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ON CIVIL AND
POLITICAL RIGHTS**



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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 190th MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 24 October 1979, at 10.30 a.m.

Chairman:

Mr. MAVROMMATIS

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GE.79-4359

The meeting was called to order at 10.45 a.m.

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

Report submitted by Poland (CCPR/C/4/Add.2) (continued)

1. The CHAIRMAN invited the representative of Poland to answer the questions that had been put during the consideration of her Government's report.
2. Mrs. REGENT-LECHOWICZ (Poland) said she wished first to thank all the members of the Committee for the interest they had taken in the report submitted by the Polish Government, as demonstrated by the number and nature of the questions they had put.
3. In the socialist conceptual system, which Poland had naturally adopted, human rights were viewed as a whole, the better to ensure their realization, their dynamic development and their protection, with the increasing participation of the people. Apart from the fact that it was established practice for Parliament and the Government to ask associations of jurists for their opinion, the Polish people were consulted about the majority of legislative bills which concerned the rights of citizens. They had in fact recently been consulted about all the draft codes, the draft Act on Quality of Goods, Services, Works and Construction, and the bill on the social insurance and pension entitlements of private farmers and their families. In the case of legislation of lesser importance, only the social organizations concerned were consulted. The consultations were arranged by those organizations, which played a very important part in the protection of the rights and interests of citizens, in the case, for instance, of claims with respect to subsistence or labour relations, and claims for compensation for industrial accidents and occupational diseases. The organizations in question were entitled to intervene in proceedings that had already been initiated and, even if they were not parties to a specific case, they could state their opinions to the competent court, which had to take them into account. They also intervened in criminal proceedings, both before and during the trial itself, to defend such interests as came within their competence in accordance with their statutes.
4. The courts acted with the participation of the people, through people's assessors who were elected by People's Councils. The Councils also elected the members of the boards that dealt with less serious offences under the Code of Procedure for such offences from among the citizens living and working in a particular place who had full civic rights, were 24 years of age, and were capable of acting in the capacity in question. The boards' proceedings were public. The establishment of professional and social administrators was another special device for enabling society to participate in the activities of the courts.
5. In reply to the question put concerning the nature of the social tribunals, she explained that they were governed by the Act of 30 March 1965 and were not organs for the administration of justice but concerned themselves with education and conciliation.

6. With regard to the legal education of citizens, she explained that the Polish Government attached great importance to the widespread dissemination of the laws and to the inculcation in society of the moral principles embodied in the legal norms. Legal education, which was initiated and organized by the Department of Legal Education of the Ministry of Justice, was undertaken by judges, prosecutors, advocates, legal advisers, social organizations and the mass media; which even gave legal advice free of charge to private persons.

7. Referring to the observation made by Mr. Hanga on the important role of social ownership as a fundamental guarantee for the protection of citizens' rights in Poland, she said that social ownership, which existed in Poland side by side with private ownership of the means of production and individual ownership, covered the principal categories of the means of production and had become the guarantee of the abolition of man's exploitation by man by ensuring the equitable distribution of the national income and the implementation of the principle of equality laid down in the Covenant. In reply to the questions concerning the extent of individual ownership, she explained that the limits fixed by the law applied to real estate. A farmer was entitled to own up to 50 hectares or, in certain areas of the country, up to 100 hectares.

8. Turning to the questions on the relationship between the Covenant and the Polish legal system, she noted that, in ratifying the Covenant, the Council of State had recognized it as equitable in its entirety and in its several provisions, and, on adopting, ratifying and confirming the Covenant, had undertaken to respect it. Poland had thus entered into a commitment vis-à-vis the other States parties to respect the obligations deriving from the Covenant. Moreover, in publishing the Covenant in the Official Gazette and several other national publications, Poland had undertaken to do all that was necessary to guarantee and protect in its territory the rights that were embodied in the Covenant. In the event of a conflict between domestic law and the provisions of the Covenant, the principle of pacta sunt servanda would apply. It was only in that sense that the Covenant took precedence over municipal law. In practice, Polish citizens, as individuals, were unable to invoke the Covenant effectively in order to demonstrate that a specific rule of law was null and void because it ran counter to the Covenant. The rights laid down in the Covenant were given effect in Poland through the medium of domestic law and in accordance with it. With respect to Poland's accession to the Optional Protocol, Poland had adopted a certain position at the time of the vote on the Protocol and that position remained unchanged.

