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ON CIVIL AND
POLITICAL RIGHTS**



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Eighth session

SUMMARY RECORD OF THE 187th MEETING

held at the Palais des Nations, Geneva,
on Monday, 22 October 1979, at 3 p.m.

Chairman: Mr. MAVROMMATIS
later: Mr. PRADO VALLEJO

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GE.79-4301

The meeting was called to order at 3.05 p.m.

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

Poland (continued) (CCPR/C/4/Add.2)

1. Mr. PRADO VALLEJO welcomed the representatives of the Government of Poland and expressed sympathy to the Polish people on behalf of himself, his country and indeed all of Latin America, for the great sufferings it had endured during the Second World War, and appreciation of all it had achieved since then. The report before the Committee was an excellent one, and depicted what appeared to be a generally satisfactory situation as far as the implementation of the International Covenant on Civil and Political Rights in Poland was concerned. There were, nevertheless, a few points on which he would like clarification or further information.
2. He was glad to see, from part I, section 1, of the report, that the principal rights provided for in the Covenant were embodied in the Polish Constitution, and that the constitutional provisions guaranteeing those rights prevailed over all other legal norms. That in itself was very important and showed that such rights occupied an important place in Polish legislation. He would, however, like to know whether a Polish citizen could invoke the Covenant before a judge or court against a decision of an administrative authority which ran counter to the provisions of the Covenant, and obtain a ruling which upheld those provisions. If that were the case, that would indeed be proof that full guarantees existed in Poland for the rights laid down in the Covenant. He also wondered, with respect to the fourth paragraph of part I of the report, if the Council of State could promulgate decree laws which restricted the rights laid down in the Covenant.
3. He noted with satisfaction, from part I, section 2 of the report, that the Covenant had been published in Poland's Official Gazette and had been made the basis for the adoption of domestic laws and other appropriate juridical instruments in Poland. He also noted with approval the statement in that section of the report that Polish legislation guaranteed human rights in a broader and more thoroughgoing way than was stipulated by the Covenant. With reference, however, to the statement in the same section that comparative research carried out prior to Poland's ratification of the Covenant had shown that Polish domestic law was "basically" in harmony with the Covenant's provisions, he wondered whether that meant that there were aspects of Polish legislation which were not in harmony with the Covenant. There appeared on the face of it to be something of a contradiction between that statement and the earlier statements to which he had referred.
4. Speaking as a Latin American, he could only welcome the statement in part I, section 3 of the report that in Poland there was a close connexion between civil and political rights and economic, social and cultural rights, and that the former formed a basis for the establishment of the latter. For developing countries in the Latin American region it was very important that the development of political rights should go hand in hand with that of social rights. However, he found cause

for concern in the statement in the same section of the report that the complete realization of human rights could be achieved only through the creation of broad economic and social guarantees, for that appeared to be setting a condition for the granting of human rights which might prove to be tantamount to a restriction on them.

5. In connexion with article 2 of the Covenant, the report referred to the existence of family tribunals for safeguarding the rights of citizens in the field of family relations. It would be useful to the Committee to have more information about those tribunals - how they were organized, their objectives, their competence, whether their decisions were subject to review, and so on. If they did not function within the framework of the ordinary laws, citizens would appear to be exposed to the risk of arbitrary acts based on subjective criteria.

6. With reference to article 6 of the Covenant, the report stated that in Poland the death penalty could be applied for certain serious crimes, including murder and robbery committed with a firearm or other dangerous weapon. He would like to know what the latter term was intended to cover.

7. In connexion with article 12 of the Covenant, the report noted that certain residence restrictions were in force in Poland. While he was perfectly well aware of the serious housing problem which had occurred in Poland as a result of the devastation caused by the Second World War, he was at a loss to understand why the need to maintain law and order or to uphold the vital economic interests of the country should necessitate residence restrictions, as was stated in the report, and would like clarification on that point. Similarly, he would like to know what were the "important reasons of State" which would justify refusal to issue a passport to a Polish citizen. Again, he would be grateful for further information with respect to the withholding of a passport from a person who was the subject of proceedings for the withdrawal of Polish citizenship - a point which was of particular interest to a Latin American.

