UNITED
NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/SR.1434
27 July 1995

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Fifty-fourth session

SUMMARY RECORD OF THE 1434th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 July 1995, at 10 a.m.

Chairman: Mr. AGUILAR URBINA

CONTENTS

GE.95-17696 (E)

The meeting was called to order at 10.05 a.m.

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

Fourth periodic report of the United Kingdom of Great Britain and Northern Ireland (CCPR/C/95/Add.3; HRI/CORE/1/Add.5/Rev.1) (continued)

1. The CHAIRMAN invited members of the Committee to put further questions related to section II of the list of issues.

2. Ms. MEDINA QUIROGA said she understood from the fourth periodic report (CCPR/C/95/Add.3) that the introduction of tape recordings of interviews was intended as a further safeguard for those being interrogated by the police. Yet paragraph 175 stated that the recording of interviews with terrorist suspects in Northern Ireland "would not be in the overall interests of justice" because it would "inhibit the chances of lawfully obtaining information that would lead to the conviction of terrorists or to the saving of other people's lives". In that connection, she remarked that the absence of tape recordings significantly enhanced the possibility of putting pressure on persons who were being interrogated. Human rights provisions had been similarly obtrusive in the case of the "five techniques", the use of which had been halted following criticism by experts and a decision by the European Court of Human Rights that they constituted a violation of article 3 of the European Convention on Human Rights. She inquired about the reasons for the different interrogation procedures used for suspects and detainees in Northern Ireland.

3. She shared Mr. Kretzmer's concern regarding investigations of alleged military, paramilitary and police offences. For years she had been hearing reports from the families of victims of such offences in Northern Ireland, reports that conveyed a sense of desperation in the face of their inability to ascertain the full facts of the case concerned. In connection with "shoot to kill" allegations, she had heard that those responsible for shootings were not required to attend inquests and were not questioned. Public interest immunity certificates were allegedly issued. Inquests did not reach a verdict regarding the lawfulness of the acts investigated and there was reportedly no legal aid to allow families to be represented. A system had to inspire confidence in order to fulfil the requirements of due process. She urged the Government of the United Kingdom to set up and enforce a credible mechanism to look into such cases.

4. If adverse inferences could be drawn from a defendant's decision to remain silent, no right of silence existed. Moreover, that provision applied from the time of arrest to the time of trial. A person deprived of a lawyer for 48 hours might not even be aware of what information was relevant to the interrogation. In the case of Dermot Quinn, who had been sentenced to 25 years' imprisonment for attempted murder and possession of firearms, the facts of the case had not been clear-cut but the adverse inference drawn from his silence had been decisive in his conviction. She asked the delegation whether the United Kingdom would consider a review of the legislation in the light of the findings not only of the Royal Commission on Criminal Justice but also of the Human Rights Committee.

5. Mr. KLEIN said that in spite of all the safeguards described by the delegation he had serious doubts about the compatibility of the Criminal Justice and Public Order Act 1994, which allowed inferences to be drawn from the silence of suspects, with article 14 of the Convention. He was particularly concerned by the phrase "if the suspect reasonably could have been expected to speak". Suspects might feel that they were under pressure to speak or even confess because they were unable to assess the consequences of remaining silent. Adequate legal advice would not always be available and vulnerable suspects could easily be intimidated. The Bar Council, the Law Society and a majority within the Royal Commission on Criminal Justice had warned against the new legislation. The rule had apparently been enacted to deal with the special situation in Northern Ireland, which was certainly not the appropriate place for the development of legal rules that were conducive to the enjoyment of human rights. The law was at the very least creating an atmosphere of suspicion that might be detrimental to legal credibility. He asked the delegation to explain how a fair trial and credible investigation procedures could be ensured under those circumstances.

6. In recent years there had been a tendency, not only in the United Kingdom, to contract out core State functions to the private sector. He felt that the State was renouncing part of its legitimacy when, in particular, it contracted out functions involving the use of force in the public interest.

7. Mr. PRADO VALLEJO said that the Criminal Justice and Public Order Act created a number of offences related to public order which led to restrictions on, for example, public demonstrations. The police had special powers to dissolve and prohibit public meetings, to restrict freedom of movement and to encroach on the privacy of individuals.

8. The Prevention of Terrorism Act empowered the police to arrest people in the street, to conduct investigations and even to enter people's homes without a court order. There were reports of a wave of suicides in the prisons of Northern Ireland, allegedly connected with ill-treatment and poor conditions of detention. The emergency legislation allowed a prisoner to be held incommunicado for up to seven days, creating an unacceptable situation for immigrants in particular, who were sometimes held under inhuman conditions.

9. The Emergency Provisions Act 1991 permitted detention without trial and the Prevention of Terrorism Act allowed the Home Secretary to issue exclusion orders involving internal exile without judicial proceedings.

10. Under the Security Service Act 1989, investigations of charges against the police were carried out by the police force itself, which was therefore both judge and party.

11. Mr. FRANCIS asked whether the Brixton prison authorities had taken any steps to discipline the perpetrators of the offence of beating Mr. Claud Johnson, a violation of articles 7 and 10 of the Covenant.

12. With regard to Mrs. Joy Gardner, no infringement of the immigration law could justify the manner of her arrest, which had been of such ferocity as to lead to her death by asphyxiation. He wished to know what steps had been taken to prevent the recurrence of such excesses.

13. He joined other members in criticizing the attack on the right to silence, which undermined one of the foundations of criminal justice in the United Kingdom.

14. He had information from the Britain and Northern Ireland Human Rights Centre to the effect that over 500 prisoners were being held in Northern Ireland under very adverse conditions. Moreover, the fact that some 38 prisoners being held outside Northern Ireland was a source of grief to their relatives, who had to travel long distances to visit them. Another non-governmental organization (NGO) alleged that in the Castlereagh holding centre there was very little light for the prisoners.

15. Lastly, he understood that there was no law on racial discrimination in Northern Ireland.

16. Ms. EVATT, referring to Ms. Medina Quiroga's question regarding inquests, asked whether the repeal of the emergency legislation would lead to the removal of restrictions on the availability of certain evidence to families and coroners.

17. She asked whether certain recommendations of the Blom-Cooper report on holding centres were to be implemented, such as the closure of Castlereagh, the audio-visual recording of interrogations and prompt access to legal aid.

18. The establishment of a Criminal Cases Review Commission was a welcome development, but she asked whether there would be an independent agency to carry out reviews where police action was involved. The inherently unsafe nature of confessions had been revealed in some of the cases concerned. Was there any intention to introduce statutory safeguards such as a judicial warning in regard to confessions?

