



International Covenant on
Civil and Political Rights

Distr.
GENERAL

CCPR/C/SR.1818
26 December 2000

ORIGINAL: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-eighth session

SUMMARY RECORD OF THE 1818th MEETING

Held at Headquarters, New York,
on Friday, 17 March 2000, at 10 a.m.

Chairperson: Mr. BHAGWATI
(Vice-Chairperson)

CONTENTS

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

Fourth and fifth periodic reports of the United Kingdom and its Crown
Dependencies

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.



In the absence of the Chairperson, Mr. Bhagwati, Vice-Chairperson,
took the Chair.

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

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

Fourth and fifth periodic reports of the United Kingdom and its Crown Dependencies (CCPR/C/95/Add.10 and CCPR/C/UKCD/99/5, CCPR/C/68/L/UKDO, HRI/CORE/1/Add.62)

1. At the invitation of the Chairperson, the delegation of the United Kingdom took places at the Committee table.
2. Sir Jeremy GREENSTOCK (United Kingdom) assured the Committee that his Government was working together with the Crown Dependencies, which were the subject of the fourth and fifth periodic reports, to develop a culture of rights and responsibilities throughout the United Kingdom and the Islands, and that they were genuinely open to the Committee's comments.
3. Mr. de PULFORD (United Kingdom), reviewing the history of the Channel Islands, which included Jersey and the Bailiwick of Guernsey, comprising Guernsey, Sark and four other Islands, said that they had been allowed by the Crown since the thirteenth century to retain their own laws and customs and that their allegiance was to the Crown rather than to the United Kingdom, of which they had never formed part. Reviewing the somewhat different history of the Isle of Man, which until the late eighteenth century had been ruled by British earls or dukes, he said that subsequently, and especially in the past 50 years, more and more control had been transferred to local institutions.
4. The constitutional position of his Government was that none of the Island Dependencies could properly be described as a colony, overseas territory, autonomous region or devolved administration: each was internally self-governing, with its own legislature, laws and courts, local administration and fiscal system. The Islands contributed voluntarily to the United Kingdom for defence and overseas representation, but their economies were otherwise independent. In that unusual relationship, the Island Administrations were in effect parallel to that of the United Kingdom rather than subordinate to it. His Government was answerable, in partnership, for the Islands' external relations, including those arising under international treaties.
5. The British Home Secretary, as the Privy Councillor with special responsibility for the Islands, had a small Home Office team directly responsible for day-to-day liaison with the Islands in all matters of common concern. All primary legislation from the Islands required royal assent, given on the advice of the Home Secretary. Island officials had requested Home Office help in drafting and later publicizing their recent human rights legislation incorporating the European Convention on Human Rights, and had attended human rights training courses in the United Kingdom. They worked in partnership with the United Kingdom Government to implement the Covenant.

List of issues

I. General issues

Constitutional and legal framework for the implementation of the Covenant (articles 2 and 4 of the Covenant); and dissemination of information about the Covenant (article 2)

6. The CHAIRPERSON read out the questions relating to articles 2 and 4: invocation of the Covenant before the domestic courts and recourse by the courts to Covenant rights in applying domestic law; plans to incorporate the Covenant into domestic law in addition to the European Convention on Human Rights; available options for investigating and redressing alleged human rights violations; education and training on the Covenant for officials, teachers, judges, lawyers and the police; steps taken to publicize the fourth and fifth periodic reports and their consideration by the Committee.

7. Mr. de PULFORD (United Kingdom) said that the provisions of the Covenant and other international treaties could not be directly enforced because they were not part of any of the Islands' laws as such, although they could be referred to in domestic proceedings on the presumption of the compatibility of domestic legislation with the treaties. Although such references were uncommon, the Covenant had been invoked in specific court cases having to do with undue delay in bringing proceedings (Isle of Man; invocation of art. 14, para. 3 (c) of the Covenant); application of common law in a way consistent with treaty obligations rather than with inconsistent English common law (Guernsey); or limitations on the application of customary law (Jersey; invocation of art. 11 of the Covenant). Decisions of the United Kingdom courts - which could make use of international treaties for the purposes of resolving ambiguities in legislation, uncertainties in common law, or questions of principle - were persuasive in the Islands, but the decisions of an Island Court of Appeal and of the Judicial Committee of the Privy Council were binding in the Island in question and persuasive in the other two Island jurisdictions.

