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**INTERNATIONAL  
COVENANT  
ON CIVIL AND  
POLITICAL RIGHTS**

HUMAN RIGHTS COMMITTEE

Sixth session

SUMMARY RECORD OF THE 132nd MEETING

Held at Headquarters, New York,  
on Friday, 13 April 1979, at 3 p.m.

Chairman: Mr. MAVROMMATIS

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The meeting was called to order at 3.30 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 AND 1978 (continued)

Bulgaria (continued) (CCPR/C/1/Add.30)

1. Mr. GRAEFRATH, praising the succinctness of the report by the Bulgarian Government, commented that the introductory part contained a useful explanation of how the International Covenant on Civil and Political Rights had been integrated into Bulgarian law. It was not enough to ensure that there was a restraint on attempts to limit such rights; every effort must be made by society to ensure that all inhabitants of a country could actively exercise their social, political and other rights. For example, he noted that without a proper education people would be unable fully to participate in the life of society, just as they would be unable without the right to a professional education fully to benefit from the right to work. It would be useful for the Committee to examine the whole question of actively ensuring rights.
2. With regard to legal remedies, he would like further information concerning the Act of Administrative Procedure mentioned in the second paragraph on page 3 of the report: how did it work and to what did it refer?
3. In connexion with the right to life (art. 6 of the Covenant), he asked what efforts were being made to reduce infant mortality, in both rural and urban areas. Page 7 of the report mentioned, in connexion with article 9, that an accused person might be released on bail. He felt that "release on bail" might work only in favour of those who had the funds to pay for the bail bond. He would like to know how the bail system operated in Bulgaria and how it was ensured that the system did not operate in a discriminatory fashion.
4. With regard to article 14 of the Covenant, concerning the right to equal treatment before the law, he wanted to know whether the statement at the end of the third paragraph on page 10 of the report that "judgements and orders of the court in civil proceedings are pronounced in public sessions" could be reconciled with the reference, in the previous sentence, to the holding of criminal proceedings involving juveniles in camera. He also sought further information on the system of the judiciary, the administration of justice, how the independence of judges was guaranteed, whether Bulgaria had special procedures for dealing with juveniles in court, and whether women were entitled to become judges at all levels. With regard to the right of an alien to the services of an interpreter, it would be interesting to know who was responsible for paying the interpreter and whether that depended on the outcome of the proceedings.
5. In connexion with article 22, he sought additional information on the role of the trade unions, on what system of trade unions existed, on the rights of the unions, and whether they could organize meetings within the factory or only outside. Finally, that part of the report touching on article 25, embodying the right to take part in the conduct of public affairs, treated the matter only in connexion with elections and legislation; he asked for more information on the participation of citizens in every aspect of public life.

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6. Mr. JANČA said that the report by Bulgaria provided evidence of that country's respect for its obligations under the Covenant and its desire to contribute to the maximum to the work of the Committee. He thanked the representative of Bulgaria for his prior circulation of copies of the Bulgarian Constitution.

7. He was puzzled by the second sentence of the second paragraph on page 3, relating to non-contentious administrative procedures, as provided for in the Bulgarian Act on Administrative Procedure. It was not clear how a person could defend his rights and interests in advance if the latter had already been infringed, nor was it clear what kinds of decisions would be involved.

8. With regard to freedom of conscience and religion, dealt with on page 13 of the report, he sought an explanation of the term "recognized religions", as mentioned in the last paragraph on that page, of which he could find no definition in article 53 of the Bulgarian Constitution although the report referred to article 165 of the Bulgarian Penal Code. He wanted to know how and on what basis a religion was accorded or denied recognition and how such recognition might be reconciled with article 18 of the Covenant.

9. In relation to the rights of the accused to assistance by legal counsel, referred to in the second paragraph on page 11, he was interested in finding out at what point during pre-trial proceedings the accused was entitled to communicate with his legal counsel, as that might be important in assuring him the exercise of the rights guaranteed under article 14, paragraph 3, subparagraph (b), of the Covenant.

10. With reference to protection of marriage and the family, children and young people (pp. 14 and 15 of the report), he asked whether a woman was entitled to keep her maiden-name after marriage and whether a child might take his mother's name as a family name.

