

DEPARTMENT OF JUSTICE

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May 10, 1977

Mr. Harry H. Almond, Jr.
Office of Assistant General Counsel
International Affairs
Department of Defense
Washington, D. C. 20301

Re: I-5251/77

Dear Harry:

I am responding to the various questions contained in your letter of May 5, 1977.

Question 1. These requirements would be enforced in general by the process of judicial review and, possibly, by the exercise of the Governor's veto power. In some situations the United States may have indirect sanctions in the framework of service, assistance, and fiscal statutes applicable to the Northern Mariana Islands.

Question 2. Your suggestion is plausible but could get us into hot water. This is mainly a State Department problem.

Question 3. As far as I am aware, most State Constitutions do not have the clause referred to in this question. Federal supremacy is assured by Article 102 of the Covenant.

Question 4. It is generally understood that the Northern Mariana Islands will accept the verdict of the courts and that they will not claim that such invalidity would affect the Covenant as a whole.

Question 5. The Northern Mariana Islands are defined geographically in section 1005(b) of the Covenant.

Question 6. No. Since the federal law applicable to the Northern Mariana Islands may vary from time to time this is the only way of expressing the problem.

Question 7. For the weight to be given to the section-by-section analysis of the Constitution, see Resolution No.



06- 416201

16, a copy of which is attached. The section-by-section analysis is a valuable but not exclusive means to interpret the Constitution.

Question 8. I do not know why Article I of the Constitution is entitled Personal Rights, rather than Bill of Rights. Your new General Counsel may have the answer. There is no reason why the Commonwealth Personal Rights should not be broader than the Federal Bill of Rights. There are probably a number of States the Bills of Rights of which are more extensive than the first Eight Amendments.

Question 9. Yes, in the same way a citizen of a State may claim protection under the State or Federal Constitution. The only difference is that local court decisions based exclusively on the local constitution cannot be reviewed in the Supreme Court of the United States.

Question 10. The Constitution does not ignore Article IV of the Covenant. See Article IV, sections 2 and 3 of the Constitution. On the other hand, it would have been inappropriate for the Commonwealth Constitution to contain provisions concerning the federal courts. The establishment of the latter is exclusively a federal function.

Question 11. Inconsistencies between the United States Constitution, the Covenant and the Northern Mariana Islands Constitution would be solved in the same manner as analogous problems arising between the Federal Government and States or Territories.

Question 12. This seems to be largely a matter of taste rather than of substance.

Question 13. These provisions are to be enforced by the local courts.

Question 14. Chapter 15 of Title 10, United States Code, would probably become applicable to the Northern Mariana Islands under section 502 of the Covenant. To obviate all doubt it might be desirable to include an express reference

to the Northern Mariana Islands in the legislation implementing the ~~secession~~ accession to the United States of the Northern Mariana Islands. Cf. 10 U.S.C. 335, 336.

Question 15. The term of reference to the Representative to the United States is to be found in section 901 of the Covenant.

I hope that this will answer your questions adequately. If you have any further problems, please get in touch with me by Friday, May 13, because I shall be out of town until the beginning of June.

Sincerely,



Herman Marcuse

Room 5230
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Washington, D. C. 20530

Enclosure