

**INTERNATIONAL
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ON CIVIL AND
POLITICAL RIGHTS**



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SUMMARY RECORD OF THE 249th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 October 1980, at 3 p.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

Consideration of reports submitted by States parties under article 40 of the
Covenant (continued)

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The meeting was called to order at 3.15 p.m.

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

Report of Venezuela (CCPR/C/6/Add.3) (continued)

1. Mr. HANCA congratulated the Venezuelan Government on the clarity and objectivity of its report, which also had the merit of conforming with the Committee's guidelines concerning layout.
2. Beginning with a general observation, he noted that there were several contradictions between certain provisions of the Venezuelan Constitution and the Covenant and therefore asked which of the two instruments prevailed in the event of a conflict between them. In article 54 of the Constitution work was presented as a duty for everyone. However, since other articles of the Constitution and other passages in the report seemed to confirm the social function of property, he wondered whether work was not at the same time a right for everyone. The progressive nature of article 105 of the Constitution deserved to be stressed, and it would be interesting to know how big an estate had to be in order to be considered a latifundium and therefore contrary to the interests of society. It would also be interesting to know whether the law granting lands to peasants and landless agricultural workers provided for in the same article of the Constitution had been promulgated and, if not, whether it would one day be promulgated. There seemed to him to be a contradiction between articles 240 and 241 of the Constitution, which dealt with the state of emergency, and article 4 of the Covenant.
3. He then went on to review the implementation of the articles of the Covenant. Noting, in connection with article 3, that in Venezuela women still suffered from discrimination in many fields, he inquired whether Venezuela had ratified the United Nations Convention on the Political Rights of Women. With regard to article 6 of the Covenant, he was glad to note that the death penalty had been abolished in Venezuela as early as 1864. It would, however, be interesting to know what the crime rate in Venezuela was and what socio-political measures for example, had been taken to prevent it from increasing. He was also glad to note that, in article 76, the Venezuelan Constitution confirmed the right of everyone to health protection. He asked what financial assistance the State provided for health services and whether there was any legislation preventing the misuse of psychotropic substances.
4. With regard to article 8 of the Covenant, he asked whether conscientious objection was recognized in Venezuela and whether Venezuela had ratified the ILO Abolition of Forced Labour Convention. In connection with article 9 of the Covenant, he asked whether the law provided for in article 60 of the Constitution had been promulgated and, if so, what was the period within which an accused person had to be brought before the courts and what moral or pecuniary compensation criminal or civil law provided in the case of illegal arrest or detention.

5. With regard to article 14 of the Covenant, he requested some information on the guarantees afforded to the defence in criminal proceedings, on the procedure applicable to young persons, on the courts before which they were brought, and on the social rehabilitation measures taken for their benefit. What appeal procedures, ordinary or extraordinary, were there for criminal cases?

6. In connection with article 16 of the Covenant, he asked what civil law consequences article 17 of the Civil Code had for inheritance, for example. With regard to article 18 of the Covenant, he asked how article 444 of the Criminal Code was interpreted by the courts. Was it meant, as would be logical, to apply to false accusations?

7. With regard to article 19 of the Covenant, after noting the absence of a Press law in Venezuela he asked whether there were any administrative measures which enabled all sections of the population to use mass media such as radio and television. In connection with article 21 of the Covenant, he asked whether the law governing meetings in public places provided for in article 71 of the Constitution had been promulgated. If so, what were its provisions? With regard to article 22 of the Covenant, he asked whether the right to form and join trade unions was subject to restrictions or not, whether trade unions had a purely economic role or whether they also had a political role, and whether Venezuela had ratified the ILO Freedom of Association and Protection of the Right to Organize and Right to Organize and Collective Bargaining Conventions.

8. With regard to article 23 of the Covenant, he asked what conditions the important institution of "family property" had to satisfy, what measures had been taken to protect illegitimate children, whether the State paid allowances for large families and housing allowances related to family income and size, in what circumstances consent to marriage was vitiated, and what regulations governed the property of a married couple given the predominant role of the husband.

9. With regard to article 24 of the Covenant, he inquired whether illegitimate children were treated, in law, on an equal footing with legitimate children, whether an illegitimate child could obtain recognition by his father through the courts, whether the State could intervene to restrict parental authority in cases of serious dereliction of parental duties, and whether a child could be separated from his parents when circumstances so required.

