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Forty-ninth session

SUMMARY RECORD OF THE 1271st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 22 October 1993, at 10 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Norway (continued) (CCPR/C/70/Add.2; HRI/CORE/1/Add.6)

1. The CHAIRMAN invited the Norwegian delegation to reply to the additional oral questions asked at the previous meeting, concerning sections I and II of the list of issues.

2. Mr. HJELDE (Norway) said that his delegation greatly appreciated the Committee's tribute to the memory of Mr. Torkel Opsahl. He would convey the members' condolences to Mr. Opsahl's family.

3. Referring to the questions asked by Mr. Sadi and Mrs. Higgins about the dissemination of information on the Covenant and how that dissemination was organized, he said that although a number of measures had been taken in recent years, it was felt that more should be done. Current proposals included measures to enable lawyers, judges, prosecution officials and civil servants to familiarize themselves more readily with international instruments and the work of treaty bodies, including the Committee, and to have access to their comments and opinions. International human rights activities were a compulsory part of legal studies at Oslo University, and also featured in the training of police and prison officers. Universities and other seats of learning were constantly expanding their human rights training and education activities, which included teaching about the Covenant and other international human rights instruments. In that regard, the activity of the Norwegian United Nations Association had been stimulated by the outcome of the Vienna Conference. Norway supported the advisory services provided by the Centre for Human Rights, and contributed substantially to the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights.

4. Ms. INDREBERG (Norway) said, with reference to questions raised by Mr. Wennergren, Mr. Sadi and Mrs. Chanet, that no amendment was envisaged to the Norwegian Constitution in order to incorporate the Covenant's provisions, since no conflict between the latter and the Constitution had been discerned by either the Committee or the Government. The latter had thoroughly examined both instruments before ratifying the Covenant. In any case, the Constitution would always be interpreted in the light of the Covenant, the more so if the proposed human rights legislation was enacted; and, if, at any time, the Constitution was found to afford less protection than the Covenant, the latter would prevail. Copies of a report in that regard, including a summary in English, had been made available to the Committee.

5. Referring to questions raised by Mr. Prado Vallejo and Mr. Sadi, she said that the written Constitution contained no provisions to deal with states of emergency. Any such situation would probably be dealt with under the Act of 15 December 1950, which allowed the King to derogate from the Criminal Procedure Act. Such a step would not violate article 14, paragraph 2, for example, of the Covenant. The new reform, relating to cases which could be tried in two instances, would not be contrary to article 14, paragraph 5 of the Covenant, since appeals to the High Court against conviction and sentence would remain possible in a state of emergency.

The text of the Act was annexed to the third periodic report. Even if it was found that the measures taken did not conform to the provisions of paragraph 5 of article 14, there would not necessarily be a violation of that article, in view of the provisions for derogation in a state of emergency.

6. Mr. WILLE (Norway), referring to a question by Mrs. Chanet on the Odel right, referred to in article 107 of the Constitution, said that the right, governed by the Constitution and legislation, ensured that a family's agricultural land and property remained in its possession, and that such holdings could not be accumulated by a few purchasers. More effective protection had been provided in recent years through the Land Acquisition Concession Act. The right did not apply to industrial land and property such as mines. It was conferred following 20 years of full title, and passed to the owners' descendants, or other relatives, in accordance with an established scale of precedence and transfer, which also governed the rights of purchase and action at law. Means were available to the Government to promote the transfer of land ownership in furtherance of agricultural objectives, including government purchase and resale of land.

7. Referring to a question raised by Ms. Evatt, he read out article 92 of the Norwegian Constitution relating to the citizenship qualification for office. The requirements affected only a few senior State posts and raised no problem with regard to the Covenant's provisions; they did not apply, for example, to teachers and consular officials, and article 92 did not disqualify second-generation immigrants. In addition, naturalization by the Storting was a procedure frequently used.

8. Mr. HJELDE (Norway) said that the constitutional provision, referred to in a question by Ms. Evatt, relating to a healthy, sustainable environment had been adopted only a year ago, and its impact could not yet be assessed. The article could be viewed as an addition to the Constitution's human rights provisions as well as an encouragement to the legislature to incorporate environmental concerns in the law - a timely step in view of the growing international awareness of the topic.

