

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



Distr.
GENERAL
CCPR/C/SR.170
15 August 1979
Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Seventh session

SUMMARY RECORD OF THE 170th MEETING

held at the Palais des Nations, Geneva,
on Monday, 13 August 1979, at 10 a.m.

Chairman: Mr. MAVROMMATIS

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GE.79-3166

The meeting was called to order at 10.20 a.m.

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

Finland (CCPR/C/1/Add.32)

1. At the invitation of the Chairman, Mr. Saario (Finland) took a place at the Committee table.
2. The CHAIRMAN welcomed the representative of the Government of Finland, whose report was now to be examined by the Committee. The Committee had asked the Bureau for guidance on the procedure it should follow in examining that report. However, the Bureau had felt that a decision as to procedure should be taken in consultation with the representative of the Finnish Government.
3. Mr. SADI, supported by other members of the Committee, suggested that the most expeditious procedure would be for all members to put their questions first and for the representative of the Government of Finland to reply to all the questions afterwards. The report now before the Committee (CCPR/C/1/Add.32) was in effect an initial report since the earlier report received from the Government of Finland (CCPR/C/1/Add.10) had been prepared before the issuance of the Committee's guidelines on the structure and content of States' reports. It would therefore be appropriate to treat the report as if it were a first report.
4. With the assent of the representative of the Government of Finland, it was so decided.
5. Mr. SAARIO (Finland), introducing the supplementary report submitted by the Government of Finland, said that it contained a detailed summary and, where necessary for clarity, a translation of those provisions of Finnish legislation which, together with its Constitution, ensured the enjoyment in Finland of the human rights and fundamental freedoms recognized in the International Covenant on Civil and Political Rights. The supplementary report also contained answers to questions raised by members of the Committee in connexion with Finland's original report.
6. In its customary examination prior to ratification, the Government of Finland had determined that with very few exceptions the Finnish Constitution and other legislation were compatible with the Covenant. With regard to some of the exceptions, the relevant Finnish law had immediately been amended. With regard to others, which were mainly of a technical nature and did not violate the spirit and objectives of the Covenant, a reservation had been made at the time of ratification. As to the discrepancies remaining, they were due to structural differences between the Finnish legal system and that envisaged in the Covenant, and not to any essential difference of principle.
7. With reference to the implementation of article 2, paragraph 2, of the Covenant, he said that in accordance with the procedure provided for in article 33, paragraph 1, of the Finnish Constitution Act, the provisions of the Covenant, in so far as they contained stipulations falling within the domain of legislation, had been incorporated into Finnish law by Act No. 107 of 23 June 1975 as a prerequisite for ratification of the Covenant. Subsequently, both the Covenant and the Optional

Protocol had been brought into force in Finland by Decree No. 103 of 30 January 1976. Thus, as part of Finnish law, the provisions of the Covenant had the force of a compelling interpretative standard for the human rights and fundamental freedoms ensured by the Constitution and the ordinary laws of Finland, and were binding upon all organs of the State, including the legislature. They also constituted an international legal obligation upon the Government, which meant that not only existing laws but also future laws and administrative measures must be compatible with the relevant provisions of the Covenant, and derogations from that obligation would require the consent of the other States parties to the Covenant.

8. Finland was doing its utmost to comply with the Covenant and to ensure the effective enjoyment of the rights and freedoms recognized therein. That was only natural since Finland's political system and values reflected the principles underlying the Covenant. Finnish laws were the expression of the sovereign will of the people, represented by their freely elected delegates in Parliament. It was in the interest of the people to protect the rights and freedoms guaranteed to them by the Constitution and ordinary laws as well as by the Covenant, which had now been incorporated into Finnish law. All Finnish political and judicial institutions were safeguarding respect for, and the enjoyment of, the human rights and fundamental freedoms guaranteed to all.

9. In conclusion, he reaffirmed the willingness of the Finnish Government to co-operate with the Committee in promoting the protection and enjoyment of human rights, and its readiness to supply any further information the Committee might require.

10. The CHAIRMAN thanked the representative of the Government of Finland for his reaffirmation of his Government's intention to continue co-operating with the Committee in the dialogue which had been initiated between them.