11. Finally, he sought clarification of the rights of ethnic, religious and linguistic minorities (art. 27 of the Covenant). On page 16 of the report it was stated that Bulgaria was inhabited not only by the Bulgars, "who constitute the main part of the population and the only Slavic national group", but also by Turks, gipsies, Jews and Armenians. There was a disparity between that statement and the 1956 census, and between the 1956 Bulgarian census and that of 1965. Was it the intention of the Bulgarian Government to deny the existence of any Slav or non-Slav groups in Bulgaria other than those mentioned in the report, and, if such groups existed, was it the intention of the Government to deny such groups the rights guaranteed to all ethnic minorities under article 27 of the Covenant, or under the Constitution and legislation of Bulgaria? The Statistical Yearbook of Bulgaria for 1959, an official publication of the Bulgarian Council of Ministers, gave the results of the 1 December 1956 Bulgarian census. The listing by national group showed the following figures for Slavic groups in Bulgaria: 6,500,000 Bulgars, 187,000 Macedonians, 10,000 Russians, 1,000 Czechs, 500 Serbs and 1,000 other Slavs. The following non-Slav groups were listed: 200,000 gipsies, 21,000 Armenians, 7,400 Greeks, 6,000 Jews, 4,000 Romanians, 2,000 Karakachans (a nomadic group of Romanian origin) and 1,000 Albanians. In the official results of the 1 October 1965 census the population structure of Bulgaria showed only four

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(Mr. Janča)

groups: 7,259,000 Bulgars, 8,700 Macedonians, 76,000 Turks and 211,000 of other nationalities. How was it possible that the Macedonian ethnic minority should have fallen from 187,000 in 1956 to 8,700 ten years later? The disappearance of more than 180,000 people or the change in the way of identifying them needed to be clarified and acceptably justified, in conformity with the international obligations of Bulgaria, particularly with regard to the observance of human rights and fundamental freedoms as provided for in article 27 of the Covenant. That was equally true for the other national minority groups, whose existence in Bulgaria was passed over without mention in the report by the Bulgarian Government but whose numbers, as given in the 1956 census, were not negligible. Such a clarification of the position of national minorities would be of great help to members of the Committee in obtaining a clear picture of the implementation of the provisions of the Covenant in Bulgaria.

12. Sir Vincent EVANS, thanking the representative of Bulgaria for submitting as part of the documentation a copy of the Bulgarian Constitution, said he wondered whether the Secretariat might not encourage reporting Governments to send copies of their written Constitutions together with their reports.

13. Regarding the general introduction to the report, with its description of the legal framework within which effect was given to the rights and freedoms set forth in the Covenant, he felt that the statement in article 9, paragraph 2, of the Bulgarian Constitution that "Rights and liberties cannot be exercised to the detriment of the public interest" was of fundamental importance, particularly when taken in conjunction with the statement, in the fourth paragraph on page 2 of the report, that "in a socialist society power belongs to and is wielded in the interests of the people". The public interest was a concept which was capable of extremely restrictive application to the detriment of the freedom of the individual. Although the public interest had to be taken into account, the Covenant sought primarily to ensure that the interests of the individual were protected against the interests of the State, or the interests of a particular régime identifying itself with the State. Members of the Committee had seen how important that point was when discussing other reports. He asked whether the Government of Bulgaria agreed with his analysis, and how it saw the balance between the right of the individual and the interests of the State and society. The point at issue was how the individual might know what rights he possessed in order to be able to take the necessary steps to secure those rights and freedoms under the Covenant. Reminding members of the Committee that when adopting the text of the Covenant the General Assembly of the United Nations had called upon all Member States to give publicity to it, he asked what steps had been taken by the Bulgarian Government to publicize the text of the Covenant in Bulgaria, in languages which the people could understand. The representative of Bulgaria had noted that the provisions of the Covenant had not in themselves been incorporated into the domestic legislation of Bulgaria but that that legislation was compatible with the provisions of the Covenant, certain rights and freedoms being proclaimed in the Constitution and others implemented in other legislation. On pages 2, 3 and 4 of the report there was mention of certain remedies available to the individual against officials or the authorities of the State in defence of his rights under domestic law; what remedies would be available to an individual if he

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(Sir Vincent Evans)

felt that his rights under the laws of Bulgaria were subject to limitations and restrictions which were more severe than those permitted by the Covenant? In that case, such individual's disagreement would not be with those who administered the law but with the law itself. What recourse would be open to an individual seeking to bring about a change in the law itself, or in policies, or in the administrative practices of the State? Could he appeal to the courts or to the administrative authorities on the basis of the Covenant, or could he freely raise the issue for public discussion without incurring repressive or punitive action?

