

RUSSIAN FEDERATION

CCPR A/33/40 (1978)

409. The Committee considered the initial report (CCPR/C/1/Add.22) submitted by the Union of Soviet Socialist Republics at its 108th, 109th and 112th meetings on 24 and 26 October 1978 (CCPR/C/SR.108, 109 and 112).

410. The report was introduced by the representative of the State party who gave further information on certain questions dealt with in the report.

411. Referring to the new Constitution of the USSR, which entered into force in 1977, he stated that it further developed the rights and freedoms of Soviet citizens. Great attention was paid in the Soviet Union not only to juridical elaboration of their rights and freedoms but also to social and economic guarantees of these rights. He stressed that due to a high level of development of Soviet legislation, the ratification by the Soviet Union of the International Covenants on Human Rights in 1973 and their entry into force in 1976 did not entail any essential changes of, or supplements to, Soviet legislation. The representative pointed out that, in accordance with the law of 6 July 1978 concerning conclusion, implementation and denunciation of international treaties, provisions of international instruments were implemented in the USSR not directly but on the basis of acts of internal legislation which reproduced relevant provisions of these instruments. Accordingly, the implementation of the provisions of the Covenant on Civil and Political Rights was secured by provision of acts of internal legislation which contained norms analogous to those of the Covenant.

In connection with the adoption of the new Constitution, important work was being carried on to improve Soviet Legislation. The enactment of the Presidium of the Supreme Soviet of the USSR of 12 December 1977 on this subject was a detailed plan of legislation envisaging preparation of 20 new laws. A number of laws closely related to certain provisions of the Covenant such as the Law on the Council of Ministers of the USSR and the Law on the election of the Supreme Soviet of the USSR were enacted in July 1978. The law concerning recourse to the court in connection with infringements of human rights by officials was being elaborated. In conclusion, the Representative expressed the readiness of the Soviet Government to co-operate fully with the Human Rights Committee.

412. Commenting on the report, members of the Committee noted that it was comprehensive and contained detailed information on the legislation aimed at securing civil and political rights provided for in the Covenant. Information was sought as to how that legislation was applied in every-day reality. Questions were asked concerning the status of the Covenant in the Soviet legal system, the possibility of invoking its provisions before State authorities and in proceedings before the courts, the effect which State organs would give to it, and the availability of remedies in cases where laws, practices or decisions by courts or public authorities appeared inconsistent with the provisions of the Covenant. Further information was requested on the transformation of the Covenant into domestic law, on their value *per se* and in relation to the norms of internal law. Some members expressed interest in whether measures had been taken to publicize the Covenant in the official languages of the USSR and to disseminate it widely among the population. One member asked for further information on the role of the Communist Party in the political system

of the USSR, on its directives to State organs and on the implications of this role as regards human rights, particularly those contained in article 25 of the Covenant. Questions were also asked concerning distribution of responsibilities between the federal Government and the Governments of the Union Republics and possible adverse effects of collectivism on individual rights.

413. Interest was shown in the People's Control Committees provided for under article 92 of the Constitution of the USSR and their role in the protection of human rights.

414. Regarding article 1 of the Covenant, information was sought on the criteria for granting national groups the right to form a Union Republic, while other groups lived in autonomous republics or regions; on the meaning of "sovereign rights" of Union Republics, on the system of legislation of the USSR as a federal State, and on the position of minorities and indigenous peoples. In connection with article 72 of the Constitution of the USSR concerning the right of each Union Republic to secede from the USSR, questions were asked concerning the way such secession could take place in practice or be advocated.

415. With reference to article 2 of the Covenant, members of the Committee requested information concerning: the scope of "socialist legality" which according to article 4 of the Constitution was the basis of functioning of the Soviet State and of all its bodies; rules laid down by law governing court and administrative procedures for the protection of human rights; guarantees against discrimination on grounds of political opinion; and the role of the Procurator in protecting human rights. They asked how human rights in the USSR were not only "respected" but also "ensured", if Comrades' Courts provided remedies for infringements of human rights, if the militia was accountable under the Soviet system, and whether the provisions of the Covenant could be invoked by the individual in dealing with the administrative or judicial authorities. Further information was sought concerning the nature of the decree of 12 April 1968 on procedure for the consideration of citizens' proposals, statements and complaints and the role of public and social organizations in the protection of rights under the Covenant.

416. Commenting on article 3 of the Covenant, members of the Committee commended the vigorous efforts made by the Soviet Government to ensure equality between sexes. Further information was sought on guarantees of equality between men and women in Union and autonomous Republics, on the role of woman in public affairs, on the proportion of women in the Communist Party and on the rights of foreign spouses of Soviet citizens.

417. Regarding article 6 of the Covenant, further information was sought on whether the death penalty was really exceptional in the USSR, on the categories of crimes for which it was imposed, on the number of cases where it had been applied in recent years, on cases of mandatory death penalty and on the possibility of abolishing it in the foreseeable future. A question was also asked concerning measures taken to reduce infant mortality.

418. Commenting on articles 7 and 10 of the Covenant, members of the Committee requested information on measures guaranteeing the safety of treatment applied to sick persons. Members asked whether there were cases where healthy persons were placed in mental institutions for political reasons; what precautions were taken to ensure that that did not occur; how the prohibition

of inhuman or degrading treatment was ensured, especially in the case of persons deprived of their liberty; and what remedies there were for a person in detention in a penal or mental institution who wished to complain of ill-treatment. Some members raised questions concerning rules governing solitary confinement in the USSR, living conditions in prisons and corrective labour institutions, and the right of the detained persons and prisoners to receive visitors and correspond with their families.

419. In connection with article 8 of the Covenant, one member of the Committee asked why it was “impossible” that compulsory labour could occur in a socialist system, how the obligation to work under article 60 of the Constitution of the USSR was to be understood, what was the present meaning and practice of the provision against parasitism in article 209 of the Criminal Code of the Russian Soviet Federative Socialist Republic (RSFSR), and finally if it was possible to leave a collective farm without the agreement of the management committee.

420. With reference to article 9 of the Covenant, information was requested on cases when preventive detention was applied, on the possibility of detention without trial for political reasons, on the maximum length of detention pending trial and before permission was granted to the detainee to contact his counsel, and on the legal or judicial control of the use of psychiatric diagnosis for the purpose of depriving a person of his liberty by detaining him in a mental institution.

421. As regards article 12 of the Covenant, members of the Committee requested information on the freedom of movement between the Union Republics, on conditions for receiving permits to leave the Soviet Union, on the existence of restrictions in that connection and on their justification, on the number of cases in which passports or exit visas had been refused and on existing remedies. It was further observed that no sanctions such as dismissal from work were permissible against persons who had applied for emigration visas. Members asked if Soviet citizens could be deprived of their nationality while being abroad or of their right to return. Information on relevant legal texts and on practice in that regard was requested.

422. Commenting on article 14 of the Covenant, questions were asked on the way in which the independence and impartiality of tribunals was guaranteed, what happened to judges if they were not re-elected, what influence that fact could exert upon them, and what the conditions of work were for advocates and lawyers in the USSR. Information was sought on the entitlement of a defendant to the minimum guarantees provided for in article 14 of the Covenant, in particular, as to how soon after the arrest he was allowed to consult a lawyer and if there were any restrictions in calling witnesses. Some questions focussed on the conditions for holding judicial proceedings in camera and for the presence of relatives, friends and journalists at trials. Questions were also asked concerning the organization of the judicial system in the USSR, the supervisory functions of the Supreme Court and its relations with High Courts of the Union Republics.

423. In connection with articles 15 and 16, some members of the Committee sought information on cases of restriction of legal capacity of persons, categories of people who did not enjoy legal or actual capacity and retroactivity of laws in the USSR.

424. Referring to article 17 of the Covenant, one member of the Committee asked if Soviet security services were obliged to observe guarantees against interference with privacy, family, home or correspondence.

425. Commenting on article 18 of the Covenant, some members of the Committee observed that article 52 of the Constitution did not take into account the fact that freedom of conscience also included freedom to teach a religion. Explanations were requested on the justification and the scope of the decree of 23 June 1975. Concern was also expressed by a few members on the realization of the right of parents to ensure the religious education of their children in conformity with their own convictions.

426. As regards article 19 of the Covenant, information was sought on the scope of freedom of expression in the USSR. Questions were asked concerning freedom of access of individuals to the press, radio and television, and to other mass media; whether it was possible to publish newspapers or periodicals which were not officially sponsored; whether there was censorship in the USSR; whether propagating views contrary to the existing order, by peaceful means or sending petitions to the United Nations, was punishable under the law. With reference to articles 47, 50 and 59 of the Constitution, containing such expressions as “in accordance with the aims of building communism”, “in accordance with the interests of the people” and “standards of socialist conduct”, members asked who determined the scope of those restrictions, what happened in case of misinterpretation, and whether the restrictions which existed could really be said to be “necessary” in terms of article 19 of the Covenant. One member asked to what extent “socialist realism” was applied to artistic and literary activity.

427. Referring to article 20 of the Covenant, the representative of the USSR was asked if there were any cases of anti-Semitic propaganda.

428. In connection with articles 21 and 22 of the Covenant, information was sought on whether there were restrictions on the right of peaceful assembly, how they were justified and if it was possible to organize alternative trade unions.

429. With reference to articles 23 and 24 of the Covenant, further information was sought on Soviet family law and on the adequate protection of the interests of children.

430. Commenting on article 25 of the Covenant, it was noted that every citizen had the right not only to vote but also to be elected. Information was sought concerning the process of nomination by public and social organizations. Questions were also asked concerning the role of people in formulation of laws and the nature of the system of people’s control.

431. As far as articles 26 and 27 of the Covenant were concerned, further information was requested on ways and means for guaranteeing equality of all persons before the law in the USSR. Questions were asked on the role of the various forms of property ownership in ensuring equality of people and on protection of the rights of minorities, in particular Germans and Jews who were dispersed all over the country.

432. The representative of the USSR commented on the observations and questions summarized in the preceding paragraphs. He stressed that all basic provisions of the Covenant had been incorporated in the Constitution and thus had become constitutional rights. Citizens of the USSR could invoke the provisions of the Covenant before State authorities and courts if they so wished. In the further development process of the Soviet legislation, the provisions of the Covenant would continue to be taken into consideration. As regards the interrelation between individual and collective rights of Soviet citizens, it was covered by the constitutional clause according to which the law of life was the concern of all for the good of everyone and the concern of everyone for the good of all.

433. In connection with article 1 of the Covenant, the representative said that the right of nations to self-determination was reflected to the best in chapters 8, 9, 10 and 11 of the Constitution. He described the system of legislation of the USSR and of the Union Republics, and emphasized that not only formal but also factual equality of all nationalities and ethnic groups of the USSR had been achieved. Although Union Republics did not wish to secede from the Soviet Union, it was their sovereign right to do so. This question was decided by the Supreme Soviet of the given Union Republic and, in practice, secession was possible because every Republic had a common frontier with some foreign State.

434. Replying to questions under article 2 of the Covenant, the representative pointed out that there could be no discrimination of citizens on grounds of political opinion in the USSR. In accordance with article 49 of the Constitution, persecution for criticism was prohibited. The Procurator's Office, which supervised the strict and uniform observance of laws, was an important means of safeguarding the rights of citizens. Civil rights were protected by ordinary and arbitration courts, and in certain cases by comrades' courts, trade unions and other social organizations. Administrative procedures also provided effective protection. One of the tasks of the militia, which functioned on the basis of strict socialist legality, was to safeguard public order and the rights and interests of citizens. The Decree of 12 April 1968 required that officials receive citizens personally and consider their complaints. If a citizen did not agree with the decision concerning his complaint, he could appeal to a superior administrative body. In accordance with article 58 of the Constitution, actions by officials that contravened the law or exceeded their powers, and infringed the rights of citizens, could be appealed in a court. A bill to give effect to those constitutional provisions was in the process of being elaborated.

435. With reference to questions raised under article 3 of the Covenant, the representative stated that Soviet women take an active part in public affairs. Women made active use of their constitutional right to participate in associations. There were no prohibitions or restrictions as far as marrying foreigners was concerned. In some Union Republics, where women had been particularly repressed in the past, the legislation provided for responsibility of those who obstructed emancipation of women.

436. Commenting on questions raised under article 6 of the Covenant, the representative stressed that the death penalty in the Soviet penal legislation was an exceptional measure for such grave crimes as terrorism, banditry, premeditated murder and group rape, which was seldom applied, pending its full abolition in future. It was not mandatory and could be replaced by deprivation of

liberty. He described the system of measures aimed at protecting the health of mother and child, such as providing maternity leave, free medical assistance, sanatoria and rest-homes free of charge for mothers and babies, and pointed out that the average expectation of life in the USSR exceeded 70 years.

437. With regard to questions under articles 7 and 10 of the Covenant, the representative said that Soviet legislation did not admit torture or cruel, inhuman or degrading treatment or punishment. It provided for compulsory treatment of persons having diseases dangerous to those who surrounded them. The Ministry of Health, however, was responsible for the quality of medical assistance and local Soviets of People's Deputies controlled the implementation of the legislation aimed at protecting the health of the population. The Procurator's Office could also check the legality of the detention in a mental institution. There were no instances of healthy persons placed in mental institutions. Persons deprived of liberty lived in normal sanitary conditions, had sufficient nutrition and worked not more than eight hours a day. Solitary confinement was not envisaged by the penal law of the USSR. It could only be applied as a maximum punishment for violation of rules when serving a sentence.

438. Replying to questions concerning the possibility of leaving a collective farm, he said that that matter had nothing to do with compulsory labour mentioned in article 8 of the Covenant. Membership in collective farms was voluntary and the Soviet legislation envisaged no measures of coercion in respect of citizens who wished to leave them.

439. In connection with questions under article 9 of the Covenant, the representative stated that under the Decree of the Presidium of the Supreme Soviet of the USSR of 13 July 1976, a person who was suspected of having committed a crime could be detained for a short period of time. He had to be liberated if the suspicion was not confirmed or if the prescribed period of time had elapsed. Under the Decree of 11 July 1969, as a preventive measure, a person could be arrested for a period which, even when prolonged by the Procurator, could not exceed nine months. But that period did not include the time when his case was in court if it was decided to reinvestigate the case. The Decrees adopted in 1977 were aimed at restricting the application of deprivation of liberty in cases where correction was possible without detention.

440. With regard to article 12 of the Covenant, he stated that the emphasis by some members on cases of persons who wished to leave the USSR was not justified. All those wishing to leave the Soviet Union had left, with a few exceptions which were justified for the protection of the State security, public order, property and family rights. There were no restrictions in respect of persons intending to leave the USSR. In fact, many people wanted to enter the USSR but encountered obstacles in the countries in which they lived.