19. Amnesty International had reported on strip searching, especially of women, before and after closed visits in maximum security prisons. What were the regulations governing strip searches? Did they serve any real security purpose and could prisoners appeal to prevent them?

20. She asked whether the new rules allowing inferences to be drawn from the silence of a defendant would be extended to Scotland, where the legal profession was reportedly opposed to the change.

21. There was no reference in the report to recent allegations by Anti-Slavery International concerning abuse of Filipino domestic workers in the United Kingdom. Had the Government given any consideration to the matter and did it intend to introduce any additional legal protection for domestic workers?

22. Mr. HALLIDAY (United Kingdom) said that tape recordings of police interviews were routinely made in Northern Ireland except in terrorist cases.

23. Under the Police and Criminal Evidence Act, people arrested and held in custody were entitled to consult a solicitor privately at any time. Very strict conditions applied to cases where access to certain persons could be refused during the first 36 hours. The officer in the case had to have reasonable grounds for believing that access to legal advice would lead to interference with or harm to evidence connected with a serious arrestable offence, interference with or personal injury to other persons, the alerting of suspects still at large, or hindrance of the recovery of property obtained as a result of a serious arrestable offence. In cases involving terrorism, the period of 36 hours could be extended to 48 and there were additional grounds for refusal of access. Under the Police and Criminal Evidence Act, the police were told that access to a solicitor could not be delayed on the ground that the solicitor might advise the person not to answer any question. The caution given to arrested persons was very clear on the right to remain silent. However, they were also warned that "it may harm your defence". It was for a court or a jury to decide if any inference might properly be drawn from a person's decision at that stage to remain silent until legal advice became available, which would in any case be within 36 or at the most 48 hours. If a suspect during that initial period spoke after the application of improper pressure, any evidence so obtained would be liable to be declared inadmissible under section 78 of the Police and Criminal Evidence Act.

24. There was no question of compelling suspects to testify against themselves or to confess their guilt and there was hence no violation of article 14, paragraph 3 (g), of the Covenant. As to the presumption of innocence, the prosecution had to produce prima facie evidence and it was the combination of that evidence with any inferences properly drawn that might lay the basis for a conviction.

25. There had, of course, been a very vigorous debate in the United Kingdom about the recent changes in the law. The Criminal Law Revision Committee, a distinguished body of lawyers, had recommended their introduction some time previously. The Government, however, mindful of the issues and concerns involved, had been keen to learn from experience in the application of the provisions in Northern Ireland and had also taken into account the views of the Royal Commission on Criminal Justice, a majority of whose members had been opposed to their introduction. After lengthy consideration, it had eventually taken the view that the provisions for the protection of innocent suspects and defendants were perfectly adequate and that it was necessary to correct the balance to ensure that the guilty were properly convicted.

26. His Government did not accept that persons arrested under section 14 of the Prevention of Terrorism Act were detained for intelligence-gathering purposes. They were detained with a view to instituting criminal proceedings if sufficient evidence became available. They were told that they had been arrested because the officer concerned had reasonable grounds for suspecting them to be concerned in the preparation or instigation of acts of terrorism.

27. The Government wholly understood the sensitivities that existed in the case of ethnic minorities. However, those sensitivities should not prevent necessary action to bring criminals to justice.

28. With regard to the entitlement of prisoners to practise their religion, which was reaffirmed in the current Prison Operating Standards, the role of Her Majesty's Inspector was a positive one, namely to ensure that the entitlement was properly provided for.

29. The incidence of suicide was a matter of great concern. The prison service strategy for preventing suicide was an impressive document and had been included as annex C to the fourth periodic report. The 1994 figures had admittedly been unusually high, but such figures tended to fluctuate unpredictably. Suicide rates in the community at large had also increased. A key part of the prison service strategy had been to develop partnerships with voluntary organizations such as the Samaritans, whose members had been brought into prisons to offer advice to the staff and to befriend prisoners themselves.

30. The issue of establishing a separate, independent force to deal with serious allegations against the police had recently been considered by the Government in connection with investigations that might be required by the new Criminal Cases Review Authority. It had taken the view that the most effective arrangements consisted of a powerful police investigative process and a supervisory authority that would be responsible for approving the powers of the investigating officer, indicating whether an investigation had been conducted satisfactorily, directing that a case should be referred to the Director of Public Prosecutions and recommending disciplinary charges. He pointed out that some of those convicted of terrorist crimes in England and Wales had had their convictions quashed as a result of evidence revealed by police investigations.

31. Since 1983, 71 civilians had died as a result of shooting by the security forces in Northern Ireland (out of a total of 904 deaths during the same period as a consequence of the terrorist campaign). In 54 of those cases, possession by the victim of illegally held or imitation weapons had apparently been involved and had been the main reason why charges had not been preferred. In the remaining 17 cases, where the security forces had shot dead individuals who had subsequently proved to be unarmed, 7 soldiers and police officers had so far been charged with murder, 1 with manslaughter and 2 with attempted murder. Four convictions for murder and one for attempted murder had ensued; one charge of murder, one of manslaughter and one of attempted murder had resulted in acquittals.

32. Allegations of collusion in Northern Ireland between the forces of law and order and the population had been investigated in 1989 by a senior police officer from England, who had concluded that some collusion had indeed occurred, but neither on a widespread nor on an institutionalized basis. Forty-five prosecutions and convictions had followed that inquiry, one involving a sentence of 10 years' imprisonment for conspiracy to murder.

33. Roman Catholic representation in the Royal Ulster Constabulary was actively promoted by a variety of means; one encouraging development was that since the cease-fires 20 per cent of applicants to the RUC had been members of the Roman Catholic community.

34. On the question of whether the police were authorized to grant bail in England and Wales, as an alternative to custody, the answer was in the affirmative, subject to certain conditions.

35. The release of discretionary life-sentence prisoners was subject to detailed consideration by a panel that formed part of the Parole Board; the panel normally comprised a judicial member, a psychiatric member and a lay member.

36. The nature of corporal punishment in schools was a matter for the discretion of the head teacher; such punishment must not constitute inhuman or degrading treatment; in determining whether that condition was observed, regard must be had to all the circumstances of the case, including the reasons for the punishment, how soon after the offence it had been administered, its nature, the manner and circumstances in which it was administered, the persons involved and the mental and physical effects on the pupil concerned. What constituted lawful corporal punishment was a matter for the courts to determine.

37. The possession of items (such as materials for making bombs) and the collection of information (such as details of potential targets) likely to be useful for terrorist purposes were designated as offences under the Emergency Provisions Act 1991, and had been extended to England and Wales by the Criminal Justice and Public Order Act 1994 in response to a clear operational need. Under the provisions of those Acts, the police had been able to frustrate a number of terrorist attacks.