10. In connection with article 25 of the Covenant, he was not sure that the restrictions provided for in article 112 of the Constitution were reasonable, in view of the fact that they established the ineligibility of illiterates to hold public office. He inquired what measures were being taken to eliminate illiteracy and what the illiteracy rate was.

11. Lastly, in connection with article 27 of the Covenant, he inquired whether the progressive incorporation of indigenous communities in the life of the nation provided for in article 77, paragraph 2, of the Constitution did not lead to a loss of their identity as a group and consequently of their traditions.

12. Mr. TARNOPOLSKY commended the frankness of the report, which was, however, perhaps too brief.

13. He did not agree with the assertions made in the third and fourth paragraphs of the introduction on page 2 of the report, although he was impressed by the fact that Venezuela had been the first country in Latin America to affirm human rights in its Constitution.

14. Referring to article 2 of the Covenant, he inquired what the status of the Covenant was in Venezuelan domestic law and, if it really had the status of a special law, what the status of special laws was; were they above ordinary legislation but below the Constitution, or were they on the same level as the Constitution? In the latter case, the discriminatory measures against women, for example, which were contrary to the Covenant, should have already been abolished in the Venezuelan Civil Code pursuant to Venezuela's ratification of the Covenant. What were the administrative powers of each of the units which composed the Federal State constituted by the Republic of Venezuela? What was the difference between the remedy of habeas corpus and the remedy of amparo, and why was exercise of them subject to the promulgation of a law which had still not been issued? How was the independence of the Public Prosecutor ensured? In what circumstances could the Public Prosecutor be removed? Could he bring an action against the national executive and against the security forces?

15. With regard to article 6 of the Covenant, he was glad to note that the death penalty had been abolished in Venezuela as early as 1864. With regard to article 7, he inquired what laws or regulations governed the conditions and length of detention when a person was held incommunicado. He supported the comments made by Mr. Bouziri at the previous meeting concerning article 8, and he associated himself with the questions put by Mr. Hanga and Mr. Prado Vallejo concerning article 9.

16. With regard to article 10 of the Covenant, he asked what the purpose was of the classification of detainees referred to in article 9 of the Prisons Act and in rule 5 of the Prison Regulations. Was there not a danger of discrimination? What laws or regulations governed involuntary confinement in psychiatric hospitals?

17. The report submitted gave relatively little information concerning article 14, paragraph 1, of the Covenant. Even though information on the independence and appointment of judges could be found in articles 207, 208, and 214 of the Venezuelan Constitution, the Committee would need additional information on the laws which ensured the independence of the judiciary, particularly with regard to the removal and suspension of judges. It would also be useful to have a little more information about the Council on the Judiciary (article 217 of the Constitution), and in particular about the law which established its powers; it would also be useful to know what public authorities were represented on it. The provisions of article 60, paragraph 10, of the Constitution seemed to lend themselves to dangerous abuse. Thus it was desirable to have some further information on the "conditions and formalities" mentioned in that paragraph and to know what their purpose was.

18. With regard to article 14, paragraph 3, of the Covenant, the report submitted did not specify whether the Venezuelan Code of Criminal Procedure gave the accused the right to question or to have questioned witnesses for the prosecution and to subpoena and question witnesses for the defence on the same conditions as witnesses for the prosecution. Some further information would therefore be needed on that point.

19. According to the report submitted, article 226 of the Venezuelan Code of Criminal Procedure provided that, after the reading of the indictment, the accused would answer each of the charges included therein. He wondered whether that provision was not contrary to article 14, paragraph 3 (g) of the Covenant. There again some further information would be needed.

20. Article 63 of the Venezuelan Constitution provided that correspondence (letters, telegrams and private papers) could be seized only by judicial authority. It would be desirable to know whether the authority to seize correspondence had to be given for each communication separately or whether it could be given for a specific period of up to one year and what rules were applicable to the interception of private communications.