11. Mr. BOUZIRI expressed gratitude to the Government of Finland for its readiness to co-operate with the Committee - a readiness which was exemplified by the presence in the Committee of a delegation from that Government. The supplementary report of the Government of Finland was a full and clear complement to its first report, and the information contained in it had been amplified by the representative of Finland in his introductory statement. He would, however, be grateful for clarification of certain statements in the report.

12. First, his understanding from his reading of the report was that a state of emergency could be declared in Finland only in a situation of war or of mobilization necessitated by a danger of war. He would like confirmation of that conclusion. Further, he noted that under article 6 of the Finnish Act on a State of War, to which reference was made in connexion with article 4 of the Covenant, a person held on suspicion under article 5, paragraph 1, of that Act, could be kept in detention throughout the period of war. However, under article 5, paragraph 1 (b), of that Act, a person could be arrested if he were suspected of a punishable attempt at, or preparation of, or being an accomplice in, one of the crimes mentioned in the preceding subparagraphs. It might subsequently prove that a person so arrested had been wrongly suspected. Nevertheless, under article 6 of the Act, such a person could be held in detention throughout the period of a war, which could be a very long time. That situation was surely in conflict with the provisions of the Covenant, and especially article 9 of the Covenant.

13. He noted from the part of the report relating to the implementation of article 9 of the Covenant that Finnish law did not recognize release on bail. He wondered whether Finnish law provided for the granting of provisional release to a person who had appeared before a judge. It was stated in the fourth paragraph on page 9 of the report that the next of kin of an arrested person must be informed of the arrest "as soon as it is possible without hampering the investigation". That appeared very vague, and he would like to know exactly when the next of kin was informed of an arrest, and whether an arrested person could make immediate contact with his lawyer or whether the restriction in question applied to him also. The same part of the report stated that a person wrongfully arrested or detained was entitled to indemnity from State funds for the injury and sufferings caused him by the wrongful arrest or detention. He wondered whether such a person was indemnified for the moral as well as for the material injury he had suffered as a result of his wrongful arrest or detention, and how such indemnities were calculated.

14. With reference to the implementation of article 12 of the Covenant, the report stated that every Finnish citizen had the right of sojourn in his country, of freely choosing his place of residence and of travelling from one place to another "unless otherwise provided by law". He would like to know what restrictions could be stipulated by law in that sphere and whether in the past there had been laws restricting the freedom referred to in article 12 of the Covenant. With further reference to article 12 of the Covenant, he noted that the right of Finnish citizens to receive a passport for travel abroad was subject to a fairly lengthy list of exceptions. He would like to know whether any recourse was open to a person who had been refused a passport and if so whether such recourse was purely administrative or whether the case could be taken before a court. In that connexion, he would also like to know what was the situation of foreigners - a matter which had been raised during the examination of the initial report of the Government of Finland.

15. The report referred, in connexion with article 14 of the Covenant, to the independence of the courts and the judiciary in Finland. He would like further details on that subject and in particular with respect to the appointment and transfer of judges. He wondered whether any recourse was open to a judge not satisfied with a transfer effected under article 91, paragraph 1, of the Constitution Act.

16. Reference was made in the report to the protection afforded to the rights laid down in article 17 of the Covenant. However, the quotation from chapter 40, article 14, of the Finnish Penal Code appeared to imply that correspondence could be opened in certain circumstances. He would like to know if that was so in fact.

17. With reference to articles 18 and 19 of the Covenant, the report described the protection afforded to religion and to the family in the context of religion. He would like to know whether any registered religious community had the right to conduct propoganda and, correspondingly, whether atheists had such a right. He noted that in some States whose reports had been examined by the Committee, there existed an offence relating to blasphemous or seditious remarks. He wondered if such an offence existed in Finnish law and, if so, what punishments were applicable. He further noted that in Finland the Evangelical Lutheran Church and the Orthodox Church of Finland enjoyed a special status as State religions. He wondered what was implied by that status and whether it gave the members of those two religious communities special rights or advantages. If that were so, he could not help feeling that it would entail a certain discrimination against the members of other faiths in Finland in the sense of the Covenant.

