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123. The initial report submitted by Finland under article 40 of the Covenant was considered by the Committee at its 30th meeting, on 18 August 1977. The report was introduced by the representative of the Government of Finland, who informed the Committee that most of the rights recognized in the Covenant were considered to be sufficiently guaranteed by the Constitution or ordinary legislation. In a few cases, however, where the existing legislation was found to be at variance with the provisions of the Covenant, reservations had been made at the time of ratification. At present the Constitution was being revised, taking into account the provisions of the Covenant. It was hoped that some of the reservations made would be withdrawn in the foreseeable future. Except for matters covered by reservations, the Covenant prevailed in cases of conflict with national legislation.

124. Questions were posed by members of the Committee and the representative of the Government of Finland replied to a number of them. With regard to the other questions, he assured the Committee that they would be transmitted to his Government and that the replies to them would be included in the additional information to which the texts of relevant laws would be attached.

125. The questions of the members of the Committee are summarized below:

(a) Some members of the Committee asked to what extent human rights and fundamental freedoms were enjoyed by every person in Finland, as required by the Covenant, and not only by "every Finnish citizen", the formula used in the Constitution. The representative of the Government stressed that the wording of the Constitution was obsolete in this respect and that every person in Finland was equal before the law. Some legislation, for example in the field of social welfare, was applied only to Finnish citizens. The fact that according to article 23 of the Constitution the president of the Republic should be elected from among the natural born citizens of Finland could not reasonably be considered as discrimination against other persons. Such conditions were common to many countries.

(b) One member of the Committee requested clarification concerning the reservation to article 14, paragraph 1, of the Covenant regarding Court judgements which need not be delivered in public. The representative of Finland replied that it had been considered necessary to take into account the Finnish legislation which authorized the courts to pronounce judgements in private if publication could offend morality or endanger national security. This reservation would be withdrawn in the near future.

(c) A query was put as regards the meaning of the reservation of Finland to article 14, paragraph 3 (d), of the Covenant, concerning the right of the accused to have legal assistance assigned to him in any case when the interests of justice so require. The representative of Finland

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explained that, under existing legislation, the Court may not assign a legal counsel to assist an accused, although the interests of justice would so require if the accused whose trial is not paid for by the State does not wish to hire counsel. The reservation will be withdrawn after a bill establishing a public defender's system in criminal cases is adopted by Parliament.

(d) Some questions were raised concerning the grounds for Finland's reservation to article 20, paragraph 1, of the Covenant on the prohibition of war propaganda. Clarification was further requested as to why paragraph 2 of this article, prohibiting the advocacy of national, racial or religious hatred, was acceptable to the Government of Finland, while paragraph 1, on war propaganda, had been rejected. The concept of "war propaganda" had appeared so vague to the Government of Finland that inclusion of this concept in Finnish law was regarded as leading to undue restriction of freedom of expression. Penal sanctions could not be provided for on such ill-defined grounds. The hesitations of the Government had also been based on the opinion that article 20, paragraph 1, seemed to encompass the expression of views in favour of the legitimate use of force in accordance with the principles of the United Nations, namely self-defence, action under Chapter VII of the charter and wars of national liberation. Paragraph 2 of article 20 was acceptable to the Government of Finland, since racial discrimination had acquired a well-defined meaning in accordance with the international Conventions on the elimination of all forms of racial discrimination and against apartheid. However, taking into account the comments of the Committee the representative of Finland was inclined to recommend personally to his Government withdrawal of the reservation to article 20, paragraph 1, of the Covenant.

(e) What was the legal provision setting forth the principle of prevalence of international treaties over domestic law?

(f) Was there a tendency in the implementation in Finland of the rights set forth in the Covenant which would lead to the review of reservations?

(g) On what subject-matters would it be impossible to bring the Finnish legislation into full conformity with the Covenant and to withdraw the relevant reservations?

(h) What limitations and restrictions may be imposed in Finland upon the exercise of the rights set forth in the Covenant.

(i) To what extent may the rights set forth in the Covenant and the Constitution be derogated from in accordance with the procedure prescribed for amendment of constitutional laws set forth in article 95 of the Constitution? Were there any precedents?

(j) What effective remedies were available to individuals in Finland to ensure respect for their human rights and fundamental freedoms?

(k) Was there a need for the reservation to article 10, paragraph 2 (b), of the Covenant, concerning the separation of accused juveniles from adults, since this article, according to one interpretation, did not seem to prohibit reasonable exceptions?

(l) Was there a need for the reservation to article 14, paragraph 7, recognizing the principle “non bis in idem”, since, according to some members, it was legal in almost all countries to institute new proceedings on account of the discovery of additional facts.

126. The Committee noted with appreciation the serious and conscientious approach of the Finnish Government to the question of implementation of the Covenant and its careful scrutiny of the existing legislation in this respect. Some members of the Committee were of the view that ratification and implementation of the Covenant with reservations was better than its non-ratification. In their opinion, the making of reservations may usefully clarify the legal situation wherever there was an obvious discrepancy between the Covenant and existing domestic legislation. In their view, the reservations made by Finland were fully in accordance with international law as elaborated in the Vienna Convention of the Law of Treaties of 1969. Others held the view that some of the reservations made by Finland were not really necessary and feared that too many reservations or reservations on certain grounds or relating to certain clauses may distort the meaning of the Covenant. They stressed that under the Vienna Convention a State may not make reservations incompatible with the essential object and purpose of a treaty. Members of the Committee expressed the wish that the Government of Finland send a supplementary report concerning Finnish legislation and implementation of the rights set forth in the Covenant.

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390. The Committee discussed the additional report of Finland (CCPR/C/1/Add.32) at its 170th, 171st and 172nd meetings on 13 and 14 August 1979 (CCPR/C/SR.170, 171 and 172). The initial report of Finland (CCPR/C/1/Add.10) had been considered at the 30th meeting of the Committee on 18 August 1978 (CCPR/C/SR.30).

391. The additional report was introduced by the representative of the Government of Finland, who explained that it contained, *inter alia*, answers to some of the questions which had been raised by the members of the Committee during consideration of the initial report. The representative stated that it was the constitutional practice in Finland that, before the ratification of a treaty, the Government examined it carefully in order to ascertain whether the existing legislation was in keeping with the provisions of the treaty. That had been done before the ratification of the Covenant. After consulting an expert committee, the Government had come to the conclusion that the Constitution and other relevant laws were compatible with the Covenant except in a few cases, where the law had been amended immediately, or where a reservation had been made in connection with the ratification. In the latter cases the discrepancies discerned were felt to be mainly of a technical nature and not violative of the spirit and objectives of the Covenant. In some cases also, the discrepancies were attributable more to structural differences between the Finnish legal system and that envisaged in the Covenant than to any essential difference of principle.

392. In relation to the applicability of the Covenant and its validity as a source of internal law, in accordance with article 2, paragraph 2, of the Covenant, the representative stated that in conformity with the procedure provided for in article 33, paragraph 1, of Finland's Constitution Act, the provisions of the Covenant, in so far as they contained stipulations falling within the domain of legislation, were incorporated into Finnish law by Act No. 107 of 23 June 1975 as a prerequisite for the ratification of the Covenant. Thereafter the Covenant and its Optional Protocol were brought into force in Finland by Decree No. 108 of 30 January 1976. In its position as part of Finnish law, the Covenant had the force of a compelling interpretative standard for the human rights and fundamental freedoms provided for in the Constitution as well as in ordinary laws. The Covenant constituted an international legal obligation on the Government of Finland to see to it that not only existing laws, but also future legislative and administrative measures taken in Finland, were compatible with the corresponding provisions of the Covenant.

393. The democratic form of government, the independent courts and tribunals, including, in the last instance, the Supreme Court and the Supreme Administrative Court, the hierarchal organization and control of the administration under the respective Ministries, the extensive local self-governments and the two high authorities, namely the Chancellor of Justice and the Parliamentary Ombudsman functioning independently from each other, all were striving to safeguard respect for and the enjoyment of the human rights and fundamental freedoms guaranteed to all. The representative reaffirmed the readiness and willingness of his Government to co-operate with the Committee in promoting the protection and enjoyment of human rights and fundamental freedoms.

394. The members of the Committee complimented the detailed character of the report and its consistency with the guidelines of the Committee. Many members expressed the view that the

report demonstrated that the Government of Finland was making genuine efforts, in good faith, to live up to the objectives of the Covenant. Members were particularly appreciative of the fact that Finland had made the declaration under article 41 of the Covenant and had also accepted the Optional Protocol. However, some concern was expressed over the continuing scale of the reservations of Finland and the hope was expressed that these could be diminished as soon as possible.

395. As regards article 1 of the Covenant, information was requested on the present status of the Åland Islands, the reasons for this status, whether it was based on the wishes of the people of the island and, if so, how recently those wishes had been ascertained, and whether there had been any wish by the people of the islands for changes in that status.

396. Regarding article 2 of the Covenant, questions were asked as to the status of the Covenant in Finnish internal law and how the Covenant was being applied internally; in particular, whether it could be cited before the Finnish courts; whether it prevailed in cases of conflict either with the Finnish Constitution or with laws enacted in Finland subsequent to the passing of Decree Law No. 107; and whether the law incorporating the Covenant in Finland contained the full text of the Covenant or merely cited it by reference. It was also asked whether Decree Law No. 107 was a part of the Finnish Constitution. Noting that the report of Finland stated that customary law was a part of the constitutional law, members asked for information on the contents of customary laws which were relevant to human rights.

397. Regarding the conformity of the Finnish Constitution of 1919 with the provisions of the Covenant, it was asked whether there was any ongoing review of compliance of the Constitution with the Covenant with a view to re-establishing full conformity. It was also asked whether the Paris Peace Treaty had pre-eminence over the Constitution in the Finnish legal system.

398. Referring to the statement of the Finnish representative that the provisions of the Covenant may be used as an interpretative standard by the Finnish courts, it was asked whether this meant that judicial or State organs could interpret these provisions for themselves or whether there was a special procedure for the interpretation of legislation by reference to the Covenant. It was also asked what was the legislative power of the President of the Republic under the Constitution of Finland.

399. As regards the interdiction of discrimination under article 2, paragraph 1, of the Covenant, clarifications were requested concerning measures taken by the Government of Finland to combat discrimination by private persons in addition to combating discrimination by State organs. Questions were asked as to whether restrictions on the rights of non-citizens to form associations may not amount to discrimination. One member said there could be no genuine equality for all citizens regardless of national origin as long as a distinction was made between natural born and naturalized citizens. Such a distinction, in his view, violated article 25 of the Covenant.

400. With respect to article 2, paragraph 2, of the Covenant, more information was requested on the competence and functioning of the Chancellor of Justice and the Parliamentary Ombudsman. As regards the Chancellor, clarification was requested as to whether he was, in fact, the highest public prosecutor, as suggested in the report, or rather functioned in the fashion of a Procurator. Clarification was further requested on whether the Chancellor could actually interfere in the

operation of the courts. As regards the Ombudsman, information was requested on how he was appointed and what guarantees there were against political interference or influence in the exercise of his functions. Information was requested on the powers of the Ombudsman, particularly in respect of cases where he considered that there had been a violation of the law. It was also asked whether the Chancellor or the Ombudsman could deal with complaints about violations of the Covenant, and if not, whether consideration had been given to the possibility of extending their jurisdiction in this regard. Information was requested regarding the practical operations of, and the results achieved by, the Chancellor and the Ombudsman and whether there was any possibility of conflict between them.

401. With respect to remedies in the Finnish legal system, questions were asked as to which administrative acts could be challenged before the Courts and what procedures were followed.