21. Article 18, paragraph 3, of the Covenant provided for the possibility of limiting freedom to manifest one's religion or beliefs. That provision probably made it possible to impede conscientious objection to military service. However, in view of the situation in which Venezuela found itself, it could be asked to what extent it would be legitimate to invoke public safety to oblige everyone, even conscientious objectors, to perform military service. Furthermore, it could be considered that article 53 of the Venezuelan Constitution was not in conformity with the provisions of article 18, paragraph 3, of the Covenant. Thus it would be advisable to know whether conscientious objection was taken into account and whether other forms of service could replace military service.

22. In order to know whether the freedom of expression recognized in Venezuela was in conformity with article 19 of the Covenant, it would be necessary to know what "statements which constitute offences" (article 66 of the Constitution) consisted of. After reading article 51 of the Constitution, the question arose as to whether there were any limitations on freedom of expression based on attacks on personal honour in Venezuela and how the courts conceived the protection of the national interest in matters relating to freedom of expression. It would also be interesting to know whether article 66 of the Constitution applied to radio and television.

23. Article 21 of the Covenant made no distinction between nationals of a country and other persons. It would be interesting to know what distinction was made between the right of assembly recognized for all by article 51 of the Venezuelan Constitution and the right of peaceful unarmed demonstration which article 115 of the Constitution recognized only in the case of Venezuelan citizens.

24. With regard to article 25 of the Covenant, Mr. Bouziri had already pointed out that only Venezuelan citizens born in Venezuela could hold high public office or be deputies or senators. Since the Constitution admitted the possibility of a person becoming a Venezuelan citizen by naturalization, it was difficult not to conclude that the provisions governing access to certain offices established a discrimination based on national origin, or perhaps on birth.

25. Although the report stated, in connection with article 26 of the Covenant, that Venezuela was a country without discrimination of any kind, the provisions governing access to public life showed the contrary. Furthermore, the forms of discrimination prohibited by article 61 of the Constitution did not correspond to those expressly mentioned in articles 2, 25 and 26 of the Covenant.

26. Article 77 of the Venezuelan Constitution provided that the law would institute the special measures required for the protection of indigenous communities and their progressive incorporation in the life of the nation. It would be interesting to know what those special measures were and whether there was a special law for Indians. If so, it would be desirable to have some details on that law. It would also be interesting to know whether the progressive incorporation of Indians in the life of the nation might not constitute what was called ethnocide - in other words, whether the Indian communities desired such incorporation - and how far the Indian communities participated in the taking of decisions which affected them. Article 151 of the Constitution was concerned with the proportional representation of minorities in the Chamber of Deputies. He asked whether that provision affected Indians, whether there were other minorities in Venezuela, and why the measure could not affect more than 1% of the country's total population. He also asked how many indigenous inhabitants there were, how many groups they were divided into, what their standard of living was compared with that of the rest of the population, what measures were taken for their education, how many of them were university graduates, what steps were taken to secure the teaching of their languages in schools and their instruction in their own culture, and what protection was afforded them under the special measures or otherwise against the seizure of their traditional homelands for the purposes of agricultural or industrial expansion. Lastly, he asked how, in Venezuela, the special protection which had to be accorded to indigenous peoples was legally reconciled with the concepts of equality before the law and equal protection by the law, whether that contradiction had been examined in the courts and in Congress, and how the question had been settled.

27. Sir Vincent EVANS said that in order to avoid repetition, he would confine himself to asking questions that had not yet been raised, while associating himself with those directed towards clarifying the status of the Covenant in Venezuela's internal legal system. He would like the representative of the Venezuelan Government to confirm that at the present time there was no state of emergency or disorder in Venezuela which would warrant the restriction or suspension of the constitutional guarantees under Title IX of the Venezuelan Constitution.

28. Habeas corpus and amparo dealt with on pages 9 and 10 of the report were of very great importance for the protection of human rights. The Congress of Venezuela should therefore, as a matter of primary importance and urgency, enact the legislation required to regulate the exercise of the remedy of amparo. It did not seem possible to state, as the report assented, that the remedy of amparo was available when the provisions governing its exercise were not yet in existence.

29. In connection with article 6 of the Covenant, which protected the right to life, he noted that in Venezuela the death penalty had been abolished for all offences in 1864. Venezuela could therefore be proud to have been among the first countries to abolish capital punishment.