9. With respect to the clarification requested concerning the period covered by Poland's report, she said that the report had been prepared in accordance with the provisions of article 40 of the Covenant and related to the period that had elapsed since the ratification of the Covenant, although a few references had been made to the preceding period in order to give a clearer picture of the existing legal situation in Poland. As to whether the 1932 Order on associations, which was still in force, continued to meet the requirements of the existing socio-political

system, she said that socialism did not feel the need to break with old progressive traditions and that a legal norm could remain in force as long as it satisfied real needs. The same applied to the 1951 Decree on Regions of Particular Importance for National Defence.

10. Referring to the question concerning Poland's attitude towards the Republic of South Africa, put in relation to article 1 of the Covenant, she stressed that Poland maintained no economic, political or sporting relations with South Africa. Poland had supported the United Nations resolutions on the right of peoples to self-determination as well as the Declaration on the Granting of Independence to Colonial Countries and Peoples. Between 1961 and 1971, Poland had been a member of the Committee of 24 and since 1972 it had been a member of the United Nations Council for Namibia. Poland had supported the Security Council's decision of 23 July 1970 to impose an arms embargo against South Africa and urged that the sanctions provided for in Chapter VII of the Charter of the United Nations should be applied against South Africa. Poland had taken an active part in drawing up the International Convention on the Suppression and Punishment of the Crime of Apartheid, and had been one of the first countries to ratify it.

11. The questions raised, in relation to article 2 of the Covenant, concerning the omission of a reference to political or other opinions from article 67, paragraph 2, of the Constitution had already been answered correctly by Mr. Sadi. She would merely add that Polish legislation contained no provision which departed from the principle of the equality of human rights on the grounds of opinion. For instance, there were no restrictions in Poland on the recruitment of persons who held particular political opinions. Article 67, paragraph 2, of the Constitution should be considered in conjunction with article 83, paragraph 1, which explicitly guaranteed freedom of speech.

12. In answer to a question put by Mr. Bouziri, she explained that since the ratification of the Covenant by Poland, there had been no violation of the principle of equality necessitating the imposition of penalties. She added that respect for the principle of equality and tolerance was included in school curricula.

13. Taking up the questions concerning the power of the courts to determine the constitutionality of laws, she pointed out that, under article 63 of the Constitution, the judges were subject to the law. That was also true of decree-laws issued by the Council of State, which had to be approved by Parliament. Consequently, the courts were not required to rule on the compatibility of the laws with the Constitution. However, they did have the right to determine whether executive orders and other juridical orders were consonant with the Constitution and other laws. The courts were empowered not to give effect to an order emanating from a body of lesser rank if it was not in accordance with the law. The Council of State was responsible for seeing that the laws were in harmony with the Constitution.

14. On the question of the status of the Council of State in Poland, she said that the Council was elected by Parliament and was answerable to it. In the interval between sessions of Parliament, the Council of State exercised legislative functions. It was empowered to issue decrees having the force of law, but they subsequently had to receive parliamentary approval, which was not a mere formality.

15. As to the questions concerning the effectiveness of the protection of human rights in Poland, she pointed out that the Polish report dealt with the different ways in which human rights were protected. There was, for example, the very important role played by the Public Prosecutor General, who was concerned not only with fighting crime but also with safeguarding the people's rule of law. In exercising his powers of control, the Public Prosecutor General had the right to challenge general legislative acts that were not in conformity with the law and to request local administrative bodies to take the necessary action in that respect. Similarly, the social control committees, which were responsible for supervising various areas of economic life, were particularly important as far as protection of the rights of citizens was concerned.

16. On the question of how far the provisions of the Constitution concerning Polish citizens were applicable to aliens in Poland, she said that some of the provisions, such as the right to vote, concerned Polish citizens only. Others were applicable to aliens as well, particularly those bearing on human rights. Aliens in Poland could have the same rights and duties as Polish citizens unless the law decided otherwise, as in such cases as employment in the public administration and the acquisition of real estate.