14. Turning to article 1, paragraph 2, of the Bulgarian Constitution, which read "The guiding force in society and the State is the Bulgarian Communist Party", he asked what the role of the Communist Party was, since it was a political party. He wanted to know what proportion of the population were members of the Communist Party, how it exercised its influence, what precisely its prerogatives were within the system, what other political parties existed in Bulgaria and what restrictions there were on the formation of other political parties. The same paragraph of the Constitution appeared to give the Communist Party and its members a privileged position and he wondered whether that was not inconsistent with the provisions of article 2, paragraph 1, and article 26 of the Covenant, on the toleration of "political or other opinions", and with the provisions of article 35, paragraph 2, of the Bulgarian Constitution, prohibiting "privileges or limitations of rights based on nationality, origin, creed, sex, race, education, social and material status". As that provision significantly failed to refer to "political or other opinion", he wanted to know how the omission was justified as being compatible with articles 2 and 26 of the Covenant. In that connexion he sought further information on the role of the Control Committee of the People and State, referred to in the first paragraph on page 3 of the report but not, apparently, referred to in the Bulgarian Constitution. Concerning the independence of the judiciary he noted that article 129 of the Constitution provided that "the judges and assessors are elected"; he asked who elected them and who nominated candidates for election to such posts.

15. Regarding certain particular rights, he wanted to raise one point in relation to the treatment of prisoners. There were always circumstances in which detainees might be left in solitary confinement, a practice which could be very cruel. In what circumstances could that occur under Bulgarian law and for what periods of time? Were there any regulations concerning the conditions in which a detainee might be kept in solitary confinement, for example, the size and amenities of the cell in which he was kept, periods of exercise, and the right to receive visits from family and lawyers, particularly if the detainee was awaiting trial? He also wished to know, in connexion with article 9, paragraph 2, of the Covenant, at what point after his arrest a detained or accused person was entitled to know the grounds for his arrest and the charges against him. He asked if there was any limit on the time a person could be detained before being brought to trial, in compliance with the provisions of article 9, paragraph 3, of the Covenant, and if there were any circumstances under which a person might be detained indefinitely without trial. He could find nothing in the section of the report relating to article 14 on the right of the accused to examine witnesses against him and to obtain the attendance and examination of witnesses on his

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behalf. He wanted to know whether those rights were formally safeguarded under Bulgarian law and whether there were any limitations on them.

16. With further reference to the section of the report covering article 14, he wished to know what jurisdiction the military tribunals had in connexion with offences committed by civilians, and whether the procedures followed fully satisfied the requirements of due process of law, as set out in article 14 of the Covenant.

17. Since no political or social system was perfect, freedom of expression, the freedom to exchange ideas and information and the right of peaceful assembly and association were among the most important of human rights, provided there was no resort to or advocacy of violence. Only by the free interchange of ideas could the validity of the existing régime and its policies be tested and peaceful change<sup>S</sup> and desirable improvements promoted. He therefore wished to ask what restrictions<sup>m</sup> there were on the peaceful propagation of opinions and ideas that were at variance with those of the existing régime, and how such restrictions were justified as being in accordance with articles 19, 21 and 22 of the Covenant. In that context, he wished to know how many persons, if any, were detained in Bulgaria on account of non-violent political activities and the nature of the offences which they had committed or with which they were charged. LS  
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18. Mr. HANGA, referring to the incorporation of the provisions of the Covenant into Bulgarian positive law, said that, while there was no doubt that civil and political rights embodied in legislation had the value of law, he wished to know what was the legal value of the provisions of the Covenant which, as stated in the fifth paragraph of the report, derived from the general principles on which the status of the citizen and the individual in Bulgaria was founded. He also wished to have information on the publication and dissemination of the Covenant in Bulgaria.

19. The eighth paragraph of the Bulgarian report stated that socialist society created the conditions and premises for the practical application of civil and political rights and freedoms, and that collective ownership played an important role in that respect. He wished, however, to have further information about the role of private property, especially in relation to the implementation of the Covenant. Referring to the first paragraph on page 3 of the report, he wished to know in what way the office of the Procurator-General monitored the exercise of civil and political rights. While the responsibilities of that office were set forth in article 134 of the Constitution, he wondered what legal provisions governed the activities of the remaining procurators.

