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Chairman:

Mr. IALLAH

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 (agenda item 4)
(continued)

Report of the United Kingdom (CCPR/C/1/Add.17)

1. Sir James BOTTOMLEY (United Kingdom) speaking at the invitation of the Chairman, introduced his country's report (CCPR/C/1/Add.17). Since his country's law had developed so long ago, the means by which it ensured the protection of fundamental rights differed from those adopted in many other States parties to the Covenant. The United Kingdom had no written constitution. It had an omniscient Parliament with absolute power to enact any law and to change any previous law. The courts had not, at least in recent times, recognized any higher legal order by reference to which acts of Parliament could be held to be void.
2. The constitutions of many other countries contained a bill of rights, which could be altered only by some special constitutional procedure. In his country's law, however, there was no similar code of rights, but there were specific sets of reciprocal rights and duties and civil remedies or criminal prohibitions. Some of the rights guaranteed by the Covenant, such as the right to life recognized in article 6 of the Covenant, were implied in United Kingdom law, which made any act that would interfere with those rights unlawful. Other rights, such as the right to freedom of expression recognized in article 19 of the Covenant, were secured by the absence of any legal inhibition on freedom of action or by the limitation of such action to specific and defined situations.
3. Another difference between his country and many other countries was that it recognized no distinction between public law governing the actions of the State and private law governing relations between citizens. In addition, the United Kingdom had no separate and systematized code of administrative law, although there were arrangements for dealing with individual grievances against the administration through the office of the Parliamentary Commissioner for Administration and through commissioners who exercised similar functions in relation to the acts of local authorities and the National Health Service.
4. In the United Kingdom, there was no principle by which international treaties and conventions automatically became part of domestic law. His country's practice was to consider, before ratification of an instrument, whether its domestic law adequately fulfilled the obligations it was about to assume and, if it did not, to alter the law so that it conformed to those obligations. Consequently, as stated in paragraph 1 of the report (CCPR/C/1/Add.17), the Covenant did not of itself have the force of law in the United Kingdom, whose ability to ratify the Covenant had rested upon the fact that the rights recognized in the Covenant were already guaranteed by law, subject to the reservations which had been made upon signature or ratification.
5. The question whether his country should preserve the distinctive features of its constitutional law had been discussed at length in recent years. Some held the view that a permanent bill of rights should be incorporated into United Kingdom law, but the Government's position on that question had not yet been established, and it was now being examined by a Select Committee of the Upper House of Parliament.

6. Although his country did not have a general code of fundamental rights and it did not automatically incorporate treaties and conventions into its domestic law, it had been able to accept international obligations in the field of human rights which had been framed in broad and general terms. It had also allowed the way in which it discharged those obligations to be subject to impartial scrutiny at the international level. Within the Council of Europe, the United Kingdom had been a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms since its entry into force in 1953. Since 1966, the United Kingdom had recognized the compulsory jurisdiction of the European Court of Human Rights and had accepted the right of individual petition provided for in the European Convention. When it had ratified the Covenant, it had recognized the Committee's competence to receive complaints against it and to deal with them in accordance with the procedure laid down in article 41 of the Covenant.

7. Thus, his country's conduct in matters affecting the fundamental human rights guaranteed by the European Convention was subject to the scrutiny of the organs established by that Convention. An example of such scrutiny was to be found in the judgment recently given by the European Court of Human Rights in the Irish State Case. The complaints made against the United Kingdom in that case had related primarily to events involving the use of detention and internment without trial. Those measures had been introduced in Northern Ireland in 1971 and had remained in force there until 1975. The main complaints had been that detention and internment were contrary to the European Convention for the Protection of Human Rights and Fundamental Freedoms, even though the United Kingdom had exercised its right to derogate from the Convention in respect of them; that those powers had been used in a manner which was discriminatory against the minority section of the community; and that breaches of article 3 of the European Convention, which prohibited torture and inhuman and degrading treatment, had occurred.

8. The European Court of Human Rights had dismissed a majority of those complaints, and had decided, for example, that detention and internment had been justified by the circumstances prevailing in Northern Ireland and that there had been no discrimination. It had, however, found two breaches of article 3 of the European Convention. That finding had related to events which had taken place in 1971 and, since then, the European Court had noted the steps which had been taken to prevent any recurrence of wrongdoing and to afford reparation.

