


At the request of the Committee on Local Government, the questionnaires below were telexed to the Resident Representative to the United States for the CNMI on Wednesday, July 3, 1985, requesting legal opinions from following individuals:

1. Mr. James Bernie, Assistant Chief of Staff, Senate Committee on Energy and Natural Resources
2. Mr. Jeffrey Farrow, Senior Consultant on Insular Affairs, House Committee on Interior and Insular Affairs
3. Mr. Herman Marcuse, U.S. Department of Justice
4. Mr. Dan MacMeekin, Executive Director, Northern Mariana Islands Commission on Federal Laws

QUESTIONNAIRES:

1. Whether the Constitutional Convention can adopt a proposal that conflicts with the Covenant that effects changes of solely internal matters under the Covenant.
2. Whether or not the approval by the United States Congress of proposals adopted by the Constitutional Convention that conflicts with the Covenant satisfies the mutual consent provisions of the Covenant.

  
Herman T. Guerrero  
President  
Second Constitutional Convention

Per my telephone conversation with Mr. Donald Woodworth of the Office of the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands on July 8, 1985 at 9:15 a.m., the text of messages relayed over the telephone are as follows:

Dan MacMeekin, Executive Director of the Northern Mariana Islands Commission on Federal Laws.

Regret other work does not allow me to provide formal legal opinion to Constitutional Convention. Covenant Sections 102 and 202 appear to bar provisions in Constitution that conflict with the Covenant, notwithstanding Covenant Section 103. Negotiation history of Section 105 requires the participation of NMI legislature in granting consent of NMI. Suggest draft amendments to become effective only if subsequently approve by joint resolution of NMI legislature and act of United States Congress.

Donald C. Woodworth, General Counsel, Office of the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Discussed your request concerning amendments to NMI Constitution that are contrary to provisions of the Covenant with persons (Mr. Dan MacMeekin, Executive Director of NMI Commission on Federal Laws; Mr. James Bernie, Asst. Chief of Staff for Senate Committee on Energy and Natural Resources; Mr. Jeffrey Farrow, Senior Consultant on Insular Affairs, House Committee on Interior and Insular Affairs; and Mr. Herman Marcuse, U.S. Department of Justice) as you suggested. Consensus is that Covenant Sections 102 and 202 preclude amendments to NMI Constitution that are contrary to the Covenant.

Ratification by Congress is possible by amendments to the Covenant. If not approved by Congress, however, such amendment would be illegal. Therefore, amendments should be made contingent upon approval by joint resolution or act of Congress.

Bernie agrees ratification by joint resolution is possible but disfavors this approach because it would limit NMI option in discussing the issue with Congress. He preferred that Constitutional Convention identify Constitutional issues which require Covenant amendments and raise those issues with Congress first.

*Herman T. Guerrero July 9, 1985*  
Herman T. Guerrero  
President  
Second Constitutional Convention

1. Whether the ConCon can adopt a proposal that conflicts with the Covenant that effects changes of solely internal matters under the Covenant.
  
2. Whether or not the approval by the United States Congress of proposals adopted by the ConCon that conflicts with the Covenant satisfies the mutual consent provisions of the Covenant.

July 3, 1885