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(Mr. Hanga)

20. With regard to the administrative procedure referred to in the fifth paragraph on page 3 of the report, he wished to know what recourse a person had if a conclusion was not reached, and whether it was a special recourse or a recourse as provided for in that paragraph.

21. In connexion with the right to life, set forth in article 6 of the Covenant, he asked what legal provisions governed the protection and improvement of public health and what expenses were incurred by the State in that connexion.

22. Turning to article 10 of the Covenant, he wished to know what educational measures were used for the social rehabilitation of prisoners, especially young offenders.

23. He also wished to know what legal provisions covered the right of asylum mentioned in the report in connexion with article 13 of the Covenant.

24. As to the implementation of article 14 of the Covenant, he wondered whether any social or political measures - as distinct from legal provisions - had been taken in order to ensure the independence of judges.

25. Referring to article 137 of the Bulgarian Constitution, he asked how the words "objective truth" were to be interpreted.

26. He would like to know what legal provisions governed labour relations and what courts had jurisdiction in that field. He also requested more information on the political role of the trade unions. Could they take the initiative in proposing changes in legislation, and what was their role in the protection of human rights?

27. He wished to have more detailed information concerning the functions of public organizations and whether they had a role in imparting a knowledge of the law to the general public. He also wished to have details concerning the matrimonial régime established by Bulgarian civil legislation.

28. Lastly, in connexion with article 25 of the Covenant, he wished to know what control the electors had over their representatives and whether the latter could be recalled and under what conditions. As to the very important question of direct participation by citizens in the conduct of public affairs, he wondered what body of political, social and legal rules governed that process.

29. Mr. OPSAHL, referring to the question of remedies in the event of a breach of a right, said he wondered how such remedies were available to the individual in

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(Mr. Opsahl)

law and in fact. For example, he assumed that the enforcement of the Penal Code was the task of State organs, and not of the victim. Likewise, he assumed that the hierarchical control functions mentioned in the first paragraph on page 3 of the report were exercised from above, and that the action of the Procurator depended on the will of that official organ. Under the Covenant, remedies must be more directly available to the individual. Was that requirement covered by the appeals through administrative channels and judicial appeals referred to in the last paragraph on page 3 of the report? He was uncertain as to the meaning of the statement in the second paragraph on page 4 that any citizen was entitled to demand the prosecution of an administrative agent. In other countries, prosecution was not a right of the citizen but was a matter for the prosecutor to decide. In Bulgaria, could a citizen prosecute if the Procurator did not act?

30. Apart from the question of the law governing the availability of remedies, he wished to know how a person would actually proceed in practice to exercise a remedy, and whether it was easy to do so. In some countries, for example, the cost of remedies was too high, and lack of legal aid made it difficult to have recourse to them, or there might be a fear of reprisals from the authorities. He wished to know whether people in Bulgaria were assisted or actually encouraged to avail themselves of the remedies provided for in the Covenant and, if so, how they were encouraged. Were lawyers made available to represent an alleged victim, and was free legal aid and independent advice provided? What was the status of the legal profession in that regard?

31. Turning to the question of the rights themselves, he said that certain questions arose from the fact that some of the rights under the Covenant were not explicitly enunciated in Bulgarian domestic law. With regard to article 8 of the Covenant, for example, he noted from the fifth paragraph of the report that the prohibition of slavery was not explicitly embodied in legislation but derived from the general principles on which the status of the citizen was founded. However, article 8 of the Covenant also prohibited forced or compulsory labour. He therefore wondered how the concept of compulsory labour was understood in Bulgaria, especially since, under article 59 of the Constitution, every able-bodied citizen was obliged to work. He wondered where the line was drawn between the prohibition of compulsory labour and the obligation to work.

32. Commenting on the right to liberty and security of person, set out in article 9 of the Covenant, he noted that, in Bulgaria, exercise of the right was decided by a court or by the Procurator. He assumed that the latter was to be considered under article 9 of the Covenant not as a judge but as another officer authorized to exercise judicial power; otherwise, there would be incompatibility between Bulgarian law and the Covenant. The question arose, however, whether the Procurator exercised independent judicial authority, or whether there was not the possibility of conflict of functions or interests. He noted from the second paragraph of the section of the report concerning article 9 that the Procurator could extend detention in the interest of the preliminary investigation, and he therefore wondered whether that did not weaken the guarantee set forth in article 9. He asked whether it would not be better if detention was decided by someone who was not investigating the case.

