paragraph 3 of Article 19, which allowed restrictions necessary for special limited purposes. Al-

though the United States did not favor any provision allowing governmental interference in speech, the restriction against incitement to war and hatred could be viewed as safeguarding international welfare just as domestic law provisions sometimes permit free speech to be curtailed for the national welfare. Article 26 articulated the Soviet position that states have a duty to halt propaganda originating in their territories, at least in so far as that propaganda incites to violence or hatred. In this way, the article reaffirmed the position taken in Articles 1, 3 and 5 of the 1936 Convention Concerning the Use of Broadcasting in the Cause of Peace.⁷⁷

The Conflict Between Developed and Less-developed Nations

The less developed, or underdeveloped, countries of the Third World do not align themselves consistently with either side in the East-West conflicts. They often favor governmental regulation of communication, as does the East, but seem to recognize some value in alternative sources of information.⁷⁸

To understand their position, it is necessary to realize that these less-developed nations are primarily concerned with their own economic, political, and social development. As part of their pursuit of modernization, they seek to develop an independent national media.⁷⁹ Until then, they want some control over what is reported about them in the world press. Thus the right of reply is a major issue for these countries. They feel that if they are able, as a matter of legal right, to reply to false or misleading information which has been disseminated about their countries, they will be seen in a much more favorable light by the rest of the peoples of the world.

Overall, then, the Third World countries seem to support two positions with regard to the international regulation of propaganda. First, they argue for an expanded definition: propaganda should not only be thought of as purposefully misleading information whose dissemination is intended to harm a nation or people, but can also result from technically accurate but unbalanced or one-sided information that leads to an inaccurate, incomplete understanding. Second, they regard the right of correction as a critical tool to thwart propaganda, particularly in the sense of its expanded definition, where the propagandistic material is not maliciously intended but pernicious in its result.

The right of correction is not a new concept to the international effort to control propaganda. As early as 1936, the International Convention Concerning the Use of Broadcasting in the Cause of Peace undertook to give a right of correction:

Article 3. The high contracting parties . . . further mutually undertake to

ensure that any transmission likely to harm good international understanding by incorrect statements shall be rectified at the earliest possible moment by the most effective means, even if the incorrectness has become apparent only after the broadcast has taken place.⁸⁰

None of the new Third World countries were parties to the Convention.⁸¹ Still, they are able to point to the Convention as evidence that the right of correction has been recognized in international law.

The problem has been addressed more extensively during the UN Period. At the 1948 Conference on Freedom of Information, the United States offered a resolution on the "Right of Official Denial," by which a state which thought that a foreign correspondent's report was false, distorted, and likely to injure its relations with other states could issue its own version of the facts. It would send that version to the state where the report had been published and the receiving state would be obliged to make it available to information agencies there. The receiving state would not be obliged to have that version of the facts published, however.⁸²

The Soviet Union would not support the resolution, but not because the controls were not strict enough. Rather, it considered the proposals an unwarranted interference in domestic affairs.⁸³ This departure from the usual Soviet preference for greater press restrictions may have been motivated more by cold-war politics than by any strictly legal considerations. On the other hand, it could merely have been a response typical of a country which emerged from World War II with its media relatively unscathed.

In fact, it was primarily those countries with heavily damaged or still undeveloped communications systems which supported the proposed right of correction at the 1948 Conference. Certain eastern and western European countries were concerned that America could dominate the post-war world by means of its superior communications.⁸⁴ They feared that the United States might not be sensitive to their needs since it did not fear misrepresentation itself. And thus they sought alternatives to the "Right of Official Denial" proposed by the United States which would more effectively guarantee them the ability to express their views in their own way.⁸⁵

The Draft Convention on the International Right of Correction, adopted by the seventh session of the General Assembly in 1952,⁸⁶ did provide for a right of correction, and it required the Secretary General of the UN to give such corrections publicly when the state responsible for the original report did not.⁸⁷ Many of today's underdeveloped countries did not yet exist in 1952, but their interests are identical to those countries which were reconstructing or developing at that time.

In recent years, UNESCO has become one of the most active UN sources

of discussion of issues in international communications, and the Third World has played a particularly active role. It has adopted a series of documents which collectively articulate a "New World Information Order,"⁸⁸ including the 1978 Declaration on Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to countering Racism, Apartheid and Incitement to War.⁸⁹

Although the Declaration of Fundamental Principles does not specifically recall the Draft Convention on the International Right of Correction, it is consistent with it to a certain extent. Article V provides that in order to correct inequalities in the flow of information, countries which feel that prejudicial information has been disseminated about them are entitled to have their own views publicized.

