REPORT

OF THE

HUMAN RIGHTS COMMITTEE

GENERAL ASSEMBLY

OFFICIAL RECORDS: THIRTY-FOURTH SESSION

SUPPLEMENT No. 40 (A/34/40)

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. INTRODUCTION

A. States parties to the Covenant

1. On 17 August 1979, the closing date of the seventh session of the Human Rights Committee, there were 58 States parties to the International Covenant on Civil and Political Rights and 21 States parties to the Optional Protocol to the Covenant which were adopted by the General Assembly of the United Nations in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. In addition, one other State ratified the Covenant on 21 June 1979. Both instruments entered into force on 23 March 1976 in accordance with the provisions of their articles 49 and 9 respectively.

2. By the closing date of the seventh session of the Committee, 10 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant. Article 41 came into force on 28 March 1979, three months after the deposit of the instrument of ratification of the Covenant by New Zealand which was accompanied by a declaration under that article. A list of States parties to the Covenant and to the Optional Protocol, with an indication of those which have made the declaration under article 41, paragraph 1 of the Covenant, is contained in annex I to the present report.

B. Sessions

3. The Human Rights Committee has, so far, held two sessions in 1979: the sixth session was held at United Nations Headquarters, New York, from 9 to 27 April 1979; and the seventh session was held at the United Nations Office at Geneva from 30 July to 17 August 1979.

C. Membership and attendance

4. At the second meeting of States parties held at United Nations Headquarters, New York, on 18 September 1978, in accordance with articles 28 to 32 of the Covenant, nine members of the Committee were elected to replace those whose terms of office were to expire on 31 December 1978. The following four members were elected for the first time: Mr. Néjib Bouziri, Mr. Abdoulaye Dieye, Mr. Dejan Janca and Mr. Waleed Sadi. Messrs. Graefrath, Lallah, Opsahl, Prado Vallejo and Tomuschat, whose terms of office were to expire on 31 December 1978, were re-elected. A list of the members of the Committee is given in annex II below.

5. All the members, except Mr. Ganji and Mr. Uribe Vargas, attended the sixth session of the Committee; Mr. Bouziri and Mr. Prado Vallejo attended only part of that session. All the members except Mr. Ganji and Mr. Uribe Vargas attended the seventh session of the Committee.

D. Solemn declaration by new members of the Committee

6. At the opening meeting of the sixth session, the four newly elected members of the Committee made a solemn declaration in accordance with article 38 of the Covenant.

E. Election of officers

7. At its 123rd meeting, held on 9 April 1979, the Committee elected the following officers for a term of two years in accordance with article 39, paragraph 1, of the Covenant:

Chairman:	Mr. Andreas V. Mavrommatis
Vice-Chairmen:	Sir Vincent Evans
	Mr. Luben G. Koulishev
	Mr. Julio Prado Vallejo
Rapporteur:	Mr. Rajsoomer Lallah

F. Establishment of working groups

8. In accordance with rule 89 of its provisional rules of procedure, the Committee established working groups to meet before its sixth and seventh sessions in order to make recommendations to the Committee regarding communications under the Optional Protocol.

9. The Working Group of the sixth session was established by the Committee at its 111th meeting, on 25 October 1978, and was composed of Mr. Hanga, Mr. Lallah, Mr. Mavrommatis, Mr. Prado Vallejo and Mr. Tomuschat. It met at United Nations Headquarters from 2 to 6 April 1979 and elected Mr. Hanga as its Chairman/Rapporteur.

10. The Working Group of the seventh session was established by the Committee at its 144th meeting, on 23 April 1979. It met at Geneva from 23 to 27 July 1979. The members of the Working Group as appointed by the Committee were Mr. Dieye, Mr. Graefrath, Mr. Prado Vallejo, Mr. Sadi and Mr. Tarnopolsky. Mr. Graefrath was elected Chairman/Rapporteur of the Working Group.

11. At its 174th meeting held on 15 August 1979, the Committee decided to establish a working group concerning communications for the eighth session, to be held from 15 to 26 October 1979, consisting of Messrs. Lallah, Movchan, Opsahl, Prado Vallejo and Sadi. The Working Group is to meet one week before the opening of that session.

12. At its 126th meeting, held on 10 April 1979, the Committee established a special working group of five of its members to prepare, in the light of the discussions in the Committee, a revised draft of the provisional rules of procedure relating to article 41 of the Covenant. The Special Working Group which was composed of Mr. Dieye, Sir Vincent Evans, Mr. Graefrath, Mr. Janca and Mr. Opsahl, appointed Sir Vincent Evans as special rapporteur.

G. Agenda

Sixth session

13. At its 123rd meeting, held on 9 April 1979, the Committee adopted the provisional agenda, submitted by the Secretary-General in accordance with rule 6 of the provisional rules of procedure, as the agenda of its sixth session, as follows:

1. Opening of the session by the representative of the Secretary-General.
2. Solemn declarations by the newly elected members of the Committee in accordance with article 38 of the Covenant.
3. Election of the Chairman and other officers of the Committee.
4. Adoption of the agenda.
5. Organizational and other matters.
6. Adoption of further rules of procedure of the Committee in accordance with article 39 of the Covenant.
7. Submission of reports by States parties under article 40 of the Covenant.
8. Consideration of reports submitted by States parties under article 40 of the Covenant: initial reports of States parties due in 1977 and 1978.
9. Consideration of communications received in accordance with the provisions of the Optional Protocol to the Covenant.

Seventh session

14. At its 152nd meeting, held on 30 July 1979, the Committee adopted the provisional agenda, submitted by the Secretary-General, as the agenda of its seventh session, as follows:

1. Adoption of the agenda.
2. Organizational and other matters.
3. Adoption of further rules of procedure of the Committee in accordance with article 39 of the Covenant.
4. Submission of reports by States parties under article 40 of the Covenant.
5. Consideration of reports submitted by States parties under article 40 of the Covenant: initial reports of States parties due in 1977.
6. Consideration of communications received in accordance with the provisions of the Optional Protocol to the Covenant.

7. Question of the co-operation between the Committee and the specialized agencies concerned.

8. Future meetings of the Committee.

9. Annual report of the Committee to the General Assembly through the Economic and Social Council under article 45 of the Covenant and article 6 of the Optional Protocol.

II. ORGANIZATIONAL AND OTHER MATTERS

A. Method of work in the consideration by the Committee of reports submitted by States parties under article 40 of the Covenant

15. Article 40 of the Covenant requires the States parties to submit reports on the measures they have adopted which give effect to the rights recognized in the Covenant and on the progress made in the enjoyment of those rights. The Committee is required to study the reports and transmit its reports, and such general comments as it may consider appropriate, to the States parties. Appropriate rules of procedure designed to enable the Committee to carry out this particular function were adopted by the Committee at its first session (rules 66 to 71 of the provisional rules of procedure).

16. General guidelines on the form and content of reports were adopted by the Committee at its second session and communicated to States parties. The purpose of these general guidelines was to elicit as much information as possible on the laws, measures and practices relating to Covenant rights so as to enable the Committee eventually to make general comments as required by the Covenant. Most States' reports have been submitted in accordance with the general guidelines but a few had been submitted before the adoption of the general guidelines by the Committee. The examination of the reports has, in 1979, as in the two preceding years beginning from the entry into force of the Covenant, taken place with the close co-operation of the States parties whose reports have been examined. Furthermore, no report has been examined unless the presence of the representatives of the State concerned was possible.

17. The practice of the Committee which was evolved as a result of discussions at the second session has been to invite the representative of the State party concerned to make an oral introduction followed by questions from members of the Committee. The State representative was then given the choice of either replying to questions raised in the Committee at the very session in which the report of his State was examined or of doing so by way of a supplementary report at a later date or of both. States representatives have usually been persons of great experience and high standing and have been in a position to reply to many questions raised. A number of States, in response to requests for detailed and precise information regarding legislation, measures and practices, have further given additional replies or information which have been circulated as addenda to their initial reports. In a few cases these supplementary reports have been examined by the Committee.

18. The method of work adopted by the Committee has differed depending on whether an initial or a supplementary report was being considered. In the case of initial reports members of the Committee have one after another put their questions, with time being given, since 1978, to the representative of the State concerned before he replies to the questions. In the case of supplementary reports the practice has been for members to ask questions on a topic-by-topic basis giving the representative of the State concerned the possibility to answer immediately all the questions relating to the particular topic. The Committee, however, has been

flexible in its approach, in that, in one case where an initial report had been submitted before the issue of the guidelines, members have asked a group of questions with the representative answering each member immediately after the questions were put and, in another case, members of the Committee have asked questions in the same way in which an initial report which had been prepared in accordance with the guidelines would have been examined.

19. The method of work adopted by the Committee has required considerable effort and skill on the part of States' representatives, as they were often called upon to provide answers at short notice not only over the whole range of issues covered by the Covenant but also large areas of intricate legislation, administrative practices and, perhaps in a lesser measure, facts of economic and social life in the context of which the Covenant is designed to operate. Nevertheless, the method of work has enabled the Committee to gain an over-all insight in, and comparative approach to, the legal and political systems characterizing the various States parties which could not have easily been achieved in any other way. Further, what is most important is that it has enabled the Committee and States parties, as an initial step, to engage in a meaningful dialogue which, it is hoped, will assist States parties in improving, where the need is felt, measures designed to implement Covenant rights.

20. The Committee has not so far decided on the precise method which it will adopt in order to enable it to make general comments, as required by article 40 (4) of the Covenant, to States parties whose reports have been examined. On a number of occasions the Committee has exchanged views on the most appropriate method to be adopted but has so far not finalized its particular approach (CCPR/C/SR.48, 49, 50, 55 and 73). The Committee has always adopted a flexible and pragmatic approach to its work and, given the fact that reports from only about 25 States have been examined and the issues which have been generally canvassed in the consideration of reports have not all been covered to the same extent, the Committee has not thought it appropriate to deliberate further on the matter at this stage and has preferred to concentrate its efforts largely on the examination of more initial reports and the consideration of individual communications under the Optional Protocol. It will, however, take up the matter at one of its future sessions.

B. Question of publicity for the work of the Committee

21. At the sixth session, the representative of the Secretary-General drew attention to General Assembly resolution 33/171, in which the Assembly requested the Commission on Human Rights at its thirty-fifth session to review the objectives, contents and format of the United Nations Yearbook on Human Rights; to the decision adopted by the Commission at that session recommending to the Economic and Social Council to modify the Yearbook with a view to including documents of the Human Rights Committee and other relevant organs monitoring the implementation of international human rights instruments; and to the fact that the Yearbook, which was currently biennial, would again become an annual publication, thereby providing more latitude for including the documents in question.

22. At its seventh session, the Committee was informed that, pursuant to General Assembly resolution 33/171, the Economic and Social Council, following the recommendation of the Commission on Human Rights, had adopted new guidelines for

the content and format of the United Nations Yearbook on Human Rights and that consequently, it was expected that the Yearbook would become a record for the Human Rights Committee accessible to the public at large and that what was needed now was the allocation of adequate manpower and financial resources.

23. The Committee could not, for lack of time, consider these propositions or any other points arising from the work of the Committee.

C. Participation at the inauguration of the Inter-American Court of Human Rights

24. At its seventh session, the Committee was informed by its Chairman of an invitation that he had received from the Government of Costa Rica extended to him or to any member that he may designate for that purpose to attend the coming inauguration of the Inter-American Court of Human Rights to be held in San José from 3 to 5 September 1979.

25. The Chairman expressed, on behalf of the Committee, his deep appreciation and gratitude for this invitation and informed the Committee that, because of previous engagements, he would not be able to attend but that the Committee could designate any of its members for that purpose.

26. The Committee decided to designate its vice-chairman, Mr. Prado Vallejo, to represent it at the inauguration of the Inter-American Court of Human Rights, and requested him to convey the best wishes of the Committee to the Court as well as its willingness to co-operate with the Court and other regional bodies in the field of human rights.

D. Assistance from the Secretariat

27. At its seventh session and in the light of the statement made at the opening of the session by the representative of the Secretary-General the Committee had a preliminary exchange of views on problems connected with the assistance which the Committee required from the Secretariat and on the proper role of the Secretary-General in the performance of his functions under the Covenant on Civil and Political Rights, and the Optional Protocol. 1/ For lack of time, the Committee decided to postpone discussion on this matter to a future session.

1/ See summary records CCPR/C/SR.153 and 174.

III. ADOPTION OF FURTHER RULES OF PROCEDURE

A. Introduction

28. The provisional rules of procedure as adopted by the Committee at its first and second sessions and amended at the third session (CCPR/C/3) 2/ did not contain any rules concerning articles 41 and 42 of the Covenant which deal with the competence of the Committee to receive and consider communications from a State party claiming that another State party is not fulfilling its obligations under the Covenant. In view of the fact that the number of declarations which had been made under article 41 of the Covenant fell short of the number required for that article to enter into force, the Committee decided at that time to postpone consideration of the relevant draft rules to future meetings.

29. Following the entry into force, on 28 March 1979, of article 41 of the Covenant, the Secretary-General resubmitted to the Committee the preliminary draft rules of procedure covering articles 41 and 42, as contained in document CCPR/C/L.2/Add.1.

B. General discussion at the sixth session

30. At its sixth sesion, 3/ the Committee considered in detail the form, content and the sequence of the draft rules and established a working group of five members to revise the drafts submitted by the Secretary-General, taking into account the comments made by members of the Committee. The latest version of the drafts prepared by the working group was considered at the final meeting of the sixth session, held on 27 April 1979; its adoption, however, was postponed until the seventh session pending further discussions. The following paragraphs contain a summary of the views expressed by members of the Committee as well as the comments and suggestions made in connexion with the drafts proposed by the working group in unofficial working papers during the session.

31. Members of the Committee generally agreed that the draft rules submitted by the Secretary-General could serve as a basis for the discussions although they were too succinct; that the rules should not merely repeat the substantive rights conferred on States parties by article 41 of the Covenant but should set out with precision the procedure by which those rights could be exercised; that account should be taken of the experience gained in connexion with the submission and consideration of communications from individuals as well as the need for consistency in form, style and content with rules governing other functions of

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2/ For a summary of the discussions which preceded the adoption of these provisional rules on the basis of the preliminary drafts prepared by the Secretary-Genera, see the report of the Human Rights Committee: Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44 and Corr.1), chap. III.

3/ 125th, 126th, 139th, 150th and 151st meetings (see CCPR/C/SR.125, 126, 139, 150 and 151 and CCPR/C/SR.123-151/Corrigendum).

the Committee. They should also be flexible, so as to allow for the establishment of ad hoc solutions in dealing with specific cases, and conform to the relevant provisions of the Covenant so as not to deter other States parties from making the declaration under article 41.

32. The Committee agreed that the proposed rules should follow the stages in which it will proceed under article 41 of the Covenant and, accordingly, the first paragraph of the proposed rules should indicate the manner in which the States parties concerned were to bring a matter to the attention of the Committee.

33. Members of the Committee generally agreed that the Committee could not consider a matter before receiving the notice referred to in article 41, paragraph 1 (b). However, there was some disagreement about the meaning of that article with respect to the time at which the Committee could receive and consider a matter. One view was to the effect that the rules should be drafted in such a way as to make it possible for either of the States parties concerned to send to the Committee a copy of the initial communication from one State party to the other at any time during the six month period provided for under article 41 to enable the matter to be settled between the States parties concerned. It was argued that the Committee might in this way be made aware of the matter before the receipt of the formal notice referred to in subparagraph (b) so as to save valuable time, especially as the time it would take to deal with a matter, including the preparation by the Secretariat of the documents for use by the Committee, was limited to 12 months under subparagraph (b). It was further argued that the receipt of an advance notice of a communication before the expiry of the six month period provided for in subparagraph (b) would prevent the possible withdrawal by a State party cocerned of the declaration recognizing the competence of the Committee before the Committee could consider the matter in issue.

34. The other view was to the effect that article 41 laid down at one and the same time the substantive rights of the parties and the procedure for giving effect to them; that paragraph 1 did not have a chronological character but merely indicated the general requirements for the acceptance of communications; that the chronological part of the procedure laid down in article 41 began with subparagraph (a), which did not involve the Committee but the States parties concerned exclusively; that the Committee's competence to receive and consider a communication only came into being at the expiry of the six month period; that if an adjustment was agreed upon between the States parties concerned during the six month period, the Committee's competence would not have arisen. It was further pointed out that it was not within the Committee's competence to lay down rules for the initial stage when a dispute was being dealt with bilaterally by the parties concerned. The Covenant, and not the rules of procedure, was the instrument which conferred on the States parties the right to refer a matter to the Committee. The Committee could therefore only frame rules to govern the procedure for the exercise of that right and could not go beyond the provisions of the Covenant.

35. The Committee finally agreed that the proposed rules should deal first with the quesiton of the notice to the Committee provided for in article 41, paragraph 1 (b), because that was where the functions of the Committee began under article 41. Discussion of the first draft rule centred on whether the "communication" itself could be considered as a notice for the purpose of subparagraph (b), notwithstanding the context in which use was made of the word

communication in paragraphs 1 and 2 of article 41. Most members agreed that the terms used in the drafting of the Covenant were not always very clear; that the word "communication" had probably been chosen as a neutral term and could not be considered out of context, since the communication actually constitute claim that a State was not fulfilling its obligation. The communication was therefore not merely a formal document but contained the substance of the matter that the Committee had to consider under article 41 of the Covenant. It was finally suggested that the first rule should provide that "a matter to which a communication under article 41 relates may be referred to the Committee by either State party concerned by giving notice in accordance with article 41, paragraph 1 (b), of the Covenant".

36. In this connexion, it was also suggested that the proposed rules should reflect the fact that article 44 of the Covenant did not prevent a State party from having recourse to other procedures for settling a dispute; that any matter submitted to the Committee under paragraph 1 (b) could be withdrawn by agreement between both parties, in accordance with article 44; that, in order to avoid an interruption in its work, the Committee should decide whether, after a certain lapse of time, article 44 no longer be considered to apply; and that if only one of the parties to the dispute resorted to another procedure the Committee should adopt a decision according to the circumstances of each particular case.

37. Members of the Committee agreed that a notice transmitted to it by either State party should be accompanied by information regarding the provisions of the Covenant allegedly violated, the action that had been taken to exhaust domestic remedies and to settle the matter in accordance with article 41, paragraph 1 (a), and any other procedure of international investigation or settlement resorted to by the States parties concerned.

38. They also agreed on two draft rules providing, on the one hand, that the Secretary-General should keep a register of all communications received under article 41 of the Covenant and, on the other hand, that he should inform the members of the Committee without delay of any notice given in accordance with article 41, paragraph 1 (b) and transmit to them as soon as possible copies of the notice and the relevant information. An earlier proposal that the Secretary-General should prepare summaries of the information submitted together with the notice, following the procedure in rule 79 of the provisional rules of procedure regarding individual communications under the Protocol, was dropped because it was not considered advisable to put the Secretary-General in a position whereby a summary of the information submitted might be questioned by the States parties concerned.

39. Some members of the Committee suggested the introduction of a rule which would authorize the Secretary-General to request clarification or additional information from the States parties concerned following the receipt of communications under article 41. In support of this proposal, it was pointed out that since only a period of one year was given to the Committee under subparagraph (h) to deal with a matter, it was essential that the information should be as comprehensive as possible and that the Secretary-General could provide assistance in that connexion in order to save time before the Committee met.

40. This proposal was opposed by other members on the grounds that the Committee was not an organ of the United Nations and that it was established by States

parties in accordance with the Covenant which defined very clearly the limits of the functions of the Secretary-General. It was further noted that the Secretary-General might not accept the proposed wording because it was not in accordance with the spirit of the Charter nor with the impartiality inherent in his Office. It would therefore be preferable to replace the words "the Secretary-General" in the proposed rule by the words "the secretariat of the Committee", especially since article 41, paragraph 1 (f), of the Covenant expressly referred to the Committee as being the body which was empowered to call upon States parties concerned to supply any relevant information.

41. The representative of the Secretary-General, referring to article 97 of the United Nations Charter, article 36 of the Covenant and rule 23 of the provisional rules of procedure, stated that the "secretariat of the Committee" was an integral part of the Secretariat of the United Nations. However, it was up to the Committee to determine the precise scope and modalities of the funcitons entrusted to the Secretary-General under the Covenant.

42. Members of the Committee finally agreed to reflect in the relevant rule the power of the Committee to request, through the Secretary-General, the States parties concerned or either of them to submit additional information orally or in writing; it was expected that a communication from a State party would contain all the necessary information, in contrast to a communication from an individual, which might require supplementary information. The proposed rule would also indicate that the Committee should establish a time-limit for the submission of written information or observations, in view of the limited time given to the Committee to deal with a communication under article 41 of the Covenant.

43. It was agreed that the rules should make clear that a communication could not be considered by the Committee unless both States parties concerned had made declarations under article 41, paragraph 1, of the Covenant which were in force on the date of the communication. Given the fact that some declarations may be qualified or contain reservations, it was felt that the rules would have to take account of the precise wording used in each particular declaration.

44. In this connexion, it was also agreed that the proposed rule should also provide that a communication could not be considered unless the time-limit prescribed in article 41, paragraph 1 (b), had expired and that the Committee was satisfied that all available domestic remedies had been invoked and exhausted in the matter, in accordance with the generally recognized principles of international law. It had been suggested and later approved that the word "observations" should be added after the word "information" in the rule stipulating that the Committee may, through the Secretary-General, request additional information, because when the question of competence was being considered, observations of the States concerned and not merely information may be required.

45. It was suggested that the examination of the admissibility of a communication should be on the lines of the procedure established under the Optional Protocol and that, accordingly, the rules should require the Committee do decide first of all whether the communication was admissible. Several members of the Committee expressed reservations at elaborating too many details and indicated that its consideration of communications did not constitute judicial proceedings; and that it should consider the question of admissibility - as a separate stage in the proceedings only if it was contested by the other State party concerned or the circumstances of the particular communication so required.

46. The Committee finally agreed that there were good grounds for merging, as a general rule, the two stages, namely, the questions of both admissibility and merits of the communication and that the relevant rule should reflect the understanding of the members that, unless the Committee decided that a communication was not admissible, it should proceed to make its good offices available in accordance with the provision of article 41 of the Covenant. It was understood that this wording corresponded with the express provision appearing in article 41, paragraph 1 (c), and that the Committee would be in a position to consider the question of admissibility proprio motu if, in a given case, serious doubts emerged.

47. The Committee agreed that the proposed rules should reflect the provision of article 41, paragraph 1 (g), of the Covenant regarding the right of a State party concerned to be represented when the matter was being considered in the Committee and to make submissions orally or in writing. In order to be able to do so, the State party concerned should be notified as early as possible of the opening date, duration and place of the session at which the matter would be examined. It was also agreed that the proposed rules should indicate that the procedure for making oral and/or written submissions shall be decided by the Committee on a case by case basis after consultation with the States parties concerned.

48. The question whether a provision should be made for the setting up of working groups was dropped because it seemed unnecessary, since at the current stage it could not be foreseen what powers would have to be given to such subsidiary bodies as might be established in connexion with the examination of communications received under article 41; besides, the matter was dealt with in rule 62 of the provisional rules of procedure.

49. It was also agreed that, in accordance with article 41, paragraph 1 (d), a rule should provide for the meetings of the Committee to be closed when it examined communications under that article. In this connexion, questions were raised on the desirability or otherwise of a proposed rule providing for the issue of communiqués, through the Secretary-General, regarding its closed meetings.

50. The Committee agreed that the proposed rules should reflect the provisions of article 41, paragraph 1 (h), concerning the report which the Committee was expected to submit within 12 months after the date of receipt of notice under subparagraph 1 (b); and that there was no need to elaborate on the nature and content of the report since it was provided for in detail in subparagraph 1 (h) of article 41. However, it was agreed that the relevant rule on the subject should indicate that the rule concerning the right of the representatives of the States parties concerned to be present during the consideration of the relevant communication did not apply to the deliberation of the Committee concerning the adoption of the report; and that such report should be communicated, through the Secretary-General, to the States parties concerned as soon as possible.

51. Members of the Committee differed on whether a reference to the procedure prescribed under article 42 of the Covenant should be made at this stage in the procedure under article 41 of the Covenant, in case a solution was not reached on the matter. Members supporting this approach maintained that the Committee's report might serve to initiate the procedure under article 42; that it might enable the Committee, when it became increasingly apparent that it would not succeed, to take the initiative and suggest to the parties concerned the appointment of a conciliation commission under article 42 of the Covenant; that

article 42, pargraph 1 (a), may be interpreted to allow for such initiative to be taken by the Committee; but that there was no question of the Committee's initiating the procedure under article 42 without the consent of the States parties concerned.

52. Other members of the Committee expressed reservations on this approach and pointed out that if the matter was unresolved by the procedure laid down in article 41 then the procedure under article 42 could be initiated by either of the States parties; that it would be invidious for the Committee to assume competence, even by way of an initiative; and that there was a stage which preceded the application of the procedure under article 42, since the prior procedure under article 41 must still be completed with a report to be submitted by the Committee in accordance with article 41 paragraph 1 (h).

C. Adoption of further rules of procedure at the seventh session

53. At its seventh session, 4/ the Committee had before it the latest draft of the provisional rules of procedure covering article 41 of the Covenant revised to take account of points made during the sixth session. After further revision in the light of views of members of the Committee, the draft was unanimously adopted as amended (for text of these rules see annex III below).

4/ See CCPR/C/SR.156 and 169.

IV. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

A. Submission of reports

54. States parties have undertaken to submit reports in accordance with article 40 of the Covenant within one year of the entry into force of the Covenant for the States parties concerned and thereafter whenever the Committee so requests. In order to assist States parties in submitting the reports required under article 40 of the Covenant, the Committee, at its second session, approved general guidelines regarding the form and content of reports, the text of which appeared in annex IV to its first annual report submitted to the General Assembly at its thirty-second session. 5/

55. At its sixth session, the Committee was informed that, of the 44 States parties whose reports were due in 1977 and 1978, 30 States parties had so far submitted their initial reports to the Committee, and that six of them had also submitted supplementary reports containing additional information or replies to questions raised in the Committee in connexion with their initial reports.

56. The Committee was also informed that the following 10 States parties whose initial reports were due in 1977 had not yet submitted them: Colombia, Costa Rica, Iraq, Jamaica, Kenya, Lebanon, Mali, Rwanda, United Republic of Tanzania and Uruguay; and that of the reports due in 1978, those of Zaire, Suriname, Guyana and Panama had not yet been received. For the status of submission of reports see annex IV to this report.

57. The Committee decided that an aide-mémoire should be prepared and handed over by its Chairman to the permanent representatives at New York of the States parties whose reports were due in 1977. The aide-mémoire referred to the reporting obligations of the Governments under article 40 of the Covenant, the reminders that had already been sent, the fact that the matter would be re-examined at the next session of the Committee, and finally indicated that unless replies were received before the seventh session, the Committee would find it difficult to avoid mentioning in its next annual report to the General Assembly the failure of the Governments concerned to comply with their treaty obligations.

58. The Committee further decided that, in accordance with rule 96 of its provisional rules of procedure, reminders should be sent to the States parties whose reports were due in 1978 but had not yet been received, with the exception of Suriname, which had informed the Committee through the Secretary-General that its report would be submitted within one month.

59. The Committee also decided to authorize its Chairman to try to obtain from the permanent representatives to the United Nations of those States parties from which additional information was expected since the consideration of their initial reports during the second and third sessions some indication as to when the information in question could be expected, so that he could report back to the

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5/ Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44 and Corr.1), annex IV.

Committee at its seventh session. No reminders were sent to the States parties which had undertaken to submit supplementary information relating to the consideration of their reports at the fourth and fifth sessions.

60. At the 149th meeting, held on 26 April 1979, the representative of Iran, appearing before the Committee at his own request, informed the Committee that the initial and supplementary reports (CCPR/C/1/Add.16; CCPR/C/1/Add.26 and Corr.1) submitted by the former régime did not reflect the reality of the situation in his country regarding the status of civil and political rights; that his country was currently passing through a revolutionary process which was laying down the foundations of a new society; and that to that end, a new constitution would be drafted and elections for a constituent assembly would be held. As a State party to the Covenant, Iran would in due course submit its report to the Committee in conformity with article 40.

61. Initial reports submitted by Bulgaria, Chile, Romania and Spain were considered by the Committee at its sixth session. At the same session, the Committee also considered the third part of the initial report submitted by the United Kingdom of Great Britain and Northern Ireland together with supplementary information received from the Government of the United Kingdom.

62. The Committee postponed to its seventh session the consideration of the initial report submitted by the Ukrainian Soviet Socialist Republic (CCPR/C/1/Add.34), the second part of the initial report submitted by the United Kingdom (CCPR/C/1/Add.37) and the supplementary reports submitted by Cyprus (CCPR/C/1/Add.28) and the Syrian Arab Republic (CCPR/C/1/Add.31).

63. At its seventh session, the Committee was informed that 34 States had submitted their initial reports under article 40 of the Covenant, the last four of which were submitted by Suriname, Iraq, Peru and Senegal; that additional information had been submitted by seven of these States, the last of which was Hungary; that the States parties whose initial reports were due in 1977 and which had not yet submitted them were Colombia, Costa Rica, Jamaica, Kenya, Lebanon, Mali, Rwanda, the United Republic of Tanzania and Uruguay; that the reports of Guyana, Panama and Zaire, due in 1978, had not yet been submitted; that information promised by the Libyan Arab Jamahiriya, Denmark, Federal Republic of Germany, Jordan, Madagascar, Mauritius and Yugoslavia during the consideration of their respective initial reports by the Committee at its third, fourth and fifth sessions had not yet been received.

64. The Committee was informed by the Chairman that, in accordance with its decision at its sixth session, he handed over an aide-mémoire prepared by the Secretariat to the heads of the permanent missions in New York of the nine States parties who had failed to submit their reports due in 1977; and that he met with the permanent representatives of the Libyan Arab Jamahiriya and Denmark and handed them notes verbales in connexion with the delay in submitting the supplementary reports already promised by the representatives of their respective Governments during the consideration of their reports at the third session. The Chairman informed the Committee that the representatives of Colombia and Costa Rica assured him that the reports of their Governments were under preparation and that they would be submitted soon to the Committee; that the report of Costa Rica had eventually been received by the Secretariat; that the representatives of the other seven States promised to transmit the aide mémoire immediately to their Governments and to pursue the matter with a view to fulfilling the obligation of their

respective Governments under article 40 of the Covenant. He also pointed out that following his meetings in New York with the representatives of the above-mentioned Governments he received a letter from the Permanent Representative of Denmark to the United Nations to the effect that the Danish Government would submit its supplementary report to the Division of Human Rights in Geneva in August/September 1979; and that he also received a letter from the Permanent Representative of Lebanon to the United Nations expressing his Government's regret for the delay in submitting its report and the hope that the Committee would understand the difficulties that Lebanon had been going through which made it practically impossible to send its report at this stage, but that he was also instructed to inform the Committee that his Government was giving the most serious consideration to its aide-mémoire in the hope that the report would be presented at the earliest possible date. The Committee was also informed of the content of a note verbale from the Government of the Federal Republic of Germany to the effect that because of the co-ordination required for this purpose among its respective ministries, it would not be possible to submit its supplementary report before the end of 1979.

65. The attention of the Committee was drawn to the text of a cable addressed to the Secretary-General of the United Nations by the Minister for Foreign Affairs of Uruguay informing him in general terms of his Government's decision to derogate from certain rights provided for in the Covenant in accordance with article 4 thereof. The Committee decided to request the Secretary-General to indicate to the Government of Uruguay that it had taken note of the last sentence of its cable referring to its obligations to submit its report under article 40 of the Covenant, and that the Committee expected that this report, which was already due in 1977, would be submitted to the Committee as soon as possible and that the report would indicate in detail the rights derogated from, the extent of the derogations and the justification for the derogation in respect of each right derogated from.

66. The Committee was informed of the text of a note verbale addressed to its Chairman from the Minister for Foreign Affairs of Chile, in connexion with the consideration by the Committee of his Government's report (CCPR/C/1/Add.25 and Add.40) at its sixth session, held in New York from 10 to 27 April 1979. 6/ The note verbale contained, inter alia, observations from the Government of Chile in relation to a statement made by the Chairman of the Committee on its behalf at that session. The Committee decided to inform the Government of Chile that the Committee expected to receive the supplementary report requested in accordance with article 40 of the Covenant (for the text of both the cable of the Government of Chile and the reply thereto as adopted by the Committee, see annex V below).