9. Referring to the form of his country's report, he said that it sought to describe how effect was given to each provision of the Covenant in the law of the United Kingdom. The report was consequently rather long but, even so, it provided only a summary of the relevant parts of his country's law and administrative practice. It inevitably contained a number of generalizations, which he would be glad to elucidate if the Committee so required. Although the Committee had received copies of the legislation referred to in his country's report, he regretted the fact that the supplementary reports on his country's dependent territories and on the Isle of Man, Jersey and Guernsey had not yet been submitted; he hoped that they would be completed by April 1978.

Report of the German Democratic Republic (CCPR/C/1/Add.13) (continued)

10. At the invitation of the Chairman, Mr. Heilborn (German Democratic Republic) took a place at the Committee table.

11. The CHAIRMAN invited members of the Committee to put questions to the representative of the German Democratic Republic concerning his country's report.

12. Mr. TARNOPOLSKY commended the German Democratic Republic for being one of the first countries to ratify the Covenant, for the prompt submission of its initial report, and for its willingness to co-operate with the Committee by providing detailed additional information in the introduction to the report. He also thanked the representative of the German Democratic Republic for providing the Committee with copies of his country's Constitution.

13. In reading the Constitution of the German Democratic Republic, he had noted that, according to article 89, paragraph 3, the People's Chamber decided, in case of doubt, on the constitutionality of legal regulations. Moreover, in accordance with article 49, paragraph 3, of the Constitution, the People's Chamber guaranteed the enforcement of its laws and decisions and laid down the principles to be adhered to by the Council of State, the Council of Ministers, the National Defence Council, the Supreme Court and the Procurator General. Article 50 of the Constitution stated that the People's Chamber elected the chairman and members of the bodies referred to in article 49, as well as the judges of the Supreme Court and the Procurator General; and that they could be recalled at any time by the People's Chamber. Since the States parties to the Covenant undertook, in accordance with article 2, paragraph 3, of the Covenant, to ensure that any person whose rights or freedoms had been violated would have an effective remedy and that the right to claim such a remedy would be determined by competent judicial, administrative or legal authorities, it seemed to him that the possibility of obtaining an effective judicial remedy had to be ensured by an impartial and independent authority. He therefore requested the representative of the German Democratic Republic to explain how that possibility was guaranteed in his country, where the Supreme Court and the Procurator General appeared to be entirely dependent upon the People's Chamber. He also wished to know more about the conditions for recall provided for in article 50 of the Constitution of the German Democratic Republic.

14. Referring to page 4 of the report, he said that article 8 of the Law on the Constitution of the Courts did not seem to guarantee equality of citizens irrespective of social origin or political opinion. The list of grounds for the prohibition of discrimination given in article 5 of the Penal Code, also referred to on page 4 of the report, was different from that given in article 8 of the Law on the Constitution of the Courts, but it was closer to the list given in article 2, paragraph 1, of the Covenant. He requested the representative of the German Democratic Republic to provide further information on the differences between those two provisions.

15. With regard to the comments relating to article 6, paragraph 2, of the Covenant (page 2, paragraph 1, of the report), he asked the representative of the German Democratic Republic to explain whether there were any crimes in his country for which the death penalty might be imposed. In connexion with

article 6, paragraph 1, of the Covenant, which provided that every human being had the inherent right to life, he wondered whether it was considered that human life could be taken in certain cases, for example, if the police were trying to enforce the law at a frontier crossing.

16. The comments on article 7 of the Covenant (pages 2 and 3 of the report), failed to make it clear whether solitary confinement existed in the German Democratic Republic and, if so, how long it might last. He would also appreciate further information on the disciplinary or security measures that were possible under the Law on the Execution of Penalties. In particular, he wondered whether such measures included restrictions on the right of prisoners to carry on correspondence.

17. Section 7 of the report (pages 4 and 5), relating to legal guarantees in ordering custody on remand, explained that custody on remand involved detention for questioning, but he would like to know how long such custody could last. He also wished to know how frequently the courts examined the conditions for custody on remand referred to in the last sentence of the first paragraph on page 5.