402. With regard to article 3 of the Covenant, references were made to the Equality Council established by Decree Law No. 455 of 8 June 1972. A number of questions were raised pertaining to this Council, in particular, what were its functions, were they advisory functions or control functions as well, what provisions were made to ensure the representation of women on the Council, was the Council headed by a woman, what percentage of women served on the Council, how did the Council operate in practice, did it keep the situation of equality between men and women under constant review, did it issue regular reports, did it have any competence to handle complaints concerning discrimination on the grounds of sex. Other questions were raised pertaining to equality between the sexes regarding access of women to public office and the acquisition of Finnish citizenship. It was asked whether there were any restrictions as regards public posts for which women could be eligible. It was also asked whether a foreigner marrying a Finnish woman could thereby obtain Finnish citizenship

403. As regards article 4, noting that the provisions in Finnish law on the declaration of a state of emergency appeared to be rather wide and capable of extensive application in practice, members asked whether the Constitution or the laws of Finland provided for the declaration of a state of emergency outside of war-time situations and, if so, details were requested of the content of the relevant laws.

404. With reference to article 6 of the Covenant, information was requested on measures taken by the Government of Finland to make the right to life a reality, for example, measures relating to maternity benefits and facilities, reduction of infant mortality, nutrition levels for children and adults, standards of hygiene, protection of the environment and the right to work. A request was also made for clarification as to Finnish laws on abortion.

405. With respect to articles 7 and 10 of the Covenant, it was asked whether torture was specifically prohibited by Finnish law and whether genocide was specifically outlawed. Clarification was requested concerning the position of Finnish law on medical experimentation on human beings without their consent, organ transplants and the definition of death. Clarification was requested on whether the Finnish Constitution and laws expressly prohibited "inhuman or degrading treatment or punishment". In particular, it was asked whether someone could challenge a law, administrative act or sentence as unconstitutional on the ground that it amounted to cruel, inhuman or degrading treatment or punishment, for example, whether a sentence totally out of proportion to an offence

could be impeached on this ground. It was asked how long a person could be detained during the pre-trial stage and who was competent to issue the order for pre-trial detention. Information was requested on the relevant laws and practice concerning the use of arms by law-enforcement officers. Information was also requested on the means and methods used in penitentiary systems with a view to achieving the aims of reformation and social rehabilitation. It was asked whether there were arrangements for the supervision of penal establishments. Information was requested on the conditions of penitentiary confinement in Finland and whether they were conducive to respect for article 7 of the Covenant. Information was also requested on the remedies available to persons whose rights under article 7 of the Covenant had been infringed.

406. As regards article 8 of the Covenant, it was asked whether Finnish law expressly prohibited forced labour. In particular, it was asked whether there were any cases in which persons could be required to perform forced or compulsory labour and, if so, whether such cases fell within the categories referred to in paragraph 3 of article 8.

407. With respect to article 9 of the Covenant, information was requested on the position regarding the detention of persons not charged with criminal offences, for example, detention of vagrants, drug addicts, etc. In particular, it was asked whether the law allowed administrative detention in such cases and if so, on what grounds; according to what procedures; and what safeguards there were, especially as regards judicial control. Questions were also asked as to the provisions of Finnish law regarding informing the family and the lawyer of a detained person about his detention. Information was requested on the reasons why the bail system or provisional liberty was not recognized in Finland. It was also asked whether a person who was unlawfully detained could be compensated not only for material damages but for moral damages as well.

408. With respect to article 12 of the Covenant, clarification was requested on the meaning of the words "unless otherwise provided by law" in article 7, paragraph 1, of the Constitutional Act dealing with the right of every Finnish citizen to sojourn in his country, of freely choosing his place of residence and of traveling from one place to the other. Information was also requested as regards the position of aliens with respect to liberty of movement and choice of residence in Finland. Various questions were asked as to the grounds for the denial of a passport in Finland and, in particular, clarification was requested on the grounds for denial of a passport for activities abroad, prejudicial "to the interests of the country". It was also asked whether a person who simply criticized his Government could be held to be engaged in activities injurious to the interests of his country. Clarification was requested as regards the denial of a passport to a person who may be expected to carry out criminal activities abroad and as to the criteria used in such cases. Clarification was requested on denial of a passport to a person "who is prosecuted for an offence" and whether this meant that a person who had been prosecuted and acquitted could nevertheless be denied a passport; on the denial of passports to vagrants or alcoholics; and on the remedies available to persons to whom passports had been denied.

409. With respect to article 13, members welcomed the fact that a bill would be sent to Parliament in the near future rendering the reservation to this article unnecessary.

410. With respect to article 14, various questions were asked pertaining to the independence and functioning of the judiciary. Information was requested on how judges were appointed and how

their status could be altered, particularly in cases of reorganization of the judiciary. Information was also asked on the competence and functioning of the administrative courts. Clarification was requested as to the jurisdiction of special courts in Finland and how they operated. Information was requested on measures taken in Finland to ensure trials before the courts without long delays.

411. As regards article 17 of the Covenant, information was requested on the circumstances in which domiciliary search could be undertaken under Finnish law and specifically the procedure for the issue of a search warrant. Information was also requested on the sanctions available for breaches, such as an illegal search. The question was raised as to what possibilities there were under Finnish Law of interfering with mail or of tapping telephone conversations. It was asked whether the postal or customs authorities had power to interfere with mail and, if so, on what grounds. It was noted that the report described protection mainly against acts by third parties to interfere with the rights recognized in article 17 but did not provide much information on protection against acts of State organs or public authorities. Information was specifically requested on the possibility of interferences by the secret or security services.

412. With respect to article 18, clarification was requested on the position of children under 18 in the enjoyment of religious freedom. Were such children able to exercise a choice whether to belong to a religion, and if so, which religion, or were they forced to follow the faith of their parents? Was there compulsory religious instruction in schools? Information was also requested as to whether religious or agnostic propaganda was permitted in Finland. It was asked whether conscientious objection to military service was recognized under Finnish Law. Clarification was requested as to the position and privileges enjoyed by the two State-recognized religions and whether the privileges enjoyed by these religions did not amount to discrimination against other religions. In particular it was noted that in Finland a church tax was payable by members of a State-recognized religion and it was asked whether this did not amount to discrimination contrary to the Covenant and might not be inconsistent also with freedom of religion inasmuch as a person who does not want to pay or cannot afford to pay could be led to renounce his religious faith.

413. With respect to article 19 of the Covenant, more information was requested on how the freedoms of expression and information were implemented, and on the technical methods of Finnish law in protecting these rights. Noting the prohibition of prior censorship of the press, clarification was also requested on whether other kinds of censorship were practised in Finland, the factual situation with respect to publications seized in Finland with a view to prosecution, and on the level of prosecution in such matters in recent years. Clarification was requested as to whether the concept of blasphemous or seditious statement was known under Finnish law and whether sedition, treason and defamation of the State were defined. Questions were asked regarding the organization of television and radio stations in Finland and measures utilized to prevent such stations from becoming instruments of State propaganda. Clarification was requested as to the extent to which there was freedom of research and freedom to receive as well as to impart information. It was asked whether individuals were granted the right of access to information about themselves in government files.

414. As regards article 20 of the Covenant, it was asked whether the reasons of the Government of Finland for not prohibiting propaganda for war were wholly convincing since war was the greatest threat to human rights. Although there were instances in which some rights had to be limited in

favour of others, it was open to question whether freedom of expression could be used as a reason for not prohibiting propaganda for war.

415. With respect to article 21 of the Covenant, information was requested as to who was entitled to organize public meetings under Finnish law and whether the police chief or his deputy could attend private meetings as well as public meetings.

416. With respect to article 22 of the Covenant, information was requested as to the role which trade unions played in the economic and social life of Finland and whether the right of collective bargaining was recognized. Clarification was requested regarding the interdiction of non-citizens from joining associations whose purpose was to influence political affairs.

417. As regards articles 23 and 24 of the Covenant, it was asked whether annulment of marriage in Finland was based on consent. Information was requested on the manner in which matrimonial property was regulated under Finnish Law, particularly in the absence of a marriage contract and on the instances in which common property could result from marriage. Information was also requested on the provisions of Finnish law regarding the acquisition of nationality, particularly in respect of foreign persons marrying Finnish citizens.

418. With respect to article 25 of the Covenant, information was sought on whether the principle of one person one vote was recognized in Finland, and whether the report submitted by the Government listed all the categories of persons who may be deprived of the right to vote. Questions were asked pertaining to the organization of electoral districts in Finland, and whether State aid given to political parties represented in Parliament did not amount to discrimination against parties not so represented. Information was requested on whether there were any regulations providing for the representation of minorities in Parliament.

419. With respect to article 27 of the Covenant, it was asked whether there were any organs, such as the Equality Council on equal treatment between men and women, to deal with discrimination against members of minority groups. It was also asked whether minority groups in Finland were represented in the Finnish Parliament.

420. In reply, the representative of Finland give further explanations on the status and position of the Covenant in the body of Finnish law. The Act incorporating the provisions of a Convention into Finnish law was called a "blanket law". It did not repeat the individual provisions of the Convention in question but gave them legal force. The text of a Convention is published in the official Gazette together with the Act bringing it into force. This was the case also for the Covenant. As regards the enjoyment of the civil and political rights recognized in the Covenant, the Covenant supplemented the Constitution on those points where the Constitution was silent. The Constitution and the Covenant together had the effect that the legislature was duty-bound to enact laws giving effect to the rights and freedoms recognized in the Constitution and in the Covenant. According to general practice in Finland, the courts, tribunals and administrative authorities practically never apply the provisions of the Constitution directly, but instead, the provision of an ordinary law based on the Constitution. This was the case also concerning the provisions of the Covenant. In the interpretation of the provisions of the ordinary law, the Constitution and the Covenant lay down a compelling interpretative standard so as to avoid any violation of the spirit and objectives of these

instruments.

421. As regards questions asked under article 1, the representative explained that the extent of the autonomy of the Åland Islands was provided for in detail by the Act on Self-Government of the Åland Islands. The autonomy of the Åland Islands stemmed from historical events. The motives for granting the autonomy were to enable the inhabitants of the Åland Islands to preserve their culture and characteristics, especially the Swedish language as the sole language of the islands. The right to autonomy included the right to legislate mainly in the economic, social and cultural fields. Before the ratification of the Covenant, the laws enacted by the legislature of the Åland Islands were also examined to see whether they were compatible with the Covenant, and the consent of the legislature of the Åland Islands was acquired for the ratification of the Covenant

422. With regard to the questions raised under article 2, the representative gave examples of the role of customary law in the constitutional system. It was, he stated, a widely recognized rule of international law that aliens must be treated humanely and given equal status before the law similar to that of citizens. This rule was also recognized by Finland. There were also other rules of international law which governed the behaviour of States in this matter, as in others, and which were followed by Finland. As regards the position of aliens, he mentioned that new legislation concerning them was under preparation by the Government and that their position is intended to be regulated in more precise terms than had been done so far. As regards the Peace Treaty of 1947, it supplemented the Constitution and clarified what actually had already been in force on the basis of international law.

423. Concerning the functions of the Chancellor of Justice and the Parliamentary Ombudsman, the representative explained that, in his capacity as supreme public prosecutor, the Chancellor of Justice not only exercised supervision over all public prosecutors but could also perform the functions of the prosecutor himself, particularly in cases tried by the High Court of Impeachment. The statement in the Finnish report that the duty of the Chancellor of Justice as well as of the Parliamentary Ombudsman was to ensure that the law was observed by the courts, tribunals and administrative authorities did not mean that the Chancellor of Justice or the Parliamentary Ombudsman could interfere in the function of the courts and in that way challenge their independence. It only meant that a law had been violated, for example, that a maximum penalty provided for a certain offence had been exceeded, or the arrest or the detention of a person had been too long, or a wrong provision of the law had been applied, appropriate action is taken by the Chancellor or the Ombudsman to remedy the situation. This could lead to compensation for the person who had suffered injury or to action against the judge or another authority who had committed the fault. These two high authorities functioned independently from each other; the Chancellor of Justice on behalf of the Executive and the Ombudsman on behalf of Parliament. They exercise control in the same fields, but in order to avoid unnecessary duplication in routine affairs, they have divided their tasks among themselves so that, for example, the Ombudsman makes inspection tours to prisons, police stations, garrisons, etc. Both of these authorities are competent to receive complaints that the provisions of the Covenant have been violated.