30. Article 60 of the Venezuelan Constitution contained provisions rather similar to those of article 7 of the Covenant, prohibiting the torture or inhuman or degrading treatment of detained persons. The Venezuelan Criminal Code provided for the punishment of officials who subjected prisoners to arbitrary or unauthorized treatment. He would like to know what steps were taken to investigate charges of ill-treatment at the hands of the police and security services, whether investigations were instituted promptly and, if so, what their outcome was.

31. With respect to article 9 of the Covenant, he understood that when the present Government of Venezuela had taken office, a number of political prisoners had been released under an amnesty. He asked whether any persons were still detained because of their political views or activities and, if so, under which legal provisions they were being kept in detention, how many there were, and whether they would be brought to trial.

32. Article 10 of the Covenant provided that all persons deprived of their liberty were to be treated with humanity and with respect for the inherent dignity of the human person. It therefore required a certain basic standard of treatment of prisoners. He asked what conditions were like in Venezuelan prisons and what steps were taken to ensure that they satisfied humane standards.

33. Article 14 of the Covenant contained a number of detailed requirements, each one of which should be observed. The report of the Venezuelan Government seemed incomplete in that respect. Accordingly, it would be helpful for the Committee to have a point-by-point explanation of the measures provided in the Venezuelan legal system to give effect to each of the provisions of article 14 of the Covenant. Even though the Covenant formed part of the internal law of Venezuela, that could not be deemed sufficient to give effect to the provisions of article 14, since for some purposes they required supplementary measures to implement them. That applied to the provision whereby everyone should be entitled to a fair and public hearing by a competent, independent and impartial tribunal and the provisions whereby every accused person was entitled, in certain circumstances, to free legal assistance. The provisions in paragraphs 4 and 5 of article 14 also could only be given effect by special measures. Additional information on those points was therefore needed.

34. He believed that there were cases in which civilians were tried by military courts. However, military courts were often composed of persons who could not be regarded as properly qualified to hold judicial office. Those persons applied summary procedures which did not always comply with the requirements of article 14 of the Covenant. It would therefore be interesting to know in what cases civilians might be tried by military courts in Venezuela, why those civilians were removed from the jurisdiction of ordinary courts, whether the procedures of military courts satisfied the requirements of article 14 of the Covenant and, finally, whether a person convicted by a military court could appeal to a higher tribunal.

35. Noting that the legal age for marriage in Venezuela was 14 for males and 12 for females, he wondered whether such young persons were capable of giving their free and full consent, in conformity with article 23 of the Covenant. He would like to know whether any consideration had been given to changing the age at which marriage might be validly contracted.

36. In conclusion, he inquired which provisions regulated child labour and whether they were compatible with the protection called for in article 24, paragraph 1 of the Covenant.

37. Mr. KOULICHEV noted that the report was set out in conformity with the Committee's guidelines, but regretted that it did not contain more detailed information on the political, economic and social background against which human rights were implemented in Venezuela.

38. For instance, it would be helpful to know whether the Venezuelan Government had, in recent years, made use of the possibilities of suspending or restricting the constitutional guarantees in respect of human rights in conjunction with the proclamation of the state of emergency or the other situations specified in articles 241 and 244 of the Constitution (CCPR/C/6/Add.3, pages 5 and 6). Indeed, the statement on page 5 of the report to the effect that "the suspension or restriction of guarantees is one of the most effective means available to the National Executive to protect the institutions, order and peace of the Republic" seemed to express a philosophy little conducive to human rights and which might give cause for concern if it proved not to be merely an inept description of a more subtle approach. Furthermore, the ban on the restriction or suspension of certain rights laid down in article 241 of the Constitution did not cover all the rights specifically designated and protected by article 2, paragraph 2, of the Covenant, but only three of them.

39. With respect to the status of the Covenant in the internal legal order of Venezuela, the report stated (page 6) that the provisions of the Covenant might be invoked in the courts of justice or before administrative authorities since its approval by Congress and its promulgation by the President of the Republic had conferred on it the status of a special law. The Covenant therefore appeared to have the same status as ordinary law and, consequently, one might think that a subsequent law which conflicted with the provisions of the Covenant would prevail over it in the internal order. He would also like to know whether the Supreme Court of Justice was empowered to prevent the implementation of laws and acts of any kind which might be contrary to the provisions of the Covenant.