18. In the comments on article 12 of the Covenant (page 6 of the report), it was stated that the constitutional right to freedom of movement could be restricted only "by laws binding upon all citizens"; he would appreciate further information on such laws. Article 12, paragraph 4, of the Covenant, which stated that "no one shall be arbitrarily deprived of the right to enter his own country" could be interpreted to mean that a person who had been deprived of his nationality had, in fact, also been deprived of the right to enter his own country. He requested the representative of the German Democratic Republic to provide details of circumstances when citizens were not allowed to enter that country.

19. Section 8 of the report (pages 5 and 6) referred to the equality of citizens before the courts. In connexion with the questions he had asked at the beginning of his statement, he requested the representative of the German Democratic Republic to explain what guarantees the law of his country provided with regard to the right of all persons to a fair and public hearing by a competent, independent and impartial tribunal.

20. With regard to the comments made in section 3 of the report (page 3) in connexion with article 17 of the Covenant, he said he would appreciate further information on cases when searches were allowed in the German Democratic Republic. He also wished to know whether the authorities of that country had means for the electronic surveillance of individuals' activities.

21. Referring to the comments on article 18 of the Covenant (page 7 of the report), he asked the representative of the German Democratic Republic to explain whether persons could be exempted from military service in his country on grounds of religious belief. In particular, he wondered whether the provisions of article 18, paragraph 3, of the Covenant could be invoked in the German Democratic Republic if, for example, a large number of persons made a simultaneous request for exemption from military service on the grounds of religious belief.

22. Sections 13, 14 and 15 of the report (page 8) related to the right to freedom of opinion, the right of peace to assembly and the right to freedom of association recognized in articles 19, 21 and 22 of the Covenant. Articles 21 and 22, in particular, stated that no restrictions could be placed on the exercise of the right to assembly and the right to freedom of association other than those which were "necessary in a democratic society". Similarly, articles 27, 28 and 29 of the Constitution of the German Democratic Republic guaranteed the enjoyment of those rights, in accordance with the principles and aims of the Constitution. Those articles thus implied that restrictions necessary in a socialist society might be placed on the exercise of those rights. He requested the representative of the German Democratic Republic to provide further information on possible restrictions of that kind since the meaning of the concept of a "democratic society" and of the concept of a "socialist society" was not always the same. In particular, he wished to know whether, in accordance with articles 19, 21 and 22 of the Covenant, it was possible for citizens of the German Democratic Republic to advocate something other than a socialist system or, in other words, whether the mere advocacy of non-violent change could lead to the restriction of any of the rights provided for in articles 27, 28 and 29 of the Constitution.

23. Referring to the comments on article 20 of the Covenant made on page 2 of the report, he said that he would like to have an explanation of the exact meaning of the terms "imperialist military service", "complicity in acts of oppression" and "incitement to fascist propaganda" used in articles 87, 88 and 92, respectively, of the Penal Code of the German Democratic Republic.

24. In the comments relating to article 23 of the Covenant (pages 6 and 7 of the report), he had been very favourably impressed by the measures taken in the German Democratic Republic to ensure the equality of rights of men and women in marriage and the unity of the family. He nevertheless noted that, according to article 23 of the Covenant, "the family is the natural and fundamental group unit of society". He therefore requested the representative of the German Democratic Republic to explain his country's laws and practice in the matter of family reunion. In particular, he wished to know what the Government of the German Democratic Republic was doing to ensure the reunion of families which had, for example, been separated during the Second World War.

25. In his opinion, article 24 of the Covenant, on which comments had been made on page 7 of the report, implied that access to education should be available to every child without discrimination of any kind. In that connexion, the German Democratic Republic was to be commended for the efforts it was making to promote the social and vocational development of young people and for the fact that it did not charge tuition fees for secondary schooling. He nevertheless wished to know whether there were any specific criteria for access to higher education in the German Democratic Republic.

26. He interpreted article 26 of the Covenant, which had been referred to on pages 3 and 4 of the report, to mean that discrimination by anyone, including the authorities and private individuals, was prohibited. Accordingly, he requested the representative of the German Democratic Republic to explain whether a person in his country who claimed that someone else had blocked his access to employment or accommodation on some discriminatory ground was entitled to protection under the law.