9. Ms. INDREBERG (Norway) referred to Mrs. Higgins' request for clarification about the new system regarding right of appeal, and to the possibility of a withdrawal of Norway's reservation to article 14, paragraph 5 of the Covenant. It was true that, under the new system, not all appeals could be heard in the High Court, since a panel of three appellate judges might rule an appeal inadmissible. But in cases relating to offences carrying a punishment of over six years in prison, all appeals were admissible. In other cases, except those involving punishment by a fine, an appeal might be declared inadmissible if the panel unanimously felt that an appeal would not alter the decision in first instance. In the case of an offence punishable by a fine, an appeal would be declared admissible only if the three judges so agreed but that provision did not apply in cases where the offender was a company. The Government saw no incompatibility with article 14, paragraph 5 of the Covenant, and felt that it could not fully withdraw its reservation in that regard because of the possibility of an acquittal in the first instance followed by a conviction as a result of an appeal by the prosecution; it would be impossible for a defendant to appeal against the conviction based on assessment of evidence relating to the question of guilt, since such an appeal would have to be addressed to the Supreme Court, which was unable to assess such evidence.

10. Mr. HJELDE (Norway), turning to the second set of replies, noted that several members of the Committee had made general observations about the existence of racism in Norway. Although there were no overtly racist groups, there was concern about the growing number of incidents against non-Norwegians. Legislative measures taken in response included amendments to the Criminal Act providing, inter alia, that violence against an alien would be deemed an aggravating circumstance. In December 1992 the Prime Minister had initiated a youth campaign against intolerance, in which all youth organizations were taking part, with some financial support. He had also called for a European plan of action, under the auspices of the Council of Europe, against racism and racial discrimination; the Council had recently adopted such a plan, which included measures for monitoring developments in member countries. During 1992 the Norwegian Minister of Local Government and Labour had presented a separate plan of action, which distinguished between racism and ethnic discrimination - a distinction deemed important in Norway, where it was felt that to dwell too much on the term "racism" alone would serve no useful purpose. There were a number of studies and projects to tackle various problems at the local level, aimed at avoiding situations of violence and at mobilizing local community efforts; positive results had been obtained, resulting from a growth in understanding and mutual respect. Further information in that regard could be provided to the Committee later.

11. Mr. WILLE (Norway), referring to a question by Mr. Wennergren, said that, in 1990, the Sami Act had been expanded to include a section on the right to use the Sami language in courts whose jurisdiction wholly or partly covered the relevant administrative area. The submission of writs and written evidence and other texts in Sami was permitted; wherever the procedure allowed oral submissions, the latter could be in Sami. Sami could be spoken by anyone taking part in a hearing, including the judge. Provision was available for translation into Norwegian of any documents to be transmitted by the court. If the language of the court proceedings was Sami, the presiding judge might decide that the records should be in that language; the court thereupon made provision for translation into Norwegian. In the case of proceedings recorded in Norwegian, the court could make provision for translation, without time limit, into Sami if a party so requested. The aim was that Sami should have equal status with Norwegian in the areas concerned. Similar provisions applied with regard to police, prosecution and prison services in the areas concerned.

12. A number of questions had been asked about Norway's treatment of aliens in general, and on asylum and refugee policy. With regard to Mr. Lallah's question about affirmative action towards immigrants, he could confirm that special measures were an important part of Norway's policy. Norwegian migration policy was based on genuine equal status for Norwegians and immigrants; the latter were to have, as far as possible, the same opportunities, rights and obligations as the rest of the population. For that purpose special measures, such as language training, were required. The principles of cooperation, reciprocity and tolerance, fundamental to Norwegian policy, meant, inter alia, giving immigrants greater opportunities to participate in society. It was essential to combat all forms and expressions of discrimination, hatred of foreigners and racism.

13. Mrs. Higgins had asked about the justification for licence requirements for non-nationals in trade and industry. The legislation, adopted early in the twentieth century to protect Norwegian ownership during the transition to industrialization, had declined in importance; some of the provisions had been repealed, and the remainder were little used. Legislation was in the process of adjustment to conform to European Community requirements.

14. Referring to questions by Ms. Evatt and Mr. Prado Vallejo with regard to asylum-seekers, he said that under section 4 of the Immigration Act, the Act was to be applied in accordance with international rules by which Norway was bound when those were intended to strengthen the position of a foreign national. Section 16 of the Act incorporated the refugee definition of the 1951 United Nations Convention relating to the Status of Refugees and section 15 contained regulations on protection against persecution. The text of the Act had been appended to the report.

15. Asylum-seekers had the right to have their applications processed individually, to complain against a decision and to bring the latter before the courts. For further information on Norway's asylum policy, reference could be made to Norway's tenth and eleventh periodic reports to the Committee on the Elimination of Racial Discrimination.

