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SOCIAL COUNCIL**

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COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

SECOND SESSION

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS
(DOCUMENT E/600) WITH UNITED STATES RECOMMENDATIONS

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/Article 1

Article 1

The States parties hereto declare that they recognize the principles set forth in Part II hereof as being among the human rights and fundamental freedoms founded on the general principles of law recognized by civilized nations.

Article 2

Every State, party hereto, undertakes to ensure:

- (a) that its laws secure to all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless persons, the enjoyment of these human rights and fundamental freedoms;
- (b) that such laws, respecting these human rights and fundamental freedoms, conform with the general principles of law recognized by civilized nations;
- (c) that any person whose rights or freedoms are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (d) that such remedies shall be enforceable by a judiciary whose independence is secured; and
- (e) that its police and executive officers shall act in support of the enjoyment of these rights and freedoms.

Part I

Obligation of the Contracting Parties

"The Contracting Parties undertake to ensure through adequate laws and procedures to all individuals within their respective jurisdictions the rights and freedoms set forth in Part II of this Covenant and /additional language to be suggested later/.

Article 3

On receipt of a request to this effect from the Secretary-General of the United Nations made under the authority of a resolution of the General Assembly, the Government of any party to this Covenant shall supply an explanation as to the manner in which the law of that State gives effect to any of the provisions of this Covenant.

Omit.

Recommendations

"The obligation imposed by Articles 1 and 2 shall not affect the right of States parties to this Covenant to take action reasonably necessary for the preservation of peace, order or security or the promotion of the general welfare. Such action may be taken only by or pursuant to law, in conformity with Article 20 hereof."

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Article 4

1. In time of war or other public emergency, a State may take measures derogating from its obligations under Article 2 above to the extent strictly limited by the exigencies of the situation.
2. Any State party hereto availing itself of this right of derogation shall inform the Secretary-General of the United Nations fully of the measures which it has thus enacted and the reasons therefor. It shall also inform him as and when the measures cease to operate and the provisions of Article 2 are being fully executed.

Article 5

Part II

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Recommendations

Article 5

It shall be unlawful to deprive any person of his life save in the execution of the sentence of a court following his conviction of a crime for which this penalty is provided by law.

Part II

Description of the Rights and Freedoms to be ensured by Law

"No one shall be deprived of life, liberty or property without due process of law."

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Article 6

It shall be unlawful to subject any person to any form of physical mutilation or medical or scientific experimentation against his will.

Recommendations

"No one shall be subjected to any form of physical mutilation or medical or scientific experimentation against his will."

/Article 7

/"No one

Article 7

No person shall be subjected to torture or to cruel or inhuman punishment or to cruel or inhuman indignity.

"No one shall be subjected to torture or to cruel or inhuman punishment or to cruel or inhuman indignity."

Recommendations

Article 8

1. No person shall be held in slavery or servitude.
2. No person shall be required to perform forced or compulsory labour in any form other than labour exacted as a punishment for crime of which the person concerned has been convicted by due process of law.
3. For the purposes of this Article, the term "forced or compulsory labour" shall not include:
 - (a) any service of a purely military character, or service of a non-military character in the case of conscientious objectors, exacted in virtue of compulsory military service laws;
 - (b) any service exacted in cases of emergency created by fire, flood, famine, earthquake, violent epidemic or epizootic disease, invasion by animals, insect or vegetable pests, or similar calamities or other emergencies threatening the life or well-being of the community;
 - (c) any minor communal services considered as normal civic obligations incumbent upon the members of the community, provided that these obligations have been accepted by the members of the community concerned directly or through their directly elected representatives.

/Article 9

"No one shall be held in slavery or involuntary servitude or required to perform forced or compulsory labour."

Article 9

1. No person shall be subjected to arbitrary arrest or detention.
2. No person shall be deprived of his liberty save in the case of:
 - (a) the arrest of a person effected for the purpose of bringing him before a court on a reasonable suspicion of having committed a crime or which is reasonably considered to be immediately necessary to prevent his committing a crime;
 - (b) the lawful arrest and detention of a person for non-compliance with the lawful order or decree of a court;
 - (c) the lawful detention of a person sentenced after conviction to deprivation of liberty;
 - (d) the lawful detention of persons of unsound mind;
 - (e) the parental or quasi-parental custody of minors;
 - (f) the lawful arrest and detention of a person to prevent his effecting an unauthorized entry into the country;
 - (g) the lawful arrest and detention of aliens against whom deportation proceedings are pending.
3. Any person who is arrested shall be informed promptly of the charges against him. Any person who is arrested under the provisions of sub-paragraphs (a) or (b) or paragraph 2 of this Article shall be brought promptly before a judge, and shall be tried within a reasonable time or released.