18. With reference to the implementation of article 21 of the Covenant, the report stated that a police chief or his deputy was entitled to attend a public meeting and to dissolve the meeting, inter alia, "if the meeting is arranged by someone who is not entitled to do it". He would like to know what persons were entitled and what persons were not entitled to arrange meetings.
19. In connexion with articles 23 and 24 of the Covenant, relating to the family and children, he asked whether abortion was permitted in Finland and, if so, in what circumstances, and whether, for example, the mental health as well as the physical health of the mother was taken into account.
20. He noted, with reference to article 27 of the Covenant that, as was stated on page 2 of the report, the Swedish-speaking minority in Finland had been granted "special constitutional protection as regards their rights to use their mother tongue before the courts and administrative authorities". That special status was not shared by the other Nordic language or by any other language, and although it was defended on historical grounds he doubted whether it could be said to be completely in conformity with the letter and the spirit of the Covenant. Lastly, he wished to know whether Finnish minorities, and in particular the gipsies and the Lapps - the two largest minority groups living in Finland, were represented in the Finnish Parliament.
21. In conclusion, he wished to commend the Government of Finland for the extent to which the civil and political rights of individuals were protected in that country, and for the great efforts which it had clearly made, since the submission of its first report, to ensure that the provisions of the Covenant became a reality both in the laws and in the life of Finland.
22. Mr. OPSAHL expressed appreciation for the additional information which had been submitted by the Finnish Government and, in fact, constituted a complete initial report. As such, it was thorough, clear and to the point.
23. He noted that in the section of the Finnish report relating to part I of the Covenant, the basic features of the Republic of Finland were set out without any reference to the past. It was gratifying to know that the sovereignty and democracy of Finland were now firmly established and respected by everyone, both in law and in international relations.
24. The pressure to have the principle of self-determination included in the Covenant had come from groups other than the Nordic countries, but he now believed that they had been right in insisting on that pre-condition for the general enjoyment of civil and political rights, always bearing in mind that the Covenant spoke of self-determination and not of independence. In that connexion, he noted the degree of autonomy granted to the Åland Islands for historical as well as demographic reasons. He did not know how necessary a special status for those islands was felt to be at the present time and it might be helpful to have some information about them and the reasons for their autonomy today. In addition, he would like to know whether the special status of the Åland Islands was based on an expression of the will of the people living there. If so, how recently had their will been expressed, and were there or had there been any plans or wishes to change that status in any way?

25. The information relating to part II was comprehensive and relevant. An interesting point was that, as long ago as 1947 under the Peace Treaty of Paris, Finland had undertaken an international obligation to secure human rights, therefore confirming that guarantees which, according to the Constitution, applied only to citizens were extended to aliens as well. He wished to know how that obligation could be invoked and possibly enforced. Was it by means of the ordinary diplomatic protection extended to aliens by their own State, provided it was a party to the Peace Treaty, or was there some other remedy?

26. He was interested in the Equality Council and its tasks, and would like to know about its composition and the representation of women on it.

27. The explanations concerning the standing of the Constitution as higher law were helpful, but might benefit from further clarification, particularly in respect of amendments and the procedure for urgent matters. He wondered whether the statement in the last sentence of the third paragraph on page 4 of the report applied only at the international level. Strictly speaking, did not the Constitution, including the power of amendment, prevail at the national level? And in the case of urgent matters, could not derogations be made from the Covenant? His question was perhaps somewhat theoretical, but he had reason to believe that the procedure for amending or derogating from the Constitution had been applied quite frequently in Finland.

28. The last paragraph relating to part II left him in some doubt about the status of the Covenant in domestic Finnish law. What was the meaning of the third sentence? He would like to know whether the Act in question actually reproduced the text of the Covenant in Finnish or whether it incorporated the Covenant merely by means of references. The Nordic countries generally had not felt it necessary to change much in their laws or to take steps in order to reflect the provisions of the Covenant, and he would like to know to what extent Finland differed from the other Nordic countries in that respect.

29. In the information relating to article 6 of the Covenant, the report furnished information on punishment for various acts threatening life. What was the position regarding abortion? In connexion with article 9, full particulars had been given regarding powers of arrest and detention in criminal proceedings. What was the position regarding patients, alcoholics, drug addicts, children, vagrants and aliens detained against their will? That subject had not been raised, but it was clear that certain provisions of article 9 must be observed in such cases. Did the law authorize administrative detention in those cases, on what grounds, according to which procedures and with what safeguards, particularly with regard to judicial control?

30. The information concerning the grounds on which passports might be withheld was most useful. How often was a passport withheld from persons who might carry out activities prejudicial to State security or injurious to the interests of the country? Such a provision could be extremely dangerous in the wrong hands and the question put by Mr. Bouzira concerning the remedies available to a person who had been refused a passport was of great relevance.