424. As regards the question whether the court can set aside a law which is incompatible with the Covenant or the Constitution, the representative mentioned that laws in force must be strictly followed under the penalty of law. Only a provision in a decree which is contrary to a constitutional

or other law should not be applied by a judge or other official. In the Finnish legal system the constitutionality, as well as the compatibility with the Covenant, of bills introduced in Parliament are controlled in advance by the Constitutional Committee of Parliament. Advisory opinions of the Supreme Court or of the Supreme Administrative Court, as the case may be, or of a special governmental organ created for this purpose, are requested on occasions. If it appears that a particular provision of the law is incompatible with the Constitution or the Covenant, the Government is duty bound to introduce a bill in Parliament to correct the situation.

425. With respect to questions raised under article 3, the representative explained that the Equality Council had advisory functions. It had no jurisdiction on complaints, but it had the power to take initiatives and to make proposals whenever it found it necessary. It kept the position of equality between men and women constantly under review and drew the attention of competent authorities to whatever short-comings it may find in this field. The composition of the Council at present was nine women and two men and they were appointed on the proposal of various civil organizations actively interested in these matters. The current chairman and vice-chairman were both women.

426. Dealing with questions raised under article 4, he mentioned that there was an Act of 17 June 1979 (No. 407) which concerned the life of the nation and the security of the economic life of the country in exceptional circumstances caused by events outside the country. According to this Act, the Council of State could give orders concerning the regulation of currency and supervise and regulate the export and import of goods. As regards article 6 of the Act on the State of War, the courts could order that a person who, in time of state of war, is arrested for a crime be kept in detention if he is suspected on reasonable grounds and his release is considered to be detrimental to the defence of the country or dangerous to public security. Although this provision sounded very dangerous, the representative emphasized that it is a measure taken only in circumstances when the whole nation is struggling for its very existence and that such an order is only given by a court after a careful examination of the case.

427. As regards article 6 of the Covenant, the representative explained that the protection of the right to life is given effect to the relevant provisions of the Constitution, the Penal Code and by the administrative machinery, including the police forces, and that all these measures aimed at the protection of personal integrity. There was extensive legislation in Finland concerning social welfare and medical care which, however, in the opinion of the Government of Finland, fell within the sphere of articles 9 to 12 of the International Covenant on Economic, Social and Cultural Rights. A report on this legislation was under preparation in order to be sent to the United Nations Economic and Social Council in accordance with the International Covenant on Economic, Social and Cultural Rights. The infant mortality rate in Finland, according to statistics of 1975, was only 9.5 per 1000. Social welfare and medical care in Finland were provided on a very high scale. The administration of public health was recently reorganized by Act No. 66 of 28 January 1972. The powers of direction, guidance and supervision were vested in the Medical Board. In every province public health was administered by the Provincial Government and on the local level this work was carried out by every urban and rural commune in which there were health centres for this purpose. As regards the question concerning the transplant of human tissues, the representative stated that it was expressly prohibited to take any medical measure against the will of a patient. Abortion was allowed for medical reasons as well as for other social or psychological reasons. As regards the right to work, the Government of Finland considered that this matter fell within the sphere of the

International Covenant on Economic, Social and Cultural Rights. However, under Finnish law, it was the obligation of the State to arrange for the possibility to work for every Finnish citizen.

428. In connection with article 7 of the Covenant, the representative pointed out that the Police Act expressly prohibited any measures which would amount to torture. Any act of torture would be punishable according to those provisions of the Penal Code relating to the protection of life or physical or mental integrity.

429. As regards article 8 of the Covenant, the representative stated that Finland was fully complying with the appropriated ILO conventions which prohibit forced labour. Under the supervision of the Ministry for Social Affairs and Public Health, there were work institutes where vagrant people without shelter can be taken.

430. In connection with article 9 of the Covenant, the representative stated that a person who had been wrongly arrested or kept in detention for an offence was entitled to indemnity from State funds for moral damage as well. Indemnity covered the sufferings caused to the person by his arrest or detention and this included moral damage. As to arrest or detention at the pre-trial stage, certain high police authorities and public prosecutors were empowered by law to issue, at the pre-trial stage, warrants for arrest or detention. This had to be immediately communicated to the appropriate court with the result that the arrest came under the control of the court. The duration of the arrest or detention depended on how long the trial lasted but the question of the lawfulness of the arrest or detention could, at all stages of the proceedings, be examined by the court ex officio. The representative explained that no bail system had ever existed in the Finnish legal system and that introduction of it was not contemplated.

431. In connection with article 12 of the Covenant, the restrictions provided by law on the right of a citizen or an alien lawfully residing in the country to choose his place of residence and to travel from one place to another concerned only the zone along the boundary of the country as provided for by the Boundary Zone Act. Concerning the grounds on which a passport could be denied to a person, those applied only in extreme cases when the security of the State was at stake. As regards criminal activities aboard, the prohibition applied only in such cases as internationally organized crime and smuggling of narcotics or other prohibited goods. Prosecution for an offence was a valid reason for denial of passport only during the time when the prosecution was being dealt with by the court. A passport could be denied to a person who was a vagrant or an alcoholic only when there were good grounds, for example, when vagrancy or excessive use of alcohol had reached a point where the person concerned had been put under social welfare measures. There was always a possibility of appeal from the decision to a higher authority and in the last instance to the Supreme Administrative Court.

432.. With regard to article 14 of the Covenant, the representative provided explanations regarding the appointment of judges. The procedure was regulated by the Constitution and provided that the President of the Republic appointed the President of the Supreme Court and that of the Supreme Administrative Court. He also appointed, upon the recommendation of the Supreme Court, the Justices of this Court and the Presidents of the Courts of Appeal and, upon the recommendation of the Supreme Administrative Court, the Justices of this Court and, furthermore, on the proposal of the Supreme Court, the Judges of the Courts of Appeal. The President of the Republic also

appointed the judges of the special courts, other than the Land Courts and the Water Courts. The Supreme Court appointed the Judges of the District Courts, the Chairman (Judicial Burgomasters) of the City Courts, the Judges of the Water Courts and the Chairman of the Land Courts. The other members of the City Courts were appointed by the Municipal Councils. The lay members of the District Courts were appointed by the Communal Councils. Subject to a few exceptions in the case of lay and expert members of various courts, all members of judicial tribunals and also those of the Supreme Administrative Court were appointed for life. However, they were obliged to retire at the age of 70. Otherwise, no judge could be deprived of his office except by a lawful trial and judgment of impeachment. Nor could he, without his own consent, be transferred to another post, except in the case of reorganization of the judiciary. As regards the possibility of transferring a judge to another post in the case of reorganization of the judiciary, such a reorganization took place recently when the city courts, the maintenance of which had previously belonged to the cities concerned, were taken up by the Government and reorganized by law. Similarly, reorganizations could take place when the district of a lower court was divided into two or more districts.

433. As regards the existence of certain special courts, the representative explained that, although the special courts were not irregular courts, they nevertheless functioned regularly under the law. These special courts were the High Court of Impeachment, Military Courts for dealing with military offences, Land Courts for dealing with disputes and claims arising from the partitioning of land, Water Courts for handling disputes and applications arising from the utilization of water power, protection of water courses, construction in water courses, water channels, timber floating, regulation and drainage of water courses and use of ground water. Appeals against decisions of a Water Court lay with the Supreme Water Court. Furthermore, there was an Insurance Court dealing with cases concerning social insurance and social security. Finally, there was a Labour Court for disputes arising from collective bargaining agreements.

434. As regards the question concerning warrants of domiciliary search, such a warrant could be issued by the same authorities who were empowered by law to issue warrants of arrest. In addition, the Minister of the Interior and the Chancellor of Justice were authorized to empower a person to make a search. The lawfulness of the search was examined by the Court dealing with the case in question *ex officio*. Complaints against the lawfulness of a domiciliary search could be made to the appropriate higher authority or to the Parliamentary Ombudsman.

435. Referring to article 18 the representative pointed out that under the provisions of the Freedom of Religion Act the religious communities in Finland were juridical persons by nature, entrusted with keeping a register of their members. Persons who belonged to no religious community were registered in the civil register. Joining or leaving a religious community was a legal act requiring legal competence which only a person of the age of majority could have. The fact that a minor could not join or leave a religious community did not prevent him from professing or not professing a certain religion or from participating in worship. Instruction in religion in a State or communal school was not, when so requested by the legal guardian, given to a pupil who belonged to another religious denomination or to no such denomination. As regards the special position of the Evangelical-Lutheran Church, this had been institutionalized, since more than 90 per cent of the population belonged to it. Similarly the Orthodox Church of Finland had received its special status for historical reasons. As a consequence of the status of these two churches, their organization had been regulated by State law. The Evangelical-Lutheran Church had a right to levy taxes on its

members. This right had been given to the church because it had various expenses such as keeping personal registers and the maintenance of church buildings and cemeteries.

436. Referring to article 19 of the Covenant, freedom of speech was implemented simply by not restricting it in any way except in those cases where it constituted an offence such as libel or slander.

437. In connection with article 22 of the Covenant, the provision of the Finnish Association Act provided that only Finnish citizens could join an association the purpose of which was to influence State affairs. This provision was directly connected with the political rights which, according to article 25 of the Covenant, belong to the citizens of the country. As regards the right of citizens to take part in the parliamentary elections, the electoral districts had been carefully determined in order to guarantee that all parts of the country secure representation in Parliament. This had been necessary because the density of population in various parts of the country differed to a great extent.

164. The Committee considered the second periodic report of Finland (CCPR/C/32/Add.7) at its 643rd to 646th meetings, from 4 to 5 November 1985 (CCPR/C/SR.643-SR.646).

165. The report was introduced by the representative of the State party who explained that the implementation of the Covenant, in the period since the submission of Finland's initial report, had continued on the basis of both existing legislation and specific legislative and administrative measures that had been taken following consideration of the initial report. Rather than repeat information provided earlier, in preparing its second periodic report his Government had concentrated on providing information concerning the new legislative and administrative measures and on responding to questions raised by the Committee earlier that had not yet been fully answered.

Constitutional and legal framework, as well as other measures adopted to give effect to the Covenant

166. Members of the Committee wished to receive information concerning new measures affecting the implementation of the Covenant since the consideration of the supplementary report on 13 and 14 August 1979, as well as relationships between constitutional norms and the provisions of the Covenant. In the latter regard, clarification was requested as to whether it was possible to question, in the courts, the conformity of the Constitution Act or specific legislation with the Covenant, and whether the courts could apply the Covenant in preference to domestic laws. Members also wished to know whether there were guarantees ensuring that the permitted exceptional measures did not limit the application of the Covenant; whether domestic legislation had been enacted to implement all the rights under the Covenant, thus ensuring that all such rights could be protected by the courts; and whether the Supreme Court and the Supreme Administrative Court could examine the constitutionality of laws. In addition, they asked what impact petitions addressed to the Chancellor of Justice or the Ombudsman had on the implementation of the Covenant's provisions, how the Bill of 15 February 1985 concerning pre-trial investigation would affect Finland's reservations to the Covenant, and what measures had been taken to disseminate information about the Covenant and its Optional Protocol. In the latter connection, one member noted that it might be useful to provide the legal profession and the judiciary with greater access to the Committee's work through its general comments and its annual reports.