17. Referring to the questions which had been asked in relation to article 3 of the Covenant, she said that women represented about 52 per cent of Poland's total population and 43 per cent of its economically active population. In the technical schools there were almost 1 million girls and in institutions of higher education they represented half the student body. The principle of the full equality of men and women, which was written into the Constitution, was thus a reality. Polish women were now active in every aspect of the life of the community, and often held responsible posts in enterprises, education, Parliament, the courts, the judiciary and local government bodies; moreover, two members of the Council of State were women. She reminded the Committee that it was Poland which had taken the initiative in submitting the draft Declaration on the Elimination of Discrimination against Women, and that it had ratified the conventions on the legal status of women.

18. Taking up the questions bearing on article 4 of the Covenant, she said that Poland had the right to suspend compliance with its obligations under the Covenant in the circumstances envisaged in that article. Polish legislation contained no regulations regarding the state of emergency, but under the Constitution a state of war could be declared should that be required by considerations of the defence or security of the State.

19. Recalling that Mr. Tarnopolsky had drawn the Committee's attention to the last paragraph of the section of the report concerned with article 6 (CCPR/C/4/Add.2, p.9), she explained that a mistake had been made and that the correct text of article 109 of the Executive Penal Code was the following:

"Paragraph 1. The death penalty shall be carried out as soon as it is known that the Council of State has not invoked its right of reprieve.

Paragraph 2. The court shall postpone the execution of persons condemned to death who are suffering from a serious illness or a mental disorder until they have been cured. In matters of postponement, the Court shall take a decision without delay".

20. Crimes against socialist property were governed by article 134 of the Penal Code, which prescribed a sentence of 8 to 25 years' deprivation of liberty for anyone who, while engaged in the management of a unit of the socialized economy, in complicity with other persons, seized goods of high value to the detriment of that unit and provoked serious disturbances in the functioning of the national economy. It also provided that the death penalty could be imposed on persons who organized or directed such criminal activity. Since the Penal Code had come into force on 1 January 1970, the death penalty had never been imposed on the basis of that provision.

21. On the treatment of convicted persons or detainees, article 7 of the Executive Penal Code stipulated that the rights of the convicted person could not be curtailed over and above the limits necessary for execution of the sentence passed or application of the relevant measure and that penalties should be carried out in a humane manner and in respect for human dignity. The penitentiary judge and the public prosecutor were responsible for supervising the serving of the sentence. Convicted persons and detainees had the right to appeal should they be subjected to treatment contrary to the principles expressed in the Executive Penal Code. If a person sentenced to deprivation of liberty died, there was a very thorough inquest into the circumstances of death.

22. In the context of the application of article 6 of the Covenant, a number of questions had been put on the circumstances in which abortions could be performed and on the infant mortality rate in Poland. According to a decree-law of 27 April 1956, a pregnancy could only be terminated on medical recommendation or when the living conditions of the pregnant woman were difficult, or if there was the well-founded presumption that the pregnancy was the consequence of an offence. In the case of an under-age girl, permission was required from the parents, guardians or guardianship court. The decision to terminate a pregnancy was that of the woman alone, and the husband's consent was not required. In general, social institutions were attempting to prepare young people for family life and as a result of all those efforts, the number of abortions had decreased.

23. The existence, in both urban and rural areas, of many consultation services for future mothers and of free medical and other care for pregnant women and infants had resulted in a decline in the infant mortality rate. According to data available in 1978 that rate was less than 23 per thousand. Protection of the child was accorded particular importance in Poland, and a child health centre had been built in Warsaw in memory of the 2.2 million Polish children victims of the Second World War. The building of the hospital, which was one of the most modern in the world, had been financed by the Polish State, international organizations, big European and American companies, and individuals. Children requiring the attention of highly qualified specialists received free treatment there without distinction as to creed, colour or nationality.

24. In respect of article 7 of the Covenant, full account was taken in executing sentences involving deprivation of liberty, of the principles mentioned in the report. Heads of districts were required to visit prison establishments in order to inspect conditions of detention and, where necessary, they could take appropriate action.

25. In reply to a question relating to article 8 of the Covenant, she explained that the Polish legal system did not provide for forced or compulsory labour, except in the cases referred to in paragraph 3(c) of that article. Persons sentenced to penalties involving deprivation or restriction of liberty were required to work, a requirement which was consistent with the article concerned.

26. In connexion with the application of article 9 of the Covenant, a number of questions had been asked concerning the length of time for which a person could be remanded in custody. Under article 222 of the Polish Penal Code, the period during which someone could be so remanded by decision of the public prosecutor could not exceed three months; however, if the preparatory proceedings could not be completed within that period, the voivodeship prosecutor had the right to extend the detention to six months and the voivodeship court to a longer period, as required in order to complete enquiries. Administrative bodies did not have the right to decide to deprive a person of his liberty, except in those cases indicated in the report.