8. The United Kingdom had discussed the possibility of incorporating the Covenant, and also the First Optional Protocol, into Island law and that had not been ruled out. Nevertheless, the substantial demands that the incorporation of the European Convention on Human Rights was making on the resources of the judicial and legal professions and the Government for the moment had to take precedence. Of course, in the meantime the incorporation of the European Convention would ensure that corresponding Covenant rights would be directly enforceable in the Islands' courts and require official compliance.

9. To the extent that a breach of the Covenant was also a breach of statutory or common law, remedies for victims of human rights violations could take the form of damages, injunctions and quashing of unlawful decisions. Reported breaches of criminal law would be investigated and, where appropriate, prosecuted. If a court case revealed that Covenant rights were not effectively secured in law, Island authorities considered introducing legislation or other appropriate measures. In appeals against statutory decisions and in cases of judicial review, rights reflected in the Covenant could be referred to and

considered by the courts. Other review procedures were also available in the different Islands; and, of course, anyone could petition the Queen in Council.

10. Human rights training in the Islands currently focused on preparations for the enactment of human rights legislation. At the same time, judges, magistrates, police officers and other public officials were attending many different courses, seminars or lectures in England dealing with the international context to which the Covenant was central. Covenant training was a developing area of interest in the Islands and there had been local initiatives in that regard. The fourth and fifth periodic reports to the Committee had been widely distributed in the Channel Islands, and the fifth report was available to the public on the Home Office web site.

II. Jersey

Gender equality, right to a family and the principle of non-discrimination (articles 3, 23 and 26 of the Covenant)

11. The CHAIRPERSON read out the questions relating to articles 3, 23 and 26: any discrimination on the basis of gender or disability in legislation or practice, with particular regard to employment, and outcome of the review and consultation exercise referred to in the reports; progress in promulgating a new Matrimonial Causes Law, and its effectiveness in achieving greater spousal equality during divorce and greater protection for the children involved; practice under the Separation and Maintenance Orders (Jersey) Law 1953, with particular regard to gender inequality; any differences in treatment between legitimate and illegitimate children; actions deemed necessary to ensure against racial discrimination.

12. Mr. BAILHACHE (United Kingdom) said that in 1998 Jersey's Employment and Social Security Committee had produced a document on equal opportunity and treatment in the workplace, covering discrimination on the grounds of age, sex, race and disability. It included a questionnaire that had been circulated Island-wide to all householders, voluntary agencies and businesses, and published in the local newspaper. Twelve consultation meetings on the responses had been held during 1999 with groups representing employers, trade unions, employees and the Portuguese community on all the issues involved. With regard to employment, minimum wage and unfair dismissal rather than discrimination had been seen as requiring legislation, probably because Jersey had full employment and one of the highest participation rates of female employment.

13. Since the fourth report (para. 10), the divorce clauses of the Matrimonial Causes (Jersey) Law 1949 had been amended so that both spouses had fully equal rights and remedies. As for protecting the children of divorced couples, the new draft Children's Law currently in consultation, patterned on the United Kingdom Children Act 1989, would replace the relevant parts of the old Matrimonial Causes Law, providing greater safeguards for a child's welfare and revising the existing custody system and concept of parental responsibility. Reviewing the details of the Separation and Maintenance Orders (Jersey) Law 1953, governing non-cohabitation, custody of children and maintenance of wife and children, he specified that it was very infrequently used since petitions were customarily brought under the 1949 Matrimonial Causes Law, under which the

courts had wider powers. A draft law putting the spouses on an equal footing would be brought before the Island's legislature in the current year.

14. Under Jersey customary law, the father had the right to custody and the obligation to maintain his legitimate children, while the mother had the right to custody and the obligation to maintain her illegitimate children. The proposed new Children's Law would make the mother's rights statutory and would allow the father joint parental responsibility for an illegitimate child and the right to acquire joint parental responsibility for an illegitimate child. On matters of succession, the Jersey Legislation Committee had indicated a preference to amending the law so as to treat legitimate and illegitimate children equally in all respects.