27. Mr. HANGA thanked the representative of the German Democratic Republic for his extensive introductory statement and congratulated his Government on its report, which discussed a large number of legislative provisions covering almost all the articles of the Covenant.
28. As indicated in the third paragraph (page 1 of the report), there was a close relationship between economic, social and cultural rights and civil and political rights, since the latter were based on a country's economic structure.
29. Noting that article 10 of the Constitution of the German Democratic Republic provided for social ownership of the means of production and that, under article 11, the right to personal property was guaranteed, he requested information on the role of social ownership in the implementation of civil and political rights.
30. As the report failed to comment on article 16 of the Covenant, he would appreciate information on the stage at which an individual became a person before the law as well as details on the legislation of the German Democratic Republic concerning legal capacity. He would also like to know what remedies were available under domestic legislation to a person who was deprived of his legal capacity either de jure or de facto.
31. In addition, he would welcome information on the question of socialist legality; was it a guiding legal principle or was it part of natural or positive law?
32. Referring to section 10 on page 6 of the report, he asked whether economic assistance was provided to the family to ensure that it developed within the spirit of the Covenant.
33. Mr. OPSAHL thanked the Government of the German Democratic Republic for its comprehensive report, which clearly set out its views and described the situation in the country.
34. Ideally, States should provide the Committee with more facts in their reports, as required by article 40, paragraph 2, of the Covenant. In that connexion, he welcomed the additional information furnished by the representative of the German Democratic Republic at a previous meeting, but noted that similar information would be welcome regarding the rights of the entire population and not only the rights of minorities in accordance with article 27 of the Covenant.
35. He would like to know whether the statement on page 3 of the report that there were no religious minorities meant that the population was homogeneous and that there were no religious groups in the country.
36. He endorsed the basic premise stated in the last sentence on page 1, but would welcome information on whether the Government of the German Democratic Republic regarded it as sufficient in the light of its own experience.
37. Noting that the provisions of the Constitution referred to citizens, he drew attention to article 2, paragraph 1, of the Covenant which stated that "Each State party to the present Covenant undertook to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant". He would like to know under what principle the basic protection of citizens was extended to all individuals within the territory.

38. Mr. ESPERSEN thanked the representative of the German Democratic Republic for his co-operation with the Committee.

39. Referring to the last sentence in the first paragraph on page 5 of the report, he said he would welcome clarification of the statement that the court had to examine ex-officio at any time whether the conditions for custody on remand still prevailed.

40. He would also like to know whether an accused person could request legal counsel in the preliminary stages before any charge had been made, and whether a person was free to choose his own counsel if he was accused of acts involving sedition or State security.

41. With regard to the question of house searches, he wished to know whether there had been any cases where the police had decided without a court order to search a home or persons, and whether any such search could be reported to the court afterwards. Moreover, according to article 27 of the Constitution, every citizen of the German Democratic Republic had the right to express his opinion freely and publicly in accordance with the principles of the Constitution, and he would appreciate information on the meaning of the expression "in accordance with the principles of the Constitution".

42. He also requested information on the opportunities offered in the German Democratic Republic for citizens to express their opinion freely and publicly. In that connexion, he asked what measures had been taken to enable citizens to express different views through such media as radio, television and posters.

43. Referring to article 25 of the Covenant, he asked whether there were any rules or laws to the effect that, in order to hold public office, a person had to show active devotion to the system of the country or whether the only requirement was that a person had to possess the qualifications needed for the office in question.

44. Mr. PRADO VALLEJO congratulated the Government of the German Democratic Republic on its comprehensive report. He endorsed the statement made in the first sentence of the last paragraph on page 1, and noted that stress was placed on political rights in some parts of the world and on economic and social rights in others. He hoped that the day would soon come when there would be a balance between the two categories.

45. He was pleased to note that article 8 of the Constitution of the German Democratic Republic embodied the principle that the generally accepted rules of international law and peaceful co-operation among peoples were regarded as obligations for the State. He was also gratified to learn that, in accordance with article 20 of the Covenant, war propaganda was punishable by law.

46. He noted that a fundamental provision of article 96 of the Constitution concerned the independence of judges. However, under article 94, only those who had shown that they were faithful to the people and to the socialist State could be judges - a provision which seemed to diminish the independence of judges.

47. With regard to the statement made in the penultimate paragraph on page 3 of the report that the State guaranteed socialist legality and legal security, he said that the defence of socialist legality could restrict the rights of persons to disagree with the socialist system. In that connexion, he would appreciate an explanation of the term "socialist legality".

48. Sir Vincent EVANS associated himself with the expressions of gratitude addressed to the German Democratic Republic for its report.