441. In connection with questions raised under article 14 of the Covenant, the representative said that judges in all the courts of the USSR were elected, were accountable before the population, and were independent and subject only to the law (article 155 of the Constitution). Comrades' courts did not belong to the Soviet judicial system and were controlled by trade unions and executive committees of local Soviets. Hearings in all the courts were public with a few exceptions determined by article 12 of the Fundamental Principles of Criminal Procedure of the USSR. The

representative of the State Party described the functions of Soviet colleges of barristers and the role of the Supreme Court of the USSR; the latter could abrogate a decision or sentence and transmit the case for re-examination and issued enactments summarizing judicial practice.

442. As to the retroactivity of laws in the USSR, the representative stated that only laws favourable to the accused were retroactive, not those providing for a new punishment or increasing a punishment.

443. Replying to questions under article 16 of the Covenant, he said that according to the civil codes of Union Republics a citizen having a mental illness did not have actual capacity. Actual capacity of those who abused alcohol or narcotic drugs and endangered the material well-being of their families could be restricted.

444. With regard to article 18 of the Covenant, the representative pointed out that although the number of believers might not be great in the USSR, they could conduct religious worship in 20,000 churches. There were religious periodicals and educational institutions in the Soviet Union and there were no restrictions whatsoever as far as freedom of conscience was concerned.

445. Commenting on questions under article 19 of the Covenant, he stated that a citizen of the USSR could express any opinion in newspapers and journals, the number of which exceeded 10,000. The law of life in the Soviet Union was the unity of society, State, people and individuals, and there was no contradiction to the Covenant in the fact that laws were issued by the will of the people, reflected their interests, served their purposes and contributed to the development of the people's Soviet State. Article 46 of the Constitution stated that citizens of the USSR had the right to enjoy cultural benefits, and cultural exchanges with other countries showed that there was freedom in the field of cultural and artistic activities.

446. In connection with the question concerning anti-Semitic propaganda, the representative stated that it was never practised in the USSR, which had saved the Jewish people from destruction by German fascism.

447. With regard to article 22 of the Covenant, he pointed out that there was no social basis for a multi-party system in the USSR. The Communist Party of the USSR, which was the leading and guiding force of Soviet society, did not issue any laws; it determined the general perspectives of the development of society and functioned within the framework of the Soviet Constitution. There was no need for Soviet people to create "free alternative trade unions" because all Soviet trade unions were free.

448. Replying to questions under article 25 of the Covenant, the representative described the procedure of nomination of candidates for election as people's deputies in the Soviets. Candidates were nominated at general meetings of public and social organizations after appropriate discussions. Electoral commissions included their names in bulletins. Every elector could strike out any candidate and insert one of his own choice in the course of the secret ballot. Concerning the system of people's control, he said that people's control committees elected all over the country and headed by the Committee of People's Control of the USSR, were created by the Supreme

Soviet. These committees controlled the observance of laws by officials during consideration of the complaints and combatted formalism and bureaucracy.

449. As regards questions raised under articles 26 and 27 of the Covenant, he stressed the fact that in accordance with article 36 of the Constitution citizens of different races and nationalities had equal rights. In every union or autonomous republic or region, national languages were studied in schools, newspapers and books were published in local languages and there were also national theatres. Any advocacy of racial or national exclusiveness, hostility or contempt was punishable by law. The legal and actual position of Jews and Germans in the USSR was equal to that of other nationalities living in the Soviet Union.

450. The representative expressed the willingness of his Government to continue its co-operation with the Committee on questions relating the implementation of the Covenant in his country.

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251. In accordance with the statement on its duties under article 40 of the Covenant adopted at its eleventh session (CCPR/C/18) and the guidelines adopted at its thirteenth session regarding the form and contents of reports from States parties (CCPR/C/20), and having further considered the method to be followed in examining second periodic reports, the Committee, prior to its twenty-third session, entrusted a working group with the review of the information so far submitted by the Government of the Union of Soviet Socialist Republics in order to identify those matters which it would seem most helpful to discuss with the representatives of the reporting State. The working group prepared a list of issues to be taken up during the dialogue with the representatives of the Soviet Union which was transmitted to the representatives of the reporting State prior to their appearance before the Committee with appropriate explanations on the procedure to be followed (i.e. that the representatives of the Soviet Union would be asked to comment on the issues listed, section by section, and to reply to members' additional questions, if any).

252. The Committee considered the second periodic report of the Union of Soviet Socialist Republics (CCPR/C/28/Add.3) at its 564th to 567th and 570th meetings, held on 5, 6 and 8 November 1984 (CCPR/C/SR.564 to 567 and 570).

253. The report was introduced by the representative of the State party who said that the exercise of human rights and freedoms in Soviet society, proclaimed and guaranteed by the Constitution of 1977 and by Soviet laws, was ensured by the political and economic system of the state, the main aim of which was to meet the basic needs of individuals in a spirit of socialist democracy. He noted that the Soviet Union had enacted a number of laws in areas with which the Covenant was concerned since the preparation of the second report in April 1984. For example, on 18 June 1984 the Presidium of the Supreme Soviet had adopted several amendments to the Fundamental Legislation governing labour, housing, natural wealth, forests and water resources, which were intended to enhance the role of work collectives in the administrative organizations responsible for improving working conditions, safety, public health and the management of enterprises, institutions and organizations in general. On 10 May 1984, the Council of Ministers and the Central Council of Trade Unions had adopted a provision to ensure the creation by the workers themselves of necessary conditions for complete self-fulfilment in their work in a spirit of democratic development. In April 1984, the Supreme Soviet had approved the Fundamental Aspects of the Reform of General Education and Vocational Schools to help young people to lead independent lives thanks to a higher level of education and general culture. The representative also drew attention to the recent pay increase of over 30 per cent affecting more than 6 million teachers and educational officials. Finally, he noted that, at its eleventh session, the Supreme Soviet had continued its major legislative activity relating to the protection of the interests of workers and increasing their participation in social life.

254. Members of the Committee congratulated the Soviet Government on its report, which had been drawn up in accordance with article 40 of the Covenant and the Committee's recommendations and general comments. On the basis of the questions raised in the Committee, the report provided detailed information on legislative and other changes concerning the Covenant

introduced since the submission of the initial report.

Constitutional and legal framework within which the Covenant is implemented

255. With reference to that issue, members of the Committee wished to receive information on significant changes relevant to the implementation of the Covenant since the previous report, promotional activities concerning the Covenant and factors and difficulties, if any, affecting the implementation of the Covenant. They also wished to know how readily available the text of the Covenant was to those who wished to study it, whether restrictions were imposed on the activities of associations and individuals who had chosen to monitor laws and official practices with a view to promoting respect for human rights, and whether Soviet citizens could complain that a right of freedom recognized in the Covenant had been violated by persons acting in an official capacity and what socialist legality meant. Clarification was sought on the relationship between the Covenant and Soviet domestic law, particularly in the context of article 24 of the Act on the Conclusion, Implementation and Denunciation of International Treaties, and as to whether steps had been taken to ensure implementation of the provisions of the Covenant which were not covered by the Constitution. Further information was requested on the extent to which the programme of legislation announced in 1978 had been carried out, the validity and role of the Fundamental Principles governing legislation in the Soviet Union, whether they were acts which could be directly implemented or whether they were contained in the programme for the development and implementation of legislation, whether the legislation of the Union Republics had been adapted to conform to such principles, how conflicts between the Constitution of the Union of Soviet Socialist Republics and the legislation of those Republics were resolved, whether the legislation guaranteed security and independence to procurators in the performance of their duties and whether provisions existed for the removal of procurators from office and, if so, by whom and by what procedure they were removed. Finally, clarification was requested on whether the report before the Committee had been published and whether the work of the Committee would be brought to the knowledge of the Soviet people.

256. In his reply, the representative of the State party said that, under article 57 of the Constitution, respect for the individual and protection of the rights and freedoms of citizens were the duty of all State bodies, public organizations and officials, that similar provisions appeared in the Constitutions of all the Soviet Republics and that those principles had also been reaffirmed in all legislative texts adopted.

257. He gave a detailed account of additional relevant legislation that had been adopted since 1978, noting in particular that measures had been taken to strengthen procedures for dealing with individual complaints and to facilitate recourse to the courts against administrative decisions. In the latter connection, he drew attention to the special importance of recent legislation concerning administrative offences in the Union of Soviet Socialist Republics and the Union Republics. While such provisions gave citizens greater opportunities for legal recourse concerning administrative decisions, the representative recalled that Soviet doctrine and practice were based on the principle that laws could not solve all problems and that the effective guarantee of civil, political and other rights depended on a number of factors, including material conditions in particular, which had been improved in many regions thus helping to ensure equality of rights in

the Union Republics.

258. Turning to the question of factors and difficulties that might be affecting the implementation of the Covenant, the representative acknowledged that his country did indeed have unresolved problems, including difficulties in the implementation of civil and political rights. Respect for such rights, he noted, gave rise to new requirements, for example in terms of training, to which the party organs, trade unions and public organizations were drawing attention. Far from wishing to idealize what had been done thus far to strengthen socialist democracy, he acknowledged that his country was still experiencing growing pains in its efforts to generalize material benefits and the political culture of the masses. He stressed, however, that Soviet society was not developing under hothouse conditions and was not insulated against a hostile outside world, in which it was the target of psychological warfare and imperialism ran rampant. Accordingly, in order to overcome the existing difficulties, specific steps were being taken to ensure the steady development of socialist democracy and to strengthen the legislative foundations of political and social life.

259. Replying to additional questions, the representative said that Soviet citizens could invoke the provisions of the Covenant in support of their complaints. The problem of possible disparities between domestic legislation and the provisions of the Covenant had not arisen before the courts. The problem of divergencies between federal legislation and the legislation of the Republics was regulated by the provisions of article 121, paragraph 4, of the Constitution. He explained that respect for socialist legality had to be interpreted as respect for the legislation in force in the socialist States. The Decree of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics on the procedure for examination of proposals, applications and complaints by Soviet citizens enabled every citizen to submit any matter whatever to the competent bodies. Procurators were completely independent of the local authorities under the relevant legislative provisions and the institution of criminal proceedings against a procurator came within the exclusive competence of the Procurator's Office. The text of the Covenant had been widely circulated in the Soviet Union; it had been published in the Official Journal of the Supreme Soviet in the languages of all the Union Republics and reproduced in various other official publications and the provisions of the Covenant were printed in the textbooks of many educational establishments. Furthermore, the study of human rights questions appeared in the programme of law faculties, sociological institutes and other advanced or secondary educational establishments throughout the Soviet Union. The work of the Human Rights Committee was brought to the attention of the public by articles published in legal reviews, as well as in a popular scientific work containing detailed explanations of the Committee's activities.

Self-determination, including external as well as domestic aspects

260. With regard to that issue, members of the Committee wished to receive information on whether the right of self-determination included the right to choose other elements of a political system within the framework of the Soviet Union; on the importance of the right to secede; whether the Soviet Union, in its approach to the right of self-determination of peoples, treated all people alike regardless of their political orientation or established distinctions on ideological grounds; how it was ensured that the presence of the armed forces of the Soviet Union in other countries and, in particular, in Afghanistan remained compatible with the right of

self-determination and whether there were any other Republics, apart from the Ukrainian and Byelorussian Soviet Socialist Republics, which had exercised the right to enter into relations with other States. Additional information about the practical support rendered by the Soviet Union to the peoples in their self-determination endeavours was also requested.

261. Replying to those questions, the representative pointed out that his country regarded the right of self-determination as the basis for all rights and freedoms and was particularly proud of the key role it had played in the adoption by the United Nations of the Declaration on the Granting of Independence to Colonial Countries and Peoples. He also noted that the Soviet Union had taken an active part in drafting article 1 of both Covenants and many other international instruments, and that at the thirty-ninth session of the General Assembly it had tabled a proposal relating to the inadmissibility of the policy of State terrorism and any actions by States aimed to undermining the socio-political system in other sovereign States.

262. Referring to the internal application of the right of self-determination, he stated that the Declaration of Rights of the Peoples of Russia of 15 November 1917 affirmed the right to self-determination of all peoples of former Tsarist Russia, including the right to secede and form an independent State and removed all national and religious privileges and restrictions. On 30 December 1922, the first All-Union Congress of Soviets had proclaimed the foundation of the Union of Soviet Socialist Republics on the basis of the freely expressed wishes of the people. Article 70 of the Constitution defined the Union of Soviet Socialist Republics as an “integral, federal, multinational State formed on the principle of socialist federalism as a result of the free self-determination of nations and the voluntary association of equal Soviet Socialist Republics”, each Republic had the right to secede (art. 72); the question of the right of the Union Republics to secede from the Soviet Union did not arise in practice; there was in the Soviet Union such firm unity of all the nations and nationalities that the Union Republics considered their membership of the Union to be the source of their accomplishments and the basis of their well-being and prosperity; the territory of a Union Republic could not be altered without its consent although boundaries between them could be altered by mutual agreement of the Republics concerned and subject to ratification by the Soviet Union (art. 78); each Union Republic had the right to enter into relations with other States, conclude treaties with them, exchange diplomatic and consular representatives and take part in the work of international organizations (art. 80); the highest body of State authority of a Union Republic was the Supreme Soviet of that Republic, which was empowered to deal with all matters within the jurisdiction of the Republics (art. 137); the Soviet Union safeguarded the sovereign rights of the Union Republics (art. 81). The representative also stated that the Soviet Socialist Republics might conclude treaties or international agreements with neighbouring States on various questions and had the right to exchange diplomatic and consular representatives with foreign States.

263. The representative stressed that his country recognized the legitimacy of the struggle of peoples, particularly the Namibian people and the Palestinian people, for national liberation, and that the Palestine Liberation Organization was officially represented in Moscow. Finally, he stated that the Soviet Union fully discharged all the obligations it had accepted under the multilateral and bilateral agreements that it had concluded, including agreements concluded with Afghanistan.

Treatment of aliens. Respects in which the rights of aliens are restricted as compared with those of citizens of the Union of Soviet Socialist Republics

264. With regard to that issue, members of the Committee wished to receive information on any restrictions that might in practice be imposed on the free movement of aliens and their free choice of residence, the relationship between the Act on the Legal Status of Aliens in the Union of Soviet Socialist Republics and the requirements of article 13 of the Covenant, whether aliens residing in the Soviet Union to whom political asylum had been granted enjoyed a higher status than other aliens; who made the decision to prevent an alien from leaving the country and whether there was any means of appeal against the decision; whether the provision of the Penal Code on the violation of telephone and telegraphic communications applied also to aliens and whether such interference could be ordered for reasons of national security. One member asked for an English or French translation of the Act on the Legal Status of Aliens in the Union of Soviet Socialist Republics.

