

**REPORT  
OF THE  
HUMAN RIGHTS COMMITTEE**

**GENERAL ASSEMBLY**

**OFFICIAL RECORDS: THIRTY - THIRD SESSION**

**SUPPLEMENT No. 40 (A/33/40)**



**UNITED NATIONS**



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## I. INTRODUCTION

### A. States parties to the Covenant

1. On 3 November 1978, the closing date of the fifth session of the Human Rights Committee, there were 50 States parties to the International Covenant on Civil and Political Rights and 19 States parties to the Optional Protocol to the Covenant, which were adopted by the General Assembly of the United Nations in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. In addition, two other States ratified the Covenant in September 1978 and one of them has also ratified the Optional Protocol. Both instruments entered into force on 23 March 1976 in accordance with the provisions of their articles 49 and 9 respectively.

2. By the closing date of the fifth session of the Committee, 8 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant. A list of States parties to the Covenant and to the Optional Protocol, with an indication of those which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

### B. Sessions

3. The Human Rights Committee held three sessions in 1978: the third session was held at the United Nations Office at Geneva from 16 January to 3 February 1978; the fourth session was held at United Nations Headquarters, New York, from 10 July to 2 August 1978; and the fifth session was held at the United Nations Office at Geneva from 23 October to 3 November 1978.

### C. Membership and attendance

4. The membership of the Committee remained the same as during 1977. A list of the members of the Committee is given in annex II below.

5. All the members, except Mr. Mora Rojas and Mr. Uribe Vargas, attended the third session of the Committee; Mr. Seminega attended only part of that session. All the members except Mr. Ben-Fadhel and Mr. Kelani attended the fourth session of the Committee; Mr. Ganji, Mr. Prado Vallejo and Mr. Seminega attended only part of that session. The fifth session was attended by all the members of the Committee except Mr. Ganji, Mr. Kelani, Mr. Tarnopolsky and Mr. Uribe Vargas.

### D. Officers of the Committee

6. The following officers, elected by the Committee at its first session for a term of two years in accordance with article 39 of the Covenant, continued to serve at the third, fourth and fifth sessions of the Committee:

Chairman: Mr. Andreas V. Mavrommatis

Vice-Chairmen: Mr. Luben G. Koulishev  
Mr. Rajsoomer Lallah  
Mr. Torkel Opsahl

Rapporteur: Mr. Diego Uribe Vargas

7. In view of the fact that the Rapporteur of the Committee, Mr. Uribe Vargas, was unable to attend the third and fifth sessions, Messrs. Prado Vallejo and Mora Rojas were elected acting Rapporteurs for the duration of the third and fifth sessions respectively.

E. Establishment of working groups

8. In accordance with rule 89 of its provisional rules of procedure, 1/ the Committee established working groups to meet before its third and fourth sessions in order to make recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications laid down in articles 1, 2, 3 and 5 (2) of the Optional Protocol.

9. The Working Group of the third session was established by the Committee at its 44th meeting on 29 August 1977. It met at Geneva from 9 to 13 January 1978. The members of the Working Group as appointed by the Committee were Mr. Ben-Fadhel, Mr. Graefrath, Mr. Mavrommatis, Mr. Prado Vallejo and Sir Vincent Evans. Sir Vincent Evans was elected Chairman/Rapporteur of the Working Group.

10. The Working Group of the fourth session was established by the Committee at its 73rd meeting on 2 February 1978. It met at United Nations Headquarters from 3 to 7 July 1978. The members of this Working Group as appointed by the Committee were Mr. Koulishev, Mr. Mavrommatis, Mr. Mora Rojas, Mr. Seminega and Mr. Tarnopolsky. Mr. Tarnopolsky was elected Chairman/Rapporteur of the Working Group.

11. Owing to the lack of budgetary provision, it was not possible to establish a working group to meet before the fifth session; but pursuant to a decision taken by the Committee at its 94th meeting, Sir Vincent Evans travelled to Geneva a few days in advance of the session to examine communications under the Optional Protocol which were ready for action by the Committee and to make recommendations to the Committee on them.

12. At its 111th meeting, on 25 October 1978, the Committee decided that a working group, to be composed of Messrs. Hanga, Lallah, Prado Vallejo, Tomuschat and a fifth member to be appointed later by the Chairman, taking into account the geographical distribution of the membership, should meet for a period of one week prior to its sixth session in April 1979.

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1/ For the provisional rules of procedure, see Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44 and Corr.1), annex II.

## F. Agenda

### Third session

13. At its 47th meeting, held on 16 January 1978, the Committee adopted the provisional agenda, submitted by the Secretary-General in accordance with rule 6 of the provisional rules of procedure, as the agenda of its third session, as follows:

1. Adoption of the agenda.
2. Organizational and other matters.
3. Status of submission of reports by States parties under article 40 of the Covenant.
4. Consideration of reports submitted by States parties under article 40 of the Covenant: initial reports of States parties due in 1977.
5. Consideration of communications received in accordance with the Optional Protocol to the Covenant.
6. Question of co-operation between the Committee and the specialized agencies concerned.
7. Future meetings of the Committee.

### Fourth session

14. At its 75th meeting, held on 10 July 1978, the Committee adopted the following items listed on the provisional agenda, 2/ submitted by the Secretary-General, as the agenda of its fourth session:

1. Adoption of the agenda.
2. Organizational and other matters.
3. Status of submission of reports by States parties under article 40 of the Covenant.
4. Consideration of reports submitted by States parties under article 40 of the Covenant: initial reports of States parties due in 1977.

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2/ In accordance with the decision of the Committee at its third session and in view of the approval, by the Committee on Conferences, of the request of the Committee to hold an additional (fifth) session at the United Nations Office at Geneva in 1978 from 23 October to 3 November, consideration of item 8 of the provisional agenda (Annual report of the Committee on its activities to the General Assembly, through the Economic and Social Council, under article 45 of the Covenant and article 6 of the Optional Protocol) was deferred to the fifth session of the Committee.

5. Consideration of communications received in accordance with the Optional Protocol to the Covenant.
6. Question of co-operation between the Committee and the specialized agencies concerned.
7. Future meetings of the Committee.

Fifth session

15. At its 106th meeting, held on 23 October 1978, the Committee adopted the provisional agenda, submitted by the Secretary-General, as the agenda of its fifth session, as follows:

1. Adoption of the agenda.
2. Organizational and other matters.
3. Status of submission of reports by States parties under article 40 of the Covenant.
4. Consideration of reports submitted by States parties under article 40 of the Covenant: initial reports of States parties due in 1977.
5. Consideration of communications received in accordance with the provisions of the Optional Protocol to the Covenant.
6. Future meetings of the Committee.
7. Annual report of the Committee to the General Assembly through the Economic and Social Council, under article 45 of the Covenant and article 6 of the Optional Protocol.

## II. ORGANIZATIONAL AND OTHER MATTERS

### A. Methods relating to the consideration by the Committee of reports submitted by States parties under article 40 of the Covenant

16. At its third session, the Committee agreed, on the recommendation of its Bureau, to have an exchange of views on two questions: first, whether the Governments of the States parties whose reports under article 40 of the Covenant had been initially considered by the Committee in the presence of their representatives should be sent reminders requesting them to submit the additional information which they had promised in response to questions raised in the Committee in connexion with their reports; 3/ and secondly, whether the Committee should express its views on the reports it had considered to the Governments of the States parties concerned, and if it decided to do so, in what manner that should be done.

17. In the course of a preliminary examination of these questions at the third session, members of the Committee expressed different opinions on various aspects to be considered. Detailed information concerning this exchange of views can be found in the summary records of the relevant meetings (documents CCPR/C/SR.48, 49, 50, 55 and 73). The Committee decided to continue its examination of this important subject at a future session.

### B. Question of the annual report

18. Article 45 of the Covenant provides that the Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

19. In accordance with the above-mentioned article, the Committee had decided at its first session that its annual report to the General Assembly would cover the activities of the Committee during each calendar year. The annual report of the Committee for 1977 4/ was therefore prepared and adopted at the end of its second session.

20. At its third session, the Committee found it would be necessary, in order to keep abreast of its work, to hold an additional session in 1978 and decided to adopt its annual report for the current year at the end of that session. The Committee was informed, at its fourth session, that the Committee on Conferences

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3/ For the decisions taken by the Committee in this respect at its third and fifth sessions, under agenda item 3 (Status of submission of reports by States parties under article 40 of the Covenant), see paras. 35 and 47 below.

4/ Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44 and Corr.1).

had approved its request to hold an additional (fifth) session at Geneva from 23 October to 3 November 1978.

21. At its 101st meeting, on 28 July 1978, the Committee approved the text of a letter which was addressed, on behalf of the Committee, by its Chairman to the President of the Economic and Social Council, informing him of the above-mentioned developments, stating that since the annual report of the Committee for 1978 would be adopted at the end of the additional (fifth) session, it might not be ready in time for submission, through the Council, to the General Assembly at its thirty-third session, and requesting that the foregoing be brought to the attention of the General Assembly.

22. In a reply dated 1 September 1978, the President of the Economic and Social Council informed the Chairman of the Committee that the Council, in decision 1978/61 of 3 August 1978, had decided to authorize the Secretary-General to transmit directly to the General Assembly at its thirty-third session certain reports, among them the annual report of the Human Rights Committee, "unless the Council should be invited, at the request of either a member or the Secretary-General to consider any of them at its resumed second regular session, 1978". (For the correspondence between the Chairman of the Committee and the President of the Economic and Social Council, see annex IV below.)

23. At its fifth session, the Committee reconsidered its previous decision that its annual report should cover the activities of the Committee during a given calendar year and decided that, beginning with 1979, it would adopt its annual report at the end of its second annual (summer) session, for appropriate transmission to the General Assembly through the Economic and Social Council.

24. The present report, however, covers the activities of the Committee at its third, fourth and fifth sessions held in 1978.

#### C. Participation at the World Conference to Combat Racism and Racial Discrimination

25. At its fourth session, the Committee was informed by its Chairman of a note verbale which he had received from the Secretary-General of the United Nations inviting the Committee, in accordance with General Assembly resolution 32/129 of 16 December 1977, to participate as an observer in the World Conference to Combat Racism and Racial Discrimination which was to be held at Geneva from 14 to 25 August 1978, and requesting the Committee to communicate to the Secretary-General of the Conference the names of representatives whom the Committee might wish to appoint to represent it at the Conference.

26. On the recommendation of its Bureau, the Committee decided that its Chairman should represent the Committee at that Conference. The representative of the Secretary-General informed the Committee of the financial implications of that decision.

27. At its fifth session, the Committee was informed by its Chairman that he attended the above-mentioned Conference where he made a statement on its behalf. The text of the statement was made available to the members of the Committee.

D. Question of publicity for the work of the Committee

28. At the third and fourth sessions, members of the Committee exchanged views as to the best manner in which its work could be publicized throughout the world. Discussions centred around the possibility of preparing a yearbook of the Human Rights Committee and issuing a pamphlet for wide circulation concerning the Covenant and the Committee.

29. The representative of the Secretary-General informed the Committee that authorization for a publication of the nature of a yearbook, which had administrative and financial implications, would have to be brought through the appropriate channels, whereas the production of a pamphlet would be a simpler operation because it could be anticipated that the United Nations Office of Public Information would consider preparing and issuing it if the Committee took a decision to that effect. The attention of the Committee was drawn to existing United Nations publications, such as the Yearbook on Human Rights and the Human Rights Bulletin where the activities of the Human Rights Committee could be appropriately reflected.

30. Members of the Committee exchanged views on the matter and agreed to discuss it more fully at a future session in the light of any information that might be made available to it by the Secretariat, taking into account any financial implications.

E. Assistance required from the Secretariat

31. The Committee wishes to record its appreciation for the assistance it has received from the Secretariat and to express the hope that the Secretary-General, in accordance with the provisions of the Covenant, will continue to provide the necessary staff and facilities for the effective performance of the Committee, taking into account its increasing workload.

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES  
PARTIES UNDER ARTICLE 40 OF THE COVENANT

A. Status of submission of reports

32. In accordance with article 40 of the Covenant, States parties undertake to submit reports on the measures they have adopted which give effect to the rights recognized therein and on the progress made in the enjoyment of those rights, within one year of the entry into force of the Covenant for the States parties concerned and thereafter whenever the Committee so requests. In order to assist States parties in submitting the reports required under article 40 of the Covenant, the Committee, at its second session, approved general guidelines regarding the form and contents of reports, the text of which appeared in annex IV to its first annual report submitted to the General Assembly at its thirty-second session. 5/

33. At its third session, the Committee was informed that 18 States parties had so far submitted their initial reports to the Committee, that 20 other States parties which should have submitted their initial reports in 1977 had not yet done so, and that 6 States parties were due to submit their initial reports in 1978.

34. At the suggestion of the Chairman, the Committee decided, in accordance with rule 69 of the provisional rules of procedure, that reminders be sent to the States parties whose initial reports were overdue, requesting them to submit their reports in compliance with the relevant provision of the Covenant.

35. The Committee also decided that the States parties whose reports had been initially considered at the second session, and which had undertaken to provide additional information, be requested to submit such information before its fourth session.

36. Reports submitted by 8 States parties were considered by the Committee at its third session in the following order: Libyan Arab Jamahiriya, Sweden, Mauritius, Denmark, Czechoslovakia, German Democratic Republic, United Kingdom of Great Britain and Northern Ireland and Iran.

37. A new report submitted by Mauritius, but not available at that time to the members of the Committee, was introduced by its representative. The Committee decided that the consideration of the new report would be resumed at its fourth session.

38. The representative of Iran, introducing his country's initial report, furnished the Committee with additional information which he said would be incorporated in a supplementary report. The Committee decided to postpone the consideration of the Iranian report until its fourth session.

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5/ Ibid.



39. The Committee also decided to postpone, for lack of time, the consideration of the reports submitted by Norway, Madagascar and Chile until its fourth session.

40. At its fourth session, the Committee was informed that of the 38 initial reports due in 1977, reports from 23 States parties had been received. Four States parties had submitted supplementary reports following the consideration by the Committee of their initial reports at earlier meetings. Of the 6 initial reports due for submission in 1978, 5 should have been submitted before the Committee's fourth session.

41. The attention of the Committee was drawn to Economic and Social Council resolution 1978/20 in which the Council had decided to exempt States parties to the Covenant from submitting reports on similar questions under the periodic reporting procedure established under Council resolution 1074 C (XXXIX).

42. The Committee adopted a draft communication to be sent to States parties whose reports, due in 1977 under article 40 of the Covenant, were still outstanding. This communication referred to previous reminders, to rule 69 of the Committee's provisional rules of procedure with particular reference to paragraph 2 thereof, and to Economic and Social Council resolution 1978/20 in the hope that this resolution would encourage States parties to the Covenant to promptly discharge their reporting obligations under article 40 thereof.

43. Reports submitted by 6 States parties were considered by the Committee at its fourth session in the following order: Norway, Madagascar, Iran, Federal Republic of Germany, Yugoslavia and Jordan.

44. It was agreed that consideration of the reports submitted by Mauritius, Chile and the Union of Soviet Socialist Republics should be postponed.

45. At its fifth session, the Committee was informed that 27 States had submitted their initial reports under article 40 of the Covenant and that 5 of them had also submitted supplementary reports containing additional information or replies to questions raised in the Committee in connexion with their initial reports; that 12 States whose reports were due in 1977 had not yet submitted their initial reports; and that initial reports from 5 other States parties due in 1978 had not yet been received.

46. The States parties whose initial reports were due in 1977 but which had not yet submitted them were the following: Canada, Colombia, Costa Rica, Iraq, Jamaica, Kenya, Lebanon, Mali, Mongolia, Rwanda, United Republic of Tanzania and Uruguay. According to previous decisions of the Committee, reminders had been sent to these States, with the exception of Canada which informed the Committee during its third and fourth sessions that its report was forthcoming (for the status of submission of reports, see annex III below).

47. The Committee decided that the States whose reports had been initially considered at the second and third sessions and which had undertaken to provide additional information should be requested to submit such information before the end of March 1979.

48. Initial reports submitted by 3 States parties were considered by the Committee at its fifth session in the following order: Union of Soviet

Socialist Republics, Mauritius and Byelorussian Soviet Socialist Republic. At this session, the Committee also continued its consideration of the initial report of Ecuador together with supplementary information received from the Government of Ecuador.

B. Summaries of consideration of reports

49. The following paragraphs are arranged on a country-by-country basis according to the sequence followed by the Committee at its third, fourth and fifth sessions in its consideration of the reports of States parties. Fuller information is contained in the initial and supplementary reports submitted by the States parties concerned and in the summary records of the meetings at which the reports were considered by the Committee.

Libyan Arab Jamahiriya

50. The Committee considered the initial report submitted by the Libyan Arab Jamahiriya at its 51st meeting on 18 January 1978 (CCPR/C/SR.51).

51. The representative of the State party read out a new report, subsequently issued as document CCPR/C/1/Add.20. It differed from the one submitted earlier by his country (CCPR/C/1/Add.3 and Corr.1) in that the latter contained texts which had been nullified following the repeal, in March 1977, of the Constitutional Declaration, the provisions of which had been replaced by the Koran, in which all texts concerning human rights were to be found. In answer to a question, he said that, apart from that difference, the substance of both reports remained the same and that the penal code had not been affected by the constitutional changes.

52. The representative was asked whether ratification of international agreements by the Libyan Arab Jamahiriya, such as the International Covenants on Human Rights, entailed the incorporation of their provisions in national law and if it did not, what legislative procedure had been followed in order to incorporate the provisions of the International Covenant on Civil and Political Rights into national substantive law.

53. Clarification was requested on the details of the legal effects of the constitutional changes and on the recourse available to individuals for contesting any decision or act by the courts or legislative or administrative authorities, which might infringe rights recognized by the Koran.

54. Information was sought on the implementation of article 3 of the Covenant, which related to the equal right of men and women to the enjoyment of the civil and political rights set forth therein. Some members asked what difference there was in that respect between the old and the new constitutions, to what extent equality existed with regard to participation in political, social and cultural life as well as to marriage, and whether the country's cultural traditions impeded equality of men and women.

55. Some members requested more details concerning the categories of serious crimes punishable by death, the role of the Mufti, as well as some statistics on the application of the death penalty during the last few years. The representative was asked whether that penalty was applicable to acts other than voluntary homicide, such as incitement to change the Government or régime.

56. In connexion with article 7 of the Covenant which prohibits torture, the question was asked, could Libyan courts order corporal punishment and, if they could under what conditions and for what crimes?

57. Some members noted that the provisions in force in Libya concerning pre-trial detention were inadequate to ensure compliance with the principles set forth in article 9, paragraph 3, and article 14, paragraph 3 (c), of the Covenant. More information was requested on the circumstances in which pre-trial detention could be prolonged and of the relative powers of magistrates and courts of first instance in that respect. It was noted that citizens needed to know not only what authority was competent to order their arrest or detention, but also in what circumstances they became guilty of offences under the law; from that viewpoint, article 396 of the Penal Code was considered too vague.

58. One member observed that the principle of legality was dependent on the existence, in accordance with article 14 of the Covenant, of independent and impartial courts, and wished to know how judges were appointed, whether they were appointed for life or could be dismissed, and, if they could, by what authority. Another member of the Committee noted, however, that the best means of guaranteeing the independence of the courts and judges consisted not so much in appointing judges for life as in giving every citizen the possibility of becoming a judge.

59. The representative was asked whether special procedures were to apply when a state of emergency had been proclaimed and whether emergency courts dealt with political crimes.

60. Information was sought, in accordance with article 14, paragraphs 3 (d) and 3 (e), on the right of the accused to be present at his trial, to defend himself in person and to interrogate witnesses for the prosecution.

61. Some members observed that, in relation to the freedom of religion as embodied in article 18 of the Covenant, the report seemed to deal exclusively with the Moslem religion. Questions were asked concerning the extent of rights enjoyed by adherents of other religions or by non-believers and whether the repeal of the Constitutional Declaration and its replacement by the Koran entailed any changes in their status.

62. Clarification was sought on information given concerning freedom of opinion and expression, provided for in article 19 of the Covenant. Restrictions arising from "the interests of the people" and "the principles of the Revolution" were thought to be broader than those arising from "public order" (ordre public) as envisaged in the Covenant. The representative was asked whether those principles had been established in official documents, whether they had any legal status, whether they were binding on a judge and whether the judicial authority or the executive authority had to decide what was meant by them.

63. Some members asked what acts were considered political crimes in the Libyan Arab Jamahiriya since it was noted that article 19 of the prison code, quoted on page 19 of the report, referred to persons convicted of political crimes. What régime governed the treatment of political prisoners? Were any persons, other than those convicted of such crimes, being held without trial in the Libyan Arab Jamahiriya for political reasons and, if they were did they have any means of recourse?

64. More information was requested on the enjoyment in the Libyan Arab Jamahiriya of the right of everyone to freedom of association referred to in article 22 of the Covenant, and in particular the right to form and join trade unions, and on the legal régime governing occupational relations.

65. Some members asked about the position of ethnic, religious or linguistic minorities as well as that of aliens and, in particular, the right of the latter to leave the country.

66. One member sought information concerning the implementation of the right to vote and to be elected at periodic elections by universal and equal suffrage and by secret ballot, set out in article 25 of the Covenant.

67. The representative of the Libyan Arab Jamahiriya stated that the replies to some questions might be found in his introductory statement. However, in view of the number of questions asked and the importance of most of them, he would prefer to reply to them in writing.

#### Sweden

68. The Committee considered the initial report (CCPR/C/1/Add.9 and Corr.1) submitted by Sweden at its 52nd and 53rd meetings on 18 and 19 January 1978 (CCPR/C/SR.52 and 53).

69. The representative of the State party stated that he did not think that it was necessary for him to introduce his country's report, which was self-explanatory.

70. With regard to the statement made in the report to the effect that it had not been found necessary to lay down provisions equivalent to those of the Covenant in an independent Swedish statute because existing domestic law was in full accord with the obligations to be assumed by Sweden under the Covenant, some members asked whether it was possible for an individual to directly invoke the provisions of the Covenant before a court or administrative tribunal, or to call for the annulment of a law which ran counter to the Covenant. One member observed that the report, like others describing mainly constitutional and legal provisions, was incomplete as regards the actual situation affecting, in the terms of article 40 of the Covenant, the progress made in the enjoyment of rights.

71. Information was sought on the manner in which the proclaimed equality between men and women was implemented, with particular reference to the rights of men and women regarding the devolution of property, succession and legal representation.

72. With regard to article 4 of the Covenant, it was noted that the report contained no information on what legal measures could be taken during a period of emergency. The representative of Sweden was asked how a public emergency could be declared, what the extent of the control exercised by Parliament was or whether such control was exclusively an executive prerogative. Some members requested clarification on the reference in the report to the limitation on certain rights and freedoms permitted in the Constitution in order to satisfy "a purpose which is acceptable in a democratic society" and on the authorities which were entitled to impose such limitations.

73. Concern was expressed at the forms of deprivation of liberty that might result from the application in Sweden of the law on "anti-social behaviour". More information was requested on the meaning of that expression, on the situations covered by the law and on the safeguards introduced to prevent its abuse.

74. With reference to the comments made in the report on article 9 of the Covenant, the representative was asked whether Swedish law provided for forms of conditional release pending trial in the absence of the system of bail, what reason other than a criminal charge could justify taking a person into police custody and for how long a person awaiting trial on a criminal charge could be so detained.

75. As regards article 12 of the Covenant, clarification was requested on the authority involved in denying a passport to an applicant suspected of "pursuing relations" with a foreign power, on the meaning of the expression "pursuing relations" and on whether individuals had the right to challenge decisions denying them passports.

76. With reference to article 13 of the Covenant, it was observed that the pronouncement of a sentence against an alien residing in Sweden always being accompanied by an order of expulsion was a harsh measure, especially when made against an alien who had been residing in that country for many years and might even be married to a Swedish citizen. Various questions were asked: were there any cases in which the act of expulsion by the Executive was not justiciable? What distinction was made between expulsion and deportation? Why were some decisions taken by courts of general jurisdiction and others by regional administrative courts?

77. As regards the principle embodied in article 14, paragraph 1, of the Covenant, clarification was sought on the exceptions permitted in Swedish law from the principle of the openness of court proceedings, the cases in which a court decision was not made public, whether the circumstances which justified the holding of trials in camera were equally applicable to aliens and citizens, and, if they were, what grounds there were for providing that extradition proceedings in camera were admissible where they were conducted against aliens. With reference to article 14, paragraph 3, the representative was asked who could reject a counsel appointed by the accused and for what reasons such a decision could be made.

78. As regards article 17 of the Covenant, in the light of the principle of equality of all persons before the law as guaranteed in article 14, paragraph 1, the representative was asked why a court consent could be obtained for telephone-tapping where aliens only were involved. More information was requested on the circumstances in which searches were permitted and on any provisions in Swedish law for electronic surveillance by the police and other authorities.

79. Regarding article 18 of the Covenant, clarification was requested on the meaning of the statement in the report that everyone was free to practise his religion in so far as he did not provoke "public indignation" by so doing. It was observed that equal facilities were not afforded to all religious communities and the question was asked. What benefits were enjoyed by the Church of Sweden but not by others? It was also observed that the Swedish legislation

concerned made no mention of the freedom not to profess any religion or to be an atheist, and the representative was asked whether religious instruction was compulsory in schools. Information was requested on any new steps that might have been taken by the Swedish Government to bring its legislation into line with the provisions of article 18 of the Covenant.

80. Referring to article 19 of the Covenant some members requested clarification on the statement made in the report that freedom of expression and of information might be restricted in the interests of the "security of the Realm" and of "the economic well-being of the people". The representative was also asked whether and how such restrictions had been applied and how they were justified as being consistent with the Covenant. Similar requests for clarification were made on another statement in the report to the effect that films might not be allowed to be shown in Sweden if they were considered to be "conducive to coarseness" or "dangerously inflammatory", and the representative was asked whether such censorship could be challenged. In that connexion, it was noted that radio and television were State monopolies. Information was sought on how far such media were controlled by the Government and what authority had been set up to ensure that radio and television broadcasting was not merely another instrument of the Executive.

81. Quoting a statement in the report that registration of persons who were considered to be security risks could be made in the interests of the protection of the democratic society, some members requested clarification on the meaning of that statement and asked which authorities decided who were security risks, whether individuals had any means of challenging such a designation and whether organizations could be so registered. The representative was also asked whether journalists and private individuals could consult the public records and thus discover that certain persons were regarded as security risks.

82. Referring to the provisions of articles 23 and 26 of the Covenant, one member asked whether Swedish men and women who married foreigners enjoyed the same treatment with regard to the right of residence and what conditions the foreign husband or wife would have to fulfil in order to acquire Swedish nationality.

83. As regards articles 26 and 27 of the Covenant, more information was requested on the steps that the Swedish Government and Parliament intended to take in order to bring existing legislation into line with the detailed provisions of article 2, paragraph 1, and article 26 of the Covenant concerning the prohibition of discrimination, as well as on the situation of the ethnic, linguistic and religious minorities in Sweden.

84. The representative of Sweden commented on the observations and questions summarized in the preceding paragraphs. He stated that the courts and the administrative authorities had the right to examine the constitutionality of laws and regulations. As regards article 3 of the Covenant, he stated that there were no legislative provisions relating to the principle of equality of the sexes and that a Government Commission was drafting a bill on the question. With reference to article 4 of the Covenant, he stated that no provision was made for the suspension of the Constitution in a public emergency and that in such a situation no law contrary to chapter 2 of the Swedish Constitution, which guarantees certain freedoms and rights, could be enacted.

85. Commenting on the concern expressed by several members of the Committee regarding the act on anti-social behaviour, he pointed out that the implementation of that act was subject to a court decision which could be taken only if it was apparent that the person concerned could not be helped in any other way to adopt a normal way of life. He also maintained that there was a safeguard against abuse of the possibility of committing an individual to an occupational institution, since an appeal against a decision to that effect could be lodged with a higher court.

86. As regards the comments made in respect of article 9 of the Covenant, he stated that existing alternatives to the system of bail included prohibiting a suspect from leaving his place of residence or seizing his property for the approximate value of any damages a court might subsequently require him to pay. Replying to another question, he said that the period of detention in custody depended on the duration of the investigation but that, in any event, the court must ensure, at least every two weeks, that the investigation was being carried out as expeditiously as possible. If the court found that there were no longer any legal grounds for keeping the suspect in custody, his release must be ordered.

87. Referring to questions asked in connexion with article 12 of the Covenant, he stated that it was for the Swedish authority responsible for issuing passports to decide whether any of the grounds for refusal to issue a passport were applicable in a particular case. Such a decision, he added, could be appealed against.

88. As regards article 13 of the Covenant, the representative of Sweden stated that an expulsion order was issued in connexion with the imposition of a sentence of imprisonment of more than one year while deportation of an alien could be ordered for various reasons mentioned in the Aliens Act, such as failure to lead an honest life, misuse of drugs or failure to meet obligations to the community or private individuals. Commenting on the possibility that, in an exceptional case, the Government could expel or deport aliens directly, he explained that that provision had been introduced following an alarming increase in the number of international crimes involving violence. The Swedish Government had only rarely had recourse to that possibility and, in any event, the alien in question was entitled to counsel at public expense. He said that the Government, as the supreme authority for the execution of an expulsion order, gave due consideration to the human factors involved in the matter.

89. With reference to questions asked concerning court proceedings under article 14 of the Covenant, he indicated that when national security was involved, proceedings could be held in camera, but the verdict was generally made public. He also said that the court could reject a counsel on the grounds of misconduct, but that an appeal could be lodged against such a decision.

90. Replying to comments made under article 17 of the Covenant, he pointed out that the basic requirement for a search of premises was that there should be reasonable grounds for believing that an offence punishable by imprisonment had been committed. He added that more stringent rules applied to searches of premises other than the offender's place of residence. In that connexion, he pointed out that telephone-tapping required a court decision.

91. In respect of article 18 of the Covenant, he pointed out that religious instruction was given in an objective and neutral manner, which should not be

contrary to personal beliefs and that pupils exempted from religious instruction at school, in accordance with the provisions of the law, must, in every case, be given equivalent religious instruction outside school hours.

92. As regards the questions and comments made under article 19 of the Covenant, the representative of Sweden stressed that the possibility of registration of persons on account of their political opinions might exist in exceptional cases but that the records were not available to the public. Furthermore, he added, there was an elaborate system of supervision and no one's political opinions would be recorded solely on the grounds that that person had committed a crime. Referring to queries on the meaning of the expressions "security of the Realm" and "the economic well-being of the people", mentioned in the report as possible justification for restricting the freedom of expression and of information, the representative of Sweden stated that the former expression corresponded to the concept of "national security" as used in articles 19, 21 and 22 of the Covenant whereas the latter expression related only to situations of serious economic crisis, and he stressed that no law had been passed under which the economic well-being of the people could be invoked to justify such restrictions. He also stated that no advance censorship was exercised over broadcasts despite State monopoly of radio and television. As to the question put to him on the meaning of the expression "democratic society" mentioned in the report in connexion with article 19 of the Covenant, he pointed out that it must be interpreted in the light of the Swedish Constitution. As regards film censorship, he indicated that the expressions "conducive to coarseness" and "dangerously inflammatory" mentioned in the report were to be interpreted in the light of the moral values prevailing at the time when the decisions were taken. Moreover, an appeal against those decisions could be lodged with the Government.