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(Mr. Opsahl)

33. The section of the report covering freedom of speech, of the press and of assembly (arts. 19 and 21 of the Covenant) he found to be too brief and unsatisfactory in its coverage of the possible restrictions on those freedoms: he wished to know what the restrictions were. He noted that the Penal Code provided for prison sentences and other punishment for various forms of exercise of freedom of speech when qualified as anti-State agitation or activities aimed against the Government. He wondered whether such provisions were often applied and whether it was true that they had been applied recently against such activities as criticism of travel restrictions, distribution of foreign newspapers criticizing Bulgaria and complaints about the human rights situation. If that was so, he wondered how such restrictions on the freedom of expression and information could be considered necessary in the light of article 19 of the Covenant.

34. The freedoms provided for in article 22 of the Covenant appeared to be covered only in article 52 of the Bulgarian Constitution. He asked whether trade unions in Bulgaria were subject to party or government directives, and whether it was possible to form trade unions independently of those which already existed.

35. He associated himself with the comments made by previous speakers on article 25 of the Covenant and on the unquestionable right of peoples to choose their social and political systems. Article 25 was the corner-stone of the Covenant as far as political rights were concerned. He shared the view expressed in the report that political democracy and economic democracy were inseparable; he wished to know to what extent Bulgaria had provided for economic democracy, of which there were three aspects: democratic ownership, democratic distribution of income, and participation in economic management. Was any provision made for the latter, and if so, in what form?

36. Mr. SADI said that the conciliatory and co-operative spirit shown by the Bulgarian representative could serve as an example for other representatives. The concise and well-organized Bulgarian report might also be emulated. The case of Bulgaria was of particular interest in showing how a socialist country viewed and interpreted the Covenant.

37. He had noted that there was no mention of political status in article 35, paragraph (2), of the Bulgarian Constitution. That was a grave omission in the light of articles 2, 3 and 26 of the Covenant, to which reference was made on page 5 of the report (CCPR/C/1/Add.30), and even in the light of article 35, paragraph (1), of the Constitution itself. He would welcome an explanation of that omission.

38. Referring to the section of the report dealing with article 7 of the Covenant, he asked whether the Bulgarian representative interpreted the word "coercion", in the eighth line of the second paragraph, as encompassing torture. He would also welcome an explanation of the words "for the purpose of extracting testimony or evidence ...", which appeared to make the punishment conditional.

39. With regard to the section of the report dealing with prohibition of slavery,

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(Mr. Sadi)

servitude and forced labour, he observed that article 8 of the Covenant required explicit prohibition measures. Did the Bulgarian representative agree that what was stated in the first sentence of the section in question violated that article?

40. The section on article 12 of the Covenant made no reference to the right to leave one's country and return to it.

41. With regard to the section on protection against arbitrary interference with private and family life (art. 17 of the Covenant), he would welcome information on the cases and circumstances defined by law as exceptions to the application of article 49 of the Bulgarian Constitution.

42. He had serious difficulties in interpreting the second sentence of article 38, paragraph (3), of the Constitution. While he realized that most societies educated their children in their own philosophy, religion or ideology, the provision in question appeared to be contrary to the spirit of the Covenant. The important question was whether, having received a communist education, children were compelled to become communists, or whether they were allowed free choice. His acceptance or rejection of the provision would depend on the Bulgarian representative's reply to that question.

43. Mr. TOMUSCHAT said that all countries should follow Bulgaria's example in carefully reviewing their legislation before undertaking the far-reaching commitments required of them under the Covenant.

44. He associated himself with the questions and comments of other members on article 2, paragraph 1, and articles 6, 9, 12, 14 and 19-27 of the Covenant. Such association of views might be important for the drafting of the annual report of the Committee, which in the past had made reference to the views of one member, some members or all members.

45. While making frequent reference to the relevant constitutional provisions, the clear and succinct report now before the Committee often failed to provide specific data on acts of secondary legislation giving effect to the guidelines and principles laid down in the Constitution. Secondary legislation was generally closer to reality than constitutional provisions, which were strikingly similar throughout the world, and the most important matters were often settled by administrative circulars. What the Committee had to consider was the final and specific application of the precepts of the Covenant to the conflicting interests of the citizen and the State. It had to ensure that it was given precise information on the manner of adjudication in typical cases. In his introductory statement, the Bulgarian representative had shown a keen awareness of the need for States to ensure the real and effective enjoyment of human rights. It was, of course, necessary for States to learn gradually how the Committee wished their reports to be drafted.