8. With respect to article 14 of the Covenant, he asked for an explanation of the reference in the report to the "participation of the social factor in the exercise of justice". He found it difficult to conceive that the exercise of justice should be conditioned by the social factor; that would appear to imply a restriction on the application of justice. In connexion with the same article of the Covenant, the report described offences considered to be of the "hooligan" type, which included circumstances where "the perpetrator has ... acted publicly and in the general view without motive or for an obviously futile motive". Those terms were extremely vague, susceptible of many interpretations and capable of leading to an abuse of authority. He would therefore be grateful for an explanation of that statement.

9. With regard to article 18 of the Covenant, the situation in Poland regarding freedom of conscience and religion was clearly a laudable one. The statements in the report on that subject had been fully confirmed by recent events, when the present Pope, himself of Polish origin, had visited his country, had been welcomed by the Polish people and Government and had been entirely free to conduct what amounted to religious propaganda. Poland was entirely to be congratulated on the situation of religious freedom which evidently prevailed there, a fact which was gratifying to his country amongst many others.
10. With respect to the right to freedom of opinion and expression, which was embodied in article 19 of the Covenant, the report indicated that although that right was guaranteed in the Polish Constitution, it was nevertheless subject to a number of restrictions specified in the Penal Code. Those restrictions appeared to be extensive and he would like to know their exact scope. The right to disagree with others was fundamental to the right to freedom of opinion and expression and he wondered who could judge such a matter as the dissemination of false information, where, very often, as Latin Americans knew, the person accused was not in a position to defend himself. More broadly, it would be interesting to know how far it was possible in Poland for a person to express dissent in regard to the country's political and social system in general.
11. Again, the report indicated that the right of peaceful assembly, embodied in article 21 of the Covenant, was guaranteed under the Polish Constitution, but was nevertheless apparently subject to various conditions, such as prior consent to the convening of a meeting and denial of such consent if the convening of a meeting was deemed to be contrary to the social interest. In that connexion, he wished to know who was authorized to grant such consent, to what kinds of meetings the requirement applied - whether public or private, political or other - who was empowered to judge what was or was not in the social interest and, in the event of a dispute on the latter point, who decided the issue.
12. Lastly, with respect to article 23 of the Covenant, he would like further information on the subject of the legal restrictions on the conclusion of marriage which were referred to in the report. In particular, he would like to know whether there were restrictions on the marriage of Polish citizens with foreigners.
13. Mr. TOMUSCHAT said that the dialogue between the Committee and the Polish Government would no doubt be further intensified. The full meaning of the Covenant might not always be understood at first sight, and constant attention had to be given to its provisions, particularly since countries should share their experience.
14. There had, in the past, been long periods of strained relations between Germany and Poland. The German people had had to pay a high price for the criminal attempts by the Nazi oppressors to annihilate the Polish people during the Second World War. He recognized the need for the Polish people to live within stable boundaries as a necessary prerequisite for lasting peace in Europe, and he felt no bitterness at the fact that the town in which he had been born was now Polish. Poland was a hospitable country with which all exchanges had been characterized by openness and frankness. The remarks he was about to make should be viewed against that background of friendship and understanding.

15. The status and significance of the Polish Constitution were of paramount importance, since its provisions broadly paralleled those of the Covenant. It was stated in part I, section 1 of Poland's report that the constitutional provisions guaranteeing the rights, freedoms and duties of citizens prevailed over all other legal norms and that the Council of State ensured that the law was in conformity with the Constitution. The Constitution, however, merely referred to the principle of such control and laid down no precise régime. He wished to know the circumstances in which a question of constitutionality could be raised. In many countries, the political opposition could request a ruling of the constitutional court. He would like to know whether there were similar rules in Poland and whether the Council of State had a legal monopoly of control, to be exercised only before the adoption of the relevant bill, or it was possible to raise objections at the time of application. As he understood the position, the Covenant did not have the force of directly applicable law in Poland. The manner of implementation chosen should not, however, restrict the meaning or scope of the Covenant, which had to be fully respected not only in the adoption of legal enactments but also in their application. The daily observance of the Covenant before the courts and administrative agencies was more important than the perfection of abstract legislation. Citizens must be free to complain of any variance between internal legislation and the Covenant and to invoke article 2, paragraph 3 of the Covenant in order to justify their claim to a remedy.