The Declaration on Fundamental Principles reaffirms the positions of earlier international agreements on the object of propaganda. Although the word "propaganda" is never mentioned, Article III contains detailed allusions to the concept:

In countering aggressive war, racialism, apartheid and other violations of human rights which are inter alia spawned by prejudice and ignorance, the mass media, by disseminating information on the aims, aspirations, cultures and needs of all peoples, contribute to eliminate ignorance and misunderstanding between peoples, to make nations of a country sensitive to the needs and desires of others, to ensure the respect of the rights and dignity of all nations, all peoples, and all individuals without distinction of race, sex, language, religion or nationality and to draw attention to the great evils which afflict humanity, such as poverty, malnutrition and diseases, thereby promoting the formulation by States of the policies best able to promote the reduction of international tension and the peaceful and equitable settlement of international disputes.⁹⁰

Considered in isolation, Article III is a vague exhortation to idealistic goals. Article III(2), however, must be read in light of the documents incorporated into the Declaration. The Preamble specifically recalls Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights, Resolution 110(II) of the General Assembly of the United Nations, adopted in 1947, condemning all forms of propaganda which are designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression, and Resolution 127(II), also adopted by the General Assembly in 1947, which invites Member States to take measures, within the limits of constitutional procedures, to combat the diffusion of false or distorted reports likely to injure friendly relations between States.⁹¹

Thus, while the origins of the concerns expressed in the Declaration on

Fundamental Principles can be traced to the 1936 International Convention Concerning the Use of Broadcasting in the Cause of Peace, it also clearly evidences the preoccupations of the Third World in the propaganda debate. How this injection of a new voice into this long-standing debate will shape the future contours of the debate remains to be seen.

NOTES

¹ Van Dyke, *The Responsibility of States for International Propaganda*, 34 AM. J. INT'L L. 58, 60 (1940). The term propaganda can have various meanings. Broadly speaking, propaganda refers to communications about one state sent across international borders. The text, however, will use propaganda in the more restricted sense of hostile communications. Note that even communications that are seemingly neutral may be objectionable to the subject of the communications or the receiving state, if it considers them dangerous, subversive, distorted or false. The Third World refers to such communications as "false reports" or as "propaganda." Therefore, the discussion of propaganda, *infra* text accompanying notes 78-91, will encompass both the traditional and Third World definitions.

² The major disagreements involve the struggle between the East bloc countries, who favor a policy of state monopoly of the media and would like strict and specific restrictions on its activities, and Western countries, who favor a policy of state non-interference with the media and place their faith in the free flow of information to correct inaccuracies. *See infra* text accompanying notes 43-77. The developing countries do not consistently favor either side of the debate; their goal is to obtain aid to develop their own media systems, and to achieve more control over what the world media reports about their countries. *See infra* text accompanying notes 78-91.

³ *See infra* text accompanying notes 41-42.

⁴ *E.g.*, after the French Revolution, France spread official propaganda about other countries, which in turn spread propaganda against France. Van Dyke, *supra* note 1, at 63-64. Before the Balkan wars, Bulgaria, Greece, Rumania, and Serbia waged propaganda campaigns against the Ottoman Empire. Similarly, the United States and Britain engaged in minor propaganda activities against the Soviet Union. *Id.* at 64.

⁵ *See infra* text accompanying notes 22-24.

⁶ *See infra* text accompanying notes 27-30.

⁷ *See infra* text accompanying notes 31-40.

⁸ *See, e.g.*, International Convention Concerning the Use of Broadcasting in the Cause of Peace, Sept. 23, 1936, 186 L.N.T.S. 301; *see also* the Inter-American agreements, *infra* notes 39-40.

⁹ *See infra* text accompanying notes 41-42.

¹⁰ Van Dyke, *supra* note 1, at 58-59. Only one treaty in the late 1860s between Greece and Serbia, agreeing to spread propaganda in Turkey, expressly contradicted the principle of not spreading hostile propaganda in a friendly foreign state. Many treaties, including the French-Russian treaty of 1801, the press law of the Germanic Confederation (1819), and the treaty between Austria-Hungary and Serbia in 1881 imposed state responsibility for private propaganda activities. Others tried to control propaganda, but did not impose state responsibility. *Id.* at 58-60.

¹¹ *See supra* note 4.

¹² Van Dyke, *supra* note 1, at 65.

