

COMMISSION ON HUMAN RIGHTS

Fifth session

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

Recapitulation of amendments to Articles 13, 14 and 15

Article 13

Original text in document E/800

(The Drafting Committee voted in favour of the first of the following texts),

- A. 1. In the determination of any criminal charge against him or of any of his civil rights or obligations, every one is entitled to a fair hearing before an independent and impartial tribunal.
2. In the determination of any criminal charge against him every one is entitled to:
- (a) A public trial, though the press and public may be excluded from all or some of the portions thereof other than the judgment where considerations of security or morals are involved or the preservation of order in the court requires. Exceptions may be made in the interest of juveniles;
 - (b) Legal assistance of his own choosing; and
 - (c) The services of an interpreter to assist the accused if he cannot understand or speak the language used in court.
- B. Text submitted by the Representative of the Union of Soviet Socialist Republics
1. All persons shall be equal before the court or tribunals. Judges shall be independent and subject only to the law. Legal procedure in every State shall be based on democratic principles. The trial of cases in all courts shall be public, subject to exceptions prescribed by law for the protection of public morals and national security, and the accused person shall be assured the right of defence.
2. When any person who does not know the national language is prosecuted, he shall be assured full knowledge of all the material in the case through an interpreter and shall also have the right to address the court in his native language.

/United States

United States of America (E/CN.4/170)

1. In the determination of any criminal charge or civil suit, everyone is entitled to a fair hearing before an independent and impartial tribunal.
2. In the determination of any criminal charge against him, everyone is entitled to:
 - (a) A public trial, although the press and public may be excluded from all or part of the trial where considerations of national security or morals are involved or where the interest of juveniles so requires or where the preservation of order in the court so requires;*
 - (b) Legal assistance, which shall include the right to legal assistance of his own choosing, or, if he does not have such, to be informed of his right and, if unobtainable by him, to have counsel assigned; and
 - (c) The aid of an interpreter if he cannot understand or speak the language used in court.

Philippines (E/CN.4/232)

1. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. The press and public may be excluded from all or part of the trial, other than the judgment, where considerations of national security or morals are involved, or the preservation of order in the court requires. Juveniles may also be excluded from all or part of the trial when their interest so requires.
2. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law. He shall be entitled to:
 - (a) To be informed of the nature and cause of the accusation against him;
 - (b) To defend himself in person or through legal assistance of his own choosing;
 - (c) To examine the witnesses against him and to have compulsory process to secure the attendance of witnesses in his behalf;
 - (d) To have the assistance of an interpreter if he cannot understand or speak the language used in court.
3. Everyone who has undergone punishment as a result of an erroneous conviction of crime shall have an enforceable right to compensation. This right shall accrue to the heirs of a person executed by virtue of an erroneous sentence.

* Omit underlined words if Article 4 is revised along lines of United States proposal.

Article 14

Original text in document E/800

1. No one shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.
2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

United States of America (E/CN.4/170)

No State shall enact any penal laws making punishable any act or omission which did not constitute a penal offence at the time it was committed, or providing a greater punishment for a penal offence than that prescribed by the law in force at the time when the offence was committed.

United Kingdom (E/CN.4/188)

1. No one shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed.
2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

India (E/CN.4/199)

Delete clause 2.

France (E/CN.4/228)

Adopt the wording of Article 11, paragraph 2, of the Declaration:

No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Egypt (E/CN.4/233)

Delete paragraph 2.

Article 15

Original text in document E/800

No one shall be deprived of his juridical personality.

United States of America (E/CN.4/170)

(The United States proposes the deletion of this Article since it does not seem to be sufficiently clear and precise. The United States suggests that instead of including this Article in the Covenant, consideration be given at a later session of the Human Rights Commission to the development of such concepts as are contemplated by other delegations in the term "juridical personality" for possible inclusion in a separate convention.)

Philippines (E/CN.4/232)

Everyone has the right to recognition everywhere as a person before the law.

(Article 6 of the Universal Declaration)