67. The initial report submitted by the Ukrainian Soviet Socialist Republic and the second part of the initial report submitted by the United Kingdom of Great Britain and Northern Ireland (dependent territories) were considered by the Committee at its seventh session. At that session, the Committee also considered the supplementary reports received from the Governments of the Syrian Arab Republic, Cyprus and Finland.

68. The Committee decided to postpone consideration of the report submitted by Barbados until its ninth session due to be held in New York from 17 March to 4 April 1980.

6/ See paras. 70 to 109 below.

B. Consideration of reports

69. The following paragraphs are arranged on a country-by-country basis according to the sequence followed by the Committee at its sixth and seventh sessions in its consideration of the reports of States parties. Fuller information is contained in the initial and supplementary reports submitted by the States parties concerned and in the summary records of the meetings at which the reports were considered by the Committee.

Chile

70. At its 127th to 130th meetings, held on 11 and 12 April 1979 (CCPR/C/SR.127-130), the Committee considered the initial report (CCPR/C/1/Add.25 and 40) submitted by the Government of Chile.

71. The report was introduced by the representatives of Chile who referred to the history of Chilean institutions from the emergence of Chile as an independent State and emphasized the evolutive nature of the system. They also described some aspects of the events that had taken place before and after 11 September 1973, and the new legislation enacted by the military Junta after that date, notably Decree Law No. 527 of 1974, under which the Junta assumed the constituent and legislative powers while the President of the Junta exercised executive authority. This Decree, which had constitutional force, expressly reaffirmed the fact that the judiciary was established and would exercise its functions in the manner and with the independence and powers prescribed by the Constitution and the laws of the Republic. The representatives of Chile further stated that to assist it in the exercise of its legislative and constitutional powers the Junta had set up four legislative committees with a secretariat of Legislation to co-ordinate their work and that a commission of jurists had prepared a preliminary draft constitutional reform which, after thorough discussion at all levels, would be submitted to the country for consideration by means of a plebiscite. They also emphasized that individual rights were traditionally safeguarded in Chile by the various constitutional texts which had succeeded one another during the historical development of the country from its independence to the present day, and mentioned as an example that the legal status of women was being progressively equalized with that of men.

72. Several members of the Committee stated that the situation of human rights in Chile had been a source of concern to the international community since September 1973, and that in the last few years the United Nations had noted the existence of flagrant and systematic violations of human rights and had adopted numerous resolutions calling for the restoration of human rights and fundamental freedoms in Chile. It was pointed out by some members that there had been favourable developments in the last two or three years but there were still violations. However, the relations between the Government of Chile and the United Nations and in particular the establishment of the Ad Hoc Working Group of the Commission on Human Rights and its visit to that country, should be a source of inspiration to the international community and constituted a very important precedent. Some members noted that the mandate of the Committee was limited, since it was confined to ascertaining on the basis of the information provided in the report of the State party concerned what the situation of civil and political rights in that country was in view of the fact that the rules of procedure did not establish any machinery for verifying the information received. In this connexion,

one member expressed the view that the Committee was not a fact-finding body. Others expressed the view that the task of the Committee was to review the implementation of the Covenant and make such comments as it found appropriate, and that in so doing the Committee should draw on whatever additional information it deemed useful, particularly when the information was drawn from competent United Nations bodies which had investigated and confirmed the existence of the violations of human rights.

73. All members agreed that the report of the Government of Chile did not give any account of the problems affecting civil and political rights to which the Ad Hoc Working Group of the Commission on Human Rights and resolutions of the United Nations have repeatedly referred. 7/ Some members also drew attention to the fact that the report had been submitted by an authority which owed its very existence to the elimination of the political rights of the Chilean people although the Government had attempted to create the impression that legal continuity had been maintained with the Chilean Constitution of 1925. Other members stated that the report failed to meet the requirements of article 40, paragraph 2, of the Covenant since it merely provided an idealized and abstract picture of the legal framework which should ensure the protection of civil and political rights in Chile and that the description itself contained contradictions in reasoning and ambiguous legal formulations and made no reference to the practical enforcement of the legal norms for the protection of fundamental rights. They considered that the report which had been submitted ignored the true situation in the country and did not make for proper examination of that situation. Consequently it was necessary to ask the Government of Chile to submit a further report in which an analysis would be made of the manner in which each Covenant right is in practice implemented, the rights which have been derogated from, the justification for and the extent of the derogation.

74. Some members referred to certain concepts which were regarded as justifying restrictions on human rights in Chile, such as those of "national security" and "latent subversion", and pointed out that the Covenant did not authorize any derogation from its obligations on the grounds of "latent subversion". They inquired whether the concept of "national security" was defined in terms of the stability of the régime or the stability of the State and whether it was invoked when the Government feared for its stability or when its interests had been threatened. They also asked how the term "latent subversion" should, in the view of the Government of Chile, be defined since, in those countries of Latin America where illiteracy, poverty and disease were rife, there could be said to exist a state of latent subversion that would last as long as social and political rights had not been substantially implemented.

75. It was observed that the fact that supreme legislative and constituent powers were currently vested in the Junta and executive powers in the President of the Junta resulted in a situation which was in itself a denial of some of the basic political rights set forth, particularly in article 25 of the Covenant. One member of the Committee pointed out that the President of the Junta had stated in

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7/ See the report of the Ad Hoc Working Group to inquire into the situation of human rights in Chile of the Commission on Human Rights (A/33/331) and the report of the Ad Hoc Working Group submitted to the Commission on Human Rights at its thirty-fifth session (E/CN.4/1310).

April 1978 that the draft constitution would be prepared during that year and would be submitted to a plebiscite, yet only recently he had stated that there would be no elections or plebiscites in Chile for the next 10 years. Other members asked when the new constitution was to be presented to the people and how and when a referendum was to be held on it, whether new electoral rolls would be prepared and how they would be checked, whether political parties or their equivalents would be allowed to monitor in the preparation, supervision and vote-counting in the referendum and whether there would be any opportunity to consider alternative proposals or of giving public voice to criticism or opposing views. They also asked how soon after such a constitution was adopted and, on the assumption that it would provide for an elected Parliament, the elections would take place. One member asked when the Government considered that the principle of popular sovereignty could be re-established and who was to judge whether "the corrupt political practices, which undermined law and order ..." had been finally eradicated since the Government of Chile had referred in its report to those practices as the cause of the restrictions imposed on the right of citizens to vote or to be elected.

76. With regard to the present constitutional situation, it was pointed out that the Junta itself was based on a violent breach of the Constitution in which the constitutionally elected President of the Chilean people had been killed and all elected organs and political parties had been dissolved, that the Constitutional Acts had modified the Constitution and that the remedy of inapplicability on grounds of unconstitutionality, which had been provided for in the Constitution, was not applicable to them. It was also asked whether the necessary laws had been enacted to bring the provisions of Constitutional Act No. 3 into force, and more information was requested on article 11 which dealt very fully with the protection of the present régime. With reference to Decree Law No. 788, it was also noted that it seemed possible for a body that had not been elected to change the Constitution.

77. Several members wished to know to what extent the provisions of the International Covenant on Civil and Political Rights were in force under the Chilean legal order. One of them asked whether the Covenant could be invoked in defence of a Chilean citizen in a Chilean court and in the military courts in particular and what remedies were available to people to assert their rights under the Covenant. Another member inquired whether the Government had considered the possibility of exercising its constituent powers and according the provisions of the Covenant the status of constitutional law. One member asked whether the text of the Covenant had been published and disseminated in Chile so that the entire population could be made aware of the rights to which they were entitled as a result of the ratification of that instrument.

78. Several members referred to article 4 of the Covenant in relation to the suspension of a number of rights under the states of siege and emergency. It was pointed out that it was the Junta itself that constituted the real state of emergency for the Chilean people and that article 4 of the Covenant had not been intended to justify the acts of persons who themselves created the emergency. They inquired whether, as stated in the report of the Ad Hoc Working Group, the Government was continuing, without any objective justification, to apply measures intended for exceptional conditions of internal unrest, and they referred in particular to the President's powers to order preventive arrests by the security forces and to expel Chilean citizens or prevent them from re-entering Chile. They also referred to the powers granted to the Commanders of Emergency Zones to restrict the rights of assembly, association, opinion and information. They inquired whether the communication of August 1976 from the Government of Chile to the

Secretary-General of the United Nations, reporting on the restrictions imposed on the rights enunciated in articles 9, 12, 15, 19 and 25 (b) of the Covenant under the state of siege, were also applicable to the state of emergency, which was still in force, and asked for further information on the restrictions placed on the rights prescribed in the Covenant as a result of the state of emergency, which, although intended to be limited in space and time, had been transformed into institutional restrictions in force throughout the country for an indefinite period. Another member asked whether the notification of termination of the state of siege also signified the end of the derogations of rights, notified in accordance with article 4 of the Covenant.

79. Several members stated that the report of the Ad Hoc Working Group gave no assurance that the right to life and to liberty and security of person (arts. 6, 7 and 9 of the Covenant) were properly protected. They pointed out that the number of arrests made for political reasons or on grounds of national security had been higher in 1978 than in 1977 and had also affected persons who took part in the humanitarian work of the churches. They added that the remedy of amparo appeared to have been inapplicable during the state of siege and had proved ineffectual during the state of emergency.

80. They asked for information on the real possibilities of availing of this protection, and whether the remedy of amparo covered all cases in which a person had been deprived of his freedom by a governmental agency, including the security services and subordinate organs of the Executive, and particularly during the state of emergency. They also asked why a person was allowed to be detained for five days by the President of the Junta or the security services and at the end of that time placed at the disposal of the Ministry of the Interior, and whether that situation could last indefinitely. They also wished to know if it was possible to lodge an action against security forces that violated a person's privacy, home correspondence, which were protected by article 17 of the Covenant. Citing the report of the Ad Hoc Working Group in relation to cases of torture and ill-treatment and the provisions of the Covenant, which did not provide for derogations from the principles of article 7, some members asked for information on the measures that had been taken to investigate and punish violations of human rights in such cases and whether, when cases of that kind had been proven, the victims had obtained redress and the guilty persons had been punished. They also asked in how many cases formal charges of torture and ill-treatment had been made and what the results had been.

81. Many of the members stated that the disappearance of hundreds of persons who had been arrested by the security services continued to be one of the main concerns of the international community and they asked whether serious and effective efforts had been made to discover the whereabouts of the missing persons. Some members considered that the disappearance of a person in whatever circumstances involved state responsibility, and questioned the propriety of the immunity granted by the amnesty of 18 April 1978 to persons who could otherwise have been charged with serious violations of human rights.

82. Some members raised questions on the text of Law No. 11,625 which established security measures for persons designated as "anti-social" but did not give a clear and precise definition of the type of conduct or personality that would be considered "anti-social". They asked what authority decided which were the cases to which the description was applicable. They also asked whether there were any judicial or administrative remedies against that measure.

83. One member referred to article 14 of the Covenant in relation to the repeated charges that arrests were carried out by persons who did not identify themselves, and asked whether the Government of Chile could give assurances that no one would be arrested except under the legal procedures in force which specified that the arrested person was to be informed of the reasons for his arrest and the charges against him, while his family was to be informed of his place of detention and his particular status as a detainee. An explanation was requested as to why an accused person had so short a time (six days) in which to prepare his defence against the charges he faced. Other members inquired as to the remedies which could be invoked if there were unjustified delays in legal proceedings and referred to delays in the processing of petitions for habeas corpus which could jeopardize the security of the persons concerned and weaken the effectiveness of the remedy. They also asked whether the requirements of due process laid down in article 14 of the Covenant were being complied with by the military tribunals. Given the special importance of judicial institutions, some members asked how the independence of the judiciary was guaranteed in view of the fact that its members were appointed and liable to be dismissed by the Junta, that there was no right of appeal to a higher court and that the administrative power intervened, through the Ministry of the Interior, in the administration of justice.

84. In relation to article 12 of the Covenant, reference was made to the fact that the Government of Chile itself had stated that the Ministry of the Interior was entitled to expel an alien or a national from the country. One member asked whether the courts were entitled to review the substantive reasons adduced to justify such a decision or whether they confined themselves to a formal examination only. In the latter case, the provisions of article 2, paragraph 3 (a), of the Covenant were not being complied with. Some members viewed the fact that no one had been expelled or deprived of nationality in 1978, according to the information given by the Government, as an encouraging sign of a return to normality, but said they would like to know whether it was possible for persons to be deprived of their nationality for political reasons and what legal remedies were available to a citizen deprived of his nationality to safeguard his rights.

85. With regard to the situation of exiles and other persons outside Chile who wished to return to that country, some members said that entry was being denied on the grounds of "national sovereignty, internal security or the public order", or because the persons concerned were a "danger to the State". Those reasons covered a very wide field and were not clear enough for the Committee to assess the criteria on which the restrictions were based. They asked for information on the remedies available to persons who were victims of the prohibition. They also asked whether the Government intended to explain in which cases exiles would be allowed to return, whether the amnesty would be extended to the restoration of their former rights to all citizens, what were the reasons for prohibiting the return of a number of people who had been expelled or who had left the country earlier and how many people had thus been denied the right to live in their own country.

86. In relation to article 18 of the Covenant, one member asked whether the religious instruction which was to be included in the syllabus in Chile would be compulsory, what religious faith would be taught and who would determine which it was to be.

87. Another member stated that any democratic process that was compatible with article 25 of the Covenant presupposed freedom of opinion supported by freedom

from discrimination with respect to opinions expressed in public. While certain limitations were permissible under article 19, paragraph 3, of the Covenant, that should not be taken to mean that freedom of opinion could be restricted merely because the Government considered it to be a threat to its stability. Any restriction on that right required convincing proof of the existence of a danger which could not be overcome in any other way. In the light of the report by the Government of Chile, which recognized that freedom of expression was limited "when its abuse may create unjustified alarm", one member asked for clarification of the legal significance of the expression "unjustified alarm" and inquired as to the remedies available to a person whose rights were restricted under the Act on Abuses of Publicity. Another member asked whether all social groups were equitably represented in the structure of the mass media, or whether they were monopolized by the Government.

88. Referring to articles 21 and 22 of the Covenant, several members stated that the rights of association and assembly did not seem to be respected in Chile since a number of trade unions had been dissolved, the right to strike and the right of collective bargaining had been suspended and the decree-laws recently enacted on labour questions contained such an array of restrictions that they aroused serious doubts as to their compatibility with the provisions of the Covenant. They referred in that connexion to the compulsory oath which elected union officials had to take and the restrictions as regards the persons who could stand for election, and requested further information on the possibilities open to workers of improving their economic situation in those circumstances. One member also asked whether Decree-Law No. 198, which restricted the unions' right of assembly, was still in force.

89. One member referred to the obligations imposed on wives, under Chilean law, to obey their husbands and follow them wherever they took up residence, and considered that such obligations were not in line with article 23 of the Covenant.

90. Several members of the Committee expressed doubts regarding the application in Chile of the principle of non-discrimination established in articles 2, 25 and 26 of the Covenant, which had not been fully dealt with in the report submitted by the Government of Chile. It was pointed out that with the enactment of Constitutional Act No. 3 political discrimination had been made into a constitutional principle. Special importance was attached to the question of non-discrimination for political reasons, since violation of that principle was liable to affect the whole institutional structure of the country and in particular the rights set forth in article 25 of the Covenant, notably the right to take part in the conduct of public affairs, to vote and to be elected and to have access, on general terms of equality, to public service. They pointed out in that connexion that all the political parties had been dissolved and asked for an explanation of the term "reasons of unity" for which it was claimed that steps had been taken and of how those reasons justified the disbanding of every party without exception. They also queried the meaning of the concept of political parties "as currents of opinion" and asked what their status or function would be.

91. One member stated that both the right of opinion and the right of association appeared to be subject to political discrimination. He referred to the restrictions placed on the right of students' and workers' associations to engage in political activities, and asked how such organizations were expected to discharge their functions efficiently without speaking out in public on all matters relating

to their objectives. He quoted, as an example, the ban on the election, as a representative of the workers, of any person who had been engaged in certain political activities during the previous 10 years, which lessened the workers' possibilities of being represented by experienced leaders.

92. Some members asked why the Government of Chile, according to its report, did not seem to think that there were any ethnic or linguistic minorities in the country. There were numerous indigenous groups in Chile which retained their own special characteristics and were therefore entitled to enjoy the rights established by article 27 of the Covenant. Concern was expressed as to why they seemed to be unable to exercise their economic, social and cultural rights - a situation which was in breach of the principle of equality and of the rights of minorities.

93. The representatives of the Government of Chile began their exposition by making some general observations on the views expressed and questions put by many of the members, which they considered to be politicized and to reflect an attitude that prevailed in various United Nations bodies in which Chile had fallen victim in recent years to ideological persecution and differential and discriminatory treatment. They referred to their Government's reply concerning resolution 11 (XXXV) of the Commission on Human Rights, which rejected that resolution and stated that Chile might not continue to offer its co-operation if it was treated in a way that was not consonant with objective and universally valid standards.

94. Referring to the questions which had been asked concerning the juridical status of the relevant international instruments in Chilean legislation, the representatives stated that the Covenant could not be invoked directly in the Chilean courts but that the State had to enact the necessary legislation to apply it. Extensive legislation enacted in accordance with the different criteria followed by the succession of Governments in Chile had incorporated the principles of the Covenant into positive Chilean law.

95. They acknowledged that restrictions had been imposed under article 4 of the Covenant, but claimed that, although the present Government had not come to power in a manner consistent with article 25 of the Covenant, it had been recognized as a State party to it and was consequently entitled to restrict its application. The representatives described the situation which had prevailed before the present Government took power as unconstitutional and they referred to a resolution adopted by the Chilean Congress in August 1973 declaring the Government to be unconstitutional and requesting the armed forces to take measures. Chaos had reigned at the time owing to the fact that certain institutions were unable to function and to the existence of economic problems and social unrest. The Government had consequently been forced to adopt emergency measures derogating from its obligations under the Covenant, and such measures were still needed because of the existence of terrorist elements. They added that the state of siege was provided for in the 1925 Constitution while the state of emergency had been established by the Congress in Act No. 12,927 of 1958. They explained the limitations which the respective states imposed on the exercise of certain rights under Chilean law and pointed out that the state of siege was no longer in force in any part of the country, having lapsed in February 1979 in the last remaining province in which it had been in force. They also explained that during a state of emergency persons could be detained for five days, after which they either had to be released or brought before a court, and that remedies existed such as that of the

right of appeal to the military courts, whose decisions could be reviewed by the Supreme Court. They went on to state that the remedy of amparo or habeas corpus was fully applied under the state of emergency. It covered all acts of deprivation or threat of deprivation of fundamental freedoms and could be freely exercised. Constitutional Act No. 3 had instituted the remedy of protection, which covered a number of rights that were embodied in the Covenant and had been incorporated into Chilean legislation through that constitutional instrument.

96. With regard to the questions which had been raised regarding the independence of the judiciary, they asserted that it was completely independent. Appointments to the Bench, which were for life, were made by means of a procedure which guaranteed the independence of the judiciary, since the courts submitted lists of persons from among whom the appointments had to be made. No judge could be removed by the Executive. They explained that the law invested the Executive with certain powers as, for instance, during a state of siege and that the role of the courts was then merely to establish whether the rules in force for that state of emergency were being observed and not to pronounce on the reasons for ordering arrests to be made. Referring to a question put by one of the members on the short six-day time-limit which was allowed to accused persons to prepare their defence, they explained that that period corresponded to the plenary (plenario) stage. Before that stage of criminal proceedings was reached, the defendant would have had an opportunity to appoint a lawyer, summon witnesses and present any written evidence he considered necessary for his defence.

97. With regard to the question of military jurisdiction, the representatives explained that it was exercised in peacetime by courts which were essentially different from those which functioned in wartime. Wartime military courts functioned when there was a state of assembly or state of siege, and in the latter case, only in special circumstances such as when organized rebel forces were operating in the country. The peacetime military courts were special courts, subordinate to the Supreme Court, and dealt with military offences covered by the Code of Military Justice, offences placed before them under special laws, and ordinary offences committed by military personnel in wartime in the exercise of their duties. They added that the procedures laid down in the Military Code were substantially similar to those of the Chilean Code of Penal Procedure. The military courts were courts of second instance and the recourse of amparo was available to anyone who had been arrested under military jurisdiction. Sentences passed by military courts could be the subject of appeal to the Supreme Court. The uniformed police forces were also subject to military jurisdiction. In addition, the military courts dealt with the case of members of the military or police forces who, in the exercise of their functions, used unnecessary violence. Such cases were judged with regard to both the reason for and the extent of the violence used. A victim of undue force by the police had access to the full range of legal remedies, including the possibility of appealing to the Supreme Court. Many members of the police forces had been penalized by the courts for committing abuses of that kind, and the Government of Chile was prepared to send to the Committee copies of the decisions rendered in those cases. With regard to the charges relating to missing persons, the representatives stated that the Supreme Court had recently appointed appeal court judges to look into the charges made.

98. With respect to the concept of latent subversion, they explained that it was

given effect to only during a state of siege and then solely to determine whether certain cases should be tried by the peacetime or wartime military courts.

99. In response to a question on the number of political prisoners in Chile at the present time, they said that there were no political prisoners held in gaol or elsewhere, and that no one who had been detained as a result of the events of 1973 was still in prison.

100. Concerning loss of nationality, they stated that that measure was no longer applicable since the state of siege had been raised, and that, while it was in force, it could be appealed to the Supreme Court.

101. With regard to article 12, paragraph 4, and articles 22 and 27 of the Covenant, they recalled that the Government of Chile had informed the Committee of the temporary suspension and limitation of the right of certain Chileans to return to their country. Freedom of movement was related to the right of return. They added that the Government of Chile had honoured the right of asylum in embassies and the right to leave the country and had commuted prison sentences to exile but that many of the persons who had requested permission to return had committed terrorist acts or had contravened the laws on the control of arms and explosives, while others wished to return in order to engage in open opposition to the Government. The Government, while provisionally refusing permission, was examining each case very carefully in the light of the persons' activities abroad. Persons who had been denied permission to re-enter the country could request reconsideration of their cases. The representatives pointed out that, to judge by the number of persons who had expressed a wish to return, the situation in Chile could not be as serious as it was described.

102. In reply to the questions which had been asked concerning the amnesty granted to persons who could have been indicted for serious violations of human rights, they stated that an amnesty had to be general and could not be applied on a piecemeal basis. It would be unjust for a police officer, for instance, who had exceeded his authority in apprehending a terrorist to be punished while the terrorist was allowed to go free under the amnesty. Amnesty did not mean, they explained, that offences should not be investigated to a certain criminal responsibility. The person benefiting from amnesty would still have to face up to his social responsibilities and a holder of government office would be subject to administrative sanctions.

103. The representatives of Chile stated, with respect to the Committee's questions concerning political parties, that parties were not referred to in the Covenant They explained that the Marxist parties had been dissolved because they had been involved in revolutionary activities, and that all the parties had constituted a divisive force which had led Chile to the brink of civil war and had therefore made it necessary to adopt a policy of national unity. As the corruption in political life had brought about the collapse of the old standards and threatened life, property and freedom of opinion, fundamental changes had to be made in the institutional fabric of the country. It was necessary for constitutional reform to take place before elections could be held in Chile.

104. Replying to the questions which had been raised concerning freedom of information, they assured the Committee that there was wide freedom of the press and information in Chile and that in general the media were not under government control. Freedom of the press was the best possible proof of the exercise of human rights in Chile.

105. With regard to the right of persons to form and join trade unions, as provided for in article 22 of the Covenant, they informed the Committee that new labour legislation was being prepared for promulgation before 30 June 1979. It would provide for free, democratic, self-financing, autonomous and apolitical trade unions. Collective bargaining would take place on the basis of individual enterprises. The right to strike would be recognized unless it affected the public services, was a threat to health or interfered with the public's access to essential supplies. Unions which had elected new officials under the legislation temporarily in force could hold new elections in conformity with the regulations that would be laid down. The provisions suspending the right of assembly in the case of trade union meetings had been waived, and union meetings could be held at union headquarters outside working hours provided that they dealt with matters of common interest to members. The representatives of Chile explained that Decree-Laws No. 2345, which empowered the Minister of the Interior to dismiss officials; No. 2346 which authorized him to dissolve trade unions or trade union federations; and No. 2347, which was to be superseded by the new laws that would come into force in July 1979, had never been applied.

106. Turning to the question of ethnic, religious or other minorities, they said that the statement made in the report of Chile that there were no such minorities within the meaning of article 27 of the Covenant reflected the desire to integrate all ethnic groups into the national community since, in the opinion of the Government, the existence of different standards of treatment would be tantamount to discrimination. They also stated that a law had been passed to settle some of the problems of citizens of Mapuche origin.

107. Commenting on their Government's point of view concerning the competence of the Committee, they pointed out that the Government had not made the declaration provided for in article 41 of the Covenant nor was it a party to the Optional Protocol. Consequently, it was not for the Committee or any of its members to express opinions on whether Chile was or was not complying with the Covenant. Consideration of the report of Chile should be confined to the terms of article 40 of the Covenant and it was inadmissible that allegations should have been made on the basis of information obtained from sources other than those provided for in the Covenant. They hoped that their country would be treated on an equal footing with other countries, and pointed out that the position of their Government was clearly set out in annex LXXXII to the report of the Ad Hoc Working Group (A/33/331), which the members of the Committee should read if they wished to learn about the situation of human rights in Chile.

108. At the 149th meeting of the Committee, held on 26 April 1979, the Chairman of the Committee read out the following statement on behalf of the Committee:

> "The Human Rights Committee, having studied the two reports presented by the Government of Chile (CCPR/C/1/Adds.25 and 40) and having heard the answers given by their representatives during the examination of these documents, taking into account the reports of the Ad Hoc Working Group and the resolutions of the General Assembly of the United Nations on the human rights situation in Chile, finds that the information provided on the enjoyment of human rights set forth in the Covenant and the impact of the state of emergency is still insufficient.

"The Committee invites the Government of Chile to submit a report in accordance with article 40 of the Covenant and to furnish specific information on restrictions applicable to the rights and freedoms under the Covenant during the present period of the state of emergency."

109. The representatives of Chile stated that their Government considered that it had complied with its obligations under the Covenant and that, although their Government could not accept the preambular part of the first paragraph of the statement made by the Chairman of the Committee, it was nevertheless prepared to submit a new report as requested (see para. 66 above).

Bulgaria

110. At its 131st, 132nd and 133rd meetings, on 13 and 16 April 1979, the Committee considered the initial report (CCPR/C/1/Add.30) submitted by Bulgaria (CCPR/C/SR.131-133).

111. The report was introduced by the representative of the State party, who highlighted the over-all policy of his Government with regard to the promotion and observance of civil and political rights enshrined in the Covenant.

112. The representative of Bulgaria pointed out that, before ratifying the Covenant, the competent authorities had examined Bulgarian legislation to verify that all the rights and freedoms stipulated in the Covenant were covered in the appropriate national laws. When the 1971 Constitution had been drafted, account had been taken of the country's international obligations and, specifically, of its obligations under the Covenant. In general, international instruments were not applied directly, but through internal legislation. He stressed that in Bulgarian legal and administrative practice, however, account was taken of the rule that, in the case of doubt, internal legal provisions should be interpreted in the light of the international obligations of the State.

113. The representative of Bulgaria emphasized that his country could be considered an ethnically homogeneous one, since more than 92 per cent of its population was of the same ethnic origin. Membership of a minority group did not place persons in an unfavourable position since all citizens enjoyed the same rights without distinction.

114. With reference to the statement in the report that rights and liberties cannot be exercised to the detriment of the public interest, one member pointed out that the public interest was a concept which was capable of extremely restrictive application to the detriment of the freedom of the individual. Noting that the Covenant sought primarily to ensure that the interests of the individual were protected and were infringed upon only within certain limits in his relations with the State, the member asked how the Government of Bulgaria saw the balance between the right of the individual and the interests of the State and society. It was also pointed out that the individual needed to know what rights he possessed in order to be able to secure them and the question was asked how the people of Bulgaria were made aware of the provisions on civil and political rights and whether the Covenant had been published in Bulgaria in languages which the people could understand.

115. Noting that nc mention was made in the report or in the relevant article of the Constitution of any provision prohibiting discrimination on the basis of political opinion, some members asked how this omission could be reconciled with the provisions of articles 2 (1), 3 and 26 of the Covenant.

116. Commenting on article 2 of the Covenant, several members raised questions in connexion with the right of any person who considered that his rights as recognized in the Covenant were infringed on to have an effective remedy determined by competent judicial, administrative or legislative authorities. Could such a person invoke the provisions of the Covenant without having to fear any penal sanctions, even though the Covenant had not been incorporated into the domestic legal order of Bulgaria? Were people assisted or actually encouraged to avail themselves of the remedies provided for in the Covenant? Were they provided with free legal aid

and independent advice? In what way did the office of the Procurator-General monitor the exercise of civil and political rights and maintain the legal order? Did the Penal Code contain specific provisions covering violations by public officials of the rights and freedoms recognized in the Covenant? Could any citizen demand the prosecution of an administrative agent or institute proceedings against him for damages if the Procurator did not act? What recourse would be open to an individual seeking to bring about a change in a law under which his rights were subject to more severe restrictions than permitted by the Covenant? Information was sought on the role of the Control Committee of the People and State, referred to in the report, with regard to the administration's observance of political rights and freedoms and on the "Act on Administrative Procedure" as a means to strengthen legality and protect individual rights.

117. Recognizing that the Bulgarian Constitution had guaranteed equal rights for men and women, one member asked what form that equality took in practice and what proportion of office-holders in Government and Parliament were women.

118. In connexion with the right to life provided for in article 6 of the Covenant, information was requested on the efforts that were being made to reduce infant mortality in both rural and urban areas and on the legal provisions governing the protection and improvement of public health. Satisfaction was expressed at the fact that the Penal Code permitted the death penalty only as an exceptional measure. Information was requested on the crimes to which the death penalty was applicable and whether these included crimes against the national economy. Some statistics were also sought on the application of the death penalty since the entry into force of the Covenant.

119. With reference to article 7 of the Covenant, it was noted that, whereas the Constitution guaranteed the inviolability of the human person, the Code of Criminal Procedure prohibited the use of coercion against citizens participating in criminal proceedings except in the cases provided for in that Code and in accordance with the procedures laid down therein. Information was sought on the specific situations in which this exception was applied and on the types of coercion the said Code referred to. Information was also requested on the procedures under which individuals could be confined in an institution for the mentally ill.

120. It was noted that the prohibition of slavery and similar practices was not explicitly embodied in legislation, as required under article 8 of the Covenant. Questions were asked on how the concept of compulsory labour was understood in Bulgaria since under the Constitution every able-bodied citizen was obliged to work, where the line was drawn between the prohibition of compulsory labour and the obligation to work, and in what cases did the law provide for hard labour as a penal sanction.

121. Several questions were raised in connexion with article 9 of the Covenant: In what circumstances could detainees be left in solitary confinement and for what period of time? Were there any regulations concerning the conditions in which that could occur? At what point after his arrest a detained or accused person was entitled to know the grounds for his arrest and the charges against him? How long a person could be detained before being brought to trial and for what reason? Were there any forms of arrest or detention other than those based on criminal charges? Was "preventive procedure", referred to in the report, the same thing as preventive detention? What was the role of the Procurator in this respect? Did he exercise independent judicial authority and, if so, how could this be reconciled with the

statement in the report that he could extend detention in the interest of the preliminary investigation? How the bail system operated in Bulgaria and how was it ensured that the system did not operate in a discriminatory fashion?

122. In connexion with article 10 of the Covenant, some members asked what provisions existed to ensure that persons deprived of their liberty could maintain contact with their families, what educational measures were used for the social rehabilitation of prisoners, especially young offenders and whether there were places of detention other than those mentioned in the report that might be used under special circumstances for purposes of re-education.