38. On the question of the recording of interviews in Northern Ireland, the introduction of an electronic recording scheme in holding centres had been announced as part of the forthcoming Emergency Provisions Bill should the continuing security situation make that necessary.

39. Notwithstanding variations in traditions and approaches in the different parts of the United Kingdom, inquests were essentially fact-finding inquiries and in no sense criminal investigations or hearings. It was not the business of the coroner to determine whether a killing had been lawful or otherwise or whether civil or criminal responsibility was involved. It was unlikely that the granting of claims for public interest immunity certificates would hamper proceedings in a coroner's court, the aim of which was merely to establish the identity of the deceased and the circumstances of the death.

40. Adding to his earlier remarks on the subject of private prisons, he said that the State established standards and monitored their observance; non-compliance with those standards was sanctioned. His experience as a public servant was that the discipline of a purchaser-provider contract and the introduction of competitiveness could improve supervision and management.

41. The powers of the police in relation to assemblies were strictly delimited by the 1994 Act and the Public Order Act 1986.

42. Stop-and-search powers in Northern Ireland, found relatively effective in discouraging the transport of arms and explosives, had been extended to

England and Wales through section 60 of the Criminal Justice and Public Order Act 1994. As a consequence of the cease-fires, however, those powers were not at present resorted to regularly in either jurisdiction.

43. The transfer of prisoners from England and Wales to Northern Ireland, based on consideration of the individual merits, had been taking place for many years. In 1992, new arrangements for the permanent and temporary transfer of prisoners had come into force; since then, eight prisoners convicted of terrorist-related offences had been temporarily, and three permanently transferred. The Home Secretary had authorized a further three permanent transfers.

44. The Royal Commission recommendations in regard to confession evidence were still under consideration.

45. Conditions at the Castlereagh holding centre were admittedly less than satisfactory. The relocation of the centre had been envisaged, but might prove unnecessary, since use of Castlereagh had fallen drastically since the cease-fires.

46. The matter of the treatment of domestic servants from overseas had been addressed by the Government in an attempt to minimize any possible scope for abuse. Migrant workers were required to apply abroad for entry clearance; interviews in that connection made it possible to check the bona fides of the parties, and to verify that adequate arrangements had been made for maintenance and accommodation in the United Kingdom. Migrant workers received a leaflet outlining their rights and remedies in the United Kingdom, which was also given to their employers.

47. The question of extending the mandate of the Criminal Cases Review Commission to Scotland had been the subject of broad consultation in that country in 1994. The exercise had revealed no widespread dissatisfaction with existing arrangements in Scotland for handling alleged miscarriages of justice and the related issue of appeals criteria, and no consensus on the need for change. An independent committee, headed by the Principal of Edinburgh University, had been appointed to advise on those matters and to report by July 1996 at the latest.

48. The CHAIRMAN invited the United Kingdom delegation to respond to the questions in section III of the list of issues, which read:

> "III. Freedom of movement and expulsion of aliens, protection of the family and children, and right to participate in the conduct of public affairs (arts. 12, 13, 24 and 25)
>
> (a) Please provide further information on the functions, powers and activities to date of the Immigration Appeal Tribunal established under the Asylum and Immigration Appeals Act 1993 as well as of the Refugee Legal Centre and the Immigration Advisory Service (see paras. 189 to 190 and 294 to 302 of the report).

(b) Please provide further information on cases where the Secretary of State has certified the claims of asylum-seekers to be 'without foundation' and about the consequent accelerated appeal procedure (see para. 296 of the report).

(c) Please clarify whether in cases where the Asylum and Immigration Appeals Act 1993 withdraws appeal rights (e.g. from visitors and short-term students) the persons concerned are still entitled to submit their cases to judicial review (see para. 299 of the report).

(d) Please describe the impact of the principle of family unity referred to in paragraph 403 of the report on the policy of exclusion, deportation and removal of aliens (see paras. 285 and 289 of the report).

(e) Please explain how the deportations and removals of illegal entrants, refused asylum-seekers or of other persons are carried out in practice. What kind of force may be applied against those persons? Is there any judicial protection against the enforcement of such measures? What is the role of private security firms in the expulsion process?

(f) Please elaborate on the legal situation of and on remedies available to persons who have been excluded under the Prevention of Terrorism (Temporary Provisions) Act 1989. Has the Court of Appeal passed a judgement in the cases R. v. Secretary of State ex parte Gallagher and R. v. Secretary of State ex parte Adams referred to in paragraph 286 of the report?

(g) Please describe the actual circumstances under which a child may be placed in secure accommodation under section 25 of the Children Act 1989 as well as the conditions of deprivation of liberty therein (see para. 270 of the report).

(h) What has been the result of the review of the Government's position whereby convicted, sentenced prisoners are not eligible to vote, in the light of the Committee's comments during the consideration of the third periodic report (see para. 481 of the report)?"

49. Mr. HALLIDAY (United Kingdom), responding to question (a), said that the Asylum and Immigration Appeals Act 1993, which extended the powers of the appellate authorities in respect of asylum-seekers, provided a right of appeal against refusal of leave to enter on the grounds that consequent removal would be contrary to the obligations of the United Kingdom under the United Nations Convention relating to the Status of Refugees. Those obligations could also be evoked in an appeal against a decision to issue or refusal to revoke a deportation order. The Act conferred a specific right of appeal on a person seeking such leave on the basis of asylum. It made provision for the appointment of Special Adjudicators to hear asylum appeals. Except in "without foundation" cases, further appeal was possible to the Immigration Appeal Tribunal. If either the Adjudicator or the Tribunal allowed the appeal, the decision and any directives related thereto were binding on the Government.

50. The Immigration Advisory Service, an independent body established in 1993, provided advice and assistance in the matter of immigration right of appeal; it had helped 5,800 people in 1993-1994; its budget from the

Home Office for 1995-1996 amounted to £2.6 million. The Refugee Legal Centre, also created in 1993 and an independent body, had counselled 15,850 asylum-seekers with rights of appeal; it was funded for 1995-1996 with a grant of £3.6 million. Habeas corpus in relation to detention under the 1993 Act was available exactly as it was in relation to the exercise of any other power of detention, subject to the satisfaction of certain conditions, namely determination that leave had been curtailed on a rejected asylum claim and that the individual concerned was in detention pending the issuance of a deportation order.