/4. Every person

Recommendations

"No one shall be arrested or detained without being promptly informed of the reasons for the arrest or detention and without being entitled to a fair hearing within a reasonable time or to release.

"No one shall be denied the right to a fair hearing before an independent and impartial tribunal in the determination of any criminal charge against him or of any of his rights or obligations.

"No one shall be convicted or punished for crime except after a public trial within a reasonable time before a fair, independent and impartial tribunal."

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Recommendations

Article 9 (Continued)

4. Every person who is deprived of his liberty shall have an effective remedy in the nature of "habeas corpus" by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

/Article 13

Article 13

1. In the determination of any criminal charge against him or of any of his civil rights or obligations, every person is entitled to a fair hearing before an independent and impartial tribunal and to the aid of a qualified representative of his own choice.
2. No person shall be convicted or punished for crime except after public trial.

/Article 10

"No one

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Article 10

No person shall be imprisoned or held in servitude in consequence of the mere breach of a contractual obligation.

Recommendations

"No one shall be imprisoned solely because of his inability to pay a contractual debt".

/Article 11

"No one

Article 11

1. Subject to any general law not contrary to the purposes and principles of the United Nations Charter and adopted for specific reasons of security or in the general interest, there shall be liberty of movement and free choice of residence within the borders of each State.
2. Any person who is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service shall be free to leave any country including his own.

"No one shall be denied freedom of movement or residence within the borders of a Contracting State.

"No one shall be denied freedom to emigrate".

/Article 12

/No change

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Article 12

No alien legally admitted to the territory of a State shall be arbitrarily expelled therefrom.

No change.

Recommendations

/Article 14

"No one

Article 14

1. No person 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.

"No one shall be held guilty of any offence on account of any act or omission which did not constitute 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 it was committed".

/Article 15

/Omit

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Article 15

No person shall be deprived of his juridical personality.

Recommendations

Omit - meaning not clear - and covered in
Articles 9, 13.

/Article 16

"No one

Article 16

1. Every person shall have the right to freedom of religion, conscience and belief, including the right, either alone or in community with other persons of like mind, to hold and manifest any religious or other belief, to change his belief, and to practice any form of religious worship and observance, and he shall not be required to do any act which is contrary to such worship and observance.

2. Every person of full age and sound mind shall be free, either alone or in a community with other persons of like mind, to give and receive any form of religious teaching, and in the case of a minor the parent or guardian shall be free to determine what religious teaching he shall receive.

3. The above rights and freedoms shall be subject only to such limitations as are prescribed by law and are necessary to protect public order and welfare, morals and the rights and freedoms of others.

"No one shall be denied freedom of religion, conscience and belief, including the right, either alone or in community with other persons of like mind, to hold and manifest any religious or other belief, to change his belief, and to practice any form of religious worship and observance".

/Article 17

/ "No one

Recommendations

Article 17

(Drafting Committee text)

1. Every person shall be free to express and publish his ideas orally, in writing, in the form of art or otherwise.
2. Every person shall be free to receive and disseminate information of all kinds, including facts, critical comment and ideas, by the medium of books, newspapers, oral instructions or any other lawfully operated device.
3. The freedoms of speech and information referred to in the preceding paragraphs of this Article may be subject only to necessary restrictions, penalties or liabilities with regard to: matters which must remain secret in the interests of national safety; publications intended or likely to incite persons to alter by violence the system of Government, or to promote disorder or crime; obscene publications; (publications aimed at the suppression of human rights and fundamental freedoms); publications injurious to the independence of the judiciary or the fair conduct of legal proceedings; and expressions or publications which libel or slander the reputations of other persons.

"No one shall be denied freedom of speech or expression including freedom to hold opinions, and to seek, receive and impart information and ideas by any means and regardless of frontiers."