16. As concerned article 2, paragraph 1 of the Covenant, he wished to emphasize the basic importance of prohibiting discrimination on political grounds. Article 67 of the Polish Constitution made no reference to political belief or conviction. He wondered how the strict political neutrality of the Covenant could be reconciled with the underlying premise of the Constitution that only socialism was legitimate. The views of the Polish Government were required on that essential point. Socialism could not be viewed as monolithic. The Covenant was based on a philosophy of self-determination of the human being. The right of the community under article 1 was also the right of the individual, in whose case political self-determination meant participation in public affairs and in elections to the country's governing bodies. According to the Covenant, it was up to the individual to decide what was the best solution to the problems of the society in which he lived. He must be allowed to advocate peaceful change and to express peaceful dissent.

17. While it was stated in the report that citizens could approach all organs of the State with complaints and petitions, it was not clear whether or not an effective remedy was offered in accordance with article 2, paragraph 3 of the Covenant. While he realized that the Covenant did not require a judicial remedy, as was provided for in his own country, an effective remedy presupposed that the individual should play an active role throughout the proceedings. The Committee should be given more information on the manner in which the complaints and petitions procedure was framed and in which it worked in practice. In particular, it would be helpful to know whether the individual concerned was always informed about the available remedy as a matter of principle and whether or not the authority responsible for reviewing disputes was different from the one which had taken the decision that had been challenged. The effectiveness of a remedy required that the dispute should be looked at afresh,

and not by a person who might have to acknowledge that his initial decision had been defective. Lastly, he wished to know whether review under the complaints and petitions procedure was provided for as a general rule or whether it was limited to specific instances. He would like to be informed what could be done, for example, by a citizen whose application to emigrate had been denied. It would be an important step forward if the reform bill to which reference had been made at the previous meeting could be adopted in the near future.

18. With regard to article 12 of the Covenant, the restrictions on taking up residence in Warsaw correctly illustrated the meaning of the public order clause in paragraph 3 of that article. Because of the scarcity of living accommodation, there was an urgent social need to channel the population movement in order to maintain adequate living conditions for everyone. He would nevertheless be interested to learn more about the legal regime and to be informed of the conditions on which a person was authorized to settle in Warsaw, the date when such conditions had been laid down and the remedies which were available to the individual who felt that his application had been unlawfully rejected.

19. Concerning article 12, paragraph 2 of the Covenant, it was stated in the report that every Polish citizen was free to leave the country, but it was later implied that there were restrictions on that right. He would like to know whether denial of a passport when it was feared that the applicant would harm the good name of Poland extended to cases of criticism of Government policy. Reasons of State, to which reference was also made, might include an extremely broad range of situations, as might "other important considerations of a social character". While States should be judged on their actual practice and not on the terms of their legislation, such clauses appeared to be designed to control freedom of movement. Many persons wishing to emigrate from Poland to the Federal Republic of Germany had had countless applications rejected without any explanation, although many more had recently been able to emigrate under the current bilateral treaty. He wished to know what the situation would be when that agreement expired. Restrictions under article 12, paragraph 3 of the Covenant should be the exception rather than the rule, and required precise and explicit justification. It was unacceptable for rights under the Covenant to be curtailed without the individual being aware of his legal status. Administrative practices were based on internal circulars, which were not brought to the attention of the public.

20. No one who showed a desire to emigrate should be subjected to reprisals or sanctions on that account. While intended departure could be a legitimate reason for not promoting a person in his employment, he should in no circumstances lose his employment because he had sought to avail himself of a right under the Covenant. It would be desirable to have an assurance from the Polish representatives that any application made under article 12, paragraph 2 was respected as law-abiding conduct. Emigration, however, was not a panacea and no one deciding to emigrate did so lightly. Any community should endeavour so to order its internal structure that its minority groups felt just as much at home as the majority of the population. There was an obvious link between article 12, paragraph 2 and article 27 of the Covenant. He hoped that the word "negligible" which had been applied to ethnic and linguistic groups under the comments on the latter article was merely a matter of translation and not a deliberate choice of terminology. Minorities should be respected and helped to expand