93. Replying to a question concerning the rights to residence and nationality enjoyed in Sweden by foreigners married to Swedish women, he stated that normally a marriage duly entered into with a Swedish citizen would be taken into consideration for the purposes of issuing a work permit or granting Swedish citizenship. Referring to another question under article 26 of the Covenant, he said that the Penal Code provided for the punishment of unlawful discrimination.

94. The representative of the State party finally stated that his Government would supplement the answers he had given as it deemed appropriate.

#### Denmark

95. The Committee considered the initial report submitted by Denmark at its 54th meeting on 19 January 1978 (CCPR/C/SR.54).

96. The report was introduced by the representative of the State party who said that the initial report (CCPR/C/1/Add.4) concerned the general framework in which the rights covered by the Covenant were implemented and protected in Denmark. The additional report (CCPR/C/1/Add.19) was prepared following the receipt of the guidelines but related only, due to the shortage of time, to the implementation in Denmark of articles 1 to 7 and 17 to 22 of the Covenant. His Government hoped to cover the remaining articles in its next report.

97. The representative stated that, before ratifying the Covenants, his Government had introduced the necessary legislation in order to comply with



the provisions of the Covenant, but reservations had been entered in cases where discrepancies had been identified between the Covenant and the existing legal situation in Denmark. Should the Committee question any aspect of Denmark's interpretation of various concepts of the Covenant, his Government would have to ascertain whether changes were required in its domestic practice.

98. It was noted with satisfaction that, in the second part of the report (CCPR/C/1/Add.19), reference was made to the achievement of the right to self-determination by the people of Greenland and to the establishment of a Commission whose task included the submission of recommendations for a system of local autonomy in Greenland. The representative of Denmark was requested to provide up-to-date information on the work of that Commission.

99. Concerning the Covenant's impact on domestic Danish law, it was noted that the rule of interpretation which allowed the administrative authorities to adopt the interpretation that would best comply with existing treaty obligations did not amount to making it imperative for them to do so.

100. Information was sought on the application of the rule of presumption, namely, that the Danish courts should, where a new legal provision was clearly at variance with a provision of the Covenant, presume that it had not been the intention of the Parliament to pass legislation contrary to Denmark's international obligations. The representative of Denmark was asked whether legislative acts could be declared unconstitutional by the courts. This question was considered particularly important since, in Denmark, international law was not automatically binding unless it was incorporated in domestic law.

101. He was also asked whether the discrepancies between Danish legislation and the provisions of the Covenant which had been identified prior to ratification were the only ones that existed in that respect or whether there were others.

102. Some members expressed their interest in the Council on Equality established in Denmark with a view to promoting equal status for men and women in all sectors of life. Further information was requested on the practical results of the activities of the Council and on the measures taken to ensure equality between men and women in the enjoyment of human rights. The representative of Denmark was asked if he could confirm that the only function of the Council was to promote equal status for men and women in areas that went beyond equality in the enjoyment of civil and political rights, it being presumed that those rights were already ensured in Danish law.

103. With regard to the right to life recognized under article 6 of the Covenant, it was noted that no death sentences had been carried out in Denmark since 1946. It was observed that Denmark had obviously done a great deal to combat infant mortality, maternal mortality or drug abuse, but it would be useful to stress that aspect of the right to life by providing additional information on the subject.

104. Interest was expressed in the fact that a Danish medical group was carrying out research work to help Amnesty International in its efforts to put an end to torture. The representative of Denmark was asked whether corporal punishment was still permitted in Denmark and whether Danish law provided for the solitary confinement of prisoners and, if it did, for how long. Clarification was also requested on the situation with regard to communications between prisoners and counsel.

105. It was noted that no reference was made in the report to protection against unlawful attacks on an individual's honour or reputation by a State authority. Mention was also made of the Danish law which provided that searches could not take place "except under a judicial order, unless particular exception was warranted by statute". Further information on such exceptions was requested.

106. Clarification was sought in connexion with article 18 of the Covenant which dealt with freedom of thought, conscience and religion. According to one member, the Danish law cited in the report did not seem to be consistent with freedom of religion. The representative was asked whether children who had no particular religion could, in fact, receive some other form of instruction to replace religious instruction. It was observed that Danish law did not deal with matters relating to freedom of thought and conscience and further information was requested on any legal provisions which Denmark intended to adopt in that connexion in future.

107. As regards freedom of expression, it was noted that, although the Danish Constitution prohibited the introduction of censorship, it provided for a possible subsequent responsibility for the publication of certain statements by virtue of their substance. The representative was asked whether it would be consistent with the provisions of article 19 of the Covenant for the Danish Government, in accordance with the provisions of the Danish criminal code, to punish the distribution of pacifist material to soldiers. Further information was requested on the measures taken to ensure that all segments of the population were entitled to express their opinions on radio and television, which were Government institutions.

108. It was noted that Danish legislation provided for punishment against incitement to discrimination. The representative was asked whether the scope of that legislation really covered article 20, paragraph 2, which entailed the prohibition of racist organizations. Some members referred to the Danish reservation to article 20 of the Covenant concerning war propaganda and wondered whether the Danish Government would continue to hold the view that that article limited the right to freedom of opinion or whether it intended to withdraw its reservation and bring its legislation into line with that provision of the Covenant.

109. With regard to the freedoms of assembly and of association, the representative was asked whether Danish law provided for restrictions on those freedoms other than those referred to in the report, whether the words "public peace" as used in Danish law had the same meaning as "public order" (ordre public) in article 21 of the Covenant, and whether military personnel were permitted under Danish law to participate in the political life of the country as members of recognized political parties.

110. The representative of Denmark commented on some of the observations and questions summarized in the preceding paragraphs. In the view of his Government, there were no discrepancies between the Covenant and Danish law other than those described in the initial report. Nevertheless, the question of other possible discrepancies would be given due consideration in the light of the comments made by Committee members. Denmark had attempted in good faith to fulfil its obligations under the Covenant by applying the rule of interpretation and the rule of presumption. It was possible to invoke before a court the provisions of the treaty or convention that were relevant to the case as had already been done on some occasions. He confirmed that the reference in the report to the Council

established in Denmark to promote equality between men and women related to some extent to the International Covenant on Economic, Social and Cultural Rights, but that was done in response to the guidelines on reporting drawn up by the Committee. His Government would report in more detail at a later stage on the activities of that Council as well as on those of the Commission set up to prepare for local autonomy in Greenland. Detailed replies to the question asked in respect of articles 18, 19, 21 and 22 of the Covenant would be included in the next report of Denmark.

#### Czechoslovakia

111. The Committee considered the initial report (CCPR/C/1/Add.12) submitted by Czechoslovakia at its 64th, 65th and 66th meetings on 27 and 30 January 1978 (CCPR/C/SR.64-66).

112. The report was introduced by the representative of the State party who, having indicated that it was prepared before the Committee had completed its general guidelines on the form and contents of reports from States, gave further information on certain questions dealt with in the report.

113. The representative of Czechoslovakia stated that international treaties, with certain exceptions, could not be incorporated into Czechoslovak internal law until an act which formed part of that body of law had been promulgated. As regards the Covenant, he maintained that, even before his country had ratified it, all the rights and freedoms recognized therein had been embodied in the Czechoslovak socialist legal order and effectively guaranteed by the Constitution, Constitutional Federal Laws and other generally binding rules.

114. With regard to the remedies available to an individual he said that Czechoslovak civil and penal courts and administrative organs at all levels had the authority and the duty to protect civil and political rights and to take decisions in each case. Justice was administered by elected and independent people's courts composed of professional judges and people's judges. The Office of the Procurator, whose task was to ensure observance of the law by all organs of the administration and to protect the legally recognized rights and interests of citizens, also played an important role. In that connexion, he pointed out that the term "prosecutor" had been wrongly used in the English version of the report and should be replaced by the term "Office of the Procurator". Elaborating on the role of the Procurator, he said that the Procurator was also required to act upon cases of breach of socialist legality, and to answer a complaint within two months after the complaint had been lodged. The term "socialist legality" meant strict respect for the Constitution and for all laws and other mandatory provisions which had been legally promulgated. In addition to the Procurator, trade unions, representative bodies and organs of people's control were responsible for ensuring that socialist legality was respected in practice.

115. In accordance with Act. No. 40/1973 concerning the National Security Corps, legal protection was extended to anyone endangered by the illegal acts of others, and to anyone against whom action had been taken by the security organs. The Act stipulated, inter alia, the disciplinary, penal and civil responsibility of any organ which took decisions that were at variance with the law.

116. Members of the Committee expressed their satisfaction with the comprehensiveness and clarity of the report and for the supplementary information furnished by the representative of the State party.

117. Members of the Committee were in agreement that the method used to integrate the provisions of the Covenant in domestic law was a matter for each State party to decide in accordance with its legal system and practice, the essential consideration being that no domestic system or practice could be invoked as a reason for failing to implement the Covenant. As the Covenant had not been made a part of Czechoslovak law, the representative was asked whether a citizen was able to initiate legal proceedings invoking the provisions of the Covenant directly and how much weight courts would give to those provisions as opposed to existing jurisprudence. If an individual were to consider that a law or practice was inconsistent with his rights under the Covenant, could he seek to have the law or practice changed, for instance by action in the courts or by making it a matter of public debate?

118. It was noted that article 2 of the Covenant was to prohibit discrimination and at the same time to require States parties to ensure that any person whose rights and freedoms, as recognized by the Covenant, were violated had an effective remedy. Considering the emphasis laid in Czechoslovakia on the right to work, clarification was requested on the legislative provisions that could be invoked to obtain redress by anybody who was refused employment or access to public service in the country, as provided for in article 25 of the Covenant, for reasons other than his qualifications and experience. Information was requested on the Czechoslovak judicial system and on the methods employed for the election and dismissal of judges and to ensure their independence and impartiality, as well as on the extent of independence enjoyed by the Office of the Procurator and whether it could protect political rights from being violated by individuals, the State or persons claiming to act on behalf of the State.

119. With regard to articles 3 and 23 of the Covenant, it was noted that Czechoslovak legislation ensured equality between the sexes, but more information was requested concerning the right of women to be elected to political office.

120. With reference to the statement in the report on article 5 of the Covenant that restrictions on any of the rights or freedoms recognized by the Covenant as a result of incorrect interpretation of the Covenant were impossible, the representative was asked whether there existed any means by which an individual contesting the Government's interpretation of the Covenant could have his point of view heard and considered.

121. Considering the important place occupied by the right to life in the hierarchy of values established under the Covenant, the question was asked whether Czechoslovakia had any legislation, regulations or administrative orders concerning the circumstances in which the police were entitled to open fire. Clarification was also requested of the meaning of terrorism in Czechoslovak criminal law, and of the reference to murder committed "for gain, to lead a parasitic way of life, etc.", as well as of the statement in the report to the effect that one condition under which the death penalty could be imposed was the need to ensure the protection of society. The view was expressed, however, that the question of the right to life could not be reduced to the issue of the death penalty but embraced also the question of infant mortality and life expectancy. More information on the steps taken by Czechoslovakia in that respect would be welcome.

122. With regard to article 7 of the Covenant, the question was asked whether the rules described in the report were in accordance with the Standard Minimum Rules

for the Treatment of Prisoners 6/ or the draft code of conduct for law enforcement officials (A/32/138). A number of specific questions were also asked: Did corporal punishment and solitary confinement exist in Czechoslovakia and, if they did, for what reasons and for how long could a person be subjected to them?

123. Concerning the implementation of article 9 of the Covenant, further details of the conditions of detention were requested. Specific questions were asked about the meaning of the expression "or in any other way frustrate the investigation" which appeared in the report as one condition under which an accused might be detained, and about the grounds on which a decision might be taken to place a person, without his consent, under institutional care and whether such person was entitled to take proceedings before a court. Further information was requested on the practice in Czechoslovakia whereby "custody may be replaced by guarantee of a social organization for the accused person's further behaviour" and on the type of organization referred to.

124. Several members, referring to article 12 of the Covenant, requested more information on the circumstances in which restrictions could be imposed in Czechoslovakia on an individual's right to choose his residence and to leave and enter the country, on the authorities which were competent to decide on such restrictions and on the remedies available to persons subjected to them. In that connexion, the meaning of the term "anti-social elements", which appeared in the report, was requested. Clarification was also sought on the criteria applied for the issuance of passports. Some members felt that it would be helpful if the Czechoslovak Government could furnish the Committee with some statistics indicating what proportion of applications for exit visas or emigration were refused and for what reasons and whether there were more restrictions on travel to some countries than to others.

125. More information was requested on the limitations imposed by law or practice on the enjoyment of the right provided for in article 13 of the Covenant and on the meaning of the expression "any other public interest" which could be one reason for expelling an alien from Czechoslovakia. The question was also asked, Was a court decision always required for expulsion of aliens and could an individual who had recourse to remedies remain in the country until such remedies had been exhausted?

126. Clarification was requested on the implementation of various provisions of article 14 of the Covenant. Some questions focused on the conditions for holding judicial proceedings in camera and for the presence of the public and press representatives at trials. Regarding the provision that everyone charged with a criminal offence had the right to be presumed innocent until proved guilty, it was observed that the report used the word "pronounced" instead of "proved" which could have a different meaning. The question was also asked, Did an accused person have the right to choose a defence counsel authorized to plead in the courts and was it possible to obtain legal assistance before criminal proceedings had actually begun?

127. In connexion with article 17 of the Covenant, information was requested on

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6/ See First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat (United Nations publication, Sales No. 56.IV.4), annex I.A.

the conditions under which private homes or offices could be searched or mail could be opened without a warrant.

128. With respect to article 13 of the Covenant, questions were asked about the extent of freedom and protection enjoyed by clergymen and holders of religious beliefs in the fields of education and employment as well as in religious activities, and also concerning the freedom of research at university level.

129. As regards article 19 of the Covenant, it was noted that the Czechoslovak Constitution guaranteed freedom of expression, speech and the press, but that freedom was made dependent upon the strengthening and growth of socialist society and the interests of the workers. The question was asked, To what extent did those restrictions in practice inhibit the freedom of opinion and expression, particularly with regard to criticism of public authorities? Information was particularly requested on any restrictions that were imposed in practice on individuals who sought to promote and propagate their political views, including the promotion of respect for human rights, as well as on how such restrictions were imposed; and whether a person who considered that he had been the victim of an unjustified decision in respect of his freedom of expression could have the decision reviewed. The representative of Czechoslovakia was also asked whether there were any political detainees in Czechoslovakia currently and, if there were, how many.

130. Some questions centred on the freedom of the press, periodicals and media, in the light of the references made in the report to Act. No. 81/1966 concerning periodicals and other information media: Who decided if a newspaper was helping to develop the socialist consciousness of citizens? Was there general censorship in Czechoslovakia? On what grounds could a journalist or writer be forbidden to exercise his profession, and for how long?. Could a private individual subscribe to and receive on a regular basis newspapers published in various foreign countries?

131. The reporting State was commended for fulfilling the obligation imposed under article 20 of the Covenant regarding the prohibition of war propaganda and was requested to make available, for the benefit of other States, the text of the statute prohibiting war propaganda in Czechoslovakia.

132. With regard to article 21 of the Covenant some members requested clarification of the meaning of the term "socialist order" as it appeared in the relevant part of the report and of the restrictions on the right of peaceful assembly laid down in Czechoslovak laws as they did not seem to correspond exactly to those authorized by the Covenant.

133. In connexion with article 22 of the Covenant, information was requested on whether the right to establish voluntary organizations as recognized in Czechoslovak law was restricted to trade unions and other social organizations or extended to political parties and whether the establishment of organizations required prior authorization by the Government.

134. Referring to articles 23 and 24 of the Covenant some members requested more information on the laws which ensured equality of rights and responsibilities of spouses, on steps taken to give practical effect to the prohibition of discrimination in respect of children, including those born out of wedlock, and on the criteria governing acquisition of nationality.

135. With regard to article 25, the question was asked how much freedom there was in practice for persons of different political creeds to seek election to the Federal Assembly of Czechoslovakia or to the Czech and Slovak National Councils, and for individuals to form political parties or associations with a view to seeking the election of their representatives to those bodies.

136. The representative of Czechoslovakia commented on the observations and questions summarized in the preceding paragraphs. He stated that the foundation of Czechoslovak law was not the total independence of the individual, but his duties to others and to the community which were set out in the preamble to the Covenant. That concept, he maintained, should not be interpreted as a restriction of civil and political rights; on the contrary, it often gave citizens more extensive protection than was required under the Covenant. The expressions "socialist order or system" and "the interests of the working people" used in Czechoslovak legislation meant the same as democratic order or public order as referred to in the Covenant.

137. Regarding the application of the principle of non-discrimination, he said that that principle was not provided for as such in Czechoslovak legislation but that it was applied by labour courts and in civil legal proceedings, where it was the essential prerequisite for a fair trial, in the light of the general rule of the Constitution under which all citizens had equal rights and duties.

138. Elaborating on the role of the Procurator General, he stressed that the Procurator submitted to Parliament, in consultation with the President of the Supreme Court, a report on compliance with the laws of the Republic and gave an account of his activities in that sphere. He also drew the attention of Parliament to any inconsistencies which might exist between different laws. As regards the judiciary, he pointed out that the independence of judges was ensured by the fact that they were elected and could not be removed from office except in specific cases by the body which had elected them. While in office, he added, a judge could not be detained or be the subject of criminal proceedings without the prior authorization of the electing body.

139. Concerning the death penalty, he informed the Committee that it was not mandatory and that it was applicable only in cases of murder, sedition, terrorism, sabotage, espionage, high treason, acts endangering the safety of transport aircraft and the hijacking of aircraft. A terrorist, he said, as defined by Czechoslovak legislation, was a person who killed deliberately or attempted to kill with a view to endangering the socialist State. Replying to a question concerning the circumstances in which a policeman was entitled to open fire, he stated that this was possible only in cases specified by law, for example, when the policeman needed to prevent an imminent attack on himself or another person, or prevent an attack on property which was under guard, or when a person ordered to stop near the border failed to do so, but that he must first of all have used every other available means. He stated that corporal punishment had not existed in Czechoslovakia since 1970. With regard to the placing of people in institutions, he explained that it was not a penalty but rather a public health measure and that a decision to that effect could be taken only by the court with the assistance of three psychiatrists, subject to appeal. Concerning the conditions of pre-trial detention, he said that they were governed by the Code of Penal Procedure which provided that detention should be initiated by the Office of the Procurator, and, in an emergency, by the authority responsible for the investigation, but that in the latter case the President of the Court or the Office of the Procurator had to

be notified within 48 hours. He also stated that social organizations such as trade unions and unions of youth organizations could stand as guarantors for persons on trial, and were permitted, in that capacity, to be present throughout the trial and could request that the sentenced person be put on probation.

140. Replying to questions raised on the implementation of article 12 of the Covenant, the representative of Czechoslovakia said that a court could order prohibition of residence in the case of persons sentenced for certain crimes when their presence at a particular place was undesirable for reasons connected with public order or public health, or with the protection of the family, morality or property, that "anti-social elements" were deemed to be persons who had been sentenced several times for acts prejudicial to the property of other persons, to morality, to honest work and so on; that the issuance of a passport, which was the right of every citizen, might be refused, subject to appeal, by the competent National Committee, if the journey abroad was contrary to State interests, if a habitual criminal was involved or if the person concerned had, in the course of previous journeys abroad, committed acts likely to harm the good reputation of the Republic.

141. Regarding the application of article 14 of the Covenant, he said that the public might be excluded during hearings or parts thereof if it were considered that publicity would be harmful to State interests, to the economy or to public morality, or might lead to disclosures which would prejudice the procedure, but that in such a case the accused had the right to request the presence of two persons of his choosing; that the accused had to have defence counsel, even during the preparatory phase of the case, and was free to choose his counsel.

142. Replying to questions relating to article 17 of the Covenant, he stated that premises could be searched only if there were good reasons to suppose that something of importance for penal proceedings was on those particular premises or that a person suspected of a crime was hiding there. There were definite legal guarantees concerning issuance of search orders and the conduct of search.

143. With regard to the freedoms provided for in articles 18 and 19 of the Covenant, he pointed out that when an application for employment was made to the Czechoslovak administration or during enrolment in an educational establishment, no account was taken of religion; that religious instruction was optional in primary schools; that Churches took an active part in the political life of the country; that the exchange of information between Czechoslovakia and other States was free whenever it encouraged understanding and friendship between nations but that it could not be allowed to endanger the honour and rights of Czechoslovak citizens, socialist coexistence, the interests of the socialist state or the development of peaceful co-operation. Commenting on some observations related to the application of the right of association, he stated that when a voluntary workers' organization was being set up, its statutes had to be submitted to the regional National Committee but that trade unions were not subject to that type of authorization.

144. As to the implementation of articles 23 and 24 of the Covenant, he gave additional details on the law in practice whereby both spouses had parental authority; divorce could not be granted if the parents did not agree on the arrangements to be made with regard to the children; and no distinction was made between children born out of wedlock and children of a marriage.



145. Replying to questions concerning article 25 of the Covenant, the representative pointed out that any person who had reached the age of 21 years could be elected and all citizens had the right to vote from the age of 18 with respect to social organizations, local committees, district committees and regional committees, the national Czech and Slovak Councils and finally the Federal Assembly. All candidates were considered by a commission comprising representatives of different national elements: the Communist Party, the People's Party, the Socialist Party and the Slovak Party. The candidatures proposed could be contested at all levels and it was possible to make counter-proposals.

146. The representative of the State party finally stated that further information would be submitted in reply to the questions which had remained unanswered.

German Democratic Republic

147. The Committee considered the initial report (CCPR/C/1/Add.13) submitted by the German Democratic Republic at its 65th, 67th and 68th meetings on 27, 30 and 31 January 1978 (CCPR/C/SR.65, 67 and 68).

148. The report was introduced by the representative of the State party who, having indicated that it was prepared before the Committee had completed its general guidelines on the form and contents of reports from States, gave further information on the promotion, implementation and protection of civil and political rights in his country.

149. The representative of the German Democratic Republic stated that the implementation of civil and political rights in his country should be seen in the light of its social structure whereby exploitation and class antagonism had been overcome and comradely co-operation had developed between all working people and citizens. He pointed out that, since the principles of the Covenant were embodied in the Constitution of 1968, there was no need for special legislation to give effect to its provisions; that State organs in his country ensured that domestic laws and regulations were in keeping with the provisions of the Covenant; and that all government agencies, enterprises and social organizations were obliged to assume responsibility for the protection of human rights.

150. Referring to the remedies available to citizens to ensure enjoyment of their rights, he mentioned the right to petition popularly elected bodies, their deputies or State and economic organs. He cited several other legal remedies including the right to appeal to the procurator against any measures taken by the investigating bodies.

151. The representative of the German Democratic Republic drew attention to a new law that his Government had enacted on 5 May 1977 relating to the tasks, rights and duties of public procurators in the supervision of the rule of law, the conduct of preliminary proceedings, the enforcement of penalties and the social rehabilitation of offenders. According to the new law, the penalty of "correction through labour" was abolished and any sentence entailing deprivation of liberty must specify the precise period of such deprivation. Juvenile offenders in his country could no longer be sentenced to life imprisonment and were accorded treatment appropriate to their age and legal status. The new law expressly prohibited discrimination against prisoners on any grounds and guaranteed the protection of the life, health and working ability of prisoners.

152. Referring to the rights of the Sorbs, the only national minority in his country, the representative stated that the 11 districts where the 100,000 Sorbs lived had been declared bilingual and that the Constitution guaranteed them not only full civil and political rights and the right to develop their national characteristics and to use their own language, but also required the State to encourage and support such aspirations.

153. Commenting on the report, members of the Committee expressed different points of view in connexion with the statement in the report that the basic social and economic rights, which were guaranteed by the Constitution of the German Democratic Republic, were the decisive pre-condition for the full implementation of civil and political rights. According to one viewpoint, it was more accurate to say that the full enjoyment of civil and political rights might depend on the

degree to which economic, social and cultural rights were enjoyed, in view of the more immediate character of the basic obligation embodied in article 2 of the International Covenant on Civil and Political Rights as compared with that of article 2 of the International Covenant on Economic, Social and Cultural Rights. On the other hand, total agreement with the basic premise in the report was expressed by some members of the Committee, and reference was made to the relevant paragraph of General Assembly resolution 32/130 of 16 December 1977 which stated that "the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible".

154. With reference to article 2, paragraph 1, of the Covenant, the question was asked, under what principle was the basic protection of citizens extended to all individuals within the territory of the German Democratic Republic?

155. It was noted that, in accordance with article 2, paragraph 3, of the Covenant, States parties undertook to ensure that any person whose rights or freedoms had been violated would have an effective remedy and that the right to claim such a remedy would be determined by competent judicial, administrative or legal authorities. The representative was then asked how that possibility was guaranteed in the German Democratic Republic, where the Supreme Court and the Procurator General appeared to be entirely dependent upon the People's Chamber. More information was requested on "the legal redress for citizens in case of infringement of their rights" referred to in the report in connexion with article 2, paragraph 3, of the Covenant.

156. With reference to article 6 of the Covenant, information was sought on all cases where instructions to the police forces allowed them to make use of their firearms (and whether it was considered that human life could be taken if the police were trying to enforce the law at a frontier crossing). The question was also asked whether there were any crimes in the German Democratic Republic for which the death penalty might be imposed.

157. With reference to articles 7, 9 and 10 of the Covenant, the following questions were asked: Did solitary confinement exist in the German Democratic Republic and, if so, for how long? Did the law of the Execution of Penalties correspond to the Standard Minimum Rules for the Treatment of Offenders and to the recent draft code of conduct for law enforcement officials, and did disciplinary or security measures under that law include restrictions on the right of prisoners to carry on correspondence? How long could detention in custody for questioning last? Was any distinction made between political and ordinary prisoners with regard to the enjoyment of their rights? Clarification was also requested on the statement in the report that the court had to examine ex officio at any time whether the conditions for custody on remand still prevailed; could an individual under pre-trial detention be given assistance by a legal counsel or choose his own counsel? And to what extent could the latter communicate with him?

158. As regards article 12 of the Covenant, information was requested on the laws referred to in the report to the effect that the constitutional right to freedom of movement could be restricted only "by laws binding upon all citizens". Questions were also asked concerning the criteria that were used in the German Democratic Republic when applications to leave the country were being considered; bearing in mind the provisions of article 23 of the Covenant, were the children

of an individual who had left the country in a manner which the Government considered unlawful allowed to join him abroad without hindrance? The representative of the German Democratic Republic was also requested to provide details of the circumstances in which citizens were not allowed to enter their country and of what action was taken against persons who attempted to leave without authorization.

159. In relation to article 14 of the Covenant, questions were asked concerning the legal guarantees provided with regard to the right of all persons to a fair and public hearing by a competent, independent and impartial tribunal; under what conditions could the public be excluded from a trial? Were there any specific rules concerning the admission of the press to court hearings?

160. With reference to article 17 of the Covenant, information was requested on cases where searches were allowed in the German Democratic Republic. The representative was asked whether searches of homes or persons conducted by the police without court orders could be reported to courts afterwards.

161. As regards article 18 of the Covenant, the question was asked, could persons be exempted from military service on grounds of religious beliefs?

162. With respect to article 19 of the Covenant, some members asked to what extent persons were free to comment on and to criticize the acts of the Government and of public authorities and to advocate peaceful changes in the social system; what measures had been taken to enable citizens to express different views through the mass media; and whether a private citizen was entitled to subscribe to and receive newspapers published in various foreign countries. Information was also requested on the measures used to enforce any restrictions to freedom of expression that may exist and on the number of persons detained for political reasons.

163. Noting that the German Democratic Republic had made an important contribution to existing international law by prohibiting war propaganda, one member requested information on the exact terms of that prohibition, since the relevant text would not only be useful for the Committee but might also be helpful to Governments which had thus far been reluctant to make war propaganda a punishable act.

164. As regards the freedoms provided for in articles 21 and 22 of the Covenant, the representative was asked whether prior authorization for a peaceful assembly had to be obtained by the organization concerned and, if it had to be, what conditions had to be met.

165. Referring to articles 23 and 24 of the Covenant, some members asked whether economic assistance was provided to the family to ensure its proper development; what provision was made to ensure the care and upbringing of children of tender age while their mothers worked outside the home; and what was done, in law and in practice, to facilitate the reunion of families which had been separated during the Second World War.

166. Commenting on article 25 of the Covenant, one member of the Committee asked whether the only requirement to hold public office was to possess the necessary qualifications needed for the office in question. Further information was also requested on the participation of citizens in the conduct of public affairs and, in particular, in the carrying out of certain legal procedures.

167. As regards article 26 of the Covenant, the representative of the German Democratic Republic was asked whether a person who claimed that another person had prevented his access to employment or accommodation on some discriminatory ground was entitled to protection under the law. In this connexion, information was also sought on the meaning of "socialist legality" and whether it was a guiding legal principle or a part of natural or positive law.

168. In relation to article 27 of the Covenant, the German Democratic Republic was congratulated on its achievements both in law and in fact concerning the status of the Sorbs. Reference was also made to the statement in the report that there were no religious minorities in the German Democratic Republic and the representative was asked whether that meant that there were no religious groups in the country.

169. The representative of the German Democratic Republic commented on the observations and questions summarized in the preceding paragraphs. He stated that the exercise of human rights in his country was organized with a view to the free development of all without distinction of any kind, it being understood, however, that action in the field of human rights must not be prejudicial to the State. He pointed out that some rights and duties, such as the right to vote and to be elected, were limited to citizens, but that aliens otherwise enjoyed equal rights in accordance with the spirit and aims of the Constitution.

170. Referring to comments on article 2, paragraph 3, of the Covenant, he pointed out that although the President and judges of the Supreme Court were responsible to the popular representative body, which was the expression of the people's sovereignty, it did not imply that the said body had judiciary powers.

171. Replying to questions raised in connexion with article 6 of the Covenant, he stated that the death penalty had not been abolished in the German Democratic Republic because the Government regarded it as an effective weapon against racialism, fascism and war criminals. In that connexion, he pointed out that the use of firearms by the police was governed by the law relating to the People's Police, which did not differ from that of other States.

172. Replying to comments on articles 7, 9 and 10 of the Covenant, the representative stated that the judge alone was competent to decide whether custody on remand could be ordered, and that a person who had been arrested had to be brought before him not more than one day after the arrest. Existing legislation had consistently been in conformity with the Standard Minimum Rules for the Treatment of Offenders and had even gone further in certain respects.

173. As regards freedom of movement, he said that restrictions for reasons of national security could be placed on that freedom in certain regions such as the military zones situated along the western frontier and along the frontier with West Berlin. He indicated that the granting of passports was subject to restrictions provided for in the relevant legislation, which was in accordance with the provisions of article 12, paragraph 3, of the Covenant. The right of persons other than citizens to enter the territory of the German Democratic Republic was subject to certain legal regulations.

174. Replying to questions on the competence and independence of judges, he stated that they were elected by the popular representative body but were fully independent in their administration of justice and were bound only by the Constitution and the laws and regulations. A judge's term of office was the same as that of the popular

representative body; he thus received his mandate from the last assembly elected by the people. He explained that such a procedure strengthened the position of the judge considerably while at the same time it prevented him from considering himself above the law. He also gave details on the role of the "lay judges" who were elected by direct suffrage and thus enabled the people to participate in the administration of justice.

175. The representative of the German Democratic Republic pointed out that every citizen of his country had the right to appeal and to have the assistance of counsel at all stages of the proceedings. Under the right of defence, the accused was entitled to know what charges were being brought against him and the nature of the evidence and, in general, to be provided with all the means necessary to prove his innocence. In that connexion, he explained that the public could be excluded from a trial if publicity was likely to be detrimental to public order or morals or for reasons of State security.