265. The representative explained that, in accordance with the Act on the Legal Status of Aliens in the Union of Soviet Socialist Republics of 1981, aliens enjoyed the same rights and freedom and bore the same responsibilities as citizens of the Soviet Union and that in principle there were no restrictions on their rights. However, citizens of those States that imposed special restrictions on the rights and freedoms of citizens of the Soviet Union could be subject to counter-restrictions. There were also certain differences in the legal status of aliens as compared with Soviet citizens (i.e. lack of voting rights, no obligation to perform military service). Furthermore, aliens could not be appointed to certain posts if Soviet legislation required that such posts should be reserved for Soviet citizens. In general, however, aliens enjoyed rights with regard to holidays, social security, housing, property, education, culture, freedom of conscience, marriage and family relations, the inviolability of the person and the home, taxation and defence before the courts and other State organs; they were entitled to join trade unions, co-operatives and scientific, cultural and sporting associations and other social organizations and were free to travel in the Soviet Union and to choose their place of residence under the terms established by the legislation of the Soviet Union. Some restrictions were permitted when they were necessary to protect State security, safeguard public order, health and morality and defend the rights and legitimate interests of citizens of the Soviet Union and other persons. The enjoyment of the rights and freedoms applicable to aliens was of course inseparable from the fulfilment of the obligations established by Soviet legislation and they had to comply with the Constitution and with Soviet laws and to respect the rules of the socialist community and the traditions and customs of the Soviet people.

266. The representative noted that the procedures regulating the movement and choice of residence of foreigners were set forth in the regulations concerning the residence and travel of aliens in the Soviet Union and that the right of asylum might be granted to foreigners in compliance with article 38 of the Constitution. The principle of inviolability of correspondence and telephone communications applied also to aliens under the terms of article 135 of the Code of Criminal Procedure. Finally, the representative stated that aliens were entitled to belong to public organizations.

Non-discrimination, particularly in regard to “political and other opinion” and the position of members of the Communist Party as compared with non-members

267. With reference to that issue, certain members of the Committee wished to receive information on why there was a fundamental discrepancy between article 34 of the Soviet Constitution and the provisions of article 2, paragraphs 1, 25 and 26 of the Covenant which, in particular, prohibited discrimination for political or other opinions. Information was also requested on the percentage of Soviet citizens successful in reaching high office who were not members of the Communist Party and on the nature of the recourse available to an individual who alleged that he had been the victim of discrimination as specified in article 34 of the Constitution.

268. Replying to the questions raised under the issue, the representative explained that the Soviet Constitution proclaimed and guaranteed the equal rights of citizens in all fields of economic, political, social and cultural life, that women and men, as well as citizens of the Soviet Union of different races and nationality, enjoyed equal rights and that the reference to "other status" in article 34 of the Constitution meant any status, whatever it might be. Deputies to all Soviets were elected on the basis of universal, equal and direct suffrage by secret ballot and justice in the Soviet Union was based on the principle of the equality of citizens before the law and the courts. The same approach was to be found in all Soviet legislation, including the Fundamental Principles of Legislation on the Judicial System, as well as on civil and criminal procedures, labour legislation, legislation on education, family legislation and in many other legal provisions.

269. Regarding the position of the Communist Party of the Soviet Union, he noted that discrimination against citizens for any reason was not allowed and no political or other advantages could be accorded for members of the Party, that under article 6 of the Constitution all Party organizations had to function within the framework of the Constitution, that of persons elected to local soviets of people's deputies in 1982 only 42.8 per cent were members of the Party and that, while the Communist Party was the leading and guiding force of Soviet society and the nucleus of its political system and of State and social organizations, it did not replace the State.

Right to life

270. With reference to that issue, members wished to receive information, in particular, on whether the Soviet Union shared the views expressed by the Committee in its general comments on article 6 of the Covenant. Clarifications were also sought on why the Constitution had no specific provision on the right to life, how the death penalty was applied and for what crimes and whether any consideration had been given to its abolition or to a reduction in the number of crimes for which it could be imposed.

271. The representative said that his delegation welcomed and fully supported the Committee's general comments on article 6 of the Covenant and endorsed the view that the highest duty of States was the prevention of war, especially nuclear war, acts of genocide and other acts of mass destruction leading to the arbitrary deprivation of life. He gave a detailed account of the historical background and provided extensive information on legislative measures, health measures, and other practical steps taken by his country to defend peace and guarantee the right to life.

272. Referring to article 28 of the Constitution and other legislation, he pointed out that within the United Nations alone the Soviet Union had been responsible for no less than 100 proposals aimed

at curbing the arms race, preventing the use of force in international relations, eliminating the threat of war and relieving international tensions; that the Soviet Union had solemnly made a unilateral commitment not to be the first to use nuclear weapons; that it had come forward with the far-reaching proposal of complete disarmament in conjunction with a universal system of control and had proposed a treaty on the non-use of force in outer space and from outer space directed towards the Earth.

273. The representative informed the Committee that in the Soviet Union the right to life was guaranteed by law, that the penal codes of individual Republics included special sections on "Crimes against life, health, freedom and human dignity", that the death penalty was always in exceptional form of punishment applied only to persons who had been found guilty of extremely serious crimes defined by law, that the Presidium of the Supreme Soviet had in fact reduced the number of crimes for which it could be imposed by a Decree dated 28 April 1980 and that article 121 of the Constitution gave the Presidium of the Supreme Soviet the right to issue all-Union acts of amnesty and to exercise the right of pardon.

274. The representative also described the measures for the protection of health of Soviet citizens, maternal and child care, the implementation of broad prophylactic measures as well as research to prevent and reduce the incidence of disease and ensure citizens long active lives.

Liberty and security of person

275. With reference to that issue, members of the Committee wished to receive information concerning the circumstances and periods for which persons might be held in detention pending trial without being charged with a criminal offense, detention in institutions other than prisons, remedies available to persons (and their relatives) who believed that they were being detained wrongfully, the observance of article 9, paragraphs 2 and 3, of the Covenant, the maximum period for which persons might be detained pending trial, contact between arrested persons and lawyers and the prompt notification of the family in cases of arrest.

276. Certain members also wished to receive further details, with regard to detention in psychiatric institutions, on whether the medical psychiatric commissions involved in such cases were independent or whether they were responsible to the Ministry of Health, whether the results of an examination by a medical commission were made available to the person concerned, what legal remedies were available to persons hospitalized for mental illness and whether there was an appeal procedure allowing a person detained in a psychiatric hospital to request that a decision should be taken without delay on the lawfulness of his detention. References were made to a resolution adopted in August 1977 by the Congress of the World Psychiatric Association on alleged abuses of psychiatry for political purposes and the subsequent withdrawal of the Association of Soviet Psychiatrists from the World Psychiatric Association. In that connection, it was asked whether that resolution had led to any inquiries into such allegation in the Soviet Union or to any indictments of prosecutions. It was asked whether the Soviet authorities could invite an international group composed of well-known psychiatrists and jurists to visit persons who were being detained in psychiatric institutions in the Soviet Union, examine them on the basis of internationally recognized psychiatric criteria and report on their findings.

277. The representative of the State party stated that the inviolability of the person was guaranteed by article 54 of the Constitution and by a series of legislative measures and that the concept of preventive detention did not exist in Soviet law, the general rule being that persons could be detained only when there was concrete information about their involvement in specific crimes. Under the Decree of 8 June 1973, of the Supreme Soviet, the police had the right to detain people for up to three hours if they had committed administrative offences. According to article 32 of the Fundamentals of Criminal Legal Procedure of the Union of Soviet Socialist Republics, an investigative body could detain a suspect if he was caught committing the crime or immediately thereafter, if witnesses directly indicated that he had committed the offence or if clear evidence of the crime was found on the suspect or in his home. Within 24 hours of detention, the investigative body had to transmit a written report to the procurator who within 48 hours of receiving the information had to issue a warrant for the detainee's custody or release him. Thus, persons suspected of offences could not be detained for longer than 72 hours. Any complaints or statements addressed by a detainee to those handling the case had to be transmitted to the person concerned immediately.

278. The representative explained that imprisonment pending trial was only permitted when the alleged crime was punishable by at least one year's imprisonment and when there were grounds for believing that the accused would try to avoid appearing in court or would be likely to commit another crime. In that connection he stated that imprisonment pending trial could not generally exceed two months. However, in exceptional cases, the procurator of an autonomous republic or region or the military procurator of a military district could request its extension up to three months and the procurator of a union republic or a chief military prosecutor could request it to be extended up to six months; further extensions not exceeding three months could only be authorized by the General Procurator of the Soviet Union. Under no circumstances, therefore, could the total duration exceed nine months.

279. The representative also informed the Committee that on 18 May 1984 the Presidium of the Supreme Soviet had adopted a decree on compensation for prejudice caused to citizens by illegal acts of the State and public organizations and of officials in the accomplishment of their official duties. Under that Decree, any prejudice, including wrongful conviction, prosecution or imprisonment, was compensated in full by the State.

280. With regard to detention in psychiatric institutions, the representative said that the 1971 Law on Health of the Russian Soviet Federal Socialist Republic (RSFSR) allowed for the possibility of compulsory treatment for mental illness, venereal disease, leprosy, alcoholism and drug addiction, that within 24 hours of entering a hospital the person concerned had to appear before a medical commission which decided on the need for hospitalization and further treatment and that a patient was examined by six or seven doctors and errors could therefore be detected. Moreover, a commission of three psychiatrists evaluated the results of the treatment at least once a month and decided whether treatment should continue or the patient should be discharged; all bodies in the health-care system bore responsibility for the quality of the medical care provided and the commissions of local soviets of people's deputies monitored observance of the law. In criminal law, the decision concerning the use of enforced medical treatment involved not only doctors, but

also the court dealing with the specific case. Compulsory treatment in such cases was never legally or otherwise regarded as punishment and the duration of the treatment depended on its effectiveness and the condition of the patient. Parents and close relatives could also take part in the investigation and patients were re-examined at least once every six months to see whether the treatment should be continued or not.

281. The representative stated that his delegation rejected and considered unacceptable and tendentious all statements made by experts from one region that persons of sound mind were subjected to psychiatric treatment in the Soviet Union. Soviet law precluded all possibility of healthy persons being forced to undergo treatment in psychiatric institutions even when there were criminal charges against them for socially dangerous acts. He said that the Association of Soviet Psychiatrists had withdrawn from the activities of the World Psychiatric Association in view of a campaign of slander against the Soviet Union. He noted that the participants in the World Symposium on Schizophrenia held in the Soviet Union had been able to ascertain that there were no irregularities in Soviet psychiatric hospitals and that the medical dossiers of several persons whose cases had been mentioned in the Western press had been referred to leaders of the World Psychiatric Association for an opinion in 1977 but that no reply had been received.

Treatment of prisoners and other detainees

282. With reference to that issue, members of the Committee wished to receive information on whether the United Nations Standard Minimum Rules for the Treatment of Prisoners were being complied with, whether prison and corrective labour camp regulations and directives were made known to and were accessible to prisoners on arrangements for the supervision of prisons and other places of detention and on procedures for receiving and investigating complaints by detainees. In addition, members of the Committee asked for information on the steps taken to ensure that medical care for prisoners and food were equivalent to that received by ordinary citizens and on the measures taken to ensure that the provisions of article 188.3 of the Criminal Code were not contrary to those of article 10, paragraph 3 and article 9 of the Covenant, as well as on the guarantees, if any, against their arbitrary application.

283. The representative drew attention to several provisions of the Fundamental Principles of Corrective Labour Legislation and the corresponding articles of the Labour Code of the Union Republics; he pointed out that the purpose of the execution of a sentence was not to inflict physical suffering or to impair human dignity and that Soviet legislation (art. 18 of the Corrective Labour Code of the RSFSR) went even further than article 10 of the Covenant in providing that first offenders were to be separated from persistent offenders.

284. Under article 23 of the Fundamental Principles of Corrective Labour Legislation every accused person was informed of his rights in respect of leisure, education and work; obligations; objects which he could keep or which would be confiscated; parcels, publications and correspondence he could receive; his food rations and the articles he would be allowed to purchase.

285. The representative also stated that the Ministry of the Interior and the Procurator's Office were responsible for the application of legislation in prisons and that control commissions

composed of representatives of the soviets, trade unions, youth organizations and social workers' and educators' organizations had been granted broad powers to enable them to monitor the activities of the administration of corrective labour institutions, including inspecting corrective labour institutions, talking to prisoners, listening to their complaints freely and commenting to the prison administration on their proposals as well as ultimately deciding on the release on parole of prisoners and considering petitions for pardon. He added that detainees could lodge complaints or appeals in writing with State bodies which were sent directly to the proper quarter, that decisions relating to them were communicated in writing to the detainees concerned and that families could obtain legal assistance for detainees through lawyers with whom detainees could communicate personally.

286. Finally, with regard to article 188.3 of the Criminal Code and other relevant legal provisions, the representative recalled that under article 160 of the Constitution no one could be adjudged guilty of a crime and punished except by a court of law, with all the judicial safeguards being observed. Thus, arbitrary action, including on the part of the prison administration in the places of detention, was precluded.

Right to a fair trial and equality before the law

287. With reference to that issue, members of the Committee wished to receive information on the legal guarantees with regard to the right of all persons to a fair and public hearing by a competent, independent and impartial tribunal; on relevant rules and practices concerning the publicity of trials and the public pronouncement of judgements as required by article 14, paragraph 1, of the Covenant; on special rules concerning the admission of the mass media to court hearings; on facilities for accused persons to enable them to obtain legal assistance and to exercise their right to defence and on new articles 188.3 and 198.2 introduced into the RSFSR Penal Code and whether the procedure applicable under those articles satisfied the requirements of article 14. Further questions were posed as to whether the public was informed of the place and date of a particular trial, what an advocate's functions were and what the "college of advocates" was, whether lawyers practised independently and whether citizens had the right to obtain legal counsel and how much choice they had, whether the right of appeal was guaranteed in all cases and whether the Code of Criminal Procedure of the RSFSR guaranteed that an appellant would not receive a stiffer sentence from the superior court than from the lower court. Information was also requested on the availability of free legal assistance for persons seeking legal advice.

288. Replying to those questions, the representative of the State party pointed out that, under article 160 of the Constitution and article 3 of the Fundamental Principles of Criminal Legislation of the Union of Soviet Socialist Republics, no one could be subjected to punishment under criminal law except by the sentence of a court and in conformity with the law. He explained that criminal cases were examined by independent courts; that hearings were usually public, except as otherwise provided in article 12 of the Fundamental Principles of Criminal Legislation in cases requiring the protection of State secrets, cases of offences committed by minors, cases of sexual crimes and cases involving confidential matters; that judgements were rendered publicly and that the media could usually attend trials.