¹³ At the Paris Convention of 1856, Great Britain explicitly denied governmental respon-

sibility for the propaganda activities of her citizens. *Id.* at 66. Britain has modified the breadth of its position only slightly over the years, most recently in its Draft Convention on Freedom of Information. *See infra* note 46.

¹⁴ Van Dyke, *supra* note 1, at 66.

¹⁵ *Id.*

¹⁶ *Id.* at 67.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 60.

²⁰ *Id.* at 68.

²¹ *See, e.g.*, Convention Regarding Telephone and Telegraph Traffic, Dec. 16, 1921, Denmark-Sweden, art. 4, 14 L.N.T.S. 196, 221; Telegraphic Convention between French Equatorial Africa and the Belgian Congo, May 4, 1922, France-Belgium, arts. 3 and 4, 148 L.N.T.S. 61; Convention for the Exchange of Radio Telegraphic Correspondence, June 29, 1928, Cuba-Mexico, art. 15, 124 L.N.T.S. 189, 200; African Telecommunication Agreement, Oct. 30, 1935, arts. 22 and 23, 189 L.N.T.S. 51, 62; *see also* International Telecommunication Convention, Dec. 21, 1959, arts. 31 and 32, 12 U.S.T. 1761, T.I.A.S. No. 4892; International Telecommunication Convention, Nov. 12, 1965, arts. 32 and 33, 18 U.S.T. 575, T.I.A.S. No. 6267; International Telecommunication Convention, Oct. 25, 1973, arts. 19 and 20, 28 U.S.T. 2497, 2934, T.I.A.S. No. 8572.

²² Moore, *Fifty Years of International Law*, 50 HARV. L. REV. 395, 426-27 (1937).

²³ Second Hague Convention of 1907, Covenant Respecting the Duties of Neutral Powers and Persons in Case of War on Land, Oct. 18, 1907, 36 Stat. 2310, 2371, 2415, *reprinted in* 2 AM. J. INT'L L. SUPP. 117 (1908).

²⁴ Article 3 forbade belligerents to establish a telegraph station on the territory of a neutral power for use as a means of communication with belligerent forces, or to use an existing station on neutral territory for an exclusively military purpose. Article 5 required neutral states to punish acts in violation of neutrality only if they have been committed on its own territory. Article 8 rejected any requirement on neutral states to forbid or restrict the use of public or private telegraph or telephone cables on behalf of belligerents. Article 9 required any restrictions or prohibitions taken by a neutral power to be applied uniformly to both belligerents. *Id.*

The U.S. accepted the governmental responsibility imposed by the convention: in a pair of executive orders, President Wilson prohibited radio stations in the U.S. from transmitting or receiving "unneutral" messages, and placed under government control all stations capable of trans-Atlantic communication. *See* Act of August 13, 1912, 37 Stat. 302, 303; FOREIGN RELATIONS OF THE UNITED STATES 668, 678 (Supp. 1914). This acquiescence on the part of the United States, at odds with its more typical refusal to censor propaganda, can only be explained as a willingness to control communications more closely during wartime. For a thorough discussion of these orders in the context of neutrality, *see* DeWolf, *Telecommunications and Neutrality*, 30 AM. J. INT'L L. 117, 120 (1936).

²⁵ Article 2 provided that neutrals and belligerents may regulate or close down radio stations. Article 3 stated that the erection of a radio station on the territory of a neutral country by a belligerent constituted a violation of neutrality. Article 4 stated that a neutral state was not required to restrict or limit the operation of radio stations within its borders, except when necessary to prevent information concerning military forces or operations from reaching a belligerent. DeWolf, *supra* note 24, at 121-22.

²⁶ Leroy, *Treaty Regulation of International Radio and Short Wave Broadcasting*, 32 AM. J. INT'L L. 719, 728 (1938).

²⁷ *E.g.*, Supplementary Agreement to the German-Russian Agreement Concluded at Rapallo, Nov. 5, 1922, Germany-U.S.S.R., art. 7, 26 L.N.T.S. 387, 394.

²⁸ *E.g.*, Convention for the Definition of Aggression, July 5, 1933, Lithuania-U.S.S.R., art. 3 Annex, 148 L.N.T.S. 79, 83. Impermissible justifications noted in the Annex include: the political, economic or social structure of a state; alleged defects in its administration; the violation or threatened violation of the material or moral rights or interests of a foreign State or its nationals; the rupture of diplomatic or economic relations; or economic or financial boycotts. *Accord* Convention for the Definition of Aggression between Rumania, U.S.S.R., Czechoslovakia, Turkey and Yugoslavia, July 4, 1933, art. 3 Annex, 148 L.N.T.S. 211, 217; Convention for the Definition of Aggression between Roumania, Poland, U.S.S.R., Afghanistan, Persia, Latvia, Estonia, and Turkey, July 3, 1933, art. 3 Annex, 147 L.N.T.S. 67, 75.