167. In his reply to the questions raised by members of the Committee, the representative of the State party drew attention to the fact that the reservation concerning article 13 of the Covenant, as well as that concerning article 14, paragraph 1, had been withdrawn. In addition, the Government had introduced a bill in parliament concerning pre-trial investigation, which if enacted would make the reservations concerning the provisions of article 9, paragraph 3, and article 14, paragraph 3 (d), of the Covenant unnecessary. Two or three additional reservations were technical in nature and did not conflict with the spirit of the Covenant, and his Government might consider the possibility of withdrawing them. As to the status of the Covenant, he noted that its provisions were incorporated into Finnish law through a blanket Act based on article 33, paragraph 1, of the Finnish Constitution, which did not recapitulate the individual provisions but gave them all legal force. The Covenant, together with the Act bringing it into force, had been published in the Official Gazette.

168. The rights recognized in the Covenant were given the strongest possible guarantee since the Finnish legislature had no power unilaterally to modify or derogate from international human rights instruments. The Covenant supplemented the Constitution and the Government was internationally bound to ensure that the rights contained in it were protected. In addition, protection of the rights enshrined in the Covenant was ensured by the Court system and by the institutions of the Chancellor of Justice and the Parliamentary Ombudsman. As indicated in Finland's initial report, legislation had been enacted guaranteeing each of the rights laid down in the Covenant. There was also a procedure to ensure, prior to enactment, that any new bill was not contrary to the Covenant. There was nothing to prevent the direct application of the provisions of the Covenant if that was considered necessary. Whenever strict application of a particular law would lead to an inequitable result, it had to be interpreted in the spirit of the Constitution and of the Covenant in order to avoid such a result.

169. Neither the Supreme Court nor the Supreme Administrative Court were authorized to examine the constitutionality of laws. However, their advisory opinions could be requested by the Constitutional Committee of parliament.

170. With regard to questions concerning the role of the Ombudsman or the Chancellor of Justice, the representative explained that each office was independent from the other and could act on its own initiative. Any citizen or alien in Finland was entitled to lodge a petition with either office. Should the Ombudsman deem a petition to be well founded the matter would be pursued with the appropriate authorities. In serious cases, the authorities in question could be prosecuted and the petitioner would have a right to compensation.

171. As to the pending legislation concerning pre-trial investigation, he stated that, as soon as the proposed bill was enacted, Finland's reservations in respect of article 9, paragraph 3, and article 14, paragraph 3 (d), of the Covenant would be withdrawn.

172. With reference to the dissemination of information, the representative said that the Covenant and the Optional Protocol had been published in the two national languages, Finnish and Swedish, in the Official Gazette and the Statute Book, which was always at hand to every judge in the country, as well as in pamphlets which were distributed to schools and non-governmental and other organizations. More could be done to make the provisions of the Covenant known to the General public, however, and that point would be included in his report to the Government.

State of emergency

173. In connection with that issue, members of the Committee wished to know what effect Act No. 407 or 17 June 1979, which related to assuring the subsistence of the population and the security of the country's economic life in exceptional circumstances, had on the implementation of the Covenant's provisions. They wondered whether persons could be detained without trial under a state of emergency declared pursuant to that Act and, if so, whether there was a procedure similar to habeas corpus or amparo, providing for the immediate presentation of the person concerned before the court so that the lawfulness of the detention could be examined.

174. In his reply, the representative explained that Act No. 497 authorized the Government to provide, by administrative decree, for certain short-term measures- covering such areas as currency

regulations and the export, import, production or distribution of goods - to ensure the continuity of the country's economic life and defensive preparedness. It did not confer any powers of detention. Under the Act on a State of War, a person could be held in detention for the duration of the war without having been sentenced for a crime, if the suspicions leading to his arrest were deemed plausible and if his release was seen as detrimental to public security or to the defence of the country. The application of that provision was a matter of past history.

Self-determination

175. With reference to that issue, members of the Committee wished to receive information concerning Finland's position on apartheid, Namibia and Palestine, and asked whether the Åland Islanders considered the local autonomy they had been granted as constituting the implementation of the right to self-determination, whether they had been consulted with regard to that matter, and whether the Finnish Government intended to consult the inhabitants of the Åland Islands about their wishes with respect to becoming totally independent.

176. In his reply, the representative stated that Finland was opposed to apartheid and had condemned the policy based on it in many contexts. Finland had also provided humanitarian aid in many forms to those fighting for their rights. It had historic ties with Namibia, where Finnish missionaries had established hospitals and schools, and it would be prepared to contribute to a peace-keeping force, if so requested, once the Territory had attained independence. Finland had consistently supported United Nations resolutions on the rights of the Palestinian people to self-determination and to the establishment of their own State.

177. Turning to questions regarding the status of the Åland Islands, he explained that Finland had granted partial autonomy to the Åland Islands. The relevant Act had been replaced by the Act of 28 December 1951, under which the inhabitants enjoyed far-reaching autonomy, including their own provincial Diet, their own legal administration with limited power to legislate in economic, social and cultural fields, their own flag and their own stamps. A new Act, further developing autonomy and replacing the Act of 1951, was being prepared. As a whole, the system of autonomy had been considered satisfactory both by the approximately 25,000 inhabitants of the Islands and by the rest of the country, and all questions had been settled in a friendly atmosphere. The Islanders had ample opportunities, for example, through the mass media and elections to their provincial parliament, to express their desire for independent statehood and to take steps in that direction. So far they had not done so and seemed to consider that the current situation met their needs.

Non-discrimination and equality of the sexes

178. With reference to that issue, members of the Committee wished to receive information on measures taken to ensure equality of the sexes in the enjoyment of the rights specified in the Covenant and the results of such measures; the extent to which women enjoyed equality with respect to the family; and the extent of women's participation in public employment. Members also wished to know whether affirmative action measures had been restored to in Finland to redress inequality; what type of army, police and prison service posts were restricted; and whether there were any barriers, in practice, to women becoming members of parliament or ministers; to what body the Equality Council addressed its proposals and whether it had ever considered the question of equal

treatment of men and women in obtaining Finnish citizenship; whether action had been taken to adopt new regulations regarding recruitment, promotion and pay, which were needed to enable Finland to accede to the Convention on the Elimination of All Forms of Discrimination against Women; whether it was true that the courts declined to hear testimony from plaintiffs in cases of alleged discrimination in municipal or civil service hiring and dismissals; and whether there were still difficulties in ensuring the equality of the sexes, with a great many legislative provisions still needing to be changed. It was also asked whether women had the right to terminate a pregnancy in sanitary and safe conditions; whether the Alien Act of 1 March 1984 ensured equal protection of aliens and Finnish nationals; and whether the rights of linguistic minorities were protected.

179. Responding to the questions raised by members of the Committee, the representative stated that, although equality of the sexes was already a reality in Finland, every effort was being made to improve the situation still further. Finland intended to ratify the Convention on the Elimination of All Forms of Discrimination against Women and was currently studying the legislative changes that might be needed to enable it to do so. One of the difficulties in that regard, for example, concerned the preparation of a new law on family names. The Equality Council, which provided advisory opinions to any authorities that requested them - particularly the Council of State - was working on the identification of modifications that might be required for Finnish ratification of the Convention.

180. With regard to salary disparities, parity existed in the public sector but had unfortunately not quite been achieved in the private sector. As to the problem of recruitment, a bill under preparation provided that recruitment criteria should be the same for men and women, which would, in effect, prohibit specifying a given sex in job offers. Nevertheless, certain exceptions could be made in cases where the completion of compulsory military service was a requirement.

181. One fourth of the members of parliament were women and there were many women serving in the judiciary and in the administration, including the Foreign Service, which comprised among other women officials at least three or four ambassadors. In general, no measures of affirmative action were applied in Finland and there was no quota system. While the participation of women in public bodies was increasing, dramatic changes could not take place overnight. As indicated in Finland's initial report, the Act of 19 December 1975 had abolished all legal restrictions on access by women to certain offices previously considered unsuitable.

182. Under the Marriage Act, no distinction was made between man and wife regarding the legal effects of marriage and the rights and obligations of the spouses. Both spouses were to contribute to the family's maintenance, both parents were the statutory guardians of their children and each spouse had the right to own and dispose of property.

183. Concerning the question of the acquisition of Finnish nationality, the representative informed the Committee that the formulation in article 4 of the Constitution: "Finnish citizenship belongs to every person born of Finnish parents and to every woman of foreign nationality who was married to a Finnish citizen" and been amended to read: "The rights of Finnish citizenship belong to every person born of Finnish parents". If a Finnish man or woman married a foreign man or woman, he or she retained his or her nationality, and, conversely, the acquisition of Finnish nationality was not automatic. Residence or work permits were also not accorded automatically to the non-Finnish spouse, although marriage was certainly an argument that weighed heavily in the decision to grant

such permits. By a law of 1984, the Finnish authorities had also attempted to ensure a just balance in the transmission of nationality to the child, keeping in mind the requirements set out in international instruments. Marriage was a decisive factor in that regard, whereas in the absence of marriage the decisive factor was the nationality of the mother.

184. With reference to the protection of the rights of aliens and minorities, the representative noted that fewer than 6 per cent of Finland's 4.9 million inhabitants had Swedish as their mother tongue, and most of those persons were bilingual. Both Swedish and Finnish were recognized as the national languages, for historical reasons, and all official documents appeared in both languages. There were also small Lapp and Gypsy minorities, with written languages, and children having Lapp as their mother tongue received elementary school education in their own language. The new Aliens Act covered the right of asylum. Formerly, decisions on expulsion had not been open to appeal but that rule had now been changed and the provisions of the new law were in line with the Covenant as well as the Convention relating to the Status of Refugees. 11/

Right to life

185. With reference to that issue, members of the Committee wished to receive information regarding measures taken by Finland in relation to the Committee's general comments Nos. 6 (16) 1/ and 14 (23) 2/ and to have Finland's observations, in any, thereon. In addition, members wished to know what instructions had been given to the police regarding the treatment of prisoners; what conditions governed the use of firearms by the police; what measures had been taken to reduce infant mortality; and whether pollution of the environment was punishable. Noting that the Finnish Constitution referred only to the rights and freedoms of Finnish citizens, one member also asked whether the rights of aliens were adequately protected in Finland and whether the recently enacted Aliens Act had affected their status.

186. In his reply, the representative noted that there was no discrepancy between Finnish legislation and the Covenant with respect to the matters covered in general comments Nos. 6 (16) and 14 (23). The use of weapons by the police was strictly regulated by exact orders. Although police officers had the right to use firearms in extreme cases, they were cautious in doing so because of the great responsibility entailed in any excessive use of force. Torture was punishable under a special provision of chapter 5, article 11, of the Penal Code. Regarding infant mortality, there was an entire body of legislation in Finland concerning public health and the social welfare of families and

11/ United Nations, Treaty Series, vol. 189, No.2545, p. 137.

1/ See Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V.

2/ Ibid., Fortieth session, Supplement No. 40 (A/40/40), annex VI.

children.

Treatment of persons, in particular prisoners and other detainees

187. With regard to that issue, members of the Committee wished to know whether there had been any cases of cruel, inhuman or degrading treatment, particularly since the adoption of the Act of 19 July 1974 amending the Penal Code and abolishing forced labour. They also asked about measures to ensure the social rehabilitation of detainees and the results achieved through the activities of the Ombudsman and the Inspector of Prisons.

188. In his reply, the representative stated that there might have been some minor cases involving mistreatment by police of persons being held in custody for a few hours, but those responsible had always been duly prosecuted in conformity with the law, which was quite clear on the subject. The Ombudsman was responsible for inspecting prisons and was able to talk privately with detainees who had complaints. All cases of ill-treatment were carefully examined and the Ombudsman took all the appropriate measures so that no systematic abuses were possible. When legislation was not being fully respected, the Ombudsman intervened to ensure that it was enforced. The prison director could authorize a detainee to leave the prison for a limited period of time when the detainee had emergency family or personal matters to take care of. Detainees had the opportunity to participate in religious ceremonies which took place in the prisons and they could talk to representatives of their religious community, and to anyone else, when they deemed it necessary for conducting their personal affairs. There was also a national association in charge of helping former prisoners to readjust to life in society, especially to find housing or work.