289. Under article 13 of the Fundamental Principles of Criminal Procedure, it was incumbent on the investigator and the court to provide the defendant with legal assistance and every defendant was entitled to present witnesses, to address the court in his own language or to the benefit from the services of an interpreter, free of charge and to appeal against the decisions of the court. Defendants were afforded every opportunity to obtain legal assistance, which was compulsory in cases involving minors under 16 years of age or handicapped persons, and, if the defendant did not hire a defence counsel, the court was obliged to assign him one; any detained person was entitled to meet his lawyer in private and there was no limitation on the length and number of interviews.

290. The representative informed the Committee about the provisions of articles 188.3 and 198.2 of the Criminal Code of the RSFSR which provided for penalties for disobeying the instruction of the administrative authorities of corrective labour institutions. He said that under article 188.3 of that Criminal Code solitary confinement for disciplinary reasons could be imposed on prisoners who had broken the rules and that article 198.2 established the penalties applicable to former prisoners who attempted to evade administrative supervision, for example by changing their residence or after release from prison by failing to appear within the prescribed period at their established residence. He repeated the reference to article 160 of the Constitution that no one could be adjudged guilty of a crime and subjected to punishment as a criminal except by the sentence of a court.

291. Referring to the right of appeal, the representative explained that it was guaranteed to all equally and that there were two procedures: judicial review for errors of law or judicial review for errors of fact by the court. In the former case the appeal had to be made before the verdict became enforceable, whereas judicial review for errors of fact was not subject to any time-limit or any restriction; the legality and cogency of a decision could be examined in all courts, save those of first instance, up to the Supreme Court of the Soviet Union. In case of appeal the sentence could not be made harsher; that was one of the guarantees accompanying the right of appeal. In order to guarantee public access to the courts, there were rules providing for appropriate advance notice of trials, accessibility of location etc. In public hearings everyone was admitted, including representatives of international organizations.

292. With regard to the colleges of advocates, the representative noted that they were voluntary associations composed of persons exercising the legal profession (advocates) who could not be employed in State and public bodies and who would represent the interests of any person who applied to them. Free legal assistance was provided to citizens in certain special cases, including certain criminal cases. Every citizen was entitled to choose an advocate to defend his case, including an advocate from another town or another Republic.

Freedom of movement

293. With reference to that issue, members of that Committee wished to receive information on the right of aliens to free movement and choice of residence in the Soviet Union. Questions were raised as to restrictions on the freedom of citizens to leave the country for travel abroad or for emigration. In addition questions were posed as to the legal basis of administrative measures regarding the assignment of citizens to a specific place of residence, what documents had to be

submitted by those seeking to emigrate, the situation of people while they were awaiting authorization or whose request was rejected, whether or not the power to grant the right to leave the country was discretionary and what specific law governed the matter. Information was also requested on the number of emigration applications submitted by the Soviet citizens each year since 1979.

294. In his reply, the representative of the state party explained that, under article 9 of the Fundamentals of Civil Legislation of the Union of Soviet Socialist Republics and the Union Republics, Soviet citizens had the right to choose their place of residence and were authorized to travel abroad and were issued with passports for that purpose, as were those who lived abroad on a permanent basis. Aliens in the Soviet Union had to respect the regulations on the residence of aliens in the country and the transit regulations adopted by the Council of Ministers of the Union of Soviet Socialist Republics on 10 May 1984. The number of foreigners visiting the Soviet Union had increased to 25 million from 154 different countries in the past five years, while 15 million Soviet citizens had visited 142 countries. There were currently 116,000 foreign students from 145 countries in the Soviet Union.

295. The representative stated that there were no objective reasons for emigrating since unemployment was non-existent and there were no problems of nationality because the peoples of the Soviet Union were all equal. Soviet citizens who left the country did so in order to reunite with their families or to marry foreigners. Negative decisions on emigration applications could be appealed and over 8,000 persons to who exit visas had initially been denied had finally been granted permission to leave the Soviet Union between 1976 and 1984.

296. In recent years a large number of Soviet citizens of Jewish, German or other origin had been enabled to leave the Soviet Union under the family unification programme. However, the number of applications for exit visas, particularly for Israel, had declined sharply between 1979 and 1984. The representative gave a detailed account of emigration applications submitted by Soviet citizens to the authorities to leave the country each year since 1979 to 1984.

Interference with privacy, particularly with regard to postal and telephonic communications

297. With regard to that issue, members of the Committee wished to receive information on whether there were any limits on the powers of the investigator, whether any control was exercised by the courts, whether the use of interception was limited to serious crimes, how frequently it was actually resorted to, and whether tape recordings obtained unlawfully either by Government agents or by individuals were admissible evidence in the Soviet Union.

298. The representative stated that articles 54 to 57 of the Constitution and article 12 of the Code of Criminal Procedure of the RSFSR guaranteed the inviolability of the person, the home and communications. Under article 168 of the Code of Criminal Procedure of the RSFSR, searches could be authorized if there were sufficient grounds to suppose that weapons used in crimes, criminally acquired objects or evidence required for criminal proceedings were to be found on the premises. Searches had to be carried out in the presence of witnesses and the person concerned or an adult member of his family had to be informed of his rights. Article 69 of the Criminal Code did

not allow tape recordings as evidence. Under article 35 of the Fundamental Principles of Criminal Procedure of the USSR and the Union Republics, correspondence could be intercepted or confiscated only on the basis of the procurator's warrant or a court decision.

299. Former article 135 of the Criminal Code of the RSFSR dealing with liability for violation of the secrecy of correspondence had been considerably expanded and currently provided for criminal liability for interference not only with correspondence but also with telephonic and telegraphic communications.

Freedom of thought, conscience and religion

300. With reference to that issue, members of the Committee wished to receive more details on the implementation of Soviet legislation on freedom of conscience and religion. In that connection, some members asked whether the regulations were compatible with the statement in the report that, in the Soviet Union, the Church was separated from the State, since it seemed that the State claimed authority to control the Church. They further asked why parents seemed to be prohibited from organizing the religious instruction of their children on a private basis. Some members also noted that the Soviet Constitution expressly authorized atheistic propaganda, but it appeared by implication not to allow the propagation of religious beliefs; one member asked about the dates of publication of editions of the Bible in Lithuanian and Hebrew, how many religious buildings had been closed during the preceding five years and how many still existed and about the legal status of believers whose religious community had not been registered for some reason.

301. Replying to those questions, the representative explained that citizens of the Soviet Union were guaranteed freedom of conscience and the right to profess or not to profess any religion and to conduct religious worship. Incitement of hostility or hatred on religious grounds was prohibited by law. Under article 143 of the Criminal Code of the RSFSR and the relevant articles of the Criminal Codes of the Union Republics, interference with religious ceremonies which were not disturbing law and order gave rise to criminal liability. The Church was separated from the State, which meant that the State did not interfere in the religious affairs of the Church and vice versa. It also meant that religious education was not provided in the public schools. Moreover, the Church operated within a State-organized society and was therefore subject to the laws of the State. The registration of a religious association with the Council for Religious Affairs signified that the association undertook to observe the law while also placing itself under the protection of the law governing freedom of conscience. Believers who belonged to duly organized associations were entitled to practise religious rites together, hold prayer meetings and ceremonies, manage houses of prayer and religious property and collect voluntary contributions in the house of prayer with a view to the maintenance of religious buildings and property and for the purpose of meeting the religious needs of believers.

302. Religious associations regularly published literature, and over the past 15 years the Bible had been published widely (75,000 copies in 1983). Religious associations were also entitled to manufacture articles for use in religious rites and services and profits from the sale of such articles were not taxable. Teaching and religious study could be conducted privately and in the family. The State also permitted the establishment of seminaries for the training of priests and there were

now 18 such institutions.

303. Although parents could not educate their children in denominational schools, they could have them attend religious services with them. The Church was on an equal footing with organizations such as trade unions and youth associations. Church-owned property and monuments of historical interest were covered by an agreement exonerating them from taxes. While some buildings had been closed down because they were no longer used for worship, they could be demolished only on the orders of the authorities of the Republic concerned.

304. Finally, the representative stated that his delegation categorically rejected the allegation that a person might incur a criminal penalty because he held a certain religious beliefs; he said that he did not know of a single case of prosecution or arrest for reasons of religion.

Freedom of expression

305. Members of the Committee wished to receive information on controls exercised on freedom of the press and the mass media and restrictions on freedom of information, on cases where persons might be arrested or detained on account of the political views they expressed and on restrictions on political debate. They also asked for additional details on the provisions of the Decree of 11 January 1984, adopted by the Presidium of the Supreme Soviet, which made a number of amendments and additions to the Union of Soviet Socialist Republics Act on Criminal Responsibility for Offences against the State of 25 September 1958.

306. The representative informed the Committee that Soviet citizens were kept informed without restriction and without delay. Every year 39 billion periodicals were printed which attested to the freedom of expression. The media were in no way dependent on private owners. Newspapers from more than 150 countries were available in the Soviet Union, and works by more than 200 foreign writers were printed and amounted to a million copies. The provision of article 19, paragraph 3, of the Covenant was construed and implemented in accordance with the basic principle that freedom of expression was subordinate to the interests of the people. All opinions, however controversial, could be freely expressed if they were designed to overcome existing shortcomings, abuses and bureaucratic practices and if they helped to improve Soviet society. He stated that, in full conformity with the provisions of article 19, paragraph 3, of the Covenant, Soviet law allowed restrictions on freedom of expression only in the case of views which were incompatible with the interests of State security, public order and morals.

307. The press, the radio and television were free within the aforementioned limits, but they were not permitted to go against the interests of socialist society or the rights of citizens. There was no control over them except for the editorial control exercised by the corresponding State or public organ in whose name the material was disseminated. Rules were established by the Fundamental Principles of Civil Law in the Union of Soviet Socialist Republics and the Union Republics and by other legislation and the publisher and editorial staff were responsible for ensuring that the law was observed. The State prohibited only statements that were criminal, contrary to the interests of the people, incompatible with the principles of humanity and democracy or association with anything prohibited by law, for example, propaganda advocating racism, national hatred, fascism, war or

disregard for the rights of other citizens. The expression of opinions and the conflict of ideas were completely without restriction, as could be seen from the nation-wide discussions of the legislative bills and other important State decisions.

308. Replying to other questions, the representative explained that Decree No. 3 adopted by the Presidium of the Supreme Soviet on 11 January 1984, amending the Act on Criminal Responsibility for Offences against the State in respect of freedom of opinion, included a provision to the effect that the use of financial and material resources received from foreign organizations or individuals acting on behalf of those organizations was to be considered as anti-Soviet propaganda. Similar provisions were to be found in the legislation of many countries, he noted. The transfer or collection, with a view to its transfer to foreign organizations or their agents, of economic, scientific, technical or other information constituting a State secret by any person to whom the information had been entrusted in the exercise of his functions or of which he had cognizance in any other way was also declared to be a crime. The provision was intended to safeguard the economic interests of the State and could obviously not be considered as an intolerable restriction of freedom of expression or of opinion.

Protection of family and children, including the rights of citizens to marry aliens

309. With regard to that issue, the representative of the State party said that the legal equality of women was increasingly complemented by equality in terms of real social potential and that a great step forward had been taken through the involvement of women in political life and productive activity and the provision of equal educational opportunities for men and women.

310. Soviet women played an active part in the management of the State. They comprised over 50 per cent of the membership of local soviets and over 32 per cent of the membership of the Supreme Soviet of the Union of Soviet Socialist Republics; 36 per cent of judges were women. The Communist Party included more than 25 per cent women. Furthermore, 500,000 women were employed as managers in industrial and construction enterprises and educational and health establishments; in secondary and higher specialized educational establishments, 59 per cent of the staff were women.

311. The representative pointed out that the Soviet State had devoted particular attention to families in which both parents were working and that currently more than 14 million children were cared for in pre-school centres and 12 million spent holiday periods in Pioneer camps. Council of Ministers Decision No. 317 of 12 April 1984 on the Further Improvement of Public Pre-school Education and the Preparation of Children for School was part of a broader educational reform one of the aims of which was that primary education should start at the age of six.

312. With regard to the question of marriage, Soviet legislation placed no restriction on the right of Soviet citizens to marry aliens. Foreign citizens in the Soviet Union enjoyed the same rights and bore the same obligations in respect of marriage and family affairs as citizens of the Soviet Union. In recent years, over 32,000 Soviet citizens had contracted such marriages, and more than 16,000 had left the country with their spouses to take up residence in more than 100 countries of the world.

Rights of minorities, with particular reference to the experience of the Soviet Union in this regard

313. With regard to that issue, members of the Committee wished to receive information on whether Soviet legislation required the provision of education in minority languages and, if so, at what levels and to what extent minorities benefited from the resources derived from their land, either directly or through the general administration of the country.

314. Replying to the questions raised by the members of the Committee, the representative noted that, under article 36 of the Constitution, citizens of the Soviet Union of different races and nationalities had equal rights. They could use their native language and the languages of other peoples of the Soviet Union; any direct or indirect limitation on the rights of citizens of the establishment of direct or indirect privileges on grounds of race or nationality as well as any advocacy of racial or national exclusiveness, hostility or contempt were punishable by law. Stressing that the Soviet Union included 15 Union Republics, 20 autonomous republics, 8 autonomous regions and 10 national districts, he indicated that those units all had their own democratically elected institutions, executive bodies and courts; that the Soviet State pursued a policy of equal rights for all nationalities and peoples, promoting their economic, social and cultural development; and that, as a result of that policy, rich natural resources had been mined, large enterprises set up and energy and transport facilities brought into operation in the areas in question.

315. Finally, the representative pointed out that more than 40 peoples had acquired a written language of their own for the first time and that a large number of newspapers, journals and other periodicals were published in Union Republics in the languages of the local population.

General observations

316. Members of the Committee thanked the Soviet delegation for its co-operation and welcomed the dialogue that had been re-established with the Committee on the occasion of the consideration of the second periodic report of the Soviet Union, which had made it possible to highlight the progress achieved in that country in implementing the provisions of the Covenant.

317. While sharing that appreciation, some members continued to have misgivings regarding the implementation of certain articles of the Covenant. The wish was expressed that the Soviet Government would give careful attention to the comments made by members of the Committee.

318. Other members expressed the opinion that the pertinent responses of the Soviet delegation had given a clear picture of the implementation of human rights in the Soviet Union. When considering a report, members should bear in mind that legal and social systems varied from country to country and that there were bound to be differences in the way of looking at human rights and international co-operation in that field, since the world was made up of States that had developed different social and economic systems.

319. Concluding the consideration of the second periodic report of the Soviet Union, the Chairman welcomed the dialogue which had continued between the Soviet Union and the Committee and warmly thanked the delegation for its co-operation with members of the Committee.

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72. The Committee considered the third periodic report of the Union of Soviet Socialist Republics (CCPR/C/52/Add.2 and 6) at its 928th to 931st meetings on 26 and 27 October 1989 (CCPR/C/SR.928-SR.931).