49. He agreed with the view implicit in the second paragraph on the first page that human rights must be assured not only in the relevant provisions of the Constitution and other legislation but also in practice. The manner in which legislative provisions were implemented in practice were of crucial importance in the application of the Covenant.

50. He was not sure that he could fully endorse the statement in the last sentence on page 1 of the report, since he found no similar proposition in either of the Covenants. If article 2 of the International Covenant on Economic, Social and Cultural Rights was compared with article 2 of the International Covenant on Civil and Political Rights, it would be seen that the basic obligation under the latter was of a more immediate character. It could therefore be said that the full enjoyment of civil and political rights might depend on the degree to which economic, social and cultural rights were enjoyed.

51. With regard to the first paragraph on page 2 of the report, there was no doubt that the enjoyment of the rights in question was conditioned in every State by its social system. However, the Covenant sought to lay down basic standards of general application which must be observed whatever the social system of the State concerned.

52. Referring to section 9 on page 6 of the report, he noted that attention was drawn to article 32 of the Constitution. However, that provision seemed to have no bearing on the freedom to leave or enter a country, since it was concerned with movement within the territory of the German Democratic Republic. He understood from the fourth paragraph on the same page that frontier-crossing traffic was regulated by other legislation in accordance with international law and usage, and noted that, so far as States parties to the Covenant were concerned, international legal obligations included the provisions of article 12 of the Covenant, which guaranteed that anyone was free to leave and enter any country including his own, subject only to such restrictions as were necessary to protect national security, public order, public health or morals or the rights and freedoms of others. He therefore wondered what criteria were used in the German Democratic Republic when applications to leave the country were being considered and how difficult it was in practice to do so. It would also be interesting to know what action was taken against persons who attempted to leave without authorization.

53. With regard to the protection of the family and children, he drew attention to article 23, paragraph 1 and article 24, paragraph 1, of the Covenant. He recalled that it had formerly been thought that the mother's primary responsibility was the

care of the children and the home, and that that was her unique contribution to the family and the State. It was now rightly recognized that women also had a contribution to make outside their home and family, and must be given an opportunity to do so. In that connexion, he said where both spouses had to work outside the home, thought had to be given to the interests of the children. He would like to know what provision was made in the German Democratic Republic to ensure the care, protection and upbringing of children of tender age while their mothers worked outside the home. If the mother considered that her proper role was inside the home, particularly while her children were still young, was any provision made for her to devote herself to the care of the family and the home and to the upbringing of her children? It would be interesting to know how much choice she had in practice.

54. With regard to the right to freedom of opinion and expression, he referred to the statement in the first paragraph on page 8 and requested clarification of the expression "in conformity with the principles of the Constitution". How far were persons free to propagate ideas which might be at variance with the régime, to comment on and to criticize the acts of the Government and of public authorities, and to advocate peaceful changes in the social system? He also wondered whether there was any restriction of that freedom and, if so, how it was justified as being in conformity with the Covenant, and what measures were used to enforce it. He would welcome information on the number of persons detained in the German Democratic Republic for political reasons. Did those restrictions and measures make for a health society?

55. In conclusion, he said that it was desirable that the validity of a régime and its policies and their conformity with the will of the people should be constantly tested in the light of public opinion and the free interchange of ideas.

56. Mr. TOMUSCHAT thanked the Government of the German Democratic Republic for its report and its willingness to co-operate with the Committee.

57. He noted that members had been told that the provisions of the Covenant had not been included in domestic legislation and hoped that the procedure followed by the German Democratic Republic in complying with the Covenant would not weaken its effectiveness in that country. He had on several occasions expressed the view that under article 2, paragraph 3, of the Covenant a private citizen had the right to invoke the provisions of the Covenant, since States were under a clear obligation to provide legal remedies whenever a person claimed that one of the rights under the Covenant had been violated. In that connexion, he had noted with appreciation the additional information provided by the representative of the German Democratic Republic.

58. With regard to the statement that the full application of legality, democracy and social justice were immanent features of the social system, he understood the noble view underlying such an assertion but stressed that the Committee, as the main monitoring body established under the Covenant, had to look at matters in a different manner. The Covenant clearly proceeded from the assumption that in any human community, human rights were fragile things; that was why the Covenant had established a monitoring system. The private citizen was always weaker than the powerful sovereign State, and the yardstick of its performance in the human rights field was not the general structure of a State but the observance by the State of

existing treaties concerned with the protection of human rights. He noted that more than 45 States had acknowledged that the Covenant established a proper balance between the interests of the community and those of the individual. By observing fully the provisions of the Covenant, States were in a position to establish their commitment to the cause of human rights.