176. Concerning the questions put to him under article 17 of the Covenant, he said that a search was authorized only if it was found necessary in connexion with the preliminary investigation and that the authority competent to take a decision in the matter was the Office of the Public Procurator or, in an emergency, the body responsible for the investigation. The decision had to be confirmed by the judge within 48 hours as otherwise it became null and void, and proceedings could be taken against those who infringed that rule.

177. Replying to questions under articles 18 and 27 of the Covenant, he stated that there was no State religion in the Republic and consequently, there were no religious minorities. Church and State were separate and religious communities, of which he gave many details, managed their own affairs without State interference. He also said that "construction teams" had been created to enable conscientious objectors to perform useful work by participating in the construction of public works and the repair of damage caused by natural disasters.

178. As regards the freedom of expression enshrined in article 19 of the Covenant, he stated that his country attached particular importance to exchanges of views whenever decisions had to be taken on important legislation, social projects or economic plans and stressed that the Constitution made no provision for censorship. He gave details of the number and circulation of the various periodicals published by the political parties and social organizations in his country as well as of the publications and radio and television programmes received from and exported to the capitalist countries. He said that there were no political detainees in his country.

179. Replying to a question on the legal provisions prohibiting war propaganda, he read out the relevant article of the Penal Code under which proceedings could be initiated against anyone who engaged in propaganda for a war of aggression or other aggressive acts or who brought about the violation of international instruments aimed at preserving and strengthening peace.

180. Regarding the right of peaceful assembly and the question of whether non-violent demonstrations could be organized, he said that the unlawfulness of an act could not be determined solely in relation to its violent character and that all penal codes treated incitement, which did not in itself involve violence, as a punishable offence. He stated that social organizations could hold their meetings without special notification, and associations established by citizens for the defence of their interests had to comply with the provisions of the relevant law.

181. Replying to questions on articles 23 and 24 of the Covenant, the representative stated that his country had spared no effort in reuniting families since the end of the Second World War, and many cases had been settled in collaboration with Red Cross Societies. In that connexion, he said that a series of social and economic measures had been adopted on behalf of the family, such as family allowances, social insurance, assistance to large families in need and loans to young couples. He gave detailed descriptions of the benefits enjoyed by a working mother with a view to enabling her to perform her professional activities without having to neglect her family obligations.

182. Concerning articles 25 and 26 of the Covenant, he stated that some rights and duties, such as the right to vote and to be elected and the right and duty to perform military service, were enjoyed only by citizens of the Republic. In addition to the role played by the "lay judges" in the administration of justice, he said that, in criminal cases, the representative of a team of workers could be invited to take part in the trial, so that the fellow workers of the accused could express their views before the court through a person enjoying their confidence. As regards employment opportunities, he stated that the sole criterion for obtaining employment was that of the candidate's qualifications.

183. In the course of his comments, the representatives of the German Democratic Republic expressed his readiness to have some of the laws, reports and regulations referred to in his replies transmitted subsequently to the Committee.

#### United Kingdom of Great Britain and Northern Ireland

184. The Committee considered the initial report (CCPR/C/1/Add.17) submitted by the United Kingdom at its 67th, 69th and 70th meetings on 30 and 31 January and 1 February 1978 (CCPR/C/SR.67, 69 and 70).

185. The report was introduced by the representative of the State party who expressed the hope that a supplementary report on his country's dependent territories and on the Isle of Man, Jersey and Guernsey would soon be completed and submitted to the Committee.

186. He drew attention to the fact that in the United Kingdom, which had no written constitution and where Parliament had absolute power to enact and change any law, there was no code of rights but specific sets of reciprocal rights and duties and civil remedies or criminal prohibitions. His country's ability to ratify the Covenant, which did not in itself have the force of law in the United Kingdom, had rested upon the fact that the rights recognized in the Covenant were already guaranteed by law, subject to the reservations and derogations which had been made upon signature or ratification. He pointed out that his country recognized no distinction between public law governing the actions of the State and private law governing relations between citizens. In addition, it had no separate code of administrative law, although there were arrangements for dealing with individual grievances against the administration through the office of the Parliamentary Commissioner for Administration and through commissioners who exercised similar functions in relation to the acts of local authorities and the National Health Service.

187. Members of the Committee expressed their appreciation for the comprehensive report submitted by the United Kingdom and for the introductory statement made by its representative.

188. With reference to the right to self-determination recognized in article 1 of the Covenant, the representative of the United Kingdom was asked what was actually being done to speed up the achievement of that right by the United Kingdom's remaining dependent territories and what the position of his Government would be in a case where a people expressed the desire to exercise that right but did not possess adequate resources to sustain independence. In the light of the statement made upon ratification by the United Kingdom Government indicating to which of its dependent territories all or part of the Covenant would or would not apply, the representative was asked whether that enumeration included all the dependent territories of the United Kingdom; and whether it was possible for the United Kingdom to exclude any such territories from the application of all or part of the Covenant.

189. Referring to article 2, paragraph 1, read together with article 25, subparagraph (a), of the Covenant, one member asked to what extent the constitutional system of the United Kingdom was compatible with those provisions, having regard to the fact that only persons of a certain class or birth could as of right be members of the upper chamber of Parliament.

190. In other comments on article 2 of the Covenant, it was noted that, since in the United Kingdom rules concerning human rights derived only from legislation and case law, the rights recognized in the Covenant might not be fully protected in view of the rather fragmentary character of case law. Clarification was requested on the statement in the report that United Kingdom law did not confer a specific right of action in respect of the violations of any basic rights or freedoms as such. The representative was asked whether the Covenant had been publicized in the collection of statutes, whether an individual who claimed that his rights had been violated could invoke the provisions of the Covenant in defending himself in court, and what steps could be taken to ensure that the precedents created by the courts were in general in accordance with the spirit of the Covenant.

191. With reference to the statement in the report that the United Kingdom reserved the right to apply to members of the armed forces and persons detained in penal establishments such laws and procedures as might be deemed necessary for the preservation of custodial discipline, the representative was asked whether this reservation was meant to derogate also from article 7 of the Covenant.

192. With reference to articles 3 and 23 of the Covenant, information was requested on the situation in respect of equal rights of men and women; on whether existing legislation provided for complete reciprocity in the obligations of spouses and on the rights enjoyed by the foreign husband of a United Kingdom citizen as compared to those of the foreign wife of a United Kingdom citizen.

193. Some members requested clarification on the comments in the report concerning article 4 of the Covenant and, particularly, on the territorial application of the emergency measures, since the reference was not to Northern Ireland but to Northern Irish affairs; on the juridical considerations that had influenced the decision to make derogations under that article, and on whether the United Kingdom was considering the cancellation of those measures.

194. With reference to the comments in the report on article 7 of the Covenant, some members asked whether corporal punishment, particularly in public schools, was lawful or possible and, if it was, whether there were any restrictions on the use of force by teachers against pupils and whether such punishment was not at variance with article 24, paragraph 1, of the Covenant. In connexion with other comments on the



same article, the representative was asked whether English law provided that a person could not be subjected to medical or scientific experiments without his consent; whether the police code of conduct applied to military personnel who used force to quell disorders and whether there were any limitations on their activities in that regard; and how effective in practice was a police complaints tribunal which was run by the police itself.

195. In connexion with article 8 of the Covenant, more information was sought on the statement in the report that "in cases of breach of contract the courts will not generally order specific performance" and whether there had, in fact, been cases in which the courts had ordered such performance, as well as on the practice which made it possible to require a convicted person to perform unpaid work for a specified period.

196. In comments on article 9 of the Covenant one member asked, with reference to a quotation in the report from the Magna Carta, whether United Kingdom law still provided for a system by which a person could be judged by his peers. Clarification was requested on the statement in the report that "in general, an arrested person must be informed of the true ground of his arrest", as well as on the cases in which a person could be taken into custody without a warrant. As regards the system of bail applied in the United Kingdom, the representative was asked whether a system which made the release of a person awaiting trial dependent upon the amount of money to which he had access might not be in contradiction with articles 14 and 26 of the Covenant.

197. A number of other questions were asked: was the remedy of habeas corpus in force in England, Scotland, Wales and Northern Ireland? Did a court when considering a writ of habeas corpus, examine the lawfulness of detention in every respect? In the case of detentions made under regulations stemming from the Mental Health Act, was the discretion of the Home Office subject to review by the court?

198. In respect of article 10 of the Covenant, information was requested on the rules which regulated the treatment of prisoners, in general, and solitary confinement, in particular, and on any specific changes that may have been introduced to ensure that inhuman interrogation techniques were no longer applied in Northern Ireland. Members also asked whether penalties under the Code of Discipline included corporal punishment, whether the right to counsel and the "rules of natural justice" were secured in cases where prisoners were punished for offences against discipline, and whether the procedure for punishment of prisoners for offences against discipline by the Governor of the Board of Visitors applied in cases of criminal offences committed in prison and, if it did, whether that was in conformity with article 14, paragraph 1, of the Covenant. One member expressed surprise that, according to the report, a 10-year-old child could be sentenced to detention.

199. With reference to article 12 of the Covenant and to the reservations made thereto by the United Kingdom, information was requested on any exceptions to the rights inscribed in that article in addition to those included in the reservations, and on whether there was any possibility of appeal against the application of the "immigration controls" in respect of persons who did not have the right of abode in the United Kingdom. Concern was expressed by some members in respect of some inhabitants of ex-dependent territories who still held British passports but did not seem to have absolute right of entry into the United Kingdom. The reservation to that effect was thought to be so sweeping that there was some doubt as to whether it might not be extended, as far as immigration was concerned, to the prohibition of

discrimination as set out in articles 2 and 26 of the Covenant. Information was requested on the extent to which the Covenant's provisions concerning the prohibition of racial discrimination were complied with in the framework of the United Kingdom immigration policy.

200. As regards article 13 of the Covenant, clarification was sought on the meaning of the terms "public good" and "reasons of a political nature" used in the report in connexion with the rules governing deportation of aliens from the United Kingdom. The representative of the United Kingdom was asked whether due account was taken of the interests of the person concerned before an order of expulsion was issued; and why it would be necessary to deport, against their wishes, the wife and children of a person who had already been deported.

201. In relation to article 14, information was requested on the procedure followed in the appointment of judges and on the measures taken to ensure the independence of judges. The following questions were asked: In what cases were trials not held in public? At what stage did the right of the detainee to counsel arise and what remedies were available in cases where a person who had been arrested was denied that right? Would an accused person be deprived of the possibility of calling the witnesses necessary for his effective defence if he did not possess sufficient financial resources? Commenting on the procedure for ex gratia payments referred to in the report under article 14, paragraph 6, some members, while requesting more information on the matter, expressed doubts as to whether such payments were enforceable and in conformity with the provisions of the Covenant.

202. With reference to article 15 of the Covenant, some members requested additional information on the competence of Parliament to enact ex post facto criminal legislation and on whether Parliament would be prepared to accept advice from the Government concerning the compatibility of such legislation with the Covenant.

203. As regards article 17 of the Covenant, the representative was asked whether the existing law provided for electronic surveillance and for searches without a warrant.

204. In respect of article 18, information was requested on the laws which provided for restrictions on the freedom of religion and on the remedies available to individuals who claimed that their freedom of religion had been violated.

205. In connexion with articles 19 and 20, members asked whether the Act of 1819 concerning blasphemy and sedition was still in force; what was meant by "public feeling" in the statement that radio and television programmes should not contain any matter "offensive to public feeling", and whether racist propaganda was prohibited.

206. It was noted that the Race Relations Act was enacted to ensure that the part of the population which was of immigrant origin was not discriminated against. The following questions were asked: would a person of such origin who was addressed in derogatory terms and subjected to degrading treatment receive the kind of protection to which citizens were entitled? How many cases reported as breaches of that Act were in fact prosecuted? If the legal provisions governing race relations were not effective, would the Government reconsider them with a view to improving the situation?

207. As regards the freedom of association provided for in article 22 of the Covenant, members asked whether a person was under any obligation to join a given association, whether a trade union could be set up in each enterprise and whether the management of an enterprise could object to its establishment and hamper its activities.

208. In connexion with the right of every child to acquire a nationality, provided for in article 24 of the Covenant, it was noted that the citizenship of the father was a determining factor if the child was born abroad. Information was requested on the role played by the citizenship of the mother in such a case. Further details were sought on the protection of unborn children under United Kingdom law.

209. With reference to article 25, it was asked whether members of the armed forces were entitled to take part in public life by voting and being elected to public office. Clarification was requested on the statement in the report that the Race Relations Act permitted the application of the nationality requirement contained in Civil Service Departmental Regulations.

210. In relation to article 26 of the Covenant, it was noted that protection of the law did not suffice to prevent discrimination in public life. More information was requested on the legislation of 1976 relating to the private sector, the reasons for its enactment and the results achieved through the application of its provisions. Referring to a statement in the report that "no person could be deprived of the equal protection of the law except by express legislation of Parliament", some members asked whether any such legislation had ever been enacted.

211. Further details were requested on the steps being taken to enable minorities to develop their own culture.

212. The representative of the United Kingdom replied to those of the observations and questions summarized in the preceding paragraphs on which he could comment, at least in part, subject to the possibility of amplifying or modifying those comments later when the questions and observations made by members of the Committee had been fully studied in the United Kingdom. He stated that the report did not refer to any dependent territories and that a complete list of the territories, which would be covered in the supplementary report, would be supplied soon. The Covenant was applicable to the territories mentioned in his country's declarations and reservations and to all others in respect of which the Covenant had been ratified. There was no reason why the application of particular provisions of the Covenant to particular territories could not be the subject of a reservation. The dependent territories were at various stages of constitutional development. Territories which desired independence but had been unable to meet their development needs received grants from his Government.

213. Replying to questions under article 2 of the Covenant, the representative of the reporting State pointed out that it was by a combination of existing law and any necessary amendments that the United Kingdom gave effect to its treaty obligations. An individual could therefore look to the law for the legal rules which protected his rights, and there was thus no need for a treaty as such to be applied as part of United Kingdom law. The text of the Covenant had been officially published in the United Kingdom but no claims in court could be based on its provisions. Referring to questions concerning reservations entered into by his country with regard to article 2 of the Covenant, he said that the existing system of military justice contained considerable safeguards to protect the rights of

individual servicemen and there should be no conflict, other than on points of detail, between the relevant provisions of the Covenant and the Code of Discipline; the same applied to the Code of Prison Discipline and both codes were subject to periodic review by Parliament.

214. In connexion with article 4 of the Covenant, he stated that, because of the situation in Northern Ireland, which threatened the life of the nation, the United Kingdom availed itself of the right of derogation provided for in that article. He explained in detail the reasons why his Government felt it necessary to reserve the right to derogate from the provisions of articles 9, 10, 12, 17, 19, 21 and 22 of the Covenant.

215. As regards article 7 of the Covenant, he said that no one could be subjected to medical or scientific experiments without his consent. The use of physical correction of children, whether in public or private schools, was not yet illegal in his country, though a teacher (or a parent) could be sued on behalf of the child if excessive force was used. Replying to a question concerning the Police Complaints Board, he said that the Board, which was in every sense independent of the police, was established to make it possible for a complainant against the police to appeal to a completely independent body.

216. Referring to the community service order mentioned in connexion with article 8 of the Covenant, he pointed out that, under such an order, a person who had committed an offence could be required, if he so agreed, to give a certain number of hours of unpaid work to the community. That method was not part of the prison régime, and could not be applied to persons in custody.

217. Replying to questions under article 9 of the Covenant, the representative pointed out that the expression "lawful judgement of his peers" meant a judgement by the equals of the accused person and that it was now implemented by the system of trial by jury which was still applicable in the more serious cases. Minor cases which represented the majority of criminal charges were dealt with by lay, unpaid magistrates drawn from all parts of society. As regards arrests without a warrant, he indicated that police officers could resort to them only in respect of serious offences, described by the law as "arrestable" offences, and certain other offences expressly specified in particular statutes. The bail system was meant to guarantee that the defendant would appear and the question of payment only arose if he failed to do so or if he was likely to leave the country. The financial means of those concerned were taken into account in fixing the amount. With regard to applications for a writ of habeas corpus, the person having recourse to such procedure relied on the fact that being kept in custody was illegal except for specified reasons, the existence or absence of which the court would have to consider. He stressed that the habeas corpus procedure or its equivalent was available in Northern Ireland as in any other part of the United Kingdom. As for appeals against detention in a psychiatric hospital, the usual procedure was to bring the matter before tribunals specially responsible for cases of mental health which could examine not merely the legality but also the medical desirability of the detention.

218. Replying to questions under article 10 of the Covenant, he said that the reference in the report was not to cellular confinement which could be authorized as a disciplinary measure for a limited period, but to the case where a prisoner could request to be removed from association with other prisoners for his own convenience, and it was that authority which could be given for one month and could be renewed.

Children under 14 were placed not in prisons, but in community homes which were more like schools; later they might be moved to establishments within the prison system catering specially for adolescents. In the case of children stricto sensu it was applied only for serious crimes, such as murder, when some form of detention was necessary in the interests of public safety to prevent a further offence.

219. In relation to the "immigration controls" practised in the United Kingdom in respect of some inhabitants of ex-dependent territories who still held British passports, the representative gave a historical background to the status of such persons and to the rules governing their entry into the United Kingdom. He stated that article 12, paragraph 4, of the Covenant dealt with arbitrary acts and that the control in force was not arbitrary but governed by statute. To prevent misunderstanding, however, his country had, on ratifying the Covenant, entered a reservation on that article.

220. Referring to comments under article 13 of the Covenant, he stressed that the court could order deportation only in respect of offences punishable with imprisonment. A person, however, was liable to deportation for political reasons if he had a pernicious influence. The fact that the deportation of an individual brought about the deportation of his wife and children was governed by the concern to prevent the separation of families.

221. In answer to questions put to him under article 14 of the Covenant, the representative said that a person in police custody was allowed to telephone his solicitor or friends provided that no hindrance was reasonably likely to be caused to the processes of investigation or the administration of justice; and that even if the trial was held in camera, the sentence had to be pronounced in public, except in the case of juveniles, when only the press was allowed to be present. With regard to persons who had been unjustly sentenced and subsequently exonerated, the compensation from public funds was made ex gratia and not as of right. However, it was considered that arrangements for assessing compensation were such that United Kingdom practice did in substance give effect to the spirit of the Covenant.

222. Responding to questions under article 17 of the Covenant, he said that no law had yet been enacted prohibiting the use of electronic equipment for the surveillance of the private lives of persons.

223. With regard to questions under articles 19 and 20 of the Covenant, the representative pointed out that control was exercised over radio and television programmes containing matter "offensive to public feeling", such as broadcasts of an obscene nature. In that connexion, he said that the use of abusive language was not punishable by law unless it involved incitement to racial hatred, defamatory remarks or insults likely to cause a breach of the peace. A decision could be made only on the facts of a particular case.

224. Replying to questions under articles 3, 23 and 24 of the Covenant, he pointed out that a woman who had married a British subject could acquire the nationality of her husband on application, but that men who had married women of British nationality could acquire British nationality only by registration or naturalization. On the other hand, the mother, unlike the father, could not transmit her nationality to her children, that approach being motivated by a concern to avoid too many cases of dual nationality.

225. In response to a question under article 26 of the Covenant, he pointed out that there was no recent example of an Act of Parliament expressly amending the constitutional principle of equal protection of the law. As regards the rights of minorities provided for in article 27, he said that steps had been taken to overcome problems arising from the recent arrival in his country of minorities with different cultures and languages, by increasing the budget of local authorities to enable them to increase the number of teachers in schools and by providing assistance to voluntary organizations.

226. The representative of the United Kingdom finally reiterated his earlier statement that a supplementary report on dependent territories would be transmitted to the Committee which would also receive further information on the questions raised during the discussion.

#### Norway

227. The Committee considered the initial report (CCPR/C/1/Add.5) submitted by Norway at its 77th, 78th and 79th meetings on 12 and 13 July 1978 (CCPR/C/SR.77, 78 and 79).

228. The representative of the State party stated that the report had been transmitted before the adoption by the Committee of its general guidelines for reporting under article 40 but that his Government was prepared to supply any additional information that might be required.

229. Commenting on article 2 of the Covenant, members of the Committee acknowledged that the dualistic method adopted by Norway for fulfilling its obligations under international treaties, including the Covenant, was admissible and legitimate under that article. They wondered, however, whether the provisions of the Covenant could be invoked for the purpose of interpreting the provisions of the domestic legislation and as a standard for the administrative authorities, especially in the exercise of discretionary powers; whether the "principle of legality" was a constitutional one or simply a rule of customary law, how that principle was put into practice and what the term "legal rights of citizens" mentioned in that context, really meant. What remedies were available to individuals claiming that a statutory provision was in conflict with a fundamental right? In that connexion, members of the Committee expressed great interest in the institution of the ombudsman and requested more information on his role in protecting individual rights and freedoms and particularly whether the provisions of the Covenant could be invoked before, and applied by, him directly.

230. Members of the Committee noted the lack of information in the report on article 3 of the Covenant and requested information on any legislation that might be in existence to ensure equal civil and political rights for men and women, and on the machinery, if any, that might have been set up to enforce it.

231. Information was sought on the circumstances under which a public emergency could be invoked, and any exceptional measures which could be taken accordingly, as a reason for derogating from the Covenant on the basis of the provisions of article 4, and on the significance of the term "special legislation" used in the report in that connexion.

232. Members of the Committee noted that, as regards article 6, the report only explained the reservation of Norway with respect to paragraph 4 of that article without indicating specific measures relating to the protection of life. They

asked whether the death sentence had ever been pronounced in the post-war period and, if it had been, how many times, by which court and for what crimes. Clarification was requested on the statement in the report to the effect that capital punishment was always an alternative punishment to deprivation of liberty.

233. As regards article 7, it was noted that no mention had been made of the procedures that had been established to ensure that the prohibition against torture was respected in all cases. Information was requested concerning the treatment of prisoners in solitary confinement and on whether there were any rules in Norway regarding medical and scientific experiments on individuals.

234. One member expressed his misgivings concerning the Temperance Committees referred to in connexion with article 8 and inquired into the circumstances under which compulsory labour could be imposed as a curative measure and whether Norway had ratified the ILO Convention No. 105 concerning the abolition of forced labour. <sup>7/</sup>

235. In respect of article 9 of the Covenant, information was requested on the standard rules of criminal procedures referred to in the report; on the circumstances, outside the scope of criminal proceedings, in which an individual might be deprived of his liberty; on the time-limit for prosecution of an accused, the maximum length of time for which individuals could be detained without trial and the conditions governing the granting of bail. One member commented that the assumption of the Norwegian authorities, referred to in the report, that the Covenant did not prevent domestic law from stipulating specific terms and conditions for the award of compensation for deprivation of liberty, seemed inconsistent with the provisions of article 9, paragraph 5.

236. With respect to article 10 of the Covenant, further details were requested concerning the procedures for trial and treatment of juvenile offenders. As to the reservation expressed in the report regarding paragraph 3 of that article, it was noted that the purpose of the paragraph was not to exclude common activities for juveniles and adults but merely to ensure recognition of the special situation of juveniles.

237. Further information was requested on the laws referred to in the report relating to article 13 of the Covenant. What legal safeguards and remedies were available for persons threatened with expulsion and did the expulsion take effect immediately or only after an individual had exhausted all available remedies?

238. Commenting on article 14 of the Covenant, members of the Committee asked whether every effort was made to ensure the application of the principle of equality before the law; whether there were any specialized tribunals which dealt with labour disputes or financial, social and administrative matters; how the independence and impartiality of the judiciary was ensured and whether or not the press and public could be excluded from a trial. Members also asked for information on any legal remedies that might be available for defendants when judicial proceedings dragged on excessively; why an accused person was not summoned to or informed of appeal proceedings and whether that practice was considered to be consistent with his right to be tried in his presence; whether any procedure existed for the provision of

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<sup>7/</sup> International Labour Organisation, Conventions and Recommendations, 1919-1966 (Geneva, 1966), p. 891. For wording of foot-note, see resolution 2920 (XXVII).

legal assistance; and whether there were any restrictions on an individual's choice of a lawyer. It was noted that Norwegian law provided for monetary compensation to individuals who had been wrongly convicted of crimes and the question was asked whether any form of moral compensation existed there, as it did in many other countries. With reference to the Norwegian reservation to paragraph 7 of article 14, information was requested concerning cases under which it was possible to institute a resumption of a case to the disadvantage of an already convicted individual.

239. As regards article 17 of the Covenant, it was noted that the Norwegian legislation regulating the right to monitor postal and telegraphic dispatches and telephone conversations enacted in 1915, would seem to be out of date, in view of technical developments since that time. Information was therefore sought concerning the contemporary case law relating to the right to privacy. The representative of Norway was also asked whether judicial permission was needed for monitoring private correspondence and telephone conversations and whether the individuals concerned were informed that they were under surveillance.

240. Commenting on the statement in the report to the effect that equality of religion did not exist in Norway, members of the Committee inquired into the legal or political implication of that situation: what were the precise privileges enjoyed by the national church in Norway? Were all taxpayers, regardless of their religious conviction obliged to pay for the upkeep of that church? Was any religious instruction compulsory in Norwegian schools? What was the situation with regard to the treatment of conscientious objectors?

241. Members of the Committee requested more information concerning the freedoms provided for in articles 19, 21 and 22 and, in particular, on any restrictions imposed thereon. The representative was specifically asked whether the broadcasting media were a Government monopoly, whether all sectors of the population were afforded an opportunity to present their views and whether the Norwegian authorities registered the legal political activities of the citizens.

242. With reference to the reservation entered by Norway in respect of article 20 of the Covenant on the ground that its provisions might be contrary to the freedom of expression, it was noted that that freedom was already subject in Norway to a number of restrictions and it would be only logical to impose similar restrictions on war propaganda which would, moreover, be in keeping with contemporary norms of international law.

243. As regards articles 23 and 24 of the Covenant, members of the Committee requested information regarding measures adopted to protect the family and children, to ensure equality of rights and responsibilities of spouses, and to deal with the problems of the children of working mothers. Information was sought on the law governing the treatment of individuals who married foreigners and the rights of residence of spouses not possessing Norwegian nationality.

244. Members of the Committee asked how Norwegian law guaranteed the equal right to participate in public affairs under the terms of article 25 of the Covenant, whether the members of certain political parties were excluded and whether any special procedures existed to enable an individual to appeal against unreasonable restrictions in that respect.

245. The representative of Norway, commenting on the observations and questions summarized in the preceding paragraphs, stated that the principle of legality even though it was part of the unwritten law, was generally considered to be of a



constitutional character and that, as such, it could be invoked before the administrative authorities and the courts, which were equally bound to comply with it. Replying to a question concerning the scope of that principle and the exact meaning of the term "legal rights", he indicated that that principle would apply generally in the field of human rights. The rules of the Covenant could be invoked before the courts, the administration and the Ombudsman and would thus be a help in interpreting the relevant municipal rules. He explained the legal base and functions of the Ombudsman whose competence encompassed human rights but whose main concern had been to improve the guarantees for the citizen vis-à-vis the increasing power of the administration in modern society.

246. Replying to questions under article 3 of the Covenant, the representative stated that equal rights for men and women were a reality in Norway and gave some statistics to prove his point. He added that in the spring of 1978, the Storting had passed an act on equality between the sexes, which was to enter into force on 1 January 1979. The Act instituted an Ombud and a Board for the implementation of its provisions.

247. As regards article 4 of the Covenant, he explained the provisions allowing for derogations from ordinary legislation as contained in Act No. 7 of 1950 and stated that Norwegian authorities, when exercising their competence under that Act, must take into account international obligations such as the Covenant, and that if the derogation from ordinary legislation was founded on that Act, the principle of legality was respected.

248. Commenting on questions under article 6 of the Covenant, the representative pointed out that his Government had recently decided, in principle, to abolish the death penalty and intended to present a bill to that effect to the Parliament in the near future. No death penalty had been imposed in Norway since the trials following the Second World War. The statement in the report that capital punishment was an alternative to deprivation of liberty meant that, in cases where capital punishment might be applied the court would have the possibility of applying deprivation of liberty instead.

249. Replying to a question under article 7 of the Covenant, he stated that, where medical and other scientific experiments were concerned, guarantees were provided by professional ethics, the penal rules and the professional control exercised by the authorities.

250. As regards article 8 of the Covenant, he pointed out that the obligation to work imposed by the Temperance Committees was covered by article 8, paragraph 3 (c) (i), of the Covenant. He added that even if the Temperance Committee was not formally a court of law according to the Norwegian legal system, it had an independent position and was bound by formal procedural rules to such an extent that it must be considered as a court according to the Covenant. The fact that the obligation to work was a curative measure was mentioned in the report as an additional argument explaining the background for the relevant rules. Norway had ratified the ILO Convention regarding forced labour.

251. Replying to questions under article 9 of the Covenant, he pointed out that the term "standard rules of criminal procedure" used in the report meant the whole set of rules contained in the Criminal Procedure Act, which set out in detail the conditions for deprivation of liberty. The Norwegian authorities had understood article 9 to cover all cases of deprivation of liberty, including cases pursuant to Act No. 2 of 1961 concerning psychiatric health wards and to the 1939 Act relating to temperance and Temperance Committees.

252. Referring to questions under article 13 of the Covenant, the representative stated that the safeguards concerning a decision ordering expulsion were found in the Aliens Act of 1956 which stipulated the possibility of appeal to a higher administrative authority. In some cases, such an appeal would automatically have the effect of preventing expulsion from being carried out as long as the appeal was under consideration. However, he added, the rules in that field were under revision.

253. Replying to some of the questions put to him under article 14 of the Covenant, the representative stated that, as a general rule, justice was obtained in Norway in either civil or criminal matters without undue delay and gave some statistics to that effect. A fairly extensive system for free legal aid and free legal advice existed in Norway to ensure that individuals were not prevented from defending their rights before the courts, even if they lacked the necessary financial means. He confirmed that Norwegian law merely provided for monetary compensation to individuals who had been wrongly convicted of crimes but that the possibility for moral compensation was not excluded if it was deemed appropriate.

254. As regards article 17 of the Covenant, he said that opening mail and monitoring telephone conversations might be ordered only by a court or, in urgent matters, by the prosecuting authority. In the latter case, the measure must immediately be reported to the court. Such measures could be ordered only when they were deemed necessary for national security reasons or when the person in question was suspected of committing serious offences specified in the Act.

255. Commenting on questions under articles 23 and 24 of the Covenant, the representative pointed out that all Norwegian family and social legislation, including extensive social security legislation, had the aim of protecting the family and children. In order to solve the problems of working mothers, efforts were being exerted, *inter alia*, to make institutions providing full-time or part-time child care widely available. Legislation had been passed on that subject, some progress had been achieved, but much remained to be done. As to the equality of rights and responsibilities of spouses, he stated that two kinds of régimes existed in his country, a joint estate and separate estates, and spouses might choose either of them. The main principle under both régimes was that both spouses had a duty to contribute to the common household and that, subject to some special rights protecting the interests of the other spouse, they had an independent right to dispose of their own part of the estate.

256. Replying to questions under article 25 of the Covenant, he said that the guarantee for every citizen to participate in the conduct of public affairs lay primarily in the universal right to vote. Anyone who claimed to have been refused a public post on non-objective grounds, such as political views, had the possibility of bringing the case before the courts for redress if an appeal to higher administrative authorities did not give satisfaction.