27. In regard to article 10 of the Covenant, the Polish prison system was based on the rehabilitation of prisoners and attempts were made to maintain contact between the prisoner and his family. Under article 48, second paragraph, of the Executive Penal Code, a person sentenced to deprivation of liberty had the right to communicate with persons outside and, in particular, to maintain contact with his family, for example by visits and letters. The relevant principles were contained in the regulations relating to application of sentences involving deprivation of liberty.

28. Several members of the Committee had put questions concerning the application of article 12, relating to freedom of movement and the freedom of persons to leave and enter their own country. It had been asked if tourists could obtain the foreign currency necessary for travel abroad, as Polish currency was not convertible. There was no restriction on tourism abroad, the only limit being the financial capacity of the State and society. An allocation \$US 150, at a favourable rate of exchange, was made per person. Individuals were entitled to use foreign currency in their possession for tourism abroad. Purchase of socialist country currencies posed no problem as it was effected in the travel bureau. In 1973, some 10 million Polish citizens had gone abroad - over 9 million of them to socialist countries and 580,000 to capitalist countries. Visas were no longer required either for socialist countries or for Austria, Sweden and Finland, and application forms for Polish visas had been simplified. Any Polish citizen had the right to leave Poland, and exceptions to that principle represented only 0.6 per cent of cases. The question of permanent departure for the Federal Republic of Germany, affecting Polish citizens holding Polish passports who went to the Federal Republic to be reunited with their families, was governed by an agreement between the Government of Poland and the Government of the Federal Republic of Germany. The latter had on several occasions expressed satisfaction with the application of the agreement.

29. As to the grounds on which a person who was abroad could be deprived of his nationality, article 15 of the Polish Nationality Act provided that a Polish citizen could be deprived of his nationality: firstly, if he had violated his duty to be loyal to the Polish People's Republic; secondly, if he had acted against the vital interests of the Republic; thirdly, if he had left the territory of the Republic illegally after 9 May 1945; fourthly, if he refused to return to Poland when requested to do so by a competent State body; fifthly, if he evaded military service; and, sixthly, if he had been sentenced abroad for an offence which was also an offence under ordinary law in Poland or if he was a recidivist.

30. Concerning movement within the country, Polish law did not restrict the individual's freedom to choose his place of residence. Exceptions to that rule had been introduced for the reasons mentioned in the report. They concerned fortified areas important for national defence or border areas. The economic reasons mentioned by Mr. Tarnopolsky related to the distribution of experts throughout the country in accordance with the needs of the economy. In that connexion, there was a system of scholarships which were granted to students by enterprises and which were a kind of advance employment contract, requiring that the student benefiting from the scholarship should work for a certain period of time for the enterprise concerned.

31. In regard to article 13 of the Covenant, administrative bodies were entitled by law to decide to expel an alien, but the law gave an exhaustive list of the grounds for expulsion and guaranteed the party concerned or his legal representative the right to appeal against the decision.

32. There had been many questions relating to article 14 of the Covenant, particularly questions on the organization and composition of the courts, the appointment and removal from office of judges and their independence, offences of the "hooligan" type and the detainee's contacts with his counsel. The majority of civil and criminal cases were tried by the ordinary law courts. The labour and social insurance courts heard appeals filed against decisions taken by arbitration boards, labour dispute appeals boards and administrative bodies with responsibility for social benefits. Arbitration boards and labour dispute appeals boards were also entitled to bring cases raising serious legal doubts before those courts. Military tribunals dealt with offences committed by members of the armed forces while performing military service and, exceptionally, offences committed by civilians against the fundamental interests of the State (for example, espionage). The procedure followed in all those courts ensured that the parties enjoyed the rights provided for in article 14 of the Covenant.

33. The Supreme Court was the highest organ in the judicial order and had jurisdiction over all other courts. Supreme Court judges were appointed by the Council of State for a term of five years. Under article 59 of the Act concerning the Organization of the Judicial System a judge could be removed from office if he no longer afforded the necessary guarantees for the proper discharge of his duties, but the provision had hardly ever been applied. There had only been one case of dismissal in the past 10 years, and no judge had been removed from office since 1977.