59. Reverting to article 2, paragraph 3, he said that the Covenant, which was concerned mainly with conflicts between the State and the individual, imposed upon States parties the obligation to provide for legal and, in particular, juridical remedies. However, implementation of the Covenant was not only a matter for State agencies or tribunals; an equally important contribution was made by the private citizen who availed himself of his rights. The "fight for the good law" (der Kampf ums Recht) had been advocated by the German lawyer Rudolf von Ihering as a moral duty of each citizen, and the law was indeed made up to a great extent of both claims asserted and the responses with which they had met. Bearing in mind that basic proposition, it was a minimum obligation for all States to consider that claims based on provisions of the Covenant were permissible acts which should never have any detrimental effects for the claimant.

60. Turning to the comments on articles 6 and 20 (page 2), he asked what were the rules governing the use of firearms by the police forces of the German Democratic Republic. A rather heated debate was at present taking place in his own country on that issue, which was an important aspect of the protection of the right to life. Even in the case of offenders, life had to be balanced very carefully against the opposing values at stake, and he would therefore welcome comprehensive information concerning all cases where instructions to the police forces allowed them to make use of their firearms.

61. With regard to articles 7 and 10 of the Covenant, he asked whether the law relating to the execution of penalties corresponded to the Standard Minimum Rules for the Treatment of Offenders and to the recent code of conduct for law enforcement officials. Was any distinction made between different kinds of prisoners in the German Democratic Republic? Did political prisoners have the same rights as ordinary prisoners and, in particular, did they have the right to communicate with the outside world? Was solitary confinement admissible, and in what cases might it be imposed on the inmate of a prison?

62. Turning to article 9 of the Covenant, he asked whether there were any specific rules concerning the assistance which an individual under pre-trial detention could be given by a legal counsel. Could such a person appoint legal counsel and to what extent could the legal counsel communicate with him? Were there any rules applicable only to individuals accused of political offences, or did the rules set out under article 9 apply to all individuals brought to trial?

63. Very little information was given in the report with regard to article 12. As it was his understanding that it might, as a general rule, be difficult to leave the German Democratic Republic, he would welcome specific information on the grounds which entitled the administrative authorities to reject an application for a travel visa. Was any discretionary power involved, or did the citizen have the right to a visa if certain requirements were met? Article 12 must be read in

conjunction with article 23, for it was clear that restrictions placed on the freedom of movement might have extremely adverse effects on family ties. Was special attention given to such cases in the German Democratic Republic? For instance, would the children of an individual who had left the country in a manner which was considered by the Government to be unlawful be allowed to join him abroad without hindrance? Would the behaviour of a person who, invoking article 12 of the Covenant, manifested the desire to leave the country be regarded as an infringement of the socialist order, and might the person concerned be subjected to any detrimental legal treatment?

64. In view of the fact that the report contained no information on article 13 of the Covenant, he would welcome some clarification concerning the legal provisions governing the expulsion of aliens.

65. Turning to the provisions of article 14, paragraph 1, he asked under what conditions the public could be excluded from a trial and whether there were any specific rules concerning the admission of press correspondents to court hearings.

66. With regard to the comments on article 19 of the Covenant (page 8), he had noted that citizens had the right to impart their opinions "in conformity with the principles of the Constitution". That provision might or might not be in agreement with the Covenant; what really mattered were the penal laws designed to declare certain kinds of opinion punishable. Article 19 embodied the very simple principle that the word, being the instrument of thought, should be free. Specifically, a true democratic society could not be established without freedom of the word; if exchange and even confrontation of ideas were impossible, the citizen would not be able to make a meaningful choice when electing his representatives to the national parliament. With regard to the right to seek information, he asked whether a private citizen would be entitled to take out subscriptions to, and receive, newspapers such as Il Tempo, Le Monde, Pravda or a newspaper published in Bonn.