73. The report was introduced by the representative of the State party, who noted that important changes bearing on human rights had occurred since the preparation of the report. As part of the extensive reforms of the political system that were under way citizens now had the chance, through genuinely democratic elections, to select candidates who would protect their rights and interests. Improvements had also been made guaranteeing genuine self-determination to peoples living within the Soviet Union. One of the main changes had been the decentralization of State power by expanding the rights and responsibilities, particularly in the economic field, of the Union Republics and of the autonomous regions, and also of other groups in the country. Draft legislation dealing with such critical matters as private property and land ownership, designed to foster economic independence and initiative both of individuals and of organizations, was also under active consideration.

74. The lack of effective machinery for the full realization of civil and political rights was a matter of major concern to the Government. Draft legislation concerning the right to enter and leave the country and relating to the freedom of the press and other mass media had already been submitted to the Supreme Soviet. Legislation concerning the right of association and freedom of conscience and religion was in preparation and measures were also being taken in the field of judicial reform. In the latter regard, legislation on the status of the courts had already been enacted, with a view to guaranteeing the independence of the judiciary, and article 70 of the Criminal Code had been repealed.

Constitutional and legal framework within which the Covenant is implemented

75. With regard to that issue, members of the Committee wished to receive clarification of the institutional standing and the composition of the Constitutional Review Committee of the USSR and inquired whether it had already begun its activities; whether it would consider matters such as the consistency and compatibility of legislation with regard to the Covenant; and how its proposed role tied in with the Procurator's role in overseeing the observance of human rights. In connection with legislation relating to procedures for appealing to the courts in respect of illegal acts by officials that encroached on citizens' rights, members wished to know the precise meaning of the term "illegal acts"; what the procedures were for lodging appeals against administrative decisions; whether citizens had any recourse against actions taken to "guarantee State security"; and whether the procurator could intervene on his own initiative or only where a complaint had been lodged. They also asked what the rules were for holding referendums; whether they could be initiated by individuals; and whether any such referendums had been held over the past three years. In the latter regard, one member drew attention to the need to reconcile the expression of the will of the people with actions that Governments were obliged to take to ensure observance of international norms.

76. Observing that momentous changes had taken place in the country within the framework of the new policy of perestroika and that the current legal reforms appeared to be initiated by many different bodies in the Soviet Union, members requested clarification of the status of some of those bodies and of the legislation enacted by them. They asked, in particular, which body was responsible for final refinements and amendments to legislation; what the roles were of the house standing commissions and committees of the Supreme Soviet; and whether the decrees of the Central Committee of the Communist Party had the force of law. Clarification was also requested as to whether the Covenant's provisions could be directly invoked before the courts and what the formal procedure was for checking the compatibility of laws with the Constitution and the country's international obligations. Information was also sought concerning the nature and activities of private groups or associations dealing with human rights issues and about measures for the promotion of greater public awareness of the provisions of the Covenant. Members also wished to know whether the Government intended to make the declaration provided for in article 41 of the Covenant and to ratify the Optional Protocol to the Covenant.

77. In his reply to the questions raised by members of the Committee, the representative of the State party said that the Constitutional Review Committee was expected to be established by the Congress of People's Deputies at its 1989 meeting. Members of the Committee were to be elected from among political and legal specialists and experts for a period of 10 years. In addition to the Chairman and Vice-Chairman, it was to have 21 members, of whom 15 were to represent the individual Union Republics. Its task would be to determine the constitutionality of laws and regulations adopted by the legislative and standard-setting bodies. If it discovered any incompatibility of legislation with the Constitution it would inform the body concerned that it must amend the legislation in question. Such a ruling would have a suspensive effect. While the task of monitoring the conformity of laws with international instruments had not yet been expressly provided for, the Committee would not fail to take on that task. The Constitutional Review Committee would be charged with monitoring State law-making, whereas the Procurator's Office was responsible for ensuring that laws were respected. Thus, the respective powers of the two organs were sensibly distributed and would not overlap.

78. Referring to questions raised in connection with the 1987 Act relating to the procedure for appealing to the courts in respect of illegal acts by officials, the representative explained that since the Act did not deal with complaints against decisions by collegial bodies work was under way on a new law that would enable citizens to appeal against illegal acts by officials, whether acting as individuals or as members of collective bodies. The definition of "illegal acts" was fairly broad and, in general, a citizen could complain to the courts about any illegal acts committed by an official which were not dealt with under other procedures. Citizens were free to lodge their complaints either through the administrative tribunals or the courts but complaints against the higher organs of the State or Party were dealt with only by the courts. Regulation No.77, issued by the General Procurator on 13 November 1988, had revolutionized the way in which complaints from citizens were dealt with, particularly complaints concerning illegal decisions by the courts themselves. Trade union committees could also be approached by citizens to uphold their rights. Many of the Supreme Soviet commissions also played an important role in improving general respect for human rights.

79. Responding to questions relating to the holding of referendums in the Soviet Union, the representative noted that a draft law on the subject was currently under preparation. Only local referendums were carried out at present but consideration was being given to the possibility of nation-wide referendums being called by the Congress of People's Deputies and even by popular initiative. However, the necessity to protect minority groups had to be borne in mind and it was also essential to educate the people who, for many years, had taken no direct part in political decision-making. Accordingly, it was planned to introduce referendums initially only at republic and regional levels concerning such issues as atomic energy or the environment, in order to familiarize people with the process. No referendums had been held as yet but the process of "nation-wide discussion" of major laws at the drafting stage had become more widespread.

80. With regard to the progress of glasnost, the representative of the State party drew attention, inter alia, to the fact that the way in which bills were adopted had been changed from block voting by a show of hands to a two-stage procedure. Bills were now first studied by a commission, which then transmitted them to the Supreme Soviet. Many variants and amendments were put forward during the second reading of draft bills and the wording was often changed, so much so that the original bill was hardly recognizable. It was also particularly noteworthy that the status of decisions taken by the Central Committee of the Party, which had previously been issued jointly with the Council of Ministers and had the force of law, would be changed and the Central Committee's decisions in future would no longer have normative status.

81. Responding to questions relating to the status of the Covenant in internal law, the representative emphasized that Soviet Civil Law was based on the idea that, in the event of a discrepancy between national legislation and the provisions of international instruments to which the Soviet Union was party, the latter should prevail. A law was being drafted to incorporate international treaties ratified by the USSR into domestic legislation.

82. Turning to questions relating to the promotion of greater public awareness of the provisions of the Covenant and the Optional Protocol, the representative noted that while legal reviews contained articles and commentaries on both Covenants, there was a need to publicize them on a wide scale. A compendium of all international instruments on human rights was being prepared as well as a teaching syllabus covering the Covenant. Moreover, the summary records of the meetings at which the Committee studied the Union of Soviet Republic's third periodic report would be widely publicized throughout the country.

Self-determination

83. With reference to that issue, members of the Committee wished to receive information on any factors and difficulties affecting the implementation of article 1 of the Covenant, in particular in view of the statement in paragraph 39 of the report that "undesirable phenomena and distortions have occurred" in the sphere of national relationships and in the light of the various interpretations of article 72 of the Constitution. They also asked for specific examples of measures taken to provide opportunities for meeting national cultural aspirations, in the context referred to in paragraph 40 of the report. In addition, it was asked what differences there were between sovereign republics and other territorial units; how a territory could change its status to that of a

republic or autonomous region; and what were the functions of the Commission for Relations Between Nationalities.

84. Responding to questions raised by member of the Committee, the representative of the State party underscored the sensitivity of the nationality problem in his country and noted that relations between ethnic groups had deteriorated for reasons connected with a worsening of living conditions. Additionally, national groups had suddenly grown concerned at the gradual loss of their cultural identity, and resentment over the deportation during the Stalinist period of even entire national groups had also reappeared. While the violent clashes between Azerbaijan and Armenia, the tension in the Nagorno-Karabakh area, the tragic events in Georgia and the many problems in the Baltic Republics were very worrying, the authorities hoped that the passage of a law on ownership that would give title deeds to national groups over their national resources would represent a first step towards a solution. He emphasized that such problems were highly charged with emotion and their solution depended on the restoration of calm.

85. In reply to questions raised in connection with article 72 of the Constitution, the representative said that the provision, which acknowledged the right of any Union Republic freely to secede from the Soviet Union, had exacerbated nationalist unrest. The meaning of the term "federation" was being extensively debated in the country and there were as yet no legal norms to define the procedure by which the republics could exercise their right to secede from the Soviet Union. Such questions had to be dealt with very carefully since they touched also on problems of international politics, such as the modification of borders. Allowing each constituent part of the federation to threaten the very integrity of the State would also run counter to the implementation of international instruments on human rights.

86. A bill on economic independence, linked to the language and nationality issues, was currently under study. Commissions had been set up to study the events which had taken place in Georgia and to look at the question of returning deported populations to their national territory. There was also a draft bill on the free national development of Soviet citizens who were living outside their national republics or autonomous entities or who did not have any republics or autonomous entities within the USSR. Since the problems of self-determination and freedom of nationalities often involved religious conflicts, their solution also involved applying democratic forms of freedom of conscience and of religious association.

87. Replying to other questions, the representative noted that the Union Republics were sovereign states whose sovereignty could be limited only under very precise conditions involving the need to meet national objectives and to satisfy the demands of the nation's population as a whole. The new Constitution would define the respective powers of the Union Republics and the Soviet Union and a comprehensive list of matters which came within the jurisdiction of the Soviet Union would be drawn up. Any matter not on the list would fall within the scope of the Union Republics and the other entities. Commissions had also been established within various Republics to raise political awareness, to strive to replace confrontation by dialogue and the exchange of opinions and to identify areas where a compromise might be reached. Unfortunately, the work of those commissions was not yet entirely satisfactory and the legislation adopted by authorities in some Republics had not always been thought through properly and did not reflect a spirit of compromise.

State of emergency

88. With regard to that issue, members of the Committee wished to know whether the state of emergency imposed in the Nagorno-Karabakh Autonomous Region and the Agdam district of the Azerbaijan Soviet Socialist Republic, as notified under article 4, paragraph 3 of the Covenant on 13 October 1988, had been formally terminated. They also wished to receive information on the impact of the state of emergency on the exercise of the rights guaranteed under the Covenant.

89. In his reply, the representative of the State party pointed out that the aim of the state of emergency, which had been in effect since 21 September 1988 in the Nagorno-Karabakh Autonomous Region, was to protect the population and that its implementation did not involve any discrimination which might constitute a violation of the Covenant. It was expected that the curfew could be lifted in the near future. Since the state of emergency was a new phenomenon and lacked legal definition in certain respects, the Supreme Soviet was currently studying the relevant legal provisions to bring them into line with those of international human rights instruments.

Non-discrimination and equality of the sexes

90. With regard to that issue, members of the Committee questioned whether article 34 of the Constitution was fully compatible with article 2, paragraph 1, of the Covenant. They also requested additional information on the work, functions and effectiveness of the Women's Councils and the Soviet Women's Committee and concerning measures being taken to guarantee the rights and freedoms of persons, other than Soviet citizens, living in the Soviet Union.

91. In his reply, the representative of the State party acknowledged that article 34 of the Constitution did not refer to non-discrimination on the grounds of political opinion, but said that it was now conceivable that that article would be amended since in practice such discrimination did not exist. The Women's Councils and the Soviet Women's Committee had been established to provide assistance to families and were also involved in drafting legislation on the protection of women and health. The USSR did not have a specific law concerning the rights and obligations of foreigners but there were clauses in the Constitution and labour legislation which specifically concerned foreigners.

Right to life

92. With reference to that issue, members of the Committee wished to know how often and for what crimes the death penalty had been imposed and carried out since the consideration of the Soviet Union's second periodic report; what was the current status of the study on the possibility of substantially reducing the application of the death penalty; whether any consideration had been given to the abolition of the death penalty; what the rules and regulations were governing the use of firearms by the police and security forces, whether there had been any violations of these rules and regulations and, if so, what measures had been taken to prevent their recurrence; and what measures had been taken to protect the right of life against the risk of nuclear disaster and environmental pollution. In addition, with respect to the tragic events in Tbilisi it was asked what

steps had been taken to avoid the repetition of such events and how the report of the commission of inquiry to the Georgian Supreme Soviet had been followed up.

93. In his reply, the representative of the State party pointed out that the death penalty was only imposed for serious crimes and that, for some years, the number of executions had decreased. Similarly, although the majority of the population was in favour of keeping the death penalty, the number of crimes for which the death penalty could be imposed was constantly decreasing. It was conceivable that in the future it would be retained only for treason, espionage, terrorism, sabotage, murder with aggravating circumstances, and the rape of minors. The death penalty could not be imposed on pregnant women and a recent bill prohibited the imposition of such a penalty on juveniles and people over the age of 60 at the time of sentencing. The use of firearms by the security forces, particularly by the militia, was regulated primarily by a decree of the Presidium of the Supreme Soviet issued on 7 July 1973. In the rare cases in which weapons were used illegally by law enforcement officials the persons responsible were subject to severe penalties. Referring to the tragic events in Tbilisi, the representative underlined that the Government was endeavouring to ascertain the circumstances in which they had occurred in order to draw the necessary conclusions and take steps to avoid their repetition. A commission of inquiry had been set up by the Congress of People's Deputies and both the Procurator-General's Office and Military Procurator's Office were involved in supervising the investigations.

94. Replying to other questions, the representative stated that the Chernobyl tragedy had had extremely serious consequences for the health of the population. Since that incident, a State Commission for the protection of nature had been established and a Committee had been formed within the Presidium of the Supreme Soviet to deal with environmental protection. Inspection of all power stations had been carried out and the Yerevan power station had been closed because it was located in a seismic zone. Although legislation did not contain any specific provisions aimed at protecting the population and the environment against errors which put them in danger, several clauses in the criminal codes of various Republics specified the liability of people in authority and indeed, such clauses had been applied to those in charge of the Chernobyl power station. A bill that would define liabilities and strengthen the security and protection systems at those installations was currently under consideration.

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

95. With reference to that issue, members of the Committee wished to know the main differences in the régimes applied in "colony-settlements", "corrective labour colonies" and "training labour colonies" and inquired whether the United Nations Standard Minimum Rules for the Treatment of Prisoners as well as the Code of Conduct for Law Enforcement Officials were known and accessible to detainees and complied with in these colonies. They wished to receive further information concerning the application in practice of two relevant Decrees of the Central Committee of the CPSU dated 20 November 1986 and 4 June 1987, especially with regard to the remedies available in cases of wrongful detention, and arrangements for the supervision of prisons and other places of detention. Members also wished to know about the contents of Order No. 9 of the Procurator-General of the Soviet Union dated 19 February 1988 and about its implementation; what the maximum periods were of detention in custody and of pre-trial detention; what were the

conditions and duration of solitary confinement; what bodies were empowered to commit first offenders to corrective labour colonies; who determined whether or not a person was a dangerous recidivist; whether detention in a corrective labour colony could be imposed by administrative order; who was responsible for the inspection and supervision of the various prison colonies; and what the procedure was for receiving and investigating complaints by detainees.