51. In relation to paragraph (b) of the list of issues, he said that the Asylum and Immigration Appeals Act 1993 introduced a special appeals procedure for "without foundation" asylum claims, in other words claims which in the opinion of the Secretary of State did not raise any issue as to the United Kingdom's obligations under the Convention relating to the Status of Refugees - either because the applicant could be returned to a "safe third country", i.e. one in which the life or the freedom under the Convention of the applicant would not be threatened and whose Government would not send the applicant elsewhere in a manner contrary to the principles of the Convention, or because the claim was otherwise frivolous or vexatious. Such cases were considered on their merits. All persons denied asylum, including those whose claims had been certified as without foundation, had a right of appeal, before removal, to an Independent Adjudicator. An accelerated procedure came into play once such an appeal was received by the authorities, statutory time-limits being established for the hearing and determination of those appeals, as set out in the Asylum Appeals (Procedure) Rules 1993. If the case was without foundation, the Special Adjudicator had seven days in which to determine the appeal. In cases not certified as without foundation, the time-limit was 42 days. Adjudicators had complete discretion regarding the amount of time devoted to an appeal and whether to grant adjournments, and could also extend the statutory time-limits if necessary. All asylum applicants had access to free advice and representation on appeal from the Refugee Legal Centre. They could also apply for legal aid, although that was not available for representational purposes. If the Adjudicator agreed that the claim was without foundation, there was no further right to approach the Tribunal; but the applicant could apply to the courts for judicial review of the decision.

52. The answer to the question posed in paragraph (c) of the list of issues was in the affirmative, subject to obtaining leave of the High Court - a condition of all judicial review applications in England and Wales.

53. Concerning question (d), he said that while the Immigration Rules made it clear that deportation would be the normal course of action where a person had breached the immigration law, a decision to enforce removal was taken only after all the relevant facts had been considered. In considering the deportation or removal of an illegal entrant with close family ties, the effect of such action on other family members was also taken into account. Where it was decided that the presence of close family ties did not outweigh the public interest in proceeding with removal, family members would be given the opportunity of accompanying the principal family member, at public expense if necessary. Cases where there were known to be close family ties were excluded from the delegation arrangements for the removal of illegal entrants alluded to in paragraphs 290 and 291 of the report (CCPR/C/95/Add.3). In the matter of exclusion, the Secretary of State was bound by law, before making an

exclusion order, to consider whether the person's connection with any country other than that from which he was to be excluded made such an order appropriate. A British citizen might not be excluded from that part of the United Kingdom where he was ordinarily resident and had so been for the previous three years. A British citizen could not be excluded from the United Kingdom. The purpose of exclusion was not to ban people from their own home territory, which would not be lawful, but to hinder those who would travel to an area in order to carry out an attack and then return home. Such powers of exclusion were quite different from those under the Football Spectators Act referred to in paragraphs 287 and 288 of the report: orders under that Act were made following conviction for a football-related offence and were designed to do no more than prevent a person from attending subsequent football matches for the duration of the order.

54. Turning to paragraph (e) of the list of issues, he said that a person to be deported or removed as an illegal entrant would be served with a notice notifying him of the decision. There were no separate arrangements for the removal of refused asylum-seekers. If they failed to leave voluntarily, they were either removed under deportation powers or as illegal entrants. At the time the notice was served they would be notified of any appeal rights. Once the appeal had been determined or where no further appeal right existed, arrangements would be made for removal. The subject of the notice would normally be given an opportunity to present himself voluntarily at the port of departure. However, if the person was likely to abscond or was detained, he would be taken to the port of departure and held there in secure conditions until boarding the aircraft. Restraints were not the norm, but were used only when justified by the circumstances. In considering the need for restraints, the safety and security of the detainee and the safety of the escort and the public were foremost considerations. Once the person was on board an aircraft, any restraint must be approved by the captain. The independent review following upon the tragic case to which Mr. Francis had referred had led to the recommendation that when a person being removed behaved violently or disruptively, handcuffs should be available for use in accordance with ordinary police practice; in addition, the use of arm and leg restraints under strictly controlled conditions could be justified when the detainee could not adequately be restrained with handcuffs. A third recommendation was that the recourse to mouth restraints, which had clearly been linked with the outcome in the case referred to, and which had been immediately suspended at the time, should not be resumed. All those recommendations were now in effect, and there was no question of the mouth restraints being used again.

55. In most cases, once the individual had been taken into custody, escort duties would be performed by private-sector security companies under contract to the Immigration Service. In a few cases where, for instance, past behaviour indicated that determined or violent resistance was likely, an in-flight escort by appropriately skilled police officers would be necessary in order to effect safe removal. Escorts were reminded of their responsibilities and liability in respect of section III of the Criminal Law Act 1967.

56. Concerning paragraph (f) of the list of issues, he said that persons excluded under the Prevention of Terrorism Act could, if they objected to the order, make representations in writing to the Secretary of State, setting out the grounds for objection and including in those representations a request for a personal interview with a person or persons nominated by the Secretary of

State. Such representations must be made within seven days of the service of the notice or the making of the order unless the person concerned consented to removal before the end of that period or was already abroad; in the latter case 14 days were allowed in which to submit representations. Under the same schedule of the Act, the representations must be referred for advice to one or more persons nominated by the Secretary of State. Three such persons had at present been nominated. Their names were not published but they were persons of standing, and two of them were Queen's Counsels; their independence could not be doubted.

57. A person who submitted representations must be granted a personal interview. In the case of a person who had left the country, and if it appeared to the Secretary of State to be reasonably practicable to do so, such an interview might be granted in an appropriate country or territory within a reasonable period from the date on which the representations were made. His delegation was not aware of any case in which a request for interview had been turned down on grounds of impracticability. The Secretary of State was required to reconsider the exclusion order as soon as reasonably practicable after receiving the representations and any report of an interview with the adviser. In reconsidering the order the Secretary of State, under paragraph 42 of the Act, was required to take into account everything which appeared to him to be relevant.

58. It was reliably reported that the Secretary of State had invariably accepted the advice of his independent advisers in recent years. He was required, if reasonably practicable, to give notice in writing to the persons against whom the exclusion order had been made of any decision as to whether or not to revoke the order. An exclusion order expired after three years unless it was revoked earlier. The Secretary of State could revoke an order at any time.

59. Concerning R. v. Secretary of State ex parte Gallagher, the questions referred by the Court of Appeal awaited a ruling by the European Court of Justice. The oral hearing had only recently taken place.

60. Following the announcement of a cease-fire on 31 August 1994 by the Irish Republican Army (IRA), the Secretary of State had reviewed all exclusion orders then in force. On 21 November 1994 he had decided to revoke the exclusion order against Mr. Adams. In those circumstances the Secretary of State had taken the view that any further consideration of Mr. Adams' application for judicial review and the article 177 reference to the European Court of Justice had become academic. The High Court had accepted that argument.