67. With regard to article 20 of the Covenant, the German Democratic Republic had made an important contribution to existing international law by prohibiting war propaganda. The Committee would certainly be interested in knowing the exact terms of that prohibition, since experience in other countries had shown that a clear definition of the concept was rather difficult to achieve. The relevant text would not only be useful for the Committee, but might also be helpful to Governments which had thus far been reluctant to make war propaganda a punishable act.

68. Turning to the comments on article 21 (page 8), he said that the right of peaceful assembly appeared to have been placed under rather far-reaching restrictions, since it might only be exercised "within the framework of the principles and aims of the Constitution". The requirement that public assemblies must be peaceful was an obvious one which was authorized under the Covenant by virtue of the concept of public order, but the provision in force in the German Democratic Republic clearly went much further. Accordingly, he requested additional information concerning the law governing assemblies. Did prior authorization have to be obtained by the organization concerned and, if so, what were the conditions which had to be met? Was there a legally vested right to have the requisite authorization granted, or was the decision left to the discretion of the competent agency? Would that agency make its decision dependent upon the views and aims which the assembly sought to propagate?

69. Similar questions arose in respect of the comments on article 22 (page 8). Was any control exercised which made conformity of an association's views with the official views of the Government the legal criterion for its being permitted or prohibited? While he fully acknowledged that article 22, paragraph 2, permitted of restrictions which, by virtue of the concept of public order, might be fairly broad in scope, the principle embodied in the article was that the right of association might be exercised even against the Government's political approval. All the rights enshrined in the Covenant were rights directed against the State, and the political tensions to which any of them might give rise could not systematically be resolved to the detriment of individual freedom without emptying the Covenant of its very substance. A careful balance had to be struck between the individual's right and the exigencies of the community as legitimized by the concept of public order, and that balance could not be conceived exclusively in terms of prevailing social interests.

70. Turning to article 27 of the Covenant, he said that the Government of the German Democratic Republic was to be congratulated on its achievements both in law and in fact concerning the status of the Sorbs. The example it had set in that connexion should be widely publicized, since it could serve as a model for other Governments. Not in all countries had relations between the majority of the population and linguistic and ethnic minorities reached the same level of fruitful co-operation and mutual trust. Parliaments were often reluctant to grant such far-reaching autonomy because they feared that the minority concerned might not remain loyal to the national community as a whole. That was of course a serious argument but, in his view, many Governments should make a further effort to appraise the situation. The intention of article 27 was to bring about a freely consented pluralism of languages and cultures within one nation State, without in any way calling in question the existence of the State concerned. Any community which was given the right peacefully to maintain and develop its cultural identity would necessarily have feelings of greater allegiance to the national community within which it could continue to exist as a distinct entity. Consequently, he particularly hoped that the Government of the German Democratic Republic would provide the Committee with all the relevant statutes that had contributed to achieve the harmonious relationship of mutual understanding and friendship which was a good example of real enjoyment of human rights.

71. Mr. KOULISHEV thanked the Government of the German Democratic Republic for its well-structured report, to which had been annexed a detailed list of the laws concerning the protection of human rights which might be of interest to the Committee. The oral introduction by the representative of the German Democratic Republic had furnished the Committee with additional valuable information, particularly in respect of the relationship between international and domestic law. In his view, any method or system used by a State to integrate the provisions of the Covenant in its domestic legal order was acceptable, on condition that the end result was the full implementation of those provisions. In that connexion, article 8 of the Constitution of the German Democratic Republic contained a very interesting provision which recognized the mandatory nature for the State of the generally accepted rules of international law in the fields covered by the Covenant. It was also worth noting that, under article 105, the Constitution itself was given immediate effect in domestic law.

72. Turning to the comments on article 2, paragraph 3, of the Covenant (page 4), he requested additional information on the composition and functions of the Workers' and Farmers' Inspection, the purpose of which seemed to be to monitor the exercise of human rights. Article 104 of the Constitution provided for the payment of damages by the State to citizens whose rights had been infringed, and the comments on article 2, paragraph 3, of the Covenant contained a reference to "Legal redress for citizens in case of infringement of their rights". It would be interesting to receive further details on the legal provisions concerned.

73. Reference was made to several articles of the penal code in the comments on articles 6 and 20 of the Covenant (page 2), but there was no mention of the crime of genocide even though, as far as he knew, the German Democratic Republic was a party to the Convention on the Prevention and Punishment of the Crime of Genocide. Did the penal code contain a specific provision which was in conformity with that Convention?