40. Referring to the remedies required by article 2 of the Covenant, he noted that the remedy of amparo provided for in article 49 of the Constitution had no positive effect since Congress had not adopted the special law which alone could bring it into force. He asked whether the remedy of habeas corpus, as regulated by a transitional provision, worked and how effective it was.

41. He would also like to have more information on the jurisdictional control of the legality of administrative acts under the system of administrative challenge mentioned on page 10 of the report.

42. With regard to article 3 of the Covenant, the report did not conceal the fact that the requirements of that instrument as to equality between men and women created certain difficulties in Venezuela and that national legislation in that field was not entirely in conformity with that provision. Thus, article 140 of the Civil Code (CCPR/C/6/Add.3, page 21) stated that "decisions regarding all matters relating to common marital life shall be made by the husband". That rule conflicted not only with article 3 but also with article 23, paragraph 4, of the Covenant which provided for "equality of rights and responsibility of spouses ... during marriage". Its formulation seemed very categorical and such an affirmation of the predominance of the husband clearly had adverse effects on other rights of the wife, even outside marital life proper.

43. In that context, he wished to know the Venezuelan Government's position in regard to the Convention on the Elimination of All Forms of Discrimination against Women, which had been open for signature since the summer of 1980. He stressed that the achievement of equality between men and women was not merely a legislative problem and that it would be most interesting to obtain additional information on the role of women in the economic, political and cultural life of the country.

44. Turning to article 3 of the Covenant, he noted that the report did not indicate whether express legislative provisions prohibited forced labour. He would also like to know whether Venezuela was a party to the ILO conventions on the prohibition of forced labour.
45. With regard to article 9 of the Covenant, it would be desirable to know the maximum legally-fixed limit beyond which the "preliminary investigation" could not be prolonged, to enable the Committee to decide whether it was reasonable.
46. With regard to article 13 of the Covenant, he noted that aliens who were legally on Venezuelan territory were expressly precluded by law from making any appeal against an expulsion order. Such a provision was certainly not in conformity with the requirements of the Covenant and the statement to the effect that the rule was in fact implicitly revoked by the provision established in article 13 of the Covenant was unconvincing; the mere incorporation of that instrument into the internal legal order was not sufficient in itself to rectify such a situation, because there could be no appeal unless there was express provision and an established procedure for appeals.
47. As far as article 18 of the Covenant was concerned, he would like to know what was meant by "statements which constitute offences".
48. With regard to article 20, he noted with satisfaction that the Venezuelan Constitution prohibited propaganda for war. He would, nevertheless, like to know whether any violation of that provision entailed the application of penalties provided for by the Criminal Code and whether there existed a concurrent prohibition of any advocacy of national, racial or religious hatred, in conformity with paragraph 2 of the above-mentioned article of the Covenant.
49. He noted, with regard to article 25 of the Covenant, that the right to vote was also a public duty in Venezuela and that its exercise was compulsory by law. The formula seemed unfortunate as well as incompatible with the Covenant and he would like to know whether the law provided for penalties in the event of failure to comply with the obligation to vote and what those penalties were.
50. With regard to article 27 of the Covenant, he would also like to know what was the actual scope of that provision in Venezuela, whether there were only indigenous minorities in the country and how large the minority groups were.
51. He had been interested to learn that Congress had had before it in 1979 draft reforms designed to bring Venezuelan legislation more fully into line with the provisions of the Covenant. He would like to know what the proposed reforms were and the stage they had reached.
52. He warmly welcomed the efforts made by the Venezuelan Government to maintain the country's democratic tradition and to promote the cause of human rights.
53. Mr. JANCA noted that the report confined itself to comparing provisions of the Venezuelan Constitution and legislation with those of the Covenant, whereas, under article 40 of that instrument, it should also mention the "progress achieved in the enjoyment" of the rights recognized in the Covenant. The members of the Committee were therefore compelled to request more comprehensive information.