16. Mr. Lallah had asked about the number of foreign nationals residing in Norway. At the time of drafting the third periodic report, the number had been approximately 183,000. Mr. Aguilar Urbina had asked about incidents involving violence against immigrants, mentioning a study prepared by the Institute for International Relations. His delegation did not have the findings of the study, but a reference to it could be included in Norway's next periodic report.

17. Mr. HJELDE (Norway), referring to a question by Ms. Evatt about immigrant women, said that the latter were a particularly vulnerable group. Adequate data on the situation in Norway were still lacking, but there was growing realization of the need for special attention on the part of the Government, voluntary organizations and society in general. A Nordic project had been initiated to gather and share information in that regard. The results, together with proposed new measures, would be published shortly. The Ministry of Local Government and Labour, in collaboration with the Norwegian Research Council, had initiated a research programme on ethnic relations for the period 1991-1996; work was also in hand to establish a permanent system of documentation on racial violence, which would provide useful data about instances of violence against women. A number of non-governmental organizations were engaged in support activities, with some government assistance, for immigrant women in distress. Norway had played an active part in drafting the Declaration on the Elimination of Violence against Women, and strongly supported the fullest possible integration of efforts to promote the status and human rights of women into the mainstream of United Nations system-wide human rights activities.

18. On the situation regarding homosexuals, the subject of several questions, the introduction of a new law pertaining to registration of homosexual partnerships, referred to in his delegation's introductory statement, implied no intention of equating such partnerships with marriage, which remained the basic social institution and framework for the rearing of children; that was why the terms "registration" and "partnership" had been used. No difficulty could be seen in regard to article 23 of the Covenant, nor any conflict with the points reflected in the questions raised by Mrs. Higgins and Mr. Lallah. It was expected that 300 to 400 couples would register annually under the new law. Attitudes in Norway to homosexuals had changed considerably in recent years; since 1972 homosexual acts had ceased to be criminal offences, and since 1981 discrimination against homosexuals had been prohibited by law.

19. Ms. INDREBERG (Norway) turning to the miscellaneous questions concerning section I of the list of issues, referred to Mr. Prado Vallejo's question about new initiatives relating to adoption with a view to preventing child abduction. Norway was one of 63 countries which, in May 1993, had adopted the Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption. Strict controls were applied in Norway in order to ensure that adoptive parents were suitable and that there had been nothing irregular about a child's removal. In the main, adoption was permitted only when arranged by one of the three authorized agencies.

20. Mr. Sadi had asked why only four types of case were recognized for the granting of free legal counsel without a means test. The reason was that, with regard to civil cases, free legal counsel was meant for those who could not afford to pay lawyers' fees because of low income, or in cases of the types referred to in paragraphs 18 and 19 of the report. In criminal cases, of course, defendants had the right to a lawyer at public expense. Lawyers and law students' associations often provided voluntary free legal aid; the students' associations received some financial assistance from the State and municipalities.

21. Mr. WILLE (Norway) said that a question had been asked, on the subject of conscientious objection to military service, about the type and period of alternative service. The length of service required was 16 months, compared to 12-15 months of service in the armed forces; persons having completed normal military service were, of course, subsequently required to attend refresher exercises at regular intervals. Alternative service was mainly in health and social welfare work, humanitarian organizations, museums and research institutions, and forestry or other agricultural work. Basic allowances equivalent to those relating to regular military service were provided.

22. The CHAIRMAN invited the Norwegian delegation to reply to the additional questions raised in regard to section II of the list of issues.

23. Mr. WILLE (Norway) referred to questions raised by Mr. Aguilar Urbina and Mr. Prado Vallejo about alleged police violence. Of the 1,336 reported cases during the period 1988-1990, referred to in paragraph 14 of the third periodic report, there had been grounds for believing that a criminal offence had been committed in 103 cases. One reason for that seemingly high number was that 48 of them had been traffic accidents involving police officers. He stressed that all alleged offences were handled by special investigative bodies which were independent of the police and the prosecuting authority. The 20 cases involving the suspected use of force by the police would be treated, like all such cases, according to the Criminal Procedure Act.

24. Ms. INDREBERG (Norway) said it was regretted that there had been no systematic reporting to the central authorities about the 20 cases mentioned, following the special investigation body's recommendations; presumably the latter were followed by indictment and trial. The Director-General of Public Prosecutions was planning to distribute a circular to all police stations calling for full feedback in all such cases.