74. Mr. MOVCHAN associated himself with previous speakers in expressing appreciation to the Government of the German Democratic Republic for its active participation in the Committee's work. The fact that the introductory statement by the Government's representative had been distributed in writing would greatly assist the Committee in its task. As in the case of previous reports, the reason why so many questions had been asked was that a great deal of information had been provided.

75. The comments on article 2, paragraph 3, of the Covenant (page 4) contained a reference to the Public Petitions Law, which was also mentioned in the list of laws annexed to the report. He would welcome additional information on the procedures ensuring legal protection of citizens' rights.

76. The last paragraph of the report (page 9) contained a reference to the participation of citizens in the conduct of public affairs. He hoped that the representative of the German Democratic Republic could give further information on that point and, in particular, on the right of citizens to participate in the carrying out of certain legal procedures.

77. Mr. GANJI associated himself with other members of the Committee in thanking the German Democratic Republic for its report as well as for the introduction given by its representative. He shared most of the views expressed by Mr. Opsahl with regard to the report. He would welcome some explanation of the expression "socialist justice" used in article 5 of the penal code (page 4) and of the statement that "The socialist system and the socialist State are the basis for strict respect for and full application of legality" (page 4).

78. It should be borne in mind that the views of over two-thirds of the world's inhabitants could not be articulated through the Committee, which was a restricted body of experts. He fully shared the views expressed by Mr. Prado Vallejo and Mr. Opsahl concerning the interdependence of human rights and fundamental freedoms, which were in fact inseparable. In order to exercise any of the rights with which the Committee was concerned, an individual had to exist and, in order to exist, he must die neither before nor after birth and he must receive a minimum of food, education, health care, housing and clothing. There was undoubtedly an interconnexion between the right to life, the requirements of which were material, and the right to exercise all other freedoms.

79. The reasons for which there were two Covenants on human rights were well known. At the outset, there had been only one draft covenant, but the cold war and the views of two separate groups of States had led to the adoption of two texts, the interdependence of which was nevertheless borne out by the almost identical wording of the third preambular paragraph of each.

80. The need to adopt a realistic approach to the issues with which the Committee was concerned could not be overstressed. Twenty-five of the 45 States parties to the Covenant on Civil and Political Rights were Asian, African or Latin American States. While those States must certainly comply with the obligations they had assumed, it should be clearly understood that even the most perfect laws could not be applied unless a proper legal infrastructure existed and unless there were judges and administrators who understood the full import of the rights they were required to protect.

81. Had the international community been adopting the Covenants today, the result would certainly be one instrument instead of two. In that connexion, he drew attention to General Assembly resolution 32/130 which had been adopted on 16 December 1977 by 123 votes to none, with 15 abstentions. Forty-two of the 45 States parties to the Covenant on Civil and Political Rights had voted in favour of that resolution, the eleventh preambular paragraph of which stated that the continuing existence of an unjust international economic order constituted "a major obstacle to the realization of the economic, social and cultural rights in developing countries". Furthermore, paragraph 1 (a) of the resolution stated that all human rights and fundamental freedoms were indivisible and interdependent. That was reality, and he was not prepared to accept anything else. The resolution went on to state, in paragraph 1 (b), that "The full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible".

82. It would be the States parties themselves that would determine the fate of the Committee's deliberations, and they would be attentive to the approach adopted by the Committee to the performance of its task. He did not wish to suggest that underdevelopment could be a pretext for permitting torture and inequality; indeed, certain of the rights embodied in the Covenant did not depend entirely upon the level of development reached in a country, even though an administrative and judicial infrastructure as well as properly educated judges, lawyers and administrators were required in order to put into effect any system of justice. However, the Covenant was also concerned with a certain number of rights and freedoms which could not be exercised in the absence of an adequate social and economic infrastructure.

83. The CHAIRMAN said that the representative of the German Democratic Republic would reply to members' comments and questions at the Committee's next meeting.

84. Under its agenda for the current session, the Committee still had to consider the reports of the United Kingdom, Iran, Madagascar and Norway, but it was unlikely that all four reports could be dealt with in the time available. Accordingly, he suggested that the Governments of Madagascar and Norway should be informed that consideration of their reports would certainly have to be deferred until the next session.

85. It was so agreed.

The meeting rose at 5.50 p.m.