Liberty and security of the person

189. With reference to that issue, members of the Committee wished to receive information regarding the conditions of solitary confinement, the maximum duration of police custody and of detention pending investigation and trial, the average period of pre-trial detention, circumstances relating to detention in institutions other than prisons or for reasons other than penal reasons (for example, in psychiatric institutions or social rehabilitation centres), and the reasons why a bail system did not exist in Finland. Noting that warrants for arrest or detention could be issued by county governments, police authorities and public prosecutors, and that, to bring Finnish legislation into conformity with article 9 of the Covenant, a government bill had been prepared for presentation to parliament, members of the Committee wished to know the current status of that bill.

190. In addition, it was asked how compliance with the provisions of article 9, paragraphs 1 and 2, of the Covenant was ensured; whether, in cases of abuse, individuals could invoke the Optional Protocol; whether the conditions of police custody were in practice different for aliens and nationals and, if so, what the basis for such a distinction was; whether there were any procedures similar to that of habeas corpus or amparo guaranteeing that a detainee was brought before a judge immediately; and whether Finland intended to withdraw its reservation to article 9, paragraph 3, of the Covenant.

191. Responding to the question raised by members of the Committee regarding solitary confinement, the representative of the State party explained that solitary confinement as a disciplinary measure could be imposed only as a last resort. The prison director could authorize solitary confinement for up to seven days only, and the board of directors was authorized to impose solitary confinement for a maximum of 20 days. The detainee had a right to be heard before he was placed in solitary confinement.

192. Turning to questions concerning police custody and pre-trial detention, he stated that, currently, a person who had been arrested was generally brought before the prosecutor within three days, although the police could extend that period up to 14 days in difficult cases. Under the proposed new legislation, the maximum period of police custody would be limited to three days. If convinced that there were solid grounds for bringing charges against a suspect, the prosecution could seek to have the person indicted and placed in temporary detention, at which point the court took over responsibility for keeping the individual in detention. On average, pre-trial detention lasted weeks or some months - never as long as a year. As to the length of trials, he noted that, in particular, the prosecution of so-called economic crimes required a lot of time. As soon as a trial was completed, however, the judgement had to be rendered without delay.

193. Pre-trial detention was not resorted to in all criminal cases by any means and it could only be ordered by the courts under conditions expressly stipulated by law, such as when it was feared that the suspect might flee the country, continue his felonious activities, evade justice or destroy evidence. The court was bound at all times to re-examine the grounds for detention in order to make sure that it was still necessary to detain the individual. It was most unlikely that arbitrary arrest or detention could occur. The institution of the Ombudsman, who periodically visited prisoners and to whom prisoners could send letters, provided an extra guarantee. Every accused person could immediately appeal against his detention. Judicial control was therefore generally very strict.

194. When administrative detention was ordered by an appropriate administrative authority, the person in question had the right to appeal to higher instances and ultimately, to the Supreme Administrative Court. The Ombudsman could also intervene in such cases, and if it was established that the administrative authority had acted in error, the victim had the right to sue the authority in an ordinary court and to seek compensation. The bill designed to bring Finnish legislation into line with article 9 of the Covenant was currently being examined by parliament. After its enactment the right to issue arrest and committal warrants would be taken away from administrative authorities and transferred to the courts.

195. Regarding bail, the representative explained that Finland had not adopted the bail system because it was felt to be discriminatory toward persons without means. However, it could be said that a system of personal bail did exist, in a sense, since the court could decide to release an accused person on his own recognizance in cases where the offence was not extremely serious and the suspect had a fixed abode, a job and a family.

196. With regard to the mentally ill, all districts in the country had psychiatric hospitals with specialized staff. Unless a particular danger existed, no one could be confined to a psychiatric hospital without his consent. Persons who could not be integrated into society despite receiving assistance from local authorities, including hospital care, if required, and help in finding housing and employment, could be detained for reasons unrelated to criminal activities. Such persons could be placed under supervision for up to two years and could be detained in a specialized establishment for a maximum period of six months, particularly if they were deemed to pose a danger to themselves or to others. Social rehabilitation measures were also provided for certain drug addicts.

Right to a fair trial and equality before the law

197. With reference to those issues, members of the Committee wished to know the causes of unduly lengthy trial procedures; they also asked about planned measures to ensure that verdicts were rendered without undue delay, whether there was a remedy available in the case of excessive delays, whether interpretation was available in court proceedings from Swedish to Finnish and vice versa, whether Finnish law ensured compliance with the procedural guarantees contained in article 14 of the Covenant in cases involving offences that had been decriminalized, and whether the right of the accused to be informed of the charges against him was adequately protected. Clarification was sought as to the reasons for excluding the public from a trial.

198. Regarding legal assistance, members wished to know whether accused persons were accorded the right, under Finnish law, to be informed of their right to legal assistance and, if so, whether that right was ensured in practice, whether a defendant was assured of obtaining legal aid in all rural and urban communes, and whether he could choose his own lawyer. It was also asked how the planned reorganization of the judiciary would affect the status of judges, especially the possibility of their being transferred from one post to another without their consent. Another member requested further information regarding the organization of the legal profession, asking, in particular, how many private attorneys there were in Finland.

199. Members also inquired whether Finland had any observations to make in respect of the Committee's general comment No. 13 (21), 8/ which concerned article 14 of the Covenant. It was asked whether civilians could be tried before military courts and what safeguards existed to ensure that the outcome of trials was not prejudged by the authorities.

200. In his reply to questions raised by members of the Committee concerning unduly lengthy judicial proceedings, the representative of the State party cited certain reasons for delays, such as changes in the rules of evidence, the ability of defendants to seek adjournments in order to collect counter-evidence, and the practice of holding collective trials of members of criminal associations at which each accused person was defended by separate counsel and each offence had to be cleared up separately. In addition, the claims for damages for victims of such criminality were heard in conjunction with the trial of the defendants. Defendants who had been acquitted after a lengthy trial and who had suffered economic or other hardship could file claims for compensation from the Government. Interpreters were always available in legal proceedings, as necessary, in connection with the use of Finland's two official languages, as well as for other languages if aliens were involved. The record of the court proceedings was published in the official language used by the defendant.

8/ See Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 40 (A/39/40), annex VI.

201. Responding to various questions from members of the Committee regarding rights protected under article 14, paragraph 3, of the Covenant, the representative noted that accused persons had to be informed of charges against them as well as of their right to legal counsel. The new bill under consideration provided even clearer protection in those regards, including the right to counsel from the beginning of the pre-trial period. As a result, Finland would be able to withdraw its reservation to article 14, paragraph 3, of the Covenant after enactment of the bill. A criminal defendant's right

to be present at his trial was fully respected in Finland, but in minor cases he could, if he wished, stay away and be represented by counsel. Guarantees were also respected in cases involving offences that had been decriminalized. Legal aid offices had been established in every commune or federation, subsidized by the State to the extent that any commune needed such subsidy. In addition, under the “free trial” system in Finland, any defendant without means could be represented by counsel of his choice at State expense.

202. Regarding the right to a public hearing, he noted that the Act on Publicity of Jurisdiction had not yet been tested in the courts but that an attempt had been made by his Government, when preparing that Act, to harmonize its provisions with those of the Covenant. It was up to the courts to decide, in all cases, whether or not a trial would be held behind closed doors.

203. Replying to other questions, the representative stated that access to the courts in Finland was unlimited and available to everyone. Military courts had been abolished and military offences were tried in the ordinary courts. The reorganization of the court system currently under way, which would result in the merger of the existing dual system of city courts and district courts into a single type of court, might involve the transfer of some judges, but in all cases their status and salaries would remain unchanged. The legal profession in Finland had an organization corresponding to a bar association. The association had disciplinary powers and could expel a member for unprofessional conduct. However, it was not necessary to be a member of the Bar Association or to possess legal qualifications in order to be able to practice law in Finland since anyone who enjoyed a good reputation could assist parties at any stage of a legal proceeding, including hearings before the Supreme Court.

Freedom of movement and expulsion of aliens

204. With reference to the freedom of movement of aliens, members of the Committee observed that certain provisions contained in the Decree on Aliens of 1958, such as the provision allowing the Aliens Bureau to restrict the right of an alien to choose his place of residence, appeared to be contrary to article 12 of the Covenant, since they were not based on law and were not consistent with other rights recognized in the Covenant, particularly the right of equality before the law. It was further asked whether the new Aliens Act of 1984, superseding the Decree on Aliens, had abolished the restrictions in the 1958 Decree on Aliens and, if so, whether the new Aliens Act contained a specific provision extending to aliens a right to freedom of movement that was comparable to the right enjoyed by Finnish citizens. Referring to the possibility that passports could be withheld from “persons who are likely to engage in activities prejudicial to the security of the State or who are believed to intend to engage in criminal activities abroad”, members of the Committee requested clarification as to how that concept was interpreted or defined by the Finnish authorities and the courts.

205. Regarding the expulsion of aliens, members noted that, under the new Aliens Act any expulsion decision by the Ministry of the Interior could be appealed before the Supreme Administrative Court. It was asked, in that connection, whether such an appeal had the effect of halting the execution of the expulsion decree; whether an alien could also lodge an appeal if his work or residence permit was withdrawn, since such measures generally had the same effect as an expulsion decree; and whether the Finnish authorities had taken into account the need to ensure that

a person who was about to be expelled would not be placed in a situation where his rights under the Covenant as a whole - especially the rights to life and liberty - would be threatened.

206. In his reply, the representative confirmed that the Aliens Act, which had come into force on 1 March 1984, entirely superseded the former Decree on Aliens. Under that Act, the movement of aliens was subject to no restrictions other than those concerning aliens about to be expelled from Finnish territory. Restrictions on freedom of movement were limited to the frontier zone and applied to Finns as well as foreigners. With regard to the issuance of passports, the representative stated that the current regulations - based on a decree - were not satisfactory and would be replaced by a law that was currently being prepared. Under the present regulations, passports could be refused only to persons implicated in extremely serious cases of international criminality such as trafficking in drugs and prohibited merchandise, espionage and high treason. Refusal to issue a passport was an administrative matter and those affected by that measure could approach the competent Minister for redress and could ultimately take their case to the Supreme Administrative Court. The current restrictions regarding passport issuance would be eliminated under the new law.

207. Regarding the expulsion of aliens, he reiterated Finland's intention to withdraw its reservation to article 13 of the Covenant, since the new Aliens Act had brought Finnish legislation into conformity with the provision requiring observance of the right of appeal in cases of expulsion. The Act also extended the right of asylum to aliens who had plausible reasons for requesting it, such as the fear of being persecuted in their country of origin or residence or the refusal of asylum in another country. The grounds for expulsion of an alien lawfully in Finnish territory were set forth in detail in article 18 of the Aliens Act. Refugees could be expelled only on grounds of engaging in sabotage, espionage or certain acts which jeopardized State security, or for committing a particularly heinous crime, but even in such cases they could not be returned to a territory where their life or security would be in danger.

Interference with privacy

208. With reference to that issue, members of the Committee wished to receive information regarding measures to prevent arbitrary or illegal interference with privacy, the legal régime governing interference with telecommunications, and the adequacy of care provided to children being raised in institutions for the protection of children. They also wished to know what guarantees existed to ensure that privacy was not invaded in cases where the Government made available information on individuals to potential employers in the private sector; what conditions governed the release of such information to private sector employers and whether the person in question was informed that such information had been supplied; whether an individual had the right to verify the accuracy of the data contained in Government files; whether telephone conversations could be monitored under a court order; and whether there were any remedies, other than complaints to the authorities or to the Ombudsman, in cases of illegal searches.