31. He noted the very full information given in relation to important articles such as articles 14 and 17 of the Covenant. The obligation under article 17 was on the State, in the first place, not to interfere with privacy, the family, the home, correspondence and so on. The Finnish report provided information about

provisions which protected those rights against a third party in the event of trespass, libel, slander and so on. Most countries had such provisions, but were they really required under the Covenant, which was primarily concerned with protection against interference by the public authorities?

32. He noted that the provisions of the Penal Code which were quoted contained expressions such as "anyone who without legal reason" and "anyone who without permission", which seemed to imply the existence of rules permitting such interference and thus rendering the prohibitions in the Penal Code inapplicable. One thought immediately of such matters as secret surveillance by the police, which constituted a difficult problem for any country, and he would like to ask what safeguards there were for individuals vis-à-vis such secret services.

33. The information provided in respect of article 19 was surprisingly scanty, and he would welcome more details of how freedom of information and expression was implemented. It was unnecessary to elaborate on the importance of article 19 for the individual and society, and in particular for the enjoyment of political rights, because he had reason to believe that its importance was well known and well respected in Finland. He simply wished to ask about the technical means used to protect freedom of expression and information. The report mainly referred to Act No. 1 on Freedom of Print, in accordance with which the exercise of that freedom was protected against "previous obstacles by public authorities". That, of course, must mean above all prior censorship on publishing, in a wide sense. Thus, publishing as such seemed to be well protected. However, the report said nothing about subsequent responsibility for matter published or information given in the case of slander, libel and other offences involving printed matter. There was also the problem of "sedition" or subversive propaganda, and he would like more information on the existence of restrictions on the freedom of information. Were publications, books or newspaper ever seized if their content was of such a nature that the author or publisher was liable to incur punishment?

34. Lastly, also in relation to article 19, how far was the individual granted access to information in the possession of the authorities, especially in public files? That aspect of the positive implementation of an important right was one to which he thought Finland had more to contribute than might appear from the report.

35. Mr. TOMUSCHAT said that the Committee was most grateful to the Finnish Government for having supplied it so promptly with additional information in a carefully drafted report which followed the guidelines it had established. The Finnish Government had taken care to specify the legislation setting forth in detail the legal régime relating to the rights and freedoms enshrined in the Constitution.

36. The explanations given in respect of articles 18 to 23 of the Covenant were particularly well organized and discussed with complete frankness all restrictions and requirements enacted by ordinary legislation to make the Constitution and the Covenant work. In fact, such laws performed a double function. Although, on the one hand, they must obviously be assessed against the background of the limits which

the Convention set to any national limitation clauses, they also helped to strengthen and make legally effective the rights and freedoms of the individual, since they ensured legal clarity and certainty. Whenever a State refrained from enacting supplementary legislation, the individual was subjected to great risk, because it was inevitable, in such circumstances, that administrative agencies should define the scope of the individual's rights at their own discretion. Even judicial control must lack effectiveness, because judges in most systems needed the guidance of the legislator and tended to take a very cautious approach to constitutional principles which had not been given specific form through ordinary laws. In the case of Finland, any such fears would seem to be unwarranted, especially since it was one of the few countries which had accepted both the Optional Protocol and the procedure provided for under article 41 of the Covenant.

37. The Committee had been told that the Covenant had been incorporated into the domestic legal order of Finland and that in the event of inconsistency between domestic law and the provisions of the Covenant, the latter would prevail. Would the Covenant eventually take precedence over the Constitution? He was alluding to the domestic legal order, and not to the position of the Covenant in international law, which had been referred to earlier. What rules applied in the event of a conflict between the Covenant and subsequent legislation? Would the Covenant prevail if the Government had enacted a law which ran counter to it?

38. The abstract rules about the settlement of conflicts between different kinds of legal sources needed to be implemented in judicial practice. Were judges competent to give effect to such rules, declaring invalid a legal norm which would be inconsistent with the Covenant? Could they themselves take such decisions concerning inconsistency or would they have to refer the issue to the Supreme Court? Lastly, since the rights and freedoms enshrined in the Constitution were largely similar to the rights and freedoms enshrined in the Convention, did Finland have an effective system for controlling the constitutionality of laws? It would be helpful to have information concerning the legal régime governing those matters.