257. The representative of Norway informed the Committee that replies to unanswered questions would be furnished to the Committee in writing.

#### Madagascar

258. The Committee considered the initial report (CCPR/C/1/Add.14) submitted by Madagascar at its 83rd, 84th and 87th meetings on 17 and 19 July 1978 (CCPR/C/SR.83, 84 and 87).

259. The report was introduced by the representative of the State party who explained the constitutional development in his country, provided certain additional information and referred to legislation enacted since the preparation of his country's report. He stated that the new Constitution of 1975 was based on a concern both for the construction of the socialist State, which required certain constraints, and for the protection of individual rights and fundamental freedoms. All citizens were protected from exploitation, but no fundamental right or freedom could be invoked by a citizen who had not fulfilled his duty to the community and no right could be invoked which impeded the construction of the socialist order.

260. The representative pointed out that the promotion of civil and political rights in his country had been hampered by the lack of judicial facilities, the sharp rise in crime and the worsening of the economic situation as a result of the world economic crisis. The last two factors necessitated the adoption of measures restricting the enjoyment of certain rights and freedoms in order to protect society and the economic order. These measures included, according to ordinances issued in 1976 and 1977, the suspension of the publication of newspapers and periodicals guilty of disturbing public order, of undermining national unity or of offences against public morality; the establishment of six special economic courts and special criminal courts aimed at controlling the crime wave. He also referred to two ordinances that had been enacted as exceptional measures to restrict the movement, or fix the residence, of persons regarded as a threat to public order or known to engage in acts of banditry. He pointed out, however, that these two measures had been resorted to very rarely.

261. Members of the Committee expressed their appreciation for the straightforward manner in which the representative of Madagascar had explained the difficulties that his country had encountered in guaranteeing the rights and freedoms laid down in the Covenant.

262. Questions were asked on the role of the judicial system in the implementation of the Covenant: Did citizens have access to courts to obtain remedies for alleged wrongs or to seek a declaration that a particular act, law or decree was unconstitutional without having to institute a civil action and claim damages? What remedies were available for individuals claiming that their rights under the Covenant were violated? Could the Covenant be invoked in proceedings before the courts and administrative authorities? How well known was the Covenant in Madagascar?

263. Members of the Committee asked what the relationship of the Constitution was to the codes, ordinances and decrees mentioned in the report, how the existence of competent and impartial judicial authority was ensured, what the reasons for the establishment of the new special economic and criminal courts were and how those courts operated.

264. With reference to article 3 of the Covenant, information was requested on the law providing for equal rights for men and women in respect of access to employment opportunities and to education, particularly at the higher levels. Did women enjoy the right to vote and to participate in public affairs, and were any women currently serving in the National Assembly or Senate?

265. As regards article 4 of the Covenant, members of the Committee asked whether the "state of national necessity" referred to in the report still existed, and, if it did, how long it would continue to be in force. Confirmation was sought that it did not involve any derogations from the Covenant which should be notified under article 4.

266. Referring to article 6 of the Covenant, information was requested on the range of crimes to which the death penalty could be applied and on the meaning of the words "aggravating circumstances" mentioned in the report as causing certain thefts to warrant the death penalty. It was noted with satisfaction that there had been no executions in Madagascar since 1958.

267. Commenting on article 7 of the Covenant, some members noted that the prohibition of torture and cruel, inhuman or degrading treatment and punishment mentioned in the report appeared to extend only to individuals, but not to public officials. They wondered whether there was a provision in the Constitution or in any legislation which would cover cases where agents of the State were involved in such acts. Clarification was requested with regard to the "good and sufficient reason" referred to in the report that justified the use of violence.

268. As regards article 8 of the Covenant, it was noted that a "political crime" or "serious political offence" was not subject to forced labour. Clarification was requested as to the types of convictions which could lead to forced labour, the nature of an offence which constituted a political crime, whether there was any special régime for political offences, and whether there were political prisoners detained without trial for offences, not involving the use of violence. Further information was sought with regard to the system referred to in the report whereby prison labour could be hired out in the public interest to private companies, and on any statistics that might exist in that respect.

269. In connexion with article 9 of the Covenant, members noted that the Code of Penal Procedure would seem to permit extremely long periods of detention before trial, even longer than the period of 20 months mentioned in the report. They asked whether people had in fact been detained for periods of up to 20 months, whether the practice of detention pending trial was common in Madagascar and, if it was, what were the reasons for the delays and whether measures were under consideration to ensure that the accused would be brought to trial as speedily as possible. With reference to a list in the report of institutions under the control of the Prison Administration, questions were asked concerning the purpose of those institutions and the categories of prisoners detained therein.

270. Information was requested on the treatment of prisoners in Madagascar in the light of article 10 of the Covenant, and on the size of the prison population. Was serious attention being paid to prison conditions and the rehabilitation of prisoners? Were juvenile offenders separated from adults?

271. Commenting on article 14 of the Covenant, members requested further explanation of the conditions under which trials might be held in camera and of the restrictions placed, in a recent amendment to the Code of Penal Procedure, on the defendant's right of pre-trial consultation with his counsel. It was observed that the provision of the Code, under which witnesses were heard without the presence of the defendant, appeared to be inconsistent with the Covenant requirement that the defendant must be tried in his presence. Information was requested on the extent to which the guarantees provided for in the Covenant applied to proceedings before the special economic and criminal courts referred to in the report; was it possible to obtain compensation when a conviction was annulled and, if it was, within what limits?

272. Members of the Committee requested information on the restrictions imposed on the exercise of the freedoms provided for in articles 18, 19, 21 and 22 of the Covenant. What was meant by the expression "neutrality of the State" in the matter

of religion? Was the press subject to strict Government control? Was it admissible to express dissatisfaction with Government policy in a peaceful manner? How did Malagasy courts interpret and apply article 28 of the Constitution providing that freedom of expression, of the press and of assembly was guaranteed "when exercised in conformity with the objectives of the revolution"? Clarification was sought on the reference in the report to certain private assemblies that could be deemed to be public. As regards the freedom of association, the representative of Madagascar was asked whether the law recognized a collective decision to strike and what were the legal provisions governing strikes.

273. Referring to article 20 of the Covenant, members of the Committee asked whether war propaganda was specifically prohibited in Madagascar.

274. As regards articles 23 and 24 of the Covenant, more information was requested on the law providing for equality between husband and wife and for the protection of children. Questions were asked concerning, in particular, the system of property rights in marriage, the circumstances under which divorce was possible, the regulation of the question of children born out of wedlock, and whether there were any plans to shift the emphasis in courts dealing with minors from punishment to guidance.

275. Under article 25 of the Covenant, clarification was requested concerning the "legal requirements" referred to in the report for the right to vote and to be elected, and on what was meant by persons being "in possession of their civil and political rights", what was the date of the most recent elections to the National Assembly? Had political parties been able to participate freely in those elections?

276. As regards article 27 of the Covenant, the representative was asked whether minorities existed in Madagascar and, if they did, what provision had been made to safeguard their rights.

277. The representative of Madagascar commented on the observations and questions summarized in the preceding paragraphs. He stated that the incorporation of the provisions of the Covenant into national law was a gradual and ongoing process in his country. The judges who applied domestic laws were cognizant of the international instruments which were binding on them in the manner of natural law. Even though they might not be able to invoke the provisions of the Covenant in judicial practice, judicial decisions in Madagascar were strongly influenced by the spirit and letter of that instrument. In that connexion, he pointed out that the text of the Covenant had been published in the Journal Officiel in the French and Malagasy languages and was analysed in the major newspapers published in the Malagasy language by the Department of Information. Despite such efforts, public awareness of both domestic law and international instruments continued to be relatively limited.

278. Replying to questions concerning the organization of the courts in Madagascar, the representative gave a detailed description of the courts and their competence, with particular emphasis on the underlying reasons for the establishment of the special courts referred to in the report, their main characteristics, the fact that their judgements were monitored by a higher court and the fact that the rights of the defence were scrupulously respected. He stated that one of the best safeguards of the rights of the defendant was the excellent training received by judges and lawyers in Madagascar. Judges enjoyed a special status which guaranteed their independence, and held tenure for life. Strong provisions existed to punish contempt

of court. Everyone was entitled to institute legal proceedings, orally or in writing, and a system of legal aid was available for persons with limited means. The law expressly provided that a person whose civil or political rights were being violated could bring action to put an end to such violations.

279. The representative explained the relationship between the various legal documents mentioned in his Government's report. The constitutionality of the laws was determined by the High Constitutional Court. If a litigant in a suit before any court challenged the constitutionality of a law, the court in question was obliged to suspend proceedings until the High Constitutional Court had rendered a decision in the matter.

280. Commenting on questions raised regarding equality between the sexes, the representative pointed out that strict equality between men and women was assured by Malagasy law. However, as in many developing countries, de facto inequality existed in certain cases, which limited the enjoyment of some rights by women, due to certain physical constraints and to their lower standard of education. A vast programme was being undertaken to improve the status of women.

281. Replying to questions under article 4 of the Covenant, he informed the Committee that the "state of national necessity" referred to in the report had been brought to an end by the Constitution of 1975. Only a few exceptional measures had remained part of the law, the most important of which was the power to suspend publication of newspapers and periodicals which disturbed public order, national unity or moral standards.

282. As regards the death penalty, he pointed out that it applied only to extremely serious crimes, such as premeditated murder, parricide, poisoning, murder with aggravating circumstances and violent armed robbery.

283. Responding to questions raised under article 7 of the Covenant, the representative stated that the provisions prohibiting torture and similar abuses in his country applied equally to individuals and public officials. Officers of the police found guilty of such offences incurred both administrative and penal sanctions. Investigation of abuses had in the past been conducted at the initiative of judges. The "good and sufficient reason" justifying the use of violence meant that violence could be used in self-defence or on the order of a legitimate authority, the latter assuming both civil and penal liability for such an order.

284. In connexion with questions put to him under article 8 of the Covenant, the representative stated that the reference in the report to persons "sentenced for a political crime or serious political offence" did not relate to those whose sole offence had been to speak against the Government, but to persons who committed certain acts dealt with in the Penal Code, such as violations of the security of the State or of press regulations. Persons detained for political offences were not subject to forced labour. As to the question regarding the hiring-out of prison labour, he pointed out that that provision survived from a time when manpower had been insufficient for working vast State agricultural concessions, leading to the use of prison labour. Under the socialist system, however, the practice was being reformed and was sure to disappear.

285. Responding to questions under article 9 of the Covenant, the representative stated that detention pending trial was a purely exceptional measure, for an accused person was presumed innocent. The provision in question had been drafted with the

intention of providing a minimum of protection against unreasonably long detention. The maximum limit of 20 months had been set for cases entrusted to an examining judge, for it could happen in complex cases that the investigation might last as long as 20 months. However, a detainee could, at any stage of the proceedings, request that he be released pending trial and if refused, he could appeal.

286. In reply to a question raised under article 10 of the Covenant, he stated that a law enacted in 1960 provided that all juvenile offenders be given educational assistance. However, there were cases of true delinquency which called for penal sanctions and, therefore, judges had been empowered to impose a variety of sanctions, ranging from a mere reprimand to confinement in an institution, taking into account the interests of society and the moral and physical health of the juvenile.

287. As regards questions raised under article 14 of the Covenant, the representative stated that the judge could order that the trial be held in camera only in exceptional cases, such as those involving minors, morals or barbarous acts that might offend public morality; that the defendant could consult his counsel at any time; that in trial procedure the presence of the defendant was always necessary but that, in the interest of truth, it was possible during the investigation to hear witnesses without the presence of the defendant, who was then told of the statements of the witnesses and allowed to contest them or to ask that he be allowed to confront the witness in question. He stated that all the safeguards established in the Covenant, particularly those relating to the rights of defence, were fully applicable to the proceedings of the special courts.

288. Replying to a question raised under article 18 of the Covenant, the representative pointed out that the expression "neutrality of the State" in the matter of religion indicated that the State recognized the existence of the various religious communities, allowed them to conduct their activities, did not interfere in their internal affairs and strictly applied the established principle of the separation of Church and State.

289. As regards questions put to him concerning the restrictions on the freedoms provided for in articles 19, 21 and 22 of the Covenant, the representative referred to article 28 of the Constitution under which freedom of expression, of the press and of assembly was guaranteed to citizens when exercised in accordance with the objectives of the Revolution and the interests of the workers and the community, and with a view to strengthening of the new democracy for the establishment of a socialist State. He added that the various restrictions of fundamental freedoms enunciated in the Constitution had a declaratory rather than normative value and that they would be the subject of further legislative provisions governing their application, in which the preoccupation of the authors of the Covenant would certainly be respected.

290. Commenting on questions raised under article 23 of the Covenant, the representative pointed out that it had been found necessary in Madagascar to give a preponderance of prerogatives to the husband in order to impart unity and direction to the household; and in that connexion, he explained some of the prevailing local customs which reflected the importance of the role of the wife in his country.

291. Finally, with reference to a question raised under article 25 of the Covenant, he emphasized the importance of article 16 of the Constitution, under which abuse of constitutional or legal freedoms entailed the deprivation of rights and freedoms.

292. The representative of Madagascar informed the Committee that unanswered questions had been referred to his Government, which would submit a written reply to the Committee at a later date.

## Iran

293. The Committee considered the initial and supplementary reports submitted by Iran at its 89th, 90th and 93rd meetings on 20 and 24 July 1978 (CCPR/C/SR.89, 90 and 93).

294. The reports were introduced by the representative of the State party who recalled that the initial report (CCPR/C/1/Add.16) had been submitted before the Committee's guidelines had been received and that, consequently, a supplementary report (CCPR/C/1/Add.26 and Corr.1), prepared in accordance with the guidelines, was now placed before the Committee. 8/

295. The representative reviewed briefly the Iranian legal system, stating that the Civil Code was based on Islamic law and that the provisions governing personal and family matters applied only to Shi'i Moslems. He pointed out that, under Iranian law, an individual had a remedy by way of damages if his person, property, reputation or other rights recognized by law had been violated. That law, he maintained, also applied to public and private organizations.

296. Members of the Committee welcomed the fact that the supplementary report of Iran indicated factors and difficulties affecting the implementation of the Covenant, and enabled the Committee to gain a better understanding of the situation in that country and of the special problems in implementing human rights faced by developing countries. They expressed the hope that the Committee would be kept informed of the future work of the Commission for Review of Iranian Laws in Relation to the Covenant. The Commission would do well, it was suggested, to review not only the laws but also the practices involved in their application.

297. It was noted that the Covenant was not considered directly binding under Iranian law and that, according to the supplementary report, there were cases of conflict between domestic law and the provisions of the Covenant and others in which domestic law was silent with regard to rights recognized in the Covenant. Clarification was therefore requested on the Government's intentions to remedy that situation in the light of the fact that no reservation to that effect had been made by the Iranian Government when it ratified the Covenant.

298. Referring to the constitutional system in Iran, members of the Committee asked how the executive, legislative and judicial powers were kept separate; what the exact status of the monarchy was with regard to legislative powers; to what extent the executive was answerable to the legislature; how a minister could be removed if he was responsible both to the monarch and to the two house of Parliament; how the judiciary was constituted; how the judges were appointed, particularly those of the arbitration councils and houses of equity; and whether the latter played a role in guaranteeing human rights or were merely law enforcement authorities. With reference to the military tribunals mentioned in the report, it was observed that such tribunals tended to be dominated by the executive and that the resulting

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8/ The initial report of Iran was scheduled for consideration at the third session of the Committee. At its 72nd meeting on 2 February 1978, the Committee, having been informed that a supplementary report would be submitted shortly, decided to place both reports on the agenda of its fourth session.



insufficient separation of powers could lead to the infringement of the role of the judiciary and the rights of individuals. Questions were asked concerning the legal basis of such tribunals, and whether they were a permanent part of the judiciary.

299. Information was requested on the nature of customary law with respect to religion, the family and other areas, including political questions, and on the constitutional provision that "the laws must not be at variance with principles of Islam", which seemed to suggest that customary law took precedence over ordinary laws. It was noted that customary law could be invoked in the military tribunals and one member wondered how customary law could be applied in courts of an exceptional nature.

300. Members of the Committee noted that the description given in the report of the available remedies for persons whose civil and political rights were violated was not sufficient to establish whether the provisions of article 2, paragraph 3, of the Covenant were being met, and that a law enacted in 1960 with a view to establishing a Council of State to hear complaints from individuals had not been implemented "due to lack of means". Members therefore asked several questions as to the nature of the difficulties preventing the implementation of the above-mentioned law: was the Imperial Inspectorate mentioned in the supplementary report actually functioning and, if so, what procedures were followed for hearing complaints addressed to it? Was the complainant allowed to have the assistance of legal counsel? What were the number, nature and outcome of complaints dealt with in the course of one year? Reference was made to the constitutional provision cited in the supplementary report that "the hearing of complaints regarding the violation of political and civil rights, in general and aside from exceptional cases, falls within the jurisdiction of the judicial courts". Clarification was sought in respect of those "exceptional cases".

301. In connexion with article 3 of the Covenant, questions were asked regarding the extent to which women were able to exercise political rights to take up positions equal to those of men and to have equal access to education at all levels.

302. It was noted that, in terms of article 4 of the Covenant, no derogation from the obligations assumed under the Covenant was possible except in relation to situations of public emergency, and the representative was asked whether any emergency situation had led the Government to derogate from any of its obligations under the Covenant.

303. As regards measures adopted in Iran for protecting the right to life under article 6 of the Covenant, questions were asked concerning rules governing the use of arms by security forces in disturbances, particularly political riots. What offences, particularly political offences, if any, were punishable by the death sentence? How many executions had been carried out in recent years and had any consideration been given to the possibility of abolishing the death penalty? Information was sought on measures taken to reduce infant mortality and on trends in infant mortality in different parts of the country.

304. Regarding article 7 of the Covenant, it was noted that the report appeared to suggest that torture and cruel punishment was prohibited only if used to extract confessions. It was felt that more was required under that article, including a system for regular control and monitoring to ensure that the prohibition of torture

was respected by all responsible public agencies. The punishment for such acts as provided for in the Iranian law appeared to be lenient. Questions were asked as to what measures had been taken to ensure that treatment contrary to article 7 of the Covenant was not resorted to by the police or security agencies or other authorities; had there been any recent complaints of such treatment and had there been any recent instances of public officials being charged with such violations?

305. Referring to article 9 of the Covenant, members of the Committee wished to know for what kinds of non-violent political activities, if any, persons might be imprisoned in Iran; whether any persons were detained on political grounds without trial, and if there were, on what justification. It was stressed that, at the pre-trial stage of the proceedings, the accused should be subjected to a minimum of duress and be able to have access to legal assistance during detention or while a police investigation was carried out. How long could a person be legally detained pending trial? Could the detainee resort to a writ of habeas corpus or have the legality of his detention adjudicated upon promptly by a court of law with a view to securing his release? Was the question of granting bail still within the competence of the security and intelligence agencies? Additional information was requested concerning the Public Security Committee referred to in the report in connexion with article 9 of the Covenant.

306. In respect of article 10 of the Covenant, information was requested concerning the treatment of prisoners; the frequency of family visits and freedom of correspondence; solitary confinement; the practices of the "courts of children" referred to in the initial report; and the existing measures to correct juvenile offenders and to reintegrate them into the community and whether those measures included a system of guardianship.

307. Commenting on article 14 of the Covenant, members of the Committee wondered why it was necessary for military tribunals in Iran to have jurisdiction over civilians in certain cases, since military judges normally lacked specialized training and were less independent than other judicial officers. It was noted that, according to the report, the file of the accused could be the basis for the military tribunal's decision, since it was possible for the tribunal to dispense with the hearing of witnesses or cross-examination. The representative of Iran was asked whether such tribunals observed the minimum guarantees of due process required under article 14 of the Covenant, including the right of the accused to choose his counsel freely and his right to appeal. A statistical breakdown was requested on the work of the military tribunals showing the number of cases which had come before them and the number of acquittals and convictions.

308. It was noted that the Iranian Government itself had expressed doubts as to whether national law was fully in conformity with the requirement that individuals accused of criminal offences were to be presumed innocent until proved guilty and the representative of Iran was asked what historical, cultural or other factors might have limited the realization of that principle. It was noted that the State Organization for Intelligence and Security referred to in the initial report not only gathered information required for national security but also performed the function of examining magistrates. Questions were asked concerning the function of that Organization; members wished to know whether its mandate was clearly defined and whether it was considered to be a judicial or a police body. They also asked whether the military tribunals or any other courts were involved in the investigation stage of a case.

309. In relation to article 17 of the Covenant, information was requested concerning the laws governing the circumstances which might involve interference with privacy, family, home or correspondence of the individual and the rights, obligations and powers of the intelligence service in that respect.

310. With reference to article 19 of the Covenant, it was stated that no discussion whatsoever was apparently permitted concerning the Constitution, the Imperial monarchy and the Revolution of the Shah and the People, and that the Press Act had been used to punish severely anyone who ventured to express views on them. Members of the Committee wished to know to what extent, for example, people were free to express ideas that might be at variance with those of the régime, to criticize acts of the authorities or to advocate peaceful changes of the system; what degree of control, including censorship, was exercised over the mass media; what access the average citizen had to the information media; whether the press was directly or indirectly State-supported and, if it was, who made decisions as to the granting of such support; and to what extent the full enjoyment of the rights guaranteed under article 19 of the Covenant was subject to the jurisdiction of the military tribunals.

311. With reference to article 22 of the Covenant, members asked whether it was possible in Iran to establish a political association with aims or views which might be different from those of the Government and whether individuals who professed a religion, other than the official State religion, had to organize themselves within a legal structure recognized by the State. Further information was requested regarding the status of unions in making collective agreements and the conditions which a professional association had to fulfil in order to become a trade union.

312. In connexion with articles 23 and 24 of the Covenant, members wished to know whether customary family law as applied by the religious courts was consistent with those articles of the Covenant; what legal rules and practices existed to ensure equality between spouses during marriage and at its dissolution; and what steps were being taken to improve economic and social conditions, especially with regard to the family and children. Members expressed concern over the reference in the supplementary report to "illegitimate children", which seemed to constitute discrimination on the basis of birth, and asked what justification there was for the distinctions made and whether the Government had any intention of eliminating them.

313. With reference to the political rights enunciated in article 25 of the Covenant and to the fact that Iran had a single-party political system, members asked how the system worked; to what extent it was one of participation; how members of the National Consultative Assembly and the Senate were chosen; what were the "exceptional cases" in which the principle stated in the supplementary report that "the people have the right to participate in the administration of the country" did not apply; and what were the criteria for prohibiting access to civil service.

314. In connexion with article 27 of the Covenant, clarification was needed as to whether the minorities referred to in the two reports were considered as such on religious, ethnic or other grounds. More details were requested on the protection of their rights.

315. Commenting on the statement in the supplementary report to the effect that certain cultural, economic, geographic and religious factors made it difficult for the Iranian Government to attain effective implementation of all the provisions of the Covenant, one member of the Committee observed that the absence of a provision in Iranian legislation relating to the prohibition of war propaganda, or the fact that certain judgements were not subject to appeal to a higher court, seemed to indicate that there were cases where the failure to implement certain provisions of the Covenant could not be attributed to those factors.

316. The representative of Iran commented on the observations and questions summarized in the preceding paragraphs. He quoted article 9 of the Civil Code of 1928 which provided that "treaty stipulations which have been concluded in accordance with the Constitution between the Government of Iran and other Governments shall have the force of law" and pointed out that, in the light of over 70 years of constitutional practice and the text of the Constitution, there was no doubt as to the precedence taken by the Constitution over all other laws in his country.

317. The representative described at length the organization of the State constitutional system and its structure. As to the question of the control of the executive by the legislature, he pointed out that the affairs of the State were subject to scrutiny by the National Consultative Assembly and by the Senate whose powers were laid down in the Constitution and amendments thereto. Ministers were accountable to both houses and could not absolve themselves from their constitutional responsibilities by invoking orders of the Shah or royal decrees in justification of their actions. When either of the houses, by a vote of an absolute majority of members, declared its dissatisfaction with the cabinet or a minister, the cabinet or the minister was considered dismissed.

318. As regards the competence of courts, he stated that, in principle, the adjudication of all controversies fell within the competence of the ordinary courts. The competence of other bodies such as the houses of equity, the arbitration councils and the religious courts was limited to cases expressly specified by law. He pointed out that a House of Equity, elected by the inhabitants of a village, handled petty offences and minor civil litigation and that a court writ issued by a judge was needed for the implementation of its verdicts. Arbitration Councils were established in towns and had similar jurisdiction, but their verdicts had to be approved by a legal consultant assigned to the Council by the appropriate court. In practice, the majority of cases brought before those institutions were settled by compromise. As to the status of military tribunals, the representative stated that these tribunals were established, pursuant to the Supplementary Fundamental Laws, by legislation adopted in 1939, and that their judges were appointed from among individuals trained in the law.

319. Replying to questions concerning the role and nature of customary law in Iran, the representative stated that, under Iranian law, custom was invoked exclusively in civil cases and had no application whatsoever in criminal offences. It was in controversies of a civil nature where no law at all existed, or the existing laws were contradictory or unclear, that the judge was allowed to invoke custom.

320. In connexion with the question of remedies under article 2 of the Covenant, the representative pointed out that the Imperial Inspectorate was part of the Executive and had no judicial prerogative. Individuals could submit complaints against Government agencies to the Inspectorate which had access to all Government

records. The elimination of corruption constituted one of its functions; and if its investigation revealed a crime, a report was submitted to the legal authorities concerned for prosecution. He also pointed out that the law enacted in 1960 relating to the Council of State, which was to consider complaints by civil servants of violation of their employment rights, had fallen into disuse. Its main functions were exercised by an administrative and civil service commission established under the Civil Service Act of 1966 and by the Imperial Inspectorate established in 1968.

321. In connexion with questions put to him under article 3 of the Covenant, the representative stated that since 1963 women in Iran had had the right to vote and were eligible to hold public office and compete freely for any post in the Government. Under the Family Protection Law, men and women had the same right to refer family disputes to a court of law, to sue for divorce and to be granted the custody of children. He gave some statistics showing the progress made by women as a result of a decree on free and compulsory education for all children.

322. Referring to questions under article 4 of the Covenant, he pointed out that, according to a law enacted in 1950, in exceptional circumstances a state of emergency could be declared with the prior approval of the National Consultative Assembly and the Senate. If urgent circumstances arose, the Executive could declare the state of emergency and submit a report within one week explaining the reasons for the decision to each of the two houses. The latter could overrule the decision of the Government and thus bring the state of emergency to an end.

323. As regards article 6 of the Covenant, he stated that capital punishment was limited by law to specific crimes of exceptional seriousness and could be carried out only pursuant to a final judgement rendered by the competent tribunal. Over the past two years, he maintained, the number of death sentences handed down and executed had been decreasing continuously.

324. Replying to questions under article 9 of the Covenant, the representative stated that, in Iran, there was no exact equivalent of the common law concept of habeas corpus; that detained persons were allowed by law to petition courts concerning details of their case; and that officers in charge of investigations were required by law to submit the relevant charges to the appropriate court. Suspects had access to legal assistance in the pre-trial stage.

325. With regard to the prohibition of torture and the treatment of prisoners, provided for in articles 7 and 10 of the Covenant, he drew attention to the relevant law of 1975 which, he maintained, was in full conformity with the Standard Minimum Rules for the Treatment of Prisoners as approved by the Economic and Social Council. He stated that the total number of persons imprisoned for committing acts of terrorism, espionage or acts against the security of the State did not exceed 2,100. He stressed the fact that recent studies on the implementation of prison regulations failed to show a single case of torture or cruel, inhuman or degrading treatment.

326. Commenting on questions under article 14 of the Covenant, the representative pointed out that when a crime was committed, the relevant records were submitted to the office of the military prosecutor which would, through an investigator of its own, ascertain whether the case fell within the jurisdiction of a military tribunal. If it was found that the crime fell within the jurisdiction of the judiciary courts, the records would then be sent to the civilian public prosecutor. He maintained that the law guaranteed various individual rights of defence to those accused in

cases brought before military tribunals and noted that the number of cases brought before military tribunals had been decreasing in recent years owing to a restrictive interpretation of crimes against the State. As to the security organization which was established in 1957, he pointed out that it reported to the Prime Minister and was responsible for detecting crimes against the State, terrorist activities and espionage. It had the power to arrest, but a writ was required for the continuation of detention beyond 24 hours. It did not possess any judicial power.

327. Replying to questions concerning the "presumption of innocence", he maintained that that principle was in theory as well as in practice a basic general rule in the Iranian legal system; although a few instances of conflict had been found, measures were being considered to remove the discrepancies. He also stated that the value of evidence in criminal cases was for the court to determine. In that connexion, he stated that Iranian court procedure did not allow for cross-examination in the Anglo-American sense of the word and that the court relied mainly on statements by the defendant. The right of appeal was recognized by the Supplementary Fundamental Laws. However, cases which were not subject to appeal had been scrutinized and a bill to extend the right of appeal was under preparation.

328. Regarding article 22 of the Covenant, he stated that workers having the same occupation were allowed to form their own labour organizations, which normally engaged in collective bargaining.

329. In connexion with questions raised under article 23 of the Covenant, he stated that relations between men and women before marriage were not a matter of concern to the law and that legal obligations and responsibilities began only after marriage. In cases of divorce or dissolution of marriage, the court handed down a decision on the respective obligations of each spouse.

330. Replying to questions under article 25 of the Covenant, he stated that the representatives in the Consultative Assembly were elected by secret ballot in a general election and the qualifications of the electors and of the candidates were laid down by a law which applied equally to men and women. Half of the members of the Senate were elected in a general election while the other half were appointed by the Shah under article 45 of the Constitution. To become law, all proposals had to be approved by both houses, except for financial matters which were the prerogative of the Assembly. He stated that the National Resurgence (Rastakiz) Party had been established in 1974 to promote mass participation and the expression of views and preferences. The Government's firm commitment to decentralization, and the granting to the lower organs of increasing decision-making powers with respect to the allocation and administration of development resources, made the elective organs and councils, at the various levels of Government, viable institutions through which meaningful popular participation was made possible.

331. The representative of Iran assured the Committee that, as regards the questions which remained unanswered, further information would be submitted in writing at a later stage.

#### Federal Republic of Germany

332. The Committee considered the initial report (CCPR/C/1/Add.18) submitted by the Federal Republic of Germany at its 92nd, 93rd, 94th and 96th meetings on 24, 25 and 26 July 1978 (CCPR/C/SR.92-94 and 96).

333. The report was introduced by the representative of the State party. Having explained the relationship between treaties entered into by the Federal Republic and domestic law, she pointed out that the individual rights embodied in the Covenant were also part and parcel of the Basic Law and of ordinary laws. Judicial remedies were available to persons claiming that their rights had been violated by a public authority. Every decision of the administration could be challenged before the courts, especially the administrative courts. The right to enter a complaint of unconstitutionality was guaranteed, and everyone, including aliens, could apply to the Federal Constitutional Court claiming violation by a public authority of a right guaranteed by the Constitution or by the Covenant. Moreover, each individual could apply to the Petitions Committee of the Bundestag or the Land Diets or even to individual members of Parliament. There were numerous associations which engaged in advocating and enforcing human rights and in disseminating information. Such rights as freedom of the press, of association and of scientific research played a significant part in the implementation of the Covenant.

334. Referring to present-day issues of public discussion, the representative stated that the Federal Republic was faced with determining how far to safeguard the human rights of those who refused to respect the human rights of others, and how to secure the benefits of the constitutional and judicial system for those who were resolved to destroy that system.