25. Referring to paragraph 52 of the report, Mr. Aguilar Urbina had asked why some murder cases were not investigated. There must have been a misunderstanding, since all such cases were investigated; the percentages given in parentheses in paragraph 52 related to cases solved. Mr. Aguilar Urbina had also requested clarification about the legislation on provocation and

retribution. According to section 228 of the Penal Code, an assault committed in retaliation against another assault, or provoked by a previous assault or an offence against honour, might go unpunished. For example, if a man struck another man, who struck back, both might go unpunished. The provisions of section 228 did not cover the gravest forms of assault, and punishment was left to the courts' discretion. Replying to his further question, relating to paragraph 62 of the report, about amendments to the Penal Code to strengthen the campaign against sexual abuse of children, she said that the amendments referred to in that paragraph had been enacted in May 1992.

26. Referring to a question by Ms. Evatt about a decision by the European Court of Human Rights concerning a case of detention in Norway, she said that, as far as was known, there had been no further instances of such detention. Ms. Evatt had also asked about the treatment of female prisoners; unfortunately, her delegation had been unable to obtain the requisite detailed information. Perhaps the information could be obtained later that day, or the Committee might be prepared to receive the information in Norway's next periodic report.

27. With reference to paragraph 83 of the report, Mrs. Higgins had asked about the implications of committal to mental hospitals, and whether persons could be committed in the interests of relatives or other people who had contact with the patient. Mr. Wennergren had asked whether, under the proposed new legislation, it would be possible to commit dangerous mental patients to hospital for treatment intended to lead to improvement. Although it might be felt that the wording of paragraph 83 could give rise to such interpretations, there was little difference, in fact, between the current and proposed new legislation. Currently, committal could be effected according to section 5 of the Mental Health Act in cases of a serious mental disorder, when close relatives or public authorities so requested and a senior doctor of the hospital deemed it necessary; the main criterion, even if not expressly stated in the legislation, was that committal took place only if it was thought to be in the patient's best interests. The proposed new legislation would make matters clearer; as indicated in paragraph 83, a requirement for committal would be the high probability that the treatment would lead to considerable improvement in the patient's condition and ability to function normally. The situation would differ, however, in cases where patients were a danger to themselves or others. Perhaps further details could be provided in the next periodic report. Coercive measures, a matter referred to in a question by Ms. Evatt, could be authorized only by the chief physician, as stated in paragraph 105 of the report; appeals against decisions on coercive treatment could be made to the chief county medical officer. Decisions on compulsory commitment could also be reviewed by a Board of Inspection, referred to in paragraph 106 of the third periodic report and paragraph 89 of the second periodic report (CCPR/C/42/Add.5). Lastly, decisions on coercive measures could be referred to the courts according to the rules in chapter 33 of the Civil Procedure Act.

28. The CHAIRMAN invited members to raise any further questions they might have relating to section II of the list of issues.

29. Mr. SADI asked whether Sami people were disqualified from voting in national general elections after they had exercised their right to vote in elections for their Assembly.

30. Mr. WILLE (Norway) said that the Sami Act contained separate provisions for elections to the Sami Parliament, voting for which normally took place on the same day as the general elections. Sami people were able to vote in both elections.

31. The CHAIRMAN invited the Norwegian delegation to respond to section III of the list of issues.

32. Mr. WILLE (Norway) said that the "compelling social considerations" mentioned in section 43 of the Immigration Act had never been invoked to restrict a foreign national's right to choose his or her place of residence. The same wording was used in section 27 of the Immigration Act, on rejection on entry. The Committee that had prepared the draft Immigration Act had referred to a mass influx of aliens that the country could not absorb, and to crime that posed a particular menace to society, as examples of such considerations. It was clear, however, that the expression served merely as a safeguard in extreme circumstances.

33. Ms. INDREBERG (Norway), referring to question III (b), said that the law to regulate telephone monitoring had been adopted by an Act of 5 June 1992. Most of the institutions which had responded to the memorandum had been in favour of permanent enactment of the draft provisions. The outcome of the debate had been that it was not felt necessary to require the appointment of a lawyer or other person to represent the interests of the suspected person, and that the information might be used in an investigation but not put forward as evidence; according to the previous legislation, such material could not be used at any stage. The Data Inspectorate and the Bar Association, inter alia, had been in favour of the old system in that regard. The main reason for the change, however, had been the duty of the police to prevent and investigate crimes.

34. The suspect was allowed to know that the telephone had been monitored, one year after the monitoring had ended - although, in some instances, the court might decide not to reveal the information even after such a lapse. That part of the bill was not yet in force, but would be, together with further relevant regulations, probably in 1994. Telephone monitoring was meant to assist the police in their investigations; recordings of monitored calls were not admissible as evidence. With regard to question III (c) relating to telephone tapping, the Chairman of the Supervisory Board had said that the most likely reason for its use was the growth in narcotics-related crimes.