their personality. He wished to know why people of German culture and language had not been mentioned as a distinct group within the meaning of article 27. Their numbers had decreased dramatically because of emigration, although it would be better for them to remain in Poland as loyal Polish citizens, with a statute guaranteeing them the right to preserve their cultural identity. He would like to be informed of the status of the various minority groups and of the opportunities they had to retain their identity. Article 27 was not merely concerned with folklore. It was important to provide educational establishments in which a good command of the ethnic language could be obtained. Article 27 also presupposed that religious ceremonies should be held in the language of the minority group concerned. In that connexion, he wished to know whether the Polish Government allowed minorities to use their own language in schools and churches, what steps it was taking to foster cultural diversity and whether it encouraged the upbringing of children in the language and belief of their parents. States should set forth the specific rights of their minorities in clear-cut legal enactments.

21. He associated himself with the comments made by Mr. Bouziri, Mr. Opsahl and Mr. Prado Vallejo and observed that the Committee should be given more precise information on the status of aliens under Polish law.

22. He found it difficult to understand how one particular State organ - the Council of State - could be empowered to establish universally-binding interpretations of laws as provided for in article 30, paragraph 1 (4) of the Polish Constitution. That provision appeared to infringe the independence of the judiciary. He would appreciate some further comments in that respect.

23. He could find no information in the report on the promotion of freedom of art in Poland. Reference was made to artistic associations such as the Union of Polish Writers and the Union of Polish Composers. He had been somewhat surprised to note that there was apparently only one association in each field of artistic activity. He wished to know what was the legal status of artists, whether dissenting artists would be allowed to set up their own association or had to belong to one of the official associations, whether membership conferred certain privileges and whether an artist would be able to publicize his work if he was not a member. Article 75 of the Polish Constitution gave the impression that all forms of art were strictly disciplined.

24. His statement should be taken as an expression of genuine concern for the effective implementation of human rights, made in a spirit of co-operation with the Government of the Polish People's Republic.

25. Mr. LALLAH welcomed the extent to which Poland had subscribed to human rights instruments. The Decree of 26 May 1978 to which the Polish representative had referred was likely to promote greater participation by the people in the conduct of affairs. He also welcomed the steps taken to cater for the family, Poland's activities in connexion with the International Year of the Child, its efforts in the field of consumer protection, and the various court decisions to which references were made in the report. The approach described in the last sentence of the first paragraph of the comments under article 2 was a correct and honest one. He was

impressed with the connexion that had been made between the realization of human rights and the various economic and social factors. Referring to the range of rights which were open to the individual under article 2 of the Covenant, he said that there was a difference between availability of rights and their effective enjoyment. He wished to know more about the lawyers who helped people to exercise their rights and, in particular, whether the legal profession was open to everyone, what qualifications were required, how many people used its services, and in what circumstances such services were available to people in prison or detention. He would also like to have specific details of cases in which the Public Prosecutor acted in protecting human rights.

26. Referring to articles 6 and 14 of the Covenant, he asked whether there had been any cases of loss of life during official custody. Under a strong executive, there was always a danger that people acting in their official capacity might be treated leniently for any wrong they had committed. He would like to know whether there was any procedure in Poland to discourage public officials from committing offences - for example, judicial inquiries to investigate the cause of death of people who had died in prison. Equality before the law meant not merely equality between one citizen and another but also equality of the citizen vis-à-vis the executive. He would appreciate information on the measures available to a detainee to ensure that a person guilty of extorting false evidence from him or of ill-treating him was answerable for his actions.

27. Turning to articles 7 and 10, he asked what supervision was maintained by the judicial or other independent authorities over the treatment of prisoners held in police custody, and what ways and means were employed by the Public Prosecutor to monitor such treatment.

28. Referring to article 9, he asked whether there was any possibility for a detained person to apply for release during the period of 48 hours' custody. In particular, he would like to know whether there was any writ of habeas corpus as found in other systems and whether a person could be detained for a number of successive 48-hour periods.