15. A working group of the Jersey Administration had in December 1999 outlined proposals for a wide-ranging law to deal with racial discrimination, which had been widely circulated for response by March 2000. Such a law had very strong support throughout the Island and it was expected to be adopted by the legislature the following year. In addition, as part of a promotional campaign called for by the legislature, an Island-wide forum of representatives from the public and private sectors had established nine working groups to develop and implement a plan of action to tackle racial discrimination and emphasize cultural integration, focusing on the role of the media, education, the significance of nationality and language, and the role of voluntary agencies.

Derogations and the right to liberty and security of person (articles 4 and 9 of the Covenant)

16. The CHAIRPERSON read out the questions relating to articles 4 and 9: derogations from article 4 in practice under the Prevention of Terrorism (Jersey) Law 1996; the extent to which the Government in enacting that Law had taken into account Covenant obligations and the Committee's concluding observations on United Kingdom anti-terrorism legislation.

17. Mr. BAILHACHE (United Kingdom) said that the successive terrorism laws that had applied in Jersey, as elsewhere in the British Islands, raised important and difficult questions about the rights of individuals. The Jersey Administration, in enacting its own 1996 anti-terrorism legislation to replace the previously applicable 1984 United Kingdom anti-terrorism legislation, had given the issue the most careful consideration. Thus, article 13 of the 1996 Law specified that a person arrested under reasonable suspicion of involvement in terrorism could not be detained for more than 48 hours, with a possible extension by periods not exceeding five days by the Attorney General. That power of extended detention without charge had not been used in Jersey, but the authorities considered it essential to have those powers in their armoury in the fight against terrorism, especially since travellers could move freely between the Islands, the United Kingdom and Ireland.

18. As the official with the legal power to extend an individual's detention, he himself could assure the Committee that he was aware of the requirements of article 9 of the Covenant and would never allow a period of detention to exceed those requirements. Terrorism cases related to Northern Ireland might on occasion require longer periods of detention and such an extension would be in

/...

derogation from article 9, paragraph 3: the United Kingdom had given notice of such derogation in 1988, and the 1996 Jersey law was not considered to affect the applicability of that notice of derogation. The United Kingdom Parliament was currently considering a new terrorism law under which extensions of detention without charge would fall to a judicial authority to decide, thus enabling it to lift its derogation; if so, Jersey would then consider similar amendments to the 1996 Law.

Right to privacy and non-discrimination (articles 17 and 26 of the Covenant)

19. The CHAIRPERSON read out the question relating to articles 17 and 26: justification of any differences between the regulation of heterosexual and homosexual activity in regard to age limits.

20. Mr. BAILHACHE (United Kingdom) said that, as in the United Kingdom, the age of consent for heterosexual activity was 16 and for homosexual activity it was currently 18. The Jersey legislature had not pursued a proposal to lower the age for homosexual consent to 16, for it wished to see how the issue was dealt with in the United Kingdom.

Freedom of religion (article 18 of the Covenant)

21. The CHAIRPERSON read out the question relating to article 18: outcome of the debate concerning the draft Education (Jersey) Law 1999, especially with regard to the right of parents to withdraw their children from religious education and acts of worship in schools.

22. Mr. BAILHACHE (United Kingdom) said that article 20 of the 1999 Education Law, which had come into force in March 2000, did allow parents the right in question. The Religious Education Advisory Council, composed of teachers, school administrators and church representatives, would monitor and submit an annual report on article 20 to the Jersey Administration.

III. Bailiwick of Guernsey

Gender equality and the principle of non-discrimination (articles 3 and 26 of the Covenant)

23. The CHAIRPERSON read out the questions relating to articles 3 and 26: action taken pursuant to the 1993 instruction to the Guernsey States Committees to take all reasonable steps to identify and eradicate any discrimination against women in legislation or practice and to present proposals in that regard, especially action with regard to property, inheritance and the right to hold public office; information on the hereditary system in Sark, under which realty devolved to the eldest son; recourse to and success of the confidential complaint service.

24. Mr. ROWLAND (United Kingdom) said that Guernsey had taken action on discrimination against women across a broad front. The Guernsey legislature had endorsed a progress report submitted by the Advisory and Finance Committee on the basis of information requested from all government departments identifying

areas of discrimination that required legislation. The Committee's next report was due in July 2000.

25. A draft Sex Discrimination (Guernsey) Law, which should be in force before the end of the year, prohibited discrimination against women in employment. That legislation established a panel of judicial adjudicators to hear complaints of discrimination, award damages and make court appeals, in proceedings that satisfied the standards of article 14 of the Covenant. There was no discrimination against women in regard to property, inheritance or the right to hold public office.