335. It was noted that the report had been published in the Federal Republic and that procedure was commended as a means of bringing the Covenant to the attention of the public in the reporting State and encouraging comment on the performance of its obligations.

336. Members of the Committee expressed doubts concerning the clarity in the report of the status of the Covenant in relation to the Basic Law and other legislation of the Federation and of the Länder. They asked whether the rights guaranteed by the Covenant were applicable only in so far as they were consistent with the Constitution and the basic rights deriving from it; whether provisions of the Covenant took precedence over legislative texts; and whether the Federal Constitutional Court had had occasion to decide if the Federal Republic was complying with the provisions of the Covenant.

337. Commenting on the reference in the report to a Basic Law provision calling upon the entire German people to achieve in free self-determination the unity and freedom of Germany, one member of the Committee observed that promotion of the right to self-determination must not be perverted to further expansionist aims or to justify claims to foreign territories and to jurisdiction over foreign citizens. As to the statement in the report that the Federal Government supported self-determination in southern Africa, did it mean that the Government gave no aid to the apartheid régime and that it also prevented individuals and juridical persons from doing so?

338. Recalling the provisions of article 2, paragraph 1, of the Covenant, it was noted that the State party was required to safeguard the rights and freedoms provided for in the Covenant by not engaging in any activities that would impair them. The Government's reaction to extremism was viewed as being in itself somewhat extreme and barely justifiable under that article. The representative was asked whether the agency responsible for the protection of the Constitution also had the duty of protecting individuals from interference by the State. It was also

observed that the Federal Republic had a seemingly endless series of domestic remedies and that the relevant time-consuming procedures seemed inconsistent with the Covenant requirement that justice be administered without undue delays.

339. With reference to article 3 of the Covenant, it was noted that there was no equality between women and men in the Federal Republic in respect of wages; had consideration been given to provisions designed to ensure equal wages for work of equal value and what positive steps had been taken to combat sex discrimination?

340. As regards article 4 of the Covenant, reference was made to a statement in the report to the effect that certain basic rights, in the case of defence, might be restricted beyond the extent admissible in normal times. Members of the Committee requested clarification of the expression "in the case of defence" and wished to know whether those rights were the only rights which might be restricted and whether the other rights referred to in the Covenant were sufficiently guaranteed.

341. With respect to article 6 of the Covenant, the Federal Republic was commended for having abolished the death penalty. Members asked how the right to life was protected, especially in connexion with the murder rate, labour safety and industrial accidents and the higher rate of infant mortality among the poor and migrant workers; what safeguards existed against the arbitrary use of arms by police or soldiers in case of riots, escape from prison or arrest; and whether educational measures were implemented to prevent the abuse of narcotic drugs.

342. In connexion with article 9 of the Covenant, it was noted that liberty of the person seemed to be dealt with only in general constitutional provisions, not in specific statutes delimiting power of arrest or detention. It was observed that, in certain circumstances, according to the report, detention without trial might exceed even the usual maximum limit of six months. How often did that occur and how was the individual ensured against unduly long detention.

343. Commenting on article 10 of the Covenant, members of the Committee asked whether the principle of humane treatment of prisoners was a part of the law of the Federal Republic; to what extent the doctrine of "inherent features of imprisonment" was invoked to justify significant restrictions affecting prisoners; whether solitary confinement could be imposed and, if it could, under what conditions, for what periods of time and with what possibilities of renewal; and whether there could be total deprivation of contact with the outside world and with counsel.

344. Members of the Committee inquired about the rights of alien residents in the light of articles 12 and 13 of the Covenant: what restrictions, if any, might be imposed on aliens' liberty of movement and freedom to choose residence? Did the legal protection referred to in the report against the "immediate execution of the expulsion order" mean that the remedy in question had a suspensive effect? What crimes, if committed by an alien, could be followed by his expulsion according to the law of the Federation?

345. With reference to article 14 of the Covenant, several questions were asked: Did the provisions of that article apply in proceedings before labour courts, finance courts and social courts? What constituted a "fair hearing" under the law of the Federation? What was the jurisdiction of the courts presided over by lay judges? Could the impartiality of judges of the Federal Republic be ensured when



some people were excluded from judicial positions on political grounds? It was noted that under the law of the Federation, a person who was not acquitted, but against whom charges had been dropped, might nevertheless be required by the court to pay the costs. Was that provision compatible with the presumption of innocence, especially when the reason for imposing such costs might be that a suspicion remained? In that connexion, it was argued that the law in force in the Federal Republic providing that the accused, if convicted, had to bear the cost of the proceedings, court-appointed counsel and interpretation, seemed inconsistent with paragraphs 3 (d) and 3 (f) of article 14 of the Covenant.

346. With reference to recent enactments in the Federal Republic whereby in certain circumstances solitary confinement was imposed and/or only written communication with counsel was permitted, members of the Committee inquired about the justification for such provisions and asked how they could be reconciled with the right of the accused to communicate with his legal adviser and to have proper facilities for the preparation of his defence. It was also noted that criminal proceedings occasionally extended over several years. Members of the Committee wondered whether that could be reconciled with the right of the accused "to be tried without undue delay". With reference to a statement in the report to the effect that a trial could, under certain circumstances, be conducted against the accused in his absence, members asked how such decisions were made, whether they were made at the discretion of the judge alone and whether there was any possibility of challenging such decisions. When and on what grounds might a judge reduce a list of witnesses produced by a defendant?

347. With reference to article 15 of the Covenant, the representative was asked whether the principle of non-retroactivity was expressly provided for in the Constitution and guaranteed in the Penal Code, and, if it was, whether it was absolute or it referred only to those cases where new criminal law might prejudice the situation with regard to the person involved. Additional information was requested concerning the implementation of that article in the light of the fact that the punishment of war criminals was a requirement of international law.

348. In connexion with article 17 of the Covenant, it was noted that the formal granting of the right to freedom from interference was insufficient if the essential dignity of man and respect for the privacy of life could be violated through technology. Members of the Committee asked whether the list of exceptions, mentioned in the report, to the restriction of interference with privacy was exhaustive; whether there were provisions to deal with wire-tapping and interference with correspondence; how people were protected against the use of information compiled by computers; what were the precise terms of the laws permitting interference with the privacy of mail and telecommunications and who was empowered to authorize such an action and to make the tape-recording available to third parties. With reference to the statement in the report that persons affected by such interference could complain to the Federal Constitutional Court, members asked how persons affected could take that step since they could not know of it. Information was requested on the judicial practice of that Court in that respect, on any relevant proceedings under the European Convention and on the number of persons actually punished for violations of the right to privacy.

349. Regarding article 18 of the Covenant, reference was made to the statement in the report to the effect that religion or religious beliefs did not affect the enjoyment of civil and political rights or admission to public office. Information was requested on whether the same principle applied to ideology and to freedom of

thought and conscience, on the kind of convictions which were used to justify the application of Berufsverbot (prohibition from practising a profession), and on the kind of posts and professions involved.

350. Commenting on article 19 of the Covenant, members of the Committee requested clarification of the limitations imposed on freedom of expression as provided for in the "general laws" and of the meaning of the expression "defamation of the Federal Republic" mentioned in the Criminal Code in connexion with those limitations. It was noted that the provision in the labour law, under which the exercise of freedom of expression by an employee must not affect the interests of the employer, was inconsistent with article 19, paragraph 3, of the Covenant. It was also discriminatory because it provided punishment only when employees affected the interests of employers and not the reverse. One member of the Committee wondered how often freedom of expression had been violated in dealing with persons in possession of Communist literature and whether there was real freedom of opinion or of the press.

351. While commending the prohibition of war propaganda by federal law, members of the Committee wished to know whether a similar prohibition by law existed in respect of advocacy of national, racial or religious hatred that constituted incitement to discrimination, hostility or violence, as required under article 20, paragraph 2, of the Covenant.

352. In connexion with freedom of association, it was noted that the right to form political parties was limited to the extent to which such organizations were in the interests of the Republic or one of its Länder and clarification was sought of those interests. It was observed that the exclusion of members of a particular political party from public service was a clear violation of article 22 of the Covenant. One member of the Committee wondered how many Nazi organizations existed in the Federal Republic and whether membership in them was considered a threat to the constitutional order. The question was asked, did trade unions have an opportunity to safeguard and improve the economic interests and working conditions of the workers and what part did they play in labour contracts?

353. With reference to articles 23 and 24 of the Covenant, members of the Committee requested additional information on the laws governing the rights and duties of spouses after the dissolution of marriage. Noting that the use of the term "illegitimate" was discriminatory, members of the Committee wondered what legal procedures existed for legitimizing natural children, whether the courts could require natural fathers to contribute to the maintenance of their children and whether in reality the rights of legitimate and illegitimate children were the same. In view of the high percentage of gainfully employed mothers in the Federal Republic, information was requested on the measures taken to make it economically possible for mothers to stay at home when their children were young or to provide child-care facilities while the mother was at work.

354. Referring to article 21 of the Basic Law which regulates the constitutionality of political parties, members of the Committee wondered whether that provision was compatible with article 25 of the Covenant and asked whether disputes arising from the application of that article could be adjudicated by courts and in particular by the Federal Constitutional Court. Concern was expressed about the implications involved in the regulations referred to in the report regarding the recruitment of civil servants. Those regulations were thought to pose considerable dangers not only to the rights referred to in article 25 of the Covenant but also to the

freedom of expression and association. Questions were asked concerning the nature of political activities which could cause the denial of access to civil service; members wished to know whether such acts committed in the past could justify such a denial; whether mere membership of a group or political party could be a decisive factor or whether anyone calling for changes in the Constitution by non-violent means or expressing the view that a different social and political order might be preferable, could be regarded as hostile to the Constitution and, accordingly, denied access to the civil service. Information was requested concerning the procedure used in making such determinations as well as in reviewing the decision to reject a candidate by an administrative court, and on the cost and duration of such proceedings.

355. Additional information was requested concerning the implementation of article 26 of the Covenant, particularly as to whether discrimination was prohibited by law in private relationships, as envisaged in that article.

356. The representative of the State party commented on the observations and questions summarized in the preceding paragraphs. She stated that the Covenant was applied by the Federal Republic only to those individuals under its jurisdiction, in full conformity with the normal practice of States based on the general rules of international law. Her country's position was one of unqualified observance for the universal right to self-determination and it regarded that right as a decisive factor in evaluating the situation in southern Africa.

357. The provisions of the Covenant, she maintained, had been assimilated into domestic law with the status of a federal law and that the applicability of the Covenant did not depend on whether the rights laid down therein were also embodied in the Basic Law or in other laws. The fundamental rights provided for in the Basic Law enjoyed absolute pre-eminence in the legal system of the Federal Republic and were largely inalienable. Covenant rights, ranking after the fundamental rights of the Basic Law, were thus applicable only to the extent that the basic constitutional rights permitted. However, the Federal Government was convinced of the compatibility of the provisions of both the Covenant and the Basic Law. She stressed that the safeguards under the Basic Law and the legal system to protect the free democratic order related only to the central elements of the Constitution which coincided, and were compatible, with the guarantees of the Covenant.

358. The representative pointed out that the Covenant, as a federal law, prevailed over any conflicting legislation of the Länder; that guarantees of human rights enjoyed greater priority than ordinary law; and that her Government was committed to enact no legislation incompatible with them. She indicated that the courts had thus far not had to decide on whether the Covenant was directly enforceable since no contradiction had arisen in practice between the Basic Law and the Covenant. Individuals could, however, invoke the provisions of the Covenant in the courts to the extent that they were of a self-executing nature.

359. Referring to enquiries about the rights of alien residents in the light of articles 12 and 13 of the Covenant, she pointed out that foreign workers in her country enjoyed full protection of their human rights in conformity with the prevailing legal system and were virtually on a par with nationals of the Federation in terms of employment law and social legislation.

360. Replying to questions under articles 7 and 14 of the Covenant, she stated

that the law providing for curtailment of contacts between an accused detained in custody and his legal counsel was strictly an emergency measure taken in response to a series of terrorist acts and could be imposed only to avert imminent danger to life, limb or freedom of a person and when the suspicion that such danger emanated from a terrorist association was based on hard evidence. Its application was hedged with protective restrictions, including a strict time-limit. Referring to the question of a trial being conducted in the absence of the defendant, she pointed out that under federal law a trial interrupted for more than ten days was automatically cancelled and had to start again. However, since the accused could interrupt and finally cancel trial proceedings by deliberately preventing his own participation through a hunger strike, the law provided that the trial could take place in his absence.

361. The representative pointed out that article 15, paragraph 1, of the Covenant was applied on the understanding that laws abolishing penalties in respect of certain acts could be retroactive. She did not think that the Covenant imposed an obligation on States parties to apply paragraph 2 of that article. However, the subject had been covered in her country by an extension of the period of limitation.

362. Replying to questions under article 24 of the Covenant, she indicated that, in the Federal Republic, children born out of wedlock enjoyed the same rights as legitimate children and were guaranteed equal opportunity for development under the Basic Law.

363. With reference to questions under article 25 of the Covenant, the representative pointed out that the competence to declare a political party unconstitutional under the Basic Law lay exclusively with the Federal Constitutional Court, in order to prevent a governing party from eliminating an opposition party for political reasons. The Court considered such cases only upon application by constitutional bodies and was required to ban only parties which constituted a real danger for the constitutional order.

364. As regards the requirements to be met by civil servants under the Basic Law and other laws, she stated that applicants for posts in public service must provide, inter alia, some security as to whether they recognized and were ready to promote the Basic Law and human rights and to respect the will of the people as expressed in free elections on the basis of majority suffrage. The reasons for which a candidate might be refused access to a post were made known to him and he was given the possibility of removing any doubts which might have led to his rejection and challenging the decision before the courts. The administration could base its action only on evidence admissible in court, which it must fully disclose to the applicant and the court. Membership in a political party which advocated dictatorship or the use of force to overthrow the constitutional order constituted an element in the assessment of a candidate's personality. Thus far, the Constitutional Court had not been able to decide whether or not active membership in the Communist Party was sufficient reason to doubt a person's loyalty to the Constitution. She stressed that there were no grounds for maintaining that the rights embodied in articles 19, 21 and 22 of the Covenant were restricted.

365. The representative of the State party expressed her Government's readiness to furnish additional information in writing on the issues which were not covered in her statement.

Yugoslavia

366. The Committee considered the initial report (CCPR/C/1/Add.23) submitted by Yugoslavia at its 98th, 99th and 102nd meetings on 27 and 31 July 1978 (CCPR/C/SR.98, 99 and 102).

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

368. Referring to the Constitution of Yugoslavia, he stated that the rights and freedoms guaranteed therein might not be denied or restricted; and that they were protected by a whole system of institutions, especially the judiciary. The Constitution provided for the right to appeal to an organ of higher instance in both the judiciary and the administration as well as for the right to initiate proceedings for the assessment of constitutionality and legality before the Constitutional Court. He described in detail the competence of other institutions such as the social attorney of self-management and the self-management courts which were established to secure effective remedies against violations of human rights. In addition, the Office of the President of the Republic, the Assembly and the Federal Executive Council had separate commissions and expert services which considered such representations and complaints as might be submitted by individuals or organizations claiming violations of their rights. In that connexion, he pointed out that, in addition to the extraordinary legal remedies against a legally valid judgement, the new law on Criminal Procedure of 1977 had also introduced the right of the accused, who had been duly sentenced to imprisonment, to submit a request for extraordinary revision of a legally valid judgement and that such a request was decided upon by the supreme courts of the Republics and Provinces, and, if the judgements of these courts were contested, by the Federal Court.

369. Commenting on a statement in the report to the effect that the provisions of the Covenant had become a component of the Yugoslav legislation and were thereby already guaranteed, members of the Committee asked whether that meant that the Covenant provisions had been incorporated into federal law and hence took precedence over other laws; whether it followed that they could be invoked before the public authorities by individuals who felt that their rights were being violated and whether people did so in practice. Members also asked what measures had been taken in Yugoslavia to publish the Covenant in languages accessible to the people. Further explanation was requested concerning the meaning of the statement in the report regarding the "linking of the whole of the individual rights and freedoms directly with the character of social relations, as well as with the activities of man himself within these relations". It was noted that all civil and political rights in Yugoslavia "should be considered as restricted only by the equal freedoms and rights of others and by the interests of socialist society", and the representative of Yugoslavia was asked how it was possible to reconcile the need for the realization and protection of those rights with the interests of socialist society.

370. Noting that self-management was the core of the Yugoslav socialist system and provided the context in which human rights were exercised, members of the Committee requested more information about its operation. They asked whether the Government considered that it had any responsibility under international law, and in particular under the Covenant, for the actions and decisions of the self-management bodies and what the individual could do to ensure respect for the rights provided for in the Covenant should they be violated by the judicial system of self-management.

371. Commenting on article 2 of the Covenant, members of the Committee asked whether Yugoslav law provided guarantees against discrimination on the grounds of political or other opinion; whether available remedies included the equivalent of habeas corpus; what were the cases, mentioned in the report, in which the right of appeal may be ruled out by statute, "if protection of rights and the rule of law were ensured in some other way"; and what were the ways in which the rule of law was guaranteed. Specific information was requested as to the manner in which the law on administrative litigation was applied in practice; as to the kinds of administrative disputes in which administrative litigation might be ruled out by statute; as to whether the decisions of administrative authorities were subject to appeal and, if they were what specific matters were excluded from such right of appeal. Members also asked whether a conflict between national legislation and the provisions of an international agreement ratified by Yugoslavia could be brought before the Federal Constitutional Court, and how frequently that Court had ruled that a federal law was unconstitutional.

372. It was noted that, under exceptional conditions, the rights of self-managing organizations and communities might be suspended. Members of the Committee asked what those rights were and whether their suspension was in keeping with article 4, paragraph 4 of the Covenant; and whether Yugoslav law allowed derogation from the rights specified in paragraph 2 of that article.

373. Regarding article 6 of the Covenant, information was sought on what had been done to reduce infant mortality, on violent crimes, on the kinds of offences for which the death penalty was imposed, on the number of death penalties imposed in the previous year, on any such penalty for political offences and on whether consideration had been given to the abolition of the death penalty.

374. Commenting on articles 7 and 10 of the Covenant, members of the Committee asked whether there were any procedural rules prohibiting the use of evidence extracted by illegal methods; what action could be taken by a person alleging ill-treatment by police or other authorities and how such a complaint was investigated; what was the difference between deprivation of liberty and restriction of liberty under Yugoslav law; whether solitary confinement was used and, if it was, under what circumstances and for what periods; whether all prisoners had access to correspondence, to visits by members of their family and friends and to consultations with counsel; and whether Yugoslav law protected individuals from being subjected to medical or scientific experiments.

375. With reference to article 9 of the Covenant, information was requested on whether persons were imprisoned for political activities which did not involve violence; on the existence of a special régime for political prisoners, the number of political prisoners, and on whether they could be detained without trial; on the power of administrative authorities to detain persons; and on whether preventive detention was possible under Yugoslav law and, if it was, under what circumstances. Noting that in accordance with the Constitution, a written order and a statement of grounds must be promptly served on a detainee, members of the Committee asked whether that provision applied equally to courts of law and to the administrative bodies; how soon a trial had to be held after an indictment had been filed against a person; whether appeal was possible against extended detention after such indictment; and whether State authorities could be punished for illegal deprivation of liberty under the Criminal Law of Yugoslavia.

376. As regards article 12 of the Covenant, it was noted that Yugoslav law

provided for issuance of exit visas to citizens wishing to sojourn abroad. Information was requested on the number of cases in which such visas had been refused; on the "security interests" referred to in the report which limited that right; and on whether exit visas were issued to citizens wishing to live in another country.

377. In connexion with article 13 of the Covenant, the representative was asked whether aliens could be expelled from Yugoslavia by an administrative order; whether there were any rules regarding the immediate execution of an order for expulsion or whether an expulsion could be stayed through appeals.

378. Commenting on article 14 of the Covenant, attention was drawn by some members to statements in the report to the effect that the judiciary in Yugoslavia was an integral part of a uniform system of power and self-management of the working people. The representative was asked how the independence and impartiality of the judiciary was guaranteed within that framework; whether a judge was liable to be dismissed or disciplined if other agencies of the system felt he had adjudicated in a manner detrimental to their interests; and how the impartiality of judges was ensured in practice in relation to the right of the accused to be presumed innocent until proved guilty. In that connexion, it was observed that the system of self-management had created a new category of courts which operated in parallel with ordinary courts and decided on the protection of the rights of citizens. Members wished to know whether a conflict of competence could arise between the two categories of courts; how consistency was ensured in the functioning of the different courts all over the country; whether the self-management courts tried criminal cases, cases between an individual and the State or cases involving political rights; and whether their procedures complied with article 14 of the Covenant. Noting that the public could be barred from a trial for reasons of "public order" or the "special interests of the social community", some members requested clarification of the meaning of those two expressions. A number of other questions were asked concerning the entitlement of a defendant to minimum guarantees, provided for in article 14 of the Covenant, in the determination of any criminal charge brought against him.

379. In connexion with article 18 of the Covenant, one member referred to a statement in the report that the independence of religious communities in conducting their affairs must not be abused for political purposes, and asked how a church could abuse its function, whether religious communities had the right to print and disseminate religious materials and publications, and whether there were strict guarantees that membership in a religious community was no ground for discrimination.

380. Commenting on article 19 of the Covenant, the representative was asked how the right to be informed and the right to freedom of expression were reconciled; what recourse was open to the citizen if he considered that his right to freedom of expression had been infringed; what means were used to guarantee fulfilment of the constitutional provision requiring the press, radio and television to inform the public truthfully and objectively; whether dissidents were tolerated when engaged in non-violent criticism of the existing order; what restrictions were placed on publications and opinions, especially on political matters; whether foreign or domestic newspapers and periodicals were subject to prior censorship, and, if they were, how that was justified in terms of article 19, paragraph 3 of the Covenant.

381. As regards freedom of assembly and association, further information was requested on the implementation by Yugoslavia of articles 21 and 22 of the Covenant. Members asked whether any form of administrative permission was required to organize a public meeting; whether it was possible for people to establish trade unions or political parties other than the existing ones; whether the role of self-management organizations was similar to that of political parties; and what action could be taken by individuals and groups to ensure respect for their freedom of assembly and of association.

382. In connexion with article 25 of the Covenant and the statement in the report that working people exercised power, a number of questions were asked: Was that a reference to legislative, judicial or executive power? How was executive power exercised in practice in view of the fact that the Yugoslav approach envisaged the involvement of the people in the organization of social and economic life? How did self-management socialism operate in relation to the Communist Party of Yugoslavia? What could be done by the citizen to ensure respect for his right of active and passive suffrage if his idea of self-management differed from the official view? Information was requested on the role and accountability of the President; on which organs of the State the legislative powers rested; on the attributes, competence and mode of operation of the various decision-making bodies; and on the links between the self-managing organizations and communities and the central and provincial Governments.

383. Commenting on article 27 of the Covenant, members of the Committee asked whether there were linguistic, ethnic or religious minorities in Yugoslavia other than the nations or nationalities referred to in the Constitution and, if there were, what rights they had with regard to the publication of newspapers and to the establishment of schools and churches.

384. The representative of Yugoslavia commented on the observations and questions summarized in the preceding paragraphs. He described in detail the basic principles of the socialist system of self-management and the way it operated in Yugoslavia through its "organizations of associated labour" and "self-management communities of interests" and emphasized that socialist self-management was not limited to production but had become dominant in social and cultural fields and to an increasing extent was present in State organs. He stated that the effective exercise of rights and responsibilities under the system required free expression of opinions and that self-management provided better protection than any other known social system from the arbitrary acts not only of the State but also of monopolistic groups. He stressed that the system was not only compatible with the Covenant but provided additional protection for the individual.

385. The representative explained the constitutional structure and socio-political organizations of Yugoslavia and indicated that international agreements calling for the amendment or enactment of statutes by the Republics or Provinces, or entailing special obligations for them, could be concluded only in agreement with the competent republican or provincial authorities. The Covenant, ratified by the Federal Assembly, had been published in all the country's languages and had legal effect as a federal statute, so that all its self-executing provisions could be executed immediately. He confirmed that the constitutional courts had the power to control and annul statutes passed by the Federal Assembly and the assemblies of the Republics and Provinces. Replying to a question concerning administrative disputes, he stated that litigation was excluded in cases where court protection had been ensured outside the administrative dispute, or in matters



decided, on the grounds of constitutional authorization, by the Assembly or Presidency of Yugoslavia or the assemblies or presidents of the Republics and Provinces. Administrative litigation, he maintained, was always available where constitutionally guaranteed rights and freedoms were concerned and where other kinds of court protection had not been provided.

386. In connexion with a question raised under article 4 of the Covenant, the representative stated that there was no reason to believe that the rights mentioned in paragraph 2 of that article would be affected by the suspension of the Constitution in a state of war.

387. Replying to questions under article 6 of the Covenant, he pointed out that the child mortality rate had decreased remarkably; and that the death penalty was applied only in the case of the cruellest offences and those seriously affecting human rights and the independence of the country, and that it was always provided as an alternative punishment.

388. With reference to questions raised under article 9 of the Covenant, the representative stated that the so-called political prisoners were persons sentenced by the competent courts for committing offences under the criminal law, such as inciting intolerance and hatred between the various nationalities. The law provided only for pre-trial detention and preventive detention did not exist in Yugoslavia. An order for detention could be issued by the authority responsible for internal affairs only by way of exception and had to be submitted to the court within 48 hours; the court alone could decide whether or not the detention should be prolonged. The detained persons had the right to freely-chosen legal assistance, and the authorities had the duty to inform the accused before his first hearing of his right to legal counsel and the right of his counsel to attend the hearing. The duration of detention was kept to the minimum necessary and the court was bound to endeavour to institute proceedings without undue delay.

389. Commenting on questions raised under articles 7 and 10 of the Covenant, the representative pointed out that scientific and medical experiments on prisoners were prohibited, as was solitary confinement save in exceptional circumstances to prevent acts endangering the lives of other prisoners. Special statutes regulated the resocialization of the prisoners and provided for the right of contact with the family and the outside world, through a liberal policy of family visits, vacation at home and early release.

390. Replying to questions under article 12 of the Covenant, the representative indicated that every year millions of Yugoslav citizens spent their vacations abroad; that some 600,000 were employed in foreign countries; that very few applications for passports were rejected, and in such a case, the applicant had the right to initiate administrative proceedings; and that there were no special formalities for the issuance of passports to Yugoslav citizens.

391. In connexion with questions raised under article 14 of the Covenant, he stated that self-management courts had no competence in criminal cases; that the Constitution explicitly proclaimed the independence of the courts; and that the judges and the citizens who took part in the administration of justice in the regular courts were elected by the assembly of the competent socio-political community and enjoyed the corresponding immunity.

392. The representative indicated that the exclusion of the public from trials

was an exception, practised in the case of trials for political offences involving foreign States or State secrets. The accused could be tried in absentia if he had escaped or was not available, but persons so sentenced had the right to request a retrial. The right of the president of the court to reject witnesses proposed by the defendant was only an exceptional measure to prevent abuses and unnecessary prolongation of the proceedings. The rejection of witnesses whose evidence could change the verdict and the sentence would constitute a ground for a request for repetition of the proceedings, annulment of the sentence and compensation, and entailed the moral responsibility of the judge and the material responsibility of society. It was the duty of the State and of the republican and provincial authorities to compensate persons unjustly convicted or deprived of their liberty.

393. As regards article 18 of the Covenant, the representative gave detailed information on the activities freely undertaken by the 35 religious communities in Yugoslavia, which included publication of periodicals, formation of associations and establishment of schools. In reply to the question as to how religion could be abused for political purposes, he referred to certain historical examples and to the fact that some religious circles and individual clergymen in Yugoslavia had collaborated with the Nazi occupation forces and misused their influence on their followers for the benefit of the Nazis. He also stated that an individual's religious affiliation did not affect his access to public service.

394. Replying to questions under article 19 of the Covenant, the representative stated that the right to be informed was not a substitute for the freedom of the press. Disagreement with the Government could be encountered in public meetings, in the press, in the various organizations and associations and in the Federal Assembly and no one was persecuted in his country simply for differing with the Government. Organizations and private persons had the right to disseminate news and print newspapers. Foreign newspapers and publications were freely available in all Yugoslav cities; the dissemination of certain foreign newspapers, however, could be prohibited under conditions established by statute. There was no press censorship, but the public prosecutors could provisionally prohibit dissemination pending the final decision of the court, if newspapers carried articles which represented the commission of offences punishable by law.

395. In connexion with the freedoms provided for in articles 21 and 22 of the Covenant, the representative stated that peaceful assembly was permitted provided that 48 hours' prior notification was given, if the assembly was to be held in a public place; and that associations could be formed on the initiative of 10 citizens, but had to be registered within 30 days of their formation. Assemblies and associations could be prohibited if their activities endangered the constitutional system of Yugoslavia, the unity or equality of its nations and nationalities, its territorial integrity and its international relations, or for reasons of public order or morals.

396. Replying to questions under article 25 of the Covenant, the representative gave a detailed explanation of the statement in the report that working people exercised power in Yugoslavia, pointing to the popular basis of the whole political system, to the legislative powers of the assemblies at the communal, provincial, republican and federal levels, and to the various self-management bodies and organizations in his country. He stated that the President of the Republic, elected by the Federal Assembly on the basis of a majority vote and secret ballot, promulgated federal statutes and occupied the highest executive and military positions.

397. In connexion with questions under article 27 of the Covenant, he pointed out that the Constitution of some Republics and Provinces contained special provisions to protect the cultural and language rights of ethnic groups such as Gipsies.

398. The representative assured the Committee that the questions raised would be considered by the competent authorities in his country and would be borne in mind in the preparation of the next report.

#### Jordan

399. The Committee considered the initial report (CCPR/C/1/Add.24) submitted by Jordan at its 103rd meeting held on 1 August 1978 (CCPR/C/SR.103).

400. The report was introduced by the representative of the State party who apologized for the brevity of the report and the fact that it did not conform to the guidelines established by the Committee. He stated that the competent authorities in Jordan were currently preparing an addendum to the initial report which would meet fully the requirement of article 40 of the Covenant.

401. Noting that the report was incomplete in form as well as in substance, members of the Committee welcomed the intention of the Jordanian Government to submit an addendum to it and wished to ask general questions which the Government of Jordan might find helpful in drafting the supplementary report.

402. With reference to article 2 of the Covenant, it was noted that Jordanian legislation prohibited discrimination on grounds that fell short of the requirements of paragraph 1 of that article and of article 26 of the Covenant. Questions were asked concerning the manner in which Jordan implemented the provisions of the Covenant: whether there was any enactment rendering the Covenant as a whole internally applicable; whether an over-all review of Jordanian legislation was conducted to determine if it contained inconsistencies or deficiencies with respect to the Covenant; how contradictions between the articles of the Covenant and the provisions of Jordanian legislation were resolved; to what extent the provisions of customary law were in keeping with the articles of the Covenant; whether the Covenant had been published in Arabic and made available to the public; and whether a Jordanian citizen could invoke the Covenant in courts to defend his rights. Information was requested on the judicial as well as on the legal system of Jordan; on the current status of the Constitution; on whether there were any special courts, such as military courts, to deal with the current situation; and on which of the remedies laid down in article 2, paragraph 3 of the Covenant were available to a person who believed that his or her rights had been violated.