34. The principle of the independence of judges was stated in article 62 of the Constitution and again in article 47 on the Act concerning the Organization of the Judicial System. The limited possibilities of removing a judge from office formed the principal guarantee of that independence. By article 59 of the Act concerning the Organization of the Judicial System, the Minister of Justice could declare a judge relieved of his duties when the judge resigned from office; when a medical commission certified that the judge was permanently incapacitated from exercising his duties because of illness; when he had not practised for over one year because of illness or leave of absence; or when he reached 65 years of age, with the proviso that the Minister of Justice could, at the judge's request, extend the duration of his service until he was 70 years of age. Judges could also be relieved of their duties by a decision of the disciplinary court. During the past 10 years there had only been three such cases.

35. Courts were made up solely of professional judges. The judges of the disciplinary court of first instance were elected by the General Assembly of voivodeship judges. The disciplinary court of last instance was made up of Supreme Court judges elected by the General Assembly of the Court. To be appointed judge, a person had to afford the necessary guarantees for the proper discharge of a judge's duties, to be of Polish nationality, to be of irreproachable moral conduct, to have completed his higher legal studies, served a two-year apprenticeship and passed the examination to become a judge, to have practised as a surrogate for one year and to be not less than 26 years of age. Judges included members of the Polish United Workers Party, members of the Democratic Party, members of the Peasants' Party, and individuals without any party affiliation.

36. The independence of judges was also guaranteed by the provisions on procedure. Judges gave their decisions according to the dictates of conscience and on the basis of an independent appraisal of the evidence, while taking into account scientific information and their experience of life. No exception was allowed to the principle of secrecy in deliberation and voting. The public nature of legal proceedings, the collegiate nature of decisions and the participation of juries in judicial decisions were further guarantees of the independence of judges. Secret hearings were the exception, and in such cases two persons appointed by each of the parties, as well as persons admitted pursuant to a decision of the president of the court, were present. The verdict was pronounced in public, although the judge might make an exception to that principle in criminal cases where a State secret was involved.

37. In criminal cases, judgement could be pronounced by default only in the instances specified by law. In such cases the text of the judgement had to be transmitted to the convicted party, who had 14 days in which to request a new hearing at which he would be present. Should the person concerned avail himself of that right, the judgement pronounced was not executed and the case was tried again.

38. The procedure applicable to offences of the "hooligan" type concerned only persons caught in the act or immediately thereafter. In the courts which dealt with such cases there was a permanent legal service which ensured accused persons the services of a lawyer. In Poland the financial situation of a citizen was no obstacle to legal protection. Legal costs were not high, the system of exemption from payment of costs was widely applied and there were many forms of legal aid and free legal advice.

39. The right of the accused to communicate directly with his counsel without other persons being present was limited only in exceptional cases and only during the initial stage of the investigation. In her view, there was no contradiction between those exceptions and the principle laid down in article 14, paragraph 3, of the Covenant.

40. In reply to Mr. Opsahl's comment regarding the payment of translation expenses by an individual ordered to pay costs, she noted that it was the Covenant rather than the European Convention on Human Rights that applied in the present instance. Article 63, paragraph 2, of the Penal Code applied only to the rehabilitation of recidivists. The recidivist was kept under protective supervision after his release; that supervision formed part of a gradual process of rehabilitation and readjustment to life in society. The restrictions relating to choice of residence were dictated by the need to monitor progress in the rehabilitation process and terminated at the same time as protective supervision.

41. As to the implementation of article 17, the Code of Penal Procedure recognized the right of the court or the public prosecutor to decide to open private correspondence, as well as the right of appeal of the person whose correspondence was opened. That question was also dealt with by the 1961 Telecommunications Act, which allowed a post office to open mail which it had not been possible to deliver because the identity of the addressee or the sender was unknown. Certain aspects of the question were also regulated by Customs legislation.

42. In connexion with the implementation of article 18, several members of the Committee had put questions regarding religious education and the status of the Church in Poland. Since 1961, religious education had been entirely the responsibility of the Church, acting under the supervision of the Minister of Education. For the 21,505 catechism schools, there were several religious publications put out by religious organizations, such as the Caritas Publishing House and the Episcopal Curia. In addition, there was a catholic university at Lublin which enjoyed all the rights of State higher educational establishments; it had four faculties (literature, theology, canon law and Christian philosophy) and in 1978-1979 had been attended by 2,140 students. The Roman Catholic convents ran 12 schools.

