

The following proposed Convention on Human Rights Education was prepared by Evgeniya Pavlenko and Roman Sinelnikov of the Russian Federation and was distributed for comments to participants in the Human Rights Education Associates listserv list on April 6, 2004. The bracketed commentary is provided by James P. Kelly, III, Director of International Education and Human Rights Policy Studies for the Federalist Society for Law and Public Policy Studies, and is not a part of the proposed Convention.

April 6, 2004

CONVENTION

on human rights education **

The States Parties to the present Convention,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms, shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

[In the case of children, the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with parents, as the primary educators of their children. In the case of adults, the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the religious and other learning communities in which such adults voluntarily participate. The primary role of the State in this regards is to promote freedom of religion or belief, thought, expression, and association.]

Reiterating that all human rights are universal, indivisible, interdependent and interrelated,

Recognizing an equal importance of training and upbringing in the educational process,

[The term “upbringing” implies religious, moral, ethical, or philosophical education designed to shape the thoughts, attitudes, and behaviors of individuals.]

Bearing in mind the outcomes of the United Nations Decade for Human Rights Education, 1995-2004,

Acknowledging the important role of international cooperation for, and the valuable work of state bodies, public associations, individuals and their groups in developing human rights education,

[This paragraph merely acknowledges the role of “public associations, individuals, and their groups” in *developing* human rights education. This is far less than an acknowledgement of the primary role of these bodies in *delivering* human rights education, which this Convention leaves to the State.]

Have agreed as follows:

PART I

Article 1

1. Everyone has the right to know his rights, i.e., individually and in association with others, to acquire knowledge, values, views, practical skills and abilities in the field of observance both in law and in practice, advocacy, implementation and promotion human rights and freedoms, by studying, review, discussing issues of theory and practice of human rights and freedoms, receiving and imparting relevant information, and requiring from the state and international organizations to create proper conditions for implementation of this right, as well as to claim its protection.

[This paragraph anticipates that there will be prescribed “values” and “views” that will be embedded in the law and that state and international organizations will be responsible for creating “proper conditions” for the implementation and protection of the right of persons to know their “rights.” One can only assume that state and international organizations will claim the responsibility to protect children from religious, moral, ethical or philosophical training that does not exactly conform with the prescribed rights that a child is “entitled” to know.]

2. The States Parties to the present Convention recognize the right of everyone to know his rights as manifestation of the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers, as well as the freedom of association and the right to an effective remedy, and, in its such capacity, undertakes to respect and to ensure this right to all individuals within their territories and subjects to their jurisdictions.

[The “right to an effective remedy” articulated in this paragraph would require a State Party to compel religious, moral, ethical or philosophical communities to conform with prescribed human rights standards.]

3. The States Parties to the present Convention recognize the right of everyone to know his rights as manifestation of the right to human rights education, and, in its such capacity, undertake to take steps, individually and through international assistance and co-operation, to the maximum of its available resources, with a view to achieving progressively the full realization of this right by all appropriate means, including particularly the adoption of legislative measures.

[State Parties will be required to fund human rights education by adopting legislative measures. Unless the pluralist principle is respected and equal access to human rights education funding is provided to all non-violent religious, moral, ethical or philosophical communities, then a state-compelled human rights education orthodoxy/religion will be established.]

4. The States Parties to the present Convention undertake to guarantee that the right of everyone to know his rights will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

[This non-discrimination provision only protects the right of a person to know his rights, without discrimination. It does not prevent discrimination against religious, moral, ethical or philosophical communities that teach human rights education from their particular viewpoints.]

Article 2

The States Parties undertake to assist efforts of individuals, as well as academic, educational and non-governmental organizations and mass media, directed to implementing the right of everyone to know his rights, and will encourage international cooperation in this field.

Article 3

In the exercise of the right to know his rights, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 4

1. The States Parties consider human rights education as training, upbringing, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes and directed to:

[This paragraph expressly evidences that human rights education is a religious undertaken relating to the “upbringing” of individuals, the “building of universal culture of human rights,” and the “moulding of attitudes.”]

(a) The strengthening of respect for human rights and fundamental freedoms;

(b) The full development of the human personality and the sense of its dignity;

[Efforts directed to the “full development of the human personality” are clearly religious in nature.]

(c) The promotion of forming a culture of peace, understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;

[Efforts directed to the “promotion of forming a culture of peace, understanding, tolerance, gender equality and friendship” are clearly religious in nature.]

(d) The enabling of all persons to participate effectively in a free society;

(e) The furtherance of the activities of the United Nations for the maintenance of peace.

2. The States Parties confirm that human rights education shall be based on the principle of universality, indivisibility, interdependency and interrelationship of all human rights.

Article 5

1. The States Parties undertake to promote and facilitate human rights education, based on holistic approach, at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials as well as staff of educational and public health systems, include appropriate elements of human rights teaching in their training programme.

2. Each State Party to the present Convention undertakes to introduce at its territory an obligatory expert examination of curricula, programmes, manuals and other educational materials for all disciplines in the view of their conformity with observance and implementation of human rights and fundamental freedoms, and to establish a permanent body responsible for to making such examination.

[State Parties will be required to institute a Catechism and Priesthood of Human Rights Education within each of their states that will govern human rights education and implementation practices across all disciplines such as the elementary, secondary, and post-secondary education, civil service, law enforcement, judiciary, political, media, and legal fields.]

3. The States Parties recognize an importance of informal human rights education and thereupon undertake to assist efforts of individuals, groups and organizations on implementation and development of such education.

[It is assumed that “informal” human rights education is that human rights education which occurs outside of official State Party efforts to indoctrinate individuals in prescribed values and views.]