²⁹ One of the more famous of such agreements is the Litvinov Assignment between the U.S. and the U.S.S.R. Both countries promised not to spread propaganda hostile to the government of the other country and not to harbor any groups working toward the overthrow of the government of the other country. *See Exchange of Communications between the President of the United States and Maxim M. Litvinov People's Commissar for Foreign Affairs of the Union of Soviet Socialist Republics*, 28 AM. J. INT'L L. SUPP. 2 (1934); *see also* Treaty of Neutrality and Non-Aggression, June 24, 1931, Afghanistan-U.S.S.R., art. 3, 157 L.N.T.S. 367.

³⁰ However, very few non-Soviet treaties containing propaganda articles were made during this period. *See, e.g.*, Treaty of Friendship and Security, April 22, 1926, Persia-Turkey, arts. IV & V, 107 L.N.T.S. 247, 263; Anti-War Treaty (Non-Aggression and Conciliation), Oct. 10, 1933, art. III, 163 L.N.T.S. 393, 405. The latter treaty reads in pertinent part:

In case any of the States engaged in the dispute fails to comply with the obligation set forth in the following Articles, the Contracting States undertake to make every effort in their power for the maintenance of peace. To that end, and in their character of neutrals, they shall adopt a common and solitary attitude; they shall exercise the political, juridical or economic means authorized by International Law; they shall bring the influence of public opinion to bear; but in no case shall they resort to intervention either diplomatic or armed. . . .

This treaty between South American states was unusual, because it appeared to allow a state to use propaganda in order to publicize the wrongdoing to a signatory state. *See also* Additional Treaty to the Treaty of Friendship, Neutrality, Conciliation and Arbitration, April 27, 1938, Greece-Turkey, art. 3, 193 L.N.T.S. 175, 1979; Agreement regarding Questions of Mutual Concern Consisting of a Protocol and Annexes, Great Britain-Northern Ireland-Italy, April 16, 1938, Annex 4, 195 L.N.T.S. 77, 86.

³¹ On September 24, 1931, the League of Nations Assembly asked the International Committee on Intellectual Cooperation to study all international questions arising out of broadcasting, with special attention on publicizing the goals of the League of Nations. The Committee set up a meeting of experts to study the state of international communications and the treaties purporting to regulate the field, especially the Reichs-Rund Funk-Gesellschaft Agreement. *See supra* text accompanying note 26. After completing an exhaustive study, the experts drafted the Convention for the Use of Broadcasting in the Cause of Peace, which the League transmitted to member states for comment in 1934. *Extracts from the General Report of the Director of the International Institute of Intellectual Cooperation to the International Committee*, 14 LEAGUE OF NATIONS O.J. 1371, 1378 (1933); 15 LEAGUE OF NATIONS O.J. 109, 109-10 (1934).

³² International Convention Concerning the Use of Broadcasting in the Cause of Peace, *supra* note 8, at art. 1.

³³ Article 3 states:

The high contracting parties mutually undertake to prohibit and, if occasion arises, to stop without delay within their respective territories any transmission likely to harm good international understanding by statements the incorrectness of which is or ought to be known to the persons responsible for the broadcast.

They further mutually undertake to ensure that any transmission likely to harm good

international understanding by incorrect statements shall be rectified at the earliest possible moment by the most effective means, even if the incorrectness has become apparent only after the broadcast has taken place.

Id.

³⁴ Article 5 states:

Each of the high contracting parties undertakes to place at the disposal of the other high contracting parties, should they so request, any information that, in his opinion, is of such a character as to facilitate the broadcasting, by the various broadcasting services, of items calculated to promote a better knowledge of the civilization and the conditions of life of his own country as well as of the conditions of life of his own country as well as of the essential features of the development of his relations with other peoples and of his contribution to the organization of peace.

Id.

³⁵ The signatories were: Albania, Argentina, Austria, Belgium, Brazil, Chile, Colombia, Czechoslovakia, Denmark, Dominican Republic, Egypt, Estonia, France, Great Britain and Northern Ireland, Greece, India, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Roumania, Spain, Switzerland, Turkey, the U.S.S.R., and Uruguay.