43. The training of the Catholic clergy comprised three stages: primary seminary, higher seminary and advanced studies in theology, the latter being given in the faculties of theology of the Academy of Catholic Theology at Warsaw and the Catholic University at Lublin. Several Polish towns also had papal theological faculties which awarded degrees in theology. The clergy of other denominations were trained either in seminaries or schools run by the Orthodox Church, the Polish Catholic Church, the Mariavites, the Adventists and the Baptists, or the Christian Theology Academy.

44. Poland had always been a country of religious tolerance and had often afforded asylum to victims of religious persecution. It was prohibited either to compel someone to take part in religious ceremonies or to restrict participation in such ceremonies. Parents were free to decide on a religious education for their children.

45. Some members of the Committee had expressed the fear that the prohibition of insults against the Polish State and its various organs, subject to the penalties provided for in the Penal Code, or the prohibition of dissemination of information which might be injurious to the interests of the State, might give rise to abuse and arbitrariness. It should be pointed out in that connexion that during the period 1977-1979 only four persons, including one foreigner, had been sentenced for that offence.

46. Information had been requested regarding freedom of artistic expression, and the fact that there was only a single association in each field of artistic life had aroused concern. In that regard, she wished to state officially that the Polish State assured full freedom of artistic experimentation. Polish art was appreciated throughout the world, as the names of Iwaszkiewicz, Abakanowicz, Wajda, Zanussi and Penderecki testified. Nearly all artists belonged to an artistic association, whatever their political opinions.

47. As to the Central Office for Control of the Press, Publications and Public Entertainment, regarding which information had been requested, she explained that the duties, rights and operating procedures of that Office were laid down in official publications and that its work, like that of all other organs of the central administration, was supervised by Parliament. The Office granted newspaper publication permits and decided whether a particular publication would or would not be subject to control. In Poland much importance was attached to the citizen's freedom to criticize. Under an order of the Council of Ministers, no blame attached to a person acting in good faith within the limits of the law and on the basis of accurate information. Attempts to stifle criticism were inadmissible. Persons failing to act within the spirit of the provisions indicated laid themselves open to severe disciplinary penalties.

48. As to article 20 of the Covenant, the question had been raised as to how the provisions concerning the prohibition of propaganda for war were applied. That matter was governed by the Defence of Peace Act of 20 December 1950, which provided very heavy penalties, ranging up to 15 years' deprivation of liberty, for any person engaging in war propaganda. It was at the initiative of Poland that the United Nations General Assembly, at its thirty-third session, had adopted a Declaration on the Preparation of Societies for Life in Peace. As to the punishment of all racist, and particularly anti-Semitic, propaganda, about which a question had been asked, the criminal responsibility attaching to such propaganda was governed by articles 272 and 274 of the Penal Code. No case involving propaganda of that kind had been brought before the courts in recent years.

49. Articles 21 and 22 had been the subject of several questions. One was whether permission was required for every meeting. No permission was required for meetings which involved no disturbance of public order and which were held at the initiative of existing organizations. It had also been asked whether the rules of Polish law were in keeping with articles 21 and 22 of the Covenant where the limitation of freedom of assembly was concerned. It should be observed in that connexion that Polish law, like articles 21 and 22, was worded in general terms, but that a background study made in Poland before the ratification of the Covenant had led to the conclusion that there was no conflict between Polish law and articles 21 and 22 of the Covenant.

50. As to the question of the guiding role of the Party, she stressed that Party members did not enjoy a higher social rank than did non-members but that they had more important duties in the professional and socio-political field.

51. It had been asked why trade unions were treated separately. In Poland, the trade unions took part in the preparation of social and economic plans at all levels. In all areas affecting the interests of workers, the trade unions represented their members as well as non-union workers. Broadly speaking, there were three categories of social organizations in Poland; simple associations, declared associations, and associations of higher public utility. Each category of organization was subject to different rules. The Polish Red Cross, the National Defence League and the Association of Polish Jurists were examples of organizations of higher public utility.

