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## FOUR OBLIGATIONS - EXERCISE 4 (1/1 point)

4. A journalist seeks to be accredited to Parliament, in order to be able to be informed of parliamentary debates and to report about them. He is denied such accreditation by the private association to which the Parliament has delegated the power to grant, or to deny, such accreditations. The journalist complains not only of a violation of Article 19 (freedom of expression) , but also of a violation of the non-discrimination provision of Article 26 ICCPR. Is he correct?

- ☐ This is a violation of the rule of equality before the law;
- ☐ This is a violation of the rule of equal protection of the law;
- ☐ This is a violation of the requirement that the law should prohibit any discrimination;
- ☐ This is a violation of the requirement that all persons should have equal and effective protection against discrimination; or,
- ☒ Though this may be a violation of freedom of expression, it is unrelated to the prohibition of discrimination.



### EXPLANATION

The facts correspond to the famous case of *Gauthier v. Canada*, which was communicated to the Human Rights Committee (Communication No 633/1995), and on which the Committee adopted final views of 5 May 1999. The majority of the Committee members considered that the communication was inadmissible insofar as it referred to Article 26 ICCPR: in other terms, they believed that the case was not about discrimination. They did, however, find a violation of Article 19 ICCPR, which guarantees freedom of expression and which encompasses the right to seek, receive and impart information.

However, five members of the Committee did take the view that Gauthier had in fact been victim of discrimination under Article 26 ICCPR. They noted: 'Equality implies that the application of laws and regulations as well as administrative decisions by Government officials should not be arbitrary but should be based on clear coherent grounds, ensuring equality of treatment. To deny the author, who is a journalist and seeks to report on parliamentary proceedings, access to the Parliamentary press facilities without specifically identifying the reasons, was arbitrary. Furthermore, there was no procedure for review. In the circumstances, we are of the opinion that the principle of equality before the law protected by article 26 of the Covenant was violated in the author's case.'

(In contrast, one member of the Committee strongly opposed this position: 'it is not sufficient, in order to substantiate a violation of article 26, merely to state that no reasons were given for a decision. Furthermore, it seems

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to me that the author's claim under article 26 is in essence a restatement of his claim under article 19. It amounts to the argument that while others were (granted accreditation), the author was denied access. Accepting that this constitutes a violation of article 26 would seem to imply that in almost every case in which one individual's rights under other articles of the Covenant are violated, there will also be a violation of article 26').

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