123. With reference to article 12 of the Covenant, it was noted that people wishing to change their residence in the country had to apply to that effect in writing, and questions were asked as to who had the authority to decide on their applications and whether they were usually approved. Some members asked whether passports were issued to all members of a family so that they could travel together or only to an individual; what were the cases in which passports for travel abroad could be refused or impounded other than those referred to in the report and how did the Government interpret "State security" in that context. In this connexion, questions were also asked as to whether persons could be deprived of their nationality and whether banishment existed as a legal sanction and, if so, how often punishment in both cases had been applied in recent years.

124. With reference to article 14 of the Covenant, members sought further information on the system of the judiciary, the organization of the legal profession, the jurisdiction of the military tribunals in connexion with offences committed by civilians and on any special procedures that may exist for dealing with juveniles in courts. Noting that respect for the civil and political rights of citizens could be guaranteed only when the judiciary was independent, members asked how the independence of judges was guaranteed, whether any social or political measures had been taken in order to ensure their independence, who nominated judges and who elected them, whether women were entitled to become judges at all levels and how independence of judges could be reconciled with the possibility of their being recalled before the end of their term as mentioned in the report. Questions were also asked as to whether foreign lawyers could be present as observers at a trial; at what point during pre-trial proceedings the accused was entitled to communicate with his legal counsel; who was responsible for paying interpreters and whether that depended on the outcome of the proceedings; whether the right of the accused to examine witnesses against himself and to obtain the attendance and examination of witnesses on his behalf was formally safeguarded under Bulgarian law and whether the necessary supplementary legislation had been enacted to give effect to the principle of compensation due to a person who had been the victim of a judicial error.

125. As regards article 17 of the Covenant, information was requested on the exceptions stipulated in the Bulgarian Constitution to the guarantees provided for in that article for the protection of private and family life.

126. Several comments were made and questions were asked in connexion with the part of the report dealing with the rights and freedoms provided for in article 18 of the Covenant. Explanation was requested of the term "recognized religion" and the question was asked as to how and on what basis a religion was accorded or denied recognition and how that might be reconciled with the provisions of the Covenant. Concern was expressed with regard to the provision of article 53 of

the Bulgarian Constitution to the effect that citizens were permitted to perform religious rites and to conduct anti-religious propaganda. According to one member, this provision amounted to the non-existence of the freedom to disseminate religious propaganda and could be, according to another member, tantamount to intolerance. It was maintained that freedom of religion meant freedom to have or not to have a religion and that, in a country where a particular ideology was the guiding force in the State and that ideology was atheistic, anti-religious propaganda could be used with great force to the detriment of the principle of equality enshrined in the Covenant. Reference was also made to the prohibition in the same article of the Constitution of abuse of the church and religion for political purposes and of the establishment of political organizations on a religious basis; the question was asked what the Government considered to be such abuse.

127. With reference to article 38 (3) of the Bulgarian Constitution to the effect that parents have the right and obligation to attend to the communist education of their children, it was argued that this provision may not be in conformity with article 18 (4) of the Covenant. The view was expressed that, whereas in practice most societies educated their children in their own philosophy or religion, parents could not, according to the letter and spirit of the Covenant, be legally obliged to bring up their children in accordance with any particular ideology. Questions were asked whether, having received a communist education, children were compelled to become communists and whether parents who failed to comply with article 38 (3) of the Constitution would have to face sanctions. The hope was expressed, however, that the Bulgarian representative would explain the socialist approach to all matters pertaining to the question of religion as raised in the Committee and, in particular, the guiding role of the Communist Party as set forth in the Bulgarian Constitution.

128. In the view of some members, the exercise of the freedoms embodied in articles 19, 21 and 22 of the Covenant was to be seen in conjunction with article 2 (1) which prohibits discrimination, inter alia, on the basis of political opinion. It was felt important to know whether, in a State where the Constitution had defined its political position and social organization, the restrictions on those freedoms applied only in the case of violent dissent or whether every form of disagreement was considered against the law. Questions were asked as to how many persons, if any, were detained in Bulgaria on account of non-violent political activities; how often the provisions of the Penal Code concerning punishment for anti-State agitation were applied; how many political parties existed in Bulgaria; what was the political role of the trade unions in the protection of human rights; whether trade unions were subject to party or government directives; whether it was possible to form trade unions independently of those which already existed and whether trade unions could organize meetings within the factory or only outside.

129. In connexion with article 25 of the Covenant, it was noted that the Bulgarian Constitution referred to the Communist Party as the guiding force in society and the question was asked whether there was any legal instrument setting forth the powers of the Party over all the organs of the State and whether this meant that the Party established the general lines of State policy. It was also noted that the members of the Communist Party appeared to be in a position of predominance in relation to members of the Agrarian Union, and, above all, in relation to those who did not belong to either of the two entities. The question was asked as to how that state of affairs could be reconciled with the provisions of the Covenant. It was also asked what body of political, social and legal rules governed the process of direct participation by citizens in the conduct of public affairs and whether

such participation covered economic management and, if so, by what provision and in what form; what opportunities for access to public office were open to persons who did not belong to the Communist Party or the Agrarian Union; whether citizens could choose between different candidates or different programmes; what control the electors had over their representatives and under what conditions the latter could be recalled. The view was also expressed that the report dealt with article 25 of the Covenant in connexion with elections and legislations and therefore that more information was needed on the participation of citizens in the various aspects of public life.

130. Referring to the statement in the report concerning the national minority groups in Bulgaria, one member expressed concern over the fact that the report failed to mention a rather large group of Macedonians and some other minorities, which had been mentioned in both the 1956 census and the Statistical Yearbook of Bulgaria for 1959. There was a disparity between the 1956 census and that of 1965. The representative of Bulgaria was requested to clarify the matter and to furnish the Committee with information on existing legal statutes which clearly defined the rights of minorities in his country.

131. Commenting on the questions raised by members of the Committee, the representative of the State party observed that the valuable observations made and questions put by the Committee indicated that it had embarked on a fruitful and constructive dialogue with his Government. Serious consideration would be given by his Government to some of the questions and observations with a view to improving the legislation and the functioning of the judicial and administrative institutions concerned with the protection and observance of civil and political rights.

132. Replying to the question whether his Government shared the view that the main objective of the Covenant was to protect the interests of the individual against those of the State, the representative of Bulgaria stated that he did not believe that the interests of the individual and the State were, by definition, in opposition or that they conflicted in all cases; there was no such conflict, for example, in States which had abolished social injustice and the exploitation of man by man and which had secured social equity and the well-being of the population and provided all kinds of social, educational and cultural facilities.

133. Regarding the question about the publicity given to the provisions of the Covenant in Bulgaria, he stated that the full text had been published not only in the Official Gazette, but also in other publications and that the anniversary of the Universal Declaration of Human Rights was an occasion for marking the significance, inter alia, of the two Covenants.

134. Replying to questions raised under article 2 of the Covenant, the representative stated that the Constitution contained a non-exhaustive enumeration of circumstances which could not become a cause for discrimination. Equality of rights of citizens was an underlying principle on which rested all the rights and freedoms in Bulgaria: Bulgarian legislation did not contain provisions which would justify discrimination on purely political grounds. Although the Covenant was not automatically enforced in Bulgaria's domestic legislation, there were no obstacles to its being quoted in the courts and before administrative bodies. It was out of the question even to mention the possibility of punishing persons who referred to the Covenant and demanded that it should be observed.

135. As regards one's right to enter complaints and present grievances, the representative stated that the Constitution guaranteed that right not only for the protection of the individual's interests, but also with a view to improving the system of governmental management and in defence of society's interests. The complaints were to be considered not by officers or persons against whose actions or lack of action they were directed, but by higher authorities. No one could be punished for having entered a complaint, and its presentation and consideration did not require any fee or special procedure. Under the State and Public Control Act of 1974, the organs of State and popular control supervised conformity with the law and saw to the timely consideration and settlement of complaints by citizens with a view to preventing abuse of position and providing remedies. As to the Public Prosecutor, the representative stated that under the law he could render void an illegal administrative act for detention of an individual but was not empowered to impose sanctions. The purpose of the non-contentious procedure was to have the administrative bodies provide, before the issuance of administrative acts, an opportunity for citizens and organizations, whose legitimate interests might be affected, to defend themselves. Every official was answerable for the harm he inflicted and the crimes he committed in performing his duties. The Penal Code provided for the right of citizens to submit claims for compensation, both material and moral, if their legitimate rights and interests had been infringed.

136. Replying to a question under article 3 of the Covenant, he pointed out that in present-day Bulgarian society women worked, created and participated in the socio-political and cultural life of the country on equal footing with men, that in 1977 almost one fifth of the members of the National Assembly and about double that ratio of the elected members of the local government bodies had been women and that they were represented at all levels of public administration.

137. As regards the right to life, the representative stated that one of the main functions of the social security system in his country was to ensure better conditions for all children to achieve a happy and meaningful life without exception on any grounds. The annual rate of decline of infant mortality in Bulgaria for the last 20 years was considered to be above average even for developed countries. As to the death penalty, he pointed out that it applied only to the most serious crimes and that these did not include any economic crime.

138. Replying to questions under articles 7 and 8 of the Covenant, he pointed out that the ban on torture stemmed from the Constitution, which guaranteed the inviolability of the human person, and from the Code of Criminal Procedure, which stipulated that no coercive means could be used against persons participating in criminal proceedings, except in the cases provided for in the Penal Code; that placement in psychiatric establishments was subject to a decision by a court meeting in open session at the request of the district Public Prosecutor's office and in the presence of the person concerned, who had the right of defence; that the ban on slavery and similar practices derived both from the Constitution and the Penal Code and was confirmed by the ratification by his country of the international instruments concerning the elimination of slavery, the slave trade and similar institutions and practices; and that the Constitution was not in contradiction with the prohibition of forced labour, since the fulfilment of labour obligations was free from both the social and legal points of view.

139. As regards questions raised under articles 9 and 10 of the Covenant, the representative stated that preventive detention was resorted to only if there were

sufficient grounds to believe that the accused would seek to evade justice or commit further crimes, or if the accused had no permanent residence or his identity could not be established and that, in all these cases, this measure could be taken only with the consent of the Prosecutor's office. The accused had the right to appeal from that measure to the Public Prosecutor's office and in court. Any person who was unlawfully deprived of his liberty must be released. The accused was entitled to know what he was accused of. Bulgarian legislation did not allow for prisoners to be held in secret or to be punished by forced labour. There were no forms of detention other than those specified in the Code of Criminal Procedure and no one was held in prison only for having expressed his dissatisfaction. The Bulgarian law recognized the right of detainees to maintain contact with their relatives and to receive visits. More significant constraints applied to accused persons, who could receive relatives only with the permission of the Prosecutor's office.

140. Replying to questions under article 12 of the Covenant, the representative observed that the rapid urbanization accompanying Bulgaria's industrialization had given rise to many complex social problems in such areas as housing, transportation and health care, requiring government action. It was only natural that some cities had been compelled to place certain limits on the flow of people, but that had no discriminating implications whatsoever to choose one's place of residence or for liberty of movement. Freedom to choose one's place of residence was exercised by filing an application with the local council; not all applicants could be considered favourably immediately and, in some cases, there was a wait of several years. Applicants were generally given temporary permits to live and work in the city, but the primary consideration of the competent authorities was the welfare of the persons themselves. The restrictive provisions of the Act on Passports for Travel Abroad were fully in conformity with the Covenant and could not be considered a means of discouraging travel. A person could be deprived of nationality, inter alia, for illegally leaving the country, failing to return six months after the date of expiration of his passport or failing to serve the time prescribed by law in the armed forces.

141. With regard to article 14 of the Covenant, he pointed out that judges of district and municipal courts were elected directly whereas judges of the Supreme Court were elected by the National Assembly. Judges were answerable for their actions only before the body which had elected them. The dismissal of judges was governed by the Judicial Organization Act. There were military tribunals to deal with offences committed by members of the armed forces. Lawyers were organized into voluntary associations and were not public officials. An accused person was free to choose his counsel, who could conduct his defence from the preliminary investigation to the end of the trial. The accused person was allowed to question the witnesses and the prosecutor.

142. In connexion with article 17 of the Covenant, he stated that inviolability of the home could be restricted in accordance with the Code of Criminal Procedure which also stipulated that only the court or the Prosecutor's office could order correspondence to be held or seized.

143. In respect of article 18 of the Covenant, the representative pointed out that the expression in the report "recognized religions" was unfortunate since neither the Constitution nor the other laws contained any concept of that kind and that all religious groups enjoyed the same rights and the same protection by the State.

The Constitution allowed both religious and atheistic propaganda. The prohibition of the use of the church and religion for political ends was designed only to prevent possible misuse and implied not the slightest prohibition of participation by the church or its believers in political activities. As to the communist education of the children, he stressed that article 38 of the Constitution should not be interpreted as a strict legal rule, since there was no sanction of any kind which would derive from it. No one was in a position de facto or de jure to interfere with the duties of parents to bring up their children. What was characteristic of communist education was the emphasis it placed on the concept of harmony between the common good and individual considerations and on the supremacy of the interests of society over the interests of the individual. He could not share the view that such moral levels were not in line with the spirit of the Covenant.

144. As regards questions raised under articles 19, 21 and 22 of the Covenant, the representative stated that criticism in the press and other mass media had broadened in scope in recent years and did not spare State organs or State leaders; that there were no political prisoners in Bulgaria, although some might attempt to attach that term to those convicted under ordinary law; that the Constitution expressly guaranteed citizens the right to form organizations of different kinds, including political organizations and parties, except those whose purpose was to overthrow the socialist régime or to propagate a fascist or anti-democratic ideology. Trade unions were public organizations with no particular political affiliation and were fully competent with respect to all problems relating to industrial relations and social security. Citizens were guaranteed the freedom to establish unions without legal, administrative or other restrictions, except those laid down in the Constitution, and without need of prior authorization.

145. Replying to questions under article 25 of the Covenant, the representative stated that the political decisions of the organs of the Bulgarian Communist Party were only guidelines and therefore not legally binding, although they were reflected in legislative acts and in the decisions of the executive and administrative organs; that membership in this Party and in the Agrarian Union did not entail any special privileges; that both the Constitution and the legislation stipulated that all citizens enjoyed political equality without discrimination; that representatives could be recalled by means of a decision made by the electorate; that in each constituency there might be an unrestricted number of candidates to the National Assembly or local bodies; that access to public office depended on personal merit with no restrictions for reasons of a political or any other nature, barring the exceptions for which the law made specific provision. Participation in public affairs included the direct participation of workers and farmers, through bodies elected by them, in the management of the economy.

146. With regard to questions raised under article 27 of the Covenant, the representative stated that all persons belonging to ethnic, religious or linguistic groups enjoyed all the rights provided for in that article as guaranteed in the Constitution. He refuted the existence of a Macedonian minority in Bulgaria and stated that the census carried out in 1956 and other censuses conducted after the Second World War had been influenced greatly by political circumstances arising from the idea of setting up a southern slavic federation; that subsequently, when the necessary conditions for a free expression of will had been created, that same population, had chosen explicitly and firmly to express its Bulgarian national self-awareness as an indivisible part of the Bulgarian nation.

Romania

147. The Committee considered the initial report (CCPR/C/1/Add.33) submitted by Romania at its 135th, 136th, 137th, 140th and 141st meetings, on 17, 18, 19 and 20 April 1979 (CCPR/C/SR.135, 136, 137, 140 and 141).

148. The report was introduced by the representative of the State party who stated that his country attached the utmost importance to the need to strengthen the role of the United Nations in the field of human rights and fundamental freedoms, which represented one of the main problems of the modern era.

149. The representative of Romania pointed out that when his country ratified the Covenant, all the rights set forth in it had already been embodied in the Romanian Constitution and ordinary law. In order to perfect the law, new codes and other important regulatory instruments were being elaborated with due regard for the provisions of the Covenant. He indicated that, in addition to means of jurisdictional control like those of other legal systems, in Romania the Grand National Assembly exercised general control over the implementation of the Constitution, the State Council exercised control over the implementation of the laws and decisions of the Grand National Assembly, and either the Assembly or the State Council exercised control over the activities of the Council of Ministers, of ministries and of the other central administrative bodies and over the activities of the Procurator's Office. Very special attention was being given to the realization of the right of petition and to the settling of claims made by citizens against administrative actions. A series of juridical guarantees and measures aimed at settling such claims quickly and legally was established in accordance with a recently adopted act. He supplemented the information contained in the report, particularly in respect of articles 3, 6, 7, 9, 10, 14, 22 and 27 of the Covenant.

150. Members of the Committee, while welcoming the additional information given in the introductory statement of the representative which had thrown much light on the report before the Committee, expressed reservations at one of the concluding statements of the report that "consideration of the problems of human rights in the Committee should take place in strict observance of the principle of non-interference in the internal affairs of States". It was pointed out that, by ratifying the Covenant, States parties accepted the Committee's competence to receive and study their reports in accordance with article 40. It was a reflection of the essence of current international co-operation that the Committee was able to deal, as a body of independent experts, with questions which, though formerly at the centre of internal affairs, were no longer exclusively within domestic jurisdiction. It was the Committee's responsibility to monitor as objectively and impartially as possible the observance of the rights laid down in the Covenant. Comments and questions put forward by members of the Committee at this stage of the consideration of initial reports were advanced for the sole purpose of obtaining additional information and with a view to assisting Governments in their implementation of the Covenant.

151. With reference to the main characteristics of the social and political system of Romania as laid down in the first four articles of the Constitution, it was noted that the working class was sanctioned as the leading class in Romanian society and that the Romanian Communist Party was institutionalized as the leading political force. It was asked whether the working class included intellectuals and peasants, and whether this privileged position accorded in the Constitution to the working class and the Communist Party was consistent with the provisions of

the Covenant. Information was requested on the relationship between the country's various political institutions, their powers and limitations and the controls to which they were subject and on the constitutional and legal framework within which the rights set forth in the Covenant were implemented.

152. Members of the Committee noted that whereas article 17 of the Constitution guaranteed equality of rights of citizens it prohibited discrimination only on the grounds of nationality, race, sex or religion. More information was therefore required as to why some of the grounds on which distinction was prohibited under article 2 of the Covenant, such as language and political or other opinion, were not reflected in the relevant articles of the Constitution or the Penal Code. In this connexion, questions were asked as to whether an individual who considered that the rights provided for in Romanian law were subject to restrictions not envisaged in the Covenant could invoke the Covenant without incurring the risk of being subjected to punitive measures; to what extent the remedies mentioned in the report were available to the individual in law and in fact; to what extent their application was left to the discretion of the authorities; and what was the status of the various decrees in force in Romania compared with the laws or general statutes emanating from the executive. Many members expressed interest in the statement in the report to the effect that persons whose rights had been infringed as a result of administrative acts might request the competent authorities to void the act and make reparation. Questions were asked as to what conditions were laid down by the law for voiding the act and for redressing the damage caused; whether the judge considered the administrative act in the abstract or whether he took into account the higher interest of the system; what steps could be taken in the civil, penal and administrative areas to request restoration of rights; which competent authorities could be requested to make reparation; and whether compensation was only for physical or also for moral damage.

153. With reference to the right to life, dealt with in article 6 of the Covenant, it was pointed out that, although this right required that a State should take all necessary measures to reduce infant mortality, it was equally important to ensure the preservation of life in adulthood. That was why the Covenant provided that, in countries which had not abolished the death penalty, sentence of death may be imposed only for the most serious crimes. The fact that in Romania the death penalty could be applied for various kinds of offences, including misuse of public funds and embezzlement, seemed to indicate an excessively broad interpretation of that provision. Information was requested on the number of cases in which the death penalty had been applied in recent years, the offences involved, whether the death sentence might be imposed in the absence of malice or intent or for offences which were not mentioned in the report, and whether serious consideration was being given to limiting the death penalty to a very small number of serious crimes.

154. As regards article 7 of the Covenant, members asked what steps were taken in Romania to deal with accusations of ill-treatment made against the police and other security organs, what rules were applicable for solitary confinement and what regulations existed in Romania relating to visits to prisoners. Clarification was requested on the meaning of "medical treatment" which may warrant "scientific experiment" and on the procedures for the internment of dangerous mentally ill persons. Information was sought on whether the Procurator, as well as the judiciary, had the right to commit a person to a mental institution even before the sentencing or in the absence of a court judgement, and on the safeguards and

remedies available to individuals who believed that they had been wrongly confined in a psychiatric institution. Information was requested on the number of persons who had undergone psychiatric treatment and the number of persons who, without being offenders, had been ordered to undergo psychiatric treatment.

155. Commenting on articles 8 and 10 of the Covenant and noting that both the right and the obligation to work were envisaged under the Romanian system, one member asked about the proportion of labour that was employed on such projects as the Danube Delta or the Danube/Black Sea Canal without the free choice of the individuals concerned, the ground on which relevant court or administrative orders for enforcing such employment had been based and the safeguards which had been used to prevent the abuse of such orders. Questions were also asked as to the circumstances, other than punishment for a crime, under which a person might be compelled to work in specific places or occupations; what was meant by an order "that the penalty take the form of work to be carried out, without deprivation of liberty" and whether that could involve sending the accused away from his family.

156. In connexion with article 9 of the Covenant, it was asked if, in Romania, there were people detained for political or other reasons without trial and what legal rules governed that situation; what was the average length of time for which accused persons could be detained pending trial; whether they had the right to appeal to a court to determine the legality of their detention; whether persons who had been victims of unlawful arrest or detention received due compensation and, if so, whether compensation was paid for injuries suffered during detention or for detention itself and what legal instrument covered such cases. It was noted from the report that "where the interests of the investigation so required" the prosecuting authority may prohibit an accused person under arrest from contacting his defence counsel for a maximum period of 60 days and the question was asked when that was applicable and whether any remedy was available to the accused for a reduction of that period.

157. As regards the freedom of movement referred to in article 12 of the Covenant, questions were asked as to whether any special permit was required to change one's place of residence in Romania; whether it was customary to transfer individuals to another part of the country for employment or other purposes; what were the conditions under which Romanian citizens could travel or establish residence abroad; what proportion of applications to leave the country had been rejected; what remedies were available to individuals in respect of the denial of a passport or of the right to leave the country and whether the representative could provide formal assurances that no person would be subject to retaliatory measures simply for having expressed a desire to leave the country. In this connexion, it was asked on what grounds a Romanian citizen living abroad could be requested to return to the country and under what conditions Romanians could lose their nationality on leaving the country for a temporary period.

158. As regards article 14 of the Covenant, it was stressed that the functioning of legal institutions as well as the extent to which the judiciary was independent from the executive power would make it possible for the Committee to determine whether human rights were respected in a given country. In that connexion, it was important for the Committee to have more information on the Romanian judicial system, to know how judges were appointed or elected and whether their term of office could be terminated before it expired and, if so, on what grounds. A definition was requested of the term "social morality" referred to in the report for the protection of which the trial proceedings might be held in camera.

Questions were asked as to the provisions made for the presence of family members during trials held in camera; whether any restrictions were imposed on the right of the accused to secure the appearance of defence witnesses and if provisions were made to protect the accused against compelling him to give evidence.

159. With reference to article 18, it was noted with satisfaction that under the Romanian Constitution all religions were respected and received material and financial assistance from the State. Questions were asked on whether all religions were treated equally; whether or not Romania engaged in aetheist propaganda; if there were any legislations or generally accepted principles prohibiting religious propaganda; whether parents were free to bring up their children in accordance with their own religious and moral convictions and whether a person could refuse to serve in the armed forces on the grounds of conscientious objection.

160. Commenting on the freedoms guaranteed in articles 19, 21 and 22 of the Covenant, members of the Committee asked what restrictions or controls were imposed or exercised in Romania on political thought, on the peaceful dissemination of opinions and ideas and on the press and other information media; what authority decided whether hostile purposes to the "socialist régime" or to the "interests of workers" were involved which justified restrictions on the freedom of speech, press and assembly and whether there were any specific criteria for defining those terms; whether there was any penal law limiting freedom of speech and peaceful assembly or association; if like-minded people were entitled to establish a trade union of their own and if the trade unions in Romania were free to exercise the right to strike in order to improve conditions of work. Information was requested on political parties or organizations, other than the Communist Party, that may exist in the country and on the conditions or restrictions governing their activities.

161. As regards articles 23 and 24 of the Covenant, it was asked to what extent the right of a Romanian citizen to marry a foreigner was restricted and whether there was any discrimination between men and women in that respect. In connexion with the responsibility of the State to protect the family and the child, information was requested on the status of children born out of wedlock.

162. As regards article 25 of the Covenant, reference was made to the report and to the introductory statement in connexion with the concept of self-management and participation in public affairs, and additional information was requested concerning the composition, working methods and the competence of the newly established bodies. Further details were sought about the Socialist Unity Front, the role of public organizations and the people's councils, the procedure governing elections to the Grand National Assembly and the right of voters to recall their deputies at all representative bodies. Questions were asked as to whether there were referendums and plebiscites in Romania; whether the population participated in any way in the formulation of laws; whether the principle of one man one vote applied in Romania; what were the conditions for public service; and what proportion of those in public service were not members of the Communist Party.

163. With reference to article 27 and article 1 of the Covenant, one member inquired as to how far self-determination could proceed in Romania, whether it meant some kind of autonomy for minority groups, and if the rights and obligations of minorities were set forth in a legal instrument that could help in promoting legal certainty and clarity.

164. Commenting on the questions raised by members of the Committee, the representative of Romania stated that his Government had stressed its respect for and compliance with the international instruments to which it had acceded, including the United Nations Charter and the various instruments relating to human rights.

165. Replying to questions concerning the basic characteristics of the social and political system in Romania, he pointed out that there was no discrimination embodied in saying that the working class, which encompassed the active working population including the peasants and intellectuals, was the leading class in society; it was only right that those who were primarily responsible for building society owned the means of production and formed the vast majority of the population should occupy a position corresponding to their contribution to the progress of society. The Romanian Communist Party earned its leading political role due to the massive popular support it gained as a result of its long struggle for Romanian liberty and national independence, but that did not confer any privilege on its members, who had the same rights and obligations as other citizens. In a detailed description of the State system of power and its mechanism he pointed out that State power was vested in the Grand National Assembly and in the People's Councils which were representative bodies elected by universal, equal, direct and secret voting. The Grand National Assembly was the supreme constitutional authority through which the Romanian people expressed its sovereign will. All other State bodies were subordinate to it. Deputies to the Assembly benefited from parliamentary immunity.

166. With reference to questions raised under article 2 of the Covenant, the representative stated that it had not been necessary to incorporate the provisions of the Covenant into Romanian law for, upon ratification, those provisions had been given the force of law and could therefore be invoked by individual citizens. Persons whose rights had been violated by illegal administrative acts or had suffered damages could request the competent court to annul the illegal act or oblige the administrative organ concerned to reinstate the person's rights and restitute any material loss. The court's judgement could be questioned by an appeal to a superior court or by any other method of recourse available under Romanian law. In order to ensure greater protection of the legitimate rights and interests of citizens, Act No. 1/1978 had been adopted, which established a series of legal guarantees and measures aimed at the prompt and legal settlements of claims against acts by the administration.

167. Replying to questions relating to the right to life, the representative stated that the death penalty, which was an exceptional measure, was currently resorted to for a small number of very serious offences, which he named, as an alternative to imprisonment of 15 to 20 years; that during the past 15 years it had not been applied in a single case involving an offence against State property and that it was not applied in cases of offences committed without intent. He added that the scope of application of the death penalty had been considerably reduced in new Romanian legislation being drafted and that the penalty would be applied exclusively as an exceptional and alternative measure in cases of homicide, treason, espionage and aerial piracy having particularly serious consequences.

168. As regards article 7 of the Covenant, the representative stated that, according to the Penal Code, cases of ill-treatment of prisoners by the police or other public officials was punishable by three years' imprisonment. There was no provision for solitary confinement under Romanian law. The committal of mentally-sick persons for treatment in psychiatric hospitals was recognized under the law

only for persons who were a danger to themselves or others, or who were liable to commit serious penal offences. Committal for medical treatment was ordered only by the judiciary on the authority of the procurator, after legal investigations had been made and the opinion of medical specialists had been obtained. The proceedings took place in public and in the presence of the family, who had to be questioned on the behaviour of the patient. The presence of a lawyer was compulsory. Committal decision was subject to appeal and the decision to end a period of committal was also taken by the judiciary, to which application could be made, inter alia, by the patient or his lawyer, a close relative or guardian or any other person.

169. In relation to questions raised under articles 8 and 10 of the Covenant, the representative reiterated his country's notion of work and stated that while it was the right of every citizen to work it was also his duty to society to do so and that this was in line with the Universal Declaration of Human Rights. In a developing country, whose economic and social system precluded the right to exploit the work of others, every person capable of working had to provide for himself by his own labour. The law provided for educational measures designed to reform those who had sought to live at the expense of society. There were at least four reasons why the obligation to work as applied in Romania could not be considered as forced labour: firstly, no coercive sanctions were applied in the case of refusal to work; secondly, the persons concerned were free to change their type of employment at any time; thirdly, all individuals enjoyed equal rights under their labour contract; and lastly, the only obligation imposed was that the economic units in which the work was to be done must employ the person concerned without delay.

170. He thought that there was an obvious misunderstanding of the penalty of correctional labour imposed in his country. The new form of correction was motivated by humanitarian considerations and was an improvement on the system of probation used in Western countries. An individual sentenced to five years imprisonment could instead continue to serve in his existing place of work. He lived at home with his family although he was not allowed to leave the area without permission. The person concerned was not obliged to work if he chose instead to serve his prison sentence. There were no forced labour camps in Romania and only salaried workers and young volunteers were employed on work in the Danube Delta or the Danube/Black Sea Canal.

171. Replying to questions raised under article 9 of the Covenant, the represenaative stated that there were no political prisoners in Romania; that no person could be arrested or detained in the absence of serious evidence against him; that the period of remand in custody could not exceed 24 hours but that, if it was necessary to hold the prisoner for a further period, remand in custody had to be replaced by arrest pending trial, which could be extended for a maximum period of five months by order of a State attorney, the Procurator's Office or the judiciary. The justification for the arrest and its extension had to be verified by the court. The right of the accused person to have contact with his defence counsel could only be withheld by the Procurator in exceptional cases for which justification had to be given. The Code of Criminal Procedure provided for appeal to the Chief Procurator in such cases.

172. In connexion with article 12, the representative pointed out that, since the State provided each citizen with housing, certain measures had been taken to avoid a population exodus towards certain centres which were already over-populated in order to avoid the creation of shanty towns. Neither in law nor in practice was there compulsory establishment of domicile or compulsory exile. Any request for residence in another country was treated with understanding and in the light of all the circumstances. The emigrant had the right to retain or renounce Romanian citizenship as well as the right to return to the country whenever he wanted either temporarily or permanently. However, Romania did not encourage emigration because it had invested very heavily in the training, education and well-being of its citizens and that, as a developing country, it needed all its human potentials. Applications for personal travel were decided upon within 60 days, or a shorter period in urgent cases. It was always possible to appeal against a refusal to issue a passport or a visa. Such appeals were handled by a ministerial commission acting in pursuance of the law.

173. Replying to questions concerning article 14 of the Covenant, the representative pointed out that judges were independent and subject only to the law. They were elected for a period of five years, on the basis of a proposal by the Ministry of Justice, from among Romanian citizens holding a law degree and having a reputation above reproach. They were eligible for re-election until they retired. They could be removed from office, as a disciplinary measure, for serious professional errors. The decision concerning removal was taken by those who had elected them on the basis of a decision pronounced by the disciplinary commission composed of judges of the departmental court or of the Supreme Court. He indicated that offences against "socialist morality" that may justify holding trials in camera were understood to mean any acts contrary to public policy. Public trials could be attended by all citizens, foreigners and foreign press correspondents accredited to Romania. A request for admission of evidence could not be denied if the evidence was reliable and useful. The use of compulsion with a view to obtaining a confession from the accused was a punishable offence and an uncorroborated statement by the accused had no probative force.

174. In relation to article 18 of the Covenant, the representative emphasized that all forms of worship were permitted without any discrimination and that persons had the right to express their beliefs, whether religious or atheistic. The legislation did not permit conscientious objection. In fact, the members of certain religious denominations performed military service not in operational units but by carrying out administrative work.