96. Concerning psychiatric practices and regulations, members wished to know what progress had been achieved in preventing abuses and errors in the psychiatric field since the adoption of the Regulations on the conditions and procedure for providing psychiatric care; whether the possibility of appeal was available to a person interned in a psychiatric hospital; whether Soviet authorities intended to introduce an ongoing review of patients' files; whether criminal liability for the wrongful placement of a person in a psychiatric hospital applied only to persons responsible for wrongful placement or also to those responsible for keeping such a person in hospital after placement; and whether the staff of psychiatric hospitals who had previously been under the authority of the Ministry of Interior would be retained to work under the Ministry of Health. Clarification was also requested about allegations that persons who had run against official candidates in the 1989 elections had been committed to a psychiatric hospital.

97. In his reply, the representative of the State party said that offenders were subjected to different prison régimes depending on their personality and the gravity of the offence they had committed. Women could only be placed in corrective labour colonies by sentence of a court. The courts were solely responsible for determining whether or not a person was a dangerous recidivist. Although it had not yet been possible to follow exactly the Standard Minimum Rules for the Treatment of Prisoners, the Soviet Union was constantly endeavouring to bring its prison service more closely into line with international standards. A guide for police and prison officials on international human rights standards had recently been published by the Ministry of the Interior and internal regulations for prisoners had been changed. Responsibility for the supervision of places of preventive or other forms of detention was vested in the Procurator-General and his subordinates. Solitary confinement was only imposed in corrective labour colonies with special conditions and the maximum term of such confinement was one year. A new system introduced for prisoners who wished to complain about their treatment provided for placing complaints in a special box that was delivered to the local procurator's office. Since 1985 the number of prison sentences had decreased by 45 per cent

98. Responding to other questions, the representative said that the Procurator's Office had to be informed of an arrest within 24 hours and then had to decide within a further 48 hours whether to charge the suspect or to release him. That office was also obliged to ensure that arrests were carried out in strict conformity with the law and only when absolutely necessary. At present, a suspect had no right to legal defence until the preliminary investigation was completed but the Supreme Soviet was expected shortly to approve a proposal to allow a lawyer to represent a suspect at an earlier stage of the proceedings. The maximum period of pre-trial detention was two months but that figure could be increased to a maximum of nine months at the discretion of the higher lever Procurator's Office. A person could be held in administrative detention only for a period of three hours.

99. Replying to questions raised in connection with psychiatric treatment, the representative emphasized that such treatment could now be carried out only with the permission of the patient or, in the case of mentally incapacitated persons and persons under the age of 16, of the patient's family or legal representative. Patients could be detained against their will if they were a danger to themselves or others, in which case the decision was taken by the chief psychiatrist of the establishment concerned. The regulations of 5 January 1988 gave psychiatric patients the opportunity to appeal against their detention to higher level medical authorities as well as to the courts directly. Since March 1988 it had become a criminal offence to commit a person known to be healthy to a psychiatric hospital. Not only the ordering of such detention but also the detention itself constituted a criminal offence. A careful survey had shown that there were no such cases at present.

100. Great efforts were being made to ensure that the new decree was properly implemented, even by enlisting the aid of psychiatric institutions and experts from abroad. Any complaint from a particular patient or his family or a lawyer could be sent to a higher medical institution or placed before a court. A special service of chief psychiatrists with monitoring and control functions had also been established to determine, *inter alia*, whether placement in psychiatric institutions was indeed necessary. The Soviets of People's Deputies and the executive committees were also responsible for monitoring the treatment of mentally-ill patients, protecting their rights and legitimate interests and ensuring that they were restored to a normal life wherever possible. Staff members of psychiatric hospitals who had previously been under the authority of the Ministry of the Interior would need to acquire the necessary retraining, on an individual basis, to enable them to upgrade their skills. Allegations concerning the wrongful detention in mental hospitals of persons who had participated in the recent election had been investigated and it had been established that the persons concerned had been hospitalized for quite valid reasons that had nothing to do with their political views or with the recent election campaign.

Right to a fair trial

101. With regard to that issue, members of the Committee wished to receive further information concerning the actual implementation of the comprehensive judicial reforms; measures taken to ensure that trials were genuinely public, allowing access also to representatives of the local and foreign press; and the free legal aid system in the Soviet Union. In addition, it was asked whether it was still necessary to be a member of the Communist Party to be appointed a judge; who paid the salaries of judges, how the judicial reform would affect lawyers and whether it was necessary for an advocate to be a member of a professional association in order to be authorized to practise law; and whether the concept of "socialist legality" would be retained and was compatible with efforts to promote the rule of law.

102. In his reply, the representative of the State party said that while the judicial reform process was still in its early stages a number of major steps had already been taken, notably with regard to the status of the judiciary. For example, only the Procurator-General of the USSR or procurators of the Republics would be entitled in the future to bring charges against a judge, and not only where sufficient evidence was available. Similarly, in order to ensure that judges were fully independent and free from police influence, major changes were to be introduced in the system for electing judges of the people's courts and measures were also envisaged to improve the qualifications of

those dispensing justice. A further measure to ensure the right to a fair trial had been to increase both the number of judges and the number of people's assessors in complicated criminal cases.

103. Judges received a fixed salary paid from the State budget through the Ministry of Justice. They did not necessarily have to be members of the Communist Party and were required to administer justice exclusively on the basis of the law, without regard to any political considerations. Any attempt by a judge to take decisions on the basis of a Party directive would amount to an interference in the legal process and would violate the relevant legislation and the Constitution. Advocates in the country were organized into colleges, which were independent professional associations operating on the basis of self management. The colleges were responsible for the implementation of the Code of Conduct governing the rights and duties of advocates. The remuneration of advocates was subject to regulations issued by the Ministry of Justice but there was a considerable difference between the minimum and maximum fee that could be charged for each particular procedure. Free legal aid was provided in a number of cases, including labour disputes, claims for compensation for damage to health, complaints regarding pensions, complaints regarding incorrect electoral registration, and criminal cases where it could be shown that the person concerned could not afford to pay. The law required that trials should be public and open to all interested persons, including representatives of both the local and foreign press. In camera trials could be justified only on serious grounds. There was no contradiction between the concept of socialist legality and the current effort to establish the supremacy of the role of law. Such a concept was applicable to all types of society, whether capitalist or socialist, if by the rule of law was understood to imply a régime that guaranteed the rights and freedoms of citizens and upheld universal human values.

Freedom of movement and expulsion of aliens

104. With reference to that issue, members of the Committee wished to receive detailed information about the provisions of the Decree of the Council of Ministers dated 28 August 1986; about the application of the right of everyone to leave any country, including his own; and about the criteria for prohibiting departure. Specifically, they wished to know who had the authority to prohibit departure; what recourse was available against such prohibition; whether it was planned to revise the Regulations of 22 September 1970, as modified by the Decree of 28 August 1986; how long it took to process an application by a Soviet citizen to leave the country; whether an applicant's political opinion was taken into account in granting permission to enter or leave the country; whether it was planned to eliminate the invitation requirement; whether family reunion remained the condition for obtaining authorization to leave the country; whether, under the new legislation, everyone could in principle leave the country, with a few clearly defined exceptions or whether, on the contrary, no one could leave the country without receiving explicit authorization; whether that right would be guaranteed without any discrimination; whether the new rules would be applied retroactively to persons who had submitted a request to leave before the entry into force of the new law; and whether political exiles and persons who had emigrated legally would be authorized to return to the country. Detailed information was also sought concerning the scope of the expression "state security" and how it was interpreted in practice. Members also asked whether there were any limitations placed on the freedom of movement or residence of Soviet citizens within the USSR.

105. In his reply, the representative of the State party said that under the Decree of August 1986, which had simplified applications procedures, all persons, including both nationals and foreigners, could enter or leave the USSR on private business without any discrimination. Soviet citizens could leave the country temporarily at the invitation of relatives or friends and could, in turn, invite such persons in writing to visit them in the USSR. The restriction on departure when most of the applicant's close relatives remained in the USSR had been lifted. Authorization to leave the country was, however, subject to the fulfilment of family and other obligations. The grounds for rejection of any application were communicated to the applicants in writing. Citizens were now allowed to keep their passports after returning from abroad; had the right to travel anywhere in the USSR except for minor territorial restrictions, and were free to choose their place of residence. The Government had undertaken to review a significant number of applications for exit visas that had previously been rejected and most of them had subsequently been granted while the remainder were pending because the applicants were still subject to the restriction concerning State secrets.

106. Responding to other questions, the representative said that political opinion could not be invoked as a reason for preventing a person from leaving the country. When a person has had access to State secrets, the law on entry into and departure from the USSR under preparation would provide a five-year limit upon restrictions that could be imposed on his right to leave. The new law would be consistent with article 12 of the Covenant and would have retroactive force, like all legal provisions that increased citizens' rights and improved their living conditions.

Right to privacy

107. With regard to that issue, members of the Committee wished to receive further information on measures taken, pursuant to the Act of the Supreme Soviet of the USSR dated 30 June 1987, to strengthen freedom from arbitrary interference with privacy, home or correspondence, and concerning the law and practice relating to the collection and safeguarding of personal data. In the latter connection, it was also asked whether incorrect information or information collected or processed contrary to the law could be corrected or removed.

108. In his reply, the representative of the State party said that although the Soviet Union's Constitution and laws already contained provisions guaranteeing the right to privacy and the inviolability of the home and correspondence his Government had decided to strengthen the protection of the right to privacy by making basic changes in the Penal Code and the Code of Penal Procedure in order to take into account the possibilities offered by new techniques in connection with inquiries and investigations. The media would also be made subject to penalties for violating the right to privacy through libel. Breaches of medical confidentiality and the unauthorized disclosure of certain personal information were punishable under existing laws and regulations. It was also planned to adopt regulations governing the uses of personal information gathered and classified by computer techniques.

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

109. With regard to these issues, members of the Committee wished to receive information

concerning restrictions, if any, on the right of parents to ensure the religious education of their children; the freedom of assembly and association of religious communities; and on the use of places of worship and the publication of religious material. They also wished to know what was the status and position of conscientious objectors; how the right to seek, receive and impart information and ideas of all kinds was ensured; what was the current status of the draft bill concerning freedom of conscience; whether, in view of the introduction of that draft bill concerning freedom of conscience; whether, in view of the introduction of that draft bill and of planned reforms of criminal legislation, there were any plans entirely to eliminate the offences of “anti-Soviet propaganda” and “anti-Soviet calumny”; whether the introductory part of article 50 of the Constitution was considered as offering a limited or wide scope of the right to freedom of expression, and whether the Supreme Soviet contemplated the enactment of legislation regulating the press and, if so, what its characteristics would be.

110. In addition, it was asked whether the draft bill concerning freedom of conscience would maintain the requirement for the registration of religious activities and the severe penalties for persons engaging in religious activities without having obtained prior authorization; whether there were still any unregistered or unauthorized religious communities and what such communities could do to legalize their status; and whether the Ukrainian Catholic Church would be legalized.

111. Replying to questions raised by members of the Committee in connection with freedom of religion, the representative of the State party acknowledged that the legislation in force was not yet satisfactory. In practice, however, there were no real limitations. A large number of buildings, for example, had once again become places of worship and were widely used. The draft bill on religious freedom provided for freedom to decide what attitude to adopt towards religion and what religious education to give to children as well as for full freedom of conscience within the limits imposed by public order, public morals and public health. Registration of religious communities was still compulsory but an unregistered community could also hold religious services in a normal manner without being obliged, in practice, to pay even the symbolic fine of 50 roubles. The only remaining problem in this area related to the recognition of the Ukrainian Catholic Church - The Uniate Church - which raised delicate problems of the relations of religious denominations among themselves. The authorities, who had reason to fear an exacerbation of those relations and the social unrest that might attend it, were monitoring the situation closely and were making every effort to bring the various parties together. Conscientious objectors on religious grounds, who were the only group recognized under the law, were free to perform their services in non-military units, such as the health services or in civil engineering.

112. Responding to other questions, the representative said that a draft bill on the right to information was planned and that the draft bill on freedom of the press contained some very progressive concepts, which would require Government officials to furnish information to the media. Censorship would be explicitly prohibited and restrictions limited to the prevention of abuses. “Anti-Soviet propaganda” and “anti-Soviet calumny” were now defined, pursuant to a decree of 8 April 1989, as calling for the overthrow of the State or the Soviet order by force.

Freedom of assembly and association; right to participate in the conduct of public affairs

113. With reference to that issue, members of the Committee wished to know what were the main changes introduced by the new trade union statutes adopted in 1987; whether the draft bill on the rights of trade unions had been enacted; what was the total trade union membership in the Soviet Union and what percentage of the labour force belonged to trade unions; whether agricultural workers were unionized; whether members of the trade unions were required to be members of the Communist Party; whether State authorization was necessary to establish a trade union; whether the authorities planned to abolish the compulsory authorization required to organize a demonstration; whether detainees lost their voting rights; and whether there were any plans to extend the system of multi-mandate electoral districts. In addition, further information was sought regarding the regulation of demonstrations and the influence of the Communist Party over the trade unions.

114. In his reply, the representative of the State party explained that the amendments to the trade union statutes adopted in 1987 were essentially designed to harmonize them with the new laws on state enterprises and work collectives and were superficial. However, an important draft bill was at present being drawn up by the Confederation of Trade Unions in order to extend trade union rights. The total number of union members in the Soviet Union was well over 100 million. Trade unions played an active and independent role in the country and their establishment was not regulated by the State. The Communist Party certainly exerted influence on trade unions but trade union leaders were not necessarily members of the Party. Authorizations to organize demonstrations or processions were necessary only if they were to be held in a public place. In the future, the authorities would probably require only that information be provided as to the time and place of a planned demonstration. A draft bill to introduce the system of multi-mandate electoral districts for elections to local and Union Republics' bodies was under consideration.

Rights of persons belong to minorities

115. With regard to that issue, members of the Committee wished to know whether there were any special factors and difficulties in the effective enjoyment by persons belonging to minorities of their rights under article 27 of the Covenant.

116. In his reply, the representative acknowledged that the problems of minorities connected with land ownership and exploitation of the resources of the land were very real and threatened their way of life and even their very existence. The issue was, however, being actively examined by the Congress and a draft bill setting out the rights of minorities and the obligation for the State to protect their culture, language and way of life had already been introduced.