403. Noting that traditions as well as religious difficulties in many countries hindered the implementation of article 3 of the Covenant, regarding equality of the sexes, some members of the Committee enquired about Jordan's position in that connexion and requested more information on the emancipation process of women in that country.

404. As regards article 4 of the Covenant, one member of the Committee wondered whether the Jordanian Government derogated from any of the provisions of the Covenant and whether it foresaw the possibility of returning to a full constitutional position in the near future.

405. It was noted that the report made little or no mention of the rights guaranteed

in article 7 of the Covenant, concerning torture and other inhuman treatment, and in articles 9 and 10 concerning the treatment and rights of detainees and prisoners. Information was requested on regulations, measures and procedures established to ensure respect for the provisions of these articles and on the remedies available in this regard to the persons concerned.

406. Noting that certain rights were subject to restrictions in Jordan, and stressing the importance of the rights and freedoms, especially those guaranteed in articles 17, 18, 19, 21, and 22 of the Covenant, members of the Committee wished to know what laws existed in Jordan which restricted fundamental freedoms and what their justification might be. In that connexion, reference was made to a statement in the report that the right of publication was subject to "certain other conditions" and further details were requested regarding those conditions. Members asked to what extent the participation of the broad masses of the population was assured in the active and passive use of the mass media, what restrictions had been placed in Jordan on freedom of opinion and information and how much control was exercised over the mass media. With reference to a statement in the report that Jordanians had the right to hold meetings and to form societies and political parties provided that their objectives were lawful, the representative of Jordan was asked who made the judgement as to what was lawful and what recourse was available in case those rights were denied because of the said proviso. He was also asked whether trade unions could play a political role in Jordan.

407. Additional information was requested on the implementation of articles 23, 24 and 25 of the Covenant.

408. The representative of the State party stated that his Government would submit an additional report dealing specifically with the matters raised by the Committee.

## Union of Soviet Socialist Republics

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 connexion 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 connexion 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 provisions 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 connexion 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 women 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 connexion 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 connexion 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 focused 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 connexion 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 connexion 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 connexion 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 a 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 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 connexion 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 retention.

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 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 connexion 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 connexion 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 the 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 complaints and combated 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 to the implementation of the Covenant in his country.

#### Mauritius

451. The Committee considered the initial report (CCPR/C/1/Add.21) submitted by Mauritius at its 110th and 111th meetings on 25 and 26 October 1978 (CCPR/C/SR.110 and 111).

452. The representative of that country reminded the Committee that the report had been introduced at a previous session. He said that he had nothing to add to that statement but was at the disposal of the Committee to answer any questions its members might wish to put to him.

453. In the report, it had been stated that Mauritius did not find it necessary to give the force of law specifically to the International Covenant on Civil and Political Rights as the substance of the Covenant was already contained either in the Constitution or in a number of specific enactments, but possible differences and inconsistencies having been noted, some members raised the following questions: (a) Was the text of the Mauritian Constitution influenced by the International Covenant on Civil and Political Rights or by the Universal Declaration on Human Rights or not? (b) In the legislative process, were the provisions of the Covenant applied as laid down in the Covenant or were they adapted to take account of, for example, the country's previous legislation and its practices and customs? (c) Did some of the principles laid down in the Covenant have constitutional force whereas others did not and what practical difficulties were caused by that difference in legal force? (d) Could the provisions of the Covenant be invoked before the courts in order to settle possible inconsistencies between the Covenant and domestic laws and what procedure was followed in such cases? (e) Were there administrative remedies against possible violations of the rights and guarantees established in the Covenant?

454. Further information was also requested concerning the nullity of unconstitutional laws, to which reference is made in the report. Did a mere declaration of unconstitutionality by a court have the effect of nullifying a law for all future legal purposes or was a declaration required for each specific case, and which judicial organs could decree nullity?

455. Further information was requested concerning the suspension of fundamental rights in exceptional circumstances. Members asked which rights and guarantees were suspended by article 18 of the Constitution of Mauritius and whether that article was consistent with article 4 of the Covenant.

456. With reference to economic, social, health, educational and other measures aimed at creating a material context that would permit actual enjoyment of the human rights proclaimed in the Covenant, the question of whether the property system prevailing in Mauritius guaranteed such enjoyment was raised. In connexion with the right to life, questions were asked concerning the measures adopted to reduce infant mortality and the results which had been obtained.

457. In relation to article 2, paragraphs 1 and 2, some members of the Committee asked whether, in view of the fact that the report referred to non-discrimination in the matter of certain rights only, there were specific legal rules prohibiting

discrimination in general and in the matter of rights other than those mentioned in the report, and what steps were taken to ensure practical observance of the principle. The representative of Mauritius was asked whether, since the country was made up of a multinational community, there were peaceful means of settling problems that arose in cases of unlawful discrimination on grounds of race, such as bodies or organizations established for that purpose.

458. Members asked questions relating, first, to the extent to which section 16 of the Constitution of Mauritius gave effect to the provisions of article 2, paragraph 1, and articles 3 and 26 of the Covenant, which were designed to ensure equality and non-discrimination, and, secondly, to the extent to which that section was consistent with the provisions of the Covenant in so far as it allowed restrictions on fundamental rights in normal times.

459. One member examined constitutional provisions under which certain persons - for example, members of the armed forces and the police - were deprived of protection with respect to certain fundamental human rights. He then asked what remedies against arbitrary measures were available to those persons and what measures of protection were available to members of enemy forces, who appeared to be excluded from any constitutional protection.

460. With regard to article 2, paragraph 3 (a), information was requested concerning the remedy provided for in article 17 of the Constitution in the event of violation of any of the fundamental rights and freedoms guaranteed by articles 3 to 16 of the Constitution. It was stated that the provisions dealing with that remedy were difficult to understand and that the Chief Justice was vested with unusual powers to make rules regarding the remedy and to lay down time limits within which it must be exercised. Further information was therefore requested on the application of the remedy, how the rules had been interpreted in case law and how often the remedy was used in daily legal practice.

461. Several members of the Committee asked questions concerning the organization and operation of the judicial system and requested general information on that subject. In particular, further information was requested concerning the manner of appointment of judges, magistrates and other court officials, by whom they were appointed, by what means their impartiality and their independence of the executive power was guaranteed in practice, whether judges enjoyed security of tenure and who could order their dismissal. Other questions related to the social composition of the bench, the requirements to be met in order to be appointed a judge and whether women could be judges. The representative of Mauritius was also asked whether there were special courts to deal with labour questions and, if so, how they were structured and fitted into the legal system.

462. One member asked what criteria governed questions connected with the registration of trade unions and whether the need to register workers' associations was merely formal or involved a limitation of the right to freedom of association.

463. A number of questions were also asked, in connexion with article 2, paragraph 3 (c), concerning redress by way of damages for violation of a person's rights, including: Did the redress cover both indirect damages and loss of earnings? Did all citizens enjoy the same rights and were they on an equal footing before the law in claiming their rights, even when the defendant was the State or the authorities of the country? Could the right be enforced, in the event of improper detention, for example, against the police authorities?

464. With regard to article 3, various questions were raised concerning the status of women and their legal equality with men, particularly with respect to the matrimonial régime provided for in the Civil Code under which the wife lacked full capacity and was dependent on her husband.

465. Some members asked why there were two matrimonial régimes, whether the coexistence of the régimes was temporary and which régime was preferred. They also asked whether women who had married before 1949 - or who had opted for the régime provided for in the Civil Code - could avail themselves of the régime established in the 1949 Ordinance without resorting to divorce. Several members requested information concerning the general legal status of women and the consuetudinary factors that caused them to choose one régime rather than another.

466. Doubts were also expressed concerning the system established in the Constitution for determining the nationality of children, which is derived, in accordance with jus sanguinis, from the father.

467. Various questions concerning the right to life (article 6) were asked in connexion with article 4, paragraph 2, of the Covenant. It was emphasized, in connexion with constitutional provisions establishing the cases in which a person may legally be deprived of his life, that such cases must be fully justified and be commensurate with the risk or injury the deprivation of life sought to prevent. Some members asked what practical steps were taken to apply the latter principle, whether citizens were entitled to carry arms and in what circumstances they may use them.

468. The report indicated that the death penalty was in force in Mauritius, and although the Covenant was not mandatory in that respect, some members asked whether the Government had planned to abolish that penalty or had taken steps towards that end. The question of the definition of "high treason", one of the crimes carrying the death penalty, was also raised; was it confined to attacks on territorial integrity or did it also apply to espionage and other crimes committed in the country?

469. With regard to article 7, several members of the Committee expressed concern at the report's reference to corporal punishment, which seemed to be inflicted for breaches of prison discipline. One member asked whether it could be abolished. Explanations were requested concerning the forms of corporal punishment and the frequency of their administration.

470. Other members referred to the prohibition of the use of force against any individual, including medical or scientific intervention. They asked whether there were any laws governing medical or scientific experimentation and whether it was established that no one could be subjected to such experiments without his consent.

471. In connexion with article 7, some questions were asked concerning the complaints which, according to the report, could be filed against the police. More information was requested on how those complaints were handled.

472. On the subject of article 8 of the Covenant, the report stated that section 6 of the Mauritian Constitution established exceptions to the right not to be required to perform forced labour. The question was asked, were those exceptions in keeping with article 8 of the Covenant?

473. A number of questions were asked in connexion with the part of the report dealing with the right to personal liberty (article 9).

474. One point raised was whether a detained or arrested person was informed of the reasons for his detention at the time of arrest or later, as there appeared to be a discrepancy with the Covenant, which stated that such information was to be given at the time of arrest, whereas under Mauritian law, it was to be given "as soon as is reasonably practicable".

475. Some members referred to the time within which a detained person must be brought to trial. The Government reported that he must be taken "as soon as possible before the court" and that he should be released if he was not tried "within a reasonable time". Several members inquired whether case law had established what constituted "reasonable time" and whether there were any rules prohibiting extension of that period.

476. Section 5 (1) of the Mauritian Constitution contained a long list of cases in which a person may be deprived of his liberty. One member of the Committee asked whether all those restrictions on the right to liberty were necessary, whether such enumeration meant that a watch was kept on arbitrary deprivation of liberty or whether, on the contrary, so many exceptions might not imply a limitation of the right not to be arbitrarily arrested.

477. Another member of the Committee referred to the cases of preventive detention provided for in section 5 (1) (k) of the Constitution, which established special rules for the case of a person arrested on suspicion of possibly engaging in activities threatening public order and safety. The representative was asked whether the fact that the Commissioner of Police, by whose order such arrests were carried out, was not subject to control by other authorities did not prove damaging to the detained person; was it possible to apply for a writ of habeas corpus in order to prevent detention in such a case and, if so, did the judge hearing the application have to confine himself to the formal aspects of the case, or could he also deal with the substantive aspects as well?

478. Some members of the Committee wished to know whether there had been any actual cases of persons being awarded compensation for unlawful arrest, whether - in addition to compensation for damages - provision was made for penalties to be imposed on the authorities responsible for such arrests, and how the matter was handled if the arrested person had contributed to his arrest by his own conduct.

479. In connexion with article 11, several members assumed, from the wording of the report, that anyone possessing property who refused to pay a debt was liable, in Mauritius, to imprisonment. That would be incompatible with the provisions of article 11 of the Covenant. More information was requested on the subject, including the grounds for the inclusion of that provision in section 21 of the Mauritius Civil Procedure Ordinance, how often it was applied, the length of the sentence, and what possibilities a detainee had of regaining his freedom in order to assemble the necessary funds to pay his debt.

480. With regard to article 12, several members of the Committee wished to know what were the restrictions, laid down in section 15 (3) of the Constitution, on the right to freedom of movement and freedom to choose one's place of residence. Information was also sought concerning the procedures governing the right to leave the country.

481. In connexion with the part of the report relating to article 14, paragraph 1, members of the Committee said they would like to know what were the cases laid down in section 10 (10) of the Constitution that constituted an exception to the rule in section 10 (9) providing that all criminal and civil proceedings were to be conducted in public. They needed the information in order to determine whether the exceptions coincided with those provided for in article 14 of the Covenant. The representative of Mauritius was also asked under what conditions newspaper reporters were accredited to the courts.

482. Referring to article 14, paragraph 2, one member expressed an interest in knowing the Mauritian Government's view on the scope and consequences of the principle of the presumption of innocence as laid down in the Covenant. He also asked whether that principle applied outside the courts, for example, in the administrative sphere.

483. The right to legal assistance proclaimed in article 14, paragraph 3, gave rise to a number of questions. Did everyone have equal access to justice, and was the language used in the courts everyday language or intelligible only to lawyers? Were persons obliged to hire a lawyer to defend them? Was the choice of defence counsel entirely free, or was it subject to restrictions? Did an accused person, having complied with the procedure laid down for determining whether a person was entitled to free legal aid and having been denied that aid, remain, perhaps unjustly, without defence?

484. In connexion with article 14, paragraph 6, one member of the Committee asked whether, in view of the absence of legal provision for compensation of persons unjustly sentenced, any measures were contemplated for improving that situation.

485. Several members pointed out that, in examining article 16, the report dealt with a matter different from the one envisaged in the Covenant. They therefore requested some clarification.

486. Some members observed that the concept of privacy referred to in article 17 of the Covenant differed from country to country, and expressed an interest in knowing how that concept was defined in Mauritius: was it taken to apply to the small family unit only, or did it encompass a wider family community, including other persons associated with it? That was important, for example, in determining who was affected by the migration of given persons. They also requested more information concerning the exceptions to the principle of non-interference in a person's private life.

487. With reference to articles 18 and 19, various questions were asked about religious freedom and political opinions; in particular, members of the Committee wished to know whether registers and records were kept of the names of persons belonging to political organizations or parties, whether the police kept secret records of that type, whether the status of State information services was legally regulated, and whether those services were supervised by parliamentary commissions or committees.

488. On the subject of freedom of information, members wished to know in what languages radio and television programmes were broadcast, and, in particular, whether Creole, which was a language understood by one and all, was widely used. They also asked for information concerning the restrictions on freedom of



expression referred to in the report, pointing out that, although the cases mentioned seemed reasonable, not all had been expressly indicated in the report, and it would be useful to know all those provided for by the law. Information was likewise requested on the scope of the restrictions, and whether they were applied by means of pre-censorship or post-censorship. Furthermore, was the Mauritius Broadcasting Corporation a public, autonomous or ministerial body, and how was its impartiality ensured?

489. With reference to article 20, information was requested on the existence of rules prohibiting war propaganda. It was also pointed out that the reply in the report on that point did not coincide with the requirements of article 20 of the Covenant.

490. In connexion with articles 21 and 22, some members requested information on the economic, social and legal role of the trade unions, their role in production, and the machinery for collective bargaining and the settlement of labour disputes.

491. In view of the reference in the report to restrictions on freedom of assembly and association, several members of the Committee asked what those restrictions were, particularly with regard to freedom to form trade unions, and they also wished to know the scope of articles 16 and 17 of the Public Order Act of 1970 prohibiting unlawful assemblies and riots. Some members sought clarification as to whether meetings were prohibited on grounds of violence, or simply on account of the large numbers involved; they asked what penalties were applicable in the event of disturbances and what procedures were followed in deciding on their application.

492. With reference to the principles enunciated in article 23, some members voiced doubts as to the existence, in Mauritius, of any real equality between husband and wife in marriage, judging from the relevant part of the report. In that connexion, they asked whether the wife, like the husband in similar circumstances, was entitled to claim damages from someone who had committed adultery with her husband. The question was also asked, were the grounds for granting divorce the same for husband and wife?

493. Another member wished to know whether there were other forms of absence of consent which could give rise to the dissolution of a marriage in addition to those mentioned in the report.

494. Referring to the part of the report dealing with article 24, one member of the Committee requested information on the position of the children of parents who were not legally married, and their rights vis-à-vis both parents.

495. With reference to the participation of citizens in the conduct of public affairs (article 25), a member of the Committee asked for further information on how members of Parliament were elected and on the obligations of members of Parliament towards their electors.

496. In connexion with the rights enunciated in article 27, one member of the Committee requested information concerning the ethnic composition of the population of Mauritius.

497. The representative of Mauritius answered some of the questions summarized in the preceding paragraphs.

498. He stated that Mauritius had not so far found it necessary to amend its legislation in order to fulfil its obligations under the Covenant. In view, however, of the points raised by members of the Committee regarding certain instances where the legislation did not appear to implement fully the principles of the Covenant, he would invite his Government to consider those points and, if necessary, enact new legislation which would better fulfil the obligations assumed under that international instrument.

499. Replying to the questions regarding the historical reasons for the fact that the Mauritian Constitution contained various provisions which appeared in international instruments, he explained that, before its independence, Mauritius had been a British colony and the United Kingdom had approved the Universal Declaration of Human Rights and was also a party to the European Convention for the Protection of Human Rights. When independence was being negotiated, the political leaders of Mauritius, being aware of the human rights established in those international instruments, had all agreed that the rights and guarantees set forth in those texts should be embodied in the Constitution. That would ensure that any legislation passed in the future respected those principles, since Parliamentary enactments could not amend the provisions of the Constitution and must therefore be consistent with them.

500. Referring to the subject of discrimination, he explained that section 16 (1) of the Constitution contained a general clause prohibiting discrimination and indicating certain exceptions. Those exceptions were set out in section 16 (4) (which referred to the acquisition of property in Mauritius, and to persons who were not citizens of Mauritius and those to whom specific personal laws applied with regard to marriage, divorce, burial, the restitution of property and other similar matters) and in section 16 (5) (which concerned levels of qualifications and had nothing to do with race, religion, caste, place of origin, political opinions, creed or colour). Section 9 (2) established other restrictions of that principle, in connexion with matters of defence, morality, public order and safety, health, urban planning and other social questions.

501. He further stated, in reply to questions on the organization of the Judiciary, that the Supreme Court was the guardian of the Constitution. There were District Courts and Intermediate Courts which heard both civil and criminal matters, depending on the size of the claim and the importance or seriousness of the case.

502. At the top of the pyramid was the Supreme Court which had original jurisdiction in any matter and could also sit as an appellate court. As such, it was composed of two judges who heard appeals on cases from the District Courts and the Intermediate Courts. The decisions of the Supreme Court could be appealed in the Court of Civil Appeal or the Court of Criminal Appeal, as appropriate, those two Courts being composed of the full Bench of Judges of the Supreme Court, less the judge whose decision was being appealed. In theory, any member of the bar who had at least seven years' experience might be appointed a judge; in practice, however, judges were appointed from the ranks of the senior magistracy, whose members usually had between 20 and 25 years' experience in the field of law.

503. As the system of separation of powers was applied in Mauritius, magistrates and judges were appointed by an independent Commission presided over by the Chief Justice, who was the head of the Judiciary and was appointed by the

Governor-General, after consultation with the Prime Minister. The Chief Justice was invariably chosen from the ranks of the senior judges, and the Governor-General was bound only to consult the Prime Minister before making the appointment, but was not bound to accept his views. Judges enjoyed security of tenure and could be removed from their posts only for physical or mental inability to perform the functions of their office or for misbehaviour, matters which were decided in accordance with the procedures laid down in section 78 (3) and (4) of the Constitution. That section provided for the establishment of a tribunal composed of three practising or retired judges to investigate the case. The tribunal then transmitted its findings to the Governor-General who took the final decision. He also drew attention to the fact that the salaries of judges were charged to the Consolidated Fund and were not subject to a parliamentary vote.

504. Replying to the question concerning the population of Mauritius, he said that the island had no indigenous population. Its population was made up of the descendants of those who came to the island during its occupation by France (in the eighteenth century) and the United Kingdom (in the nineteenth), as well as the agricultural workers from Africa, Madagascar, India and China whose settlement had been encouraged by those occupying the island, because they wanted agricultural labour. The people of Mauritius therefore came from Europe, Asia and Africa and, despite different origins and religions, were trying to live together harmoniously fully respecting the freedom of all the religions professed. French was the language used in the majority of the social communication media, but the radio and television services were now broadcasting widely in Creole (the vernacular), although possibly not as much as some people would like.

505. Referring to the question on infant mortality, he said that that was a problem of the past. He did not have the relevant figures with him, but there was a continuous improvement in the medical services and free medical treatment for all citizens, free post-natal care for babies and mothers, paid maternity leave, free distribution of milk to children, compulsory vaccination, etc. The stage had now been reached where the baby boom was much more of a problem than infant mortality.

506. In reply to the question whether a citizen could obtain damages from the administration in the case of a violation of human rights, he replied that that was indeed possible. He explained that there was no administrative jurisdiction (jurisdiction administrative) and that such claims had to be submitted to a court of law. The amount of damages payable was proportionate to the damage caused, and that covered actual damages, loss of profits and even moral damages.

507. The Covenant could not be invoked as a positive right before a court of law; a claimant had to base his action on the constitutional provisions providing the same guarantee and the courts might well be guided in their decision by the principles of the Covenant.

508. There were no special procedures to prevent or combat discrimination, such as the United Kingdom's Race Relations Board. Racial discrimination was a violation of the Constitution of Mauritius and cases involving such violations were dealt with by the Supreme Court, the highest tribunal of the land.

509. Some members having expressed the view that the guarantees offered by section 3 of the Constitution did not appear to cover all the rights enumerated in

articles 22, 23, 24 and 25 of the Covenant, he referred to that subject, first reading out section 3 of the Constitution. He pointed out that, while it was true that section 3 did not cover all the rights enumerated in articles 22, 23, 24 and 25 of the Covenant, section 13 of the Constitution established all the rights enunciated in the Covenant concerning freedom of association; the Civil Code and the Civil Status Ordinance guaranteed the rights enunciated in article 23 of the Covenant and, in conjunction with the Mauritius Citizenship Act, also provided that any child born in Mauritius was a Mauritian national. Implementation of the provisions of article 25 of the Covenant was guaranteed under various other laws, namely the Representation of the People Ordinance, the Local Government Ordinance and the Public Service Regulations made under the authority of the Constitution. Freedom of movement was expressly provided for in section 15 of the Constitution.

510. In reply to another inquiry concerning the power given to the Chief Justice to make certain rules (section 17 of the Constitution), he explained that the rules in question related only to questions of form and procedure and that they must be approved by the whole body of judges of the Supreme Court.

511. Referring to questions concerning the status of women, he drew attention to the fact that there were two marriage régimes and that women could opt for the 1949 régime, which allowed all women married before 1949 to opt, by simple declaration within a period of one year of its promulgation, for the new régime. Most women, however, had adhered to the old régime and the majority of young couples chose the old system. That was because the community-of-property régime did offer certain advantages in a society where the husband was still the bread-winner, and his earnings became part of the communal property. The existence of inequality nevertheless seemed intolerable and for that reason a Commission was currently considering various amendments to the Civil Code designed to improve the situation of women in marriage. The law permitting the husband to claim damages from anyone who had committed adultery with his wife had been repealed six months previously and the Civil Code now provided that both spouses could claim equally against any third person guilty of causing divorce.

512. A number of members of the Committee having drawn attention to article 4 of the Covenant which provided for the suspension, in exceptional circumstances, of certain, but not all, of its rights and guarantees, the representative of Mauritius referred to section 18 of the Constitution which provided for suspension only of the guarantees provided in sections 5 and 16 for the duration of the emergency, and to section 18 (e), which laid down strict provisions for rules concerning the declaration of an emergency.

513. In reply to the questions which had been asked about capital punishment, he stated that the last execution in Mauritius had taken place in 1958. Since then, although death sentences had been passed, they had not been carried out.

514. He stated further that there were no legal rules concerning the conduct of medical experiments without the permission of the persons on whom they were to be carried out. That did not seem to be a problem, however, in developing countries. If such a situation were to arise, the courts would apply the maxim "volenti non fit injuria".

515. He said that he could readily understand the attitude of members of the Committee towards the existing legislation concerning corporal punishment in

prisons, but the law dated from 1881 or 1891 and was no longer applied in penal institutions. He added that the law governing the prisons would be superseded during the current year by a new bill which was already prepared for approval by Parliament and did not contain any provision for corporal punishment of prisoners.

516. He admitted the pertinence of the objection voiced by members of the Committee regarding complaints against members of the police, which were investigated by the police force itself, but he pointed out that all steps were taken to guarantee the independence of the persons handling the investigation. First, the investigation had to be carried out by a senior police officer, usually not below the rank of superintendent, or the officer in charge of the district. The Commissioner of Police, the head of the police force, took part and he had to refer the whole inquiry to the Director of Public Prosecutions who could decide that further inquiries were needed if he was not satisfied. The Commissioner would also decide whether there was cause for public prosecution or not. If he decided against such action, the victim could institute a private action.

517. Replying to questions asked by various members of the Committee concerning the information given to a person about the reasons for his arrest at the time when the arrest took place (article 9 of the Covenant), the representative of Mauritius read out paragraph 2 of that article and section 10 (2) of the Constitution, pointing out that the Covenant referred to the arrest, whereas the Constitution referred to the charges of which the arrested person should be informed as soon as reasonably practicable. In his view there was no contradiction between the two provisions. In any case, the Intermediate and District Courts (Criminal Jurisdiction) Ordinance stipulated that any person arrested must be immediately informed of the reasons for his arrest. The person arrested or detained must be brought before a magistrate within approximately five days, according to the practice of the courts. One member had drawn attention to the exceptional powers of the Commissioner of Police under section 5 (1) (k) of the Constitution which provided that a person could be arrested upon reasonable suspicion of his having engaged in, or being about to engage in, activities likely to cause a serious threat to public safety or public order. He admitted that that was a power of preventive detention, and that even though it was justified by the requirements of public safety, it was an exceptional power. The Constitution therefore provided for a number of different formalities to ensure that that power might not be abused. The person arrested could demand that his case be reviewed by a Special Tribunal which was invariably presided over by one of the most distinguished lawyers, a Queen's Counsel who had spent all his life defending people before the highest courts of the land. The fact that a special tribunal was envisaged for such cases did not preclude the right of the person to apply for habeas corpus to the Supreme Court, which had to examine both questions of form and questions of substance, including the evidence on which the Commissioner had based his opinion that the detained person was likely to cause a serious threat to public safety. He assured the Committee that although, under section 5 (6) of the Constitution, the Commissioner of Police was not subject to the control of any other authority, that did not exclude the control of the courts (section 119 of the Constitution) and a Commissioner who committed an unlawful arrest or detention could be sued in a court of law and made to pay damages (section 5 (5) of the Constitution).

518. The representative of Mauritius also provided information in reply to the question concerning imprisonment for debt. He explained that no one could be

imprisoned before all possibilities of use of his assets to meet his indebtedness had been exhausted. In such a case, if the creditor swore that the debtor had concealed or maliciously sold his assets in order to evade his obligations and proved the fraud by means of witnesses or other means, the court could decide to grant a time-limit for payment and, if payment was not made within the time-limit, order the debtor to be imprisoned.

519. In reply to the question concerning article 14 of the Covenant, he explained that an administrative investigation was carried out to determine whether a person had the means to pay for necessary legal assistance. If the result was negative, the person could appeal to the courts. In criminal cases, however, the accused never remained without a defence as he was provided with defence counsel by the authorities.

520. The representative of Mauritius stated, in conclusion, that any questions still unanswered would be answered in writing, with quotations from the relevant laws and regulations, which he did not have available at Geneva.

## Byelorussian Soviet Socialist Republic

521. The Committee considered the initial report (CCPR/C/1/Add.27) submitted by the Byelorussian Soviet Socialist Republic at its 116th, 117th and 119th meetings on 30 and 31 October 1978 (CCPR/C/SR.116, 117 and 119).

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

523. Referring to the Constitution of Byelorussia, adopted in April 1978, he stated that it confirmed the principle of socialist legality as a guiding principle in the activities of all State and public organizations. Observance of laws, and respect for the rules of socialist society were proclaimed a constitutional obligation of all citizens. In Byelorussia, provisions of international treaties were transformed into national legislation. Some legislative acts did not reproduce those provisions but provided for their application. The provisions of the most important international treaties concerning human rights, including the Covenant, had become legal norms in Byelorussia. The Constitution not merely confirmed human rights and fundamental freedoms but guaranteed their implementation. Equality of citizens was ensured in all fields of economic, political, social and cultural life. Human rights in Byelorussia were protected on the basis of civil, criminal and administrative procedures. Effective remedies were ensured to any person whose rights and freedoms had been infringed. Any legal guarantee implied legal responsibility of officials for infringement of human rights. The Constitution contained a number of provisions aimed at increasing efficiency of the Soviets, the most representative bodies of State power. Civil and political rights found further elaboration in the Constitution. Thus, the right to hold opinions was supplemented by guarantees of freedom of speech and of the press, and also by the right to criticize shortcomings in the activities of State bodies and public organizations.

524. Commenting on the report, members of the Committee commended its comprehensiveness as well as the relevance of the supplementary information given in the introductory statement of the representative. Further information was sought on the implementation of international treaties in Byelorussia, in particular of the Covenant; on the legislative system of the Byelorussian SSR and the interrelation between the Covenant and internal legislation, on how responsibility with regard to the Covenant was divided between the Soviet Union and the Byelorussian Republic, taking into account that not only the Soviet Union but also the Byelorussian SSR had assumed direct responsibility for the implementation of the Covenant; and on the scope of the jurisdiction of Byelorussia in relation to that of the Soviet Union on matters governed by the Covenant, in particular with regard to the degree of central control exercised by the Union Government on the one hand and the latitude left to the Byelorussian SSR to adopt legislative and other measures within its territory on the other hand. Members of the Committee asked whether it was possible to invoke provisions of the Covenant before State authorities and the courts, whether those provisions prevailed over internal norms in case of incompatibility, and what steps had been taken to publicize the text of the Covenant in order to inform citizens of its content. With regard to the assertion in the report that "international co-operation among States in the field of human rights must primarily be directed towards the struggle against mass and gross violations of human rights". Some members underlined the fact that it was also an international responsibility of each State party to the Covenant to ensure the enjoyment of the rights set forth in it to each individual in the territory of that State party. A question was asked on how the task of

further development and perfection of legislation could be reconciled with the ultimate goal of the building of a classless society based on self-government.

525. Regarding article 1 of the Covenant, information was sought on the right to secession, on the practical realization of the right of the Byelorussian SSR to enter into relations with foreign States, conclude treaties with them, exchange diplomatic and consular representatives and take part in the work of international organizations, on the division of responsibilities between the Byelorussian SSR and the USSR and the position of executive power of the Byelorussian SSR within the USSR, as well as on the impact of the restrictions in article 34 of the Constitution on the practicability of the right to secession. The representative was also asked whether it would be possible for the Byelorussian SSR to adopt different standards for the implementation of the Covenant, be it more liberal or more restrictive, than those adopted by the Union.

526. With reference to article 2 of the Covenant, members of the Committee requested information on the manner in which equality of rights of citizens of the Byelorussian SSR and of other Union Republics was ensured, on guarantees against discrimination on political grounds, and on effective remedies in case of violations of human rights, taking into account the concurrent jurisdiction of the authorities of the USSR and the role of social organizations in protecting human rights.

527. Commenting on article 6 of the Covenant, some members asked what was the practice regarding the application of capital punishment in the Byelorussian SSR, for what specific crimes the death penalty was imposed, what was the meaning of "crimes against the State" in that regard, what were the aggravating circumstances which justified the death penalty, in how many cases it had been applied in recent years, and whether the Byelorussian SSR had considered abolishing it. A question was also asked as to what measures had been taken to reduce infant mortality.