61. With regard to paragraph (g), he said that certain criteria must be met before a child could have his liberty restricted under section 25 of the Children Act 1989. Firstly, the child must have a history of absconding and be considered likely to abscond from any accommodation other than secure. Secondly, there must be grounds for believing that in absconding he was likely to suffer significant harm ("harm" being defined as ill-treatment or the impairment of health or development). A further criterion required that if the child involved was kept in other than secure accommodation he must be likely to injure himself or others. Restriction of the liberty of children was a serious step and must therefore only be taken when there was no possible

alternative; the law made it clear that placement in secure accommodation must be a last resort.

62. Subject to certain conditions applying to remanded and detained children, it was unlawful for the liberty of a child to be restricted unless one of the criteria he had mentioned was met, no matter how short the time in security. Once the criteria ceased to apply, even if there was a current court order authorizing restriction of liberty, it must be lifted. Interpretation of the term "restriction of liberty" was a matter for the courts, but any practice or measure which prevented children from leaving a room or building of their own free will was to be deemed restriction of liberty. He listed a number of other safeguards in that connection.

63. Concerning paragraph (h), and the question of prisoners' eligibility to vote, he saw that the Government had carefully reviewed the position and remained of the opinion that the exclusion should not be lifted. It did not appear to the United Kingdom that article 25 of the Covenant conferred an absolute right to vote; the view that those convicted of crimes serious enough to justify imprisonment had lost the moral authority to vote for the period in question thus seemed permissible.

64. The CHAIRMAN invited Committee members to pose additional questions in relation to section III of the list of issues.

65. Mr. BRUNI CELLI said that the scant reference in section III of the list of issues to article 25 of the Covenant was not indicative of a lack of interest in its application in the United Kingdom. Referring to paragraph 31 of the core document (HRI/CORE/1/Add.5/Rev.1), he noted that "people sentenced to more than one year's imprisonment" were among the many categories of persons disqualified or precluded from election, and asked whether the nature of the offence was immaterial and whether the disqualification was permanent. Did persons awaiting trial have the right to vote? Why were clergy of the different Churches disqualified from election? Remarking that a large number of public officials were also precluded, he submitted that all those limitations appeared to call the principles of article 25 of the Covenant in question.

66. He inquired whether any legislation was proposed with the aim of increasing the participation of ethnic minorities in public life. How could the first sentence of paragraph 31 of the core document, according to which, subject to the same conditions, "any man or woman" might stand as a candidate at a parliamentary election, be reconciled with the fact that less than 10 per cent of British MPs were women? And how could the principle of popular representation as set forth in article 25 of the Covenant be reconciled with the institution of the House of Lords?. Finally, he noted that for a person to be eligible in a particular constituency, his or her name must be placed on the current electoral roll, and asked whether members of the public were fully informed of that prerequisite. It seemed to him that such "positive registration" might indirectly amount to a restriction of the exercise of the rights set forth in article 25.

67. Ms. EVATT said that for her, the state of human rights in a given country could be roughly gauged by comparing the numbers of people seeking to leave with the numbers of those seeking to enter. By that yardstick, the United Kingdom showed a healthy balance. Nevertheless, she had certain

concerns on issues of citizenship, immigration and the granting of asylum. She welcomed the institution of an in-country right of appeal; but was more doubtful with regard to the "safe third country" provision: could such countries be relied upon under all circumstances to deal with an asylum-seeker's claims? The introduction of visa requirements for nationals of countries where circumstances produced many asylum-seekers might have a restrictive effect.

68. She was further concerned about the growing number of persons held in detention for more than three months with no means of challenging the merits, as opposed to the legality, of their detention, and would welcome information concerning the proposed new legislation in that connection. Alluding to a case mentioned in documentation from the NGO Democratic Audit, she inquired whether consideration would be given to providing protection against discrimination in public service employment, including military service, on grounds of sexual preference.

69. Mr. KRETZMER, referring to the decision in R. v. Secretary of State ex parte Cheblak at the time of the Gulf crisis, asked whether any mechanism existed to review any security conditions invoked to justify the deportation of a resident non-citizen from the United Kingdom.

70. Referring to paragraph 289 of the United Kingdom report and the table showing numbers of persons deported under the Immigration Acts 1971 and 1988, he asked whether, once a deportation order had gone through the entire appeals procedure, the person about to be deported was still kept in detention; and whether such persons could be held in detention indefinitely until a country was found that would accept them.

71. Mr. KLEIN asked what was the legal basis for the exercise of force against illegal immigrants and refused asylum-seekers, and for the delegation of the right to use force to private security firms.

72. Mr. ANDO asked who initiated the procedures under which a child might be placed in secure accommodation under section 25 of the Children Act 1989, and whether such accommodation was regarded as part of the social welfare system or of the prison system; he also inquired whether a medical doctor was involved at any stage.

73. Mr. LALLAH, referring to paragraph 482 of the report, asked who it was who declared an election to be invalid because the elected candidate had exceeded the specified limit of his campaign expenditure. Article 25 (a) of the Covenant conferred on every citizen the right and the opportunity to take part in the conduct of public affairs directly or through freely chosen representatives, and he wondered, in view of recent cases of MPs taking cash for asking questions in the House of Commons, to what extent the Government of the United Kingdom protected the right of citizens to be properly represented, and not represented by people who were really trying to represent themselves. He realized that the matter was under discussion by the Nolan Committee, but he wondered if any consideration was being given to providing MPs with a reasonable level of pay so that becoming an elected representative was a possibility available not only to the comfortably off and to those who were tempted to make some money on the side, but also to poor people.

74. Mr. POCAR requested further information regarding the White Paper which the Government would be publishing regarding privacy and media intrusion, referred to in paragraph 371 of the report.

75. Mr. HALLIDAY (United Kingdom) referred Ms. Evatt to the rights of appeal available under section 38 of the Asylum and Immigration Appeals Act 1993 regarding the merits of asylum cases.

76. He referred Mr. Bruni Celli, on the question of the United Kingdom's electoral arrangements, to the full exposition set out in its initial report under article 25. As for the appointment of women, ethnic minorities and the disabled to public bodies, the Government had always made clear that it wished to increase their representation, and there had been a number of government initiatives to that effect; indeed, since 1992 appointments to public bodies had been monitored for that purpose. Representation in the House of Commons was a matter for the political parties and the due electoral process rather than for the Government.