29. He failed to understand the electoral criteria applied in relation to article 25 and would like to know what steps were taken to ensure that a person could express himself freely in elections.

30. In connexion with article 23, he found it difficult to accept the idea that there could be no divorce in certain circumstances where the interests of the children so required. When it was no longer possible for the parents to live together in harmony, it appeared wrong to prevent their divorce because of the children. It was also harmful for the children themselves to live in an atmosphere of mutual dislike between the parents.

31. He asked to what extent the right of abortion was recognized in the Polish system, whether the conditions for married and unmarried women differed in that respect, and whether a married woman would be free to have an abortion without her husband's consent. The idea that a woman's place was in the home was an outdated concept, but it remained true that children required their mother's presence much more in the early years. He would therefore like to know whether there were any special provisions to help women to be with their children at that time.

32. Finally, he wished to know whether there was any difference in treatment with regard to residence and nationality as between a Polish man and a Polish woman who married a foreigner - in particular, if residence was automatic in the one case and not in the other, and if any distinction was made as to the nationality of the children of the marriage.

33. Mr. KOULISHEV said that the report submitted by the Government of Poland gave a very detailed picture of the way in which the Covenant was being implemented in that country. The achievements of the Polish people in the field of human rights were remarkable, particularly in view of the difficult conditions that had existed during the occupation by Nazi forces and in the years following the Second World War.

34. He noted from part I, section 2 of the report that numerous articles in specialist reviews and a number of learned works had been devoted to the Covenant; that was an indication of the importance attached by Poland to the protection of human rights.

35. Part I, section 3 of the report referred to the right to live in peace. He wondered whether the internal law made any specific provision for the protection of that right.

36. It appeared from the Constitution and from the report submitted by the Government that the Covenant was not applied directly, but through the medium of internal legislation. It would be useful to know whether any normative legislation existed to ensure that internal law conformed with the provisions of the Covenant, and which organs of the State were responsible for implementing measures for the protection of human rights.

37. Article 86 of the Constitution provided for the participation of all citizens in discussions and consultations on proposed basic laws. Some further clarification was needed as to how that provision of the Constitution was implemented.

38. In connexion with article 2 of the Covenant, the report stated that administrative and social bodies were competent for certain questions. It would be useful to have additional information on the role played by such social bodies in protecting and promoting human rights, in particular, the right of association provided for in article 22 of the Covenant. Further clarification was also needed regarding the role of the Supreme Board of Control, the Office of the Public Prosecutor General and the courts in ensuring respect for human rights.

39. He noted that, under article 73 of the Constitution, men and women had equal rights in all fields of public, political, economic, social and cultural life. In that connexion, he wondered what was the extent of women's participation in the legal profession and in the courts, as both judges and assessors.

40. The report stated that both article 13 of the Constitution and internal legislation provided for participation by workers in the management of enterprises. Perhaps further information could be given on how those provisions were implemented and on the specific ways in which workers participated in such management.

41. Mr. Prado Vallejo took the Chair.

42. Mr. TARNOPOLSKY said that no one could fail to appreciate Poland's achievements in the field of human rights, particularly in view of its occupation and dismemberment by Nazi forces during the Second World War.

43. One of the main concerns of the drafters of the Covenant had been to guard against excessive power on the part of the State. Under article 2 of the Covenant, States parties undertook to ensure that effective remedies were provided for persons whose rights and freedoms under the Covenant were violated and to develop the possibilities of judicial remedy. In addition, article 14 of the Covenant provided that everyone should be entitled to a fair and public hearing by a competent, independent and impartial tribunal. If the provisions of those two articles were to have any meaning, courts and tribunals must be independent of the State. However, the Polish Constitution conferred overwhelming powers on the Council of State, including the power to appoint and recall judges and the Public Prosecutor General, who was accountable to it. He wondered what institutional machinery existed to limit the powers of the Council of State - for example, whether the Diet could reverse decisions of the Council and, if so, had it ever done so.

44. In connexion with article 2 of the Covenant, the report made no mention of the existence of guarantees of equal rights, irrespective of political opinion. Such an omission assumed considerable importance in a country in which a specific ideology was enshrined in the Constitution. While, under article 1 of the Covenant, all peoples were free to opt for such a socio-political system, there remained the question of the protection of the various fundamental freedoms in such a context.

