

COMMISSION ON HUMAN RIGHTS

Fifth session

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

Recapitulation of amendments to Articles 19 to 27

Article 19

Original text in document E/800

The right of association is recognized provided that right is exercised in whatever form may be appropriate under the law of the State and is directed to lawful aims including the defence and protection of the legitimate interests of the members of the association or the dissemination of information under Article 17. Associations shall enjoy the rights and freedoms set forth in Articles 16 and 17.

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

1. No State shall deny any one freedom of association with others.
2. The above provision shall be subject only to such limitations as are pursuant to law and reasonably necessary for the protection of the rights and freedoms of others or for national security or for the general welfare.*

Article 20

Original text in document E/800

Equal protection of the law with respect to the enjoyment of any of the rights and freedoms set forth in Part II of this Covenant shall not be denied to any one on account of race (which includes colour) sex, language, religion, political or other opinion, property status, or national or social origin.

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

Equal protection of the law with respect to the enjoyment of any of the rights and freedoms set forth in this Covenant shall not be denied to any one on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

* Omit paragraph 2 if Article 4 is revised along lines United States proposal.

Philippines (E/CN.4/232)

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Covenant and against any incitement to such discrimination.

(article 7 of the Universal Declaration)

Union of Soviet Socialist Republics (E/CN.4/237)

"Every people and every nation shall have the right to national self-determination. States which have responsibilities for the administration of non-self-governing territories shall promote the fulfilment of this right, guided by the aims and principles of the United Nations in relation to the peoples of such territories.

The State shall ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions."

The former Article 20 to become Article 21 of the draft Covenant.

France (E/CN.4/249)

"The equal protection of the law with respect to the enjoyment of any of the rights and freedoms set forth in Part II of this Covenant shall not be denied to anyone on account of race, colour, sex, language, religion, political or other opinion, national and social origin, property or birth."

Article 21

Original text in document E/800

(deleted)

(Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State).

Union of Soviet Socialist Republics (E/CN.4/223)

"The propaganda in whatever form of Fascist-Nazi views and the propaganda of racial and national superiority, hatred and contempt shall be prohibited by law."

Article 22

Original text in document E/800

Nothing in this Covenant shall be considered to give any person or State the right to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

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

(The United States proposes the deletion of this article, since it seems both vague and unnecessary.)

Australia (E/CN.4/236)

Nothing in this Covenant shall be construed as permitting any person or state to engage in any activity aimed at the destruction or impairment of any of the rights and freedoms prescribed herein.

France (E/CN.4/264)

"Nothing in this Covenant may be construed as implying any right for any State, group or individual to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms embodied herein".

Article 23

Original text in document E/800

1. This Covenant shall be open for accession to every State Member of the United Nations or party to the Statute of the International Court of Justice and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations, and as soon as _____ of the States Members of the United Nations have deposited such instruments the Covenant shall come into force between them. As regards any State which accedes thereafter, the Covenant shall come into force on the date of the deposit of its instrument of accession.
3. The Secretary-General of the United Nations shall inform all members of the United Nations and the other States referred to in paragraph 1 above of the deposit of each instrument of accession.

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

1. This Covenant shall be open for accession to all States.
2. This Covenant shall be open for signature on behalf of any State. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as fifteen States have deposited such instruments the Covenant shall come into force between them. As regards any State which ratifies or accedes thereafter, the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.
3. The Secretary-General of the United Nations shall inform all Members of the United Nations and other States which have ratified or acceded of the deposit of each instrument of ratification or accession.

Article 24

Original text in document E/800

In the case of a Federal State, the following provisions shall apply:

(a) With respect to any Articles of this Covenant which the Federal Government regards as wholly or in part appropriate for federal action, the obligations of the Federal Governments shall, to this extent, be the same as those of parties which are not Federal States;

(b) In respect of Articles which the Federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent States, Provinces, or Cantons, the Federal Government shall bring such provisions, with favourable recommendation, to the notice of the appropriate authorities of the States, Provinces or Cantons at the earliest possible moment.