General Observations

117. Members of the Committee expressed their thanks to the representatives of the State party for their co-operation in presenting the third periodic report of the USSR and for engaging in a discussion that had been thought-provoking. The report was satisfactory in every respect and quite comprehensive and the open and candid manner of its presentation by the delegation was particularly appreciated. The delegation was of exceptionally high competence and level and the presence of the Minister of Justice and of a member of the Congress of People's Deputies had been

especially valuable. It was clear that the authorities had made noteworthy efforts to transform the USSR into a State governed by the rule of law and that much progress had been achieved in many areas that had caused concern during the consideration of the earlier reports, such as the protection of the right to life, the independence of the judiciary, freedom of conscience, the treatment of persons interned in psychiatric institutions, freedom of movement and freedom of political activity.

At the same time, it was noted that the Soviet Union still faced an enormous task in the field of human rights and problems and difficulties still had to be addressed, notably in relation to the rights of nationalities, the treatment of minorities, the independence of the judiciary, freedom of religion, expression, movement and association and respect for privacy. Members also noted that the current process of rapid change carried with it the risk of going from one extreme to the other and cautioned against attempts to introduce new forms of discrimination. They wished the Soviet Union every success in its pursuit of the policy of perestroika and expressed the hope that by the time its next periodic report was due the Soviet Union would have found it possible to ratify the Optional Protocol to the Covenant.

118. The representative of the State party said that the discussion had been extremely enriching for the Soviet delegation, which had acquired considerable knowledge that would be useful in the future. He assured the Committee that although an enormous task remained the Soviet Union would do everything in its power to carry it out. In his view, the results of the dialogue with the Committee were of fundamental importance for the peoples of the Soviet Union.

119. In concluding the consideration of the third periodic report of the USSR, the Chairman noted that the Committee had been considerably enlightened about the way in which the Soviet Union was fulfilling its obligations under the Covenant and could now better appreciate the extent to which the rights set out in the Covenant were protected and the difficulties that had been encountered. No other periodic report had revealed comparable progress. Care was now necessary to ensure that the energy generated by the new forces that had been created was directed towards the fulfilment of genuine human rights objectives.

CCPR A/50/40 (1995)

362. The Committee considered the fourth periodic report of the Russian Federation (CCPR/C/84/Add.2) at its 1426th to 1429th meetings, on 17 and 18 July 1995, and adopted 18/ the following comments:

1. Introduction

363. The Committee welcomes the fourth periodic report of the Russian Federation and views with satisfaction its dialogue with the delegation, particularly the delegation's willingness to engage in a frank discussion with the Committee and the detail in which its written and additional oral questions were addressed. The Committee regrets that, while the report was mainly drafted on the basis of legal measures enacted or under consideration, insufficient information was provided regarding the actual enjoyment of some of the rights guaranteed in the Covenant. The Committee appreciates that this situation was partly remedied through the oral responses to the Committee's questions, which allowed it to obtain a clearer view of the overall situation in the State party.

2. Factors and difficulties affecting the application of the Covenant

364. The Committee notes that it is necessary to overcome vestiges of the totalitarian past and that much remains to be done to strengthen democratic institutions and respect for the rule of law. This has created a legal vacuum in certain areas, in which the principles set forth in the Constitution are not implemented by corresponding laws and regulations. The Committee notes that the enactment of new laws is being undertaken by the Government but their consideration by two Chambers of the Federal Assembly prior to promulgation is generally a slow process.

365. The Committee is aware of economic difficulties facing the State party, which inevitably affect the application of the Covenant.

3. Positive aspects

366. The Committee expresses its satisfaction as to the fundamental and positive changes that have recently taken place in the Russian Federation. These changes will create a better political, constitutional and legal framework for the full implementation of the rights enshrined in the Covenant.

367. The Committee welcomes the new Constitution of 1993, which gives legal recognition to the concept of human rights and freedoms of the individual. The Committee considers that chapter 2 of the Constitution, which enumerates the rights and liberties of the individuals, conforms to many of the basic rights provided under the Covenant.

368. The Committee welcomes the provisions of article 15, paragraph 4, of the Constitution, which,

18/ At its 1441st meeting (fifty-fourth session), on 26 July 1995.

together with the limiting provision of article 125, paragraph 6, establishes that international treaties, including the Covenant, are part of the Russian legal system and superior to domestic law. It further welcomes the inclusion of article 17, paragraph 1, which stipulates that the basic rights and liberties, in conformity with the commonly recognized principles and norms of international law, shall be recognized and guaranteed by the State party under the Constitution, the recognition in the Constitution of the right to apply to international bodies when domestic remedies are exhausted and the written and oral affirmations that the provisions of the Covenant are directly invocable in domestic courts of law.

369. In this context, the Committee also welcomes the fact that the Russian Federation is party to the Optional Protocol to the Covenant.

370. The Committee welcomes the progress made towards democracy since the consideration of the third periodic report. It also welcomes the promulgation of a number of legal instruments aimed at guaranteeing human rights for all persons in the territory of the State party, including the new Civil Code and Criminal Code. It further welcomes the draft law aimed at a comprehensive reform of the judicial process and the Code of Criminal Procedures currently in the drafting stage and notes with appreciation that the right of all persons whose rights are violated to have access to judicial recourse has been legally established.

371. The Committee welcomes the establishment of several bodies charged with the protection of human rights, including the Office of the Human Rights Commissioner under the State Duma and the Presidential Human Rights Commission, as well as the newly established Commission for Human Rights of the Commonwealth of Independent States.

372. The Committee welcomes the Government's assurances that a systematic review of persons placed in psychiatric facilities under previous regimes will be carried out and trusts that all those found to be placed in such facilities without due cause will be released.

373. The Committee welcomes the special legislation enacted to provide compensation to victims of the events of October 1993.

4. Principal subjects of concern

374. The Committee is concerned that the profound legislative changes taking place within the State party have not been matched by the actual protection of human rights at the implementation level. Specifically, it regrets that many of the rights established under the Constitution have not been put into effect through the enactment of implementing laws and regulations and that the relationship of the various bodies entrusted with the protection of human rights has not been clearly defined. In this connection, it regrets that the responsibilities of the Human Rights Commissioner, although understood to be broad in nature and to include the power to investigate complaints of human rights violations, to bring cases to the Constitutional Court whenever Constitutional rights are infringed and to take legislative initiatives, are not specified in the Constitution and have not yet been legally defined in subsequent legislation. In addition, the

responsibilities of the Procurator's Office with respect to the protection of human rights would appear to coincide in many respects with those of the Human Rights Commissioner. In relation to these bodies, it is not clear why the Presidential Human Rights Commission operating directly under the President, who is personally responsible as guarantor of human rights under the Constitution, is empowered only with recommendatory functions, or what mechanisms are in place to ensure that presidential decrees conform with the Covenant.

375. The Committee is concerned that, despite guarantees of equality in the Constitution and in labour legislation, the de facto situation of women is one of continuing inequality. The failure to ensure equal remuneration for work of comparable worth and the persistence of attitudes and practices which impose child-rearing and other domestic responsibilities entirely on women contribute to this inequality and to discrimination in the workplace. The Committee is especially alarmed at the extent of rape and domestic violence and the inadequate efforts made by the authorities to deal with this problem. It is also alarmed at the high incidence of unemployment among women.

376. Although the Committee notes that the draft Criminal Code before the Federal Assembly would reduce the number of crimes that may result in the imposition of the death penalty, it is still concerned at the wide range of the crimes still punishable by such penalty. Moreover, the Committee notes that while the number of persons actually executed has declined dramatically since 1993, sentencing continues, which has resulted in a large and growing number of persons on death row.

377. The Committee expresses deep concern over the practice of pre-trial detention and over the fact that temporary detention has been extended from 10 to 30 days in certain cases. It is concerned by the extent of the Procurator's competence to decide on matters relating to arrest or detention which cannot be challenged by the person concerned before a court. Under article 9, paragraph 3, of the Covenant, the detention of persons before they are granted a trial should not be the norm and, when it occurs, persons so detained should be granted a trial within a reasonable time or be released. The Committee is concerned that pre-trial detention is practised, not only in cases of serious criminal charges but more so on misdemeanour charges and frequently for unreasonably long periods of time, and that no effective mechanism exists for monitoring such detention.

378. The Committee further expresses grave concern over the lack of a monitoring mechanism for penitentiary facilities to ensure humane treatment of detainees and prisoners. In this regard, it deplors the cruel, inhumane and degrading conditions that persist in many detention centres and penitentiary facilities and condemns the use of food deprivation as punishment.

379. The Committee expresses concern about the lack of independence and efficiency of the judiciary and the long delays in the administration of justice, which do not conform with the requirements of both articles 9 and 14 of the Covenant, and notes in that regard that the judicial system in the Russian Federation cannot be effective to ensure protection of rights until there is a sufficient number of well-trained and qualified judges and lawyers.

380. The Committee is concerned that actions may continue that violate the right to protection

from unlawful or arbitrary interference with privacy, family, home or correspondence. It is concerned that the mechanisms to intrude into private telephone communication continue to exist, without a clear legislation setting out the conditions for legitimate interferences with privacy and providing for safeguards against unlawful interferences.

381. Although federal law has provided for the abolition of the propiska (residence permit) system, the Committee is concerned that at regional and local levels, the system is still applied in practice, thus violating not only the Constitution, but also article 12 of the Covenant. It expresses further concern that the most important legal restriction on the right to leave the country is still cast in terms of a State secret. This does not correspond with the requirements of article 12, paragraph 3, of the Covenant and the Committee deplores, in that regard, the resistance to date in bringing the legislation in conformity with the Covenant. The Committee further regrets that all individuals not having yet performed their national service are excluded in principle from enjoying their right to leave the country.

382. The Committee is concerned that conscientious objection to military service, although recognized under article 59 of the Constitution, is not a practical option under Russian law and takes note in this regard of the draft law on alternative service before the Federal Assembly. It expresses its concern at the possibility that such alternative service may be made punitive, either in nature or in length of service. The Committee is also seriously concerned at the allegations of widespread cruelty and ill-treatment of young conscript-soldiers.

383. The Committee is concerned at reports of growing numbers of homeless and abandoned children in need of measures of protection.

384. The Committee expresses its concern that the limited definition of the term “national minorities”, which serves as the basis for much of the legislation in the State party concerning the rights of persons belonging to minorities, does not give protection to all persons referred to in article 27 of the Covenant. It is also concerned at reports of harassment shown towards persons belonging to minority groups from the Caucasus region, in the form of searches, beatings, arrests and deportation.

385. The Committee deeply regrets the lack of familiarity of law enforcement and prison officers with the guarantees provided in the new Constitution and with international human rights standards under the Covenant.

386. The Committee expresses concern over the jurisdiction of the military courts in civil cases. Persons detained by members of the armed forces are said to be able to raise complaints before the Military Procurator’s Office in charge of the detention centre where they were held. This would appear to create a situation in which the army is entrusted with the judgement and sentencing of the crimes committed by its own members. The Committee is concerned that such a situation may cause miscarriages of justice, particularly in the light of the Government’s acknowledgement that the army, even at the highest levels, is not familiar with international rights law, including the Covenant.

387. The Committee expresses deep concern at the high number of refugees following the events

that occurred in North Ossetia in 1992 and at the difficult conditions faced by these displaced persons in the neighbouring Republic of Ingushetia, as well as at the numerous incidents that occurred during their attempts to return to their homeland.

388. With reference to the specific situation in Chechnya, the Committee expresses concern that article 4 of the Covenant, which specifies the provisions that are non-derogable even in times of public emergency, has not been complied with. It maintains that this article is applicable to the situation in Chechnya, where the use of weapons by combatants has led to the loss of life and deprivation of freedom of large numbers of persons, regardless of the fact that a state of emergency has not been formally declared.

389. The Committee deplores the excessive and disproportionate use of force by Russian forces in Chechnya, indicating grave violation of human rights. It further deplores the fact that no one has been made responsible for the inhumane treatment of prisoners and other detained persons, that investigations on charges of human rights violations by Russian forces, including killing civilians, have so far been inadequate, that civilian installations such as schools and hospitals were destroyed by government forces, and that a large number of civilians have been killed or displaced as a consequence of the destruction of their homes.

390. The Committee expresses deep concern about the large number of reported cases of torture, ill treatment of the person and arbitrary detention in “reception centres” or “filtration camps”, which were originally established to determine the identities of captured combatants but are reported to accommodate large numbers of civilians as well. It deplores the maltreatment of detainees in these centres and is concerned that the International Committee of the Red Cross (ICRC) has not been given access to all such camps.

391. The Committee is concerned that, as a result of the violent excesses of recent developments in Chechnya, the level of confidence of the people in the reconstruction efforts by the local authorities and the attempts to bring relief to human rights violations is extremely low.

5. Suggestions and recommendations

392. The Committee recommends that the relationship between the various bodies charged with the protection of human rights be clearly defined and coordinated and that the existence and functions of these bodies be widely publicized. The Committee further recommends that a mechanism be clearly established to ensure conformity of all presidential decrees and laws with the provisions of the Covenant and other international human rights instruments to which the State is party.

393. The Committee recommends that the State party review and include information in its next periodic report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the first Optional Protocol to the Covenant, also bearing in mind the obligations under article 2 of the Covenant.

394. The Committee recommends that greater efforts be made to collect information on the

situation of women and the effects on them of the structural political, economic and social changes taking place. On this basis, the Government should initiate or strengthen programmes aimed at providing assistance to women in difficult circumstances, including unemployed women, victims of domestic violence and victims of rape, with a view to ensuring their equality before the law and the equal protection of the law. In particular, it should consider allocating responsibility for that purpose to an appropriate high-level governmental body.

395. The Committee urges the Government to reduce substantially the number of crimes for which the death penalty may be imposed, in accordance with article 6 of the Covenant, with a view to its eventual elimination.

396. The Committee recommends that the treatment of persons deprived of their liberty, whether in detention centres or in penitentiary facilities, be effectively monitored. In this connection, it strongly recommends the adoption of new rules and regulations that comply fully with articles 7, 9, 10 and 14 of the Covenant and the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and that the texts of all prison rules and orders and international norms on prison administration be made public and accessible. The Committee further recommends that priority be given to the establishment of the Visitors' Committee for the correctional institutions of the Federation and that legislation on the judicial review of arrest and detention be urgently passed in compliance with article 9, paragraph 3, of the Covenant, and article 22, paragraph 2, of the Constitution. It urges that the Government should refrain from placing first-time, non-violent and petty offenders in detention centres, and give consideration to various other practical measures designed to reduce the overcrowding of pre-trial detention centres, particularly the greater use of release pending trial. It also calls for an immediate end to the practice of food deprivation as punishment in prisons and encourages the Government's initiatives to institute alternative forms of punishment.