175. Replying to questions raised concerning article 19 of the Covenant, the representative stated that Romanian legislation contained no provision restricting the rights of a person to hold or to express an opinion; however, it did not permit abuse of the exercise of this freedom, irresponsible attitudes, attacks on the reputation of others or the dissemination of anti-democratic concepts. The expressions "aims contrary to the socialist order" and "the interests of the workers" contained in the Constitution were clarified in article 69 of Act No. 3/1974, which dealt at length with what could be considered as abuse of the exercise of freedom of opinion. Responsibility for ensuring respect of the said article 69 was vested in editorial bodies or the chief editor of each press organ. There was no external control of the press or other mass media.

176. As regards the right to freedom of association provided for in article 22 of the Covenant, he pointed out that the public organizatins in which citizens were associated, such as trade unions, co-operatives, youth and women's organizations and scientific associations, encompassed the entire population and were supported by the State which created conditions for the development of their material base and protected their heritage. The membership of a trade union could be lower than 15, and individuals belonging to a particular occupation had the right freely to form a union without prior authorization.

177. In connexion with questions raised under article 23 of the Covenant, the representative indicated that his country attached great importance to the solution of problems arising from marriages between Romanian citizens and nationals of other countries. It took account of the feelings of the partners, of the existence of guarantees that young people leaving the country to join their spouses should have adequate living and working conditions, and of the views and consent of their parents.

178. As regards questions raised under article 25 of the Covenant, he explained in detail the application of the principle of self-management in the economic sphere and described the direct participation of working people in Government activities and in State affairs. He defined the Socialist Unity Front as a permanent revolutionary, democratic and elected political body with a representative character, formed by the Romanian Communist Party or by other public, professional and co-operative organizations, by the councils of the co-inhabiting nationalities and a wide range of community organizations. The objective of the Front was to provide for mass participation in the major political activities of the country at the national and local levels and to act as a forum for debate on all economic and social plans. It nominated candidates for elections to various representative bodies of State power. Its supreme forum was a congress convened every five years and composed of representatives appointed by the component organizations or elected by conferences at local levels. The representative also stated that there was no political pre-condition for nomination to public office. In the case of refusal to nominate a person on the grounds of religious persuasion or political views, the citizen could seek redress according to the law.

179. Replying to a question raised concerning article 27 in the light of article 1 of the Covenant, the representative pointed out that the situation and the size of the co-inhabiting national groups militated against any provisions for autonomy. In the spirit of General Assembly resolution 2625 (XXV), the right of peoples to self-determination excluded any action aimed at the dismemberment of a State such as Romania, which was a unitary and not a multinational State.

Spain

180. At its 141st to 143rd meetings, held on 20 and 21 April 1979 (CCPR/C/SR.141, 142 and 143), the Committee considered the initial report (CCPR/C/4/Add.1 and CCPR/C/4/Add.3) submitted by the Government of Spain.

181. The representative of the State party introduced the report to the Committee and provided additional information on the process of political transition in Spain from an autocratic régime to a democracy as well as on the steps that were being taken there to guarantee the effective enjoyment of the rights recognized in the International Covenant of Civil and Political Rights. In the course of his detailed statement he referred to the status of the legislation before the present Government came to power, and the measures that were taken during the first phase when a democratic Cortes capable of performing the function of legitimizing the new political reality had been convened. During that phase Spain had ratified the major international agreements relating to the free exercise of human rights. He went on to speak of the second phase, in which general elections had been held and far-reaching legislative changes had been made, and then of the third phase during which a new Constitution had been adopted, title I of which closely reflected the provisions of the Covenant. He explained in detail the specific implementation of each article of the Covenant on fundamental rights and freedoms in relation to the rules of law established by the constitutional and legislative texts, and concluded by stating that efforts would be made through future legislative work to complete the development of the Constitution and to provide effective guarantees for fundamental rights. 8/

182. Many members of the Committee commended the collective and non-violent effort of the Spanish people to establish democratic institutions and make progressive changes in the legislation that had been in force up to 1975. Much had already been accomplished by the process of transformation, but the adoption of the new Constitution was only the first step and needed to be supplemented by legislation that was consonant with the principles embodied in it. It was felt therefore that the Committee should continue to follow developments in Spain, and appreciation was expressed of its readiness to supplement the report it had submitted by describing later developments and confirming the guarantees offered in the report that future legislation would be in keeping with the Covenant. Members also asked for further information on the announcement in the report of the promulgation of a "bill of rights" in the immediate future to guarantee the fundamental rights defined in the Constitution.

183. Some members asked for an explanation of the statement made in the report that the transition of the country towards political democracy was taking place without repudiating, in revolutionary fashion, what had been legitimate in the past, and particularly concerning measures that might be taken against supporters of the previous régime. They asked whether the law of amnesty had been applied without any restrictions, to what extent the rights of the persons amnestied had been restored and what steps had been taken with regard to public officials who had served the former régime but who might have been unjustly dismissed from their posts.

8/ The statement made by the representative of Spain to the Committee is reproduced in document CCPR/C/4/Add.5.

184. Some members of the Committee asked whether article 38 of the Constitution should be taken to mean that Spain had committed itself to the system of free enterprise and could not therefore opt for socialism in any form, what was the legislative basis for the planning referred to in that article and how the Government interpreted the "social function" of property, which was mentioned in article 33, paragraph 2, of the Constitution. One member asked for an explanation of the term "social" in article 1, paragraph 1, of the Constitution, which stated that Spain constituted a "social and democratic State". Another member inquired what steps would be taken to put into practice the concept of direct democracy, while a third asked to what extent the concept of "one person, one vote" was being applied.

185. Referring to the legislative measures taken to institutionalize the autonomous organization of the various regions of Spain, some members asked for further information on the relations between the regional and national authorities, and, in particular, on the measures designed to ensure that regional authorities acted in conformity with the Covenant.

186. Many members commended the constitutional provisions which incorporated international obligations into internal law and wished to know whether those provisions also applied to treaties that had been ratified before the Constitution entered into force, including the International Covenant on Civil and Political Rights, what provisions took precedence in the event of a conflict between the Covenant and the internal legal order, whether the provisions of the Covenant had the force of constitutional law and whether a person could invoke the Covenant before the courts and administrative authorities. As the terms of the Constitution on states of emergency were broader in scope than article 4 of the Covenant, they questioned the extent to which the two could be reconciled. One member inquired whether Spain had ratified and was applying the European Convention on Human Rights and the protocols thereto and whether Spain had accepted or intended to accept the international rules on the right of petition and the jurisdiction of the European Court of Human Rights.

187. Information was requested on the implications of regional autonomy for the enjoyment of human rights, the place of the Covenant in regional legislation and the measures envisaged to ensure that the laws and administrative decisions of self-governing regions would be consonant with the Covenant.

188. It was asked, with reference to article 2 of the Covenant, whether it was possible for a defendant to challenge a law under which he was being prosecuted on the grounds of unconstitutionality, and whether the right to lodge an appeal was reserved for government bodies or was available to private individuals as well. With regard to the effective remedies contemplated in article 2, paragraph 3 (a) of the Covenant, members noted that they were guaranteed in the Constitution "by means of a preferential and summary procedure" and asked what kind of procedure was involved and whether its summary nature might not be detrimental to the accused person. They also asked for more information on a bill for the protection of fundamental rights, which was mentioned in the report by Spain.

189. Some members inquired, in relation to article 3 of the Covenant, what measures had been taken to ensure real equality of the sexes, whether the removal of the penalty for adultery and common law unions meant that they were no longer offences or whether they were equally punishable, whether committed by men or women.

190. With respect to article 4 of the Covenant, a number of members cited articles 116 and 55 of the Constitution governing states of emergency and the suspension of rights, and noted that article 55, which provided for the suspension of the rights of certain persons in relation to the investigation of terrorist acts, might also cover persons unconnected with such groups and thus have a broader application. They asked whether in those cases the Government intended to fulfil the requirement laid down in article 4 of the Covenant that the other States Parties should be notified, whether that requirement would be incorporated into subsequent legislation, and whether the suspension of rights provided for in article 45 was currently in force in any part of Spain.

191. In relation to articles 6, 7 and 10 of the Covenant, many of the members noted with satisfaction that capital punishment had been abolished in Spain. They asked how the crime of genocide would be dealt with in judicial practice and how it was viewed in positive law. They expressed concern, however, on the fact that the death penalty had been replaced by prison sentences of 30 or 40 years for the same offences. They asked in what circumstances solitary confinement could be ordered, what provisions were made for visits and correspondence between prisoners and their families and what steps were being taken to ensure the reformation and social rehabilitation of delinquents, especially through educational activities to rehabilitate juvenile offenders. Referring to the proposed amendment of the Danger to Society and Social Rehabilitation Act, one member of the Committee asked what were the criteria for having a person declared a danger to society. Some members inquired whether the Government intended to enact laws for the prosecution and punishment of torturers.

192. With regard to article 8 of the Covenant, one member asked for information on the international conventions on slavery and forced labour that had been ratified by Spain.

193. A number of members raised questions in connexion with article 9 of the Covenant and asked for details of the exceptions allowed by law since article 17, paragraph 1, of the Constitution provided that no one could be deprived of his liberty, and also on the practice of conditional release which was not mentioned in the report. They believed that article 121 of the Constitution should be interpreted in the light of article 9, paragraph 5, of the Covenant to the effect that the victim of unlawful arrest was entitled to compensation even if he had not suffered any specific damage, and they asked whether provision was made for "moral damages" as well.

194. Some members referred to article 19 of the Constitution which, in conformity with article 12 of the Covenant, expressly stipulated that the right to enter and leave the country freely could not be restricted for political or ideological grounds, and asked whether the fact that restrictions on economic grounds had not been mentioned meant that they could be invoked to limit that right. They also wished to know whether that article reaffirmed an established right or whether the Government intended to enact new laws on the subject. In view of the fact that article 11, paragraph 2, of the Constitution stipulated that no person of Spanish origin could be deprived of his nationality, it was asked whether naturalized persons were equally protected, since lack of protection for them would be incompatible with article 12, paragraph 4, of the Covenant. They also asked whether it was possible to give up Spanish nationality without difficulty, and whether lack of knowledge of Castilian Spanish would prevent the acquisition of Spanish nationality. More general information was requested on the provisions

to be put into effect in future in connexion with articles 11 and 19 of the Constitution. It was also asked whether an alien who considered his expulsion to be unjustified could have recourse to the administration or the competent authorities, and whether the Government planned to grant the right of asylum, in accordance with the standards laid down by the United Nations.

195. Referring to article 14 of the Covenant, one member commended the text of the Constitution for endeavouring to ensure the independence of the judiciary, and another member asked whether judges had found it difficult to accept the political and legal changes that had taken place. Other members considered that legislation alone was not enough to ensure enjoyment of human rights and that other social measures were necessary as well. Since the judiciary played an important part in safeguarding the constitution, they were anxious to know whether the legal system was under the supervision of the same judges who had served the previous régime, what procedures existed under the new constitutional order for appointing judges and public servants and what had been done to ensure that persons from all strata of society could become judges.

196. Some members inquired about the exceptions that existed to permanency of tenure for judges and what laws contained provisions on that question as well as on the appointment, transfer, promotion, dismissal and retirement of judges and magistrates. As judges were not permitted to belong to any political party or professional association, one member asked whether they were entitled to set up informal groups to defend their interests as members of the judiciary. In addition, information was requested on the means available to judges to ensure the execution of their decisions.

197. Some members of the Committee asked for fuller information on the exceptions referred to in article 120, paragraph 1, of the Constitution in relation to public trials, the time and means allowed to prepare the defence, the right to question witnesses and the right of the defendant not to testify against himself or to make a confession of guilt. They also asked whether the measures envisaged would prevent lawyers from visiting clients who were accused of terrorism, which courts had jurisdiction in matters falling within the scope of the decree on public order, and what changes had taken place in the situation of persons who had formerly been arrested or tried by the military authorities for offences that had subsequently been placed within the jurisdiction of the civil courts. They inquired whether there were administrative, fiscal or labour courts in Spain and in what way they helped to protect civil and political rights, and asked about the jurisdiction of military tribunals at the present time. They also asked for an explanation of the powers and functions of the People's Advocate (Defensor del Pueblo) and of the Public Prosecutor (Ministerio Fiscal) and whether they formed part of the judiciary or the Executive.

198. In relation to article 17 of the Covenant, one of the members asked for an illustration of what was meant by the term the "right to honour", which was guaranteed by article 18 of the Constitution.

199. Some members referred to the rights laid down in article 18 of the Covenant, requesting clarification of the social and legal significance of the provision in article 16, paragraph 3, of the Constitution which provides that the public authorities "will take into account the religious beliefs of Spanish society", and how it would be applied to free thinkers, for example. They also asked whether there was a clear separation between Church and State, whether the churches were

subsidized by the State, whether religious instruction was compulsory in schools, the age at which a child could choose his religion and whether persons belonging to religious persuasions other than the Catholic faith could marry under their own religious laws.

200. With regard to freedom of opinion (art. 19 of the Covenant), some members asked what social and legal criteria were followed in determining whether a group was "significant" and consequently had access to the media, under article 20, paragraph 3, of the Constitution. They inquired whether republican ideas could be propagated although the Constitution had established a constitutional monarchy, what was the meaning of the term "truthful information" which appeared in article 20, paragraph 1 (d), and who decided whether information was truthful or not.

201. Several members raised questions bearing on articles 21 and 22 of the Covenant. They pointed out under article 21, paragraph 2, of the Constitution meetings could be banned in the interests of "public order", an expression which could be interpreted in different ways, and asked for clarification in that respect. They also asked whether more detailed laws had been passed on the right of association referred to in article 22 of the Constitution, whether the prohibition established by that article on the existence of secret associations extended to Masonic lodges, which government bodies were empowered to decide whether an association was illegal and whether their decisions were subject to appeal in courts of law. They questioned the extent to which the Constitution was consistent with international standards since it debarred public officials from the full exercise of the right of association. They also asked whether the "Workers' Statute", which was mentioned in article 35 of the Constitution, was equivalent to a labour code and whether workers would be taking part in its preparation.

202. With respect to article 24 of the Covenant, some members asked whether children born outside wedlock would in future enjoy the same legal status as those born in wedlock, whether a family code was to be promulgated, what legislation the Government intended to enact concerning paternal filiation, State intervention when parents failed to meet their obligations and patria potestas. Information was also sought on the matrimonial régimes it was proposed to institute in the future, on the penal consequences of adultery and common law unions and in particular whether such offences still existed and whether they were defined and penalized in the same way for men and women.

203. Turning to article 25 of the Covenant, in the light of the constitutional provisions which stipulated that political parties should respect the Constitution and the law, they asked whether it was possible for non-democratic parties to be legalized and whether political parties could advocate the reform of the Constitution.

204. Members of the Committee asked for information on questions relating to article 26 of the Covenant, inter alia, what grounds the Government had for the assurance given in its report that constitutional recognition of autonomy of nationality and region would prevent discrimination, and whether it was lawful to disseminate ideas fostering racial hatred, such as apartheid and nazism. Other questions related to the difference implicit in the Constitution between Spaniards and aliens, since it referred to the protection of all Spaniards and peoples of Spain in the exercise of human rights, whereas States undertook in article 2,

paragraph 1, of the Covenant to ensure those rights to all individuals. Consequently, they asked for clarification concerning the protection of the human rights of non-citizens and the laws or administrative procedures for taking action in cases of discrimination, and also asked whether foreign workers were covered by the social security system and why certain rights, such as that of entering into matrimony, had been included in the section that dealt with the rights and duties of citizens.

205. In relation to article 27 of the Covenant, some members inquired what steps had been taken to allow ethnic, religious and linguistic minorities to profess their faith, enjoy their culture and use their own language, whether a knowledge of Castilian Spanish, as the official language, was obligatory for autonomous communities as well and whether the right to self-determination could be exercised in favour of secession.

206. The representative of Spain thanked the members of the Committee for the understanding they had shown concerning the efforts made by Spain to comply with the obligations it had entered into upon ratifying the Covenant, and their good wishes that political transition in Spain would culminate in a system which effectively guaranteed the exercise of human rights. He explained that it was difficult to give an adequate answer to all the questions that had been raised since many of them related to matters that were currently being dealt with. He would, however, transmit them to his Government.

207. He pointed out to the Committee that the 60 legal texts submitted together with the report demonstrated that an attempt was being made in Spain to change the political system by legal methods, repealing the laws of the previous régime which had restricted the public freedoms guaranteed by the Covenant but preventing the formation of a legislative or political vacuum. Furthermore, the new democracy sought to establish itself on the basis of national reconciliation, as embodied in the Amnesty Act.

208. Referring to article 1 of the Covenant, he explained that the relevant rights had already been attained by the Spanish people upon ratification of the Political Reform Act, which had instituted the democratic régime and the new Constitution, which gave it shape. In addition to proclaiming the "indissoluble unity" of Spain, the Constitution recognized and guaranteed the right to self-government of the different nationalities. It made it the duty of Spaniards to know Castilian, but knowledge of it was not a prerequisite for acquiring Spanish nationality nor was there any penalty imposed on those who did not speak it.

209. In connexion with article 2 of the Covenant, he explained that under the new Constitution the Covenant formed part of Spain's internal law and had the force of an interpretative standard for the fundamental rights and freedoms recognized in the Constitution. Replying to another question, he stated that the People's Advocate (Defensor del Pueblo) was a high official of the Cortes Generales, appointed by them to protect fundamental rights with supervisory powers over the activities of the Administration, and reporting thereon to the Cortes Generales. He was entitled to lodge appeals of unconstitutionality and amparo with the Constitutional Court, but had no power to lodge individual appeals since that was the province of the Public Prosecutor. There were a number of judicial remedies in existence for the protection of individual rights. Some of them were of a preferential and summary nature so as to expedite their defence. The Constitution referred in certain parts to "Spaniards" and "citizens" and in others used the

words "every person" when dealing with jurisdictional protection. The extent of the difference, on which the Constitutional Court would have the final say, had not yet been established.

210. In relation to article 3 of the Covenant, he said that the laws on the régime governing marriage had been amended and the penalties for adultery had been abolished. Those changes reflected the radical social transformation that had taken place.

211. With regard to article 4 of the Covenant concerning the suspension of individual rights, article 55 of the Constitution was more precise in that it enumerated the rights that could be suspended whereas the Covenant seemed to imply that all of them could be suspended except for those expressly indicated. An organic law, which had to be approved in Parliament by an absolute majority, would govern states of emergency, and the corresponding powers and restrictions. The law would establish the circumstances in which such states could be declared and the authorities competent to declare them and their duration, but the principle of responsibility of the Government and its agents would not be modified during those states. He also explained that the objective of anti-terrorist law which might be passed by the Government was to provide it with an effective instrument to combat terrorism while safeguarding guarantees of individual rights, including the right to have legal assistance.

212. In response to the questions put about the penalties that would replace capital punishment, he explained that the maximum penalty for the time being was 20 to 30 years' imprisonment but that a bill had been prepared that would modify the entire system of penalties. The crime of genocide was covered by the legislation.

213. With regard to article 7 of the Covenant, he informed the Committee that two bills were under consideration, one on the classificiation of torture and the other on the treatment of prison inmates, which would incorporate the Standard Minimum Rules for the Treatment of Prisoners drawn up by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. There were also Penal Institution Regulations in force, which protected the rights of inmates under strict judicial control.

214. In connexion with article 8, he indicated the international conventions on slavery which had been ratified by Spain.

215. Referring to article 9 of the Covenant, he said that release on bail was established by law and that bail was fixed in accordance with the financial means of the person who paid it and the magnitude of the offence. He added that compensation for unlawful arrest was not expressly provided for in the Constitution, but could be interpreted as coming under article 121 of the Constitution in view of its broad scope. A bill was currently under consideration on the subject.

216. Turning to article 12 of the Covenant, he acknowledged that the provisions of the Constitution referred only to Spaniards but said that the actual scope of the rights and freedoms of aliens would be determined by the law on aliens and by established practice. He added that political or ideological considerations could never be invoked to restrict freedom of movement.

217. In relation to article 13 of the Covenant, he pointed out that it had formerly been possible for aliens to be expelled from Spain by administrative decision

under the Danger to Society and Social Rehabilitation Act, but that it had been decided to repeal the Act since the concept of "danger to society" could be construed as an interference in a person's private life. The relevant security measures would be incorporated into the Penal Code.

218. Referring to article 14 of the Covenant, he emphasized that the Spanish judiciary had succeeded in maintaining its independence at all times and enjoyed the respect of the nation. Appointments to the judiciary and the post of Public Prosecutor had always been filled by competitive examination open to anyone with a degree in law. Membership in a political party had been considered a form of partiality that would lead to conflicts in the administration of justice. The Constitution stated that the law would lay down "the system and methods of professional association for judges, magistrates and prosecutors". Judges were empowered to inform the Government of the need to amend any law that was manifestly unfair. The right to be given legal assistance was granted under the provisions of the Constitution to "every person" whether a Spaniard or an alien. The Code of Military Justice and the respective procedural laws were to be reformed in order to limit the scope of military jurisdiction to purely military affairs and the state of siege. The Constitution prohibited special courts on the grounds that they were contrary to the concept of an independent judiciary.

219. With regard to the questions on loss of nationality and freedom to change nationality, he explained that naturalized aliens could lose their Spanish nationality if they committed crimes of treason or offences against internal security, and that Spaniards were liable to do so if they acquired another nationality or served in a foreign armed force or in other cases covered by the Civil Code. The right of asylum was recognized by the Constitution, and Spain had ratified the Convention and Protocol relating to the Status of Refugees.

220. Responding to the questions raised concerning restrictions on the right set forth in article 17 of the Covenant, he said that such restrictions were established by the Constitution subject to judicial control and parliamentary supervision. The offences against honour had been defined to protect that right. The right set forth in article 18 of the Covenant was likewise fully guaranteed. In specifying which associations were illegal, the Penal Code defined the actual extent of freedom of association and expression. In reply to the queries put concerning the meaning of the term "truthful information", he said that a number of offences such as those of calumny and injury could be defended by the application of the principle of exceptio veritatas since the existence of such offences was contingent on the falsity of the information. The application of that exception set a limit on freedom of expression. Activities by republican groups or the dissemination of republican ideas were not prohibited, and the form of government could be changed in accordance with the procedures established in the Constitution. Freemasonry posed a different problem, since it was a prerequisite for the legal recognition of an association that its statutes should be made public. In answer to the question put on the criteria followed in determining which groups were significant, he said that the matter would be settled by legislation and that political and social groups which were relatively well established in the national society would no doubt be taken into account.

221. With regard to the relationship between Church and State, article 16 of the Constitution had radically changed the situation that had prevailed in the past. It was true that the only religious wedding to have civil force was a church ceremony, but the new legislation governing relations with the Holy See and the

future provisions of the Civil Code concerning marriage would determine the scope of the provisions currently in force. In answer to the inquiries about relations between parents and children, he explained that Spaniards attained their majority at 18 years of age and that the constitutional provisions should also be interpreted in the light of the rules governing patria potestas in the Civil Code.

222. Referring to the question of propaganda in favour of war, which was covered by article 20 of the Covenant, he said that, like racist ideas, it had not been dealt with specifically, but that they could be regarded as falling within the scope of illegal propaganda. However, the interpretation of penal provisions by extension or analogy was prohibited in Spain.

223. In connexion with articles 21 and 22 of the Covenant, he said that the rights and limitations in question were governed by the Constitution and the Act on political parties. The Act laid down the requirement that their statutes should be registered and made available for public inspection. A review of the documents in question would then make it possible to determine whether there was any evidence of illegality. He also referred to the constitutional provisions which guaranteed the freedom and democratic operation of political parties.

224. With regard to article 23 of the Covenant, he said there was a bill under consideration to confer patria potestas jointly on the father and mother.

225. In relation to article 25 of the Covenant, the Constitution recognized the principle of one person, one vote, and many of its articles specified forms of direct participation by citizens in public affairs, such as the right of petition, popular initiatives, jury service, participation in elections and political parties and appointment to public office.

226. Referring to article 26 of the Covenant, he said that discrimination was condemned in the Constitution and that equality of the sexes was established in the Civil Code. A bill to establish equality before the law for children born in or out of wedlock was under consideration.

227. In relation to article 27 of the Covenant, he explained that there were no Jewish or Moslem minorities of Spanish origin in Spain. The gypsy minority was marginal because of socio-economic factors rather than ethnic discrimination, and an inter-ministerial commission had been set up to study the problems of that nomadic community. It was impossible for discrimination to exist against different nationalities and regions because the Constitution was based on the indissoluble unity of the Spanish nation and guaranteed the right of those nationalities and regions to be autonomous. It was his understanding that the regional legislative assemblies had to reflect the provisions of the Constitution and the Covenant in their laws.

United Kingdom of Great Britain and Northern Ireland

228. At its 147th, 148th and 149th meetings, held on 25 and 26 April 1979 (CCPR/C/SR.147, 148 and 149), the Committee continued its consideration of the initial report of the United Kingdom (CCPR/C/1/Add.17) 9/ and the supplementary report containing additional information (CCPR/C/1/Add.35) submitted in reply to the questions which had been put by the Committee during the consideration of the initial report at the 69th and 70th meetings. The Committee also considered the third part of the initial report concerning the Channel Islands and the Isle of Man reproduced in document CCPR/C/1/Add.39.

229. Several members made comments and put questions concerning the implementation of the Covenant in the United Kingdom, particularly in respect of equality of rights and the commitment undertaken by States parties in accordance with article 2 of the Covenant to respect and to ensure to all individuals in their territories the rights recognized in the Covenant without distinction of any kind. Noting that there was a category of citizens in the United Kingdom who by virtue of their birth had an absolute right to become members of the House of Lords and that, in connexion with nominations to certain posts, there were restrictions based on the nationality not only of the candidates but also parents of candidates, members asked how could that be reconciled with the provisions of article 25 of the Covenant which stipulated that citizens were entitled on equal terms to have access to all political bodies and to participate in public affairs without any distinction based, inter alia, on birth. In this connexion one member noted that although there was no statute law in the matter, Governments in the United Kingdom had always been formed on a party basis whereby the political party winning the elections formed the Government from its members and thus the possibility of participating in public affairs was predicated on membership in either the Conservative or Labour Parties which did not seem to have major differences over the political and economic foundations of the system.

230. The question was repeatedly asked as to whether there were court decisions or specific laws which expressly provided against discrimination of any sort and for the absolute equality of rights enunciated in articles 2 and 3 of the Covenant, as in the absence of judicial decisions or legal provisions, it would be difficult for the Committee to ascertain the extent to which the provisions of those articles were being applied in the United Kingdom. In this connexion, it was asked whether the United Kingdom Government contemplated a change in the existing rules regarding transmission of nationality by either parent. Stressing the relationship of his question to the independence of the judiciary provided for in article 14, one member asked whether a large part of the population was not excluded in practice by such factors as the costly educational process required to gain the ability to become a judge and whether women could become judges, particularly in the higher courts. With reference to articles 2 and 25 of the Covenant, it was also noted that members of the armed forces could not participate in the conduct of political affairs and the question was asked whether there were others who could not do so because of their official status.

9/ The initial report by the United Kingdom was considered by the Committee at its 67th, 69th and 70th meetings, on 30 and 31 January and 1 February 1978 respectively, see CCPR/C/SR.67, 69 and 70 and Official Records of the General Assembly, Thirty-third Session, Supplement No. 40 (A/33/40), paras. 184-226.

231. The representative of the United Kingdom explained the limited role which the House of Lords played in the constitutional structure of the United Kingdom. It had, he said, for centuries been an inherent part of the British constitutional structure. The real avenue for political activity was the House of Commons and not the House of Lords. He emphasized that, when the United Kingdom had considered the possibility of ratifying the Covenant, the legislation and British constitutional organization had been studied closely and the conclusion had been reached that the situation was in keeping with the provisions of article 25 of the Covenant. He pointed out that in recent years the hereditary elements of the House of Lords had been diluted by the nomination of life peers designated by the Crown on the recommendation of the Government. In reality, the existence of the House of Lords in no way affected the right of citizens to take part in the conduct of public affairs without discrimination of any kind. With regard to the question of access to public service, he stated that the requirements established in the nationality rule imposed no distinction based on birth or nationality, but were designed to ensure that those who became involved in public administration, in addition to being citizens, should have direct ties or reasonable links with the country. As regards the party system on which Governments were based in the United Kingdom, he pointed out that in his country everyone enjoyed the freedom to form other political parties, such as the Communist Party, and that all parties had one common characteristic, because they performed their activities within the democratic system, but the policies they advocated were fundamentally different. In an election in which all parties were free to participate and use the mass media, it was evident that if a party did not win it was because the electorate did not wish to vote for it.

232. As to the question of discrimination he indicated that if a person considered that his rights set forth in article 25 of the Covenant had been violated he could invoke laws which specifically referred to discrimination on grounds of race, sex or marital status or could challenge the authority of the person who prevented him from exercising his right. Replying to other questions concerning equality of rights, he indicated that, although a small change had been made by administrative action affecting the Home Secretary's discretion, no legislation providing for equal transmission of nationality by matrilinial succession in the United Kingdom had yet been introduced. He said that most criminal cases were judged by lay persons but the judges of the higher courts were selected from the Bar. To become a member of the Bar, it was only necessary to pass the required examination. Moreover, access to universities was open to all and there was a wide system of State scholarships. He also stated that there were some women high-court judges; and that in addition to members of the armed forces, there was a limitation on participation in the conduct of political affairs on the part of members of the civil service or the diplomatic service. The criterion applied affected the fact that members of both services offered their services to the Government and not to the political party in power, and that they must therefore be able to act with absolute impartiality.

233. The fact that the United Kingdom did not have a written constitution and that the Covenant was not part of its internal law continued to give rise to various comments and questions by members of the Committee, especially since the reports submitted were found not to refer to the legislative texts and judicial decisions which the Government claimed reflected the rights and freedoms provided for in the Covenant. Some members thought it was not enough simply to maintain that the State proceeded on the assumption that its legal system was compatible with the Covenant.

Members asked, therefore, the extent to which the Committee could determine whether the laws and court decisions were or were not compatible with the provisions of the Covenant and how an individual could enjoy the rights guaranteed by the Covenant if its provisions were not made part of the law of the land and could not be invoked in the courts. Given the complete independence enjoyed by the courts of the United Kingdom, members asked what guarantees there were for the application by the courts of the provisions of the Covenant and, if a court decision was reached in violation of those provisions, what direct and specific protection was available to an individual who was deprived of a right laid down in an international instrument ratified by his Government. Noting that in accordance with the principle of parliamentary supremacy the British Parliament could make any law and no court could question its action, one member asked how an effective remedy could be provided in the absence of a bill of rights, if a citizen who might wish to raise a question regarding a law would not be able to get a court to hold a legislative act invalid.

234. Replying to these comments and questions, the representative stated that while there was little or no written law in respect of constitutional organization, there were indeed written laws covering all the remaining areas and those laws had to be applied by the courts. As far as the implementation of the Covenant was concerned, he did not share the opinion that, under article 2, paragraph 2 of the Covenant, a State party had expressly to make the Covenant part of its internal law. What mattered was the treatment that people received and the way in which the law worked in practice. Anyone in the United Kingdom could consult the laws, observe the operation of the courts and ascertain in person or by reading the newspapers whether the rights and freedoms laid down in the Covenant were being respected. In this connexion, he stated that the Parliament would enact a law to annul any judgement that may be rendered by a court in violation of the provisions of the Covenant. He contended that there was no way, short of introducing radical changes in the Constitution, in which a bill of rights could be enacted in such a way as to make those rights directly actionable. Moreover, there was no way of judging the constitutionality of an act of Parliament. In the last resort, the operation of the United Kingdom's Constitution depended on the fact that, to a great extent, it was unwritten and on the deep appreciation of their rights by the citizenry as a whole.