52. With respect to article 23 of the Covenant, information had been requested regarding the family tribunals. Those courts specialized in problems connected with family life and were aided by permanent and voluntary probation officers, also known as trustees. The complexity of judicial matters involving the family, especially guardianship, had made it necessary to reorganize the competent tribunals according to new forms and procedures. The restructuring of the judicial system through the establishment of family tribunals on 1 January 1978 reflected the priority attached by the Polish State to the protection of the family and young people. The work of the family tribunals was based on principles designed to ensure that cases involving a particular family would be examined by the same judge, one who was familiar with all the conflicts arising within it. The same principles also resulted in expanded preventive and resocializing work with families having problems of education, and in a comprehensive approach to the problems of minor children, whose resocialization difficulties were associated with their natural environment.

53. The family tribunals had to deal with cases involving marriage and its functioning, the rights and duties of parents and children, the performance of educational guardianship tasks by the family, material needs and the prevention and neutralization of conduct exerting a destructive influence on the life and security of the family. The family tribunals had jurisdiction in respect of offences committed against the family, guardianship and young people. They had at their

disposal auxiliaries in the form of professional trustees (pedagogues, sociologists, psychiatrists), as well as many voluntary social trustees, mostly educators who, being in the schools, not only had an opportunity to see how parents exercised their parental authority, but were also able to keep an eye on the child's living conditions. Those persons were extremely useful and played an important role in protecting the entire family. In the system thus established, there were also consultation and diagnosis centres staffed by teams composed of representatives of the professions needed for the observation of minors and analysis of the causes of family conflicts.

54. The problems connected with articles 23 and 24 of the Covenant had given rise to a number of questions. One had to do with the role of the interests of the child in the case of conflict between parents. In the socialist ethic the interest of the child occupied a high place. Family conflicts which ended in divorce were undoubtedly a misfortune for the child. Polish policy was based on the principle that even at the judgement stage the interests of the child must nearly always take precedence over those of the parents. That did not mean, however, that there was no dissolution of marriage. Divorce was provided for in Polish law.

55. With regard to article 24 of the Covenant, she said that the provisions of the Polish Labour Code enabled working women to carry out their duties as mothers by granting them the right to paid maternity leave. A working woman who assumed responsibility for a child under four months of age was also entitled to leave so that she could look after the child. The Polish system granted a mother the right to three years' unpaid leave to look after her young child. A woman who availed herself of that provision did not lose her social insurance and pension entitlements. An employer was obliged to guarantee that she could return to work in the same post at the same establishment. Under those provisions, the mother was free to choose either to remain with her child during its first years or to use day nursery facilities and continue to work.

56. It had been asked how the principle of free and full consent of intending spouses was applied in Poland. In accordance with the Family and Guardianship Code, marriage was contracted before a registrar. The intending spouses were asked to submit a statement in which they confirmed their wish to be bound by the ties of marriage. They could be married one month after having indicated that wish. Marriages were dissolved through divorce proceedings, but Polish law did not make provision for the annulment of a marriage in the absence of free and full consent.

57. It had also been asked who was authorized to determine whether a person wishing to marry was suffering from a mental illness. That was in fact the responsibility of the intending spouses, because they were obliged to submit a written statement to the registrar affirming that, to the best of their knowledge, there was no impediment to their marriage. If the registrar discovered that one of the intending spouses was suffering from a mental illness, he rejected the application for marriage. If there was any doubt, the question was settled by a court. If a mental illness, unnoticed at the time of marriage, became evident at a later stage, the court annulled the marriage.

58. Mixed marriages were not prohibited by Polish law and did not automatically involve a change of nationality. A foreign woman who married a Polish national acquired Polish nationality if, in the three months following the date of her marriage, she made the necessary statement before a competent body and if that body decided to grant her request. The child born of a mixed marriage acquired Polish citizenship unless his parents decided otherwise. When the parents did not agree the question was decided by a court.

59. With regard to article 27 of the Covenant, clarification had been requested on national minorities. Instruction was provided in the mother tongue of the national minorities during State primary and secondary education. Such instruction was arranged at the written request of the parents and provided that there were at least seven pupils. There were currently 102 teachers' posts and 6,515 pupils for such education. The legal basis for that activity was the ordinance of the Minister of Public Instruction of 20 August 1952. Two faculties had been created at the University of Warsaw (Byelorussian philology and Ukrainian philology) in order to ensure the teaching of minority languages. On completing their studies, graduates taught in primary and secondary schools in the region where the minority in question lived. Educational establishments also provided the minorities with libraries and newspapers, inter alia newspapers in Yiddish, Greek, Ukrainian, Byelorussian, Lithuanian and Slovak. There were radio and television programmes including information on the cultural and social activity of the minorities.