35. With regard to question III (d), the National Board of Film Censors had been renamed the State Film Supervisory Body; it consisted of five members, appointed by the Minister for Cultural Affairs, with backgrounds in educational science and psychology and having experience of children. Of the current members, four had backgrounds in education and one in films. Their task was to decide whether a film or videogram might be shown commercially; pictures which violated the law, offended decency or had a brutalizing or morally degrading effect were not permitted. The Supervisory Body could also decide whether a videogram might be registered; registration was required if the item was to be sold or rented commercially. The supervisory body would not authorize registration if it found that the item violated section 211 (pornography) or section 382 (violence) of the Penal Code. In practice, the same standard was applied in

determining whether a film might be shown commercially and whether a videogram might be registered. There was no appeal against the decisions. Municipal authorities did not censor films in any way. Permission to show films might be given for periods up to five years and might be subject to certain conditions - for example, that there should be some variety in the types of film shown. There was no censorship in Norway on any other matters.

36. Referring to paragraph III (e), the Evangelical-Lutheran Church, usually referred to as the Church of Norway, was the State Church, pursuant to article 2 of the Constitution. Information on the subject had been provided in the two previous periodic reports, as well as in the summary records of the meetings at which the Committee had considered the second report. The State Church was regulated in detail in Act No. 1 of 29 April 1953 and subsequent amendments. Other religious communities could choose their own form of organization and were not regulated by law. The clergy of the State Church and some other Church officials were appointed by the public authorities, and the Church officials were paid from public funds. According to Act No. 5 of 13 June 1965, other religious communities might attain equality of financial status; pursuant to that Act, registered and other organized religious communities had a right to financial assistance from the State and the municipality, based, in proportion to membership, on the State or municipality budget allocations for the Church of Norway. Membership of the latter was voluntary but, traditionally, it consisted of the greater part of the population. A child was deemed a member from birth if its parents were members; anyone aged over 15 years could join or leave, but a person not baptized ceased to be a member automatically at the age of 18 years. According to the 1980 census, membership accounted for roughly 88 per cent of the population. The Constitution required that over half the members of the Government must profess the official State religion, and that government members who did not could not participate in considering matters which concerned the State Church. Originally, section 92 of the Constitution required that only those subscribing to the Evangelical-Lutheran religion could be appointed senior State officials, but that requirement had gradually been done away with, and applied only to the clergy and theology faculty teachers. As a result of Act No. 24 of 13 June 1969, primary schoolteachers were no longer required to teach a knowledge of Christianity.

37. The chief area in which there was differential treatment of Evangelical-Lutheran adherents and others was perhaps in the schools. Under section 1 of the Basic School Act, schools were to give pupils a Christian and moral upbringing. The purpose, however, was not to induce a belief in Christianity or devotion to the State Church but to provide a basic knowledge of Christianity as a means to promote the development of the individual and society. The guidelines to teachers referred to a knowledge of the history of Christianity and the Church, and of Evangelical-Lutheran doctrine, an appreciation of Church music and the significance of Christianity in the development of social and ethical values and of tolerance for other beliefs.

38. Section 13, paragraph 9 of the Act allowed parents to demand dispensation from instruction, provided that they did not belong to the Church of Norway; the regulations stated that such pupils should be offered, as far as possible, other religious or philosophical instruction. If parents belonging to a particular religious society outside the Church of Norway wished their children to be instructed in its teachings, that might be arranged, either by the school, in accordance with a plan accepted by the Ministry of Education, or by a registered religious

community in accordance with its own plan, under Ministry guidelines; such instruction would receive State financial support. Thus, although there was not complete equality of religion in Norway, the authorities felt that there was freedom within the meaning of article 18 of the Covenant, and no conflict with the Committee's general comment No. 22 (48).