46. The Bulgarian report made no mention of political discrimination, which was one of the important issues to be considered. A general prohibition of discrimination should include prohibition of any provision making the granting of

(Mr. Tomuschat)

rights or other benefits subject to political considerations. Members of the Committee had in the past expressed unanimous opposition to any kind of differential treatment based on adherence to any political dogma. It appeared from the Constitution that there was some curtailment of the rights of persons who did not share the official line of thought. What was meant by the statement in article 1, paragraph (2), of the Constitution that the guiding force in society and the State was the Bulgarian Communist Party? Was there any legal instrument setting forth the powers of the Party over all the organs of the State? Did the supremacy of the Communist Party mean that the Party established the general lines of State policy? If that was the case, the consequent enjoyment by members of the Communist Party of political privileges and of greater political rights than the rest of the population was difficult to reconcile with article 25 of the Covenant. He did not question the fact that the Communist Party understood itself as committed to the good of the nation as a whole, but the kind of guided democracy which it represented was not sanctioned by the Covenant. The people must remain free at all times to determine their political philosophy. To maintain that political expression should cease once a people had made its initial choice of political structure meant the total renunciation of political freedom in favour of the governing political class. Was he correct in interpreting the Constitution to mean that the founding of a political party in favour of the establishment of a pluralistic democracy was forbidden, and that the same applied to any public criticism of the Government and to any request for a more open political process? He was particularly concerned about the provisions of articles 108 and 109 of the Penal Code. Any organized opposition movement would presumably come within the purview of article 108, which was seriously at variance with the substance of the Covenant. If the policies and practices of a one-party State were to be in conformity with the Covenant, there would have to be at least some elements of openness and flexibility in the political process. He could find no evidence of that in the report; if there was any such evidence, he would welcome the assistance of the Bulgarian representative in tracing it.

47. Even though the Covenant had not been incorporated into the domestic legal order of Bulgaria, an individual must be allowed to invoke its provisions without having to fear any penal sanctions. It was difficult to see how the provisions of article 2, paragraph 3, could be fulfilled if a citizen was prevented from referring to the Covenant in order to claim respect for his rights. Whatever legal form was chosen, individuals must be free to remind Governments of their duties, and the forming of a group to monitor responsibilities under the Covenant would have to be considered as lawful. He would be interested to hear the Bulgarian representative's comments on that point.

48. As to article 2, paragraph 3, of the Covenant, he wished to know what kinds of act, if any, had been excluded from the control of the courts. Were there any exceptions to the general clause, in particular as concerned political acts?

49. Referring to article 8 of the Covenant, he asked in what cases the law provided for hard labour as a penal sanction.

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(Mr. Tomuschat)

50. He associated himself fully with all the questions that had been asked on the role of the Procurator. It was clear from article 134 of the Constitution that that official lacked the independence of a judge, and he therefore could not fulfil the requirements of article 9, paragraph 4, of the Covenant. A further question under article 9 was whether or not there were any forms of arrest or detention other than those based on criminal charges. Was there, for example, a system of administrative detention for persons considered to be a danger to the interests of the State, and were there any political prisoners who had been arrested and convicted solely for having manifested their peaceful disagreement with the Government's policies?

51. With regard to article 12 of the Covenant, he asked whether persons could be deprived of their nationality and, if so, how often that punishment had been applied in recent years. The provisions of the relevant law appeared to be alarmingly broad in scope. He also wished to know whether banishment existed as a legal sanction and, if so, how the relevant law had been applied in particular cases. Was it true that illegal border crossing could be punished by deprivation of liberty of up to five years? Such a harsh punishment would raise the question of respect for the principle of proportionality inherent in the Covenant, since other countries regarded illegal border crossing merely as a misdemeanor.

52. Referring to article 13 of the Covenant, he asked how the Act on the Sojourn of Aliens had been drafted, particularly in relation to expulsion and deportation. Was it set forth only as a general clause in terms of the common good of the State, or was it more detailed and specific? Was account taken of ties which the person concerned might have established with Bulgaria, for example by marriage to a Bulgarian national?