54. For example, the report (on page 6) stated that the Covenant, which had been approved by Congress and promulgated by the President of the Republic, had the status of a "special law", an expression whose meaning was somewhat obscure. The question might then arise whether, under that law, the provisions of the Covenant could override those of ordinary law which conflicted with that instrument, if they rectified any shortcomings arising out of the non-existence or inadequacy of national legislative rules, and whether they could even complement certain provisions of the Constitution, such as article 241 prohibiting the restriction or suspension of certain constitutional guarantees relating to "absolute fundamental rights".

55. A further very important aspect concerned the remedies open to anyone who considered that his rights had been infringed. The report (on page 9) indicated two remedies: habeas corpus and amparo, while specifying that the former was subject to transitional provisions while the latter was to form the subject of a law not yet adopted by Congress. He would therefore like to know what other effective remedies existed in Venezuelan legislation which had not been mentioned in the report.

56. He would also like to have additional information on article 3 of the Covenant, since experience had shown that many States parties encountered difficulties in ensuring real equality of men and women before the law. In particular, he would like to receive statistical data on the participation of women in public life and to be informed about the steps taken to promote full equality.

57. The report (on pages 12 and 13) seemed to indicate that the rights protected by articles 6, 7 and 8 of the Covenant were fully guaranteed in Venezuela. It did not, however, mention the existence of express legislative provisions prohibiting medical and scientific experiments on people without their full consent. If there was no legislation of that kind, were the relevant provisions of article 7 of the Covenant enough to fill such a gap in the Venezuelan legal system? Moreover, the existence of "work colonies" was mentioned on page 8 of the report and he would like to know what kind of institutions they were and whether there might be a link between them and the compulsory labour condemned by article 8 of the Covenant. If so, he would like the representative of Venezuela to state which provisions of article 8 of the Covenant could justify the existence of such institutions.

58. As far as article 13 of the Covenant was concerned, it would be helpful if the Committee could receive more comprehensive information on the Aliens Act and, in particular, on article 47, which expressly precluded any appeal against an expulsion order issued against an alien. Such a provision appeared to contravene the aforementioned article of the Covenant.

59. In connection with article 14 of the Covenant, no reference was made to the right of the accused person to be informed, in a language he understood, of the charges against him and the rights available to him. The recognition of that right was essential in the case of aliens or even of members of certain minorities and the omission by the authors of the report was probably accidental.

60. Finally, in connection with article 27 of the Covenant, it would be helpful if the Committee had more complete information on the ethnic groups living in Venezuela, their numbers, their distinguishing features, their cultures, their languages and the steps taken to guarantee to them the effective enjoyment of their rights under the Covenant.

61. Mr. OPSAHL said he too noted that Venezuela, like many other States parties, had confined its report largely to a statement of the regulations and laws applicable in that country, which was not enough to give a full picture of the situation there and to acquaint the Committee with the way in which those regulations and laws were actually applied. Human rights could in fact exist on paper only and, while he was pleased to learn from various outside sources that the actual situation in Venezuela was on the whole satisfactory, he regretted that that was not readily apparent on reading the report. He stressed that the Committee should examine the actual social conditions in the States parties.

62. As most of the questions he had intended to ask had already been put by other members of the Committee, he would merely ask what exactly was the role played by the criminal courts in the field of human rights under article 23 of the Code of Criminal Procedure (page 8 of the report). He would also like to have some more detailed information regarding the observance of the various guarantees listed in article 14 of the Covenant. Like Sir Vincent Evans, he felt that it was necessary to have a statement dealing with each point in turn.

63. He appreciated the frank way in which the report had been drafted, particularly in regard to the dominant role conferred upon the husband in married life. That would make it all the easier for the Committee to state, in its own report, that such a situation was incompatible with the Covenant, without causing offence to the Government concerned.

64. He asked for details regarding the proposed reforms that had been submitted to Congress in 1979 with a view to bringing Venezuelan law into line with the provisions of the Covenant.

65. Mr. GRAEFRATH welcomed the inclusion, in Part I of the report of Venezuela, of general considerations which made for a better understanding of the Government's attitude towards human rights. He did not, however, endorse those general observations in their entirety.