209. In his reply, the representative of the State party said that, under article 12 of the Constitution Act, the secrecy of postal, telegraphic and telephonic communications was inviolable, except as otherwise provided by law, and that the relevant legislative provisions had been explained in Finland's initial report. In criminal investigations, the same authorities who had the power to issue arrest warrants could also issue search warrants for the purpose of seeking evidence. Victims of

illegal searches had a right to sue for damages. Under the law, everyone had the right to know what information was in his official files. The keeping of private “black lists” on workers by employers was unlawful and any employee dismissed for political other inappropriate reasons could seek redress through the courts.

Freedom of thought, conscience and religion

210. With reference to those issues, members of the Committee wished to know whether there were any restrictions applicable to minors in respect of freedom of thought, conscience and religion, and whether the right to speak for or against religion was protected. They also asked what the differences were between the status of the Evangelical Lutheran Church, the Greek Orthodox Church and the other religious communities in Finland, how many religious communities had registered under the Act on Freedom of Religion, and whether prisoners were afforded free access to religious services. In addition, members wished to know how conscientious objection was given recognition under Finnish legislation.

211. In his reply, the representative of the State party explained that, under the Act on Freedom of Religion, minors were members of the religious community of their parents. However, after reaching the age of 15 they could no longer be obliged to follow their parents in changing a religion, and after achieving adulthood they were free to join another religious community if they wished to do so. Freedom of worship was fully protected in Finland, as was the right of atheist organizations, such as the Freethinkers’ Society, to defend their points of view in meetings and publications. Such organizations had to refrain, however, from blasphemy or insulting the religious feelings of others, and did not engage in anti-religious propaganda.

212. Regarding the situation of Churches in Finland, he indicated that for historical reasons the Evangelical Lutheran Church and the Orthodox Church had attained the status of national institutions to the effect that their administration was regulated by law and that their bishops were paid by the State, whereas the salaries of the lower-ranking clergy were paid by the Church. The Orthodox Church had historical roots in the eastern part of the country, but had only about 61,000 members. Some 90 per cent of the Finnish population belonged to the Evangelical Lutheran Church. The other religious communities of the country were treated as juridical persons enrolled in the official register of religions. They had legal capacity which enabled them to collect funds for their maintenance. Some 5 per cent of the population did not belong to any religious community. Obviously, the small religious communities were not on an equal footing with the national Churches but they were free to function and to organize their services and meetings as they wished. The representative stressed that Finland was basically a secular State, with daily life being regulated by secular and not by religious laws.

213. Under the 1969 Act on Military Service and Civil Service, conscientious objection, on grounds of religious or moral convictions, was recognized. The Act stipulated that conscientious objectors could perform unarmed service for a period 90 days longer than regular service, or civil service for a period 120 days longer than the normal period of military service. Determining the genuineness of an objector’s convictions had proved to be difficult and there was a particular problem with Jehovah’s Witnesses, who refused to accept any kind of service. A new law, enacted in July 1985, eliminated the necessity for objectors to pass before an examination board charged with determining

the genuineness of their beliefs, but doubled the length of the extra period of alternative civil service from 120 to 240 days.

Freedom of opinion and expression; prohibition of propaganda for war and advocacy of racial and religious hatred

214. With reference to those issues, members of the Committee wished to know Finland's current position with regard to the possible withdrawal of its reservation to article 20, paragraph 1, of the Covenant. They also asked whether there were any restrictions on freedom of expression or information, whether the State-controlled media were subject to censorship and, if so, what the composition of the controlling bodies was, and whether measures had been taken to enable ethnic, religious, or linguistic groups to express their opinions through the media on social, political or religious questions.

215. Referring to paragraph 32 of the report, members requested clarifications concerning the concept and the application of the provision in the Penal Code prohibiting abuses of freedom of expression which amounted to "defamation of a foreign State thereby endangering the relations of Finland and the foreign State". They wished to know how that provision had been interpreted by the courts and whether people had actually been tried and convicted for defaming a foreign State.

216. In connection with censorship, members requested information regarding the role and powers of the Board of Film Censors and clarification of the term "an ethical view of life and a sound way of life" employed in paragraph 38 of the report, and of any criteria elaborated by the Council of State to ensure that licensees complied with that stricture.

217. In his reply to the questions raised by members of the Committee concerning article 20, paragraph 1, of the Covenant, the representative stated that Finland, which had voted against that paragraph at the time of adoption of the Covenant by the General Assembly on the grounds that it limited the freedom of expression, had decided to maintain its reservation. Like other Scandinavian countries, Finland had endeavoured to find a formula for an appropriate provision to be inserted in the Penal Code - but without satisfactory results. While certain acts of the nature of war propaganda were already punishable under chapters 11 and 12 of the Penal Code and some provisions of the Freedom of the Press Act could also be used to prevent such acts, Finland believed that the objectives of article 20, paragraph 1, of the Covenant could best be attained through information, education and cultural activities.

218. Concerning censorship, the representative noted that freedom of expression and freedom of information were guaranteed by article 10 of the Constitution Act and that the remedies available against the infringement of those rights were the same as for other rights and freedoms. The governing bodies of the Finnish Broadcasting Company included parliamentary representation and ensured that an appropriate balance was maintained in radio and television programmes. The role of the Board of Film Censors was to review all films imported into Finland to ensure that obligations arising under international instruments to which Finland was a party, particularly in relation to pornography, were complied with. In view of the radical changes that had occurred in standards relating to public morality, the Board had been carrying out its tasks with great flexibility. The

reference to “an ethical view of life and a sound way of life” in the rules approved by the Administrative Council for radio and television broadcasts related, *inter alia*, to the treatment of problems such as drug and alcohol abuse and excessive violence. The Council exercised its discretionary powers in that area on a case-by-case basis. As to the possibilities for expression afforded to ethnic, religious or linguistic groups, all mass media were available to such groups and television programmes depicting their lives had been shown, for example, in order to highlight their special needs.

219. Responding to questions concerning article 4 of the Penal Code, which prohibited offences against the dignity of a foreign State, the representative explained that that offence, along with such other offences as slander, instigation to treason and incitement to crime, was seen as an abuse of the freedom of expression. To the best of his recollection, however, no cases of defamation of a foreign State had been brought before the courts.

Freedom of assembly and association

220. With reference to those issues, members of the Committee wished to know what justification there was for the provision authorizing the police to interrupt public meetings organized by aliens and whether aliens had the right to organize such meetings or not. Concerning the implementation of article 22 of the Covenant, one member noted that, apparently, only Finnish citizens had the right to join a political party. Another member wished to know whether the Finnish Government considered trade unions to be associations of a political nature and whether aliens were afforded the opportunity to form or join trade unions.

221. In his reply, the representative stated that aliens were fully entitled to participate in public meetings, whether or not such meetings were political. The provision of the Association Act restricting the participation of aliens in political associations originated from the early days of Finland’s independence and was obviously meant to prevent any revolutionary activities by aliens. Trade unions were not considered to be political associations. Associations could be formed in Finland by any three persons but had to be registered in order to obtain legal status as a juridical person. During the registration process the authorities ascertained that the association’s by-laws were in conformity with the law and good morals.

Right of minorities to enjoy their own culture

222. With reference to that issue, one member requested additional information regarding the implementation of the provisions of article 27 of the Covenant in respect of the Lapp people and asked for clarification of the functions of the Lapp parliament..

General observations

223. Members of the Committee thanked the representative of Finland for presenting the report and for orally supplementing the gaps therein. While some additional information and clarifications were still needed - which members hoped the Finnish Government would supply as soon as possible - the exchanges had been fruitful and had facilitated the Committee’s work.

224. The representative of the State party expressed appreciation to members of the Committee for their understanding and assured them that he would transmit the Committee's request for additional information to his Government.

225. Additional information was received on 4 June 1986 (CCPR/C/32/Add.11).

CCPR A/46/40

102. The Committee considered the third periodic report of Finland (CCPR/C/58/Add.5) at its 1014th to 1016th meetings, held on 25 and 26 October 1990 (see CCPR/C/SR.1014-1016).

103. The report was introduced by the representative of the State party, who drew attention to the ratification by Finland, since the consideration of its second periodic report, of the European Convention on Human Rights and the Sixth Protocol to that convention concerning the abolition of the death penalty, as well as to the establishment of a Committee on International Human Rights Issues. The representative further noted that the existing Self-Government Act relating to the Åland Islands would be replaced by a new law with a view to increasing the autonomous status of the province; that the Provincial Administrative Courts had in 1989 been detached from the respective Provincial Administrative Boards and now acted as independent courts dealing with questions relating to all rights; and that a new State of Defence Bill, taking account of the requirements of article 4 of the Covenant, had recently been presented to Parliament. A new Aliens Act was also under consideration in Parliament and there were plans to improve the prison system and penal sanctions in general.

104. The Finnish Government had also amended the existing law on military disciplinary procedures so that a conscript now had the right to have any decision involving deprivation of liberty examined by a court. Account had been taken of the Committee's decision in that regard. The new Passport Act of 1987 was based on the principle that a citizen's right to travel abroad was a basic right the exercise of which could be restricted only for very serious reasons. Recent legislation relating to the right to a fair trial had made the Finnish reservation to article 14 (3) (d) unnecessary. New legislation had been adopted in the field of personal data protection, providing for the appointment of a Data Protection Ombudsman. New legislation relating to conscientious objection had also entered into force at the beginning of 1987 for a trial period of five years. With respect to freedom of expression, the new Pre-Trial Investigation Act provided that information on pre-trial investigation must be so distributed that no one was suspected of an offence without adequate reason and that no unnecessary harm was caused. In addition, the 1987 Act on Censorship of Video Programmes and other Pictorial Programmes made the distribution of video cassettes and similar films subject to approval. Lastly, the representative noted that some of the traditional limitations concerning aliens had to some extent been abolished and that equality between spouses had been further strengthened.

Constitutional and legal framework within which the Covenant is implemented

105. With regard to that issue, members of the Committee wished to be provided with illustrations of the activities of the Committee on International Human Rights Issues since the submission of the third periodic report and additional details concerning the Supreme Administrative Court case where the Covenant was applied for the first time by a Finnish court. They also wished to receive details concerning some of the decisions rendered by the Parliamentary Ombudsman where provisions of the Covenant had also been taken into account and also asked whether any suits had been filed pursuant to article 93 (2) of the Constitution Act, in particular proceedings involving charges of violations of the Covenant.

106. In addition, members of the Committee wished to know whether legal or other measures had been adopted to remedy the specific violations of the rights of individuals on which the Committee had commented; what was the position of the Covenant in relation to domestic legislation in case of a conflict; what legal remedy could be sought for alleged violations of articles of the Covenant which had not been incorporated into domestic law; how remedies were coordinated in practice and whether all remedies were equally available to aliens and nationals; what was the legal difference between a decree as opposed to a law; whether the review of legislation before the ratification of the European Convention on Human Rights had included consideration of the situation of people deprived of their freedom; how the independence of the judges in the Provincial Administrative Courts was guaranteed; whether any changes had been considered to chapter II of the Constitution inasmuch as the enumerated rights appeared to be applicable to Finnish citizens only; whether there were any plans to make the Committee on International Human Rights Issues an interministerial body; what attitude was taken by that Committee and the Government regarding the use of development aid to promote human rights; and what activities were undertaken by Finnish non-governmental organizations in promoting human rights.

107. In his reply, the representative said that since its establishment, the Committee on International Human Rights Issues had held about 10 meetings annually for the effective monitoring of developments relating primarily to the international dimension of human rights; all the national aspects had simultaneously been given critical consideration. There were four main areas of interest which the Committee kept under scrutiny: the activities, respectively, of the United Nations, the Council of Europe and the Conference on Security and Co-operation in Europe (CSCE), and the relationship between development aid and human rights. It had held a seminar on the last topic and planned to publish a new Finnish version of a compilation of international human rights instruments and to organize research on human rights questions once the necessary financial resources had been allocated. The Committee had also given its opinion on Finnish draft reports to various United Nations bodies, such as the present report, and had proved to be an expert body whose opinions had been most valuable for the work of the Ministry of Foreign Affairs. It was not considered necessary to create a new interministerial committee, and cooperation between the Ministries of Justice and Foreign Affairs was considered adequate.