528. In connexion with articles 7 and 10 of the Covenant, information was sought on the mechanism of control in the Byelorussian SSR over the prohibition of torture, cruel, inhuman and degrading treatment or punishment. Members of the Committee asked what remedies were available to persons detained in penal or mental institutions who complained of wrongful detention or ill-treatment, whether the rules relating to solitary confinement were compatible with the provisions of the Covenant and whether any investigating commissions had been created in connexion with conditions of life in prisons and corrective labour institutions.

529. Regarding article 8 of the Covenant, the unity of the right and the duty to work in the Byelorussian SSR was noted. Information was requested on the interrelation between the obligation to work and provisions of the Covenant, the extent to which the choice of jobs really lay with the authorities responsible for the direction of labour, the right not to work, the right of a member of a collective farm to unilaterally denounce his membership, and the right of the employer and the employee to cancel a labour contract.

530. With reference to article 9, information was sought on the guarantees of the right of citizens to freedom and personal inviolability, the circumstances in which persons could be subjected to preventive detention, the length of time persons could be held in custody pending trial, and whether there were persons in the Byelorussian SSR detained without trial for political reasons. The representative



was asked whether the control of legality of deprivation of liberty was in the hands of the courts and whether the possibility of criminal punishment of judges for deliberate unjust sentences did not affect their independence and impartiality in the performance of their functions.

531. As regards article 12 of the Covenant, members of the Committee noted that the information contained in the report was rather brief on the right of an individual to leave his own country. They requested information on the provisions of the resolution of the Council of Ministers of the USSR of 22 September 1970, on the existence in the Byelorussian SSR of the right to leave the country as a legal right, on the restrictions of this right and their justification, on statistics concerning granting and withholding passports and visas and on sanctions, if any, in connexion with applications to leave the Byelorussian SSR for a foreign country.

532. With reference to article 13 of the Covenant, some members of the Committee expressed interest in the rights of aliens in the Byelorussian SSR, their status and the procedures available for protecting their rights. The representative was asked if citizens of other Union Republics were considered aliens, whether foreigners had legal capacity and ability, and what were the rights which were not extended to aliens living in Byelorussia.

533. Commenting on article 14 of the Covenant, members of the Committee asked how the independence and impartiality of tribunals was guaranteed, how the work of advocates and lawyers was organized in the Byelorussian SSR, how the right to a fair and public hearing was implemented in the Byelorussian SSR in practice, until what stage the right to consult a lawyer could be withheld, what were the exceptions when the accused could be tried in his absence, what were the cases and reasons for holding judicial proceedings in camera, how comrades' courts functioned in the Byelorussian SSR, and what was the role of those courts in relation to the protection of human rights. Further information was sought on the availability of the courts of Byelorussia to all the people and how the broad masses of the population actually participated in the conduct of public affairs, not only in time of elections but also on a daily basis.

534. With reference to article 17 of the Covenant, information was requested on how the inviolability of the dwellings of the citizens was guaranteed, on the possibility of entering dwellings in other instances than those mentioned in the report and on the text of the relevant laws in that respect.

535. In connexion with article 18 of the Covenant, members of the Committee asked whether religious propaganda was allowed in the Byelorussian SSR on an equal footing with atheistic propaganda, how the rights of parents to transmit their convictions to their children was implemented and if the Decree of 23 June 1975, imposing far-reaching limitations on religious communities, was compatible with the Covenant.

536. As regards article 19 of the Covenant, information was sought on how the right to freedom of expression was implemented in practice. Questions were asked on the scope of restrictions with regard to the right to hold and express opinions as provided for by the legislation of the Republic: What was their justification? To what extent was it possible to dissociate oneself from the dominating ideology of scientific communism or to promote ideas for change and improvement in the existing order although they were at variance with those of the régime, particularly in the field of human rights? Could article 48 of the Constitution

proclaiming freedom of speech and of the press "in accordance with the interests of the people and in order to strengthen and develop the socialist system" be interpreted as limiting that freedom and being inconsistent with the Covenant? What kinds of literature were covered by restrictions under article 67 of the Criminal Code of the Byelorussian SSR? To what extent was "socialist realism" applied to artistic and literary activity?

537. In connexion with article 22 of the Covenant, some members asked whether it was possible to associate only with given organizations, if the fact that not everybody could enter the Communist Party was compatible with the Covenant and whether trade unions enjoyed the right of collective bargaining.

538. With reference to article 27 of the Covenant, it was noted that the report provided little information about the situation of minorities in the Byelorussian SSR. Information was requested on the legal status of Polish, Lithuanian and Jewish-speaking communities living in the Republic, and on measures taken to ensure the rights of those minorities. Members asked if they had their own schools and books, newspapers, radio and television services in their national languages.

539. The representative of the Byelorussian SSR commented on the observations and questions summarized in the preceding paragraphs. He pointed out that legislation of the Byelorussian SSR was included among matters covered by the jurisdiction of the Republic. In accordance with article 74 of the Constitution, Byelorussia participated in international treaties. Its obligations under international treaties, including the Covenant, were ensured by legislative acts which reproduced provisions of these treaties or provided for their direct application. The Covenant was published in the Byelorussian and Russian languages. The citizens could also study the text of the Covenant in the languages of Union Republics in public libraries. Legal education was organized in all secondary schools and higher educational institutions. Explaining the reference in the report concerning international co-operation in the struggle against mass and gross violations of human rights, he stated that the consistency of the struggle for peace and détente and against policies of aggression, colonialism and racism was, in the opinion of his Government, the determining factor for favourable conditions for effective activity in the field of human rights.

540. In connexion with article 1 of the Covenant, the representative said that in accordance with article 69 of the Constitution, the Byelorussian SSR, which had frontiers with foreign States, had the right freely to secede from the USSR. Byelorussia had its own Ministry of Foreign Affairs, missions accredited to the United Nations and specialized agencies in New York, Paris and Geneva, participated in 60 international organizations, and was a party to 150 international treaties. As far as article 34 of the Constitution was concerned, it prohibited advocacy of racial or national exclusiveness and had nothing to do with the right to self-determination.

541. Replying to questions under article 2 of the Covenant, the representative pointed out that article 32 of the Constitution, concerning the equality of citizens before the law, was in full conformity with the provisions of the Covenant and that there could be no discrimination of citizens on political grounds. Further developing this provision, article 47 of the Constitution confirmed the right to criticize shortcomings in State and public bodies and prohibited persecution for criticism. In accordance with article 31 of the

Constitution, citizens of other Union Republics residing in Byelorussia enjoyed equal rights with citizens of the Byelorussian SSR. Civil rights were protected by ordinary and arbitration courts and in certain cases by comrades' courts. Public and social organizations, especially trade unions, played an important role in protecting the rights of citizens.

542. Commenting on questions under article 6 of the Covenant, he stressed the fact that capital punishment in the Byelorussian SSR was an exceptional and provisional measure pending its abolition in future. It was applied for treason, espionage, terrorism, terrorist acts against representatives of foreign States, banditry, premeditated murder in aggravating circumstances, group rape or rape by a dangerous recidivist. Every article of the Criminal Code of the Byelorussian SSR envisaging the death penalty provided for an alternative in the form of a prison term. No crimes punished by the death penalty had been committed in the Byelorussian SSR during the last 10 to 15 years. As an example of "State crimes" involving capital punishment, he cited the crimes of two State criminals who had participated in the mass annihilation of Soviet citizens during the Second World War. The representative also described the measures designed to protect the health of the mother and child as a result of which infant mortality had been drastically reduced.

543. With regard to questions under articles 7 and 10 of the Covenant, the representative said that torture, cruel, inhuman and degrading treatment or punishment were not tolerated in Byelorussian legislation or practice. It was prohibited to compel the accused to give evidence or apply to him coercive measures on pain of punishment under the Criminal Code. Norms prohibiting cruel and degrading treatment covered those in prisons or corrective labour institutions whose régime was determined by the Labour Corrective Code of the Byelorussian SSR. Procurators had the responsibility of controlling observance of laws when sentences were executed. Solitary confinement for 15 days, and for a maximum of one year, was applied in exceptional cases for gross violations of the régime when serving a sentence. Observation committees consisting of representatives of Soviets, trade unions, the Young Communist League and other public and social organizations participated in controlling the activities of institutions and bodies executing sentences of the courts.

544. Replying to questions under article 8, he said that the obligation to work as a civil duty for persons capable of working was in full conformity with the provisions of the Covenant. In accordance with article 38 of the Constitution, citizens had the right to choose their trade or profession or type of work in accordance with their inclinations, abilities, training and education, taking into account the needs of society. An employee could not be dismissed without the consent of the trade union committee. A citizen had the right to cancel any labour contract or his membership in a collective farm.

545. In response to questions under article 9 of the Covenant, the representative stated that under the Code of Criminal Procedure a person suspected of having committed a crime could be detained for a period of time not exceeding three days. Detention as a preventive measure could not exceed nine months. After a case had been transmitted to the court, all questions connected with deprivation of liberty were settled by the court and the procurator had no power in relation to the court. The Criminal Code of the Byelorussian SSR did not endanger the position of judges because it provided for their criminal responsibility not for erroneous arrests or detentions but for deliberate unjust sentences, decisions and rulings. There

were no political prisoners in the Byelorussian SSR and there had been no trials for political reasons.

546. With regard to article 12 of the Covenant, he stated that, although currently there was no necessity for inhabitants of the Byelorussian SSR to go abroad to seek a better life, there were cases when some persons requested permission to leave the country, mainly because of family reasons. In such cases, all the applications were considered on the basis of the resolution of the Council of Ministers of the USSR of 22 September 1970. If, in rare cases, the permission was refused, it was in full conformity with the law and provisions of the Covenant and was justified by reasons of State security, public order, property or family rights. There were no other restrictions and there were no sanctions in connexion with applications for permission to leave the country.

547. In connexion with questions under article 13 of the Covenant, the representative pointed out that in accordance with the Civil Code of the Byelorussian SSR, foreigners enjoyed legal capacity on an equal footing with Soviet citizens. Under article 35 of the Constitution, citizens of other countries and stateless persons in the Byelorussian SSR were guaranteed the rights and freedoms provided by law including the right to apply to a court and other State bodies for protection of their personal property, family and other rights. Foreigners could not form parties, vote or be elected.

548. Commenting on questions under article 14 of the Covenant, the representative stressed that the impartiality of judges in all the courts of Byelorussia was ensured by the fact that they were elected, independent, subject only to the law, and heard cases in conditions excluding any outside influence on them. Colleges of advocates were available to give legal assistance to citizens and organizations. Their organization and procedure were determined by the Constitution, by the law on the legal structure of the Byelorussian SSR and by the Statute regulating the bar of the Byelorussian SSR. A legal counsel could participate in an investigation from the moment of accusation. The presumption of innocence was one of the fundamental principles of criminal law. Hearings in all the courts were public, with a few exceptions in order to safeguard State secrets or to avoid dissemination of information on intimate aspects of life. However, the decisions of courts were always announced publicly. Comrades' courts were not included in the judicial system of the Republic. They were elected social bodies pursuing the aim of prevention of crimes and that of educating people in accordance with the rules of socialist society. People's assessors in courts were, like judges, responsible and accountable to their electors and could be recalled by them. They had all the rights of judges, were independent and subject only to the law.

549. Replying to questions under article 17 of the Covenant, he said that, in accordance with article 53 of the Constitution, citizens of the Byelorussian SSR were guaranteed inviolability of the home. No one could, without lawful grounds, enter a home against the will of those residing in it. Dwellings could be entered by authorized persons only when pursuing those suspected of having committed crimes and in order to prevent violations of public order and security of citizens. If a citizen considered that the inviolability of his home had been violated he could appeal to the procurator who was obliged to protect his interests.

550. With regard to article 18 of the Covenant, the representative stated that freedom of conscience, that is, the right to profess or not to profess any

religion, was a constitutional principle. The church was separated from the State and the school from the church in the Byelorussian SSR. The legislation did not prohibit religious teaching of children by their parents, nor did it prohibit their attending religious services. There was a new provision in the Constitution according to which incitement to hostility or hatred on religious grounds was prohibited. The provision was meant to protect the rights of individuals, irrespective of their attitude towards religion, and to prevent incitement to hatred among different religions, and was directed against anti-social manifestations under cover of religion. Religious communities had the right to publish religious literature, maintain religious educational institutions and produce objects of religious worship.

551. Commenting on questions under article 19 of the Covenant, he said that any citizen could not only hold personal opinions but also criticize shortcomings in the work of State bodies and public organizations. Exercise of political freedoms was ensured by putting public buildings, streets and squares at the disposal of the working people and their organizations for meetings and demonstrations, by broad dissemination of information, and by the opportunity to use the press, television and radio. Article 48 of the Constitution implied that those freedoms could not be abused to the detriment of the interest of people and of the socialist system. There were no laws allowing persecution for any opinions including political ones. The Criminal Code provided for criminal responsibility for actions aimed at undermining the socialist system.

552. With regard to article 22 of the Covenant, he pointed out that the Communist Party, uniting the most conscientious representatives of workers, peasants and the intelligentsia, had deep roots in the population masses. Trade unions were not registered in the Byelorussian SSR and citizens had the right to freely form trade unions which were the widest form of association of the working people. Trade unions participated in planning the development of the national economy, they represented workers and civil servants before State and economic bodies and managed the State social insurance.

553. Replying to questions under article 27 of the Covenant, he said that people of Polish, Lithuanian and Jewish origin did not occupy specific regions and lived in various towns and villages of the Byelorussian SSR together with people of other nationalities. All of them participated in the political, economic, social and cultural life on an equal footing and had equal rights. It was the duty of every citizen of the Byelorussian SSR to respect the national dignity of other citizens and to strengthen friendship between the nations and nationalities of the Soviet State.

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

#### Ecuador

555. At its 118th meeting, held on 31 October 1978 (CCPR/C/SR.118), the Committee continued its consideration of the initial report of Ecuador (CCPR/C/1/Add.8) 9/

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9/ The initial report by Ecuador was considered by the Committee at its 31st and 32nd meetings, on 19 August 1977 (see CCPR/C/SR.31 and SR.32).

together with the supplementary report containing additional information (CCPR/C/1/Add.29) submitted in reply to the questions which had been asked at the 32nd meeting. The Committee decided to consider the issues raised topic by topic.

556. Several members of the Committee requested information on the developments in the constitutional and political situation in Ecuador during the period since the Committee had discussed the initial report. In particular, they inquired about the following points: (a) The progress achieved in arriving at a normal constitutional and legal régime; were there still any vestiges of the state of emergency prior to the return to normal, such as the suspension of certain rights and the imprisonment of persons for political or trade union activities? (b) The procedures under which the new Constitution had been adopted; had persons who could not read or write voted in the referendum held for the purpose of approving it and in the government elections? It was said that, if they had not, that might constitute discrimination which conflicted with article 25 of the Covenant.

557. The representative of Ecuador explained that the process of a return to normal on which his Government had embarked two years previously envisaged an initial stage of approval of the Constitution that was to apply on the return to normal. For that purpose, two texts had been presented to the population, which had expressed its will in a referendum held on 16 January 1978, in which 80 per cent of those included in the electoral registers had voted. The illiterate had not voted, because they were not listed on the registers, in conformity with the legislation now in force. In the second stage, sectional and presidential elections had been held on 16 July 1978. As a result of the sectional elections, the administration of the 20 provincial councils and the 68 municipal councils in the country had been handed over to the authorities chosen by the people in the elections. In the presidential elections, however, none of the six candidates representing 15 political parties had obtained the absolute majority required, and a second election was to be held on 8 April 1979 between the two candidates who had obtained the highest number of votes. On the same day, the President would be elected, as would the members of the National House of Representatives. Both the President and the House would assume their functions on 10 August 1979, the date on which the new Constitution would also come into force. The latter was to be the basic law of the country, with a status similar to that of the 1945 Constitution which was now in force. The new Constitution provided that illiterate persons would have the right to vote, but the vote would not be compulsory, as it was for persons who could read and write. He went on to say that there were no restrictions of the kind imposed during the state of emergency, since all constitutional guarantees had been restored in order to ensure a valid electoral process, which had taken place in complete freedom. He also gave an assurance that there were no political or trade union detainees and that, if someone in those fields was under arrest, it was because ordinary criminal charges were involved.

558. Some members of the Committee asked whether the obligation to vote did not constitute a restriction on political freedoms, why members of the armed forces did not have the right to vote, whether illiterates currently had the right to vote and whether the Government envisaged measures to make it easier for illiterates to exercise their right to vote under the new Constitution (for example by the use of symbols or colours). In that connexion, it was pointed out that the illiterate and other deprived groups were the most in need of representation in Government. One member requested information on the qualifications required for a person to be

a candidate for various types of public service, and there was a question as to whether illiterates had access to the public service.

559. The representative of Ecuador pointed out that the compulsory vote did not restrict the electorate's political freedom, because if a person wished to remain outside the electoral process he could return a blank ballot or have his vote cancelled. The compulsory vote was intended to encourage citizens to participate in political life, and failure to comply with the rule entailed appropriate sanctions, such as being debarred from holding public office. The members of the armed forces could not participate because they were assigned the task of ensuring the validity and proper conduct of the elections and, therefore, must not be involved. Although illiterates had not voted in the elections, the system of differentiating ballot papers by colour was already in use.

560. He said that illiteracy had fallen from 33 or 34 per cent five years previously to 28 per cent, thanks to the action of the Government and of private institutions, which were running literacy programmes for adults, since children were covered by the compulsory school system.

561. Several members asked what status the recent Constitution and its provisions had within the legal system in Ecuador and whether it had already entered into force; whether it would be possible to invoke before the courts provisions such as those of article 44, which ensured all citizens, without distinction as to sex, the enjoyment of the civil, political, economic, social and cultural rights embodied in the international declarations, covenants, agreements and other instruments in force. It was said that article 44 appeared to ensure non-discrimination solely with regard to a person's sex, and therefore in a much narrower manner than did article 2 of the Covenant and it was asked whether, in addition to article 44, there were other legislative provisions in Ecuador that ensured observance of the principles of the Covenant as regards non-discrimination.

562. Several members inquired about aspects of the Tribunal of Constitutional Guarantees established under the Constitution and asked whether access to that Tribunal was open not only to persons who considered themselves victims of a violation of human rights but also to any person who wished to lodge a complaint of violation of the Constitution without being himself a victim; whether, for the purposes of access to that body, it was first necessary to exhaust all other available remedies or whether it was possible to appeal directly to the Tribunal; what other remedies were provided for in the new Constitution; and whether the Tribunal's functions were confined to investigating cases and submitting recommendations to the Congress or whether it had decision-making powers.

563. In reply to members of the Committee, the representative of Ecuador referred to the scope of article 44 of the new Constitution, which guaranteed the enjoyment of all rights embodied in international instruments. Apart from that general provision, other provisions incorporated the international covenants in legislation, so that they could be invoked in the courts as a positive right. In order to ensure that such provisions were complied with, there was an Ecuadorian National Human Rights Committee which received complaints of violations. The Tribunal of Constitutional Guarantees, established under article 141 of the new Constitution, would start to function in August 1979; its task in safeguarding human rights was described in the report. Any citizen might have recourse to the Tribunal if he considered that constitutional rights had been violated. A person

who was illegally detained could choose to appeal either to the courts or to the Tribunal, and one jurisdiction would not block or override the other. The Tribunal could decide that there was no justification for detention and order the prisoner to be released. In the case of persons who enjoyed special prerogatives and were subject to judgement by the National House of Representatives, the Tribunal could not take decisions; it could only prepare the indictment and transmit it to the House. The jurisdiction of the police judges referred to in the report was restricted to matters of lesser importance, such as police contraventions. They acted exclusively as examining judges and could not take decisions on substantive matters, when the case was of some gravity.

564. Article 44 of the Constitution mentioned only the equality of both sexes with regard to the human rights guaranteed in international instruments, but article 19, paragraph 4, prohibited all discrimination of any kind and article 4 condemned all forms of colonialism, neo-colonialism and racial discrimination.

565. With regard to the rights guaranteed by international instruments, including economic and social rights, the members of the Committee requested information on the measures being taken to improve the country's material situation and to permit genuine enjoyment of those rights, in addition to the legal provisions mentioned in the report. It was observed that Ecuador particularly well illustrated the interdependence of all human rights and that the Committee's later study of its development should be oriented in that direction. It was also asked what criteria prevailed in the distribution of land to the peasants under the Land Reform Act now in force. One member of the Committee asked in what way the State was contributing to the establishment of family estate.

566. The representative of Ecuador explained that, in addition to the measures listed in the report, the formation and development of agricultural co-operatives was encouraged. It was therefore possible for those who did not earn enough to buy economically viable plots of land to do so as members of a co-operative and request loans from the National Bank of Co-operatives.

567. The Land Reform Act in force provided that land not worked at certain established levels could be expropriated by the Land Reform Institute for distribution to the peasants. Detailed plans and statistics on the agrarian reform would be communicated to the Committee at a later date.

568. As to State aid for the establishment of family estate, he said that there were various institutions which authorized credit specifically for family estate. When a property was acquired with a loan from the national Social Security Institute, the Bank for Housing or the Mutual Benefit Association, it was incorporated by law in the estate, which could not exceed 300,000 sucses (about \$12,000).

569. In relation to the rights and guarantees embodied in article 14 of the Covenant, one member of the Committee stated that all the guarantees established in article 14, paragraph 3, of the Covenant did not seem to be covered and he requested more information on that matter. Another member asked for clarification as to whether the procedures in criminal law allowed a person charged with committing an offence to be released under the personal surety of a third party, without depositing a sum of money. An explanation was also requested as to which authorities were competent to order detention, because the report stated in



paragraph 15 that "the judge shall order detention" and in paragraph 16 that "the competent authorities may order such detention", while paragraph 22 spoke of police judges.

570. The representative of Ecuador said that, in accordance with article 88 of the Code of Criminal Procedure, nobody could be detained, simply on suspicion, for a period exceeding 48 hours; after that time he had to be released if there was no written order from a judge giving grounds for his detention. Once that time-limit had expired, the detainee could appeal under habeas corpus and secure his release. A detainee also enjoyed the following guarantees: a free defence by professional lawyers; examination of witnesses and the assistance of an interpreter throughout the trial if he was not Spanish-speaking. All the other guarantees enumerated in article 14 were covered in various legal provisions. Conditional release could be obtained only by the payment of bail, since the system of personal surety did not exist.

571. In relation to articles 26 and 27 of the Covenant, several members of the Committee referred to the situation of the indigenous communities in Ecuador. It was asked, in particular, what measures had been taken to safeguard the family life and other rights of the persons who had been moved away from the lands on which oil-well drilling had been started, in the eastern region of the country. Noting that article 39 of the new Constitution did not include an express ban on discrimination against persons because of their language, one member asked whether that form of discrimination existed. Clarification was also requested concerning the meaning of expressions such as "social mobilization" and "revitalization of native values" employed in paragraph 43 of the report, which listed some measures to promote the participation of the indigenous inhabitants in economic development.

572. The representative of Ecuador said that the Government was trying to incorporate them in the economic life of the country without detriment to their individuality. Through both the educational system and the religious and lay missions engaged in development activities in those communities, efforts were being made to maintain and preserve their cultural values. For example, the teachers in indigenous schools must know the language of the community in which they worked. It was true that villagers had been moved from areas where oil-wells were being drilled. Some communities were settled in nearby areas, but as a result of the law which had recently been enacted to grant funds to the State Oil Corporation, sufficient money was available to compensate them if their lands had to be expropriated. Furthermore, the Corporation was responsible for finding them a new place to live. He explained that the expressions "social mobilization" and "revitalization of native values" referred to the Government's policy to promote the culture and language of the indigenous communities and their participation in society.

#### IV. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

573. Out of the 52 States which have ratified the Covenant, 20 have accepted the competence of the Committee for dealing with individual complaints by ratifying the Optional Protocol. These States are Barbados, Canada, Colombia, Costa Rica, Denmark, the Dominican Republic, Ecuador, Finland, Italy, Jamaica, Madagascar, Mauritius, Norway, Panama, Senegal, Suriname, Sweden, Uruguay, Venezuela and Zaire.

574. Since the Human Rights Committee began its work under the Optional Protocol, it has had before it 40 communications submitted by or on behalf of individuals who claim to be victims of violations of rights set forth in the Covenant. These communications relate to Canada, Denmark, Finland, Mauritius, Norway, Uruguay and Zaire.

575. The Committee commenced or resumed consideration of 20 communications at its third session, 26 communications at its fourth session, and 9 communications at its fifth session.

576. Of the 40 communications submitted to the Committee, 7 have been declared admissible under the Optional Protocol. Consideration of the merits of the claims in these communications will start at the Committee's forthcoming sessions. Twenty-five communications are still before the Committee pending final decision as to their admissibility (2 of these have been merged for joint consideration). In a number of these cases the Committee has decided to transmit the communication to the State party concerned under rule 91 of its provisional rules of procedure, requesting from the State party information and observations relevant to the question of admissibility, and in some of them the Committee has decided to request additional information from the authors. Seven communications have been declared inadmissible, as not fulfilling one or more of the conditions for admissibility laid down in articles 1, 2, 3 and 5, paragraph 2, of the Optional Protocol. One communication has been withdrawn by the author.

577. A Working Group to make recommendations to the Committee on the admissibility of communications, established by the Committee under rule 89 of its provisional rules of procedure, met for one week prior to the Committee's third session and for one week prior to the Committee's fourth session. It is envisaged that a Working Group will meet during 1979 and 1980, prior to each session of the Committee.

578. With regard to its work under the Optional Protocol, the Committee had before it at its third, fourth and fifth sessions: (a) lists of communications, prepared by the Secretary-General in accordance with rule 79 of the Committee's provisional rules of procedure, containing brief summaries of the contents of communications received as at 30 September 1978; (b) fact sheets, prepared by the Secretary-General, containing a detailed description of the contents of most of the listed communications; and (c) recommendations from the Committee's Working Group or, in the case of the fifth session, from a member of the Committee who came to Geneva in advance of the session, relating to its examination of communications. These documents are confidential and are made available to the members of the Committee only.

579. In the course of the Committee's work under the Optional Protocol, a number of procedural and substantive issues have been the subject of decisions. These decisions concern the following main issues: first, the standing of the author of the communication and particularly the circumstances in which one individual may submit a communication on behalf of another individual; secondly, the considerations that arise from the fact that the Covenant and the Optional Protocol became binding on the States parties concerned as from a certain date; thirdly, the provision in article 5, paragraph (2) (a), of the Protocol which requires the Committee to ascertain that the same matter is not being examined under another procedure of international investigation or settlement; and fourthly, the provision in article 5, paragraph (2) (b), of the Protocol which requires the Committee to ascertain that the individual has exhausted all available domestic remedies.

#### The standing of the author

580. Article 1 of the Optional Protocol provides that the Committee can receive communications from individuals who claim to be victims of violations of rights set forth in the Covenant. In the Committee's view this does not mean that the individual must sign the communication himself in every case. He may also act through a duly appointed representative and there may be other cases in which the author of the communication may be accepted as having the authority to act on behalf of the alleged victim. For these reasons, rule 90, paragraph (1) (b), of the Committee's provisional rules of procedures provides that normally the communication should be submitted by the alleged victim himself or by his representative (for example, the alleged victim's lawyer), but the Committee may accept to consider a communication submitted on behalf of an alleged victim when it appears that he is unable to submit the communication himself. The Committee regards a close family connexion as a sufficient link to justify an author acting on behalf of an alleged victim. On the other hand, it has declined to consider communications where the authors have failed to establish any link between themselves and the alleged victims.

#### Considerations arising from the fact that the Covenant and the Optional Protocol became binding on the States parties as from a certain date

581. The Committee has declared communications inadmissible if the events complained about took place prior to the entry into force of the Covenant and the Optional Protocol for the State parties concerned. However, a reference to such events may be taken into consideration if the author claims that the alleged violations have continued after the date of entry into force of the Covenant and the Optional Protocol for the State party concerned, or that they have had effects which themselves constitute a violation after that date. Events which took place prior to the critical date may indeed be an essential element of the complaint resulting from alleged violations which occurred after that date.

#### The application of article 5, paragraph (2) (a), of the Optional Protocol

582. Article 5, paragraph (2) (a), of the Optional Protocol provides that the Committee shall not consider any communication from an individual "unless it has ascertained that the same matter is not being examined under another procedure of international investigation or settlement". In connexion with the consideration of some of the communications which have been submitted under the Optional Protocol, the Committee has recognized that cases considered by the Inter-American

Commission on Human Rights under the instruments governing its functions were under examination in accordance with another procedure of international investigation or settlement within the meaning of article 5, paragraph (2) (a). On the other hand, the Committee has determined that the procedure set up under Economic and Social Council resolution 1503 (XLVIII) does not constitute a procedure of international investigation or settlement within the meaning of article 5, paragraph (2) (a) of the Optional Protocol, since it is concerned with the examination of situations which appear to reveal a consistent pattern of gross violations of human rights and a situation is not "the same matter" as an individual complaint. The Committee has also determined that article 5, paragraph (2) (a), of the Protocol can only relate to procedures implemented by inter-State or intergovernmental organizations on the basis of inter-State or intergovernmental agreements or arrangements. Procedures established by non-governmental organizations, as for example the procedure of the Inter-Parliamentary Council of the Inter-Parliamentary Union, cannot, therefore, bar the Committee from considering communications submitted to it under the Optional Protocol.

583. With regard to the application of article 5, paragraph (2) (a), of the Optional Protocol the Committee has further determined that it is not precluded from considering a communication, although the same matter has been submitted under another procedure of international investigation or settlement, if it has been withdrawn from or is no longer being examined under the latter procedure at the time that the Committee reaches a decision on the admissibility of the communication submitted to it.

584. In the course of its consideration of communications, the Committee became aware of a language discrepancy in the text of article 5, paragraph (2) (a) of the Optional Protocol. The Chinese, English, French and Russian texts of the article provided that the Committee shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined under another procedure of international investigation or settlement, whereas the Spanish text of the article employs the language meaning "has not been examined". The Committee has ascertained that this discrepancy stems from an editorial oversight in the preparation of the final version of the Spanish text of the Optional Protocol. Accordingly, the Committee has decided to base its work in respect of article 5, paragraph (2) (a), of the Optional Protocol on the Chinese, English, French and Russian language versions. 10/

585. To ensure an efficient and expeditious implementation of the provisions of article 5, paragraph (2) (a), of the Optional Protocol, the Committee has requested the Secretariat to engage in such exchange of information with other international bodies and their respective secretariats as may be necessary to enable the Committee to ascertain whether the same matter as that submitted to the Committee under the Optional Protocol is being examined under another procedure of international investigation or settlement. The Committee wishes to record its sincere appreciation for the most helpful co-operation received in this connexion from the Inter-American Commission on Human Rights and the European Commission of Human Rights.

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10/ The views expressed by the members of the Committee on this point are reflected in the summary record of its 88th meeting, document CCPR/C/SR.88.

The application of article 5, paragraph (2) (b) of the Optional Protocol

586. Article 5, paragraph (2) (b), of the Optional Protocol provides that the Committee shall not consider any communication from an individual unless it has ascertained that all available domestic remedies have been exhausted. The Committee considers that this provision should be interpreted and applied in accordance with the generally accepted principles of international law with regard to the exhaustion of domestic remedies as applied in the field of human rights. If the State party concerned disputes the contention of the author of a communication that all available domestic remedies have been exhausted, the State party is required to give details of the effective remedies available to the alleged victim in the particular circumstances of his case. In this connexion, the Committee has deemed insufficient a general description of the rights available to accused persons under the law and a general description of the domestic remedies designed to protect and safeguard these rights.