United States of America (E/CN.4/225)

The United States proposes that paragraph (a) of article 24 be revised to read as follows:

"(a) With respect to any Articles of this Covenant which the Federal Government regards as appropriate under its constitutional system, in whole or in part, for federal action, the obligations of the Federal Government shall to this extent, be the same as those of parties which are not Federal States;"

India (E/CN.4/240)

Substitute the following for Article 24:

(a) In respect of any articles of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction, the obligations of the federal government shall, to that extent, be the same as those of parties which are not federal states.

(b) In respect of any articles of this Covenant, the implementation of which is under the constitution of the federation, wholly or in part within the jurisdiction of the constituent units (whether described as States, Provinces, Cantons, Autonomous Regions or by any other name), the federal government shall bring such provisions with favourable recommendation to the notice of the appropriate authorities of the units.

Article 25

Original text in document E/800

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

A State party to this Covenant may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that this Covenant shall extend to any of the territories for the international relations of which it is responsible, and the Covenant shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification. The Contracting States undertake, with respect to those territories on behalf of which they do not accede to this Covenant at the time of their accession, to seek the consent at the earliest possible moment of the Governments of such territories and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

Text Proposed by the Representative of the Soviet Union

The conditions of the present Covenant shall extend or be applicable both to the metropolitan territory which is signatory to the present Covenant, as well as to all the other territories (non-self-governing, trust, and colonial territories) which are being administered or governed by the metropolitan power in question.

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

Any State may, at the time of signature or the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Covenant shall extend to all or any of the territories for the international relations of which it is responsible. This Covenant shall extend to the territory or territories named in the notification from the date of receipt by the Secretary-General of the United Nations of this notification.

Each State party to this Covenant undertakes to take as soon as possible the necessary steps in order to extend the application of this Covenant to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

United Kingdom (E/CN.4/242)

Substitute for the present article 25 the following text as approved by the General Assembly for the Convention on the International Transmission of News and the Right of Correction (A/876):

1. Any State may, at the time of signature or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that the present Covenant shall extend to all or any of the territories for the international relations of which it is responsible. This Covenant shall extend to the territory

/or territories

or territories named in the notification as from the thirtieth day after the receipt by the Secretary-General of the United Nations of this notification.

2. Each contracting State undertakes to take, as soon as possible, the necessary steps in order to extend the application of this Covenant to such territories subject, where necessary for constitutional reasons, to the consent of the governments of such territories.

3. Any contracting State which has made such a declaration may at any time thereafter by notification to the Secretary-General of the United Nations, declare that the Covenant shall cease to extend to such territory six months after the date of receipt of the notification by the Secretary-General.

Union of Soviet Socialist Republics (E/CN.4/271)

If the Commission adopts in full the wording of Article 25 proposed by the Drafting Committee (E/800) or a similar wording, redraft the first line to read:

"A State party to this Covenant shall ..."

If the Commission adopts the following text for Article 25, proposed by the representative of the Soviet Union and contained in document E/800 (page 28), the above amendment will disappear:

"The conditions of the present Covenant shall extend or be applicable both to the metropolitan territory which is signatory to the present Covenant, as well as to all the other territories (non-self-governing, trust, and colonial territories) which are being administered or governed by the metropolitan power in question."

Article 26

Original text in document E/800

(The Drafting Committee decided not to discuss the following Geneva text until the question of implementation had been considered).

1. Amendments to this Covenant shall come into force when they have been adopted by a vote of two-thirds of the Members of the General Assembly of the United Nations and ratified in accordance with their respective constitutional processes by two-thirds of the parties to this Covenant.

2. When such amendments come into force they shall be binding on those parties which have ratified them, leaving other parties still bound by the provisions of the Covenant which they have accepted by accession, including earlier amendments which they have ratified.

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

An amendment to this Covenant shall come into force when it has been ratified by two-thirds of the States parties to this Covenant. Such an amendment shall be binding only on those parties which have ratified it.

United Kingdom (E/CN.4/255)

Substitute the following text for the existing Article 26:

"(1) Proposed amendments to this Covenant shall first be considered by a Committee consisting of representatives of all parties to the Covenant and shall be submitted to the General Assembly for approval.

(2) Such amendments shall come into force when they have been adopted by a resolution of the General Assembly and accepted by ... States parties to the Covenant in accordance with their respective constitutional processes.

(3) When such amendments come into force they shall be binding on those parties which have accepted them, leaving other parties still bound by the provisions of the Covenant which they have accepted by accession, including earlier amendments which they have accepted."