45. It would be useful to know what provision was made for the protection of the individual in times of emergency, as referred to in article 4 of the Covenant.

46. With regard to the inherent right to life provided for in article 6 of the Covenant, the report stated that article 109 of the Executive Penal Code imposed significant restrictions on the execution of the death penalty on persons who were mentally ill. He asked whether that should be taken to mean that the death penalty was never imposed on such persons. He also wondered what provision was made to enable persons being detained or serving prison sentences to have contact with their families.

47. In connexion with article 9 of the Covenant, he noted that article 87 of the Constitution affirmed the right to liberty and security of person for citizens. He would like to know whether that provision was applied also to non-citizens and throughout the territory of the State. He also wondered what limitations there were on the length and number of the detentions to which an individual could be subjected and under what circumstances a decision by the Public Prosecutor to place an individual in detention could be reversed by the courts.

48. In the light of the provisions of article 12 of the Covenant, it would be useful to have further information on the residence restrictions which the Council of Ministers was empowered to impose under article 53 of the Act of 10 April 1974 concerning Registration of the Population and Identity Cards. It would also be helpful to know whether the Decree of 6 September 1951 concerning Regions of Particular Importance for National Defence was still in force. He noted that, under article 63 of the Penal Code, after serving a term of imprisonment, a convicted person could be ordered by the courts to live in a specific area in order to prevent undesirable contacts with criminal circles. He wondered whether that was used as a means of preventing an individual from returning to the area in which he had lived prior to imprisonment and, if so, whether it was not the responsibility of the State to remove the criminal elements from the area, rather than to prevent the individual in question from returning there.

49. Under article 14 of the Covenant, everyone was entitled to a public hearing. However, the report stated that criminal proceedings could be held in camera to prevent the revelation of circumstances which should be kept secret because of their importance to the State. He wondered whether that meant for reasons of national security only or whether it was given a broader interpretation. It would also be useful to know how public a public trial actually was, and what steps were taken to enable the friends and family of the individual on trial to be present in court.

50. Under article 14, paragraph 3, of the Covenant, everyone was entitled to certain minimum guarantees, in full equality. That meant equality between individuals and the State as well as equality between individuals. In that connexion, he wondered how such equality could exist between an accused and the State when the prosecutor could reserve the right to be present at meetings between the accused and his lawyer. Further information was also needed on the grounds stipulated by law for the rejection of evidence offered by the accused.

51. In connexion with article 19 of the Covenant, he noted that the Penal Code prohibited insults against, derision and humiliation of the Polish nation. That provision was very broad in scope. He wondered how it was reconciled with the provisions of article 19, paragraph 3 (b), of the Covenant. He also noted that the Penal Code prohibited public praise of any form of fascism. He wondered how the latter term was interpreted.

52. The report stated that Polish law prohibited the attribution to an institution of acts likely to bring it into disrepute with the general public. He

would be interested to know whether, in the event of such acts being attributed to the Council of State, for example, it was possible to obtain independent adjudication, when the Council of State had the power to issue decree-laws and to supervise judicial proceedings.

53. The report also referred to the prohibition of attacks against the law. He wondered whether that term meant physical attacks or simply criticism of the law, and who was responsible for its interpretation.

54. He noted that the law also prohibited action prejudicial to the international relations of the Polish State. In that connexion, he wondered whether advocacy of an amendment to the provisions of article 6 of the Constitution might be regarded as prejudicial to the international relations of Poland and therefore prohibited, in contravention of article 19 of the Covenant.

55. He also wondered whether the provisions of article 84, paragraph 3 of the Constitution, were still in effect and, if so, how they could be reconciled with those of article 22 of the Covenant.

56. In connexion with article 23 of the Covenant, it was stated in the report that persons who were mentally ill or mentally retarded could not enter into marriage. He wondered in that connexion how far below the average a person had to be before being considered retarded for the purposes of that provision.

57. With regard to article 27 of the Covenant, the report did not make it clear whether minorities such as the Ukrainians or Byelorussians had their own schools at the local level.