397. The Committee stresses the need for a prompt enactment of the legislation on the judiciary and urges that this legislation fully incorporate the essential guarantees for the independence of the judiciary, including the United Nations Basic Principles on the Independence of the Judiciary. The Committee recommends that efforts be made to make the Covenant and other international human rights norms as widely known as possible, particularly among the authorities invested with the administration of justice, law enforcement and prison officers but also among the general public. It recommends that the State party avail itself of the technical cooperation services of the Centre for Human Rights.

398. The Committee recommends that the abolition of the propiska system be carried out all over the country without exceptions. Further steps should be taken to bring the law concerning the right to leave the country in full line with the State party's obligations under article 12, paragraphs 2 and 3, of the Covenant and, in particular, to remove restrictions to knowledge of State secrets. The Committee urges that all regional and local authorities be made to comply with the Federal policy of abolishing the propiska system (i.e., the system of "internal passes" or "passports").

399. The Committee urges that legislation be passed on the protection of privacy, as well as that strict and positive action be taken to prevent violations of the right to protection from unlawful or

arbitrary interference with privacy, family, home or correspondence.

400. The Committee urges that stringent measures be adopted to ensure an immediate end to mistreatment and abuse of army recruits by their officers and fellow soldiers. It further recommends that every effort be made to ensure that reasonable alternatives to military service be made available that are not punitive in nature or in length of service. It urges that all charges brought against conscientious objectors to military service be dropped.

401. The Committee recommends that national legislation be amended to reflect the broad concept of minorities contained in articles 2, 26 and 27 of the Covenant, which prohibit discrimination on the basis of race, colour, sex, opinion or other status, and further protect the rights not only of “national minorities” but also of ethnic, religious and linguistic minorities.

402. The Committee urges that appropriate and effective measures be adopted to enable all persons displaced as a consequence of the events that occurred in North Ossetia in 1992 to return to their homeland.

403. The Committee firmly urges that the serious violations of human rights that occurred and continue to occur in Chechnya be vigorously and immediately investigated, the perpetrators punished and the victims compensated. It urges the Government to ensure that all persons held in detention are held for legitimate cause, for a reasonable period of time and under humane conditions, in conformity with the State party’s obligations under the Covenant.

404. The Committee, noting with appreciation the Government’s assurances that ICRC will be granted access to all detention camps, urges that such access be granted immediately in the region of Chechnya and neighbouring republics, to allow ICRC not only to monitor the treatment of detainees but also to provide supplies and services.

405. The Committee recommends that, in order to address the lack of confidence in the local government authorities, the Government consider inviting a greater international presence, including from the Centre of Human Rights, to assist the Special Multilateral Commission established to investigate recent events in Chechnya in improving the effectiveness of human rights investigations and ensuring fairness of trials until such time as the judiciary is functioning properly. Such a measure would make clear that the Government is committed to ending human rights violations both by submitting itself to international scrutiny and by drawing on international expertise toward this end.

406. The Committee urges that adequate measures be adopted to alleviate the conditions of all displaced persons following the fighting in Chechnya, including measures aimed at facilitating their return to their towns and villages.

407. The Committee recommends that education in human rights be included in school and university curricula and that its comments be widely disseminated and incorporated into the curricula of all human rights training programmes organized for law-enforcement officers and administration officials.

CCPR CCPR/CO/79/RUS (2003)

1. The Committee considered the fifth periodic report of the Russian Federation (CCPR/C/RUS/2002/5) at its 2144th, 2145th and 2146th meetings, held on 24 and 25 October 2003 (see CCPR/C/SR.2144, 2145 and 2146) and adopted the following concluding observations at its 2159th and 2160th meetings (CCPR/C/SR.2159 and 2160), held on 4 November 2003.

A. Introduction

2. The Committee welcomes the fifth periodic report of the Russian Federation, prepared in conformity with the reporting guidelines. The Committee regrets, however, that the report did not include full information on follow-up given to its previous concluding observations. The Committee also regrets the delay of almost four years in the submission of the report and the subsequent last-minute postponement of the consideration of the report, which had initially been scheduled for the seventy-eighth session in July 2003.

3. The Committee expresses its appreciation for the discussion in some depth with a high-level delegation, comprising senior officials from various ministries and government institutions and relevant areas of expertise. For the most part the replies given were frank and constructive.

B. Positive factors

4. The Committee notes with appreciation numerous legislative developments and efforts to strengthen the judiciary since the submission of fourth periodic report, which have further improved the protection of Covenant rights.

5. The Committee notes the information given by the delegation about a decision of the Plenum of the Supreme Court of 10 October 2003 instructing general courts in their obligation to be guided by relevant international treaties, including human rights treaties.

6. The Committee welcomes the Federal Constitutional Law No. 1 of 26 January 1997, which creates the institution and sets out the functions and responsibilities of the Federal Commissioner for Human Rights, in line with the Committee's previous recommendations. It also notes the election of the first Federal Commissioner in May 1998.

7. The Committee welcomes the notable achievements in addressing the problem of overcrowding in prisons through increasing resort to alternative forms of punishment, amnesties and reduced use of pre-trial detention.

C. Principal subjects of concern and recommendations

8. The Committee is concerned that the State party has not implemented the Committee's views under the Optional Protocol in the cases of *Gridin v. Russian Federation* and *Lantsov v. Russian Federation*. While noting the delegation's explanation that the decision not to follow the views of the Committee regarding the release of Mr Gridin was based on a careful study by the Supreme Court and Procurator's Office, the Committee expresses its concern that a failure to give effect to its views would call into question the State party's commitment to the Optional Protocol.

The Committee urges the State party to review its position in relation to views adopted by the Committee under the Optional Protocol and to implement the Views, in order to comply

with article 2 (3) of the Covenant which guarantees a right to an effective remedy when there has been a violation of the Covenant.

9. The Committee reiterates its concern regarding persistent inequality in the enjoyment of Covenant rights by women. In particular, the Committee notes with concern the high level of poverty among women, the prevalence of domestic violence against women, and a marked difference in the wages of men and women for equal work.

The State party should ensure that effective measures are taken to improve the situation of women as to their full enjoyment of Covenant rights (article 3).

10. The Committee is concerned about the large number of persons in the State party who are being trafficked for sexual and labour exploitation, mainly to destinations outside the borders of the State party. In this context, the Committee notes that the State party has given increasing attention to the problem in recent years. In particular, the Committee notes that anti-trafficking legislation has been drafted and that the State party is working towards the ratification of relevant United Nations treaties in this field.

The State party should reinforce measures to prevent and combat trafficking in women through, inter alia, enacting legislation penalizing such practices and providing protection and support, including rehabilitation programmes, for the victims (article 8).

11. The Committee notes that the death penalty was abolished de facto by Presidential decree of 16 May 1996, entitled "Phasing out of the death penalty in connection with Russia's entry into the Council of Europe". The Committee also notes that the State party envisages legislation to abolish the death penalty. It is concerned, however, that the current moratorium will automatically end once the jury system has been introduced in all constituent entities of the State party, scheduled to be completed in 2007.

The State party should abolish the death penalty de jure before the expiration of the moratorium (article 6) and accede to the Second Optional Protocol.

12. While the Committee notes that a number of measures have been taken to prevent the use of excessive force and torture by law enforcement personnel during the process of questioning, it remains concerned that suspects and detainees are not sufficiently protected under current legislation. The Committee is concerned at the reported occurrence of torture or ill-treatment, especially during informal interrogations in police stations when the presence of a lawyer is not required.

The State party should ensure that law enforcement officials are prosecuted for acts contrary to article 7 of the Covenant, and that the charges correspond to the seriousness of the acts committed. The State party should ensure the implementation of existing applicable legislation, as well as the Covenant, through further professional training of law enforcement personnel on the rights of suspects and detainees.

13. The Committee remains deeply concerned about continuing substantiated reports of human rights violations in the Chechen Republic, including extrajudicial killings, disappearances and torture, including rape. The Committee notes that some 54 police and military personnel have been prosecuted for crimes committed against civilians in Chechnya, but remains concerned that the charges and sentences handed down do not appear to correspond with the gravity of the acts as human rights violations. The Committee is also concerned that investigations into a number of large-scale abuses and killings of civilians in 1999 and 2000, in the locations of Alkhan Yurt, Novye Aldy and Staropromyslovskii district of Grozny, have still not been brought to a conclusion. The Committee acknowledges that abuse of and violations against civilians also involve non-State actors, but reiterates that this does not relieve the State party of its obligations under the Covenant. In this regard, the Committee is concerned about the provision in the Federal Law "On Combating Terrorism" which exempts law enforcement and military personnel from liability for harm caused during counter-terrorist operations.

The State party should ensure that operations in Chechnya are carried out in compliance with its international human rights obligations. The State party should ensure that abuse and violations are not committed with impunity *de jure* or *de facto*, including violations committed by military and law enforcement personnel during counter-terrorist operations. All cases of extrajudicial executions, enforced disappearances and torture, including rape, should be investigated, their perpetrators prosecuted and victims or their families compensated (articles 2, 6, 7 and 9).

14. While acknowledging the serious nature of the hostage-taking situation, the Committee cannot but be concerned at the outcome of the rescue operation in the Dubrovka theatre in Moscow on 26 October 2002. The Committee notes that various attempts to investigate the situation are still under way but expresses its concern that there has been no independent and impartial assessment of the circumstances, regarding medical care of the hostages after their liberation and the killing of the hostage-takers.

The State party should ensure that the circumstances of the rescue operation in the Dubrovka theatre are subject to an independent, in depth investigation, the results of which are made public, and, if appropriate, prosecutions are initiated and compensation paid to the victims and their families.

15. The Committee welcomes the marked improvement registered since the consideration of the previous report with regard to overcrowding in prisons and the scheduled further reduction of the number of prisoners by more than 150,000. Albeit, it was not clear whether all serious overcrowding in all places of detention had been resolved. The Committee remains concerned about reports of poor hygiene and violence by prison officers in some places of detention.

The State party should continue and reinforce efforts to reform the prison system to meet the requirements of article 10 of the Covenant. The State party should ensure that the problem of overcrowding is completely eliminated and that prisoners' complaints concerning violations of their rights are promptly and thoroughly investigated. Moreover, the Committee encourages the adoption of the draft federal law "On public control over

ensuring human rights in places of forced detention and assistance of public associations in their activities", adopted in first reading by the State Duma in September 2003, which would allow for independent oversight of prison conditions.

16. The Committee notes the statement by the delegation that all persons who have returned to Chechnya have done so voluntarily. However, it also observes that there are reports of undue pressure on displaced persons living in camps in Ingushetia to make them return to Chechnya.

The State party should ensure that internally displaced persons in Ingushetia are not coerced into returning to Chechnya, including by ensuring the provision of alternative shelter in case of closure of camps (article 12).

17. While the Committee welcomes the introduction of the possibility for conscientious objectors to substitute civilian service for military service, it remains concerned that the Alternative Civilian Service Act, which will take effect on 1 January 2004, appears to be punitive in nature by prescribing civil service of a length 1.7 times that of normal military service. Furthermore, the law does not appear to guarantee that the tasks to be performed by conscientious objectors are compatible with their convictions.

The State party should reduce the length of civilian service to that of military service and ensure that its terms are compatible with articles 18 and 26 of the Covenant.

18. The Committee notes with concern the closure in recent years of a number of independent media companies and an increase in State control of major media outlets (TV channels, radio stations and newspapers), either directly or indirectly through state-owned corporations, such as the state-run company Gazprom, which took over the independent nationwide television network NTV in 2001.

The State party is invited to protect media pluralism and avoid state monopolization of mass media, which would undermine the principle of freedom of expression enshrined in article 19 of the Covenant.

19. The Committee is concerned that the proposed amendments to the law "On Mass Media" and the law "On Combating Terrorism", adopted by the State Duma in 2001 in the aftermath of September 11, are incompatible with article 19 of the Covenant. It notes with satisfaction that the President of the Russian Federation vetoed the amendments in November 2002.

The State party should ensure that above-mentioned amendments, which were put in abeyance in November 2002, but are due to be debated again by a parliamentary commission, are brought into conformity with the State party's obligations under the Covenant.

20. While welcoming the State party's efforts to ban and prosecute groups propagating racist and xenophobic views, the Committee expresses its concern that the definition of "extremist activity" in the federal law of July 2002 "On Combating Extremist Activities" is too vague to protect

individuals and associations against arbitrariness in its application.

The State party is encouraged to revise the above law with a view to making the definition of "extremist activity" more precise, to exclude any possibility of arbitrary application and give notice to persons concerned regarding actions for which they will be held criminally liable (articles 15 and 19-22).

21. The Committee is concerned that journalists, researchers and environmental activists have been tried and convicted on treason charges, essentially for having disseminated information of legitimate public interest, and that in some cases where the charges were not proven, the courts have referred the matter back to prosecutors instead of dismissing the charges.

The State party should ensure that no one is subjected to criminal charges or conviction for carrying out legitimate journalistic or investigative scientific work, within the terms covered by article 19 of the Covenant.

22. The Committee expresses its concern at the high incidence of harassment, violent attacks and murders of journalists in the State party.

The State party should ensure that all cases of threats against and violent assault and murder of journalists are promptly and thoroughly investigated and that those found responsible are brought to justice (articles 19 and 6).

23. While acknowledging the difficult circumstances under which presidential elections were held in the Chechen Republic on 5 October 2003, the Committee expresses concern at reports that these elections did not meet all the requirements of article 25 of the Covenant.

The State party should ensure full compliance with article 25 in its efforts to restore the rule of law and political legitimacy in the Republic of Chechnya.

24. The Committee is concerned at the increase of racially motivated violent attacks against ethnic and religious minorities, as well as about reports of racial profiling by law enforcement personnel. It notes with concern reports of xenophobic statements made by public officials.

The State party should take effective measures to combat racially motivated crimes. It should ensure that law enforcement personnel receive clear instructions and proper training with a view to protecting minorities against harassment. The State party is also encouraged to introduce specific legislation to criminalize racist acts as well as racially motivated statements made by those in public office (articles 2, 20 and 26).

25. The Committee is concerned about the long delay in the processing of asylum claims, in particular in Moscow and the Moscow region, where asylum seekers may have to wait for more than two years before being able formally to initiate the application procedure. It is also concerned that the Migration Service in Moscow reportedly has not allowed unaccompanied children to lodge asylum claims unless they have a legal guardian.

The State party should ensure timely access of asylum-seekers to the refugee status determination procedure, in particular in Moscow and its region, as well as proper documentation of asylum-seekers throughout the procedure, including the appeal stage. The State party should ensure that the relevant authorities appoint a legal guardian for unaccompanied children seeking asylum (articles 13 and 24).

26. The State party should disseminate widely the text of its fifth periodic report and the present concluding observations. In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year relevant information on the implementation of the Committee's recommendations in paragraphs 11 and 13 above. The sixth periodic report should be submitted by 1 November 2007.