39. In connexion with article 2, paragraph 1, of the Covenant, he said it was not clear whether the first sentence of the last paragraph on page 2 of the report should be taken to mean that even the legislature was bound to respect the principle of non-discrimination. The Convention, of course, addressed itself to the State as such, making no distinction between the different government organs. Nevertheless, it would be helpful to have some information about the constitutional situation. In any event, as he saw it, starting from the proposition that the Covenant had force of law in Finland, one would have to conclude that any gaps in the constitutional system of protection had been filled by the Covenant, provided that it could take precedence over subsequent legislation as well. In that connexion, he expressed appreciation for the provisions of chapter 13, article 6, of the Penal Code. He agreed that in some problem areas, the private citizen should be protected not only against discrimination or interference by the State, but also against private discrimination. He wondered, however, whether and to what extent such an obligation derived from article 26. Freedom would soon disappear and all-embracing supervisory machinery would have to be set up if even the private citizen was prohibited from exercising discrimination on grounds of sex, religion or political opinion. Primarily, therefore, article 26 was designed to afford protection against State discrimination. He was entirely open to reasonable arguments for expanding

the circle of addressees of that provision to third persons. Safeguards might be necessary against socially powerful organizations. However, it was difficult to reach such intermediate conclusions since the text of article 26 did not provide any clues on that matter.

40. He had been struck by the explanation given in relation to article 22 that only Finnish citizens might join a political association. That it should be legitimate to withhold certain rights of a political character from aliens was explicitly stated only in article 25, dealing with the rights which enabled citizens to participate directly in public affairs. Political associations had but an indirect bearing on decision-making in the relevant State bodies, seeking as they did to influence general debate on matters of public concern and thus to orientate the voters' power of decision. Nevertheless, such activities were geared to the exercise of democratic rights by the national community under article 25, and it could therefore be argued that political rights which were ancillary or accessory to those covered by article 25 must likewise be held not to exist for the benefit of aliens, even without any reservation such as that entered by the Federal Republic of Germany. Even so, the exceptions to the principle of equal treatment must be understood in a narrow sense.

41. Aliens must be free to voice their complaints regarding the treatment accorded to them by the Government concerned and to form political associations. Where aliens enjoyed communal voting rights, the Government should also provide the necessary means for the effective exercise of such rights. Anyone enjoying communal voting rights should, at the same time, be free to join a political organization at least at the local level. Perhaps further information could be provided on that question.

42. On page 19 of the report, it was stated that children under 18 years of age were considered to belong to the same religious community as their parents. That raised the complex problem of the right accorded under article 18 of the Covenant. Should such children be considered as simply under the guardianship of their parents until they reached the age of majority so that, in all cases, they would be required to act through their parents in order to assert their rights, or were States under an obligation to free children from such parental authority as soon as they had acquired the necessary understanding for the independent exercise of the right concerned? In any event, 18 years was a rather high age-limit. It was difficult to imagine that a child would fully share his parents' convictions up to that age. He wondered whether consideration had been given to lowering the age-limit.

43. With regard to the information provided by Finland in respect of part II of the Covenant, he said he was aware that both the Chancellor of Justice and the Parliamentary Ombudsman had gained immense prestige with the Finnish people, who viewed them as the best bulwark against any infringement of their rights. Nevertheless, it was astounding to learn that both those officials were empowered to control courts and tribunals. Article 14 of the Covenant proceeded from the specific assumption that the outcome of a judicial proceeding should be final and that no authority should be entitled to question a judgement of last resort. Further information on that point would be useful.

44. With regard to article 12 of the Covenant, it would be helpful to have further information on cases in which an application for a passport could be refused. What was the meaning of the provision under which anyone expected to carry on abroad activities prejudicial to the security of Finland or injurious to the interests of the country could be refused a passport? Could that apply to a person who was believed to have criticized the Finnish Government, or even a foreign Government, while abroad? The Covenant must be seen as an indivisible whole. Consequently, article 19 had a bearing on article 12. Lastly, what remedies were available to the individual in such cases? He associated himself with the question already asked by Mr. Bouziri in that connexion.

