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Agenda item 62

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, United Arab Republic and Upper Volta: revised amendments to articles 39 to 49 of the draft Covenant on Civil and Political Rights (A/6342, annex II.B, parts IV and V)

Corrigendum

Amendment No. 2 should read as follows:

Replace article 40 by the following:

"1. A State Party, under this article, may at any time declare that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling obligations under the Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of this Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.

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(b) If the matter is not adjusted to the satisfaction of both Parties 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 Committee and to the other State.

(c) The Committee shall deal with a matter referred to it after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies would be unreasonable prolonged.

(d) Subject to the provisions of sub-paragraph (c) of paragraph 1 of this article, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in this Covenant.

(e) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (b), to supply any relevant information.

(f) The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(g) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b) of this paragraph, submit a report:

- (i) If a solution within the terms of sub-paragraph (d) of this paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached.
- (ii) If a solution is not reached, within the terms of sub-paragraph (d) of this paragraph, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to this Covenant have made such a declaration. A declaration under this

article shall be deposited by the States Parties with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General of the United Nations unless the State Party concerned has made a new declaration."

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