Article 18

All persons shall have the right to assemble peaceably for any lawful purpose including the discussion of any matter on which under Article 17 any person has the right to express and publish his ideas. No restrictions shall be placed on the exercise of this right other than those necessary for:

- (a) the protection of life or property;
- (b) the prevention of disorders; or
- (c) the prevention of the obstruction of traffic or the free movement of others.

"No one shall be denied the freedom to assemble peaceably with others".

/Article 19

/Declaration

Recommendations

Article 19

All persons shall be free to constitute associations, in whatever form may be appropriate under the law of the State, for the promotion and protection of their legitimate interests and of any other lawful object, including the dissemination of all information of which under Article 17 the dissemination is unrestricted. The rights and freedoms set forth in Articles 16 and 17 shall be enjoyed by such associations.

Declaration

"No one shall be denied the freedom of association with others".

/Article 20

/Equal

Article 20

Every person shall be entitled to the rights and freedoms set forth in this Covenant, without distinction as to race, (which includes colour), sex, language, religion, political or other opinion, property status, or national or social origin. Every person, regardless of office or status, shall be entitled to equal protection under the law against any arbitrary discrimination or against any incitement to such discrimination in violation of this Covenant.

"Equal protection of the law with respect to 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 or on account of any other arbitrary discrimination".

/Article 21

/omit

Recommendations

DRAFT INTERNATIONAL COVENANT

Article 21

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

Omit

/Article 22

/Omit

Article 22

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.

Omit

/Article 23

/Part III

Article 23

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 two-thirds 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.

Part III

Final Provisions

"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 fifteen 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."

Article 24

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

No change

- (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 State, Provinces or Cantons, the federal government shall bring such provisions, with a favourable recommendation, to the notice of the appropriate authorities of the States, Provinces or Cantons.

/Article 25

/This Covenant

Recommendations

Article 25

1. This Covenant shall apply in respect of any colony or overseas territory of a State party hereto, or any territory subject to the suzerainty or protection of such State, or any territory in respect of which such State exercises a mandate or trusteeship, when that State has acceded on behalf and in respect of such colony or territory.
2. The State concerned shall, if necessary, seek the consent at the earliest possible moment of the Governments of all such colonies and territories to this Covenant and accede on behalf and in respect of each such colony and territory immediately its consent has been obtained.

/Article 26

"This Covenant shall apply in respect of the metropolitan territory of each Contracting Party and also of the other territories for the conduct of whose international relations it is responsible; provided that it may at the time of acceptance specify that certain of these territories are fully self-governing with regard to any of the matters dealt with in the present Convention and declare that acceptance does not relate to such territories. With respect to territories which are specified as being fully self-governing with regard to any of the matters dealt with in this Covenant, each Contracting State undertakes to seek the consent at the earliest possible moment of the governments of such territories to this Covenant, and to accede on behalf and in respect of each such territory immediately its consent has been obtained".

/Amendments

Article 26

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.

"Amendments to this Covenant shall come into force when they have been ratified in accordance with their respective constitutional processes by two-thirds of the parties to this Covenant. Such amendments shall be binding only on those parties which have ratified them."

/Article 27

/Omit

DRAFT INTERNATIONAL COVENANT

Recommendations

Article 27

In construing the Articles of this Covenant, the several Articles shall be regarded in their relation to each other.

Omit as not essential

/Additional Articles

Recommendations

Additional Articles

Complaints under this Covenant shall be limited to allegations of plain and manifest violations of substantial importance brought forward by States parties hereto.

In the event of a dispute between any of the Contracting Parties which cannot be settled by negotiation and which involves the interpretation or application of this Covenant, it is agreed that such matter shall be submitted to conciliation. A committee of conciliation shall be formed by agreement of the parties to the dispute; if they are unable to agree, any of them may request the Secretary-General of the United Nations to designate an impartial committee from among nationals of States parties to this Covenant, including at least one person designated by each State party to the dispute. The Contracting Parties agree to co-operate to assist any committee so established and to supply such information as may be required.

The Secretary-General of the United Nations is requested to facilitate communications among the States parties to this Covenant, and to furnish necessary assistance to any committee established pursuant to this Article.

The rights and freedoms set forth in Part II of this Covenant are in addition to and not in derogation of such rights and freedoms as may be guaranteed to all under the laws of any Contracting State. In agreeing to this Covenant, the Contracting Parties recognize that there are other rights and freedoms which may be made the subject of future covenants or conventions.