60. The CHAIRMAN thanked the representative of the Government of Poland, on behalf of the Committee, for her replies to the questions raised by the Committee.

61. Sir Vincent EVANS endorsed the thanks expressed by the Chairman and asked that the replies which the Committee had just heard should be reflected as fully as possible in the summary record. He hoped that subsequently, after having studied the replies and any supplementary information which the Polish Government might submit in writing, the Committee would have an opportunity for further discussion with the Polish delegation.

62. Mr. BOUZIRI endorsed the thanks expressed by the Chairman for the replies to the questions of Committee members. Any points which might have escaped the attention of the representative of Poland, because of the large number of questions put, would certainly have been reflected in the summary records. The representative of Poland would therefore be able to reply subsequently in writing. He hoped that the co-operation between the representative of Poland and the Committee would continue in the same cordial atmosphere.

FUTURE MEETINGS (agenda item 7)

63. The CHAIRMAN said he thought the fact that the following session of the Human Rights Committee would not be held in New York should be reflected in the summary record. The Committee should, moreover, come to a final decision concerning the composition of the Working Group.

64. Mr. BOUZERI said he was not very pleased at the prospect that the Committee would be unable to hold its following session in New York. His feelings were certainly shared by other members of the Committee. In view of the importance of the Human Rights Committee, the Secretariat should be urged more strongly to give the Committee an opportunity to hold its following session at New York. Perhaps the Chairman of the Committee should approach the Secretary-General as its spokesman and point out that it was inadmissible that a Committee should not be able to meet at United Nations Headquarters in New York, where the opportunities for contact, work and publicity were better.

65. The CHAIRMAN said that, according to the reply received from New York, it was not only because of the Conference on the Law of the Sea but also because of the programme for improvements to the conference rooms that the Committee could not be provided with a meeting room. If the Committee so wished, he would raise the question with Conference Services on his return to New York. However, as things stood, he had little hope of being able to have the decision altered. The place and date of the following session would be communicated to members of the Committee at the same time as the provisional agenda. If the following session was to be held in Geneva, the July session would have to be held in New York, and the Committee could take a decision on that point immediately.

66. Mr. PRADO VALLEJO reminded members that the question of organizing sessions of the Committee elsewhere than in New York and Geneva had already been raised and that he himself had expressed the hope that a session of the Committee could be held in Latin America. He drew the Committee's attention to the fact that the Committee on the Elimination of Racial Discrimination had recommended that the General Assembly should consider the adoption of appropriate measures in order to facilitate the holding of Committee sessions in various regions by taking into account the difficulties of the developing countries with respect to the payment of the costs for holding of such meetings. He proposed that the Human Rights Committee should submit a similar recommendation to the General Assembly with a view to being able to hold subsequent sessions elsewhere than at Geneva or New York.

67. The CHAIRMAN said that the Committee might reflect on Mr. Prado Vallejo's proposal and take it up again at a subsequent meeting.

68. Mr. OPSAHL supported Mr. Prado Vallejo's proposal. He thought that the following session should be held in Canada, particularly since the Committee would be considering the report of Canada at that time. It was true that there was no indication that the Canadian Government had envisaged inviting the Committee, but there was reason to believe that it read the summary records of the meetings. The sessions of the Committee were held in countries which were not parties to the Covenant, and as long as that situation remained unchanged, the difficulties in obtaining publicity would continue.

69. Mr. GRAEFERATH endorsed the comments made by Mr. Opsahl.

70. Mr. TARNOPOLSKY said that the members of the Committee should be informed of the venue of the March 1980 session by mid-December at the latest.

71. The CHAIRMAN stated that, unless members of the Committee received information to the contrary by the end of the current session of the General Assembly, the March 1980 session of the Committee would be held at Geneva.

72. Mr. MOVCHAN said he thought that the Committee should resume consideration of the question of future sessions at its next morning meeting.

73. The CHAIRMAN noted that Sir Vincent Evans, Mr. Prado Vallejo and Mr. Janča were members of the Working Group, whose work would begin one week before the March 1980 session. He wished to ask Mr. Bouziri and Mr. Diéye whether one of them could participate in the work of the Working Group, so as to make the Group's membership up to five, including himself.

The meeting rose at 1.05 p.m.