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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Philippines: articles relating to measures of implementation to be added to the provisions of the draft International Convention on the Elimination of All Forms of Racial Discrimination adopted by the Commission on Human Rights (A/5921, annex)

Article (1)*

1. The States Parties to this Convention undertake to submit a report on the legislative or other measures which they have adopted and which give effect to the provisions of this Convention, (a) within one year after the entry into force of the Convention for the State concerned and (b) thereafter every two years and whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Economic and Social Council which may transmit them to the Commission on Human Rights or the specialized agency for information, study and, if necessary, general recommendations.

3. The States Parties directly concerned may submit to the Economic and Social Council observations on any general recommendations that may be made in accordance with paragraph 2 of this article.

* This is the text of article X of the draft convention submitted to the Commission on Human Rights by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/5873, para. 281).

Article (2)*

There shall be established under the auspices of the United Nations a Good Offices and Conciliation Committee (hereinafter referred to as "the Committee") to be responsible for seeking the amicable settlement of disputes between States Parties concerning the interpretation, application or fulfilment of the present Convention.

Article (3)

1. The Committee shall consist of eleven members who shall be persons of high moral standing and acknowledged impartiality.

2. The members of the Committee, who shall serve in their personal capacity, shall be elected by the General Assembly of the United Nations in accordance with the procedures established in articles (4) and (5), consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.

3. The Committee may not include more than one national of the same State.

Article (4)

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article (3) and nominated for the purpose by the States Parties to this Convention. Each State Party shall nominate not more than four persons. These persons shall be nationals of the nominating State or of any other State Party to the Convention.

2. At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a letter to the States Parties to the Convention inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to the General Assembly and to the States Parties to the Convention.

* This and the following articles consist of the preliminary draft on additional measures of implementation of the draft Convention transmitted to the Commission on Human Rights by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/3873, annex I, except for article 16).

Article (5)

The members of the Committee shall be elected for a term of five years. They shall be eligible for re-election if renominated. The terms of six of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these six members shall be chosen by lot by the President of the General Assembly of the United Nations.

Article (6)

When electing members of the Committee, the General Assembly of the United Nations shall also designate from the list of nominees submitted by the States Parties under article (4) an alternate for each member so elected. An alternate need not be of the same nationality as the member concerned, but both of them should be from the same geographical area or region.

Article (7)

1. In the event of the death or resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

2. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, or is unable to continue the discharge of his duties, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall thereupon declare the seat of such member to be vacant.

3. In each of the cases provided for by paragraphs 1 and 2 of this article, the Secretary-General of the United Nations shall forthwith induct into office the alternate concerned as member of the Committee for the unexpired term and shall inform each State Party to this Convention accordingly.

Article (8)

Members of the Committee shall receive travel and per diem allowances in respect of the periods during which they are engaged on the work of the Committee from the resources of the United Nations on terms laid down by the General Assembly.

Article (9)

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations. Subsequent meetings may be held either at the Headquarters or at the European Office of the United Nations, as determined by the Committee.

2. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

Article (10)

1. The Committee shall elect its Chairman and Vice-Chairman for a period of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure. Before adopting such rules, the Committee shall send them in draft form to the States then Parties to the Convention who may communicate any observation and suggestion they may wish to make within three months.

3. The Committee shall re-examine its rules of procedure if at any time so requested by any State Party to the Convention.

Article (11)

1. If a State Party to this Convention considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both Parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Secretary-General of the United Nations and to the other State.

Article (12)

The Committee shall deal with a matter referred to it under article (11) only after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

Article (13)

In any matter referred to it, the Committee may call upon the States concerned to supply any relevant information.

Article (14)

1. Subject to the provisions of article (12), the Committee, after obtaining all the information it thinks necessary, shall ascertain the facts, and make available its good offices to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

2. The Committee shall in every case, and in no event later than eighteen months after the date of receipt by the Secretary-General of the United Nations of the notice under article (11), paragraph 2, draw up a report in accordance with the provisions of paragraph 3 below which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. When an advisory opinion is requested of the International Court of Justice, in accordance with article (15), the time-limit shall be extended appropriately.

3. If a solution within the terms of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall draw up a report on the facts and indicate the recommendations which it made with a view to conciliation. If the report does not represent, in whole or in part the unanimous opinion of the members of the Committee, any member of the Committee shall be entitled to attach to it a separate opinion. Any written or oral submission made by the parties to the case shall also be attached to the report.

Article (15)

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

Article (16)

1. The Committee may receive petitions addressed to the Secretary-General from any person or groups of individuals claiming to be the victim of a violation of this Convention by any State Party, or from any non-governmental organization in consultative status with the Economic and Social Council, alleging that a State Party is not giving effect to this Convention, provided that the State Party complained of has declared that it recognizes the competence of the Committee to receive such petitions.

2. The declaration of a State Party mentioned in the preceding paragraph may be made in general terms, or for a particular case or for a specific period, and shall be deposited with the Secretary-General who shall transmit copies thereof to the other States Parties.

3. In considering petitions submitted under this article, the Committee shall be guided as far as possible by the principles and procedures outlined in articles (11) to (15) of this Convention.

Article (17)

The Committee shall submit to the General Assembly, through the Secretary-General of the United Nations, an annual report on its activities.

Article (18)

The States Parties to this Convention agree that any State Party complained of or lodging a complaint may, if no solution has been reached within the terms of article (14), paragraph 1, bring the case before the International Court of Justice after the report provided for in article (14), paragraph 3, has been drawn up.

Article (19)

The provisions of this Convention shall not prevent the States Parties to the Convention from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Convention in a matter within the competence of the Committee; or from resorting to other procedures for settling the dispute, in accordance with general or special international agreements in force between them.