26. The Real Property Succession (Sark) Law 1999 had come into force in January 2000 after wide consultation among the population, and had abolished all rules of law or custom that gave preference to males for purposes of succession to real property, including intestate succession. There were also no gender differences in inheritance laws on personalty. The non-governmental Guernsey Citizens' Advice Bureau had, in 1998, established a confidential service to record complaints of sex discrimination by women and to provide advice. Nine complaints had been received by the end of 1999, all related to employment; and four of the complaints would now be addressed under the unfair dismissal provisions of the Employment Protection (Guernsey) Law 1998, with entitlement to damages.

Freedom of religion (article 18 of the Covenant)

27. The CHAIRPERSON read out the question relating to article 18: protection of the guarantees under article 18, particularly with regard to education.

28. Mr. ROWLAND (United Kingdom) said that the Education (Guernsey) Law 1970 contained article 18 guarantees by requiring, in Guernsey and Alderney schools, that facilities for religious instruction must be provided, teachers must not be discriminated against on grounds of religion, pupils must not be required to attend or not to attend any place of worship and must, in accordance with parental wishes, be excused from religious worship and instruction or allowed to receive religious instruction elsewhere. Sark had a single school of 40 pupils divided into three classes, where principles similar to those of the Guernsey law applied in practice. The enactment of a Sark law was under consideration.

IV. Isle of Man

The right to liberty and security of person, and to humane treatment while in detention (articles 7, 9 and 10 of the Covenant)

29. The CHAIRPERSON read out the questions relating to articles 7, 9 and 10: the "special rules for preservation of custodial discipline" mentioned in paragraph 39 of the fourth periodic report, and the "laws and procedures" deemed necessary for that purpose; and segregation of juvenile offenders from adults in all cases, and means employed to accord them treatment appropriate to their age and legal status.

30. Mr. CORLETT (United Kingdom) said that custody discipline was exercised under rules made in 1984 under the Prison Act 1965, as amended. Draft new

/...

rules, based on United Kingdom prison rules 1999, made provision for the discipline and control of detainees. The human rights of detainees charged with disciplinary offences, including penalties which might be awarded, were protected under the existing prison rules; they provided for prompt formulation and investigation of charges; for the detainee to be given a full opportunity to hear the allegations and to prepare and present his case; and for the detainee to be allowed to defend himself in person and not be compelled to incriminate himself.

31. Allegations of a serious nature were referred to the police for investigation and possible prosecution. Legal representation was allowed in such cases, and legal aid was available for that purpose. There was a board of visitors which heard complaints from detainees and reported to the Department of Home Affairs if necessary. Any member of the board could enter the prison, as could any justice of the peace. Under the Custody Act 1995, male detainees under the age of 21 must be detained separately from those over 21, as far as practicable. In practice, they shared accommodation only for church attendance, education and visits. Juveniles (those under 17) were always segregated from older detainees. As of 7 March 2000, there were 17 young offenders (17-20 years old) and one juvenile in the prison and the separate juvenile unit. A member of the board of visitors visited new juveniles within 24 hours of arrival, and then every week. Juveniles had a special regime of family visits, welfare support, counselling, education and recreation.

Right to compensation for unlawful arrest or detention and right to a fair trial (articles 9 and 14 of the Covenant)

32. The CHAIRPERSON read out the question relating to articles 9 and 14: further information on the right to compensation for victims of unlawful arrest or detention and other miscarriages of justice.

33. Mr. CORLETT (United Kingdom) said that common law provided a remedy for those who suffered bodily restraint not expressly or implicitly authorized by law. The High Court could order the release of a person who was falsely imprisoned or wrongly detained, and could also award damages. Miscarriages of justice were dealt with ex gratia. There was no statutory right to compensation for wrongful conviction, but a person who could show that he had a reasonable expectation of receiving compensation could apply for judicial review of the decision. There had only been one case in which compensation had been paid, and there were two outstanding claims for compensation. Persons could also address a petition for redress of grievance to Tynwald.

Freedom of religion (article 18 of the Covenant)

34. The CHAIRPERSON read out the question relating to article 18: how the guarantees contained in article 18 were ensured, in particular with regard to education.