108. In reply to the question concerning the application of the Covenant in a domestic court of law, the representative explained that the 1988 decision of the Supreme Administrative Court had concerned the cancellation of a passport, a matter which at that time had been regulated by government decree only, not by law. The court had argued that there was no conflict of norms in the case because the restrictions set forth in article 12 of the Covenant were applicable. The basic attitude of the judiciary and the courts of law was becoming increasingly favourable to making the Covenant directly applicable, but the question was still under discussion. Referring to the question on the Parliamentary Ombudsman, he stated that the Ombudsman did not normally refer to international human rights standards if there was an equivalent provision in Finnish law. He did occasionally cite international instruments in order to promote greater awareness of their provisions. For example, the Ombudsman had in the past made references to the rights of non-citizens and of persons deprived of their liberty as well as to the independence of judges, as contained in various articles of the Covenant. No suits had been filed under article 93 (2) of the Constitution Act in respect of alleged violations of the Covenant.

109. In response to other questions, the representative explained that Finland did not have a system of constitutional review by the judiciary; it was up to the Constitutional Committee of the Parliament to comment on the compatibility of proposed legislation with the Constitution. Once legislation had been enacted, courts were bound to apply it without questioning its constitutionality. The difference between decrees and laws was that the former were issued by the President or the Government and the latter by Parliament. The Supreme Administrative Court had held that it was possible to apply the Covenant and that a court could therefore ignore a government decree on the basis of the Covenant's provisions, but the position of the Covenant in the hierarchy of norms in the Finnish legal system was still a matter of debate. The Incorporation Act merely stated that those provisions of the Covenant which belonged to the domain of legislation should have the force of law. At present, a review was being undertaken to ensure that foreigners enjoyed constitutional protection equal to that of Finnish citizens. The rights of a person to liberty might be curtailed only to the extent necessary for the fulfilment of the purpose of his detention. The Minister for Foreign Affairs had recently said that Finnish views or concepts concerning human rights or democracy should not be used as criteria for punishment or reward when deciding on development cooperation activities.

110. Referring to the separation of the Provincial Administrative Courts from the Provincial Administrative Boards, the representative said that this had occurred at the logistic and administrative levels; a major purpose of the change had been to emphasize, especially in the public mind, the judicial function and independence of those Courts. The administrative judges secured their independence in the same way as judges in the ordinary courts; they had full tenure of office, which was more comprehensive than in the case of state officials, and they could not be subjected to disciplinary proceedings. There were many different remedies which overlapped to some extent, but the Government considered it important for individuals to be able to choose among them. With regard to remedies in certain specific cases, decisions were still pending. The request for compensation in such cases had been made on the basis of claims that the injury suffered by the petitioner was undue deprivation of liberty, but since the damage suffered was not a material one it was difficult to assess monetary compensation.

Self-determination

111. In connection with that issue, members of the Committee wished to know whether the new Self-Government Act for the Åland Islands had been enacted by Parliament.

112. In reply, the representative said that the new bill in respect of the Åland Islands had been submitted to Parliament on 31 May 1990. The debate in Parliament was continuing and was expected to finish towards the end of the year, with the new law entering into force in the course of 1991.

State of emergency

113. With regard to that issue, members of the Committee asked what the current status was of the bills relating to states of public emergency described in paragraphs 26 and 27 of the report; under what conditions of economic crisis the draft State of Defence Act would apply and what articles of the Covenant would be derogated from under that Act; and what proposals for the internment of persons who were deemed to be liable to commit certain offences that draft Act contained and what

remedies would be available to individuals thereunder.

114. In his reply, the representative said that the bills were expected to pass by the end of the year. The new Defence Bill reflected the desire of the Finnish authorities to provide for both defence needs and the protection of the fundamental rights of individuals and was consistent with the limitations in article 4 (2) of the Covenant. Several safeguards were expressly provided for and the supremacy of international obligations was guaranteed. "Economic crisis" referred to such situations as the total breakdown of the energy supply or similar catastrophes which would threaten the existence of society, and which the authorities could not cope with under normal powers. A person could be interned only as a last resort, the right of appeal would be guaranteed, and the usual rules for compensation would be applicable. The bill not yet having been adopted, the representative assured the Committee that all of its comments would be taken into account by the Finnish authorities.

Non-discrimination and equality of the sexes

115. With regard to that issue, members of the Committee wished to know whether there were any plans to extend to other aliens the right to participate in municipal elections currently recognized in the case of citizens of other Nordic countries. They also wished to receive further information on the proposal by the Task Force for Penal Code Reform for a new penal provision on discrimination, as mentioned in paragraph 132 of the report, and on the law exempting Jehovah's Witnesses from all national service and of the reasons for the difference in treatment between Jehovah's Witnesses and other conscientious objectors. They also noted that the Status of Conscientious Objectors Act of 1991 should be consistent with the need for the length of alternative service to be proportionate to that of military service. Members wished to know whether the new penal provision would apply also to banks, which appeared to require job applicants to produce an attestation proving they were not carriers of the HIV virus.

116. In his reply, the representative stated that the new penal provision on discrimination was being discussed as part of the total revision of the Penal Code. The new provision would have a broader application than the present law and would deal with discrimination based on race, national and ethnic origin, skin colour, language, sex, age, kinship, or state of health in the exercise of a profession, the performance of a public function or the organization of a public event.

117. Replying to the question on Jehovah's Witnesses, the representative said that their special status was due to the fact that this community had shown great coherence in its beliefs; there was no danger that the law would be abused for the purpose of evading military or civilian service. Civilian service was longer than military service but was less exacting. There was no alternative to imprisonment for conscientious objectors refusing to perform any kind of service. AIDS and HIV infection could be considered as forming part of a person's state of health and, as such, could be mentioned in the new draft provisions; the authorities were considering the possible forms of discrimination in that respect. The Ombudsman had been seized of a complaint that disablement was not expressly mentioned in the new provision on discrimination.

Right to life

118. With reference to that issue, members of the Committee asked whether there were any plans by Finland to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty. In addition, members of the Committee wished to know whether there were any plans to establish a special medical ethics committee, within the National Board of Health, to advise in the matter of human embryo research and whether there was a law or military code authorizing the imposition of the death penalty in wartime.

119. In his reply, the representative said that the Finnish Government intended to ratify the Second Optional Protocol to the Covenant in 1990. Reforms were being undertaken to regulate the use of artificial procreation methods and it was quite possible that a medical ethics and health law committee would be established. The death penalty had been totally abolished and therefore was eliminated, even in wartime.

Liberty and security of the person and treatment of prisoners and other detainees

120. With regard to that issue, members of the Committee wished to know what was the current status of the bill amending the Law on Military Disciplinary Procedure and the relevant Ordinance; whether the proposal relating to reforming the custody arrangements under the Aliens Act had been followed up; what the plans were to develop the penitentiary system and penal sanctions discussed in paragraph 69 of the report; and what was the maximum limit to the period of preventive detention under the Dangerous Recidivists Act.

121. In addition, members of the Committee wished to know whether the recent decision to deny asylum to two Soviet hijackers was based on factual or legal considerations; why HIV infection and AIDS were not classified as contagious diseases; and whether a law existed providing for the solitary confinement of dangerous recidivists. Members wished to receive information on measures providing for incommunicado detention; penalties other than imprisonment; the powers of prison boards to hold an offender in preventive detention and the possibilities of appeal against their decisions; the implementation of the Aliens Act; the possibilities of appeal against a decision of obligatory confinement under the Mental Health Act; and the reasons for the decrease in the prison population. Clarification was also requested of the reference to "violence" in paragraph 63 of the report and the implications of a person being considered a "health hazard".

122. In his reply, the representative stated that the legislation under which a conscript could have a decision on military confinement examined by a court had come into force on 1 May 1990. A new bill had been submitted in April 1990 to reform custody arrangements under the Aliens Act. The bill, providing for a partial reform of the Young Offenders Act, had been ratified, and the Government was planning to introduce several other reforms in the criminal justice system. It was also planned that a maximum limit would be imposed on the length of incarceration which, in practice, would mean that detainees could be released on probation after serving one half or two thirds of the sentence.

123. In reply to questions concerning the Dangerous Recidivists Act, the representative explained that the decision to place a person in solitary confinement was initially the responsibility of a tribunal but that an administrative organ - a prison board - then took the final decision. Appeal was possible against the decision of the tribunal. There were plans to abolish the penalty of preventive detention

and to introduce, on an experimental basis, sentences that would take the form of community service. The fall in the number of prison sentences being served was due to frequent recourse to penalties other than imprisonment and the fact that the sentences imposed were shorter. The period in which an appeal could be made against a decision to confine a person forcibly in a psychiatric hospital was to be shortened in order to speed up the procedure. AIDS and HIV infection were not classified as contagious diseases dangerous to public health because the Contagious Diseases Act, which was strictly interpreted, covered only diseases whose spread could be prevented by measures directed at a person having, or suspected of having, the disease.

Right to a fair trial

124. With regard to that issue, members of the Committee asked for clarification as to whether the amendments to the Cost Free Proceedings Act, discussed in paragraph 84 of the report, had actually resulted in the withdrawal of Finland's reservation to article 14 (3) (d) of the Covenant, and what consideration was currently being given to the withdrawal of the Finnish reservation to article 14 (7) of the Covenant. They also wished to receive further information concerning the application in practice of the Publicity of Court Proceedings Act (No. 945 of 21 December 1984).

125. In his reply, the representative stated that the reservation by Finland in respect of article 14 (3) (d) had become unnecessary and had been withdrawn on 1 August 1990. The Government did not intend to withdraw the reservation to article 14 (7) of the Covenant since the paragraph in question did not appear to be in conformity with the spirit of Nordic law, and the present legislation was not contrary to the principle of ne bis in idem on which article 14 (7) of the Covenant was based. The application of the Publicity of Court Proceedings Act had presented few problems and there were very few public hearings at the appellant level. Nevertheless, a committee had recently been appointed to revise the procedures of the courts of appeal and other courts with a view to enhancing the public nature of the proceedings.

Freedom of movement and expulsion of aliens

126. With reference to that issue, members of the Committee wished to be provided with information concerning procedures for appeal against adverse decisions taken under the Passport Act and Passport Decree, which entered into force on 10 October 1987. With regard to the grounds for refusing a passport under the new Passport Act, members of the Committee noted that these grounds could give rise to abuses by the authorities and seemed to be incompatible with article 12 of the Covenant. They also wished to know what remedies were available in case an alien's work or residence permit was withdrawn, which appeared to have the effect of an expulsion decree.

127. In his reply, the representative said that the Passport Act provided for an appeal to the Provincial and the Supreme Administrative Courts against expulsion orders issued thereunder. Appeals against expulsion or the withdrawal of residence or work permits under the Aliens Act could, at present, be made only to the Supreme Administrative Court; however, the Act was currently undergoing review and amendment by Parliament. Applications for passports were nearly always satisfied and the Ombudsman had urged that the grounds for refusal should be interpreted in a very restrictive manner. Prior to the adoption of the present Act the issuance of passports had been regulated by decree, and it was felt that the adoption of legislation had been a progressive step which

had brought Finnish practice into line with article 12 (3) of the Covenant. While it was possible to abuse the system, legal remedies were available for individuals who felt that their rights had been infringed. However, the Committee's concerns on the matter would be brought to the attention of the Government.