³⁶ See *infra* note 80. Enforcement problems continue today. The 1978 Declaration on Fundamental Principles, *infra* note 89, contains no real enforcement mechanism. Instead, a conference was scheduled for 1983 to implement the Declaration. The inability to include an effective enforcement mechanism in the Declaration itself may be symptomatic of the general mistrust nations have toward United Nations enforcement of communications agreements.

³⁷ International Convention Concerning the Use of Broadcasting in the Cause of Peace, *supra* note 8, at 314 n.1, 317 n.1.

³⁸ *Id.* at 315 n.1.

³⁹ International Committee on Intellectual Cooperation, Report by Committee on the Work of the 17th Plenary Session, League of Nations Doc. C.290/M154 (XII) (1935).

⁴⁰ E.g., the Seventh International Conference of American States in Montevideo (1933), and the Inter-American Conference for the Maintenance of Peace in Buenos Aires (1936), called for collective use of short wave frequencies for positive propaganda among American states. LeRoy, *supra* note 26, at 728-29; see Inter-American Radiocommunications Convention, April 17, 1939, reprinted in 35 AM. J. INT'L L. SUPP. 56 (1941) (provided for cultural broadcasting); North American Regional Broadcasting Agreement, discussed in Otterman, *Inter-American Radio Conferences, Habana, 1937*, 32 AM. J. INT'L L. 569 (1938); see also Exchange of Notes Regarding the Prohibition of Films Considered Disparaging, Sept. 4, 1935, and Jan. 18 and Feb. 18, 1936, Spain-Chile, 169 L.N.T.S. 321; Exchange of Notes regarding the Prohibition of the Exhibition of Films Considered as Disparaging, March 2 and 9, 1936, Peru-Spain, 169 L.N.T.S. 331; Convention for the Revision of History and Geography Textbooks, Dec. 28, 1933, Brazil-Mexico, art. I, 186 L.N.T.S. 399, 401. The latter treaty reads in pertinent part: "[The two countries] shall arrange for the textbooks used for the teaching of national history in their respective countries to be revised, and for all passages likely to arouse hostility in youthful minds against any American nation to be deleted."

⁴¹ Fenwick, *The Third Meeting of Ministers of Foreign Affairs at Rio de Janeiro*, 36 AM. J. INT'L L. 169, 188-189 (1942). The Rio conference followed a 1941 conference in Havana, in which American states made a general pledge to take action against propaganda directed at the Americas. Stowell, *The Habana Conference and Inter-American Cooperation*, 35 AM. J. INT'L L. 123, 127 (1941).

⁴² See *supra* note 24.

⁴³ "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures

shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security." U.N. CHARTER art. 39.

⁴⁴ E.g., Yugoslavia suggested that a proposal be added to the provisional agenda of the Second Regular Session of the General Assembly in 1947 so the Assembly could address "[r]ecommendations to be made with a view to preventing the dissemination with regard to foreign states of slanderous reports which are harmful to good relations between states and contrary to the purposes and principles of the United Nations." Whitton, *Efforts to Curb Dangerous Propaganda*, 41 AM. J. INT'L L. 899 (1947).

In 1946, during the first half of the first session of the General Assembly, the Philippines proposed a world-wide conference on freedom of information. See Report of Salvador Lopez on Freedom of Information to the Economic and Social Council, 16 U.N. ESCOR Supp. (No. 12) at 7, U.N. Doc. E1426 (1953).

⁴⁵ Whitton, *supra* note 44, at 901. The Conference was conducted by the Sub-Commission on Freedom of Information of the Economic and Social Council. Report of Salvador P. Lopez, *supra* note 44.

⁴⁶ Although the Western nations as a whole supported the ideal of freedom of information, some nations were more willing than others to moderate their positions. Britain submitted a Draft Convention which affirmed freedom of information as a human right, but subjected it to restrictions by law, including laws dealing with propaganda. See Whitton, *The United Nations Conference on Freedom of Information and The Movement Against International Propaganda*, 43 AM. J. INT'L L. 73, 83 (1949). The U.S., however, opposed all ten proposed restrictions, preferring to regulate the area through voluntary efforts and moral principles. *Id.* at 82-84. Unlike the British, the Americans stood firmly, almost obstinately, for complete governmental non-interference in communications.

The East bloc nations, in turn, insisted upon the strict legal obligation of each state to prevent publication of rumors designed to provoke war, and deplored the fact that the British Draft contained no article prohibiting false or distorted news or propaganda. *Id.* at 76, 82-84. They characterized the Western, and particularly the American position, as "hidden censorship," and charged that the dedication to freedom of information was really a desire to maintain the inequality in the flow of information in favor of the West and promote capitalist propaganda. *Id.* at 76. Eventually, however, the British Draft Resolution was adopted.