66. He noted that in the Venezuelan Constitution human rights were dealt with under one title (Title III), "Duties, rights and guarantees", which consisted of chapters relating, in turn, to general provisions, duties, individual rights, social rights, economic rights and political rights. That was indicative of a genuine concern not to dissociate social rights from political rights. Unfortunately, that integral, and interesting, approach to human rights had not been adopted in the report, which was confined to the civil and political rights listed in the Covenant. Probably that was because human rights had been the subject of two different covenants, which was regrettable in view of the close connection between economic, social and cultural rights, on the one hand, and civil and political rights, on the other.

67. The report defined (on page 3) civil rights as "a limitation on the action taken by the public authorities vis-à-vis the individual privacy and security of the members of the political community" and applied that limitative concept, which was not a part of the Covenant, when introducing the provisions of Venezuelan law that corresponded to the various articles in the Covenant. For instance, in regard to article 6 of the Covenant (right to life), the report referred only to the prohibition on capital punishment (page 12); but, the right to life, which was stated to be a fundamental and absolute right in the Venezuelan Constitution, did not only require the authorities to refrain from arbitrarily depriving an individual of life. Infant mortality, illiteracy, impossibility of finding work, and the risk of falling victim to a political

or common law murder, all of which were common in Latin-American countries, were just as much infringements of the right to life. He therefore wished to know what the Venezuelan Government was doing in those areas - areas to which the Constitution attached more importance than the constitution of most other countries.

68. He asked for some clarification regarding the "wrongful detention" and "excessive punishment" referred to in article 142 of the Statute of Minors (page 9 of the report): who would order such wrongful detention or excessive punishment? He joined with those members of the Committee who had asked for an explanation regarding the remedies of habeas corpus and amparo (page 9), and regarding discrimination against women (page 12). What was the precise meaning of the second part of article 191 of the Civil Code regarding divorce, which provided that "a petition for divorce or separation may be initiated only by the spouse who has not given grounds therefor" (page 21). How was that provision applied in practice?

69. He had noted with interest that there was, in Venezuela, a Public Prosecutor's Department which seemed to him to be comparable to an institution that existed in the socialist countries; he would like to have further information about the functions of that department. He endorsed the points made regarding the age of marriage. The report referred to the special protection which minor workers received (page 22). Was child labour authorized? Practised? General? What was the Government doing to eliminate it? In regard to eligibility which was made subject to certain requirements as to fitness, he would like to know what tests (reading, writing) were applied to assess those capacities and what percentage of the population was not eligible under those provisions. He endorsed the questions put by Mr. Tarnopolsky regarding indigenous peoples.

70. Mr. TOMUSCHAT, referring first to the remedies available to a person who considered that his rights had been infringed, said that the remedy of amparo was still no more than a declaration of principle in the Constitution since its exercise was made subject to the provisions of an act that had yet to be passed by Congress (page 9 of the report). Was the system of legal protection, therefore, incomplete? The Supreme Court, which was responsible for the protection of human rights and had some of the powers of an administrative court, would probably not have competence in all areas in which individuals might claim to have been injured by arbitrary administrative acts. In the absence of the remedy of amparo, were there any specialized administrative courts that had competence in those areas? For example, what remedy was available to a person who had been refused a passport? To whom would he apply? Or, again, if a newspaper had been closed down by the authorities, what remedy was open to it? If the competent authority refused to register a newly established trade union, what could the union do?

71. Turning next to the protection of foreigners, he noted that Venezuelan law was fairly generous in that regard, since paragraph 2 of article 111 of the Constitution in particular provided that the right to vote in municipal elections could be extended to foreigners subject to certain conditions. Was that provision in fact implemented? So far as the other political rights were concerned, they were reserved under article 45 of the Constitution, to Venezuelan citizens. That article did not seem to be compatible with article 25 of the Covenant, which was designed to ensure equality of rights between foreigners and citizens. What was the precise scope and meaning of article 115 of the Constitution? Did it exclude foreigners, in all cases, from the right to demonstrate peacefully and without arms?

72. In regard to the expulsion of foreigners, the report stated (page 16) that, under the terms of article 47 of the Aliens Act, "no appeal shall be permitted ... against the expulsion order ...", but added that that article was implicitly revoked by article 13 of the Covenant. But the removal of a legal obstacle was not sufficient: the relevant procedure (appointment of the competent organ, powers, time-limits, etc.) had to be established by law since it was not provided by article 13 of the Covenant.