235. Members of the Committee expressed concern at the continued derogation of the United Kingdom under article 4, from articles 9, 10, 12, 17, 21 and 22 of the Covenant and requested clarification as to the reasons for and extent of such derogations, bearing in mind the conditions laid down in article 4. It was felt that it was the duty of the Committee to ascertain whether there was justification for each and every derogation under that article. They noted that the United Kingdom did not derogate from article 14 of the Covenant concerning the right to a fair trial, and that no derogation from article 7, prohibiting torture or degrading treatment, may be made under article 4. Nevertheless, according to one member, it was found by the Bennett Committee on Police Interrogation Procedure in Northern Ireland that in many cases people under interrogation had suffered injuries that were not self-inflicted and that, in an unusually large number of cases, convictions had been obtained as a result of confessions where it was not possible to have a detailed record of the whole process of interrogation. It was asked whether, when the Bennett Committee had been appointed, its attention had been directed to the obligations of the United Kingdom under the Covenant and what was meant by the statement in the supplementary report that "obtaining evidence improperly /was/ not in itself a criminal offence", but simply an administrative breach sanctioned by disciplinary action, since the word improper might in this context encompass the use of torture. In this connexion, questions were asked as to what provisions existed to

ensure that immigrants were not subjected to indignities or to practices endangering their health and what criteria were used in the United Kingdom to determine mental illness for persons in custody. As regards everyone's right to liberty and security of person, questions were asked on whether there were safeguards regarding the length of time detainees could be held for questioning; to what extent habeas corpus or equivalent remedies could be effective if, as was the case in Northern Ireland, persons could be arrested by the police without a warrant on the mere suspicion of being terrorists and detained for up to 72 hours; to what extent did the Police Complaints Board investigate complaints made by a detainee regarding injuries; and what was the proportion of cases taken to the Director of Public Prosecutions on which affirmative action, in the form of actual prosecution, had been taken. It was also asked, in relation to article 20 of the Covenant, whether a refusal on the part of the Attorney-General to give his consent for a prosecution on incitement to racial hatred had to be substantiated by fact and by law.

236. Replying to these comments and questions, the representative stated that there existed in his country a public emergency which threatened the life of the nation and resulted from an extraordinary attack aimed at bringing about forcible change in the relationship of Northern Ireland with the United Kingdom Government. He stated that the Bennett Committee, while acknowledging that it was sometimes necessary and lawfully permissible for police officers to restrain prisoners in order to defend themselves, had made a number of recommendations for improving the control and supervision of the interrogation process and that the Government accepted its broad conclusions and endorsed its approach. He pointed out that the statement in the report with regard to obtaining evidence improperly did not mean that the use of torture or assault for this purpose was not a criminal offence; that there were numerous ways of obtaining evidence improperly and that merely to do so was a breach of police orders rather than a criminal offence. As to the question of treatment of immigrants, he explained the health examination procedure for immigrants and stated that immigration officers were expressly instructed to carry out their duties without regard to the race, colour or religion of people seeking to enter the United Kingdom. He also explained the specific regulation of admission to mental hospitals, including the provision for a review of the condition of patients by independent mental health tribunals, and pointed to the various powers of the criminal courts in relation to accused persons deemed to be suffering from mental illness. As to the question of habeas corpus and the power to arrest without a warrant, he said that it would be an answer to a writ of habeas corpus that the defendant had exercised a statutory power but that the main objective of such a writ would be to inhibit the purported use of powers which did not exist; that the function of the Police Complaints Board was not to investigate complaints at the first instance, but rather to monitor the investigation of complaints; that whenever there was suspicion or evidence that a policeman was guilty of a criminal offence, the Director of Public Prosecutions became responsible for dealing with the matter and that in exercising his functions, the latter was an independent officer, free from political direction, although his conduct came within the over-all responsibility of the Attorney-General, a member of the Government of the day.

237. With reference to freedom of expression and association provided for in articles 19 and 22 of the Covenant, members of the Committee requested further details concerning the procedures under which an individual or organization might complain of unfair treatment or misrepresentation in a broadcast and asked whether the procedures were judicial or administrative; whether the United Kingdom Government did not consider the very existence of a racist organization incompatible with the provisions of the Covenant; and whether trade unions were permitted to

operate inside the factory in which their members worked. Referring to the closed-shop system, one member expressed the view that, even if this system could be reconciled with freedom of association, it made the individual dependent on his trade union and subject to abuses that could occur. He inquired as to whether a worker who opposed the illegal actions of a shop steward during a labour dispute would be dismissed from his job and, if so, what was the Government doing to prevent such abuses.

238. In his reply, the representative referred to the different procedures applied so far by the two bodies licensed to transmit public programmes in the United Kingdom concerning individual complaints against their programmes and referred to a recently published paper by his Government whereby a single complaints commission should be established for the entire public broadcasting system. As regards racist organizations, his Government viewed an organization not so much in the light of what it was as of what it did. If such an organization offended the law on racial hatred or discrimination, it would come within the terms of the law. Concerning trade unions, he stated that they did operate inside factories; that his Government did not consider the closed-shop system to be an infringement of the Covenant. The matter had, in fact, come before the European Commission of Human Rights and, if the Commission came to a different conclusion that would have to be taken into consideration or if the Conservative Party came to power, the system might eventually be modified.

239. With reference to the initial report submitted by the United Kingdom concerning the Channel Islands and the Isle of Man (CCPR/C/1/Add.39), the obligation of the United Kingdom under article 1 of the Covenant was of special concern to members of the Committee since it did not seem justifiable to speak of dependence 19 years after the colonial system had collapsed. Questions were asked on how the United Kingdom interpreted the requirement to "promote" the realization of the right to self-determination; why had so much time elapsed without those territories choosing independence; how had the people expressed their desire not to be independent; were there economic or military reasons for the United Kingdom to retain control of those islands; whether the territorial waters and resource margins of the Channel Islands and the Isle of Man had been defined; and whether it was the United Kingdom or the Islands themselves that maintained sovereignty over them.

240. As regards article 3 of the Covenant, information was requested on the current status of women in the islands, including the right to vote and to run for election and on the extent to which the laws of the Channel Islands were at variance with the requirements of that article.

241. With reference to article 4 of the Covenant, it was asked whether the emergency powers had been extended to the Island of Jersey as a result of a unilateral decision by the United Kingdom authorities or as a result of the express wishes of the Island concerned.

242. As regards the implementation of the provisions of articles 6, 7, 9, 10, 13, 14 and 17 of the Covenant questions were asked as to what crimes were sanctioned by the death penalty; whether the United Kingdom Government did not consider corporal punishment to be degrading treatment prohibited in accordance with article 7 of the Covenant; whether accused persons were segregated from convicted persons; whether accused juveniles were separated from adults and brought for adjudication as speedily as possible; whether members of the family were deported with the person concerned; and whether the provisions concerning compensation for persons convicted of criminal offences but later exonerated were in conformity with the letter and spirit of article 14 of the Covenant.

243. In relation to the implementation of the right of peaceful assembly in Jersey, it was asked whether this right was still subject to the provisions of the law promulgated in 1797. As to the right of participation in the conduct of public affairs provided for in article 25 of the Covenant, it was asked whether this right was still governed in Jersey, inter alia, by the provisions of the law promulgated in 1897. With reference to the Isle of Man, information was requested on the manner of election of the Legislative Council and on the statutory exceptions to which eligibility for elections and membership of the House of Keys was subject.

244. In reply to questions under article 1 of the Covenant, the representative of the United Kingdom stated that the Islands had always enjoyed a considerable degree of independence; that the United Kingdom Government was not opposed in principle to a movement towards greater autonomy, provided its own responsibilities were not put at risk; that there was no request from the inhabitants of the Islands for complete independence; and that if there were great political movement for independence, the United Kingdom Government would consider it seriously.

245. With regard to the application of emergency laws in the Channel Islands, he pointed out that for emergencies of a civil nature, the local legislations applied. United Kingdom legislation on terrorism was applied in the Islands in consultation with their authorities.

246. Replying to questions under articles 6, 7, 9, 10, 13, 14 and 17 of the Covenant, he indicated that, whereas Guernsey had abolished the death penalty for murder, Jersey retained it for murder and the Isle of Man retained it for murder, treason and genocide; that corporal punishment still existed in the legislation of the Channel Islands, but, in the light of the findings of the European Court, it is unlikely that the judicial authorities of these Islands would impose such sentences any longer; that the main reason for deporting the family along with the individual concerned was to keep the family together; that his Government considered the practice concerning compensation for persons convicted of criminal offences but later exonerated to be in accord with the spirit of the Covenant and that it would see whether it could not be made to accord more closely with the letter also.

247. Replying to questions under articles 22 and 25 of the Covenant, the representative pointed out that the right to peaceful assembly was guaranteed by customary law and that the application of the law promulgated in Jersey in 1797 did not mean that the holding of public assemblies authorized by law and by custom was in any way restricted. The representative gave more details concerning the electoral systems as applied in the Channel Islands and the Isle of Man.

Ukrainian Soviet Socialist Republic

248. The Committee considered the initial report (CCPR/C/1/Add.34) submitted by the Ukrainian Soviet Socialist Republic at its 153rd, 154th, 155th, 156th, 159th and 160th meetings, on 31 July, 1 and 3 August 1979 (CCPR/C/SR.153, 154, 155, 156, 159 and 160).

249. The report was introduced by the representative of the State party who gave further information on certain questions dealt with in the report.

250. The representative stated that international treaties concluded by the Ukrainian SSR, including the International Covenant on Civil and Political Rights, were implemented through domestic legislation and also through orders and decrees

of the State authority. Many laws contained provisions whereby in the event of a divergence between them and an international treaty or agreement concluded by the USSR or the Ukrainian SSR the international agreement or treaty should apply. He pointed out that many provisions enacted since the submission of the report were directly related to the development and realization in practice of the rights and freedoms guaranteed by the Constitution and were also directly connected with certain provisions of the Covenant, for example, a law adopted by the Supreme Soviet of the Ukrainian SSR in December 1978 concerning the Council of Ministers of the Ukrainian SSR, a law concerning elections to the Supreme Soviet of the Ukrainian SSR and a law enacted in June 1979 concerning elections to the local councils of people's deputies. The first of those laws provided for greater participation in government by citizens, workers' collectives and social organizations. The second law gave effect to the electoral rights enshrined in the Ukrainian Constitution. The law provided that all citizens aged 18 years and over had the right to elect and to be elected to the highest State organ of the Republic. Previously, the age limit for the right to vote had been 21 years. The law considerably liberalized the conditions for the nomination of candidates as deputies and for the conduct of electoral campaigns. The third law, concerning elections to the councils of people's deputies was motivated by a concern for the creation of the best possible conditions and real guarantees for the exercise by citizens of their electoral rights. Work would continue in his country to further improve legislation so as to implement to the fullest extent the principles enshrined in the new constitution. One important item in the programme was the preparation of a code of laws of the Ukrainian SSR which was due to be published during the period 1982-1986.

251. Commenting on the report, all members of the Committee commended its comprehensiveness and the manner in which it had been prepared and expressed their appreciation for the valuable supplementary information which the representative of the Ukrainian SSR had given when introducing the report. Since both the USSR and the Ukrainian SSR, the latter being one of the former's constituent republics, had ratified the Covenant, information was requested on the respective responsibilities of the Republic and the Union in the implementation of the Covenant and on the manner in which differences in human rights legislation among the various Republics were solved. Noting that the implementation of the Covenant depended a great deal on the detailed laws and practices in force in each State party, members inquired about the degree of federal control which was exercised so as to promote uniformity in the laws and practices of the constituent Republic to adopt different standards, as regards such matters as freedom of movement, conscience or expression from those which constituted the general norm in the Union as a whole. Referring to the statement in the report that the new Constitution fully guaranteed and ensured in practice the implementation of all the provisions laid down in the Covenant, it was noted that the provisions of the Covenant themselves were not incorporated in the domestic laws but that the domestic laws and practices were said to be in conformity with the provisions of the Covenant. Questions were asked on whether the provisions of the Covenant could be invoked before the courts; whether a person could raise the matter of inconsistency between the law and practices of the Republic and the provisions of the Covenant without the risk of repressive or punitive action being taken against him by the authorities and whether the rights and freedoms contained in the Constitution also applied to dissidents.

252. More information was requested about the organs of Government, how they were constituted, their powers and their relationships with one another; about the elected bodies, at the national and local levels, through which the people

exercised power; and about the separation of powers between the Executive and the judiciary, in particular whether it was possible for the judiciary to pronounce on the constitutionality of a given law. Questions were also asked concerning the role of the Communist Party in relation to the organs of Government; how it exercised its influence within the State and its prerogatives within the system of Government; whether there were other political parties; and what restrictions there were on the formation of other political parties. Noting the commendable and exhaustive participation of the people in the making of the Constitution, some members wondered whether measures had been taken to publicize the Covenant in the official languages of the Republic and to disseminate it widely among the people and whether the authorities would consider making the report of the Ukrainian SSR to the Committee known to the people generally. Some members observed that the Constitution of the Republic spoke only of citizens, while the Covenant was, with the main exception of article 25, concerned with everybody. In connexion with article 31 of the Constitution which states that every citizen of the Ukrainian SSR is a citizen of the USSR, one member asked about the implications of this uniform citizenship in view of the application of the rights contained in articles 12, 13 and 25 of the Covenant.

253. With reference to article 1 of the Covenant, it was noted that article 69 of the Constitution stated that "the Ukrainian SSR shall retain the right freely to secede from the USSR" and questions were asked as to how this provision could be implemented; whether, if a discussion on this matter was opened and suggestions were made to that effect, such suggestions would be considered lawful; what was the situation in practice; and were the citizens able to discuss the subject of self-determination and express nationalist views.

254. Some members noted that there were no specific provisions in the Constitution for the prohibition of discrimination on the grounds of "political or other opinion" as stated in article 2 of the Covenant and asked whether persons were discriminated against if they promoted political views which were at variance with those of the Government. Questions were asked on the extent to which an individual had an effective remedy when his rights had been violated; whether the State was vicariously liable for the acts of officials; how many officials had been condemned since 1976 on charges of illegal action committed in the exercise of their functions; and how many claims for compensation had been satisfactorily met. Noting the importance of the institution of the Procurator of the Republic some members requested more information on the role he played in the Ukrainian legal system, on the manner in which he could ensure the protection of civil and political rights, the extent to which his powers were subject to judicial control, whether he cumulated judicial and executive powers in this regard and, given his subordination to the Procurator of the USSR, the extent to which he was independent.

255. With regard to article 3 of the Covenant concerning the equality of rights between men and women, members commended the Ukrainian SSR for its achievements in this respect and for the impressive figures quoted in the report to that effect. More information was requested concerning the participation of women in the youth organizations and in the higher bodies of the Communist Party and governmental organs.

256. With regard to article 6 of the Covenant, some members asked what were "the most serious crimes" referred to in the report for which capital punishment could be imposed; whether the death penalty had been abolished and if so when had it been reintroduced; whether there was a debate concerning its abolition; how many people had been condemned to death recently and for what crimes; whether there was a possibility of pardon by or appeal to higher bodies of the Union; and how was the maintenance of the death penalty reconciled with the statement in the report that punishment is aimed at reforming and re-educating convicted persons. The question was also asked as to whether a person could be sentenced to death for committing an economic crime.

257. In connexion with articles 7 and 10 of the Covenant, information was requested concerning the circumstances in which a person could be kept in solitary confinement and for what period of time was a detained person entitled to receive his lawyer and members of his family while awaiting trial. More information was also requested on the treatment of prisoners in general, whether prisoners were provided with sufficient food, medical care and whether a system of supervision existed to inspect conditions in the prisons. In the case of persons who were sentenced for long periods of time and were sent to prisons or labour camps outside the territory of the Republic, information was requested on the facilities provided for contact between the prisoners and their families and on whether they were allowed to communicate in their own language or, through an interpreter, in the language of the region where the prisoners were detained. Information was sought on whether psychiatric treatment was resorted to in the case of healthy persons for political beliefs which were different from those of the society in which they lived. Information was requested on the statement in the report that the legislation of the Ukrainian SSR established criminal and disciplinary liability for officials guilty of violating the rules for the treatment of persons accused of crimes or sentenced to deprivation of liberty.

258. With regard to article 8 of the Covenant it was noted that in accordance with the Constitution every citizen had the right to work, including the right to choose his trade, taking due account of the needs of society. Questions were asked as to who decided what the needs of the society were; what specific or practical restrictions existed on the right to work; whether there were any penal provisions which made so-called "parasitism" a punishable offence; and whether someone could work independently without running the risk of being accused of parasitism if the competent State organ deemed him not to be "socially useful".

259. With regard to article 9 of the Covenant, the question was asked as to whether there were any circumstances in which a person might be detained, for instance, if he was of unsound mind or suffering from an infectious disease; whether persons were detained without trial for political reasons and if so under what laws. Information was also sought on the maximum and average period of time for which persons were so detained. Further clarification was requested as to the meaning of article 52 of the Constitution which provides that no one may be arrested except by a court decision or on the warrant of a procurator; and as to the legality or otherwise of pre-trial detention and the implementation of article 9, paragraph 4, of the Covenant which provides for the early trial of a person arrested or detained on a criminal charge or for his release.

260. With regard to article 12 of the Covenant, clarification was requested concerning the statement in the report that the question of liberty of movement was governed by a number of normative instruments. Questions were asked on

whether a citizen needed permission to change his place of residence; whether he had the right to go abroad to study, to emigrate or for tourism purposes or was subject to punitive measures if he applied for a visa; whether any restrictions existed with regard to the freedom of movement within the Union; and whether Tartars were free to return to their native region. The question was also asked as to whether the Government of the USSR had the right to deprive someone in the Republic of his citizenship and, if so, for what reasons.

261. Commenting on article 14 of the Covenant, members of the Committee asked whether there were administrative and military courts in the Republic; for which offences the "Comrades' courts" were competent and whether their competence was based on legal rules adopted by legislative bodies; how the independence and impartiality of tribunals were guaranteed; whether it was possible to pass a judgement which was not in conformity with the ideology of the State; how the comrades' courts and the peoples' courts which had the same competence could co-exist; what was the role of the assessors, particularly in the supreme court, and what measures were taken to prevent interference in their work; did the assessors pronounce purely on questions of fact or, like the magistrates, on questions of law as well; and what was meant by the terms "educational effect of the public hearing" and "juridical socialist conscience" referred to in the report. Questions were also asked as to what were the cases and the grounds for holding judicial proceedings in camera; whether relatives of the accused and the press could be excluded from a public hearing; could the prosecutor prevent the accused from calling certain witnesses; whether the defendant or his counsel had the right to participate in the hearing at the courts of appeal. In this connexion questions were asked about the legal profession and about the rights and guarantees enjoyed by lawyers in the performance of their duties.

262. With reference to article 17 of the Covenant, the representative was requested to provide information on the laws which protect the right of privacy; on the provisions which authorize exceptions from the principle of inviolability of residence; on the remedies available to an individual whose letters were confiscated or whose telephone was disconnected on orders of the competent authorities.

263. In connexion with article 18 of the Covenant, members of the Committee asked for clarification concerning the separation of State and Church; whether religious propaganda was allowed on an equal footing with atheistic propaganda; what were the "religious practices" referred to in the report which disturbed public order and therefore prohibited; and what was the legal régime in force governing religious education in the light of the right of parents to ensure the religious and moral education of their children in conformity with their convictions as provided for in the Covenant.

264. With reference to article 19 of the Covenant, questions were asked as to what extent it was possible to dissociate oneself from the dominating ideology of scientific communism or to promote ideas for change and improvement in the existing order although they were at variance with those of the Government. Could article 48 of the Constitution, proclaiming freedom of speech and the press "in accordance with the interests of the people and in order to strengthen and develop the socialist system", be interpreted as limiting that freedom and being inconsistent with the Covenant? What guarantees did the citizen have that their right was not violated because of this provision? Did the citizen have the

right of peaceful dissent and what measures were available to guarantee this right? The report stated that the freedoms contained in the Constitution "may not be exercised to the detriment of State or public security ...". What was meant by "public security"; who decided what it was and to what extent this regimentation and control were, in practice, destructive of the freedoms guaranteed by the Covenant? In this connexion the question was asked why peaceful dissent should be considered as a threat to public security, if the system was overwhelmingly accepted by the people. The representative was requested to provide the Committee with all the laws which restrict the rights provided for by article 19 of the Covenant.

265. With regard to articles 21 and 22 of the Covenant, it was pointed out that the Constitution contained restrictions on the right of peaceful assembly and freedom of association as it appeared that the right or freedom concerned could only be exercised to the extent that it aimed at building communism. The representative was asked whether within the present legal framework it was possible to establish a political party other than the Communist Party. Members of the Committee asked in what circumstances a group of citizens could set up a trade union and under what conditions such a union would be entitled to assistance in its work from State bodies and public organizations; whether trade unions enjoyed the right of collective bargaining; whether the State recognized the right to strike and, if so, was the right to strike provided for in any legislation. Referring to article 6 of the Constitution which provided that the Communist Party was the nucleus of the political system, members asked whether this was in conformity with the freedom of political thought guaranteed by the Covenant and whether a person who was a regular visitor to a church, mosque or a synagogue could be a member of the Communist Party. The representative was requested to provide the Committee with all the legislation which restricted the right of peaceful assembly and the freedom of association.

266. With reference to articles 23 and 24 of the Covenant, the representative was requested to provide information on the experience of the Republic in dealing with problems of taking care of children of working mothers. One member wondered whether the role assigned to the family to take an active part in the building of communism, as stated in the report, was in conformity with the Covenant. Explanations were requested as to why the building of communism was made conditional on the aid and protection given to the family. Information was sought on the role of the judicial system in reconciling the partners in cases of divorce and on the inheritance system in the Republic. More information was requested on the legal status of illegitimate children in the Republic and on the nationality of children whose parents were of different nationalities.

267. With reference to article 25 of the Covenant, clarification was asked of the meaning of "the principle of democratic centralism" as contained in article 3 of the Constitution. Questions were asked as to the extent to which this provision was in conformity with the rights protected by articles 19 and 25 of the Covenant if that principle meant free discussion before, but not after, the adoption of decisions. In this connexion, questions were asked on the extent to which, if people did not have the right to propose changes in the leadership directly, democracy could be said to prevail in the Republic. Questions were also asked on whether a citizen who was not a member of the Communist Party could present himself as a candidate for election or be elected to a public post and how much choice the voter had when elections took place. Commenting on article 47 of the Constitution which, inter alia, stated that persecution for criticism was

prohibited, the representative was asked whether a citizen could safely exercise political criticism or criticize the Communist Party. Concerning article 9 of the Constitution, clarification was requested as to the purpose and meaning of the expression "strengthening of the system of people's control".

268. Commenting on article 27 of the Covenant, members of the Committee asked whether non-Ukrainian Soviets living in the Ukraine were obliged to learn the Ukrainian or Russian languages or both of them; and whether measures had been taken to protect the Ukrainian language inside as well as outside the territory of the Republic. Information was requested on the situation and rights of the Tartars, Jews and other minorities; on whether their rights were defined in legislative enactments; and the extent to which they could exercise the rights provided for by article 27 of the Covenant. In this connexion information was sought on the basis of the proposition in the report to the effect that national groups undertook to develop a socialist culture which was undivided in its spirit and basic content and, at the same time, national in form. The question was also asked as to the difference between the terms "nations", "nationalities", "national groups" and "compact population groups of nationalities" as used in the report.

269. The representative of the State party replied to the questions and comments summarized in the preceding paragraphs. He stated that, as regards the status of the legislation of the Republic and that of the Union and the possibility of conflict between the two systems, certain matters fell within the competence of the Union, while others, such as road transport and road construction were within the competence of the Republic. The majority of questions lay within the joint competence of the Union and the Republic. The Union provided the basis for legislation and set forth certain basic principles and the Republics elaborated their own legislation but every effort was made in the Republics to standardize provisions reflecting the norms set down in the Covenant. He stated that in 1957 the Supreme Soviet had enacted a special law concerning the delimitation of competence between the Union and the Republics and that, as a result of that new situation, the Ukrainian SSR had entered upon a new stage in the elaboration of its legislation. According to the Constitution, laws of the Republic should be enacted by the Supreme Soviet of the Ukrainian SSR or by a nationwide vote (referendum) held by decision of the Supreme Soviet of the Republic. The Council of Ministers of the Republic, that is, the Government of the Ukrainian SSR, was the highest executive and administrative body of State authority of the Ukrainian SSR and should be responsible and accountable to the Supreme Soviet of the Ukrainian SSR. Members of all Soviets of Peoples' Deputies of regions, districts, cities, city districts, settlements and villages, were elected on the basis of universal, equal and direct suffrage by secret ballot. The people were constantly consulted through popular votes or referenda. Thus the principle that all power belonged to the people was being effectively implemented. As to the role of the Communist Party in the political system of the Republic, he stated that according to the Constitution the Party was the leading and guiding force of Soviet society and the nucleus of its political system, and of all State and public organizations. All Party organizations functioned within the framework of the Constitution of the USSR. All State and public affairs were decided upon by the Supreme Soviet after they had been widely discussed by the people, the press and other media. The representative explained that questions relating to complaints concerning the implementation of the provisions of the Covenant could be widely and publicly discussed. The Covenant was widely published in the languages of the Republic and it was discussed by the people, the press and legal

circles. As the Covenant was officially published in the Republic, officials concerned were expected to be aware of and familiar with the provisions of the Covenant otherwise they would not be retained as officials.

270. Replying to a question under article 1 of the Covenant the representative stated that the Constitution provided for the possibility of secession but that such a matter had never been discussed. If it were to be discussed, article 5 of the Constitution which provided "for the submission of major matters for nationwide discussion and to a popular vote", would apply. He noted that there was no danger of assimilation of Ukrainians since Ukrainian language and culture were amply protected. The Ukrainian language was mandatory in all schools and 70 per cent of all publications in the Republic were in the Ukrainian language. No special measures were required to protect the rights of Ukrainian citizens, in other Republics, because these rights were the same all over the Union. In reply to a question on whether there was Ukrainian nationalism, he said that Ukrainians were patriots and against all those who attempted to sow discord among them.

271. In reply to a question in connexion with article 2 of the Covenant concerning the possibility of discrimination on the ground of political opinion he called the attention of the Committee to the second paragraph of article 32, as well as to articles 46, 47, 48 and 49 of the Constitution which prevented discrimination for political opinion. He also pointed out that the Constitution provided for full protection of the rights of individuals, including the right to lodge complaints against the actions of officials, State and public bodies and to receive compensation for damage resulting from such actions, where appropriate.

272. Replying to a question under article 3 of the Covenant, he stated that women played a very active part in State and social life in the Ukrainian SSR and held many responsible posts in State bodies including the judiciary and there were also many women among the scientists of his country.

273. Commenting on the questions raised concerning article 6 of the Covenant, the representative stated that in the Ukrainian SSR every effort was made to preserve and maintain human life. He explained in detail the various measures taken by the Government to ensure the implementation of the right to health protection provided for in the Constitution. He stressed that the death penalty was an extreme form of punishment applied in the case of premeditated murder in extreme circumstances, rape bringing about death, and in a number of other extreme crimes. The question of the possibility of repealing a death penalty was under consideration but preventive legislation made it necessary at present to retain that punishment for very serious crimes. Amnesty could be granted by the Presidium of the Supreme Council. He informed the Committee that recently there were persons who were condemned to death for economic crimes.

274. Replying to questions under articles 7 and 10 of the Covenant, the representative stated that solitary confinement was applied, as a rule, as a punitive measure to a prisoner who had violated the regulations. In accordance with the Correctional Labour Code alternative measures could be taken such as a warning, reprimand or movement to a smaller sized cell. Medical services in the prisons were provided and organized in accordance with public health regulations. He explained that in accordance with the said Code, punishment was not applied or executed for the purpose of inflicting physical suffering or degrading human dignity, but was aimed at reforming and re-educating convicted persons. He further stated that the law on health provided that in the interests of the health and safety of the population, the authorities were empowered to order individuals suffering from tuberculosis, venereal diseases, alcoholic problems and psychic disorders to receive treatment in medical establishments but that

persons suffering from psychic disorders could, on no account, be committed to psychiatric institutions unless they presented a real danger to the community. Replying to other questions, he gave a detailed account of the hygiene and working conditions prevailing in prisons and of the various programmes designed for the rehabilitation of prisoners. He pointed out that, in exceptional cases, and due to the fact that some prisons were too small to accommodate all prisoners of the same category, some of them had to serve outside the territory. He stressed that there was no problem for the family to visit their relatives in prison.

275. Replying to questions under article 8 of the Covenant, the representative pointed out that all citizens had the right to choose occupations in keeping with their education, training and abilities, to receive material compensation for the work they did, and to medical treatment when they were ill. In reply to questions concerning the possibility of conflicts between the interests of the individual and those of the society in the Republic, he thought that the provisions of the Constitution which required every citizen as a matter of duty and honour to engage in socially useful work were compatible with the Covenant. The requirement that work should be socially useful should not be considered as a limitation to the right to work since all work offered in the Republic was socially useful. Systematic parasitism was punishable in his country because it was unjustified, for the possibility existed for every individual to do interesting work in accordance with his abilities. Writers and artists were in a different category; those who wished could engage in creative activity and could sell their work if the public was willing to buy it.

276. Replying to questions under article 9 of the Covenant, he stated that the requirements contained in this article were fully reflected in the legislation of the Republic, which enumerated the reasons for which a person could be lawfully detained. The procurator must be informed within 24 hours of the arrest of an individual and must take a decision within the following 48 hours on whether to release or detain the individual. In general, detention could not exceed two months, but in accordance with the Code of Criminal Procedure the duration could be extended to a maximum period of nine months. Replying to other questions he stated that the defence counsel was called in when the accused person was charged, and that, when minors or individuals with physical or psychological handicaps were involved, the defence counsel was called in at the earliest stages of the proceedings. The Code of Criminal Procedure provided the accused person with certain rights including the right to a defence and the right to call witnesses and experts as required by the case.

277. Replying to questions raised under article 12 of the Covenant, the representative stated that there was no legal limitation to the freedom of Ukrainians to choose their domicile but merely a factual one since in order to live in a certain place it was necessary to have a job and a dwelling there. This was so in the case of the Crimean Tartars who mostly now lived in Kazakhstan, where they had all that they required to meet their needs. They could, as every other citizen, visit the region of their birth whenever they so wished. Replying to another question he stated that the law on citizenship of the USSR, which was adopted in 1978 and entered into force in July 1979, determined questions relating to the procedure of claims and requests for citizenship. In accordance with this law the Supreme Soviet could deprive a citizen of his citizenship if he became a threat to the security of the State.

278. Regarding questions raised under article 14 of the Covenant, the representative stated that the courts were entirely independent and subject to no pressure or interference. In accordance with the Constitution judges were elected and were therefore subject to the control of the electors. He explained that the comrades' courts were not legal organs of the State but communal bodies. They enjoyed a special status which had been recognized by the Supreme Court and their purpose was to prevent violations of the law and halt any anti-social activities. In 1977, the Presidium of the Supreme Soviet adopted a special decree which stated that, rather than increasing the number of criminal proceedings, minor offences could be dealt with in the comrades' courts which were entitled to impose fines ranging from 10 to 30 roubles and also compel offenders to apologize publicly for their acts. He explained that in accordance with the Constitution proceedings in all courts were open to the public and all the rules of the civil and criminal procedural laws were scrupulously observed. Hearings in camera were only allowed in cases where minors were involved and in sexual and other very special cases. He assured the Committee that the legislation of the Republic in this matter fully covered the requirements of article 14 of the Covenant. The judge decided who could participate in the proceedings. The Penal Code of the Republic dealt with the rights of the accused in the proceedings including the right to be present at the Court of the first and second instance; the right to submit evidence; to learn the result of the preliminary examination and to lodge a complaint against abusive procedure; to receive the documents concerning his accusation; to request for additional witnesses; and to participate in court proceedings.

279. In connexion with a question relating to article 17 of the Covenant, in particular as to the possibility of seizure of correspondence, he stated that privacy of correspondence and communications was protected by law. The home was inviolable under the Constitution and no one without lawful grounds could enter a home against the will of those residing in it.

280. Replying to questions relating to article 18 of the Covenant, he stated that no pressure was put on anyone to be either a believer or an atheist and that believers and non-believers were on an equal footing before the law in the Ukrainian SSR. All religious societies in the Ukrainian SSR were registered with the Council for Religious Affairs and they were entirely free to run their own affairs. The Ukrainian laws contained no ban on the conduct of religious propaganda - the holding of religious services, was indeed, he stated, nothing other than religious propaganda. Propaganda also took place through religious literature and publications, the receipt of which was perfectly legal. It was true that persons who were active members of any religious group could not become members of the Communist Party, since, under the Party's statutes, its members were required to adhere to the philosophy of dialectical materialism. Under Soviet legislation, the religious education of children took place privately, in the family, among relatives; but there was no ban on the participation of children in religious services. Taking into account that article 18 of the Covenant allowed for the possibility of certain limitations on the right to freedom of belief, he saw no conflict between that article and the legislation and practice of the Ukrainian SSR.