⁴⁷ U.N. Doc. A/5443 (1963). The text of relevant portions of the Convention is reprinted *infra* note 58.

⁴⁸ See *supra* note 21.

⁴⁹ See Second Hague Convention of 1907, *supra* notes 23-24.

⁵⁰ E.g., as in the inter-American agreements of the 1940's, *supra* text accompanying notes 41-42, and in the treaties of friendship and non-aggression, see *supra* text accompanying notes 27-30.

⁵¹ See *supra* text accompanying notes 31-38 for a discussion of the International Convention Concerning the Use of Broadcasting in the Cause of Peace; see also *supra* text accompanying notes 39-40 for a discussion of the inter-American agreements in the 1930s.

⁵² Draft Convention on Freedom of Information, *supra* note 47, at art. 1.

⁵³ The General Assembly began revising the Draft, but after encountering difficulties decided to postpone consideration of it until more work could be finished on the Draft Covenant on Human Rights. In 1951 the preamble and nineteen articles were redrafted by an ad hoc committee, but the General Assembly did not discuss the draft. Report of Salvador Lopez, *supra* note 44, at 8.

⁵⁴ The Economic and Social Committee began debating the draft in 1954, basing its discussion on an extensive report on freedom of information. See Lopez, *Economic and Social Council Discussion of Report of Rapporteur on Freedom of Information*, 8 INT'L ORGAN. 366 (1954). The debate was so protracted that the Social Committee of the General Assembly criticized

ECOSOC in 1955 for an apparent lack of interest in freedom of information. *Freedom of Information Considered by the Social Committee of the General Assembly of the U.N.*, 9 INT'L ORGAN. 117, 121 (1955).

The resolution which was finally passed merely urged governments to cease censoring outgoing news transmission, rather than dealing with the propaganda problem in any systematic way. *Economic and Social Council discussion of Freedom of Information*, 9 INT'L ORGAN. 525 (1955). In 1960, the Social Committee of the General Assembly discussed the Draft Convention with better results, for it was in that Committee that the Draft Resolution evolved into its final form. For a discussion of the Social Committee debates, see *General Assembly Consideration of Draft Convention on Freedom of Information*, 14 INT'L ORGAN. 151 (1960).

⁵⁵ See *id.*

⁵⁶ See *General Assembly Consideration of Draft Convention on Freedom of Information*, 15 INT'L ORGAN. 121 (1961). For example, instead of just listing the allowable limitation on the free flow of information, the Philippine draft expressly authorized nations to regulate information for purposes of security, public safety, health and morals. U.N. Doc. A/C.3/L. 878 (1960). Brazil, Liberia, Nigeria and Yugoslavia collaborated on expanding the limitations in the Philippine draft, and tried to refine the language. U.N. Doc. A/C.3/L.880 (1960). Eight Latin American states sponsored an amendment prohibiting prior censorship; that amendment was revised to read that there could be no censorship of news, comments, political opinions or use of such evidence as grounds for restricting the right to criticize the government.

With these revisions, article 2 was adopted. For detailed reporting of the debate, see 15 INT'L ORGAN. at 122-23.

⁵⁷ For example, Uruguay, Sweden and Denmark objected to article 2. Denmark opposed it on three specific grounds: (1) no clause of the article prohibited advance censorship; (2) the article evaded the question of who was to make the decision that particular published information was illegal; and (3) the limitation of article 2 applied only to the gathering and receiving of data, which is a matter that can only be regulated by law to a limited extent. See *General Assembly Consideration of Draft Convention on Freedom of Information*, *supra* note 56, at 122.

⁵⁸ Draft Convention on Freedom of Information, *supra* note 47, at art. 3. Relevant portions of the text of the Draft Convention read as follows:

Article 1

The right to know and the right freely to seek the truth are inalienable and fundamental rights of man. Everyone has the right, individually and collectively, to seek, receive and impart information.

Article 2

All Governments should pursue policies under which the free flow of information, within countries and across frontiers, will be protected. The right to seek and transmit information should be assured in order to enable the public to ascertain facts and appraise events.

Article 3

Media of information should be employed in the service of the people. No Government or public or private body or interests should exercise such control over media for disseminating information as to prevent the existence or a diversity of sources of information or to deprive the individual of free access to such sources. The development of independent national media of information should be encouraged.