35. Mr. CORLETT (United Kingdom) said that the Education Act 1949 imposed a duty on the Department of Education to provide education in accordance with parental wishes, subject to considerations of efficiency and avoidance of unreasonable public expenditure. Any complaints were raised with the Department

and included in the annual report to Tynwald. There had been four complaints in the period 1996-1998 and four in 1999, but none had concerned the right to education and freedom of religion. All schools were subject to independent inspection, carried out by inspectors from the Office for Standards in Education of the United Kingdom. The reports were made available, free of charge, to parents, the public and the media.

Freedom of association (article 22 of the Covenant)

36. The CHAIRPERSON read out the question relating to article 22: information on any restrictions on the right to form or join trade unions, and on any discrimination on the ground of membership in such organizations.

37. Mr. CORLETT (United Kingdom) said that protection against discrimination on grounds of trade union membership or activities was provided by the Employment Act 1991 and the Employment (Amendment) Act 1996; the Trades Union Act 1991 (as amended) also recognized the right of workers to organize collectively and provided a legal framework, which included various immunities. The only restriction applied to members of the police service who could, however, join the police federation.

Access of public service (article 25 of the Covenant)

38. The CHAIRPERSON read out the question relating to article 25: whether the State party intended to withdraw its reservation to article 25, subparagraph (c), insofar as it applied to jury service in the Isle of Man; information was requested with regard to gender representation on juries.

39. Mr. CORLETT (United Kingdom) said that, subject to certain non-discriminatory exceptions, all persons had been eligible for jury service since the 1980 Act. On 2 February 1993, the United Kingdom Government had notified the Secretary-General of its decision to withdraw the reservation.

Principle of non-discrimination (article 26 of the Covenant)

40. The CHAIRPERSON read out the question relating to article 26: information on any discrimination on the basis of race in legislation or in practice, and the extent to which racial discrimination was prohibited by law.

41. Mr. CORLETT (United Kingdom) said that some legislation, such as the Employment Act 1991, already proscribed dismissal on the basis of race; racial discrimination in general would be the subject of a racial discrimination bill. There was an outdated provision in the Aliens Restriction Act 1948, prohibiting non-British subjects from being members of the Manx civil service, which would be repealed by the civil jurisdiction bill in the near future.

42. Mr. KLEIN said, with regard to the delegation's reply to the question on the incorporation of the European Convention on Human Rights into domestic law, that since the European Convention was not identical to the Covenant, the Committee's concerns were not met by the incorporation of the European Convention alone. Moreover, the European Court of Justice was applying not only the European Convention but also the Covenant, so that, by way of European law,

articles of the Covenant were becoming part of domestic law. It was important, therefore, that the Covenant should not be treated in a different manner from the European Convention.

43. Paragraph 2 of the fifth report referred to an amendment to the administrative decisions review law to enable review boards to be composed of persons who were not States members. He asked whether the independence of those boards was fully ensured. On the question of action to combat racial discrimination, while the Committee had heard that new legislation was being enacted, it needed information on the current situation, in terms of whether racial discrimination in the public and private sector was prohibited by law. Although the Convention on the Elimination of All Forms of Racial Discrimination had been ratified by the United Kingdom, it was not directly applicable within the Crown Dependencies. Lastly, with regard to the question of dissemination of information about the Covenant, he asked the delegation to comment on reports that it was difficult for people and for non-governmental organizations in the territories to obtain information about the reporting process.

44. Mr. WIERUSZEWSKI said that although he was concerned about the late submission of the fourth periodic report, because of that delay and the timely submission of the fifth report, the Committee had been able to consider the situation of the Channel Islands for the first time. While it might be thought that the Channel Islands were not at the top of the Committee's priorities, the principle of universality required that the Committee should concern itself with human rights in the Channel Islands.

45. Notwithstanding the Committee's guidelines, only the fifth periodic report referred to any discrepancies in existing law; it was important for the State party to inform the Committee of any situation which contravened the provisions of the Covenant. The Committee had received a letter from a non-governmental organization complaining that non-governmental organizations had been ignored throughout the reporting exercise. He asked whether the Government had done anything, other than distributing the report and putting it on a web site, to reach out to non-governmental organizations, for example by inviting them to comment. It was discouraging that there were no non-governmental organizations present at the meeting.