39. Mr. HJELDE (Norway), referring to paragraph III (f), said that, as described in paragraph 159 of the report, the Act concerning Exemption from Military Service on Grounds of Personal Conviction was amended by the Act of 22 June 1990, the purpose being to establish clearly that exemption could be granted to an individual for whom military service of any kind in a defence system or conflict that might involve the use of nuclear weapons would be contrary to his convictions. The amendment had entered into force on 1 January 1991. The number of persons applying for conscientious objector status had not increased substantially since then, although no exact statistics were available. Referring to paragraph III (g), he said that the Act relating to Religious Communities of 13 June 1969 and the Act relating to Philosophical Communities of 12 June 1981 governed the provisions concerning State support to registered and unregistered religious and philosophical communities. Such communities had the right to claim an annual grant both from the central Government and from the municipalities in which some of their members lived. He briefly outlined the application procedure, set forth in the Acts mentioned, for such support. Central government grants were roughly equivalent to the annual amount budgeted for the Church of Norway, based upon the number of members of the community in question; the grant from the municipalities was based upon the budgeted amount for the Church of Norway. A separate account showing how the received grant was spent must be kept, and a certified copy thereof forwarded to the county governor by 1 March following after the end of the financial year.

40. Registered religious communities could also claim an annual grant from the municipality for the religious instruction of children when the latter were exempt from that provided in the primary and secondary schools. A written claim must be sent to the municipality before 1 July of the year in question, giving information about the number of children within the community. The grant was roughly equivalent to the amount the central Government and the municipality contributed for each pupil to religious instruction in the school, based on the number of members exempt from that religious instruction. Again, a separate account had to be kept and a certified copy forwarded to the municipality by 1 March following the end of the financial year. The recipient community must ensure a suitable educational standard and satisfactory premises.

41. The CHAIRMAN thanked the Norwegian representatives for their replies to the list of issues, and said that the floor was open for any additional questions the Committee might wish to raise.

42. Ms. EVATT thanked the Norwegian delegation for the replies provided, which had greatly clarified matters.

43. She noted that paragraphs 173 and 174 of the report referred to two particular cases in which the Supreme Court had been required to strike a balance between the protection of an individual's honour and the right to freedom of expression. She wondered what part the Covenant, as distinct from the Norwegian Constitution, had played in the Court's decisions. With regard to the case described in paragraph 174, she was somewhat concerned that decisions of the sort handed down might to some extent limit the press's freedom to comment.

44. The information given about religion reflected the extremely high degree of tolerance shown in Norway to beliefs other than the State Church. She wondered, however, whether such tolerance might be greater, in fact, than that shown to the State Church's own adherents. For example, it seemed that only parents who were not members of the Church of Norway could request exemption for their children from religious instruction. There was also the obligation, under article 2 of the Constitution, for parents who professed the national religion to bring up their children according to it. She would like to have clarification on those points, since there might be some incompatibility with the Covenant's provisions.

45. Mrs. HIGGINS, referring to paragraph III (a) of the list of issues, said that the possibility of restricting a foreign national's right to choose a place of residence because of "compelling social considerations" might not be compatible with the Covenant's provisions, since such considerations did not appear to meet the criteria in article 12, paragraph 3. The formula "compelling social considerations" did not seem appropriate. The Committee had made a similar observation in respect of several other States parties' reports. Referring to paragraph III (e), she said it was understandable that Government members who were not members of the Church of Norway should be precluded from discussing matters related to the latter; nevertheless, the requirement that half of the members of the Government must be of the State religion seemed incompatible with article 25. She wondered whether that requirement could be amended. The information provided in respect of grants available to religious and philosophical communities outside the Church of Norway reflected a commendably liberal approach; she wondered, however, why some communities apparently chose not to be registered. The list, shown in paragraph 158 of the report, of registered communities included Orthodox Jews; she wondered whether there were other categories of Jews in Norway.

46. Mr. WENNERGREN said that a report submitted to the Committee by the non-governmental organization "Article 19" expressed a seemingly wide concern about the adverse effect on press freedom of the weight given to charges of defamation and invasion of privacy, which made it difficult, for example, to pursue allegations of economic wrongdoing. Although freedom of the press was reflected in the Norwegian Constitution, there seemed to be no press-specific legislation. He recalled that the same issue had been raised during the Committee's consideration of the second periodic report of Iceland (CCPR/C/46/Add.5). He wondered whether any draft legislation was envisaged with regard to that issue and to the accountability of politicians and other public figures.

47. The Norwegian delegation had said that, in the unlikely event of any conflict between the Constitution and the Covenant, the former's provisions would be interpreted in the light of the latter's. Such a statement, however, seemed at variance with the measures envisaged to reflect the Covenant's provisions in statute law. He shared Ms. Evatt's doubts about the compatibility of the Covenant and article 2 of the Constitution. Article 18, paragraph 1 of the Covenant applied to everyone, not just adults. For example, a child below the age of 18 years might wish to be dissociated from the State religion, and the parents might have consented; but the latter, according to the Constitution, would be "bound" to ensure the child's religious teaching. Comments on that issue by the State party's delegation would be appreciated.