58. Mr. GRAEBRATH commended the Polish report as an impressive account of the country's achievements since its recovery from the ravages inflicted upon it by German imperialism. He was especially grateful for the legal material which it provided because that material contributed to an essential understanding of the country's social system.

59. The report also showed how different methods and approaches, depending upon the national history, customs and social system of a country, could be employed to implement the human rights protected under the Covenant.

60. It was especially to be commended for quoting court decisions and providing many specific examples which illustrated how human rights were actually implemented, since it was clear that human rights could not exist outside the legal system of a State.

61. Part I of the report quite rightly stressed the unity of political and economic rights, and he hoped that that point would be further elaborated, especially in connexion with the principle of non-discrimination described in the section of the report dealing with article 2 of the Covenant. It was important that that principle should be applied in such a way as to make it impossible to sanction privileges based upon economic power. Also in connexion with article 2 of the Covenant, the report asserted an extremely interesting dynamic concept of human rights and stated that Poland was constantly endeavouring to realize human rights more and more fully and to improve the means of upholding them in the light of that concept. That point, he felt, was intimately connected with the concept of the unity of economic and political rights. The link was well illustrated in the section of the report dealing with article 3 of the Covenant, which showed how the development of economic and political rights promoted equality between men and women, and the increased participation of the latter in public affairs.

62. The report also noted, in the sections dealing with articles 1 and 2 of the Covenant, that Poland had never possessed any Non-Self-Governing or Trust Territory and that it was a signatory of the International Convention on the Suppression and Punishment of the Crime of Apartheid. In that connexion, it would be interesting to know whether Poland's respect for the right to self-determination meant that it provided no support whatsoever to the Government of South Africa.

63. In connexion with articles 6, 10 and 14 of the Covenant, the report referred to different kinds of courts and he would like an explanation of the relationship between them. The section on article 2 of the Covenant also referred to certain courts and to administrative bodies which acted on the basis of the Code of Administrative Procedure. He wanted to know what those bodies were.

64. With regard to article 9 of the Covenant, he wished to know what provision was made for the care of the minor dependents of persons remanded in custody.

65. In connexion with the section dealing with article 19 of the Covenant, he would welcome more information on how the youth of Poland was educated in the spirit of anti-fascism, peace and friendship.

66. In relation to article 25 of the Covenant, the report outlined a very broad concept of mass participation in public affairs, including management of the economy, and referred in that connexion to the activities of residents' self-management committees. He wondered what the function of those committees were and how they operated.

67. Mr. Mavrommatis resumed the Chair.

68. Sir Vincent EVANS commended the Polish report as one of the best the Committee had yet received.

69. In part I, section 2, it was stated that the Covenant had been published in the Official Gazette of the Polish People's Republic and that it had been brought to public attention in numerous articles and statements published in specialist reviews and in the daily press. He wondered, nevertheless, whether the text of the Covenant was also available in Poland other than in the form of the Official Gazette, which was not readily accessible to the average person.

70. The Universal Declaration of Human Rights and the Covenants had enhanced an awareness of human rights in the world, and in many countries private individuals had formed groups to monitor the implementation of those instruments. That was also the case in Poland. He would like to know what consideration was given in Poland to such groups and to their complaints, and what were the prospects that Poland would ratify the Optional Protocol.

71. In connexion with article 6 of the Covenant, he noted that in the nineteenth century Poland had been one of the first countries to abolish the death penalty, but that it had restored it after the First World War. In recent times a number of countries, especially in Europe, had abolished that penalty, but in many others it was widely used in order to eliminate political opponents. He therefore wanted to know whether any consideration was now being given in Poland to its abolition. If the signatories of the Covenant could give the lead in that respect, they would make a significant contribution to the protection of what was, after all, the supreme human right.

72. The sections of the report dealing with articles 7 and 10 of the Covenant contained assurances that penalties were carried out in a humane manner and with due respect for the individual. In practice, however, it was the penitentiary judge and the public prosecutor, who, according to the report, supervised the legality and application of the penalty and the serving of the sentence. He wondered whether that constituted a sufficient safeguard and whether independent persons could also visit detention centres. He also wished to know whether persons in detention could be held incommunicado or in solitary confinement pending trial, and how long they could be deprived of contact with their lawyers.