53. He associated himself fully with all the questions that had been asked on the independence of the judiciary under article 14 of the Covenant. In addition, he wished to know how the legal profession was organized. Was it free and independent, or were lawyers public servants who required State authorization before practising their profession? Were they required only to have certain qualifications, or was there any discretionary control on the grounds of public interest? He also wished to know whether the necessary supplementary legislation had been enacted to give effect to the compensation provision referred to in the last paragraph of page 11 of the report.

54. Although the Public Worship Act referred to in the section of the report dealing with article 18 of the Covenant appeared to have some positive features, there were some grounds for concern, particularly with regard to prohibition of so-called abuse of the church and religion for political purposes. Specific information should be given on what the Government considered to be such abuse. Did the churches, like other associations, have the right peacefully to advocate their faith and convictions? He took it that advocacy of communist ideals was permissible without restriction; under the principle of equality, the same should hold true for the ideals of other communities. It appeared from article 53, paragraph (1), of the Constitution that freedom to disseminate religious propaganda did not exist. The Committee should be provided with the text of the relevant act, together with a detailed explanation of how its provisions were interpreted and applied.

(Mr. Tomuschat)

55. Article 18, paragraph 4, of the Covenant stated categorically that States parties undertook to have respect for the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions. Thus parents could not be legally obliged to bring up their children in accordance with any particular ideology. They had a sacred mandate to care for their children both physically and spiritually. The State had no right to interfere in close personal relationships between parents and children. Had there been any cases in Bulgaria in which parents had been deprived of their authority in that respect for not ensuring a communist education? Would parents who failed to comply with article 38, paragraph (3), of the Constitution have to face sanctions, or was the provision merely a moral appeal to them?

56. Referring to article 22 of the Covenant, he asked how trade union freedom was provided for in Bulgaria. Would a group of like-minded people who did not follow the line of the existing trade unions be permitted to establish their own union? Had any such attempts been made, and had the practices followed always been approved by the competent bodies of ILO, or had there been any conflict of opinion between the Government and ILO?

57. As to article 27 of the Covenant, he asked whether Bulgaria had enacted any legal statutes setting forth the rights of minorities in a clear and unambiguous manner.

58. Mr. DIEYE commended the Government of Bulgaria for the co-operative spirit it had always shown towards the human rights bodies of the United Nations.

59. He had to admit that he had had some difficulty assimilating the criteria applied to a system with which he was not familiar. With that in mind, he wished to ask a few questions on certain elements that seemed important in assessing respect for human rights. The independence of the judiciary, for example, was an important barometer of respect for human rights. He noted that in Bulgaria judges were elected. The principle that judges should be elected could be a perfectly valid one; he merely wished to ask how they were elected. In some countries, judges were elected without interference from the political apparatus; in others, that was not the case. Although he did not in any way question the qualifications of the persons elected to the bench in Bulgaria, he would like some clarification as to whether they were elected freely by the citizens, without guidance by the political apparatus. Also, in some countries, whatever the system might be, the independence of the judiciary was sometimes limited by economic and other considerations. He would like to know if the independence of the judiciary was guaranteed in Bulgaria by an appropriate institutional framework.

60. In that context, another question came to mind. Obviously, any judge in any country was bound to have his own political opinions. In some countries, however, judges were not allowed to express such opinions. He would like to know whether in Bulgaria a judge could be elected who did not espouse the Communist ideology.

61. On the question of sentences, he noted that in the Bulgarian report the term "re-educate" had been used. In some countries minors were made to undergo a process

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of re-education, but in the case of adults, it was felt that the purpose of the sentence was not re-education but expiation. What meaning did the Bulgarian Government attach to the word "re-education"?

62. While he assumed that most places of detention as mentioned in the Bulgarian report were well known to the public, he would like to know whether there were other places of detention that might be used, under special circumstances, for purposes of re-education.

63. Was the right to liberty and security of person guaranteed and protected by the judiciary? Were judges instruments of the political apparatus? Could they guarantee liberty and security? It seemed to him in that connexion that there might be a conflict between the interests of the individual and of the State. What was important was the protection of individual rights.

64. Turning to the question of defence of an accused person, he noted that proceedings were usually public but that the Government could, for certain reasons, decide that a trial should be conducted in camera. Could foreigners, particularly foreign lawyers, be present as observers at a trial?

65. He noted that the Bulgarian report referred to cases in which passports for travel abroad might be refused or impounded, for example, in the case of persons whose travel jeopardized State security. How did the Bulgarian Government interpret State security in that context?