Article 4

The exercise of these rights and freedoms entails special responsibilities and duties. Those who disseminate information must strive in good faith to ensure the accuracy of the facts reported and respect the rights and the dignity of nations, and of groups and individuals without distinction as to race, nationality or creed.

Article 5

The rights and freedoms proclaimed above should be universally recognized and respected, and may in no case be exercised contrary to the purposes and principles of the United Nations. They should be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of national security, public order, morality and the general welfare in a democratic society.

⁵⁹ *Id.*

⁶⁰ *Id.* at art. 4.

⁶¹ *Id.* at art. 5.

⁶² See *supra* text accompanying note 25.

⁶³ See Convention *supra* note 8, at art. 3.

⁶⁴ Draft Convention on Freedom of Information, *supra* note 58, at art. 5.

⁶⁵ See *supra* note 54.

⁶⁶ Draft Covenant on Civil and Political Rights, art. 19, 18 U.N. ESCOR Supp. (No. 7) at 68, U.N. Doc. A/6342 (1966).

⁶⁷ Belgium, China, Dominican Republic, Indonesia, Israel, Japan, Senegal, and Venezuela also accepted Article 19 as originally written. See *General Assembly Debate on Draft International Covenants on Human Rights*, 16 INT'L ORGAN. 118 (1962). Although the American representatives approved of article 19, the United States has not ratified the International Covenant on Civil and Political Rights, primarily because of the article 19 and article 20 limitations on communications. This makes the American position somewhat difficult to explain—first the United States seemed willing to accept a compromise on its freedom of information position, and then it rejected that compromise.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ The East bloc proposed this amendment. *Id.* at 119.

⁷¹ India proposed that the article should merely state that everyone has the right of free expression subject only to necessary restrictions. In this form it was felt that everyone would agree to the article. But since this is the same wording as the Draft Convention on Freedom of Information, the amendment failed. India, with Indonesia, also wanted to add that freedom of information should be used "for promotion of peace and friendly relations among peoples and nations", but that too failed. Britain felt that freedom of expression could be better safeguarded by condemning war propaganda and extending the restriction to cover racial, religious, and class prejudice. After some discussion, it was decided that such an addition was out of place in Article 19 and required either a separate article or special convention. The East bloc made one more attempt to have war propaganda and racial discrimination excluded as subjects of freedom of speech, but the attempt failed. *Id.* at 118-19.

⁷² Article 26 of the Draft Covenant states that: "1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

⁷³ *General Assembly Debate on Draft International Covenants on Human Rights*, *supra* note 67, at 120.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Article 26 was designed to be placed immediately after article 19, so when the International Covenant on Civil and Political Rights was adopted in 1966, it became article 20. International Covenant on Civil and Political Rights, Dec. 16, 1966, G.A. Res. 2200A, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A.1 6316 (1966). Its language is identical to article 26 of the Draft Covenant. See *supra* note 72.

⁷⁷ See *supra* text accompanying notes 31-38. Like the 1936 Convention, the more recent Declaration on Fundamental Principles also lacks effective enforcement provisions. See *infra* notes 89-40 and accompanying text.

In 1980, the UNESCO General Conference passed a resolution calling upon member states to implement the Declaration on Fundamental Principles, and authorized the Director-General to prepare a study on the implementation of the Declaration. Furthermore, it invited the Director-General to convene an international conference to "further the application of the Declaration." Application of the Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, in the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War, UNESCO Gen. Conf. Res. 4/20 (1980), reprinted in E. PLOMAN, *INTERNATIONAL LAW GOVERNING COMMUNICATIONS AND INFORMATION: A COLLECTION OF BASIC DOCUMENTS* 176-77 (1982).

⁷⁸ During the discussion of the proposed International Right of Correction in 1952, the delegate from Egypt noted that the underdeveloped countries were not so much concerned with an increased flow of news as they were interested in the accuracy of news about their countries. See *General Assembly Consideration of Social, Humanitarian and Cultural Matters: Freedom of Information*, 7 INT'L ORGAN. 82, 83-84 (1953).

⁷⁹ The role of mass media in development is critical. Studies have shown that in most developing countries, the growth of mass media outstrips the growth of the economy as a whole. And when the mass media grows, communications systems become more national rather than more international. See Pool, *The Functions of Mass Media in International Exchange*, UNESCO HANDBOOK OF INTERNATIONAL EXCHANGES, 63-64 (1965).