73. In connexion with article 19 of the Covenant, he said that freedom of expression was among the most important rights guaranteed under the Covenant and was essential in order to enable individuals to canvass their ideas for improving the society in which they lived. Promotion of the effective enjoyment of human rights was an ongoing process, and improvement was always necessary. That was why, under article 40, States parties to the Covenant undertook to submit reports on the progress made in the enjoyment of those rights. An individual's freedom to criticize and to advocate improvement should be unlimited as long as there was no advocacy of resort to violence. Only a free exchange of ideas could test the validity of a régime and ensure its improvement. That was why article 19 was careful to specify the restrictions which could be placed on freedom of expression. Yet the report, in the section relating to that article, stated that Polish law prevented abuse of freedom of oral and written expression aimed at impairing the political and social system of the Polish People's Republic. Such a provision could be applied in a very repressive manner, and he would like to know what restrictions were imposed on its application and what recourse there was for individuals who felt that their rights under the Covenant had been unjustly violated. He also wished to learn how much control was exerted over the mass media and to what extent control organs determined what people could read. Many publications in Poland had been driven underground and he thought that a free and open exchange of ideas would be far healthier and more consistent with the Covenant.

74. Mr. SADI noted that article 67 of the Polish Constitution, as referred to in the section of the report dealing with article 2 of the Covenant, did not expressly include political rights among those protected against discrimination. He thought that the omission was probably deliberate and perfectly understandable, because there was discrimination against fascism in Poland.

75. He shared the Committee's concern, which should be communicated to the Polish Government, over the imposition of the death penalty for economic crimes, which the report mentioned in its treatment of article 6 of the Covenant. In connexion with article 7 of the Covenant, the report indicated that a patient had to consent to an operation; article 7, however, stipulated that no one should be subjected without his free consent to medical or scientific experimentation. He would like clarification on that point.
76. In relation to article 12 of the Covenant, the report stated that a passport could be denied to a person who had harmed the good name of Poland. That seemed to him to be an excessively vague restriction, especially given the importance of the passport for freedom of movement, because it could extend to criticism directed against a particular Government policy.
77. With regard to article 13 of the Covenant, the report stated that aliens could be expelled in pursuance of a decision of the administrative authorities, but surely such a decision should be a judicial one. It was difficult to see how, for example, such a decision could be appealed against if it was purely administrative.
78. In regard to the section on article 18 of the Covenant, he wondered why freedom of thought, as required in that article, was not listed among the freedoms guaranteed in Poland.
79. Concerning article 19 of the Covenant, the report stated that Polish law guaranteed freedom of opinion while at the same time prohibiting public praise of fascism. He thought that conflicting rights might be involved there, since international law provided for freedom of opinion but also imposed the obligation to combat fascism. Perhaps article 19 of the Covenant should be amended to take account of that point.
80. In connexion with article 25 of the Covenant, he wished to know whether a person had to be a Communist in order to stand for political office in Poland.
81. Mr. MOVCHAN said that the Polish report was an excellent one and showed how seriously Poland was committed to the implementation of human rights. It was important to try to understand what was the socialist concept of human rights. The Covenant's signatories included socialist, capitalist and developing countries. He hoped that the Polish representative, in answering the Committee's questions, would pay particular attention to explaining the distinctive socialist concept of human rights and their implementation, with special reference to the role of the people, the extremely important role of education, including the educational value of law, and the application of the Covenant within the context of the social system. The Polish representative should explain in that connexion the prohibition of the propagation of war and of the advocacy of fascism. It had been maintained that the concept of fascism was not sufficiently clear. The world knew perfectly well what fascism was, however, and such prohibitions were not contrary to the provisions of the Covenant.
82. Under any legal system, it was essential to know who was defended against whom. Rights were promulgated by the State and implemented by tribunals which were established by it and which operated under the law. He therefore wanted to know how the Polish people participated in the constitution of such tribunals.
83. Finally, he commended the Polish report for citing specific laws relating to the implementation of human rights rather than merely offering bland assurances that all was well, as other reports had done.