46. With regard to the question of equality, particularly of women, he asked what kind of positive measures were being considered to create conditions for equal opportunities for men and women, and what the actual situation was in the three territories; and to what extent the legislation provided the means to combat discrimination by private actors, including persons in private schools. He also sought confirmation that corporal punishment had been abolished in private schools in the Isle of Man.

47. Mr. YALDEN asked whether an ombudsman's office or similar body existed in the territories to deal with human rights related complaints. The review boards referred to in paragraph 2 of the fifth report seemed to have functions similar to those of an ombudsman. With regard to article 17 of the Covenant, he asked for further information about the situation concerning homosexual acts between consenting adults, the age of consent, and so forth, in the territories.

48. With respect to the Isle of Man, he asked what would be considered "blasphemous" statements (fourth periodic report, para. 68), and what would happen to an individual who made a statement which was considered blasphemous. Referring to paragraphs 56 and 57 of the fifth report, he asked what the situation was with regard to the preparation of legislation based on the Human Rights Act 1998 and Equal Pay Act 1970 of the United Kingdom, and what provision would be made for monitoring implementation and enforcement. He also wished to know whether there would be a commission dealing with equal opportunities and sex discrimination.

49. Ms. EVATT said that, although the late submission of the fourth periodic report was regrettable, the Committee had been given an opportunity to consider current issues which were important in terms of implementing the provisions of the Covenant. It was encouraging that each territory was moving towards the implementation of the European Convention, even though that would not give full effect to all the rights protected in the Covenant. She asked whether consideration was being given to providing remedies in cases not covered by the European Convention, in particular, so as to provide general protection against discrimination on all grounds, in both public and private acts.

50. Paragraph 76 of the core document (HRI/CORE/1/62) stated that the Jersey authorities had not considered it necessary to make special efforts to promote general awareness of human rights instruments. She asked whether that attitude had changed. It was important for Jersey to amend the law on maintenance (para. 18 of the fifth report). The delegation had referred to the status of illegitimate children, rather than children born out of wedlock; some importance should be attached to terminology. The application of the principles of articles 24 and 26 required that all discrimination with regard to children and their rights in respect of each parent should be removed.

51. With regard to derogations and the right to liberty and security of person, she said that if those powers had not been found necessary in practice, consideration should be given to bringing the whole question of detention under judicial control. Lastly, referring to article 11, she asked whether it was not possible for the law to allow direct access to assets in the case of debtors who effectively controlled assets which were not held in their name.

52. Mr. ANDO said that it was regrettable that the fourth periodic report had been submitted late; however, the newer information in the fifth report helped the Committee in its work. In relation to Jersey, he requested further information on discrimination against women in the inheritance laws. With regard to Guernsey, he wished information on the criteria and procedures for compulsory detention in mental hospitals, and for the placement of juveniles in secure accommodation (paras. 39 and 40 of the fifth report). Clarification was also sought on the application of child protection laws to the island of Alderney. With respect to the hereditary system of inheritance in Sark, he asked whether there was any discrimination based on the number of children in a family.

53. With regard to the Isle of Man, paragraph 58 of the fifth report referred to modernization of the law relating to the prevention of racial discrimination. Paragraphs 39 and 40 of the fourth periodic report also referred to the

prevention of discrimination; he enquired whether the delegation had anything to add to that information. Paragraph 65 of the fifth report referred to the segregation of young juveniles from adults. More information on how that worked in practice would be appreciated.

54. Ms. CHANET said that the impressive nature of the delegation of the United Kingdom demonstrated the seriousness with which the Government took its obligations under the Covenant. She regretted, however, that it had only one woman. The position of the United Kingdom with regard to the status of the Covenant in domestic law remained generally unchanged: it continued to view the Covenant as a supplementary instrument. Meanwhile, however, the legal landscape had changed. The European Convention on Human Rights, which had previously been accorded the same status as the Covenant, had recently been incorporated into the domestic law. In her view, the legal arguments on which that incorporation was based likewise applied to the Covenant.

55. It would be useful to know how and in what regard those instruments differed. She joined with Mr. Klein in questioning why the United Kingdom maintained the distinction between those two instruments, in particular since the European Court of Human Rights used both. With regard to the status of women in Jersey, she enquired whether any mechanism had been established to evaluate the success of the voluntary approach to the prevention of harassment and discrimination in the workplace, discussed in paragraph 4 of the fourth periodic report, and what measures had been envisaged in the event that the results were inadequate.