45. With regard to article 17 of the Covenant, he wondered whether postal or customs officers checked the contents of letters or parcels intended for internal or external destinations and, if so, what was the legal basis for their actions. It had been reported that it was considered to be unlawful to send the Holy Bible abroad from Finland, since it was regarded as contraband. Perhaps the representative of Finland could shed some light on that matter. Article 17 must be interpreted and applied in the light of article 19 of the Covenant.

46. What was the status of a Finnish woman who married an alien? Did she automatically lose her status as a Finnish national or did she have the right to choose her nationality - a right which would be in keeping with current legal practice? While the report was silent on that point, it stated quite explicitly that a child born in wedlock whose mother was a Finnish citizen was given the status of a Finnish citizen only if it did not acquire a foreign nationality from its father. Did that not constitute discrimination against the mother?

47. Mr. GRAEFRATH commended the Finnish Government for its report.

48. It would be useful to have additional information on how the provisions of the Covenant were applied within the Finnish legal system. Could they, for example, be invoked in the courts?

49. On page 3 of the report, it was stated that certain political rights were guaranteed to citizens only. He wondered whether there were other areas in which equal treatment was not accorded to aliens.

50. The report stated that every individual citizen or group of citizens was considered equal before the law, regardless of race, colour or national or ethnic origin only; that did not correspond fully with the language used in article 2, paragraph 1, of the Covenant. He wondered whether there were any significant differences between the provisions of the Constitution relating to non-discrimination and the provisions of the Covenant.

51. It would also be useful to have additional information on the work of the Equality Council. Was it, for example, chaired by a woman and what was its composition? Also in connexion with the equal treatment of men and women, he noted that article 4 of the Constitution stated that every woman of foreign nationality who had married a Finnish citizen was entitled to Finnish citizenship. He wondered whether the same was true of a man of foreign nationality who married a Finnish citizen.

52. Further information might also be provided regarding the functions of the Chancellor of Justice and the powers of the Parliamentary Ombudsman to take action if he found that a law had been violated. What administrative acts could be challenged in the courts?

53. He would also welcome additional information on measures taken by the Finnish Government to ensure the right to life, as envisaged under article 6 of the Covenant, in areas such as the improvement of living conditions and the reduction of infant mortality rates.

54. He wondered whether the Finnish Penal Code contained any specific provision prohibiting torture, the subjection of individuals to medical or scientific experimentation without their free consent, and genocide. He would also like to know why Finnish law did not recognize the concept of release on bail and whether any specific regulations existed governing the use of weapons, particularly firearms, by the police forces. With regard to the implementation of article 19 of the Covenant, he inquired whether any specific provision existed regarding the monitoring of telephone and postal communications by the authorities.

55. Lastly, if parents were compelled to request permission for their children below the age of 18 years not to belong to the same religious community as themselves, that could constitute a form of religious discrimination. Further information on that question would be useful.

56. Mr. HANGA noted that a committee had been set up to revise those provisions of the Constitution Act of 1919 whose wording did not correspond entirely with the relevant provisions of the Covenant. He wondered what work that Committee had done and what progress it had made. Moreover, if in the future a law was found to contain provisions contrary to the Covenant, what legislative text or legal principle would be invoked to prevent the enforcement of such a law and to ensure that the Covenant took precedence?

57. With regard to the question of equal treatment for men and women, he asked what proportion of Members of Parliament were women, how many women had been appointed judges or diplomats, and whether they could be appointed to the office of Chancellor of Justice or elected Parliamentary Ombudsman.

58. In relation to the provisions of article 4 of the Covenant, the report stated that situations of public emergency were governed by Act No. 303 on State of War and Act No. 356 on the Application of the Provisions of the Act on State of War in Connexion with the Mobilization of Military Forces. He wondered, firstly, whether a state of war and insurrection were the only situations considered as threatening the life of the nation, or whether other situations could be considered as constituting such a threat. Secondly, was the President required officially to proclaim a state of public emergency before declaring the acts in question to be applicable?

59. Article 6 of the Covenant could be interpreted as imposing on States the obligation to take positive measures in order to improve living conditions by, for example, reducing mortality rates and increasing life-expectancy. He wondered whether the Finnish health laws established penalties for the use of drugs and what measures existed in the area of environmental sanitation.

60. In connexion with article 7 of the Covenant, he asked whether there were in Finland any legislative provisions relating to the removal or transfer of human organs or tissues.