281. Replying to questions related to article 19 of the Covenant, the representative stated that the laws of the Republic in this respect were designed to protect the interests of the citizens and of the society as a whole, which was fully in accord with the Covenant. Accordingly, a citizen would be only punished

for his views if those views were converted into actions which constituted crimes against the socialist order. The relevant decisions were taken by the courts and concerned such matters as the slandering of the State or individual citizens, the dissemination of pornography, the conduct of war propaganda and other matters, many of which had been referred to in the declaration on the role of the mass media recently adopted by UNESCO. He indicated that any group of citizens could monitor the implementation of the Covenant, if they acted within the framework of the law. As to the question on whether there was not an incompatibility between the ban on anti-Soviet agitation and propaganda and the prohibition of discrimination on the basis of the political opinions of individuals, he stated that an individual would be punished only if he overstepped the boundaries of the law and undertook activities which threatened to disrupt the security of the State. He informed the Committee that it was the court which decided whether freedom of speech was being used for anti-social purposes, and it was for it to impose punishment accordingly.

282. Replying to questions relating to article 22 of the Covenant, he stated that in accordance with the Constitution no one had a monopoly of political activity. Consequently those elected to the Soviets of Peoples Deputies and even to the Supreme Soviet of the Republic included a percentage who were not members of the Communist Party. He also pointed out that the fact that trade unions were not required to register with State bodies was designed to ensure a basis for the free and voluntary creation and functioning of trade union organizations. With regard to the right to strike he explained that in the conditions of the Ukrainian society economic strike had been abandoned as a method of defending the interests of the workers. As regards mass action, he referred to article 48 of the Constitution which guaranteed workers freedom of assembly and the freedom to conduct street processions and demonstrations.

283. As regards articles 23 and 24 of the Covenant, he stated that in the event of divorce the interests of the children were fully protected. Every provision was made for the care of the children of working mothers. As to the question whether one of the functions of the family in his country was the construction of communism, he stressed that that did not constitute a violation of the Covenant because the construction of communism was the highest aim of development in Ukrainian society. Replying to another question he stated that children whose parents were both Ukrainian SSR citizens would be Soviet citizens and that if one of the parents was a foreigner they would still be Soviet citizens.

284. In reply to questions under article 25 of the Covenant, the representative stated that the right to submit candidacy for elections was not limited to members of the Communist Party. Members of the youth organizations, trade unions and persons in the military service also enjoyed this right. At present 30.9 per cent of the Deputies were non-Communist Party members. With regard to the process of the election of deputies, new laws had been adopted concerning the election to the Supreme Soviet and to the local councils of Peoples' Deputies. According to these new laws deputies could be dismissed and asked to retire if the people who had elected them were not satisfied with the performance of their functions. Recently more than 60 deputies had been dismissed for a number of reasons.

285. Replying to questions relating to article 27 of the Constitution he stated that the equality of rights of all Soviet citizens of whatever nationality was a principle enshrined in the Constitutions of both the USSR and the Ukrainian SSR.

In accordance with articles 34 and 43 of the Ukrainian Constitution all citizens had the right to education in their own language. Jewish communities in his country had the right to open their own schools. As a rule court proceedings were conducted in the Ukrainian language but they could be conducted in the language of the majority of the population of the locality in question. According to the Constitution citizens who did not know the language of the proceedings could address the court in their own language and the services of an interpreter would be provided. Any granting of privileges to citizens because of racial or national differences and any incitement to hostility or hatred between nationalities were punishable by law. The term "nationality" meant the fact of belonging to a distinct "national group" or "nation", the latter terms being used for either small or larger groups of people with the same language, culture and historical background. The study of Ukrainian was compulsory in all schools. It was entirely up to the parents to decide whether they wished their children to attend a school giving instruction in their own language. There were radio broadcasts and newspapers in all the languages used in his country.

Syrian Arab Republic

286. The Committee considered the supplementary report 10/ submitted by the Syrian Arab Republic (CCPR/C/1/Add.31) at its 158th and 160th meetings, on 2 and 3 August 1979 (CCPR/C/SR.158 and 160). The issues were considered topic by topic.

287. The report was introduced by the representative of the State party who stated that the International Covenant on Civil and Political Rights, which had been ratified and promulgated by his Government, was compatible with its constitutional system and was therefore an integral part of the internal law of the Syrian Arab Republic. Its provisions may be invoked by any citizen before the judicial or administrative authorities. He pointed out that his country was entitled, like any other State party which may face danger and threats to its national security, as Syria did due to the continued occupation of parts of its territory by Israel, to derogate from some of its obligations under the Covenant in accordance with article 4 thereof, to the extent strictly required by the exigencies of the situation. Citing a declaration by the President of the Syrian Arab Republic before the National Council, the representative stressed that no state of emergency existed in his country and that martial law was not applied any more except when the security of the State was in danger. He finally stated that the two reports submitted by the Syrian Arab Republic should be viewed in their proper perspective, that is to say, in the context of the conflict in the Middle East which was threatening the life of the nation and that, owing to the fact that part of the Syrian territory was under foreign occupation, his Government could not implement the provisions of the Covenant, particularly article 40 thereof, since it was unable to secure and protect the rights and freedoms of the inhabitants of its occupied territories.

288. Members of the Committee expressed their appreciation for the readiness of the Government of the Syrian Arab Republic to continue the fruitful dialogue with the Committee which started at its second session and recalled that the report of the Syrian Arab Republic was the first to be submitted and considered under article 40 of the Covenant and that that country was one of the first countries to submit a supplementary report.

289. Referring to the statement in the report as reiterated by the representative of the Syrian Arab Republic to the effect that as soon as it was ratified and promulgated by the competent authorities in his country the International Covenant on Civil and Political Rights became an integral part of the Syrian internal law, members of the Committee asked what legislative procedure had been followed to that end; whether the Constitution of the Syrian Arab Republic provided for the automatic incorporation of international treaties into the internal law of the country; whether laws that existed at the time of the ratification of the Covenant and were not consistent with its provisions were automatically abrogated by the fact of such ratification or by special laws; whether it was possible for an individual directly to invoke the provisions of the Covenant before the judicial and administrative authorities and, if so, how frequently did that occur; whether

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10/ The initial report (CCPR/C/1/Add.1/Rev.1) was considered at the 26th meeting held on 16 August 1977 (CCPR/C/SR.26). See also Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44 and Corr.1), paras. 113-115.

the law provided for the prompt implementation of judicial decisions based on the provisions of the Covenant; and whether the provisions of the Covenant were well known among members of the legal profession. In this connexion the question was also asked as to which provisions would prevail if a conflict did arise before the courts between the Covenant and the Constitution or other laws, including those which came into force after the Covenant, and which courts, if any, were competent to decide on this question as well as on whether a certain law or administrative act was compatible with the provisions of the Covenant. The question was also asked as to whether written and customary laws existed side by side in Syria and, if so, whether a written law such as the Covenant would, in case of conflict, prevail over the customary law.

290. Referring to article 2 of the Covenant under which each State party undertook to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, and referring to the fact that certain elements of the Syrian armed forces were known to be stationed outside Syrian territory, one member asked whether it was the view of the Syrian Government that the provisions of that article of the Covenant conferred a responsibility on it in respect of the acts of those forces outside Syrian territory and, if so, what instructions were given to them and in what manner.

291. Replying to the questions summarized above, the representative of the Syrian Arab Republic stated that there was no contradiction between the Covenant and the Constitution of his country; that, had that been the case, the Syrian Arab Republic would have first amended its Constitution or refrained from ratifying the Covenant, for the Constitution was supreme and any other instruments to which his country became party had to be in conformity with the Constitution; that, in case of conflict between the provisions of the Covenant and existing law, the provisions of the Covenant would prevail and automatically amend that law. Noting that the Covenant had recently come into force, he stated that, to his knowledge, its provisions have not yet been invoked before the Syrian courts. Referring to a case involving a labour dispute in which the Syrian court ruled that the provisions of the international instrument concerned prevailed over the existing law, he pointed out that he was certain that, had the Court of Cassation to decide in another case involving contradiction between a national law and the Covenant, the court would rule in favour of the latter. Replying to a question concerning the enforceability of a court decision based on the Covenant, he stated that he was not aware of any court decision which had not been executed. Replying to a question concerning the status of customary law in his country, he referred to article (I) of the Civil Code of the Syrian Arab Republic which provides that, in case there is no provision in the code relating to a matter falling within its scope, the magistrate may judge on the basis of Islamic jurisprudence or in accordance with customary law or the principles of equity.

292. Replying to the question concerning article 2 of the Covenant, the representative stated that the soldiers of Syrian nationality who served in Lebanon were part of the Arab Force of Dissuasion which was created by the League of Arab States. As it was the case with the United Nations forces stationed in Lebanon, this force was there to keep order and that it was under the direct command of the President of that country.

293. With reference to article 4 of the Covenant, it was noted that only a brief reference was made in the report to the state of emergency, and accordingly, to the derogations that may have been made under article 4 of the Covenant. More information was requested on the specific rights that may be derogated from, the extent of such derogations and their justification; the laws and regulations which were applied in such a case and the manner in which the state of emergency affected the judiciary and the protection of those human rights that it was not possible to derogate from under article 4 of the Covenant. In this connexion reference was made to paragraph 3 of article 4 of the Covenant which requires any State party to the Covenant availing itself of the right of derogation to inform immediately the other States parties to the Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the justification for the strict necessity of the derogations. Members observed that the Committee had not been made aware of such derogation and requested detailed information regarding derogations which may have been made in the Syrian Arab Republic. Information was requested on the exact nature of the state of emergency, if any existed, and, if it did exist, when would it cease to have effect.

294. Commenting on the impact of a state of emergency on the independence of the judiciary, members sought detailed information on the extent to, and manner in which, judicial institutions were functioning in the Republic. With reference to paragraph 1 of article 4 of the Covenant which requires a State party to use its right of derogation to the extent strictly required by the exigencies of the situation and to the fact that the provisions of article 14 were not included among the articles from which no derogation was permitted under article 4 of the Covenant, members sought information on the security courts that have replaced the military courts on the difference between the jurisdiction and procedures applicable to the security courts and the military courts which they have replaced; and on the guarantees enjoyed by accused persons brought before them. In this connexion it was noted that States tended to resort more easily to the death penalty in emergency situations and the question was asked whether any information could be given on the use in the Syrian Arab Republic of that penalty.

295. Replying to the questions concerning article 4 of the Covenant, the representative of the Syrian Arab Republic stressed that the conditions under which a state of emergency could be proclaimed were contained in a decree dated 22 December 1962. In accordance with this decree, a state of emergency may be declared in the event of war or in a situation conducive to war, when the security of the State or public order (ordre public) was threatened. The representative pointed out that a state of emergency could only be proclaimed by a decision of the Council of Ministers chaired by the President of the Republic; that it could be declared for the entire territory of the Republic or for only some parts of it; and that, once proclaimed, the state of emergency would restrict such personal freedoms as those of assembly and movement and would also allow the preventive detention of suspects who may endanger the security of the State or public order.

296. Replying to the questions concerning military and security tribunals, the representative pointed out that the military tribunals had been abolished and that only the Superior Tribunal of Security was in existence. As to the rights of the accused before this Tribunal, he referred to a decree which provided that, without prejudice to the right of defence stipulated in the laws in force, the State Security Tribunals were not bound to conform with the procedures provided for in existing legislation in all procedural stages of investigation and judgement.

He also pointed out that judgements of the State security courts were not executed unless approved by the Head of State. In this connexion and with reference to the question on the use in Syria of the death penalty in emergency situations, he stated that the death penalty was provided for in the Penal Code in connexion with premeditated murder and crimes against the security of the State. The imposition of this penalty was relatively rare and those condemned to death could appeal for pardon.

297. In connexion with articles 9 and 14 of the Covenant the question was asked whether there were still any persons held for political reasons in prison without trial and if so how many, for how long and since when. Information was requested by members of the Committee on the procedure and conditions applied in the appointment and dismissal of judges, on the measures taken to ensure their independence; and on whether women could be appointed as judges in Syria.

298. In replying to questions raised with reference to the provisions of article 14 of the Covenant, the representative of the Syrian Arab Republic stressed that the Constitution guaranteed the independence of the judiciary from the executive. He pointed out that judges were appointed by the President of the Syrian Arab Republic, and that once appointed judges became immune and could only be dismissed by a decision of the Supreme Judicial Council if and when they themselves violated the law. He further stated that there were in fact women judges in courts having jurisdiction over young persons.

299. The representative of the State party informed the Committee that he would transmit its request for further clarifications to his Government.

United Kingdom of Great Britain and Northern Ireland (dependent territories)

300. The Committee considered the second part 11/ of the initial report submitted by the United Kingdom (CCPR/C/1/Add.37) at its 161st, 162nd and 164th meetings, on 6 and 7 August 1979 (CCPR/C/SR.161, 162 and 164). The report covered all the remaining dependent territories administered by the United Kingdom in respect of which the Covenant has been ratified.

301. In introducing the report the representative stated that document CCPR/C/1/Add.37 contained information prepared by the authorities of 11 different dependent territories for which the United Kingdom was responsible. Since 1945, when the Charter of the United Nations formally acknowledged the principle of self-determination for colonial peoples, successive British Governments had given every help and encouragement to dependent territories wishing to become independent.

11/ The first and third parts of the initial report and the supplementary report to the first part which covered the United Kingdom and the Channel Islands and the Isle of Man respectively, were considered by the Committee at its 67th, 69th, 70th, 147th, 148th and 149th meetings (CCPR/C/SR.67, 69, 70, 147, 148, 149). See paras. 228-247 above and Official Records of the General Assembly, Thirty-third Session, Supplement No. 40 (A/33/40), paras. 184-226. The Committee was informed of the text of a note received from the United Kingdom Mission at Geneva to the effect that the Gilbert Islands were to receive their independence on 12 July 1979, and accordingly, from that date the United Kingdom Government would cease to have any responsibility for the Gilbert Islands.

To that end, it was committed to the creation of competent political and economic institutions in its dependencies. At the same time, it had been a consistent part of its policy that no territory should be forced into independence against the will of its population. That policy meant that, subject to the overriding responsibility for good government, the United Kingdom Government did not seek to substitute its own judgement or instructions for the will and decisions of local governments responsible to their own people. The United Kingdom Government considered it proper for the administering Power not to interfere, so long as the decision was arrived at by the people of a territory through due democratic process, and as long as it did not offend the basic principles of the Covenant. The guiding principle of the Government of the United Kingdom was that the wishes of the people must be paramount.

302. Each of the territories for which information was provided had its own separate and distinct legal system. While there were common elements there were also many differences of detail and occasionally even of principle, depending on the wishes of the local authorities. The fact that the information in the report had been prepared by the authorities of the dependent territories themselves was consistent with the measures of autonomy which they enjoyed. The varying substance of the report reflected the widely varying circumstances of the territories themselves. Some were small territories where local institutions of government were still very simple; others were larger territories effectively self-governing, with well developed democratic institutions and with the United Kingdom's responsibility under the Constitution now confined mainly to defence, security and external affairs. He finally pointed out that his delegation did not expect to be able to answer there and then all questions which required a detailed knowledge of the laws and practices of the 11 territories covered by the report. Therefore, as on past occasions, replies to questions which might have to be referred to the territories concerned would be submitted in writing at a later stage.

303. Members of the Committee expressed their appreciation for the comprehensiveness which characterized the report under consideration. Many questions centred on the implementation by the United Kingdom of the right of peoples to self-determination enshrined in article 1 of the Covenant. References were made to the statements in the report to the effect that it was the policy of the United Kingdom to grant independence to any territory which sought it but not to compel any into it and that some territories had not expressed a wish for independence. Members asked how could people be compelled into independence; were there people who struggled against independence and if so, where and how. It was stressed that continued dependency was a continued violation of article 1 of the Covenant and of the relevant resolutions of the General Assembly under which the administering Powers were duty-bound to take positive steps and effective measures to enable the peoples of these territories to decide their status and exercise their right to self-determination and to full control over their natural resources. In this respect, it was observed that the United Kingdom interpreted its obligations in a passive manner and did not make any effort to facilitate the exercise of the right of self-determination by the peoples of the territories. A Green Paper published in Bermuda in 1977 on the possible advantages and disadvantages of an eventual independence was mentioned as a typical example of that interpretation. Questions were asked on whether the Government consulted regularly and democratically the peoples of the dependent territories concerning their wish to attain independence or otherwise.

304. Referring to statements in the report, members asked which constitutional process had been followed to determine that the population in the Cayman Islands and Pitcairn did not wish any constitutional changes or to ascertain the true wishes in this respect of the peoples of the other dependent territories. More information was requested on the future prospects of Hong Kong and Gibraltar in view of their close links with China and Spain respectively, and of Belize and the Falkland Islands in view of the claims thereto by Guatemala and Argentina respectively. Referring to the British Indian Ocean Territory which he understood to be a new dependent territory created in 1965 and consisting of such islands as Diego Garcia and other parts of the Chagos Archipelago, one member expressed concern at the fate of the people who used to live there and asked whether these people had the right to return to the place of their birth; whether they had received compensation for their property when they were, as he understood, forcibly removed from their islands; and whether there were any actions before the courts in the United Kingdom relating to their rights. With regard to the people of Ocean Island who had been settled elsewhere, apparently against their will, and had initiated action in the United Kingdom for the restoration of their rights, it was asked whether that island formed part of the Gilbert Islands which had recently obtained independence; and whether the inhabitants had been consulted in this regard. Information was also requested on the status of the New Hebrides.

305. Noting that people had the inherent right not only to be aware of the resource margins around their territory but also to have a say in the way those margins were exploited and that because of their geographical characteristics as islands, many dependent territories had important prospects for economic development, one member asked to what extent the interests of these peoples were taken into account by the United Kingdom in international forums such as the United Nations Conference on the Law of the Sea; whether anything was being done to make the people of the dependent territories aware of their rights; and who represented the territories in the event of a conflict between the rights of those people and the right of the United Kingdom with regard to the principles which ought to apply in the delimitation of resource margins.

306. As regards article 2 of the Covenant, it was pointed out by members of the Committee that in all the territories covered in the report the entire administrative and judicial structure depended on the power vested in the Governor of the Territory appointed by the Queen of England; that so long as the colonial structure persisted, the implementation of the Covenant must remain in doubt since it was clear that the peoples of these territories themselves had very little influence; and that the relevant Constitutional Orders did not fully correspond to the conception of the Covenant since they were much narrower in their impact and reflected a specific political model. In this connexion, and with reference to a statement in the report concerning the British Virgin Islands, one member stated that it was of the highest importance that fundamental rights be written into the Constitutions of the dependent territories. He considered that it was the responsibility of the United Kingdom under the Covenant to ensure that these rights were given effect in law and not simply left to the discretion of the local legislative authorities because the international obligation lay with the United Kingdom as such and not with those territories. Questions were asked on what measures had been taken to ensure the wide publicity of the text of the Covenant in the dependent territories; and whether the expression "widely respected and protected" used in the report to describe the status of human rights in the Cayman Islands meant that they were not completely respected. Noting that the Covenant did not itself have the force of law in the territories, members asked

whether it could nevertheless be invoked before the courts and which law prevailed in case of a conflict between the provisions of the Covenant and those of the domestic legislation. In this connexion questions were asked as to whether the United Kingdom legislation applied automatically in the non-autonomous territories and what happened in the event of a conflict between local law and United Kingdom law. Referring to the statement in the report that the Cayman Islands were bound by the European Convention on Human Rights, members asked whether the European Convention was also applicable to the other dependent territories.

307. Noting that the Bermuda Constitution Order 1968 appeared to permit discrimination based on sex, that the report on the British Virgin Islands indicated that it was possible for individuals to bring action against officials and that such proceedings were regulated by the Crown-Proceedings Ordinances, members asked whether such actions were possible in all the territories, and if so, whether there were restrictions placed on litigants in terms of time and procedure and whether there were, in those proceedings, restrictions that did not exist in cases brought by one citizen against another.

308. With reference to article 3 of the Covenant, one member noted that the reports on most of the dependent territories were silent on its implementation. It was however also observed that the Bermuda Constitution Order 1968 appeared to permit discrimination based on sex. Information was requested on the steps taken by the United Kingdom to ensure equality between men and women and on the number of women officials in the executive, legislative and judicial bodies of the territories and the number of women doctors, professors and other professionals. The question was also asked as to whether women leaving or entering the territories were subjected to special restrictions and, if so, whether such control was conducted by the officials concerned on special instructions from the Government. In this connexion, it was asked whether any distinction was made between citizens of the United Kingdom and those of the territories.

309. With respect to article 4 of the Covenant, it was noted that most reports of the territories did not make any reference to the implementation of this article. However, article 14 of the Constitution Ordinance 1968 of Bermuda contained provisions for time of war or emergency which seemed to be of a wider scope than those provided for in the Covenant, while article 16 of the Constitution of Gibraltar was rather vague in this regard. Questions were asked as to what were the effects of an emergency on fundamental rights and freedoms; whether these provisions had been applied to these two territories; and whether similar provisions existed in the other territories.

310. In respect of article 6 of the Covenant questions were asked on the rate of infant mortality in the territories as compared with the rate in the United Kingdom; and whether there was any prospect of the abolition of the death penalty in the territories. Clarification was requested regarding the length of what was described as detention "during Her Majesty's pleasure", which was stated in the report on Bermuda to be in lieu of the sentence of death pronounced on a person who was under 18 years of age. Referring to the report on the Turks and Caicos Islands, one member questioned whether setting the age of 16 as the minimum age for the imposition of the death penalty was consistent with the Covenant. It was noted that the reports on the British Virgin Islands, Cayman Islands, Gibraltar and Hong Kong contained information concerning the laws governing the crime of genocide. Questions were asked about the legislation concerning this crime in the other territories and about the crimes which were punishable by a death sentence.

311. In connexion with article 7 of the Covenant, members of the Committee expressed their grave concern at the existence of corporal punishment in the British Virgin Islands, the Turks and Caicos Islands and Hong Kong. Since this kind of punishment no longer existed in the United Kingdom, members of the Committee wondered whether it should continue to be applied in the dependent territories. In this connexion reference was made to the report on Gibraltar which described solitary confinement as one of the punishments that could be applied in that territory and whether this did not, in the view of the United Kingdom, constitute inhuman treatment. It was also asked whether the legislation in the territories provided for persons to be subjected without their free consent to medical or scientific experimentation; whether the immediate relatives were asked for their agreement and who took the final decision in this matter.

312. With regard to article 8 of the Covenant, the question was asked whether any cases of forced labour existed in the territories. Referring to the report on Pitcairn, one member enquired whether the public work referred to was paid; who decided whether work was public; for how long such work was performed; whether the length of time was left to the discretion of the administration; and what remedies were available in the event of dispute. It was noted that in the reports of Belize, Gibraltar and St. Helena it was stated that, in cases of breach of contract, the courts would not generally order specific performance. Questions were asked as to whether there were exceptional cases in this regard; whether labour disputes were solved in accordance with the normal civil law or specific labour laws; and whether restrictions existed in the field of employment on the basis of race. The representative was also asked whether all the remnants of slavery had been abolished in the territories.

313. With reference to article 9 of the Covenant, it was observed that the Bermuda Constitution Order 1968 provided for the deprivation of liberty of a person for specific purposes, but it did not indicate what legal safeguards existed against the misuse of that provision. Referring to the paragraphs in the reports on Belize, the British Virgin Islands, Gibraltar and Hong Kong, which stated that, in general, an arrested person must be informed of the true ground of his arrest, information was asked about the exceptions in this respect. More information was sought concerning bail in some territories such as Belize, the British Virgin Islands, Gibraltar, Hong Kong and Pitcairn, in view of the financial implications it might have on the less privileged. The question was asked as to whether detention was under the control of the local police or that of the metropolitan Government.

314. More information was requested on the implementation in the dependent territories of article 10 of the Covenant. Referring to statements in the report concerning the arrangements that existed between the territories for the execution of sentence of imprisonment, some members asked whether such arrangements were also made between the United Kingdom and the territories, and if so what facilities were provided for family visits in view of the great distance between the prisoners and their relatives. Mention was also made of a statement in the report on Hong Kong to the effect that a convicted prisoner could be required to do useful work for not more than 10 hours a day and that minors could be sentenced to detention in a training centre for a period of six months to three years. The question was asked whether, in the view of the United Kingdom, this did not constitute a violation of articles 10 and 24 of the Covenant and, if so, whether the United Kingdom could not ask the Governor of Hong Kong to bring about the necessary changes in this regard.

315. With reference to article 12 of the Covenant, clarification was requested on the reasons for the reservation to paragraph 4 of this article in respect of the Cayman Islands. It was also asked whether all persons residing in the dependent territories could live in the United Kingdom without the fulfilment of any formalities.

316. In respect of article 13 of the Covenant one member, referring to the report on the British Virgin Islands, asked the justification for the deportation of a person who was destitute. He also asked what was the justification for extending a deportation order to the wife and children of the alien concerned and whether this would not constitute discrimination based on sex. It was noted that, according to the report on Belize, aliens could be deported without having the opportunity to have their cases reviewed resulting in a violation of article 13 of the Covenant. Questions were asked on whether guarantees existed in the territories against the deportation and expulsion of persons who took refuge in the territories; the reason for the reservation on the application of this article in Hong Kong; and whether the Government was contemplating the withdrawal of this reservation. More information was requested with regard to the rights enjoyed by aliens in the territories. Did they, for example, enjoy political rights?

317. As regards article 14 of the Covenant, questions were asked on whether judges were recruited from the local population or from the metropolitan population, and how the independence of judges was guaranteed in the dependent territories. Noting that the Constitution Orders provided that a person should be presumed innocent until he was proved or pleaded guilty, one member wondered whether this might not open the way for by-passing the presumption of innocence, for example by putting pressure on an accused person to make confessions of guilt. Clarification was requested with regard to the appeal procedure applied in Belize and Hong Kong where specific leave to appeal was required; the right of the accused in Gibraltar to interpretation throughout the court proceedings; the extent to which a victim in the Turks and Caicos Islands could bring an action against the authorities if there were no legal provisions for compensation from public funds; and the extent to which the procedure for making ex gratia payments in other territories was in conformity with paragraph 6 of article 14 of the Covenant.

318. In respect of article 17 of the Covenant, more information was requested on the guarantees for privacy of correspondence in Belize; and on the justification for the interception of correspondence of prisoners in the British Virgin Islands, Gibraltar and Pitcairn.

319. In connexion with article 18 of the Covenant, questions were asked on whether there was a dominant religion in the territories; whether the local religions were respected; which religions were prohibited; was atheism prohibited; and were the people allowed to express their opinions and their socialist convictions. Referring to the report on Belize, one member stated that, if parents were required to obtain special permission for their children to absent themselves from religious worship and instruction, this could be considered a violation of article 18 of the Covenant. It was noted that freedom to manifest one's religion or beliefs was restricted by law in Belize, the British Virgin Islands, Gibraltar, Montserrat and the Turks and Caicos Islands only to the extent that this was necessary to secure public safety, order, health or morals, or the rights of others and more information was requested on these restrictions.

320. With reference to article 19 of the Covenant, members of the Committee asked whether the list of exceptions to freedom of expression contained in paragraph 58 of the report on Belize was exhaustive and, if not, what other restrictions existed; what was the meaning of the expressions "blasphemous" and "seditious" used in that paragraph; what punishment was provided for sedition; what recourse a citizen of a dependent territory had if he thought that his freedom of expression had been violated; and, with reference to the report on the Turks and Caicos Islands, what were the restrictions imposed on public officers in respect of their freedom to express opinions.

321. With reference to article 20 of the Covenant an explanation was requested on the meaning of the sentence "a reservation has been entered to reserve the right not to amend or introduce further legislation on this subject" contained in paragraph 25 of the report on the Cayman Islands. It was asked whether the statement in the same paragraph that advocacy of hatred in certain circumstances was an offence under the Public Order Law 1973 meant that such advocacy was not otherwise an offence. It was also noted that none of the dependent territories seemed to have legislation prohibiting war propaganda as required under article 20 of the Covenant.

322. With reference to articles 21 and 22 of the Covenant, explanations were requested on the expression "in the interests of the community as a whole" which justified the restriction on freedom of assembly in Belize, the British Virgin Islands, Gibraltar and Hong Kong, and on the statement in the report on the Cayman Islands that members of the Civil Service were precluded from taking an active part in any political arguments or electoral campaigns but were free to belong to a political party and to vote.

323. In respect of articles 23 and 24 of the Covenant questions were asked on what the legal age for marriage in Belize was; whether in the British Virgin Islands a woman could ever be considered head of the family; who received child custody in case of divorce; whether there were provisions for the payment of alimony; how widows and children were protected; and whether a husband in Gibraltar could legally rape his own wife if they were not separated; and whether there were, in St. Helena, any provisions for family planning. It was noted that in the British Virgin Islands a woman could lose her nationality if she married a foreigner and the question was asked whether that did not constitute a violation of article 23 of the Covenant. It was also asked why the status of children born out of wedlock in the dependent territories seemed to be inferior to that of other children.

324. In connexion with article 25 of the Covenant, members of the Committee asked how the rights of the people provided under this article of the Covenant were guaranteed so as to ensure their active participation in the conduct of public affairs; and what was the percentage of the indigenous officials in the governments of the territories. They referred to the statement in the report on Belize that only English-speaking citizens could be elected Members of the House of Representatives and to other conditions relating to property and income for candidature in an election, and pointed out that these language requirements were not in accordance with articles 25 and 2 of the Covenant. Questions were asked as to who presided over the legislative council of the Falkland Islands; what authority did the members have and what ethnic groups did they represent; how and under what criteria were the executive and legislative councils in Hong Kong appointed; whether, under the circumstances, the people of Pitcairn could really take a firm stand on matters affecting relations between them and the United Kingdom; why only

male persons in Pitcairn over the age of 21 years were eligible for election to the office of Island Magistrate or the Chairman of the Internal Committee; what were the conditions required by the candidates for public office in Gibraltar, and why, in the Turks and Caicos Islands, public officials were excluded from the election to the legislative council.

325. It was noted by a member of the Committee that, with regard to article 26 of the Covenant, the authors of the report had used Dicey's concept of equality before the law as part of "the rule of law", that is to say, equality before the courts. This definition applied to article 14 of the Covenant. Article 26, however, did not refer only to this Diceyan concept of equality before the courts, but also to the "egalitarian" concept of "equal protection of the law", in the sense of non-discrimination. Thus, article 26 was not as restrictive as indicated in paragraph 136 of the report on Hong Kong, paragraph 112 of the report on Gibraltar, paragraph 145 of the report on the British Virgin Islands, but rather had the wider egalitarian meaning which was to be found in paragraph 39 of the Bermuda report and paragraph 75 of the Belize report, in which the authors accepted the post-Second World War definition which prohibited all discrimination.

326. With reference to article 27 of the Covenant, the question was asked whether Chinese or English was used in the administration of Hong Kong and whether Chinese was the medium of communication within the Chinese community. One member pointed out that the text of the report on Montserrat dealing with article 27 of the Covenant was not very clear because it said nothing about the actual practice and therefore required some explanation. Referring to paragraph 75 of the report on Belize which stated that that territory's laws applied equally and without discrimination "to all nationals and aliens" some explanation was requested, inasmuch as knowledge of English was a condition precedent to membership in the legislature, thus constituting discrimination.

327. With regard to the question of the preservation by the peoples of the territory of their own customs, language and culture, the following questions were asked: whether they were allowed to have their own schools where their own language was the medium; whether their cultures, rites and religious practices were encouraged; whether they were provided with medical aid and social security; and whether child labour was allowed. With regard to the problems of the identity of the dependent territories the question was asked as to whether there was a policy to safeguard this identity or rather a policy of assimilation through the medium of the English language.

328. From the statement contained in paragraph 74 of the report on Belize, there appeared to be a grave risk of assimilation being carried out in that territory by a policy designed in effect to suppress the Spanish language. If this were true, it would constitute a violation of article 27 of the Covenant.

329. The representative of the United Kingdom replied to those of the observations and questions summarized in the preceding paragraphs on which he could comment at least in part, subject to the possibility of amplifying or modifying those comments later when the questions and observations made by members of the Committee had been fully studied by the authorities of the dependent territories concerned.