66. With regard to article 18 of the Covenant, he noted with surprise that the Bulgarian Constitution (art. 53) allowed anti-religious propaganda. It seemed to him that freedom of religion meant freedom to have or not have a religion. Anti-religious propaganda could be tantamount to intolerance. In a country where a particular ideology was the guiding force in the State - a position which he respected - and that ideology was atheistic, would it not be possible for anti-religious propaganda to be used with great force? There seemed to be a certain conflict between freedom of religion and the power of an atheistic State to combat religion.

67. Mr. MOUCHAN said he wished to join other speakers in congratulating the Government of Bulgaria for the constructive spirit of co-operation it had shown in the presentation of its report. The fact that it had sent such a high-level representative as the Deputy Minister for Foreign Affairs demonstrated its high regard for the Committee and its members. The diligence of the Bulgarian Government in co-operating with the Committee was to be expected from a socialist State whose Constitution was based on respect for fundamental freedoms. He had recently been studying the establishment of the United Nations and had noted that a socialist country had played a vital role in the formulation of the guidelines for ensuring universal respect for human rights. The Universal Declaration of Human Rights reflected the accomplishments of two historical events, namely, the French bourgeois revolution and the Soviet October Revolution.

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(Mr. Mouchan)

68. He noted with satisfaction that Mr. Tarnopolsky, Mr. Lallah and other members had stressed the fact that the criteria for the work of the Committee were to be found specifically in the Covenant on Civil and Political Rights. That was quite a different approach from the one taken by persons representing Governments which did not even know the Covenant was a binding legal document but which tried, nevertheless, to teach the Committee lessons concerning its interpretation. The Covenant must be implemented as provided for by each individual system and no one had the right to intervene in that regard. Some members who had referred to "democratic society" should have referred to "bourgeois democratic society". How could international relations be conducted without taking account of the circumstances of different systems? If a constitution was very clear in stating the role of a party, and a country had only one party rather than two, what was wrong with that? Two-party systems were no better, since under them inflation and crime were constantly on the increase. Specific national standards or criteria could not be used to judge other countries. He appealed to the representative of Bulgaria to make clear, in his reply to the Committee, what was the socialist concept of human rights and to explain the role of the State in implementing freedom and human rights in a socialist system. In his introduction to the report, the Bulgarian representative had mentioned legal safeguards; he would appreciate it if he would now inform members what other safeguards were provided.

69. Some members of the Committee, in commenting on one of the reports of States parties, had raised questions which, in his opinion, showed a confusion between the concepts of legislation and legality. They had focused their questions on finding out what laws were on the books. But the question was whether legality existed, in other words, whether laws were translated into reality. It was not so important to ascertain what was on paper as it was to determine whether or not there was a legal order and to ascertain how the real enjoyment of human rights was ensured. He would appreciate it if the representative of Bulgaria would explain the role of the Procurator in the maintenance of the legal order, since it differed from the role of the Attorney-General in other countries.

70. As a jurist in the Academy of Sciences of the Union of Soviet Socialist Republics, he had met legal specialists from several different countries. At a symposium on the educational role of law, colleagues from other countries had noted that the concept of the educational role of law was not sufficiently clear in their systems and they had asked the Soviet jurists for a report on the matter. It would be very useful if the Bulgarian representative would inform the Committee how the people of Bulgaria were familiarized with international law and with the essence of provisions on civil and political rights.

71. Members of the Committee would recall that in discussing the reports of States parties he had always asked whether war propaganda was prohibited. He did so because war propaganda was aimed at the elimination of human rights and the annihilation of mankind. The representatives of Western Governments, however, had always replied that the prohibition of war propaganda would be against freedom of speech. He did not understand how some States could have acceded to the Covenant with such reservations. How could it be said that the inhuman propaganda of war could be contrary to freedom of speech?

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72. He did not understand why some members considered anti-religious propaganda to be wrong if religious propaganda was allowed. If a citizen felt that religious propaganda was deceptive, what was he to do? Religion had been created to encourage people to seek happiness in some future world and to divert them from seeking happiness on earth. Religious leaders had become rich at the expense of others. If a citizen felt that religious propaganda was wrong, could he not speak against it? He hoped the Bulgarian representative would explain the socialist approach to such matters, particularly with regard to articles 19, 21, 24 and 25 of the Covenant. In particular, it would be useful for the Bulgarian representative to explain the guiding role of the Communist Party as set forth in the Bulgarian Constitution.

The meeting rose at 6.10 p.m.