But when media systems first begin in an underdeveloped country, they are usually built under the sponsorship of, and for the interests of, more developed nations. Western ideas and information flow into the country, and the receiving country can claim that this influx causes it to lose its cultural identity. This, briefly, is what is meant by "cultural imperialism."

Although these complaints are often perceived as peculiar to the Third World, the idea is not new. The position of the Third World is not very different from the position of many countries after World War II. See *infra* text accompanying notes 84-85. This suggests that the problem is not so much regional or political as it is developmental. After the countries concerned about U.S. domination after World War II developed their own communications systems, they took their places in the East-West debate. The Third World may eventually follow.

⁸⁰ See Convention *supra* note 8, at art. 3.

⁸¹ Obviously, many of the Third World countries could not have been parties to the Convention in 1936 because they did not exist.

In 1955, the U.S.S.R. proposed that the General Assembly request states which had or might become parties to the 1936 Geneva Convention agree to transfer its functions to the United Nations. U.N. Doc. A/C.3/L.447. Since the Secretary-General had already taken over some of these functions, the resolution was adopted. See *General Assembly Consideration of Freedom of Information and the Question of Organizing an International Code of Ethics for Information Personnel*, 9 INT'L ORGAN. 117, 119-21 (1955). Thus, the Convention still might have been enforceable.

But the Third World has preferred to help draft new agreements rather than to try to enforce old ones.

⁸² See Whitton, *supra* note 46, at 80. The U.K., partly supporting this proposal, also argued that states should not be obliged to publish the correction, because if more steps were taken to encourage the free flow of information, the truth would be readily ascertained and there would be less need for correction. *Id.* at 81.

⁸³ *Id.*

⁸⁴ *Id.* at 77.

⁸⁵ These war-ravaged countries sought even more formal procedures to correct false reports than the U.S. proposed. France offered a counter-proposal to the U.S. resolution whereby U.N. machinery would be used to enforce corrections. Poland was concerned that

there seemed to be no way under the U.S. proposal to force a country to publish the correction sought by the wronged state. *Id.* at 80 and 81.

⁸⁶ The Convention on The International Right of Correction, 1952, reads in relevant part:

Preamble

Considering the danger to the maintenance of friendly relations between peoples and to the preservation of peace, arising from the publication of inaccurate reports . . . Considering, however, that it is not at present practicable to institute, on the international level, a procedure for verifying the accuracy of a report which might lead to the imposition of penalties for the publication of false or distorted reports. . . .

Considering that an effective means to these ends is to give States directly affected by a report, which they consider false or distorted and which is disseminated by an information agency, the possibility of securing commensurate publicity for their corrections. . . .

Article II

A contracting State . . . may submit its version of the facts (hereinafter called "communique") to the Contracting States within whose territories such despatch has been published or disseminated. A copy of the communique shall be forwarded at the same time to the correspondent or information agency concerned to enable that correspondent or information agency to correct the news despatch in question. . . .

Article III

1. . . . not later than five days after receiving such communique, a Contracting State . . . shall:

(a) Release the communique to the correspondents and information agencies operating in its territory through the channels customarily used for the release of news concerning international affairs for publications; and

(b) Transmit the communique to the headquarters of the information agency whose correspondent was responsible for originating the despatch in question, if such headquarters are within its territory.

Article IV

1. If any of the Contracting States to which a communique has been transmitted in accordance with article II fails to fulfill, within the prescribed time-limit, the obligations laid down in article III, the Contracting State exercising the right of correction may submit the said communique, together with a verbatim text of the despatch as published or disseminated, to the Secretary General of the United Nations and shall at the same time notify the State complained against that it is doing so. The latter State may, within five clear days after receiving such notice, submit its comments to the Secretary-General, shall relate only to the allegation that it has not discharged its obligations under article III.

2. The Secretary-General shall in any event, within ten clear days after receiving the communique, give appropriate publicity through the information channels at his disposal to the communique, together with the despatch and the comments, if any, submitted to him by the State complained against.

The full text of the Convention is reprinted in 7 INT'L ORGAN. 179 (1953).

⁸⁷ *Id.* at art. IV.

⁸⁸ The New World Information Order provides for the regulation of international telecommunications by addressing such issues as technical regulations concerning the use of airwaves; the provision of technical assistance to underdeveloped countries; the control of international propaganda; and the promotion of international understanding and world peace.

⁸⁹ UNESCO Gen. Conf. Res. 4/A.3/2 (1978), reprinted in PLOMAN, *supra* note 77, at 172-76.

⁹⁰ *Id.*

⁹¹ *Id.*