330. Responding to questions under article 1 of the Covenant he stated that British colonial policy was governed by a principle which could aptly be summarized as "stay if you like, go when you wish". He was in agreement with members of the

Committee that in 1979 colonies constituted an anomaly but at the same time there was a dilemma: if the people wished to remain there would be certain constraints imposed on their wishes, including the matter of helping the United Kingdom perform its international obligations. Experience had demonstrated that there was no panacea but each territory must be treated on its own merits and according to its own wishes. It should also be recalled that while General Assembly resolution 1514 (XV) of 1960 dealt with independence, the Covenant spoke of the right of self-determination. In his opinion, St. Helena would never be able to achieve independence. He gave additional information concerning the political development in each of the 11 territories which he divided in two groups; the first group which might be termed "political" dependencies included Hong Kong, Gibraltar, Belize and the Falkland Islands and the second group consisted of what might be termed the "normal" colonies, which comprised the rest.

331. Because of the geographical and historical circumstances of Hong Kong, the members of the Executive and Legislative Council were not elected although members of the urban council were. However, considerable efforts were made to ascertain the views of the interested parties and act accordingly. In his experience the Hong Kong Government was obliged to take more account of public opinion than were those of some neighbouring independent territories. The Chinese language was freely used in communications between the Government and the public at large.

332. For the United Kingdom Government, the wishes of the people of Gibraltar were paramount. As shown by the result of the election of 1976, people in Gibraltar were opposed to being placed under Spanish sovereignty. There was a House of Assembly and an official Opposition.

333. As for Belize, all has been set for independence for several years. Only international political difficulties constituted an obstacle and discussions were in progress to solve the problem. Elections would be held within a few months.

334. The population of the Falkland Islands had been given the assurance by the United Kingdom that any proposals affecting their future must be acceptable to them. He informed the Committee that the population of the territory was only 1,800: nearly all of them were of British descent and 80 per cent were born in the territory. On many occasions the people had expressed the desire to retain their links with the United Kingdom. There was at present no demand for independence. Discussions continued with Argentina to solve the international political aspects of the problem. He informed the Committee that recently a Minister of the United Kingdom visited Buenos Aires, as well as the Falklands, for this purpose. As requested he gave detailed information concerning the system of government of the islands.

335. With regard to the other dependent territories, that is to say, the "normal" colonies, the representative provided the Committee with the following information: (a) Bermuda: In 1977 the Government of Bermuda published a Green Paper on independence. Two studies undertaken by the United Bermuda Party, which was the party in power, showed that the majority did not want independence. A White Paper would be published in the near future. In his personal view, Bermuda would eventually become independent but not for several years. (b) The British Virgin Islands: The people of the territory did not want independence in the near future. The question of independence was not raised during the election in 1975 and most likely would not be an issue in the next election scheduled later this year. The territory would probably become independent, but only, when, with the aid of the

United Kingdom, its economy became stronger. (c) The Cayman Islands: the people were strongly opposed to any discussion on independence and to any new constitutional changes, which in their view, would inevitably lead in that direction. The visit of the United Nations Committee of 24 to the Islands in 1977 was very much resented not only by the people, but also by the local press and some members of the Government. The United Kingdom was blamed for this visit and he had been asked to ensure that no such visit occurred in the future. In his view, the increasing political instability in the Caribbean would hardly encourage the Cayman Islands to seek independence. (d) Montserrat: General elections were held in November 1978, but the two parties did not raise the question of the future of the territory. There was no movement in favour of independence. The people were free to determine their own future in accordance with the principles of the Charter. It was possible that regional pressure would lead Montserrat eventually to opt for independence, but not before it had consolidated its economy. (e) The Turks and Caicos Islands: The Government of the territory had informed the United Kingdom Government of its intention to ask for certain constitutional changes with a view to moving towards political independence. On the other hand, the Opposition was at present not in favour of independence. His impression was that the party in power would like to make the constitutional changes a prelude to independence provided that it would succeed in consolidating the economy of the territory.
(f) St. Helena: On several occasions the Legislative Council of the territory had informed the United Kingdom Government that the population did not wish to become independent and, accordingly, no further constitutional changes were contemplated. Because of its scarce resources it was very difficult to see how St. Helena could be independent in the foreseeable future. The island relied very much on the United Kingdom for substantial grants-in-aid. (g) Pitcairn: This island was a special case. He agreed with members of the Committee that although the island had only 65 inhabitants their human rights should not be ignored. Fewer and fewer boats passed near the island and they were now very expensive to divert and even then they had to stop at the reefs which surround the island. Much of the required public work mentioned in the report was necessary to man the long boats to transport merchandise to the island. If one day there were not enough people to carry out this job, most likely everyone would have to migrate, for instance, to New Zealand. He said the island had a council of 10 members which exercised legislative powers under the supervision of the Governor. A committee of the council was responsible for traditonal public works and supervised their execution.

336. Replying to another question under article 1 of the Covenant he assured the Committee that there existed frequent ministerial contacts between London and local administrations to find out the wishes of the local population. For example, a Minister of the Foreign and Commonwealth Office was at present holding discussions with the Chief Minister of Montserrat. In this connexion he once again emphasized that British colonial policy was not to force the people of the territories to do something contrary to their wishes.

337. In reply to the question concerning the "exorbitant" power of the governors he explained that colonial governors were not ambassadors but administrators. Nevertheless, they conveyed the wishes and policies of the British Government to the local population. At the same time they very strongly represented the wishes of the local population to London. He added that the Governor was not a dictator because his powers were limited by the restrictions and requirements provided by the laws, the conventions and the instructions of Her Majesty in Council. In general he could not take decisions until after having consulted various persons or bodies. Above all he was responsible for peace and good order in the territory and for the well-being of the people. To this end he was vested with residual powers. In this connexion he referred to article 27 of the Constitution of Belize.

338. With regard to the question concerning Ocean Island, the representative stated that the island was now a part of the new republic of Kiribati inasmuch as it would not have been appropriate for the United Kingdom to lay itself open to a charge of dismemberment of territory before the granting of independence. The situation was not comparable to that of the former Ellice Islands, now Tuvalu, which were separated from the Gilbert Islands as a result of a referendum.

339. Regarding the protection of the natural resources of the dependent territories, he stated that the British Government was very sensitive to the defence of the interests of the peoples of the dependent territories at various international forums, including the United Nations Conference on the Law of the Sea. No immediate benefits would accrue for the United Kingdom in cases of discoveries of deposits of oil, for instance. In this connexion he stated that, for example, if the present search for oil off Anegada in the British Virgin Islands succeeded, the United Kingdom would not directly benefit from the discovery.

340. In response to the question concerning the status of the Covenant in the dependent territories and the incorporation of the provisions of the Covenant in the Orders in Council of these territories, he explained that before the ratification of the Covenant, the Government of the United Kingdom had ensured that the legislation in force in the territories was in conformity with the provisions of the Covenant. He stated that the legislation of the United Kingdom as well as that of the dependent territories contained the principles of common law and equity which in his opinion were not at all nebulous. These principles were solidly founded on decisions of the courts, which had been accumulated in the course of the years. In some of the territories, namely those which were approaching independence, there existed Orders in Council or other constitutional instruments which embodied the provisions contained in the Covenant.

341. As to the question whether the laws of the metropolitan area were automatically applicable in the dependent territories, he stated that some were and others were not. He explained that in colonies which were settled by the British, the principle was that the colonizers brought their laws with them when they settled there. In the case of territories which had been conquered, the existing laws continued in force until they had been amended by the new authorities. In general, following a decision taken locally or more often by the metropolitan public authority the principles of common law and equity were introduced in the territories subject to local laws and the metropolitan laws which had already been in force. In brief, the application of metropolitan law in the territories was not automatic.

342. In response to the question concerning the responsibility of the United Kingdom for ensuring that the dependent territories comply with the provisions of the Covenant, he stated that in principle it was evident that in case a dependent territory failed to respect a certain obligation under the Covenant, the United Kingdom could be held responsible at the international level. As a matter of fact the United Kingdom attached a great importance to the observance by all States of their international conventional obligations and made sure that the legislation of the territories was in conformity with the provisions of the Covenant. Of course, due to local circumstances certain provisions of the Covenant were not always literally reflected in the local legislation. If it proved necessary to amend the legislation, this would necessarily take some time.

343. In reply to a question concerning the declaration of the United Kingdom on the relation between the Charter and the Covenant, he stated that that declaration was made in case there was a contradiction between the provisions of the Covenant and those of the Charter. In fact the declaration may not have been necessary in view of article 103 of the Charter.

344. In reply to the question concerning the New Hebrides, the representative stated that no report was submitted on that territory because the United Kingdom shared responsibility for this territory with France. He added that the New Hebrides could be expected to become independent in the near future.

345. In reply to a question concerning the statement in the report on the Cayman Islands that the territory "is bound by the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms", he explained that this was in accordance with article 63 of the European Convention on Human Rights which stated that any State could, at the time of its ratification or at any time thereafter, declare that the Convention should extend to all or any of the territories for whose international relations it was responsible. Invoking this article the United Kingdom had declared in 1953 that the Convention applied to most of its dependent territories. The following territories were bound by the European Convention: Belize, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, St. Helena and Turks and Caicos Islands. With regard to the right of petition of the individual and acceptance as compulsory of the jurisdiction of the European Court of Human Rights, provided for by articles 25 and 46 of the European Convention, these two provisions were applicable to Belize, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, St. Helena, and the Turks and Caicos Islands.

346. In reply to questions concerning the British Indian Ocean Territories and the bases in Cyprus the representative stated that the Covenant was not ratified in respect of these two Territories.

347. Responding to a question under article 2 of the Covenant as to whether the Crown Proceeding Ordinance of the British Virgin Islands provided sufficient recourse against the Crown, he stated that article 3 of the Ordinance had abolished previous restrictions applicable in cases against the Crown.

348. Responding to a question under article 6 of the Covenant in relation to paragraphs 12 and 13 of the report on Bermuda, particularly concerning the meaning of the term "during Her Majesty's pleasure", the representative stated that the imprisonment in such cases could be about eight to nine years and that the circumstances of each case determined the duration of sentence.

349. With regard to paragraph 10 of the report on Bermuda which dealt with cases when a person could be deprived of his life, the representative called the attention of the Committee to article 2 of the annex to the Bermuda Constitution Order 1968, in particular to the phrase, " to such extent and in such instances as are permissible by law, of such force as is reasonably justifiable" which left it to the court to decide whether the circumstances and the means used in a particular case made the deprivation of life justifiable.

350. As to the question of the death penalty, the Common Law provided only the ingredients for murder but did not define the word murder. Traditionally, crimes

which were punishable by the death sentence were treason, piracy and murder. In most countries where the crime of murder was statutory a distinction was made between simple and pre-meditated murder. The concept of the Common Law, however, made a distinction between "intent to kill" and "killing with malice aforethought", rather than in accordance with the degree of murder.

351. In reply to a question related to the passage in the report of the Turks and Caicos Islands which gave the impression that youths of 16 years of age could be sentenced to death, and to the query concerning the sending of children to centres of detention in Hong Kong, he stated that he would study the matter and communicate the results to the Committee later.

352. Responding to a question concerning what action had been taken by the United Kingdom in connexion with violations of article 3 of the European Convention, which was equivalent to article 7 of the Covenant, the representative stated that if the question was related to the decisions concerning certain practices in Northern Ireland and the decision taken earlier this year on the subject of corporal punishment on the Isle of Man, he reminded the Committee that the reply to the question of the United Kingdom could be found in its supplementary report of 13 September 1978, document CCPR/C/1/Add.35, paragraphs 14 to 17; and in CCPR/C/SR.149, paragraph 3.

353. The question was also raised as to whether the decisions taken under the provision of the European Convention should be applied to analogous provisions of the Covenant. He stated that it would be erroneous to consider the decisions under the provision of the European Convention as conclusive and also binding in respect of similar articles of the Covenant. He reminded the Committee that the two instruments were adopted under different circumstances and there was an interval of 20 years between them. Also the European Convention was an instrument with a regional character, that it would not necessarily be appropriate to apply the same interpretation to analogous provisions of the Covenant which had a world-wide character. However, this did not mean that one should not take into account the decisions of the European Convention, which would be of persuasive weight in construing the analogous expressions used in the Covenant. As to corporal punishment, neither the European Convention nor the Covenant used that expression. It was a matter of interpretation of the term "degrading treatment". The United Kingdom Government would study this question with great care, in particular, as it applied to the different situations of the dependent territories. The observations made by the members of the Committee on this subject were certainly very useful. With regard to specific information requested on corporal punishment in certain dependent territories, the Government would reply in writing at a later stage.

354. In reply to a question under article 8 of the Covenant relating to paragraph 41 of the report on the British Virgin Islands concerning hard labour which could be imposed at the discretion of the court for crimes for which such an option was expressly provided, he said that the competent authorities would be consulted on the matter. Responding to another question under this article, he said that slavery did not exist in any of the territories.

355. Commenting on questions under article 9 of the Covenant relating to bail as referred to in the reports of a number of the dependent territories the representative stated that this measure was intended to secure the liberty of a person and at the same time to ensure his attendance at the subsequent hearing.

The question of payment usually only arose if the individual concerned failed to appear in court. In fact, the judges, in the exercise of their authority, took into account the financial situation of the individual, because the aim of this measure was not to keep someone in prison if he had no financial resources.

356. With regard to the question of compensation for unlawful arrest or detention, he said that in practice article 9, paragraph 5, of the Covenant was applied in spirit. However new provisions should perhaps be contemplated to observe fully the provisions of the Covenant. This question would be studied further.

357. In reply to a question under article 10 of the Covenant related to paragraph 5 of the report on St. Helena, he believed that the punishment was applied after it had been confirmed by the non-resident Chief Justice. He, however, undertook to seek confirmation of this matter with the authorities concerned.

358. Responding to a question under article 14 of the Covenant related to paragraph 3 of the section of the report on the Turks and Caicos Islands, he said it seemed that the provision was not aimed at the Government but at the authority which was responsible for instituting criminal proceedings maliciously or without reasonable cause. He would provide further clarification on this matter.

359. In reply to a question relating to paragraph 2 of article 6 of the Bermuda Constitution which provided that a person could be declared guilty if he pleaded guilty, the representative stated that in practice the judge may often refuse the confession as a proof. However, one could consider that a plea of guilty in itself was proof of culpability. As to the question of whether the accused was responsible for the cost of the attendance of his witnesses, the representative stated that as far as he could remember, in Bermuda at any rate the cost of the defence witnesses and that of the accused was defrayed from public funds.

360. With regard to the question as to who decided that court proceedings should be held in camera, he said that the decision was in the hands of the judge but that proceedings in camera were extremely rare.

361. Referring to a question in connexion with article 14, paragraph 3 (f) of the Covenant, and paragraphs 39 and 65 of the report on Belize and Gibraltar respectively, the representative assured the Committee that in practice all the pertinent proceedings were interpreted for the benefit of the accused.

362. With regard to the question of the independence of the judges, he stated that in general the judges were appointed and dismissed by the Governor. However, in all these matters he acted on advice of the Judicial Commission. For the dismissal of a judge, the opinion of the Privy Council was indispensable. In practice, this guarantee ensured security of tenure to judges. However, he pointed out that, as in many other countries, the necessary funds for the functioning of the judiciary did not depend on the legislative and executive bodies but were a permanent charge on public funds. The question of inflation, however, should be taken into account in the matter. He believed the question merited further study.

363. The representative stated that if there was a conflict between the provisions regarding the fundamental rights contained in the Constitution of certain territories, the question would be settled by a superior court such as the Supreme Court.

364. In reply to a question concerning the shifting of the burden of proof from the prosecution to the accused, as referred to in the report on Hong Kong, the representative stated that in principle the burden of proof rested on the prosecution. However, in certain special cases it was shifted to the accused, for example in cases where a person was found to be in possession of explosives or dangerous drugs. In this case, it was for the accused to explain the lawfulness of his possession.

365. With regard to the question concerning the entrenchment of fundamental rights and freedoms in Orders-in-Council, for example, the Bermuda Constitution Order 1968, he stated that if the entrenchment was enacted by an Order-in-Council the rights could not be affected by laws adopted by the local legislature. Sometimes, the Order-in-Council contained provisions which stipulated that they could only be amended by a special procedure, for example, by a two-thirds majority of the Parliament or by referendum. These guarantees had proved to be effective.

366. In reply to a question under article 15 of the Covenant concerning the adoption of an ex post facto legislation, he stated that so far not a single territory had enacted legislation in contradiction with article 15 of the Covenant. In this connexion he referred to the reply concerning the United Kingdom in this respect contained in paragraph 16 of document CCPR/C/SR.70 of 1 January 1978, which was also valid for the dependent territories.

367. Responding to a question under article 19 of the Covenant the representative replied that except in Hong Kong, for reasons which were already explained, political parties were allowed; they could criticize freely the local government and the Governor. Voluntary organizations and trade union meetings were allowed to flourish and public meetings and discussions were free and lawful.

368. As to the question asked in relation to paragraph 58 of the report on Belize, he stated that the list of limitations on freedom of expression was exhaustive.

369. Responding to questions under articles 19 and 21 of the Covenant concerning the definition of "blasphemous" and "seditious" he stated that he would provide the Committee with the definition of these expressions at a later stage. In the meantime he called the attention of the Committee to the law on "Sedition and Undesirable Publication" of the British Virgin Islands which contained a definition of "seditious intention" as follows: "An intention to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, her heirs, or successors, or the Government of the Colony as by law established ... to incite the inhabitants of the Colony to attempt to procure the alteration, otherwise than by lawful means, of any other matter in the Colony by law established ... to bring hatred or disaffection among the inhabitants of the Colony". However, the law expressly provided that no publication could be considered seditious simply because it sought to show that the Government had committed an error; to underline the errors or the shortcomings of the Constitution of the Colony; or to persuade the inhabitants of the Colony to try to change by legal means the legislation of the Colony. He stated that a simple criticism of the Government was certainly not a seditious act.

370. Commenting on the observations made on article 20 of the Covenant, the representative stated that the United Kingdom had made a reservation with respect to this article. He referred to document CCPR/C/2.

371. In reply to a question under article 23 of the Covenant concerning the marriage laws in force in Belize, the representative stated that in accordance with the existing law persons below the age of 18 required parental permission to get married. With regard to a question whether the law in the British Virgin Islands provided for alimony and child care in case of divorce, he stated that alimony was provided by article 22 of the Matrimonial Cases Ordinance of the Territory and article 25 of the same Ordinance authorized the court to decide on the custody of the children.

Cyprus

372. At its 165th and 166th meetings, held on 8 August 1979 (CCPR/C/SR.165 and CCPR/C/SR.166), the Committee continued its consideration of the initial report submitted by Cyprus (CCPR/C/1/Add.6) 12/ and the supplementary report containing additional information (CCPR/C/1/Add.28) submitted in reply to questions asked at the 28th meeting.

373. The supplementary report was introduced by the representative of the State party who gave a brief historical background on the situation prevailing in his country since the occupation of 40 per cent of its territories in 1974. He drew the Committee's attention to the fact that his country was thereby prevented from ensuring the implementation of the rights embodied in the Covenant in respect of all inhabitants of its territory. He stressed the fact that, despite these difficulties, the report submitted by his Government was an indication that Cyprus was doing its utmost, in the territory over which it had effective control, to implement the provisions of the International Covenant on Civil and Political Rights.

374. Members of the Committee noted with appreciation that Cyprus was not only one of the first States parties to submit its initial report in accordance with article 40 of the Covenant but that it had also submitted a supplementary report which, it was noted with appreciation, contained a separate account of one set of factors or difficulties affecting the enjoyment of the rights by persons within its jurisdiction as well as relevant cases decided by courts of law.

375. With reference to article 2 of the Covenant, and noting that the Covenant had been incorporated in its entirety into the domestic legislation of Cyprus, members of the Committee observed that the de facto emergency situation in Cyprus must have had the effect of dislocating the institutions set up under the Constitution and asked what measures had been taken to deal with the situation; to what extent the judiciary had pronounced on the matter; whether the doctrine of state necessity had been resorted to with a view to maintaining the orderly conduct of life in Cyprus.

376. Further information was requested on how remedies were guaranteed and what they meant in practice to the individual. In particular, it was asked whether the system of administrative redress under article 29 of the Constitution of Cyprus and the power of the Supreme Court to declare legislation unconstitutional, including the right to compensation under article 146 of the Constitution, was a living reality, or whether it was rarely applied, either because the administration was generally acceptable to citizens or because they were unfamiliar with the available remedies. Further information was requested on the procedures mentioned in the report under which an aggrieved person could seek redress for the violation of his fundamental rights by administrative acts or omissions. Questions were also asked on how often citizens were successful in their claims; how often did the Supreme Court annul an act; and was it necessary to turn first to the Supreme Court and then take civil action in order to obtain compensation.

12/ The initial report by Cyprus was considered by the Committee at its 27th and 28th meetings on 17 August 1977, see CCPR/C/SR.27 and 28 and Official Records of the General Assembly, Thirty-second session, Supplement No. 44 (A/34/44 and Corr.1), paras. 116-118.

377. Detailed information was sought on the nature of the limitations and restrictions to which the fundamental rights and freedoms safeguarded by the Constitution of Cyprus were subjected, in view of the prevailing situation in the country. Members asked whether that situation was or was regarded as an emergency justifying derogation from the Covenant and, if so, what measures had been taken by the Government to that effect.

378. With regard to article 6 of the Covenant, it was noted that the Constitution of Cyprus had rested on a delicate balance of power between the two communities and called for co-operation between their representatives and that, accordingly, the President and the Vice-President of the Republic had the right, each with respect to the members of his community, to exercise the prerogative of mercy towards persons condemned to death. The representative was asked who, at present, was in a position to exercise the prerogative of mercy towards Cypriots of Turkish origin living in the part of the island which was under the control of the Government of Cyprus.

379. In connexion with article 12 of the Covenant, it was stated that following the events in 1974 an exchange of population had taken place and that the Greek Cypriots who had been expelled from the northern part of the island were not allowed to return to it. The question was asked whether Turkish Cypriots who had formerly resided in the southern part of the island were free to return to their homes or were prohibited from doing so.

380. In relation to article 13 of the Covenant, it was noted that, under the Constitution, deportation of aliens was permissible on the grounds of public interest such as the preservation of public security. Information was requested on the provisions governing the legal situation of aliens in the Republic at present.

381. The representative of Cyprus gave a brief outline of the constitutional situation of Cyprus since the establishment of the Republic and clarified the various aspects of the legal system of Cyprus. He explained that the Republic had been established under an international treaty which had given little choice to the people of Cyprus as to the form of the Constitution but presupposed co-operation between the two communities in many fields; and that, following the outbreak of the troubles in 1963, the Turkish Cypriot officials in the Government abandoned their posts. He pointed out that although the Turkish Cypriot members of the judiciary returned to their posts soon afterwards, the Government had had to choose between allowing the structure of the State to crumble or continuing to function to the extent possible under the Constitution and taking such measures as were dictated by necessity in order to enable life to go on as normally as possible - hence the law enacted in 1964 by the House of Representatives and which had been brought before the Supreme Court. He explained that that law had provided for a unified system for the administration of justice in which there would be no more mixed courts and no division in the administration of justice. He explained that it had been doubted whether that law was compatible with the strict letter of the Constitution. The Supreme Court had resolved that doubt and decided that, in view of the difficulties encountered in complying with the provisions of the Constitution which required the participation of the Turkish Cypriot community and of the need for the State to carry on its functions, it was sound and correct to promulgate laws such as the one mentioned above. He pointed out that that was the legal basis on which the Republic of Cyprus had continued to function since 1963 and that,

incidentally, the Supreme Court on that occasion included judges of Turkish Cypriot origin.

382. As regards the questions raised in relation to remedies available to individuals, he stated that article 146 of the Constitution provided remedies for persons whose fundamental rights were violated by administrative acts or omissions. That article, he stressed, represented an innovation in the legal system of Cyprus and its provisions had been applied in thousands of cases as a result of which many administrative decisions had been annulled. As far as the question of compensation was concerned, an individual was entitled under the Constitution to apply to the administrative authorities for redress and to receive a reply within 30 days of his application. If he did not obtain satisfaction, he could appeal to the Supreme Court. In the event of an administrative decision being annulled, the administrative authority concerned was obliged to ensure that the situation of the individual was as it would have been if the act or omission had not taken place. If it was unable to do so, compensation was awarded, either as a result of direct negotiation or through civil proceedings.

383. Replying to questions under article 4 of the Covenant, the representative pointed out that after 1964, all the human rights provisions in the Constitution had been applied strictly, with no derogation in any respect; that even after the events of 1974 the Government had not declared a state of emergency; and that in spite of the difficulties encountered, it had been considered more appropriate not to take any measures which would in any way adversely affect the enjoyment of human rights. He added that the restrictions referred to in the report were those expressly defined in the Constitution such as those concerning the protection of property.

384. Replying to questions concerning article 12 of the Covenant, the representative noted that the expression "exchange of population" did not accurately reflect what had happened. He pointed out that an intercommunal agreement had been reached in accordance with which Greek Cypriots living in the areas occupied by Turkey would be free to join their families in the Government controlled areas and any Turkish Cypriots living in the Government controlled areas would be free to move to the occupied areas. In spite of that agreement, the authorities of the occupied areas had compelled Turkish Cypriots to leave the Government controlled areas for the occupied areas and had failed to provide any facilities whatsoever to enable the Greek Cypriots, who were forced to seek refuge in the Government controlled areas, to return to their homes in the occupied areas.

385. Replying to a question raised under article 13 of the Covenant, he stated that no restrictions were imposed on aliens and that they were afforded the same enjoyment of human rights as the rest of the population, with the exception of the right to vote. They could also be expelled from the country on specific and lawful grounds.

386. Members of the Committee asked, in connexion with article 3 of the Covenant, for statistical data on the principle of equality between men and women; whether the statement made in the report under article 6 of the Covenant to the effect that the death penalty could not be passed on persons under the age of 16 was consistent with the provisions of that article which provided that the death penalty shall not be carried out on persons under 18 years of age; whether, in connexion with article 14, judges were elected or appointed; what was the duration of their

mandate; what were the requirements governing their election or appointment; and whether they could be dismissed.

387. The representative of Cyprus stated in reply that there was no specific legislation regulating equality between men and women but that any provisions contrary to the principle of equality would be declared null and void; and that women could be members of the House of Representatives and hold public office. He stressed that, in case of conflict between the provisions of article 6 of the Covenant and the Penal Code, the provisions of the Covenant would prevail. As to the questions raised in relation to the judiciary, he stated that judges were appointed by the President or the Vice-President of the Republic and could be dismissed by a decision of the Supreme Court on grounds of misconduct or for medical reasons. He pointed out that these conditions were applicable to the Attorney-General and to the Deputy Attorney-General. Members of the district courts were appointed by a Judicial Council which was composed of judges of the Supreme Court and the Attorney-General.

388. Questions were asked on whether genocide was included among the crimes cited in the Constitution and for which the death penalty may be imposed; what measures were envisaged to combat or prevent torture in Cyprus; what was the meaning of the statement in the report that "all religions whose doctrines or rites are not secret are free"; and whether the statement in the report to the effect that "the use of physical or moral compulsion for the purpose of making a person change, or preventing him from changing, his religion is prohibited", was compatible with the Covenant for it was possible in the case of certain religions such as Islam to resort to persuasion to prevent someone from changing his religion. Clarification was requested on section 40, chapter 154, of the Penal Code.

389. In reply, the representative stated that the crime of genocide was not included in the Constitution because it fell under the category of murder. On the question of prevention of torture, he pointed out that a number of measures of redress were available to persons in solitary confinement. As regards the provisions of section 40 of the Penal Code, he explained that those provisions referred mainly to cases where Cypriot citizens would join invaders of the island making it necessary for the Cypriot army to fight against the invaders and other Cypriot citizens who assisted them. The restrictions contained in article 18 of the Constitution were designed to protect public safety, since it was possible, under the cloak of secrecy, to carry out unlawful activities and threaten the security of the State.

Finland

390. The Committee discussed the additional report of Finland (CCPR/C/1/Add.32) at its 170th, 171st and 172nd meetings on 13 and 14 August 1979 (CCPR/C/SR.170, 171 and 172). The initial report of Finland (CCPR/C/1/Add.10) had been considered at the 30th meeting of the Committee on 18 August 1978 (CCPR/C/SR.30).

391. The additional report was introduced by the representative of the Government of Finland, who explained that it contained, inter alia, answers to some of the questions which had been raised by the members of the Committee during consideration of the initial report. The representative stated that it was the constitutional practice in Finland that, before the ratification of a treaty, the Government examined it carefully in order to ascertain whether the existing legislation was in keeping with the provisions of the treaty. That had been done before the

ratification of the Covenant. After consulting an expert committee, the Government had come to the conclusion that the Constitution and other relevant laws were compatible with the Covenant except in a few cases, where the law had been amended immediately, or where a reservation had been made in connexion with the ratification. In the latter cases the discrepancies discerned were felt to be mainly of a technical nature and not violative of the spirit and objectives of the Covenant. In some cases also, the discrepancies were attributable more to structural differences between the Finnish legal system and that envisaged in the Covenant than to any essential difference of principle.

392. In relation to the applicability of the Covenant and its validity as a source of internal law, in accordance with article 2, paragraph 2, of the Covenant, the representative stated that in conformity with the procedure provided for in article 33, paragraph 1, of Finland's Constitution Act, the provisions of the Covenant, in so far as they contained stipulations falling within the domain of legislation, were incorporated into Finnish law by Act No. 107 of 23 June 1975 as a prerequisite for the ratification of the Covenant. Thereafter the Covenant and its Optional Protocol were brought into force in Finland by Decree No. 108 of 30 January 1976. In its position as part of Finnish law, the Covenant had the force of a compelling interpretative standard for the human rights and fundamental freedoms provided for in the Constitution as well as in ordinary laws. The Covenant constituted an international legal obligation on the Government of Finland to see to it that not only existing laws, but also future legislative and administrative measures taken in Finland, were compatible with the corresponding provisions of the Covenant.

393. The democratic form of government, the independent courts and tribunals, including, in the last instance, the Supreme Court and the Supreme Administrative Court, the hierarchal organization and control of the administration under the respective Ministries, the extensive local self-governments and the two high authorities, namely the Chancellor of Justice and the Parliamentary Ombudsman functioning independently from each other, all were striving to safeguard respect for and the enjoyment of the human rights and fundamental freedoms guaranteed to all. The representative reaffirmed the readiness and willingness of his Government to co-operate with the Committee in promoting the protection and enjoyment of human rights and fundamental freedoms.

394. The members of the Committee complimented the detailed character of the report and its consistency with the guidelines of the Committee. Many members expressed the view that the report demonstrated that the Government of Finland was making genuine efforts, in good faith, to live up to the objectives of the Covenant. Members were particularly appreciative of the fact that Finland had made the declaration under article 41 of the Covenant and had also accepted the Optional Protocol. However, some concern was expressed over the continuing scale of the reservations of Finland and the hope was expressed that these could be diminished as soon as possible.

395. As regards article 1 of the Covenant, information was requested on the present status of the Åland Islands, the reasons for this status, whether it was based on the wishes of the people of the island and, if so, how recently those wishes had been ascertained, and whether there had been any wish by the people of the islands for changes in that status.

396. Regarding article 2 of the Covenant, questions were asked as to the status of the Covenant in Finnish internal law and how the Covenant was being applied internally; in particular, whether it could be cited before the Finnish courts; whether it prevailed in cases of conflict either with the Finnish Constitution or with laws enacted in Finland subsequent to the passing of Decree Law No. 107; and whether the law incorporating the Covenant in Finland contained the full text of the Covenant or merely cited it by reference. It was also asked whether Decree Law No. 107 was a part of the Finnish Constitution. Noting that the report of Finland stated that customary law was a part of the constitutional law, members asked for information on the contents of customary laws which were relevant to human rights.

397. Regarding the conformity of the Finnish Constitution of 1919 with the provisions of the Covenant, it was asked whether there was any ongoing review of compliance of the Constitution with the Covenant with a view to re-establishing full conformity. It was also asked whether the Paris Peace Treaty had pre-eminence over the Constitution in the Finnish legal system.