77. He explained to Mr. Ando that it was the social services departments under the local authorities which brought cases for placing children in secure accommodation under section 25 of the Children Act 1989 if detention was for longer than 72 hours. Accommodation was run by or under the supervision of such departments; it was completely outside the prison detention system.

78. As for Mr. Lallah's point regarding the "cash for questions" affair in the House of Commons, he said that the Government had made its position clear regarding the report of the Nolan Committee, and in fact many of the matters involved would be considered by the House of Commons as a whole. Although the issue of MPs' pay had been raised in that connection, it was not really related to the wealthy being able to enter the House of Commons more easily than the poor.

79. Mrs. EVANS (United Kingdom), replying to a question regarding the opportunities for seeking review of decisions to deport in security cases, said that a deportee in such cases did not possess the appellate rights under the Immigration Act that ordinary deportees had, but did have recourse to a panel commonly referred to as "The Three Wise Men". Domestic courts had held that the procedures before that panel were basically reasonable and fair. If, as a result of the review, the decision to deport was upheld, it was still open to the prospective deportee to seek judicial review of the Secretary of State's decision in the Divisional Court.

80. As for the position regarding detention in cases where it proved impossible to deport someone because there was no country to which he might be sent, she said that a power of detention arose under the immigration legislation once a deportation order had been made only while the deportation was pending; consequently, if it became apparent that indeed there was no country to which the person could be sent, the power to detain on the strength of the deportation fell.

81. Finally, with regard to the question concerning the legal authority for handing over immigration cases to private security firms, she referred the Committee to paragraph 18.3 of Schedule 2 to the Immigration Act 1971, and to paragraph 2.4 of Schedule 3 to that Act.

82. Mr. HALLIDAY (United Kingdom) said that the White Paper on privacy and media intrusion referred to by Mr. Pocar had only recently been announced and he had no further information on it. As for prisoner escorts by private security firms, prisoners were subject to prior assessment to ensure that there was no history of violence and no likelihood of violence; if there was, the police would be present.

83. The CHAIRMAN invited members of the Committee to make concluding remarks.

84. Mr. POCAR praised what he said was a model report which conformed fully to the Committee's guidelines, and commended the delegation's frank and comprehensive approach to the dialogue. There had been improvements in human rights guarantees in the United Kingdom, but there were still issues that caused the Committee concern; he himself could not easily accept that neither incorporation of the Covenant into domestic legislation nor ratification of the Optional Protocol was necessary.

85. Mr. PRADO VALLEJO said the dialogue which had taken place had been important and positive and, he hoped, would prove beneficial. The Committee still had some concerns regarding the United Kingdom, but trusted that they would be allayed. The report made it clear that there had been no progress with regard to incorporation of the Covenant into domestic legislation, ratification of the Optional Protocol or the status of reservations, and he sincerely hoped that the Government of the United Kingdom would give consideration to the views on those points which the Committee had been expressing for the past 18 years. Immigrants and asylum-seekers were treated in inhumane ways which were at variance with the Covenant. As for detention without a court order in terrorism cases, he observed that even criminals should be able to enjoy the rights enshrined in the Covenant. He hoped that the fifth periodic report of the United Kingdom would meet with the Committee's full approval.

86. Mr. BUERGENTHAL said there was no doubt that the United Kingdom had a highly developed legal and constitutional system for the protection of human rights, and had taken important steps in recent years to strengthen human rights guarantees. He was convinced that incorporation of the Covenant into domestic legislation and ratification of the Optional Protocol would strengthen human rights guarantees in the United Kingdom, and he was more optimistic on that score following the efforts of Lord Lester. The fourth periodic report was a very fine one and the delegation had been extremely frank with the Committee, but he had continuing worries about the investigation of abuses committed by the police, about the inferences that were drawn from the silence of an accused, about the failure to give all accused persons the right to consult a solicitor during the first 36 hours of their detention, and in general about the danger that efforts to deal with increased crime might trample on elementary principles of justice.

87. Mr. LALLAH congratulated the delegation on its concise but comprehensive answers to the Committee's questions and on its high-quality report. Progress had indeed been made, but much remained to be done. There should be an easing of the conditions of those who were detained and of the situation of those against whom discrimination still prevailed. It would be desirable for the Covenant to be incorporated into domestic legislation, and for the United Kingdom to ratify the Optional Protocol. He referred the delegation to

article 40 of the Covenant regarding progress in the enjoyment of human rights, and article 2, paragraph 3, on measures to be taken. Especially in situations where everything was supposedly provided for by common law and the judiciary was respectful of its role in a system that recognized the separation of powers, and was reluctant to apply the rights enshrined in the Covenant unless some appropriate precedent was found, it would be to the benefit of the people of the United Kingdom if the Government acceded to the Optional Protocol. Much of the legislation in his own country, Mauritius, derived from that of the United Kingdom. He found it somewhat ironic that the United Kingdom had inserted a bill of rights into the Constitution of Mauritius, when it had no similar bill for itself.

88. Mr. KRETZMER said he was very pleased with the report and in particular found the annexes extremely useful. The delegation had answered the Committee's questions in a highly professional manner, putting the Government's views very persuasively, even if the Committee had not always accepted them. A sincere attempt was constantly being made in the United Kingdom to address human rights issues and endeavour to find solutions to them; an indication of the healthy state of human rights in the United Kingdom was the vibrancy of the NGOs operating in that area. As for Northern Ireland, the Committee was aware that the basic problem was a political one, although there were still human rights issues that had to be divorced from the political situation of which they were to a large extent a function. Efforts had been made to deal with complaints against the police and allegations of abuse of power by the authorities in Northern Ireland, but in the highly charged political situation, it seemed unlikely that those efforts would acquire the requisite degree of credibility. Allegations against the police should not be investigated by the police. However, he welcomed the progress that had been made in improving prison conditions, notably with regard to sanitation. It was impossible to legislate discrimination against ethnic minorities out of existence, but it was particularly important to step up efforts to ensure their fair representation in all areas and at all levels of society, especially in the police force. He hoped that the fifth periodic report would contain figures that would show that those efforts had been successful. Finally, he welcomed the fact that corporal punishment was now limited to private educational institutions, although he hoped that by the time of the next periodic report it would have been eradicated altogether.

89. Mr. EL SHAFEI said the exchange of views had clarified many of the problems about which the Committee had been concerned. Progress had been made in a number of areas since the third periodic report, notably with regard to criminal justice, prison conditions and race relations, but some of the concerns the Committee had expressed with regard to the third periodic report had still not been fully allayed. Despite the announcement of a cease-fire in Northern Ireland and the subsequent negotiations, the police were still using excessive force and very liberal firearms regulations were still in operation. He himself remained concerned about the rights of asylum-seekers and about discrimination in the application of immigration laws. The United Kingdom should review its position on the reservations it had made on acceding to the Covenant and on ratification of the Optional Protocol; it should also give more thought to a bill of rights. Such matters were particularly important in view of the fact that the Covenant differed in certain substantive respects from the European Convention on Human Rights.