48. Mrs. CHANET, referring to paragraph 126 of the report, on the prohibition of debtors from leaving the country, asked for clarification of the word "debtor"; she also asked, referring to paragraph 128, whether an act on passports had yet been adopted and, if so, what its provisions were. Referring to the report's paragraphs on article 18 of the Covenant, she said that she, too, would be interested in the State party's comments on the proportion of Church of Norway communicants among Government ministers, and on the existence of Jewish communities other than orthodox Jews.

49. The State party had provided considerable information concerning the audio-visual media but very little about the press. She would like to have some details about the latter, especially with regard to any State subsidies. The press seemed to be subject to rather severe provisions under the Penal Code - with regard to defamation, for example. A provision on sedition still existed, although seemingly in disuse; perhaps the State party could clarify why it was maintained.

50. The laws on defamation seemed to attach greater importance to reputation than to freedom of expression. In particular, articles 246 to 249 of the Penal Code seemed to be somewhat unclear with regard to the recognition of facts in cases of alleged defamation. For example, she wondered what was to be understood by the word "respectable" in article 249. The wording seemed to allow the courts considerable latitude, which might militate against freedom of expression. The case described in paragraph 174 of the report seemingly involved a false statement of fact. Generally, a right of published reply was available in such cases, so that a criminal court case was not the sole remedy. She wondered whether a right of reply could have been exercised in such a case.

51. Mr. AGUILAR URBINA said that he shared the concern expressed about the issues of freedom of expression and defamation, and supported the requests for clarification about religious communities in Norway. He was somewhat disturbed by articles 4 and 5 of the Norwegian Constitution, to the effect that the King was to profess the Evangelical-Lutheran religion and that the King's person was sacred. The latter provision might be taken to imply that any criticism of the King amounted to heresy; such a situation was surely incompatible with the Covenant. He supported Mrs. Chanet's request for clarification with regard to the term "debtor", which he viewed as a civil law term. It seemed that the withdrawal of a debtor's passport could be an alternative to imprisonment; he would like clarification in that regard, since the procedure might be an infringement of article 11 of the Covenant. He would also like to have information relating to the law on alimony debtors.

52. Turning to paragraph III (f) of the list of issues, he noted that the purpose of the amendment to the Act referred to in paragraph 159 of the report was to cover cases of objection to military service in a defensive system or conflict which might involve the use of nuclear weapons; there were, of course, groups and individuals who objected to the use of weapons of any sort, and he wondered what the situation was in such cases.

53. Mr. SADI, referring to paragraph III (a) of the list of issues, said that he, too, had difficulty with the words "compelling social considerations", which might be contrary to the provisions of the Covenant, especially article 12, paragraph 3. He felt quite sure that the Norwegian authorities would never permit considerations such as race, ethnic origin or religion to motivate restrictions on the right to choose a place of residence; nevertheless, the wording in question could have such connotations.

54. Turning to paragraph III (d) of the list of issues, he took it that the State Film Supervisory Body focused on two main areas, pornography and violence, when examining films and videograms; he would be interested to have a clearer picture of what would be regarded as "violence", and assumed that it would, inter alia, cover the stipulations of article 20 of the Covenant. Lastly, with regard to conscientious objection to military service, he agreed that the provisions should not be confined to persons opposed to the use of weapons of mass destruction.

55. Mr. LALLAH, referring to the question of religious instruction in Norway, asked how the right to exemption was exercised. It appeared that a child could seek exemption if it was not a communicant of the State Church, but could not do so if it was. He also wished to know what beliefs other than the State religion were taught in schools. In general, Norway showed remarkable generosity in matters of religion, but there would always be some degree of criticism on that topic.

56. With regard to freedom of the press, a number of States parties had encountered difficulties, particularly with regard to paragraphs 2 and 3 of article 19 of the Covenant. He asked whether, when defamation was alleged in Norway, the criminal law was always resorted to or whether it was left to the aggrieved party to seek a civil remedy. The Committee had not been told whether the press itself had a code and a disciplinary body, as other professions had - although, in all cases, sanctions could ultimately be sought in law.

57. The CHAIRMAN asked whether the Norwegian delegation was in a position to reply to the further questions raised by members of the Committee.

58. Mr. HJELDE (Norway) said that his delegation had taken careful note of all the questions and comments, which would be fully responded to in due course. It would try, however, to respond to some of them immediately as best it could.