56. She fully understood the reason why the United Kingdom had reserved the right not to apply article 11 in Jersey. Nevertheless, that article prohibited the imprisonment of an individual who was unable to fulfil a contractual obligation. Article 11 was not, however, violated in cases where such an obligation was established by legal decision and criminally sanctioned, and in particular when a criminal investigation could prove that the party concerned was deliberately shirking such an obligation, as, for example, in cases involving maintenance obligations. If a legal distinction could be established between the sort of fraudulent efforts to escape liability described in paragraph 10 of the fifth periodic report, and the inability to meet a contractual obligation, a reservation to article 11 might no longer prove necessary, and those persons who were unable to pay would be protected from imprisonment.

57. The delegation had stated that under the United Kingdom Prevention of Terrorism legislation, the length of custody was left to the discretion of the Attorney General. It would be useful to know whether the new local legislation would adhere to standards for duration of custody authorized by the European Court of Human Rights, in conformity as well with article 9 of the Covenant. Little progress had unfortunately been made in ensuring equality between men and women, as provided under article 23 of the Covenant. Further information would be welcome in that regard. Finally, she joined with Ms. Evatt in regretting the use of the term "illegitimate children" to describe children born out of wedlock.

58. Mr. SOLARI YRIGOYEN pointed out that the principal concern of the Committee as a whole was the failure of the Crown Dependencies to incorporate the Covenant into their legislation and to consider such incorporation a priority in the short term. He also regretted the absence of special training on the Covenant for government officials, teachers, judges, lawyers and police. He was encouraged to learn that studies were being carried out to assess anti-discrimination measures in the workplace. Information on the current situation concerning discrimination in Jersey would, however, also be useful.

59. The Government should specify to what extent the Prevention of Terrorism legislation complied with the provisions of the Covenant. He would also like to know whether there was an official religion in the Crown Dependencies, and, if so, whether that religion was treated differently from other religions, especially in the area of education. He was encouraged to learn that no arrested suspect had been detained for longer than five days.

60. Paragraph 18 of the fourth periodic report stated that on the island of Sark, realty was inherited by the eldest son. It would be useful to know what measures had been taken to resolve that incompatibility with the provisions of the Covenant. Finally, the Government should explain what was meant by the use of the conditional mood in the sentence, "The Isle of Man would not contemplate the introduction of retroactive criminal legislation", in paragraph 64 of the fourth periodic report.

61. Mr. SCHEININ said that it was essential that human rights standards should be seen as binding in every exercise of public power. The Committee therefore welcomed the reports on the dependent territories of the United Kingdom. In technical terms, the United Kingdom model for the incorporation of international instruments into domestic legislation was not the same as the traditional model for incorporation, and operated on the principle that a set of assumptions and the role of the courts gave legal effect to the provisions of a treaty. It would be useful to know whether the United Kingdom had foreseen any unintentional consequences of the incorporation of one treaty and not another, in particular the risk that attention would be focused on one treaty to the detriment of the other.

62. In some areas, the Covenant went further than the European Convention. One such area was non-discrimination, which was an important field of human rights law for the dependent territories. In his view, the Covenant should be accorded a status that was both equal to and independent from that of the European Convention. Paragraph 15 of the fifth periodic report mentioned the provision of premises for religious instruction. The provision of religious instruction entailed a responsibility to fund such education for children of other denominations. What measures had been taken to ensure that children of non-Christian denominations benefited from religious education as well?

63. He would also like to know what steps, if any, had been taken in response to the recent report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment indicating that on the Isle of Man certain places of detention were overcrowded and that isolation was used as a disciplinary measure. It would be interesting to know whether the right to democracy, protected under article 25, was fully implemented in the Crown

Dependencies. He had been pleased to learn that the United Kingdom was in the process of withdrawing its reservation to that article in relation to jury service in the Isle of Man. With reference to paragraph 20 of the fifth periodic report, he enquired whether steps had been taken towards removing restrictions on the right to vote in Jersey.

64. Drawing attention to paragraphs 24 and 26 of that report, he enquired whether any efforts had been made to ensure fully the right to democracy in Guernsey, particularly in Sark, where representation on the legislature was associated with the ownership of certain properties and where aliens were not permitted to vote. Paragraph 77 of the fourth periodic report indicated that only British subjects or subjects of the Republic of Ireland had the right to vote on the Isle of Man. Although article 25 referred to citizens, that was one of the rare instances in international human rights law in which a distinction was drawn between citizens and non-citizens. Although problems naturally arose when political power was divided among international, European, national, self-governing and local authorities, States nonetheless had an obligation to ensure that all persons had the right to participate in political affairs.