Article 6

1. The States Parties undertake to pay specific attention to observance and implementation of human rights and fundamental freedoms in educational institutions and will encourage establishment and development of independent control mechanisms in this field.

[This paragraph makes it clear that State Parties will enforce their human rights orthodoxy in educational institutions in connection with the areas of instruction, personnel decisions, and school governance. Educational institutions will not be permitted to “self-regulate” in regards to adhering to human rights and fundamental freedoms; instead, State Parties will see that “independent control mechanisms” are established and developed to monitor educational institutions and compel adherence through appropriate sanctions. That independent control mechanisms will “develop” over time suggests that such mechanisms (i.e., judges or regulators) will generate a body of regulations and enforcement decisions that give rise to a governing body of international standards or precedents.]

2. The States Parties undertake to encourage establishment and development of mechanisms for democratic governance and self-governance in educational institutions.

[Many education theorists believe that schools should be democratically governed, including student and faculty representation. They reject the idea of centralized authority in school administration officials.]

Article 7

1. Each State Party to the present Convention undertakes to publish in all languages having on its territory the status of state or official, or any other special status, and provide widespread availability of national laws and regulations and of applicable basic international human rights instruments.

[State Parties will be required to inform their citizens about their human rights.]

2. Each State Party to the present Convention undertakes to publish its reports to the bodies established by the international human rights treaties to which it is a party, appropriate concluding observations, as well as decisions made on state or individual communications/complaints against this State, in reasonable time, in all languages having on its territory the status of state or official, or any other special status, and in the same order which is established for publishing the national laws of this State concerning human rights. In case of presenting an alternative report to the appropriate body, such report should be published in the similar order.

[Each State Party will be required to fully disclose to its citizens: any reports that the State Party is required to file pursuant to international human rights treaties, any concluding observations made by international organizations with respect to such reports; and any decisions made by international organizations with respect to human rights communications/complaints filed against the State Party.]

3. Each State Party to the present Convention undertakes to publish other information and recommendation documents and statements on human rights concerning or applicable to this State and issued by international organizations to which it is a party, including on situation of human rights on its territory and on human rights education, in all languages having on its territory the status of state or official, or any other special status, and in reasonable time.

[Regardless of whether a formal communication/complaint is filed with an international organization against a State Party, a State Party will have to publish documents and statements on human rights issued by international organizations to which it is a party (i.e., United Nations). Thus, a State Party could be required to publish a report prepared for an international organization by a non-governmental organization (NGO) that raises a human rights issue of concern in the State Party.]

4. Each State Party to the present Convention will provide publishing decisions made on state or individual communications/complaints by the bodies established by the international human rights treaties to which it is a party, in all languages having on its territory the status of state or official, or any other special status, for officials of judicial system, advocates and researches.

[This paragraph requires that each State Party provide published decisions regarding individual human rights communications/complaints against the State Party to “officials of judicial system, advocates and researches.” This provision will ensure that judges and lawyers within a State Party are kept abreast of human rights developments upon which further claims for relief can be filed against the State Party.]

Article 8

1. Each State Party to the present Convention undertakes to establish and maintain the national database containing the texts of applicable national and international documents on human rights, in all languages having on its territory the status of state or official, or any other special status, and available through the Internet on free and constant basis.

2. Each State Party to the present Convention undertakes to establish and maintain the national database available through the Internet on free and constant basis and containing public information about organizations and individuals acting for implementation of the right of everyone to know his rights and of human rights education.

[This paragraph is designed to inform individuals about those NGOs and public interest law firms who are in the business of holding State Parties, and the transnational corporations operating within their territories, accountable for violating prescribed international human rights.]

Article 9

1. The States Parties recognize diversity of approaches to human rights and their constant development, as well as interdisciplinary nature of human rights. They undertake to encourage academic researches, establishment of academic and pedagogical associations in the field of human rights, including at the international level, and to assist establishing academic degrees in this field.

[This paragraph expresses the view that human rights are in “constant development” and, thus, change in light of current and future economic, social, cultural, civic, and political practices, mores, and conditions.]

2. The States Parties will encourage establishing human rights libraries and centres in universities and will provide them with appropriate national and international documents on free basis.

Article 10

Nothing in the present Convention may be construed as implying for any State, group or person any right to engage in any activity or perform any act impairing human rights and freedoms or contradicting the purposes and principles of the Charter of the United Nations.

[If the Convention provisions are implemented and enforced in their current formulation, it is likely that, from the very start, the Convention will violate individual freedom of thought, expression, religion or belief, and association.]

PART II

Article 11

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on Human Rights Education, which shall carry out the functions hereinafter provided.

[The proposed Committee on Human Rights Education is similar in design to the Human Rights Committee entered into force on March 23, 1976 under the International Covenant on Civil and Political Rights and its first Optional Protocol. The Human Rights Committee is composed of 18 independent experts who are persons of high moral character and recognized competence in the field of human rights. States parties must submit reports every five years on the measures they have adopted which give effect to the rights recognized in the Covenant and on the progress made in the enjoyment of those rights. The reports are subsequently examined by the Committee in public meetings, through a dialogue with representatives of each State party whose report is under consideration. On the final day of the session, the Committee adopts concluding observations summarizing its main concerns and making appropriate suggestions and recommendations to the State party. Although only members of the Committee and representatives of the relevant State party may take part in the dialogue, non-governmental organizations are encouraged to submit written information or reports to the Committee.]

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five 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 five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 12

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every four years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. Reports on activities of the Committee are submitted to the General Assembly annually.

Article 13

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, UNESCO, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, UNESCO and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of agencies, UNESCO, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, UNESCO and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the right of everyone to know his rights and to human rights education;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 12 and 13 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 14

The present Convention shall be open for signature by all States.

Article 15

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 16

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 17

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 18

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 19

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 20

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 21

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 22

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.