587. At its third session, the Committee adopted an amendment to its provisional rules of procedure, by adding a paragraph to rule 93 concerning the procedures for the consideration of communications. The new paragraph, rule 93, paragraph 4, provides that a decision declaring a communication admissible under the Optional Protocol may be reviewed at a later stage in the light of any explanations or statements submitted by the State party under article 4, paragraph 2, of the Protocol. At the same time the Committee revised the wording of the first sentence of the following rule, rule 94, to take into account the new paragraph of rule 93. The text of the revised rules 93 and 94 appears in annex V below. The provisional rules of procedure, as amended, have been issued in document CCPR/C/3.

588. Under rule 91, paragraph 1, of the provisional rules of procedure, the Committee or a Working Group established under rule 89 may request the State party concerned or the author of a communication to submit additional written information or observations relevant to the question of admissibility of a communication. At its fourth session, the Committee agreed that, in order to expedite the consideration of communications, a Working Group could henceforth apply rule 91, paragraph 1, of the provisional rules of procedure without placing its decisions relating thereto before the Committee for approval.

589. With regard to the question of compliance with various time-limits (normally four to six weeks) established by decisions of the Committee or its Working Group under the provisional rules of procedure requesting States parties or authors of communications to submit information, comments or observations, the Committee agreed that a reasonable degree of flexibility was called for, to take into account, for instance, delays in the dispatch and delivery of mail. On the other hand, the Committee has no authority to depart from the time-limit of six months laid down in article 4, paragraph 2, of the Optional Protocol and it must require States parties to comply with it.

590. The Committee is aware that the Secretariat has received a number of communications, addressed to the Committee or its Chairman, by authors alleging violations of human rights in States that are not parties to the Covenant and/or the Optional Protocol. Under article 1 of the Optional Protocol the Committee cannot receive such communications. The Secretariat has been instructed to draw this matter to the attention of the authors when it acknowledges the receipt of such communications.

591. In order to assist individuals who wish to submit communications to the Committee under the Optional Protocol, the Committee has authorized the Secretariat to draw up and make use of guidelines and a model form of communications as appropriate. It should, however, be explained to the individuals concerned that they are not obliged to use the model form, which is merely intended to serve as a guide to facilitate their task.

V. QUESTION OF CO-OPERATION BETWEEN THE COMMITTEE  
AND THE SPECIALIZED AGENCIES CONCERNED

592. At its second session, the Committee, for lack of time, decided to postpone consideration of this item and to give it due priority at its third session. The Committee meanwhile decided that the specialized agencies concerned should be officially informed of the dates of its future sessions.

593. At its third session, the Committee had again before it the letters received from both the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), contained in document CCPR/C/L.3 and Add.1, as well as a new letter received from the ILO, contained in document CCPR/C/L.3/Add.2, concerning its possible co-operation with the Committee.

594. Members of the Committee were unanimous in their desire to establish close co-operation with the specialized agencies. They differed, however, on the scope and extent of that co-operation, having regard to the provisions of article 40, paragraph 3, of the Covenant and rule 67, paragraph 2, of the Committee's provisional rules of procedure.

595. In the opinion of some members, co-operation with the specialized agencies should include, first of all, the transmission to the specialized agencies concerned of those parts of the reports submitted by the States parties under article 40 of the Covenant which fall within their respective fields of competence, together with a request for comments thereon. Other members expressed doubt as to whether such a request would be compatible with the provision of article 40, paragraph 3, of the Covenant. It was maintained that the reason why the authors of the Covenant had thought such a provision would be necessary was that they had not been aware at the time that the Committee's documents would be documents of general distribution. The Committee would be exceeding its powers if it attempted, in practice, to change the procedure provided for in article 40 of the Covenant by substituting the comments of a specialized agency for those of a State party. The information and comments which the Committee might request from the specialized agencies could only refer to their practice and experience, and that was the manner in which rule 67, paragraph 2, of the Committee's provisional rules of procedure should be interpreted.

596. Some members stressed the need for co-operation with the specialized agencies also in the area of implementation of the Optional Protocol. It was pointed out that it was possible that one or more specialized agencies might have adopted or intended to adopt procedures of investigation or settlement likely to affect the implementation of article 5 of the Protocol. Adequate arrangements for the exchange of information between the specialized agencies concerned and the Committee would therefore have to be devised.

597. All members agreed that a pragmatic approach towards co-operation with the specialized agencies had to be followed, that more information would be needed on the procedures adopted by these agencies in the field of human rights and that representatives of the specialized agencies should be invited to address the Committee on the subject.

598. Speaking at the invitation of the Chairman, the representative of ILO expressed his organization's readiness to consider any arrangement that the

Committee might make to associate ILO with its work. He explained the procedures used by ILO to implement the international labour standards laid down by the International Labour Conference, which included those connected with the consideration of the periodic reports submitted by member States in accordance with the provisions of the International Labour Conventions, and those which concerned complaints relating to the implementation of the Conventions. He expressed his organization's readiness to provide any details which might be requested.

599. Speaking at the invitation of the Chairman, the representative of UNESCO said that his organization was at the Committee's disposal to help it carry out its tasks. He referred to some articles of the Covenant which he thought were of particular interest to UNESCO and stated that UNESCO could supply the Committee with the studies and the research that the organization had carried out in fields involving human rights as well as with the reports of States on the implementation of the various instruments which had been elaborated in connexion with human rights. In connexion with article 5 of the Optional Protocol, he referred to the procedures currently used by UNESCO in examining communications from individuals and indicated that new procedures were under consideration. He explained the nature of the co-operation that existed between UNESCO on the one hand and ILO and the Committee on the Elimination of Racial Discrimination (CERD) on the other and stated, in reply to a question, that his organization participated regularly in the work of CERD but its comments related to the Committee's work in general and not to the report of any particular State.

600. A draft decision on co-operation with the specialized agencies, prepared by an informal working group of the Committee, was submitted to the Committee for consideration. After some discussion, the Committee decided to inform the specialized agencies concerned, including ILO, UNESCO, the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO), that it would welcome the attendance of their representatives at its public meetings. It also decided to request the Secretary-General, in accordance with article 40, paragraph 3, of the Covenant, to determine, in consultation with the Committee at each session, the parts of the States' reports that should be transmitted to the specialized agencies concerned. The Committee postponed a decision as to whether and how distribution should be given to written statements submitted by the specialized agencies providing information on their application of the provisions of international instruments within their field of competence which may be relevant to the provisions of the Covenant.

601. At its fourth session, the Committee had before it a note by the Secretary-General containing the draft decision prepared by the Committee's informal working group during the third session and a note pursuant to its decision at the third session, containing references to the relevant parts of the reports submitted hitherto by States parties under article 40 of the Covenant which, in the opinion of the Secretary-General, fell within the fields of competence of ILO and UNESCO.

602. The representative of UNESCO informed the Committee of the decision adopted by the Executive Board of UNESCO outlining the procedures which should be followed in the examination of cases and questions which might be submitted to UNESCO concerning the exercise of human rights in the spheres of its competence.

603. Members of the Committee wondered whether, following adoption of that decision by the Executive Board of UNESCO, the procedures were automatically binding on all States members of that organization; whether the new procedures constituted



procedures of international investigation or settlement; what their implications would be for the work of the Human Rights Committee; and how the question of overlapping with regard to communications would be solved.

604. Members of the Committee generally agreed that the new UNESCO procedures had introduced a new element into the question of co-operation with UNESCO; that there was no need for the Committee to put formally any questions to UNESCO in that respect; and that the ultimate decision regarding the interpretation of article 5, paragraph (2) (a), of the Optional Protocol was within the Committee's own jurisdiction. They welcomed new guarantees for human rights, particularly in the field of education, science and culture, but thought that a certain measure of compatibility between different procedures would have to be ensured.

605. At its 99th meeting, on 27 July 1978, the Committee agreed to the transmittal by the Secretary-General to the specialized agencies concerned of the relevant parts of the reports of States parties, contained in its published documents, which might fall within their field of competence. The Committee also agreed that the specialized agencies should not be invited to submit any comments on those parts of the reports since the Covenant contained no provision to that effect.

606. Members of the Committee differed over the question of whether the parts of the reports to be transmitted to UNESCO should relate not only to article 18, paragraph 4, and articles 19 and 27, as proposed by the Secretary-General, but also to the whole of article 18 and to articles 22 and 24 as requested by UNESCO. The Committee decided, for lack of time, to revert to this matter at a future session.

## VI. FUTURE MEETINGS OF THE COMMITTEE

607. The Committee considered this item at its 72nd, 73rd and 74th meetings (third session) on 2 and 3 February 1978, at its 91st and 94th meetings (fourth session), on 21 and 25 July 1978, and at its 111th meeting (fifth session) on 25 October 1978.

608. At its third session, the Committee decided to hold an additional (fifth) session in 1978 at Geneva from 23 October to 3 November. 11/ As to its sessions in 1979, it agreed to hold a session in New York in March or in April and a session at Geneva in July or August. The Committee postponed a decision on the question of intersessional meetings of its working groups to examine communications under the Optional Protocol.

609. At its fourth session, the Committee considered in some detail the question of its meetings in 1979 and subsequent years and, taking into account the anticipated increase in its workload under the Covenant and the Optional Protocol, agreed that it would need to continue holding additional third sessions of two or three weeks' duration in October. It decided in principle that the future pattern of its meetings should be based on three sessions per year, to be held at United Nations Headquarters, New York, in March and at the United Nations Office at Geneva in July and in October; and requested the Secretary-General to take the above pattern into account in scheduling future sessions of the Committee. As regards its meetings in 1979, however, the Committee, in view of the availability of conference services and facilities, agreed to hold its sixth session in New York from 9 to 27 April 1979, with a working group convening a week earlier on 2 April; to hold its seventh session at Geneva from 30 July to 17 August 1979, with a working group convening a week earlier on 23 July; and to hold its eighth session also at Geneva, beginning on 15 October 1979. A final decision on the duration of the eighth session was postponed to a later date.

610. At its fifth session, the Committee confirmed its earlier decision that its sixth session should be held in New York from 9 to 27 April 1979, preceded by a meeting of a working group from 2 to 6 April 1979; that its seventh session should be held at Geneva from 30 July to 17 August 1979, preceded by a meeting of a working group from 23 to 27 July 1979; and decided that its eighth session should also be held at Geneva for a period of two weeks from 15 to 26 October 1979, preceded by a meeting of a working group from 8 to 12 October 1979.

611. As regards the meetings of the Committee in 1980, the Committee agreed tentatively that its ninth session should be held in New York from 10 to 28 March 1980, preceded by a meeting of a working group from 3 to 7 March 1980; that its tenth session should be held in Geneva from 14 July to 1 August 1980, preceded by a meeting of a working group from 7 to 11 July 1980; and that its eleventh session should be held in Geneva for a period of two weeks from 20 to 31 October 1980, preceded by a meeting of a working group from 13 to 17 October 1980, subject to reconsideration of the duration of the eleventh session at a later date.

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11/ For further details concerning the fifth session of the Committee, see sect. II B, para. 20, above.

## VII. ADOPTION OF THE REPORT

612. At its 120th, 121st and 122nd meetings on 2 and 3 November 1978, the Committee considered the draft of its second annual report, covering the activities of the Committee at its third, fourth and fifth sessions, held in 1978. The report, as amended in the course of the discussions, was adopted by the Committee unanimously.

ANNEX I

States parties to the International Covenant on Civil and Political Rights and to the Optional Protocol as at 3 November 1978

A. States parties to the International Covenant on Civil and Political Rights a/

<u>State party</u>	<u>Date of receipt of the instrument of ratification or accession (a)</u>	<u>Date of entry into force</u>
Barbados	5 January 1973 (a)	23 March 1976
Bulgaria	21 September 1970	23 March 1976
Byelorussian Soviet Socialist Republic	12 November 1973	23 March 1976
Canada	19 May 1976 (a)	19 August 1976
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Costa Rica	29 November 1968	23 March 1976
Cyprus	2 April 1969	23 March 1976
Czechoslovakia	23 December 1975	23 March 1976
Denmark b/	6 January 1972	23 March 1976
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Finland b/	19 August 1975	23 March 1976
German Democratic Republic	8 November 1973	23 March 1976
Germany, Federal Republic of b/	17 December 1973	23 March 1976
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Hungary	17 January 1974	23 March 1976

a/ Austria and Italy ratified the Covenant on 10 and 15 September 1978 respectively. It will come into force on 10 December 1978 as regards Austria, and on 15 December 1978 as regards Italy. Austria and Italy also made the declaration under article 41 of the Covenant.

b/ States parties which have made the declaration under article 41 of the Covenant.

<u>State party</u>	<u>Date of receipt of the instrument of ratification or accession (a)</u>	<u>Date of entry into force</u>
Iran	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Jamaica	3 October 1975	23 March 1976
Jordan	28 May 1975	23 March 1976
Kenya	1 May 1972 (a)	23 March 1976
Lebanon	3 November 1972 (a)	23 March 1976
Libyan Arab Jamahiriya	15 May 1970 (a)	23 March 1976
Madagascar	21 June 1971	23 March 1976
Mali	16 July 1974 (a)	23 March 1976
Mauritius	12 December 1973 (a)	23 March 1976
Mongolia	18 November 1974	23 March 1976
Norway <u>b/</u>	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Peru	28 April 1978	28 July 1978
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Romania	9 December 1974	23 March 1976
Rwanda	16 April 1975 (a)	23 March 1976
Senegal	13 February 1978	13 May 1978
Spain	27 April 1977	27 July 1977
Suriname	28 December 1976 (a)	28 March 1977
Sweden <u>b/</u>	6 December 1971	23 March 1976
Syrian Arab Republic	21 April 1969 (a)	23 March 1976
Tunisia	18 March 1969	23 March 1976
Ukrainian Soviet Socialist Republic	12 November 1973	23 March 1976
Union of Soviet Socialist Republics	16 October 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland <u>b/</u>	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976 (a)	11 September 1976
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Yugoslavia	2 June 1971	23 March 1976
Zaire	1 November 1976 (a)	1 February 1977

B. States parties to the Optional Protocol c/

<u>State party</u>	<u>Date of receipt of the instrument of ratification or accession (a)</u>	<u>Date of entry into force</u>
Barbados	5 January 1973 (a)	23 March 1976
Canada	19 May 1976 (a)	19 August 1976
Colombia	29 October 1969	23 March 1976
Costa Rica	29 November 1968	23 March 1976
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Finland	19 August 1975	23 March 1976
Jamaica	3 October 1975	23 March 1976
Madagascar	21 June 1971	23 March 1976
Mauritius	12 December 1973 (a)	23 March 1976
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Senegal	13 February 1978	13 May 1978
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Zaire	1 November 1976 (a)	1 February 1977

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c/ Italy ratified the Optional Protocol on 15 September 1978; it will come into force in respect of Italy on 15 December 1978.

ANNEX II

Membership of the Human Rights Committee

<u>Name of member</u>	<u>Country of nationality</u>
Mr. Mohamed Ben-Fadhel <u>a/</u>	Tunisia
Mr. Ole Mogens Espersen <u>a/</u>	Denmark
Sir Vincent Evans <u>b/</u>	United Kingdom of Great Britain and Northern Ireland
Mr. Manouchehr Ganji <u>b/</u>	Iran
Mr. Bernhard Graefrath <u>a/</u>	German Democratic Republic
Mr. Vladimir Hanga <u>b/</u>	Romania
Mr. Haissam Kelani <u>b/</u>	Syrian Arab Republic
Mr. Luben G. Koulishhev <u>b/</u>	Bulgaria
Mr. Rajsoomer Lallah <u>a/</u>	Mauritius
Mr. Andreas V. Mavrommatis <u>b/</u>	Cyprus
Mr. Fernando Mora Rojas <u>a/</u>	Costa Rica
Mr. Anatoly Petrovich Movchan <u>b/</u>	Union of Soviet Socialist Republics
Mr. Torkel Opsahl <u>a/</u>	Norway
Mr. Julio Prado Vallejo <u>a/</u>	Ecuador
Mr. Fulgence Seminega <u>a/</u>	Rwanda
Mr. Walter Surma Tarnopolsky <u>b/</u>	Canada
Mr. Christ'ian Tomuschat <u>a/</u>	Federal Republic of Germany
Mr. Diego Uribe Vargas <u>b/</u>	Colombia

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a/ Term expires on 31 December 1978.

b/ Term expires on 31 December 1980.

## ANNEX III

Submission of reports and additional information by  
States parties under article 40 of the Covenant

A. Initial reports

<u>States parties</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Date of reminder(s) sent, if any</u>
Barbados	22 March 1977	24 October 1978	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Bulgaria	22 March 1977	27 June 1978	(1) 30 September 1977
Byelorussian Soviet Socialist Republic	22 March 1977	9 June 1978	(1) 30 September 1977 (2) 22 February 1978
Canada	18 August 1977	NOT YET RECEIVED	
Chile	22 March 1977	5 August 1977 26 April 1978 <u>a/</u>	
Colombia	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Costa Rica	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Cyprus	22 March 1977	23 March 1977	
Czechoslovakia	22 March 1977	17 June 1977	
Denmark	22 March 1977	21 March 1977 22 December 1977	
Ecuador	22 March 1977	31 March 1977	
Finland	22 March 1977	6 April 1977	
German Democratic Republic	22 March 1977	28 June 1977	
Germany, Federal Republic of	22 March 1977	25 November 1977	(1) 30 September 1977

a/ At the request of the Government of Chile, the report submitted on this date replaces the earlier one submitted on 5 August 1977.



<u>States parties</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Date of reminder(s) sent, if any</u>
Guyana	14 May 1978	NOT YET RECEIVED	
Hungary	22 March 1977	16 May 1977	
Iran	22 March 1977	9 August 1977 29 May 1978	
Iraq	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Jamaica	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Jordan	22 March 1977	10 April 1978	(1) 30 September 1977 (2) 22 February 1978
Kenya	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Lebanon	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Libyan Arab Jamahiriya	22 March 1977	4 March 1977 19 January 1978	
Madagascar	22 March 1977	16 July 1977	
Mali	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Mauritius	22 March 1977	24 January 1977 12 January 1978 <u>b/</u>	
Mongolia	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Norway	22 March 1977	22 March 1977	
Panama	7 June 1978	NOT YET RECEIVED	
Poland	17 June 1978	NOT YET RECEIVED	

b/ At the request of the Government of Mauritius, the report submitted on this date replaces the earlier one submitted on 24 January 1977.

<u>States parties</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Date of reminder(s) sent, if any</u>
Romania	22 March 1977	29 July 1978	(1) 30 September 1977 (2) 22 February 1978
Rwanda	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Spain	26 July 1978	1 September 1978	
Suriname	27 March 1978	NOT YET RECEIVED	
Sweden	22 March 1977	21 March 1977	
Syrian Arab Republic	22 March 1977	28 June 1977	
Tunisia	22 March 1977	30 March 1977	
Ukrainian Soviet Socialist Republic	22 March 1977	31 August 1978	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Union of Soviet Socialist Republics	22 March 1977	30 January 1978	(1) 30 September 1977
United Kingdom of Great Britain and Northern Ireland	19 August 1977	18 August 1977	
United Republic of Tanzania	10 September 1977	NOT YET RECEIVED	(1) 22 February 1978
Uruguay	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Yugoslavia	22 March 1977	28 February 1978	(1) 30 September 1977 (2) 22 February 1978
Zaire	31 January 1978	NOT YET RECEIVED	

B. Supplementary reports containing additional information submitted subsequent to the examination of the initial reports by the Committee

<u>States parties</u>	<u>Date of submission</u>
Cyprus	27 May 1978
Ecuador	26 June 1978
Finland	11 July 1978
Syrian Arab Republic	6 July 1978
United Kingdom of Great Britain and Northern Ireland	13 September 1978

ANNEX IV

Correspondence between the Chairman of the Human Rights Committee and the President of the Economic and Social Council concerning the transmission of the second annual report of the Committee to the General Assembly covering the activities of the Committee at its three sessions held in 1978 a/

- A. Letter dated 1 August 1978 from the Chairman of the Human Rights Committee to the President of the Economic and Social Council

The Human Rights Committee established under the International Covenant on Civil and Political Rights, of which I have the honour to be the Chairman, has requested that I should, through you, bring the following to the attention of the General Assembly of the United Nations and the Economic and Social Council for their information.

As you are aware, the Human Rights Committee is required by article 45 of the Covenant to submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities. At its first session, the Committee decided that its annual report would cover the activities of the Committee during a calendar year. In 1977 the Committee held two sessions. The Committee's first report covering its activities in 1977 was submitted to the General Assembly at its thirty-second session. In the current year, it has been found necessary, in order to keep abreast of the work, to hold an additional session which will take place in October 1978. Since the Committee's annual report for 1978 will be adopted at the end of the October session, it may not be ready for submission, through the Economic and Social Council, to the General Assembly at its thirty-third session.

It will be recalled that, for the present, the Human Rights Committee has two main functions:

1. To study reports submitted by States parties pursuant to article 40, paragraph 1 (a), of the Covenant;
2. To receive and consider communications submitted to it by individuals under the Optional Protocol.

The Committee has so far received initial reports from 23 States parties. It has begun consideration of 18 of these reports and at its forthcoming session in October of this year it plans to start work on a further 4 reports. Experience shows that about three meetings are necessary to deal with each report at the first stage, when the report is introduced by a representative of the reporting State and members of the Committee put questions to him. The Committee has found therefore that it is not practicable to complete this stage of the study of more than about

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a/ See sect. II B above.

six reports in the course of a session of three weeks and from now on some time should be devoted at each session to the continuation of the dialogue with reporting States.

As regards the exercise of the Committee's functions under the Optional Protocol, appropriate procedures have been developed and put into operation, including the setting up of a working group to meet prior to each session of the Committee in order to make a preliminary study of the communications received and submit recommendations on them to the Committee. Thirty-four communications have so far been submitted to it. The Committee's first task on receiving a communication is to determine whether it is admissible for consideration in accordance with the conditions laid down in the Protocol. Decisions on admissibility have already been made in respect of 13 communications and the Committee will proceed in October to consider the merits of the complaints made in some of those which have been declared admissible.

During the October session the Committee also intends to finalize its further programme of work with a view to establishing, so far as possible, a regular pattern of sessions for each year in the light of the experience already gained and the anticipated workload. Another 21 reports are due to be received from States parties before the end of this year and a further 3 before 1 July 1979. It is also likely that the number of communications received by the Committee under the Optional Protocol will increase significantly when the procedure becomes better known. It will be the constant endeavour of the Committee, with the necessary supporting services from the Secretariat, to keep abreast of its work.

(Signed) Andreas V. MAVROMMATIS  
Chairman of the  
Human Rights Committee

B. Letter dated 3 August 1978 from the President of the Economic and Social Council to the Chairman of the Human Rights Committee

I acknowledge the receipt of your letter of 1 August 1978 in which you informed me that the Human Rights Committee would hold an additional session in October 1978 and that its annual report for 1978 would be adopted at the end of that session.

As you have noted in your letter, the Committee is required by article 45 of the International Covenant on Civil and Political Rights to submit to the General Assembly, through the Economic and Social Council, an annual report on its activities. You are no doubt aware that the Assembly and the Council have already made provision in their agenda for this year for the consideration of the Committee's report. The Council will therefore maintain the relevant item on its agenda until such time as the General Assembly deals with the question raised in your letter. Before taking the matter any further, however, you may wish to consider whether the annual report, to be adopted in October, could be ready in

time for the consideration of the General Assembly at its thirty-third session. Should this be possible, the situation of the Assembly receiving a report in 1979 on the activities of the Committee for the previous year would be avoided.

(Signed) Donald O. MILLS  
President of the  
Economic and Social Council

C. Letter dated 18 August 1978 from the Chairman of the  
Human Rights Committee to the President of the  
Economic and Social Council

I acknowledge the receipt of your letter of 3 August 1978 concerning the annual report of the Human Rights Committee on its activities during the calendar year 1978.

I have taken note of your observations which I intend to convey to the Committee when it reconvenes for its fifth session in Geneva on 23 October 1978. I should however point out that it is only at the end of that session, on 3 November 1978, that the Committee will adopt its annual report.

As you will realize it is not within the province of the Committee to determine or forecast when its adopted report, having been edited, translated and reproduced as appropriate, will be released and available for distribution to the Economic and Social Council as well as to the General Assembly. Assuming, on reasonable grounds, that the report could be issued for all purposes in the latter part of November, it remains to be seen whether the Council would then be in a position to take it up for transmission to the General Assembly in time for it to be considered by the Third Committee before it adjourns early in December. These are organizational matters which are obviously beyond the reach of the Human Rights Committee and can only be resolved by the Council itself and the General Assembly.

In the meantime, I should like to inform you that in order to avoid the recurrence of similar difficulties in the future, it is my intention to request the Human Rights Committee to reconsider its previous decision that its annual report would cover its activities during the calendar year, so that its report may be adopted at its summer session even if the Committee continues to hold another session in the autumn.

(Signed) Andreas V. MAVROMMATIS  
Chairman of the  
Human Rights Committee

D. Letter dated 1 September 1978 from the President of the Economic and Social Council to the Chairman of the Human Rights Committee

I acknowledge with appreciation your letter of 13 August 1978, informing me of the steps you intend to take with regard to the submission of the annual report of the Human Rights Committee.

In this connexion, I should like to inform you that the Economic and Social Council, in decision 1978/61 of 3 August 1978, decided to authorize the Secretary-General to transmit directly to the General Assembly at its thirty-third session certain reports, among them the annual report of the Human Rights Committee, "unless the Council should be invited, at the request of either a member or the Secretary-General to consider any of them at its resumed second regular session, 1978".

(Signed) Donald O. MILLS  
President of the  
Economic and Social Council

ANNEX V

Revised rules 93 and 94 of the provisional rules of procedure a/

Rule 93

1. As soon as possible after the Committee has taken a decision that a communication is admissible under the Protocol, that decision and the text of the relevant documents shall be submitted, through the Secretary-General, to the State party concerned. The author of the communication shall also be informed, through the Secretary-General, of the decision of the Committee.

2. Within six months, the State party concerned shall submit to the Committee written explanations or statements clarifying the matter under consideration and the remedy, if any, that may have been taken by that State.

3. Any explanations or statements submitted by a State party pursuant to this rule shall be communicated, through the Secretary-General, to the author of the communication who may submit any additional written information or observations within such time-limit as the Committee shall decide.

4. The Committee may review its decision that a communication is admissible in the light of any explanation or statements submitted by the State party pursuant to this rule.

Rule 94

1. If the communication is admissible, the Committee shall consider the communication in the light of all written information made available to it by the individual and by the State party concerned and shall formulate its view thereon. For this purpose the Committee may refer the communication to a Working Group of not more than five of its members to make recommendations to the Committee.

2. The views of the Committee shall be communicated, through the Secretary-General, to the individual and to the State party concerned.

3. Any member of the Committee may request that a summary of his individual opinion shall be appended to the views of the Committee when they are communicated to the individual and to the State party concerned.

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a/ As amended by the Committee at its 72nd meeting (third session), on 2 February 1978.



ANNEX VI

List of committee documents issued

Documents issued in the general series

CCPR/C/1	Consideration of reports submitted by States parties under article 40 of the Covenant - Initial reports of States parties due in 1977: note by the Secretary-General
CCPR/C/1/Add.1/Rev.1	Initial report of the Syrian Arab Republic
CCPR/C/1/Add.2	Initial report of Mauritius
CCPR/C/1/Add.3 and Corr.1	Initial report of the Libyan Arab Jamahiriya
CCPR/C/1/Add.4	Initial report of Denmark
CCPR/C/1/Add.5	Initial report of Norway
CCPR/C/1/Add.6	Initial report of Cyprus
CCPR/C/1/Add.7/Rev.1	Initial report of Tunisia
CCPR/C/1/Add.8	Initial report of Ecuador
CCPR/C/1/Add.9 and Corr.1	Initial report of Sweden
CCPR/C/1/Add.10	Initial report of Finland
CCPR/C/1/Add.11	Initial report of Hungary
CCPR/C/1/Add.12	Initial report of Czechoslovakia
CCPR/C/1/Add.13	Initial report of the German Democratic Republic
CCPR/C/1/Add.14	Initial report of Madagascar
CCPR/C/1/Add.15	Initial report of Chile
CCPR/C/1/Add.16	Initial report of Iran
CCPR/C/1/Add.17	Initial report of the United Kingdom
CCPR/C/1/Add.18	Initial report of the Federal Republic of Germany
CCPR/C/1/Add.19	Supplementary report of Denmark
CCPR/C/1/Add.20	Supplementary report of the Libyan Arab Jamahiriya
CCPR/C/1/Add.21 <u>a/</u>	Initial report of Mauritius
CCPR/C/1/Add.22	Initial report of the USSR
CCPR/C/1/Add.23	Initial report of Yugoslavia
CCPR/C/1/Add.24	Initial report of Jordan
CCPR/C/1/Add.25 <u>a/</u>	Initial report of Chile

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a/ Initial report replacing the earlier one submitted by the State party.

CCPR/C/1/Add.26 and Corr.1	Supplementary report of Iran
CCPR/C/1/Add.27	Initial report of the Byelorussian SSR
CCPR/C/1/Add.28	Supplementary report of Cyprus
CCPR/C/1/Add.29	Supplementary report of Ecuador
CCPR/C/1/Add.30	Initial report of Bulgaria
CCPR/C/1/Add.31	Supplementary report of the Syrian Arab Republic
CCPR/C/1/Add.32	Supplementary report of Finland
CCPR/C/1/Add.33	Initial report of Romania
CCPR/C/1/Add.34	Initial report of the Ukrainian SSR
CCPR/C/1/Add.35	Supplementary report of the United Kingdom
CCPR/C/2 and Add.1	Reservations, declarations, notifications and communications relating to the International Covenant on Civil and Political Rights and the Optional Protocol thereto
CCPR/C/3	Provisional rules of procedure of the Committee
CCPR/C/4	Consideration of reports submitted by States parties under article 40 of the Covenant - Initial reports of States parties due in 1978: note by the Secretary-General
CCPR/C/4/Add.1	Initial report of Spain
CCPR/C/5	General guidelines regarding the form and contents of reports from States parties under article 40 of the Covenant - Adopted by the Committee at its 44th meeting (second session), on 29 August 1977
CCPR/C/SR.1-18 and corrigenda	Summary records of the first session
CCPR/C/SR.19-44 and corrigendum	Summary records of the second session
CCPR/C/SR.47-74 and corrigendum	Summary records of the third session
CCPR/C/SR.75-105 and corrigendum	Summary records of the fourth session
CCPR/C/SR.106-122 and corrigendum	Summary records of the fifth session

Documents issued in the limited series

CCPR/C/L.1	Provisional agenda - First session
CCPR/C/L.2 and Add.1-2	Preliminary draft provisional rules of procedure submitted by the Secretary-General
CCPR/C/L.3 and Add.1-3	Question of co-operation of the Committee with the specialized agencies concerned

CCPR/C/L.4	Provisional rules of procedure as adopted at the first session
CCPR/C/L.5	Provisional agenda and annotations - Second session
CCPR/C/L.6	Provisional rules of procedure adopted by the Human Rights Committee at its second session
CCPR/C/L.7	Provisional agenda and annotations - Third session
CCPR/C/L.8	Consideration of the first annual report of the Human Rights Committee by the Economic and Social Council at its resumed sixty-third session and by the General Assembly at its thirty-second session: note by the Secretary-General
CCPR/C/L.9	Provisional agenda and annotations - Fourth session
CCPR/C/L.10	Provisional agenda and annotations - Fifth session

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