61. With regard to article 3 of the Covenant, he inquired whether the Constitution or laws of Finland contained any provision concerning the right to work, namely the right of citizens to secure and remunerative employment, including the right to choose their activity in accordance with their standard of education and with the needs of society.

62. Referring to article 9, paragraph 5, of the Covenant, he noted with satisfaction that Finland had enacted legislation on the codification of the law of indemnification as a whole. He asked whether that codification covered moral as well as physical injury, so that State organs would have an obligation to afford the victim moral satisfaction by issuing an apology in the press or other mass media.

63. In connexion with article 10, paragraph 3, of the Covenant, he asked whether under the Finnish prison system prisoners received vocational training which would enable them to engage in a useful activity when they were released.

64. With regard to article 14 of the Covenant, he asked what measures existed to ensure that judgements were rendered without undue delay. Furthermore, in connexion with paragraph 7 of that article, he wondered whether the Finnish legal system could not overcome the difficulty of possible infringements of the Covenant through the application of the procedural provisions already existing in its legislation.

65. In connexion with article 16 of the Covenant, he wished to know whether the provisions of article 5 of the Constitution Act applied in the same way to aliens and Finnish citizens. He also inquired in connexion with article 18 of the Covenant, whether education was of a strictly secular nature.

66. As far as freedom of expression was concerned, he asked what practical measures existed to ensure that the ethnic, religious or linguistic groups referred to on pages 34 and 35 of the report were able to express their social, political and religious opinions through the mass media.

67. Referring to article 22 of the Covenant, he inquired whether any other legislation existed in addition to the Acts mentioned in the report, given the fact that there had been social developments which called for increasingly varied guarantees of the freedom of association. Were the restrictions on the freedom of association envisaged under Finnish law the same as those referred to in article 22, paragraph 2, of the Covenant? What was the role of trade unions in the political and economic life of Finland? Did they participate in the conclusion and termination of collective labour agreements and in the settlement of labour disputes, and could they take initiatives in legislative matters?

68. Referring to article 23 of the Covenant, he asked under what conditions joint property could be acquired during marriage and whether the two régimes of separation of goods and joint property had different effects on the right of succession of the children. Did the absence of free consent constitute the only grounds for invalidation of a marriage?

69. With regard to article 25 of the Covenant, he asked how the ethnic, religious and linguistic minorities referred to in the report were represented in Parliament. Was such representation through political parties, or did legislative or other regulations exist guaranteeing them proportional representation? If there existed a statute relating to all public servants, what were the remedies available to public servants in the event of a failure by the State to respect their rights?

70. Mr. SADI noted that, on page 2 of the report, it was stated that the rights provided for under the laws of Finland corresponded substantially to the rights established under the Covenant, which implied that they did not correspond fully. He would like to know what provisions were made in the Constitution or laws to ensure that, in the event of a conflict between the Constitution and the Covenant, the latter took precedence.

71. On page 3 of the report it was stated that the fundamental rights and freedoms guaranteed by the Constitution Act, while literally concerning only the citizens of Finland, also applied to aliens lawfully residing in the country, in accordance with the general rules of international law recognized by Finland. That seemed to be a rather vague basis for the application of rights to non-citizens and was therefore not a satisfactory way to guarantee the enjoyment of such rights.

72. With regard to the question of a situation of public emergency, he wondered whether in Finland no provision existed for the declaration of a public emergency except in the event of war. That would imply a highly restrictive application of article 4 of the Covenant.

73. Referring to the section of the report relating to article 18 of the Covenant, he said that it was an ominous and grave omission in Finnish law, as well as a violation of both the letter and the spirit of article 18, to restrict freedom of religion, or any other form of freedom of thought, to persons over the age of 18 years. In connexion with article 22, he expressed the view that certain associations which might influence political affairs should be open to non-citizens and that the Finnish law to the contrary violated the letter and the spirit of the Covenant. In relation to the section on article 25, which stated that Members of Parliament were elected by direct and proportional suffrage, he wished to know whether electoral districts were distributed equally according to population. If they were not, the cardinal principle of one man one vote would be violated.

74. Mr. TARNOPOLSKY said he agreed with previous speakers that the status of the Covenant with respect to Finnish law, as described at the foot of page 6 of the report, was unclear. He wondered whether the Peace Treaty of Paris of 1947, referred to on page 3, constituted the basis for arguing that in Finland even non-citizens had equal rights, because that would imply that the Treaty took precedence even over the Constitution. The relationship between the Treaty, the Constitution and the Covenant required clarification.