59. Ms. INDREBERG (Norway), referring to a question raised by Mr. Wennergren, said that there was no Norwegian legislation relating specifically to the press. As far as she was aware, none was contemplated. The report produced by "Article 19" was a true and fair description of press freedom in Norway. With regard to defamation, actions were almost always instituted by the aggrieved party, not the Public Prosecutor.

60. There should be no fear that incorporation of the Covenant's provisions into Norway's statute law would have the effect of lessening the Covenant's impact; on the contrary, it would become more significant both in interpreting the Constitution and in applying domestic law.

61. Questions had been asked about the constitutional requirement that parents belonging to the Evangelical-Lutheran religion should bring up their children in the same belief. It should be recalled, in that regard, that the Constitution dated from 1814 and that although, by tradition, it

was seldom amended, it could not always be interpreted literally. According to one of Norway's most eminent constitutional lawyers, it was misleading to speak of a legal obligation in that regard, since the language hid the fact that parents who did not baptize their children or raise them in the Christian belief could not be forced to do so and could not be punished or censured. Article 2 of the Constitution had changed from being a legally binding text to a historic declaration by its authors.

62. With reference to the withdrawal of a debtor's passport, referred to in paragraph 126 of the report, such an action could be taken only when there was a real risk of the debtor's fleeing the country; it was not applied by way of punishment, and was not applicable to alimony debtors alone. The Act on passports referred to in paragraph 128 had not yet been promulgated. With regard to press freedom, the Committee was referred to the report prepared by the non-governmental organization "Article 19".

63. Despite the wording of article 5 of the Constitution, the intention was not to have the King regarded as sacred but rather to confer immunity in the diplomatic sense.

64. Unfortunately, her delegation was not in a position to state what beliefs, other than the State religion, were taught in Norwegian schools; perhaps the Committee would agree to receive further details in Norway's next periodic report. With regard to the press, a press code did exist, and self-discipline was exercised, as described in the report by "Article 19".

65. Mr. WILLE (Norway) said that his delegation would see that the point raised with regard to the words "compelling social considerations" was taken up by the appropriate authorities. His understanding, having read the travaux préparatoires, was that the formula was aimed at extreme situations. It had never been used in practice. The travaux préparatoires had also distinguished between persons holding residents' permits and those who had not yet entered the country; should there ever be a threatened mass influx of the latter, differential treatment might be instituted, but only for a limited period.

66. According to the Act on Religious Communities, 1969, children over 15 years could decide themselves whether or not to have religious instruction; children below that age belonged to the same congregation as their parents, but the latter were at liberty to decide that a child should not receive religious instruction. If the parents belonged to different religious communities, it was for them to reach a decision. With regard to Mrs. Chanet's question about conditions for the registration of religious communities, the Act on Religious Communities said very little, but did provide that anyone was free to register a congregation, and that the latter would establish its own regulations.

67. Referring to questions by Mr. Aguilar Urbina and Mr. Sadi about conscientious objection, he read out part of the Act of 22 June 1990, which amended the previous Act concerning exemption from military service on grounds of personal conviction. The purpose of the amendment was not to restrict but to extend the recognized grounds for objection to military service. As he understood it, the views of Quakers and others who objected to the use of any form of weapons were recognized by the first part of the text, which mentioned reason to presume that a conscript was unable to perform military service of any kind without conflict to his serious convictions.

68. Ms. INDREBERG (Norway), referring to Mr. Sadi's question about film censorship, said that automatic censorship was contrary to Norwegian law, and that a film would not be automatically censored if it was deemed to contravene the provisions of article 20 of the Covenant. For that reason, Norway had recorded a reservation to article 20, paragraph 1. Paragraph 2 of that article posed no problem for Norway, whose legislation already prohibited the incitement of national, racial or religious discrimination, hostility or violence. The matter would be taken further in Norway's next periodic report.

69. With regard to the defamation cases referred to in paragraphs 173 and 174 of the report, the answer to Ms. Evatt's question was that a clear provision relating to defamation appeared in the Norwegian Constitution; the latter, not the Covenant, had been invoked in the cases concerned. In Norway, there was no general feeling that a wrong balance was being struck in such cases between freedom of expression and the protection of privacy.

70. Mr. HJELDE (Norway) regretted the delegation had been unable to respond to all the Committee's questions and comments. The points raised had all been carefully noted, however, and would be taken up. Many of them were the subject of current debate in Norway.

71. The CHAIRMAN thanked the Norwegian delegation for its attention to the Committee's questions. At the next meeting, the Committee would consider, in closed session, its concluding observations relating to the second periodic report of Norway.

The meeting rose at 1 p.m.