73. In his view, the report submitted by the Venezuelan Government did not devote enough space to laws and regulations of implementation. It was not enough to draw the Committee's attention to the Constitution. Constitutions everywhere were much alike: they guaranteed freedom of opinion, freedom of the press, freedom of association and protection of the family. But those rights only became a reality when laws or even mere administrative circulars lent substance to such freedoms. The Committee should therefore be informed of the laws and regulations of implementation so that it would be in a position to assess the facts of the situation.

74. For example, in order to indicate whether Venezuela fulfilled its obligation under article 7 of the Covenant, it was not enough to quote, as the report did (on page 13), the provisions of the Constitution and of the Criminal Code, which, for instance, prohibited torture. The report should indicate whether Venezuela observed the Standard Minimum Rules for the Treatment of Prisoners laid down by the United Nations and whether there were any bodies responsible for verifying the treatment to which prisoners were subjected (in some countries, citizens were entrusted with such tasks). In order to know how the right to life (article 6 of the Covenant) was guaranteed in practice, the questions to raise would be, for example: What legal régime governed the use of fire-arms by the police forces? Were the latter authorized to fire on a person who was being pursued and who was running away? How were the powers of the police defined? The same remarks applied to the right to freedom of expression (article 19), the right of peaceful assembly (article 21) and freedom of association (article 22).

75. In regard to article 14 of the Covenant, which contained a set of very important provisions, the Committee, as Mr. Opsahl had said, would require information regarding the implementation of each one of those provisions.

76. The Committee should proceed by stages. The report submitted by the Venezuelan Government provided basic information that was of use in the first stage. Thereafter, the Committee would require more detailed information to enable it to embark on further deliberations and to arrive at conclusions.

77. He pointed out a mistake in the English version of paragraph 5 of article 60 of the Venezuelan Constitution (page 17 of the report): the expression "offence against public property" should be amended to read "offence against the res publica" since the corresponding text in the Spanish version was "delito contra la cosa pública".

78. Mr. SADI said he considered that the conditions whereby the constitutional guarantees could be restricted or suspended, under article 241 of the Venezuelan Constitution, were far wider than those laid down in article 4 of the Covenant for, under the latter instrument, the life of the nation had to be threatened. Article 241 of the Constitution was therefore incompatible with article 4 of the Covenant. The question merited careful study in view of the frequent proclamation of a state of emergency in Latin-American countries.

79. With regard to article 1 of the Covenant, he asked what was Venezuela's attitude to the promotion of the right of peoples to self-determination in other Latin-American countries. In regard to the concept of legal equality (article 3 of the Covenant), he asked why article 61 of the Venezuelan Constitution did not prohibit discrimination based on political grounds. On the question of religious freedom (article 18 of the Covenant) the report quoted article 65 of the Venezuelan Constitution but did not quote article 130 which provided inter alia that: "Since the Republic possesses the right of ecclesiastical patronage, this will be exercised according to law". That provision could have important consequences: How was the right implemented in practice? And how was it compatible with the Covenant?

80. As to the age of marriage, he recognized that the age limits of 14 years for men and 12 years for women, laid down in article 46 of the Venezuelan Civil Code, might seem too low. Those age limits did not, however, conflict with article 23 of the Covenant, which referred only to "marriageable age". In some countries sexual relations before marriage were not tolerated. Before it pronounced itself on what might be acceptable as marriageable ages, the Committee should take account of circumstances in such countries.

81. According to persistent news reports, a considerable number of emigrants from Colombia to Venezuela had been ill-treated and some had even been killed by the security forces, who had tried to stop them crossing the border. He would like to have some information about the matter. Emigrants, whether or not they emigrated legally had rights guaranteed under the Covenant, like all individuals.

82. Furthermore, according to reports confirmed by Amnesty International, the Venezuelan security forces had made arbitrary arrests, used torture and had even been known to carry out executions, notwithstanding the democratic régime in the country. Did the security forces and armed forces always carry out their duties in liaison with the civilian government or did they act independently of it.

83. The objective of the Committee was to reconcile any conflicts that existed between the various national laws and the Covenant and he trusted that the Venezuelan Government would consider the requests for information in that light.

The meeting rose at 6.15 p.m.