75. In connexion with article 2, paragraph 1, and articles 25 and 26 of the Covenant, he drew attention to his comment at the Committee's second session (CCPR/C/SR.30, para. 34) and said there could be no genuine equality for all citizens regardless of national origin as long as a distinction was made between natural born and naturalized citizens. Such a distinction, in his view, violated article 25 of the Covenant.

76. In connexion with article 2, paragraph 3, of the Covenant, he inquired whether there was any possibility of conflict between the offices of Chancellor of Justice and Parliamentary Ombudsman, referred to on page 5 of the report, and if so, how such a conflict would be resolved. Was the Chancellor in fact the highest public prosecutor, as the report stated in the second paragraph of page 5?

77. Referring to article 7 of the Covenant, he said that Mr. Hanga had raised an extremely interesting point when he asked about the legal provisions relating to organ transplants and the definition of death. Although the report, at the foot of page 7, stated that in the penal system of Finland there was no cruel, inhuman or degrading treatment or punishment, he would like to know whether an individual could challenge a law, administrative act or sentence pursuant thereto as in effect involving cruel, inhuman or degrading punishment. In connexion with article 7 and article 10, paragraph 1, of the Covenant, he requested information on the conditions of solitary confinement for prisoners.

78. In connexion with article 12, he felt that some of the conditions for refusing a passport were inconsistent with the Covenant. What, for example, did "injurious to the interests of the country" mean? How could a passport be withheld from vagrants and alcoholics? How could a person be refused a passport merely for being prosecuted for an offence without any subsequent conviction?

79. He also wished to know more about the conditions for effecting a domiciliary visit and search referred to in the section of the report relating to article 17. Could such action be taken on the basis of a purely administrative decision with no judicial warrant? Could suspicion alone justify such action? Also, if an illegal search uncovered evidence leading to conviction, could the guilty official still be punished, and if not, what sanctions were available to prevent illegal search?

80. Drawing attention to article 18, paragraph 3, of the Covenant, he asked whether the reservation with respect to public safety was used to prevent conscientious objection, and if not, whether convictions other than religious convictions could be adduced to justify conscientious objection. It was the obligation of the State party to show how use of the reservations in paragraph 3 were justified.

81. With regard to article 19 of the Covenant, the report was too brief and he requested information on laws relating to sedition, treason and defamation of the State, and any attendant restriction on freedom of expression.

82. Turning to article 26, he observed that that article, like article 2, paragraph 1, prohibited discrimination on any grounds and not just on the grounds of rights recognized in the Covenant. Hence article 26 could not be interpreted as referring only to public acts. It must cover the internal system of a country and the authorities who decided who could work, occupy land and so forth. If the State owned all housing and was the sole employer, then its provisions applied to the State. In a different system, however, with private housing and numerous private employers, it was the latter who must be prevented from practising discrimination. Since the Finnish report indicated the presence of some minorities in the country, he wondered whether there were laws on the question, or any agencies analagous to the Equality Council referred to on page 3, to prevent private as well as public discrimination.

83. Mr. PRADO VALLEJO commended the reporting Government for following the guidelines established by the Committee.

84. In connexion with article 4 of the Covenant, he said that the Act on State of War referred to on pages 5 and 6 of the report was very wide in scope and could apparently cover situations not directly related to war. Referring to a question previously raised in connexion with article 12 of the Covenant, he said he agreed that alcoholism should not constitute grounds for refusing to issue a passport and asked what remedy, judicial or otherwise, was available to an individual who had been refused a passport by the authorities.

85. In connexion with article 18 of the Covenant, he inquired whether the son of an agnostic was obliged to follow religious instruction in school. Why was the Lutheran Church recognized as a national Church, - did that mean that it was accorded special rights and privileges, and if so which?

86. Lastly, he observed that although each State party had the right to enter reservations to the Covenant, article 2, paragraph 2, obliged such States to take the necessary steps to give effect to the rights recognized therein. Clearly, if a State made a number of reservations, the Covenant would tend to lose its effectiveness, and that would be a matter of serious concern. He therefore asked whether there had been any effort in Finland to withdraw the reservations referred to at the foot of page 6 of its report.

The meeting rose at 1 p.m.