65. Mr. AMOR said that the fourth and fifth periodic reports indicated that there were separate private schools for boys and girls in Guernsey. In view of the fundamental importance of co-education in improving contacts between girls and boys and counteracting discriminatory attitudes, he would like to know whether government-funded schools were also separate or were co-educational.

66. The reports indicated that religious education was or would soon be compulsory in government-funded schools in Jersey and the Isle of Man. He would like to know whether instruction was limited to religious tenets or extended to religious practices, how the particular set of beliefs to be taught was determined and whether the content was decided by the State or by the Church. Even if there were very few practitioners of minority religions, school instruction in one particular religion implied State support for that religion as against others. Although the law allowed parents to withdraw their children from religious education and acts of worship, that withdrawal could tend to make the children feel excluded and perhaps lead to ostracism.

67. The provision in Guernsey and Sark that marriages could be solemnized in buildings other than religious buildings or private houses led him to wonder whether a distinction was made between civil and religious weddings and, if so, what the legal effects of such a distinction might be. Like many of his colleagues, he was concerned about the reservation to article 11 of the Covenant expressed by the United Kingdom because of the practice of imprisonment for debt in Jersey. In the delegation's presentation, at least one case had been mentioned in which article 11 had been specifically cited. He would like to know whether the defence or the bench had invoked it and what weight the Covenant had been given in the decision.

68. Ms. GAITÁN DE POMBO said that she would appreciate further elaboration on the place of the Covenant in the British law and more details on the rules and criteria being applied in the islands regarding detention before trial. She joined other colleagues in emphasizing the discrimination implicit in the term "illegitimate". She would also like to know more about the process by which the

periodic reports had been prepared, in particular, what bodies or groups had been consulted and whether there had been any participation by non-governmental organizations. Perhaps preparation of the next report could be a useful mechanism for raising awareness in the islands about the provisions of the Covenant.

69. Mr. LALLAH said that, while it was welcome news that the United Kingdom had decided to incorporate the European Convention on Human Rights into its legislation, it was unfortunate that no plans had been made to do the same with the Covenant, since it differed in some respects from the European Convention. Countries that were great champions of human rights, like the United Kingdom, should set the example for others.

70. He would like to add his voice to the concerns expressed about the reservation to article 11 because of the practice of imprisonment for debt in Jersey. It was true that many countries had a similar practice and also true that the grounds for imprisonment for unsatisfied money judgements were usually quite restricted, essentially to fraud. In practice, however, when a debtor was called before a court to explain why he could not pay a debt, he was in essence on trial and the proceedings often violated the legal guarantees provided for in article 14 of the Covenant. He would therefore like to know more about the laws governing imprisonment for debt in the islands and the precise procedure that was followed. He was also interested in knowing how commonly the penalty was applied, whether there was a historical tradition behind the reservation and whether there was room for progress.

71. Mr. HENKIN said that he shared the concerns expressed about the effect of religious instruction and worship in the schools on freedom of religion or belief, and along with other Committee members he was eager to see the provisions of the Covenant incorporated into the laws of the islands and of the United Kingdom at large. He wished to make the point that the provision in article 25 of the Covenant, whereby every citizen had the right to take part in the conduct of public affairs, need not be interpreted restrictively. While there were perhaps good reasons for restricting the right to vote in elections to citizens, it was often found to be good for the welfare of the community to involve other residents in civic affairs, such as school boards. He was also interested in more information on the legal grounds for depriving a person of the right to vote.

72. The fifth periodic report and the presentation had mentioned many significant new laws that were pending. It would be of great interest to the Committee to have follow-up information on those even before the submission of the sixth periodic report. It was commendable that the United Kingdom was a party to the European Convention on Human Rights, but it should be pointed out that the jurisprudence under the European Convention was not identical to that under the Covenant. Therefore he would urge the United Kingdom to consider ratifying the Optional Protocol, since the insight to be gained from the Committee's consideration of communications could be instructive at a time when human rights legislation in the United Kingdom and Crown Dependencies was undergoing thorough revision.