90. Mrs. CHANET praised the report and the clarifications given by the delegation, noting that the Committee had inevitably given insufficient emphasis to the positive aspects of United Kingdom human rights guarantees. There had been important progress in relation to the Northern Ireland peace process, in improving prison conditions, and in the re-examination of criminal cases, but the Committee still had concerns regarding incorporation of the Covenant into domestic law, reservations to the Covenant and non-accession to the Optional Protocol. There was a movement in the United Kingdom in the direction of incorporation, and she hoped that there would be some development in the area of reservations, because the United Kingdom had acknowledged that three of them really amounted to derogations. She hoped that by the time of the fifth periodic report, the United Kingdom might have been convinced that accession to the Optional Protocol really did represent major progress for the guarantee of human rights. As for the law on the right to silence, it was certainly conducive to repression despite the precautions that were taken, and to that extent was to the detriment of the individual, whether innocent or guilty. With regard to Northern Ireland, she hoped that the fundamental rights of individuals in the province would soon be treated not only in terms of political self-determination but in their own terms as well.

91. Ms. MEDINA QUIROGA said that she was grateful to the United Kingdom delegation for its efforts to provide concise answers to the questions raised; she was also grateful to learn that some of the Committee's concerns were under consideration in that country. She regretted, however, that not all the answers provided by the delegation of the United Kingdom laid the Committee's preoccupations to rest. It was particularly disturbing that not all the provisions of the Covenant were reflected in British law. Under such circumstances, if a discrepancy arose, the Covenant was in essence unenforceable. And what, ultimately, was the point of ratifying an international instrument if it could not be enforced? Furthermore, it would be preferable if individuals could address their concerns directly to the Committee; ratification of the Optional Protocol would considerably broaden the efficacy of the Covenant in that country.

92. She would have liked an explanation concerning the enjoyment by Scotland of the rights guaranteed under articles 1 and 25; it seemed clear that many people in that country were dissatisfied with their constitutional arrangements. Furthermore, while the United Kingdom delegation had confirmed her understanding of the purpose of the inquest procedure in force in Northern Ireland, it had not explained why those measures were different from those applicable in England and Wales, where an inquest could result in a finding of manslaughter. It was her belief that the situation obtaining in Northern Ireland was essentially a political one; the British Government should be reminded, however, that there were certain minimum human rights standards that should be respected in all circumstances.

93. It was her view that British judicial procedures violated the right to silence guaranteed under the terms of the Covenant; she would recommend that that country should repeal the relevant legislation.

94. Finally, the situation of women in the United Kingdom was indeed a grave problem; the next report should describe cultural measures undertaken by that country to end discrimination against women.

95. Mr. BÁN said that, while it was perhaps disappointing to find that the basic approach of the Government of the United Kingdom to the matter of human rights had not altered, developments that had taken place in particular areas of concern were encouraging. He agreed with Mr. Buergenthal and Mrs. Chanet that the debates that followed on the submission to Parliament of the Human Rights Bill by Lord Lester demonstrated that, after a long period of resistance, the incorporation issue was under reconsideration - and that, despite the failure of the Bill to win universal acceptance. While such issues as the incorporation of the provisions of the Covenant into domestic law, the ratification of the Optional Protocol and the withdrawal of reservations were crucial, they were not the sole factors influencing the enjoyment of human rights in the United Kingdom. It was clear that the status of human rights had progressed considerably in that country, the many remaining areas of concern notwithstanding. But it would perhaps be found that the factors adversely affecting the exercise of human rights in the United Kingdom had a common root in the transformation of British society from homogeneity to diversity. Public awareness of the principles of human rights was assuredly not yet adequate. He thanked the delegation for the excellence of the report and for the candid spirit in which the dialogue had been conducted.

96. Mr. KLEIN commended the United Kingdom for its fine report and for the fruitful dialogue that had ensued. While the many favourable changes that had taken place since the time of the third periodic report were welcome, they also demonstrated the extent to which those improvements were necessary. The delegation had stated, in reply to a question raised by Ms. Evatt, that conditions at the Castlereagh holding centre were less than satisfactory. Yet it had also assured the Committee that human rights were sufficiently protected under domestic law. There was an inherent contradiction in those two remarks. The delegation had also argued that since in the United Kingdom the notion of the general right to liberty obtained, there was no need to identify specific rights in a bill of rights. While that notion was indeed shared by all the Western liberal democracies, each of those countries boasted its own bill of rights. The argument was thus unconvincing. Furthermore, domestic guarantees should be supported by international undertakings which were at the direct disposal of individuals. It was the combined effect of the non-incorporation of the Covenant into domestic law and the reluctance to accede to the Optional Protocol which was above all so worrisome. Prison conditions and the status of the right to silence also remained troublesome. He was concerned as well by the practice of contracting out essential State functions to the private sector; in his view, that was not merely a theoretical but also a practical consideration, which would surely give rise to further debate. Finally, the differences of opinion that had emerged during the course of the dialogue should be seen as a starting-point for the reconsideration of the issues raised.

97. Mr. BHAGWATI expressed his satisfaction at the wealth of information supplied by the United Kingdom in its report, and at the highly professional presentations made by the United Kingdom delegation. He congratulated that country on taking seriously its obligations under the Covenant and on pursuing a fruitful, constructive dialogue with the Committee. The report indeed showed that considerable progress had been made in the United Kingdom towards fuller compliance with the provisions of the Covenant and bore testimony to its firm determination in that regard. Even so, several matters combined to

give cause for concern. The foremost was the declared reluctance on the part of the Government of the United Kingdom to incorporate the provisions of the Covenant into domestic law. He was unconvinced by the arguments adduced by the delegation in that regard. The delegation had quoted from a speech delivered by Lord Donaldson, former Master of the Rolls, which invoked historical tradition to justify the Government's stance. But it should be recalled that there existed a considerable body of contrary opinion of great weight and authority. The renowned English judge Lord Scarman had, for example, pleaded passionately for the adoption of a bill of rights. It should further be noted that on independence every former British colony had adopted a bill of rights, largely influenced by international human rights instruments. But whether by incorporation of the provisions of the Covenant into domestic legislation or by the enactment of a bill of rights, the United Kingdom was bound by article 2, paragraph 2, to bring its laws into conformity with the provisions of the Covenant. Common law clearly did not reflect all the rights guaranteed in the Covenant, despite the judicial activism of British judges. The Government of the United Kingdom was further bound under the terms of paragraph 3 of that article to ensure that every person had an effective remedy with which to enforce his rights under the Covenant. How was that effective remedy provided to an individual in the United Kingdom if the rights guaranteed under the Covenant were not incorporated into domestic law? In his view, non-incorporation was a clear violation of article 2, paragraphs 2 and 3.