Right to privacy

128. Regarding that issue, members of the Committee wished to know whether any further action had been taken on the proposal of the Task Force on the Reform of the Penal Code relating to the adoption of new penal provisions against unlawful interference with privacy. They also wished to know whether the police ever had the right to apply for permission to tap telephones in order to investigate very serious crimes; what were the powers of the security forces in that same respect; what was the case law on that subject; and whether Finnish legislation on the banking sector contained provisions imposing an obligation to obtain judicial authorization in order to be able to make public the contents of a bank account, for example at a trial.

129. In his reply, the representative said that privacy would be dealt with in the second phase of the reform of the Penal Code to be concluded in 1991. The offence of "violating the privacy of communications" would have more extensive scope, applying, for example, not merely to the home but also to other places and situations. Finland was one of the few countries maintaining an unconditional de jure and de facto prohibition against telephone tapping and there was at present no legislation providing for exceptions. The Finnish Data Protection Act was based on the guidelines laid down by the Organisation for Economic Cooperation and Development (OECD) and the Council of Europe.

Freedom of religion and expression, prohibition of propaganda for war and incitement to national, racial and religious hatred

130. With reference to that issue, members of the Committee requested the representative of the State party to comment on the experience to date in applying the new legislation relating to the status of conscientious objectors; for example, what alternatives were envisaged for the legislation after the conclusion of the current five-year trial period mentioned in paragraph 97 of the report. They also wished to know what possibilities existed for appeal against refusal of approval for distribution of video cassettes by the public authority mentioned in paragraph 105 of the report; why the prohibition against engaging in anti-religious propaganda was applicable only to atheists; and why the Finnish Government maintained its reservation concerning propaganda for war.

131. In his reply, the representative stated that it was too early to evaluate the results of the implementation of the new legislation on the status of conscientious objectors. At present, a circular was being distributed to various departments in order to obtain their opinion on the bill. The remedy in a case where approval was refused for the distribution of video cassettes consisted of an appeal to the Film Board and, in the second instance, to the Supreme Administrative Boards. The penalty for the crime of breaching the sanctity of religion applied to any such offender, and not merely to certain groups. The Government's objections to a ban on war propaganda were based on strongly held principles and were not expected to change in the near future. However, the draft proposals for reform of the Penal Code contained a reference to incitement to war.

Protection of the family

132. With regard to that issue, members of the Committee wished to know whether easy divorce did not have an adverse effect on children.

133. In his reply, the representative said that the reform of the Marriage Act and the divorce laws had been seen as a realistic development in Finnish society. The “guilt principle” had had a negative effect on relationships within families, and its abolition had been an improvement from the children’s point of view.

Political rights

134. With regard to that issue, members of the Committee asked whether citizens of countries other than the Nordic countries were entitled to voting rights after two years’ residence and whether those rights extended to membership in political associations.

135. In his reply, the representative said that, for the time being, only Finnish citizens had the right to vote and that membership in political parties was open to all foreigners in Finland.

Rights of persons belonging to minorities

136. With reference to that issue, members of the Committee wished to know what was the current status of consideration of the proposed Sami Language Act, mentioned in paragraph 139 of the report; what progress had been achieved in improving the status and conditions of the Finnish Romanies as a result of the passage of such laws as the Act Prohibiting Discrimination on the Basis of Racial or Ethnic Origin (1970) and the law aimed at improving the Romanies’ housing conditions; why the Finnish legislation differed so much from the Swedish by keeping reindeer breeding open to all; whether there was any law governing the recognition of ethnic minority groups in Finland; what minorities there were other than Swedish, gypsies and Samis, and whether such minorities enjoyed any special treatment; and what measures, other than measures in the areas of education and language, had been taken to preserve the culture of minority groups.

137. In his reply, the representative said that the proposed Sami Language Act, which would guarantee the Samis the right to use their mother tongue in courts and in dealings with the authorities, had been submitted to Parliament on 5 October 1990. As a practical measure, new translator posts would be established in the northernmost municipalities. The explanatory memorandum for the new bill made specific reference to articles 2, 15, 26 and 27 of the Covenant. The Government had set up an Advisory Board for Romany Affairs under the Ministry of Social Affairs and Health, which had produced reports with a view to improving the housing of the Romany population. The Romany language was not being taught in secondary schools but an appropriation had been set aside in the national budget for the Board of Education to cover grants for adult education in civic and workers’ institutes.

138. In reply to other questions, the representative explained that the differences in legislation between Sweden and Finland with regard to reindeer breeding were due to differences in the

economic and ecological problems of the regions concerned. There were general legislative criteria distinguishing between minority members and non-minority members, the main criteria being self-identification and language. Minority groups were basically Samis, gypsies, certain religious minorities and a Swedish-speaking part of the population. Numerous measures were taken to preserve the culture of minority groups.

Concluding observations

139. Members of the Committee expressed their appreciation of Finland's excellent and useful report and thanked the delegation of Finland for its cooperation and great competence in answering the Committee's questions, as well as for its spirit of openness. It was clear from the report and the discussions that Finland was consistently striving at improving human rights guarantees and observance and deserved to be congratulated on its human rights record. Members noted with particular satisfaction that special attention was being paid to the problem of direct compensation to individuals whose rights under the Covenant had been infringed and that Finland was pursuing an exemplary policy regarding development aid and human rights. At the same time, it was noted that some of the concerns expressed by members of the Committee had not been fully allayed, particularly in respect of preventive detention practices relating to dangerous recidivists; the detention and treatment of aliens; freedom of religion and of expression, particularly in so far as conscientious objection to military service was concerned and the denial of passports under certain circumstances.

140. The representative of the State party thanked the members of the Committee for their comments and cooperation, which had given the delegation much to reflect upon.

141. In concluding the consideration of the third periodic report of Finland, the Chairman said that the Committee appreciated the skillful presentation of the report and the open and fruitful dialogue that had taken place. The Committee was confident that the delegation would report its views to the Government.

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251. The Committee considered the fourth periodic report of Finland (CCPR/C/95/Add.6) at its 1659th and 1660th meetings, on 1 April 1998, and at its 1666th meeting, on 6 April 1998, adopted the following observations.

1. Introduction

252. The Committee welcomes the fourth periodic report of Finland, and notes its timely submission and thorough discussion of issues in accordance with the Committee's guidelines. The Committee also acknowledges the comprehensive oral responses by the high-level Finnish delegation.

2. Positive aspects

253. The Committee notes with appreciation Finland's actions to advance human rights since consideration of its third periodic report in October 1990. Foremost among these developments are Finland's ratification of the Second Optional Protocol to the Covenant in 1991, the reform of the Finnish Constitution in 1995 to incorporate the provisions of the Covenant and other human rights instruments into the Constitution and to extend the application of fundamental rights to non-citizens as required by article 2(1) of the Covenant.

254. The Committee welcomes the recent reform of Finnish criminal procedure which, inter alia, ensures that detainees are brought to court without delay, and have the right to speedy trial and communication with family and counsel. Also welcome is Finland's withdrawal of its reservation to article 9(3) of the Covenant.

255. The Committee notes with satisfaction the recognition in the Constitution of the Sami and Roma people and of their rights, along with other groups, to develop their language and culture. The Committee welcomes the existence of Advisory Boards for both Sami and Romani affairs, mandated to advance the interests of these minority populations, and the right of Samis since 1992 to communicate with the authorities in their native language and to be consulted through their representatives on matters affecting them closely. It also welcomes that primary and secondary education level students may be taught in their mother tongue of Sami or Romani.

256. The Committee commends the efforts to promote racial tolerance by the establishment of the Parliamentary Ombudsman, the Chancellor of Justice, the Ombudsman for Aliens, and the Advisory Board for Refugee and Migrant Affairs, as well as the implementation of a human rights curriculum in the schools.

257. The Committee notes with satisfaction the recent efforts to safeguard the well-being of women and children in domestic abuse situations by the establishment of nationwide crisis centres and shelters and the treatment of men who abuse, as well as legislation in 1994 to outlaw rape in marriage and new measures to combat trafficking in women and children.

258. The Committee welcomes the implementation of the Aliens Act in 1991 and other legislative

measures which broaden the criteria for the issuance of residency permits, create procedures for review of deportation decisions and give the Ombudsman for Aliens a role in these proceedings, and give alien residents the right to vote in local elections.

259. The Committee welcomes the action taken by Finland to disseminate information about the Covenant and to consult with non-governmental organizations about the report.

3. Subjects of concern and Committee recommendations

260. While noting that a recent reform of the Penal Code makes punishable the violation of several rights and freedoms, including those protected by articles 21 and 22 of the Covenant, the Committee is concerned that criminal law may not alone be appropriate to determine appropriate remedies for violations of certain rights and freedoms. It recommends that the Finnish authorities continue to give priority to positive measures and to civil processes which are able to determine issues of compensation or other remedies, especially in cases of discrimination.

261. The Committee notes that the proposed Sami Act, by which forests within the Sami homeland would be turned into commons owned by the Sami villages, has not passed the Parliament and that the issue of land rights of the Sami have not been resolved.

262. The Committee notes that "important" United Nations and European conventions are translated into Sami languages and disseminated to the Sami, and recommends that efforts should be made to provide to the Sami and Roma minority printed texts of all available human rights documents, translated into the Sami and Roma languages, where possible.

263. While recognizing the State's efforts to extend the prohibition of sex discrimination and achieve equality, particularly in the workplace, the Committee remains concerned at the continuing disparity in remuneration between the sexes and the relatively low proportion of women in higher levels of the public service. Further efforts are necessary to reduce these differentials.

264. The Committee regrets the continuing de facto discrimination against members of the Roma minority, especially in the area of private housing, employment and services; it recommends that government agencies be trained to intervene positively to help to overcome racist attitudes and to initiate proceedings where any pattern of discrimination is identified.

265. The Committee expresses concern at its understanding that, after due notice, a person charged before the Finnish courts with certain offences may be tried in absentia, if his or her presence was not necessary, and sentenced to a fine or up to three months imprisonment with no possibility for retrial after 30 days. The Committee considers that unless the person has clearly agreed to this procedure and the court is fully informed of the offender's circumstances, this method of trial could raise questions of compatibility with article 14(3)(d) and (e) of the Covenant. The Committee suggests that this procedure be reviewed.

266. The Committee expresses serious concern about the increase in negative attitudes and de facto discrimination towards immigrants among some of the Finnish population, and also of instances of violence. While appreciating Finland's acknowledgment of the situation and the steps Finland has

taken to minimize the problem, the Committee recommends that further positive measures be taken to overcome discriminatory and xenophobic attitudes and prejudice, and to foster tolerance.

267. The Committee notes that the reservations entered by Finland upon ratification of the Covenant with respect to articles 10(2)(b) and (3), 14(7) and 20(1) are still in force and recommends that consideration be given to the withdrawal of these reservations.

268. The Committee expresses its continuing concern that there is still legal provision for preventive detention of certain convicted persons ("dangerous recidivists") to be determined by the Prison Court and recommends that early consideration be given to implementing the current proposals for the reform of indefinite imprisonment as outlined in paragraph 52 of Finland's fourth periodic report.

269. The Committee notes with concern that Swedish-speaking persons do not always have the possibility of using their language in dealing with authorities and recommends that possibility be put into practice.

270. The Committee is concerned that asylum-seekers and aliens with irregular status are held in public prisons and police detention places pending inquiry as to their status and recommends implementation of the proposal to establish separate areas.

271. The Committee reiterates its concern, expressed during the consideration of Finland's third report, that Jehovah's Witnesses are granted by domestic law preferential treatment as compared with other groups of conscientious objectors and recommends that the State party review the law to bring it into full conformity with article 26 of the Covenant.

272. The Committee recommends that the laudable efforts already made in connection with the promotion of greater public awareness of the provisions of the Covenant and the Optional Protocols should be further pursued and that appropriate publicity be given to these concluding observations.

273. The Committee fixed the date for the submission of Finland's fifth periodic report as June 2003.