98. Furthermore, he could not accept the explanation offered by the delegation with regard to the right to silence. A judgement rendered by the House of Lords, in the case of Kevin Murray had held that, where the prosecution made a prima facie case and the defendant refused to testify, a judge or jury might draw inferences from that refusal, among them the inference that the accused was guilty of the offence as charged. It went on to state that, while the accused could not be obliged to give evidence, he risked consequences if he declined to do so. That was a Hobson's choice. Permitting adverse inferences to be drawn from the silence of the accused was a means of compulsion, and, by effectively nullifying the right to silence, constituted a violation of the Covenant.

99. Finally, he was glad to learn that the report was made available to NGOs and members of the public by the Home Office; he trusted that all those who wished to obtain a copy could readily do so.

100. Mr. ANDO commended the delegation of the United Kingdom on that country's excellent report and its competent responses to the concerns raised. While the Committee's comments and questions might indeed have seemed harsh, it should be remembered that they were proffered with the best of intentions.

101. He had several concluding observations. Firstly, the United Kingdom's reservations to the Covenant that referred to "other provisions of the Covenant" were too vague and should be reassessed. Secondly, with regard to the objections raised by Mr. Berman to several points discussed in general comment 24, he would read the relevant paper with great interest before formulating an opinion. Thirdly, with regard to the matter of the right to silence, he shared the views expressed by Mr. Bhagwati. Fourthly, in the light of the economic depression that had taken place in western Europe and of the resurgent xenophobia that had attended it, he understood the Government's

desire to regulate the flow of immigrants. Yet, under the circumstances, the United Kingdom should do its utmost to protect the human rights of such persons. Finally, he associated himself with the views of Ms. Medina Quiroga with respect to the status of women in that country.

102. Ms. EVATT said that various favourable developments had taken place in the United Kingdom in the area of human rights. She particularly welcomed a number of judicial decisions on human rights issues, among them decisions taken at the European level. She also noted with satisfaction the various prison reforms that had taken place, the creation of the post of prison ombudsman, the establishment of the Criminal Cases Review Commission, and the newly introduced practice of recording interviews. It was worth mentioning that England and Wales were among the few places in the world where police did not carry arms. While that favourable phenomenon was certainly overshadowed by the circumstances prevailing in Northern Ireland, there too progress had been made. Emphatically, if the right to life was to be upheld, the death of an individual while in the hands of authorities must be met with a thorough, impartial and open investigation. Failure to investigate and where necessary to prosecute could only cause crises of confidence in families and communities.

103. Having read the warning provided to the accused with regard to his right to maintain silence, she considered it to be unsatisfactory. In a press cutting in her possession, a policeman was cited as telling an interviewee that the warning meant that if he chose not to answer a question, the jury would assume that he was guilty. While she understood that such was not its intent, the warning might well in practice prejudice the jury as to the guilt of the accused, regardless of its wording. A related concern - the extension of that provision to Scotland whether or not the Scots so wished - illustrated a larger question she had raised earlier: how to enable the Scots and the Welsh to play a full and equal role in the conduct of those public affairs that related to their own interests.

104. She likewise found it unfortunate that the seven-day detention rule still applied; it seemed that, despite the cessation of hostilities, a fundamental right remained subject to derogation. The United Kingdom should perhaps consider the establishment of some form of judicial supervision over that matter.

105. Endeavours to strengthen anti-discrimination legislation were welcome, as were efforts to recruit police from various ethnic communities. In the area of discrimination it was nevertheless clear that much progress remained to be made. Discrimination in the military on grounds of sexual preference was an issue that demanded attention; in particular, the potential targets of such discrimination should be provided with adequate legal protection. She had two points to raise with regard to discrimination against women. Firstly, thought should be given to introducing legislation that would take into consideration the principles that had come to light in the recent judicial decision concerning provocation in the case of a woman who had murdered her partner. Secondly, while rape and other sexual offences were in fact addressed by criminal legislation, the Government should consider implementing programmes for the related training and education of the police and judiciary.

106. Finally, she wholeheartedly endorsed the views expressed by Mr. Bhagwati in the matter of the incorporation of the Covenant into domestic law.

107. Mr. FRANCIS said that he first wished to congratulate Mrs. Higgins on her election to the International Court of Justice; she had undoubtedly made a monumental contribution to the work of the Committee, and was sure to make an equally impressive contribution to that of the Court.

108. He was grateful to the British delegation for its answers to the questions he had raised. Of particular satisfaction was the information offered concerning the arrest and death of Joy Gardner. The decision of the Home Secretary would, he was sure, gladden the hearts of many people throughout the world.

109. He joined with other members of the Committee who had recommended that the Government of the United Kingdom should enact a bill of rights, ratify the Optional Protocol and review the status of the right to silence in domestic legislation. Finally, he shared Mr. Lallah's concerns with regard to the Privy Council.

110. Mr. HALLIDAY (United Kingdom) said that he wished to take the opportunity to join with those who had paid tribute to Mrs. Higgins, whose presence in the Committee would be greatly missed. He further wished to thank the members of the Committee for their generous remarks. The discussion had, as anticipated, been a rigorous one. In his view, the concluding observations had usefully highlighted areas of particular concern to the Committee, as well as those areas where disagreement remained.

111. The CHAIRMAN congratulated the United Kingdom on its excellent report, and on the frank and open spirit in which the dialogue had been conducted. There had undoubtedly been many favourable developments in the area of human rights in the United Kingdom in recent years. Regarding the rigour of the questions and comments formulated by the members of the Committee, he observed that it was the Committee's aim to ensure that the human rights of all those whose Governments were States parties to the Covenant enjoyed the exercise of their human rights. He was grateful to those NGOs and individuals that had offered information to the Committee; in his view, the number of independent submissions received by the Committee in relation to a State party's report was a measure of the status of human rights in that country. He informed the members of the Committee that the paper prepared by Mr. Berman and his colleagues in response to general comment 24 had been received and would be distributed to them shortly. Finally, he noted that the fifth periodic report of the United Kingdom was due on 18 August 1999.

The meeting rose at 1 p.m.