398. Referring to the statement of the Finnish representative that the provisions of the Covenant may be used as an interpretative standard by the Finnish courts, it was asked whether this meant that judicial or State organs could interpret these provisions for themselves or whether there was a special procedure for the interpretation of legislation by reference to the Covenant. It was also asked what was the legislative power of the President of the Republic under the Constitution of Finland.

399. As regards the interdiction of discrimination under article 2, paragraph 1, of the Covenant, clarifications were requested concerning measures taken by the Government of Finland to combat discrimination by private persons in addition to combating discrimination by State organs. Questions were asked as to whether restrictions on the rights of non-citizens to form associations may not amount to discrimination. One member 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.

400. With respect to article 2, paragraph 2, of the Covenant, more information was requested on the competence and functioning of the Chancellor of Justice and the Parliamentary Ombudsman. As regards the Chancellor, clarification was requested as to whether he was, in fact, the highest public prosecutor, as suggested in the report, or rather functioned in the fashion of a Procurator. Clarification was further requested on whether the Chancellor could actually interfere in the operation of the courts. As regards the Ombudsman, information was requested on how he was appointed and what guarantees there were against political interference or influence in the exercise of his functions. Information was requested on the powers of the Ombudsman, particularly in respect of cases where he considered that there had been a violation of the law. It was also asked whether the Chancellor or the Ombudsman could deal with complaints about violations of the Covenant, and if not, whether consideration had been given to the possibility of extending their jurisdiction in this regard. Information was requested regarding the practical operations of, and the results achieved by, the Chancellor and the Ombudsman and whether there was any possibility of conflict between them.

401. With respect to remedies in the Finnish legal system, questions were asked as to which administrative acts could be challenged before the Courts and what procedures were followed.

402. With regard to article 3 of the Covenant, references were made to the Equality Council established by Decree Law No. 455 of 8 June 1972. A number of questions were raised pertaining to this Council, in particular, what were its functions, were they advisory functions or control functions as well, what provisions were made to ensure the representation of women on the Council, was the Council headed by a woman, what percentage of women served on the Council, how did the Council operate in practice, did it keep the situation of equality between men and women under constant review, did it issue regular reports, did it have any competence to handle complaints concerning discrimination on the grounds of sex. Other questions were raised pertaining to equality between the sexes regarding access of women to public office and the acquisition of Finnish citizenship. It was asked whether there were any restrictions as regards public posts for which women could be eligible. It was also asked whether a foreigner marrying a Finnish woman could thereby obtain Finnish citizenship.

403. As regards article 4, noting that the provisions in Finnish law on the declaration of a state of emergency appeared to be rather wide and capable of extensive application in practice, members asked whether the Constitution or the laws of Finland provided for the declaration of a state of emergency outside of war-time situations and, if so, details were requested of the content of the relevant laws.

404. With reference to article 6 of the Covenant, information was requested on measures taken by the Government of Finland to make the right to life a reality, for example, measures relating to maternity benefits and facilities, reduction of infant mortality, nutrition levels for children and adults, standards of hygiene, protection of the environment and the right to work. A request was also made for clarification as to Finnish laws on abortion.

405. With respect to articles 7 and 10 of the Covenant, it was asked whether torture was specifically prohibited by Finnish law and whether genocide was specifically outlawed. Clarification was requested concerning the position of Finnish law on medical experimentation on human beings without their consent, organ transplants and the definition of death. Clarification was requested on whether the Finnish Constitution and laws expressly prohibited "inhuman or degrading treatment or punishment". In particular, it was asked whether someone could challenge a law, administrative act or sentence as unconstitutional on the ground that it amounted to cruel, inhuman or degrading treatment or punishment, for example, whether a sentence totally out of proportion to an offence could be impeached on this ground. It was asked how long a person could be detained during the pre-trial stage and who was competent to issue the order for pre-trial detention. Information was requested on the relevant laws and practice concerning the use of arms by law-enforcement officers. Information was also requested on the means and methods used in penitentiary systems with a view to achieving the aims of reformation and social rehabilitation. It was asked whether there were arrangements for the supervision of penal establishments. Information was requested on the conditions of penitentiary confinement in Finland and whether they were conducive to respect for article 7 of the Covenant. Information was also requested on the remedies available to persons whose rights under article 7 of the Covenant had been infringed.

406. As regards article 8 of the Covenant, it was asked whether Finnish law expressly prohibited forced labour. In particular, it was asked whether there were any cases in which persons could be required to perform forced or compulsory labour and, if so, whether such cases fell within the categories referred to in paragraph 3 of article 8.

407. With respect to article 9 of the Covenant, information was requested on the position regarding the detention of persons not charged with criminal offences, for example, detention of vagrants, drug addicts, etc. In particular, it was asked whether the law allowed administrative detention in such cases and if so, on what grounds; according to what procedures; and what safeguards there were, especially as regards judicial control. Questions were also asked as to the provisions of Finnish law regarding informing the family and the lawyer of a detained person about his detention. Information was requested on the reasons why the bail system or provisional liberty was not recognized in Finland. It was also asked whether a person who was unlawfully detained could be compensated not only for material damages but for moral damages as well.

408. With respect to article 12 of the Covenant, clarification was requested on the meaning of the words "unless otherwise provided by law" in article 7, paragraph 1, of the Constitutional Act dealing with the right of every Finnish citizen to sojourn in his country, of freely choosing his place of residence and of travelling from one place to the other. Information was also requested as regards the position of aliens with respect to liberty of movement and choice of residence in Finland. Various questions were asked as to the grounds for the denial of a passport in Finland and, in particular, clarification was requested on the grounds for denial of a passport for activities abroad, prejudicial "to the interests of the country". It was also asked whether a person who simply criticized his Government could be held to be engaged in activities injurious to the interests of his country. Clarification was requested as regards the denial of a passport to a person who may be expected to carry out criminal activities abroad and as to the criteria used in such cases. Clarification was requested on denial of a passport to a person "who is prosecuted for an offence" and whether this meant that a person who had been prosecuted and acquitted could nevertheless be denied a passport; on the denial of passports to vagrants or alcoholics; and on the remedies available to persons to whom passports had been denied.

409. With respect to article 13, members welcomed the fact that a bill would be sent to Parliament in the near future rendering the reservation to this article unnecessary.

410. With respect to article 14, various questions were asked pertaining to the independence and functioning of the judiciary. Information was requested on how judges were appointed and how their status could be altered, particularly in cases of reorganization of the judiciary. Information was also asked on the competence and functioning of the administrative courts. Clarification was requested as to the jurisdiction of special courts in Finland and how they operated. Information was requested on measures taken in Finland to ensure trials before the courts without long delays.

411. As regards article 17 of the Covenant, information was requested on the circumstances in which domiciliary search could be undertaken under Finnish law and specifically the procedure for the issue of a search warrant. Information was

also requested on the sanctions available for breaches, such as an illegal search. The question was raised as to what possibilities there were under Finnish Law of interfering with mail or of tapping telephone conversations. It was asked whether the postal or customs authorities had power to interfere with mail and, if so, on what grounds. It was noted that the report described protection mainly against acts by third parties to interfere with the rights recognized in article 17 but did not provide much information on protection against acts of State organs or public authorities. Information was specifically requested on the possibility of interferences by the secret or security services.

412. With respect to article 18, clarification was requested on the position of children under 18 in the enjoyment of religious freedom. Were such children able to exercise a choice whether to belong to a religion, and if so, which religion, or were they forced to follow the faith of their parents? Was there compulsory religious instruction in schools? Information was also requested as to whether religious or agnostic propaganda was permitted in Finland. It was asked whether conscientious objection to military service was recognized under Finnish Law. Clarification was requested as to the position and privileges enjoyed by the two State-recognized religions and whether the privileges enjoyed by these religions did not amount to discrimination against other religions. In particular it was noted that in Finland a church tax was payable by members of a State-recognized religion and it was asked whether this did not amount to discrimination contrary to the Covenant and might not be inconsistent also with freedom of religion inasmuch as a person who does not want to pay or cannot afford to pay could be led to renounce his religious faith.

413. With respect to article 19 of the Covenant, more information was requested on how the freedoms of expression and information were implemented, and on the technical methods of Finnish law in protecting these rights. Noting the prohibition of prior censorship of the press, clarification was also requested on whether other kinds of censorship were practised in Finland, the factual situation with respect to publications seized in Finland with a view to prosecution, and on the level of prosecution in such matters in recent years. Clarification was requested as to whether the concept of blasphemous or seditious statement was known under Finnish law and whether sedition, treason and defamation of the State were defined. Questions were asked regarding the organization of television and radio stations in Finland and measures utilized to prevent such stations from becoming instruments of State propaganda. Clarification was requested as to the extent to which there was freedom of research and freedom to receive as well as to impart information. It was asked whether individuals were granted the right of access to information about themselves in government files.

414. As regards article 20 of the Covenant, it was asked whether the reasons of the Government of Finland for not prohibiting propaganda for war were wholly convincing since war was the greatest threat to human rights. Although there were instances in which some rights had to be limited in favour of others, it was open to question whether freedom of expression could be used as a reason for not prohibiting propaganda for war.

415. With respect to article 21 of the Covenant, information was requested as to who was entitled to organize public meetings under Finnish law and whether the police chief or his deputy could attend private meetings as well as public meetings.

416. With respect to article 22 of the Covenant, information was requested as to the role which trade unions played in the economic and social life of Finland and whether the right of collective bargaining was recognized. Clarification was requested regarding the interdiction of non-citizens from joining associations whose purpose was to influence political affairs.

417. As regards articles 23 and 24 of the Covenant, it was asked whether annulment of marriage in Finland was based on consent. Information was requested on the manner in which matrimonial property was regulated under Finnish Law, particularly in the absence of a marriage contract and on the instances in which common property could result from marriage. Information was also requested on the provisions of Finnish law regarding the acquisition of nationality, particularly in respect of foreign persons marrying Finnish citizens.

418. With respect to article 25 of the Covenant, information was sought on whether the principle of one person one vote was recognized in Finland, and whether the report submitted by the Government listed all the categories of persons who may be deprived of the right to vote. Questions were asked pertaining to the organization of electoral districts in Finland, and whether State aid given to political parties represented in Parliament did not amount to discrimination against parties not so represented. Information was requested on whether there were any regulations providing for the representation of minorities in Parliament.

419. With respect to article 27 of the Covenant, it was asked whether there were any organs, such as the Equality Council on equal treatment between men and women, to deal with discrimination against members of minority groups. It was also asked whether minority groups in Finland were represented in the Finnish Parliament.

420. In reply, the representative of Finland gave further explanations on the status and position of the Covenant in the body of Finnish law. The Act incorporating the provisions of a Convention into Finnish law was called a "blanket law". It did not repeat the individual provisions of the Convention in question but gave them legal force. The text of a Convention is published in the official Gazette together with the Act bringing it into force. This was the case also for the Covenant. As regards the enjoyment of the civil and political rights recognized in the Covenant, the Covenant supplemented the Constitution on those points where the Constitution was silent. The Constitution and the Covenant together had the effect that the legislature was duty-bound to enact laws giving effect to the rights and freedoms recognized in the Constitution and in the Covenant. According to general practice in Finland, the courts, tribunals and administrative authorities practically never apply the provisions of the Constitution directly, but instead, the provision of an ordinary law based on the Constitution. This was the case also concerning the provisions of the Covenant. In the interpretation of the provisions of the ordinary law, the Constitution and the Covenant lay down a compelling interpretative standard so as to avoid any violation of the spirit and objectives of these instruments.

421. As regards questions asked under article 1, the representative explained that the extent of the autonomy of the Åland Islands was provided for in detail by the Act on Self-Government of the Åland Islands. The autonomy of the Åland Islands stemmed from historical events. The motives for granting the autonomy were to enable the inhabitants of the Åland Islands to preserve their culture and characteristics, especially the Swedish language as the sole language of the islands. The right to autonomy included the right to legislate mainly in the

economic, social and cultural fields. Before the ratification of the Covenant, the laws enacted by the legislature of the Aland Islands were also examined to see whether they were compatible with the Covenant, and the consent of the legislature of the Aland Islands was acquired for the ratification of the Covenant.

422. With regard to the questions raised under article 2, the representative gave examples of the role of customary law in the constitutional system. It was, he stated, a widely recognized rule of international law that aliens must be treated humanely and given equal status before the law similar to that of citizens. This rule was also recognized by Finland. There were also other rules of international law which governed the behaviour of States in this matter, as in others, and which were followed by Finland. As regards the position of aliens, he mentioned that new legislation concerning them was under preparation by the Government and that their position is intended to be regulated in more precise terms than had been done so far. As regards the Peace Treaty of 1947, it supplemented the Constitution and clarified what actually had already been in force on the basis of international law.

423. Concerning the functions of the Chancellor of Justice and the Parliamentary Ombudsman, the representative explained that, in his capacity as supreme public prosecutor, the Chancellor of Justice not only exercised supervision over all public prosecutors but could also perform the functions of the prosecutor himself, particularly in cases tried by the High Court of Impeachment. The statement in the Finnish report that the duty of the Chancellor of Justice as well as of the Parliamentary Ombudsman was to ensure that the law was observed by the courts, tribunals and administrative authorities did not mean that the Chancellor of Justice or the Parliamentary Ombudsman could interfere in the function of the courts and in that way challenge their independence. It only meant that a law had been violated, for example, that a maximum penalty provided for a certain offence had been exceeded, or the arrest or the detention of a person had been too long, or a wrong provision of the law had been applied, appropriate action is taken by the Chancellor or the Ombudsman to remedy the situation. This could lead to compensation for the person who had suffered injury or to action against the judge or another authority who had committed the fault. These two high authorities functioned independently from each other; the Chancellor of Justice on behalf of the Executive and the Ombudsman on behalf of Parliament. They exercise control in the same fields, but in order to avoid unnecessary duplication in routine affairs, they have divided their tasks among themselves so that, for example, the Ombudsman makes inspection tours to prisons, police stations, garrisons, etc. Both of these authorities are competent to receive complaints that the provisions of the Covenant have been violated.

424. As regards the question whether the court can set aside a law which is incompatible with the Covenant or the Constitution, the representative mentioned that laws in force must be strictly followed under the penalty of law. Only a provision in a decree which is contrary to a constitutional or other law should not be applied by a judge or other official. In the Finnish legal system the constitutionality, as well as the compatibility with the Covenant, of bills introduced in Parliament are controlled in advance by the Constitutional Committee of Parliament. Advisory opinions of the Supreme Court or of the Supreme Administrative Court, as the case may be, or of a special governmental organ created for this purpose, are requested on occasions. If it appears that a particular provision of the law is incompatible with the Constitution or the Covenant, the Government is duty bound to introduce a bill in Parliament to correct the situation.

425. With respect to questions raised under article 3, the representative explained that the Equality Council had advisory functions. It had no jurisdiction on complaints, but it had the power to take initiatives and to make proposals whenever it found it necessary. It kept the position of equality between men and women constantly under review and drew the attention of competent authorities to whatever short-comings it may find in this field. The composition of the Council at present was nine women and two men and they were appointed on the proposal of various civil organizations actively interested in these matters. The current chairman and vice-chairman were both women.

426. Dealing with questions raised under article 4, he mentioned that there was an Act of 17 June 1979 (No. 407) which concerned the life of the nation and the security of the economic life of the country in exceptional circumstances caused by events outside the country. According to this Act, the Council of State could give orders concerning the regulation of currency and supervise and regulate the export and import of goods. As regards article 6 of the Act on the State of War, the courts could order that a person who, in time of state of war, is arrested for a crime be kept in detention if he is suspected on reasonable grounds and his release is considered to be detrimental to the defence of the country or dangerous to public security. Although this provision sounded very dangerous, the representative emphasized that it is a measure taken only in circumstances when the whole nation is struggling for its very existence and that such an order is only given by a court after a careful examination of the case.

427. As regards article 6 of the Covenant, the representative explained that the protection of the right to life is given effect to the relevant provisions of the Constitution, the Penal Code and by the administrative machinery, including the police forces, and that all these measures aimed at the protection of personal integrity. There was extensive legislation in Finland concerning social welfare and medical care which, however, in the opinion of the Government of Finland, fell within the sphere of articles 9 to 12 of the International Covenant on Economic, Social and Cultural Rights. A report on this legislation was under preparation in order to be sent to the United Nations Economic and Social Council in accordance with the International Covenant on Economic, Social and Cultural Rights. The infant mortality rate in Finland, according to statistics of 1975, was only 9.5 per 1000. Social welfare and medical care in Finland were provided on a very high scale. The administration of public health was recently reorganized by Act No. 66 of 28 January 1972. The powers of direction, guidance and supervision were vested in the Medical Board. In every province public health was administered by the Provincial Government and on the local level this work was carried out by every urban and rural commune in which there were health centres for this purpose. As regards the question concerning the transplant of human tissues, the representative stated that it was expressly prohibited to take any medical measure against the will of a patient. Abortion was allowed for medical reasons as well as for other social or psychological reasons. As regards the right to work, the Government of Finland considered that this matter fell withing the sphere of the International Covenant on Economic, Social and Cultural Rights. However, under Finnish law, it was the obligation of the State to arrange for the possibility to work for every Finnish citizen.

428. In connexion with article 7 of the Covenant, the representative pointed out that the Police Act expressly prohibited any measures which would amount to torture. Any act of torture would be punishable according to those provisions of the Penal Code relating to the protection of life or physical or mental integrity.

429. As regards article 8 of the Covenant, the representative stated that Finland was fully complying with the appropriated ILO conventions which prohibit forced labour. Under the supervision of the Ministry for Social Affairs and Public Health, there were work institutes where vagrant people without shelter can be taken.

430. In connexion with article 9 of the Covenant, the representative stated that a person who had been wrongly arrested or kept in detention for an offence was entitled to indemnity from State funds for moral damage as well. Indemnity covered the sufferings caused to the person by his arrest or detention and this included moral damage. As to arrest or detention at the pre-trial stage, certain high police authorities and public prosecutors were empowered by law to issue, at the pre-trial stage, warrants for arrest or detention. This had to be immediately communicated to the appropriate court with the result that the arrest came under the control of the court. The duration of the arrest or detention depended on how long the trial lasted but the question of the lawfulness of the arrest or detention could, at all stages of the proceedings, be examined by the court ex officio. The representative explained that no bail system had ever existed in the Finnish legal system and that introduction of it was not contemplated.

431. In connexion with article 12 of the Covenant, the restrictions provided by law on the right of a citizen or an alien lawfully residing in the country to choose his place of residence and to travel from one place to another concerned only the zone along the boundary of the country as provided for by the Boundary Zone Act. Concerning the grounds on which a passport could be denied to a person, those applied only in extreme cases when the security of the State was at stake. As regards criminal activities aboard, the prohibition applied only in such cases as internationally organized crime and smuggling of narcotics or other prohibited goods. Prosecution for an offence was a valid reason for denial of passport only during the time when the prosecution was being dealt with by the court. A passport could be denied to a person who was a vagrant or an alcoholic only when there were good grounds, for example, when vagrancy or excessive use of alcohol had reached a point where the person concerned had been put under social welfare measures. There was always a possibility of appeal from the decision to a higher authority and in the last instance to the Supreme Administrative Court.

432. With regard to article 14 of the Covenant, the representative provided explanations regarding the appointment of judges. The procedure was regulated by the Constitution and provided that the President of the Republic appointed the President of the Supreme Court and that of the Supreme Administrative Court. He also appointed, upon the recommendation of the Supreme Court, the Justices of this Court and the Presidents of the Courts of Appeal and, upon the recommendation of the Supreme Administrative Court, the Justices of this Court and, furthermore, on the proposal of the Supreme Court, the Judges of the Courts of Appeal. The President of the Republic also appointed the judges of the special courts, other than the Land Courts and the Water Courts. The Supreme Court appointed the Judges of the District Courts, the Chairman (Judicial Burgomasters) of the City Courts, the Judges of the Water Courts and the Chairman of the Land Courts. The other members of the City Courts were appointed by the Municipal Councils. The lay members of the District Courts were appointed by the Communal Councils. Subject to a few exceptions in the case of lay and expert members of various courts, all members of judicial tribunals and also those of the Supreme Administrative Court were appointed for life. However, they were obliged to retire at the age of 70. Otherwise, no judge could be deprived of his office except by a lawful trial and

judgment of impeachment. Nor could he, without his own consent, be transferred to another post, except in the case of reorganization of the judiciary. As regards the possibility of transferring a judge to another post in the case of reorganization of the judiciary, such a reorganization took place recently when the city courts, the maintenance of which had previously belonged to the cities concerned, were taken up by the Government and reorganized by law. Similarly, reorganizations could take place when the district of a lower court was divided into two or more districts.

433. As regards the existence of certain special courts, the representative explained that, although the special courts were not irregular courts, they nevertheless functioned regularly under the law. These special courts were the High Court of Impeachment, Military Courts for dealing with military offices, Land Courts for dealing with disputes and claims arising from the partitioning of land, Water Courts for handling disputes and applications arising from the utilization of water power, protection of water courses, construction in water courses, water channels, timber floating, regulation and drainage of water courses and use of ground water. Appeals against decisions of a Water Court lay with the Supreme Water Court. Furthermore, there was an Insurance Court dealing with cases concerning social insurance and social security. Finally, there was a Labour Court for disputes arising from collective bargaining agreements.

434. As regards the question concerning warrants of domiciliary search, such a warrant could be issued by the same authorities who were empowered by law to issue warrants of arrest. In addition, the Minister of the Interior and the Chancellor of Justice were authorized to empower a person to make a search. The lawfulness of the search was examined by the Court dealing with the case in question ex officio. Complaints against the lawfulness of a domiciliary search could be made to the appropriate higher authority or to the Parliamentary Ombudsman.

435. Referring to article 18 the representative pointed out that under the provisions of the Freedom of Religion Act the religious communities in Finland were juridical persons by nature, entrusted with keeping a register of their members. Persons who belonged to no religious community were registered in the civil register. Joining or leaving a religious community was a legal act requiring legal competence which only a person of the age of majority could have. The fact that a minor could not join or leave a religious community did not prevent him from professing or not professing a certain religion or from participating in worship. Instruction in religion in a State or communal school was not, when so requested by the legal guardian, given to a pupil who belonged to another religious denomination or to no such denomination. As regards the special position of the Evangelical-Lutheran Church, this had been institutionalized, since more than 90 per cent of the population belonged to it. Similarly the Orthodox Church of Finland had received its special status for historical reasons. As a consequence of the status of these two churches, their organization had been regulated by State law. The Evangelical-Lutheran Church had a right to levy taxes on its members. This right had been given to the church because it had various expenses such as keeping personal registers and the maintenance of church buildings and cemeteries.

436. Referring to article 19 of the Covenant, freedom of speech was implemented simply by not restricting it in any way except in those cases where it constituted an offence such as libel or slander.

437. In connexion with article 22 of the Covenant, the provision of the Finnish Association Act provided that only Finnish citizens could join an association the purpose of which was to influence State affairs. This provision was directly connected with the political rights which, according to article 25 of the Covenant, belong to the citizens of the country. As regards the right of citizens to take part in the parliamentary elections, the electoral districts had been carefully determined in order to guarantee that all parts of the country secure representation in Parliament. This had been necessary because the density of population in various parts of the country differed to a great extent.

V. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

438. Under the Optional Protocol to the International Covenant on Civil and Political Rights individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit written communications to the Committee for consideration. At the time of the adoption of the present report on the Committee's sixth and seventh sessions, 21 of the 59 States which have acceded to or ratified the Covenant have accepted the competence of the Committee for dealing with individual complaints by ratifying the Optional Protocol. These States are Barbados, Canada, Colombia, Costa Rica, Denmark, the Dominican Republic, Ecuador, Finland, Italy, Jamaica, Madagascar, Mauritius, the Netherlands, Norway, Panama, Senegal, Suriname, Sweden, Uruguay, Venezuela and Zaire. No communication can be received by the Committee if it concerns a State party to the Covenant which is not also a party to the Optional Protocol.

439. Consideration of communications submitted under the Optional Protocol by or on behalf of individuals who claim to be victims of violations of rights set forth in the Covenant started at the Committee's second session in 1977. Thirteen communications had been received for consideration at that time. A summary of the Committee's work at that session is contained in its first annual report. 13/ At its third, fourth and fifth sessions the Committee started consideration of 27 additional communications. A summary of the Committee's work at those sessions is contained in its second annual report. 14/

440. At its sixth session (9 to 27 April 1979) the Committee had before it 25 communications for resumed consideration as well as 8 communications which were brought before it for the first time. At its seventh session (30 July to 17 August 1979) the Committee had before it 23 communications for resumed consideration as well as 5 communications which were before it for the first time.

441. A working group of the Committee, established under rule 89 of its provisional rules of procedure, to make recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications, laid down in articles 1, 2, 3 and 5 (2) of the Optional Protocol, met from 2 to 6 April 1979, prior to the Committee's sixth session, and from 23 to 27 July 1979, prior to the Committee's seventh session. At all sessions since its establishment, except for the fifth session, 15/ the Working Group has continued its meetings during

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13/ Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44 and Corr.1), chap. V, paras. 146-155.

14/ Ibid., Thirty-third Session, Suppelement No. 40 (A/33/40), chap. IV, paras. 573-591.

15/ At its third session, the Committee decided to hold an additional session (the fifth session) from 23 October to 3 November 1978. Instead of meetings of the Working Group, it was agreed, on that occasion, that a single member of the Committee would, in advance of the fifth session, formulate recommendations for presentation to the Committee in connexion with its examination of communications.

the sessions of the Committee, in order to complete its work. In addition to submitting recommendations to the Committee, a working group is empowered, under rule 91 of the Committee's provisional rules of procedure, to decide on its own to request information and observations from the States parties concerned and from the authors of communications relevant to the question of admissibility. It may also be given the task, in accordance with rule 94, paragraph 1, of the provisional rules of procedure, of examining the merits of communications, with a view to assisting the Committee in formulating its final views under article 5 (2) (4) of the Optional Protocol.

442. With regard to its work under the Optional Protocol at its sixth and seventh sessions, the Committee had before it the following basic documents: (a) lists of communications with a brief summary of their contents, prepared under rule 79 of the Committee's provisional rules of procedure; (b) fact sheets, containing a detailed description of the contents of communications, as well as any information, observations, comments, explanations or statement submitted by the parties under the Committee's provisional rules of procedure or pursuant to article 4 (2) of the Optional Protocol; (c) recommendations from the Committee's Working Group and, in one case, from a single member of the Committee, assigned as Special Rapporteur. In addition the Committee had access to the original text of all submissions from the States parties and from the authors of the communications. All these documents are confidential and are made available to the members of the Committee only.

443. The Committee's work under the Optional Protocol is divided into two main stages: (a) consideration of communications with a view to determining whether they are admissible under the Optional Protocol or not (the Committee may also, at this stage, decide to discontinue consideration of a communication, without taking a decision as to its admissibility); (b) consideration of communications with a view to formulating the Committee's views on the merits of the case.

444. The main issues arising during the Committee's consideration of communications at its sixth and seventh sessions are referred to below.

Issues relating to the admissibility of communications

445. The Committee's consideration of questions of relevance to the admissibility of communications focused mainly on the following issues: first, the standing of the author of the communication and particularly the circumstances in which one individual may submit a communication on behalf of another individual; secondly, the considerations that arise from the fact that the Covenant and the Optional Protocol became binding on the States parties concerned as from a certain date; thirdly, the provision in article 5, paragraph (2) (a), of the Protocol which requires the Committee to ascertain that the same matter is not being examined under another procedure of international investigation or settlement; and fourthly, the provision in article 5, paragraph (2) (b), of the Protocol which requires the Committee to ascertain that the individual has exhausted all available domestic remedies.

446. As reflected in the Committee's second annual report, 16/ the same issues were the subject of decisions at the Committee's third, fourth and fifth sessions. The decisions taken at the sixth and seventh sessions were consistent with the practice

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16/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 40 (A/33/40), chap. IV, paras. 580-584 and 586.

established by the Committee at its earlier sessions. For convenience, the relevant paragraphs of the second annual report are reproduced as annex VI to the present report.

447. Under rule 91 (2) of the Committee's provisional rules of procedure, a communication may not be declared admissible unless the State party concerned has been given an opportunity to submit information or observations relevant to its admissibility. A number of communications were declared admissible at the Committee's sixth and seventh sessions respectively on the basis of the information furnished by their authors only, in view of the fact that no information or observations had been received from the States parties concerned in spite of the Committee's requests for such information and observations. Other communications were declared admissible after receipt of information or observations from the States parties concerned under rule 91 of the Committee's provisional rules of procedure.

448. Several communications were declared inadmissible after information and observations had been obtained from the States parties concerned and/or the authors. In other instances the Committee decided to declare communications inadmissible without prior referral to the States parties concerned for information or observations on questions relating to their admissibility. This applies when it is clear from the communication itself that it does not fulfil one or more of the conditions for admissibility laid down in articles 1, 2, 3 and 5 of the Optional Protocol.

449. The Committee discontinued consideration of a number of communications without taking a decision as to their admissibility. This applies primarily in cases where the authors, in spite of repeated requests, have failed to furnish the Committee with the necessary information, without which the Committee has been unable to arrive at a decision on admissibility.

Consideration of communications on the merits

450. Once a communication has been declared admissible, the State party concerned shall, under article 4 (2) of the Optional Protocol, submit to the Committee within six months written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by it. The six months time-limit had expired prior to the Committee's sixth session in respect of seven communications relating to one State party (five declared admissible at the Committee's third session in January/February 1978 and two declared admissible at its fourth session in July 1978). By the time of the Committee's sixth session, submissions had been received from the State party concerned in respect of four of these seven communications. However, the Committee decided that the submissions concerned issues of admissibility and not merits, and so requested the State party to furnish, in advance of its seventh session, supplementary submissions under article 4 (2) of the Optional Protocol in respect of the four communications and reminded the State party that its submissions with regard to the other three were overdue. By the time of the adoption of the present report at the conclusion of the Committee's seventh session, no further submissions had been received from the State party concerned under article 4 (2) of the Optional Protocol.

451. At its seventh session the Committee considered the above-mentioned seven communications on the merits.

452. The Committee concluded its consideration in respect of one of these communications concerning Uruguay by adopting its final views for transmittal to the State party concerned and to the author of the communication. It was the Committee's view that the communication, in respect of which consideration has been concluded, revealed a number of violations by the State party of various provisions of the Covenant. The final views of the Committee with regard to this communication are reproduced in annex VII to the present report. Consideration of the other six communications will be resumed at the Committee's next session.

Status of communications before the Human Rights Committee

453. Since the Human Rights Committee began consideration of communications at its second session in 1977, 53 communications have been registered for its consideration. These communications relate to Canada (14), Colombia (2), Denmark (1), Finland (2), Madagascar (1), Mauritius (1), Norway (2), Uruguay (29) and Zaire (1).

454. The status of these communications, by the end of the Committee's seventh session, is as follows:

Canada

Eight communications discontinued or declared inadmissible without referral to the State party;

Three communications discontinued or declared inadmissible after referral to the State party; 17/

Two communications transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending);

One communication declared admissible (the six months time-limit established by article 4 (2) of the Optional Protocol has not expired).

Colombia

Two communications transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending).

Denmark

One communication discontinued, without referral to the State party (after repeated unsuccessful attempts to solicit information from the author).

Finland

One communication declared inadmissible without referral to the State party;

17/ Two of these communications were merged for joint consideration.

One communication declared admissible (State party concerned, in its observations under rule 91 of the Committee's provisional rules of procedure, did not raise objections on admissibility grounds - six months time-limit established by article 4 (2) of the Option Protocol has not expired).

Madagascar

One communication transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending).

Mauritius

One communication declared admissible (State party concerned, in its observations under rule 91 of the Committee's provisional rules of procedure, did not raise objections on admissibility grounds - six months time-limit established by article 4 (2) of the Optional Protocol has not expired).

Norway

Two communications declared inadmissible, without referral to the State party.

Uruguay

Three communications discontinued or declared inadmissible without referral to the State party;

One communication discontinued after referral to the State party;

One communication suspended, as contact with author (failing to provide return address) has not been established;

Seven communications transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending);

Sixteen communications have been declared admissible. The status of these communications is as follows:

(i) Nine communications: six months time-limit established by article 4 (2) of the Optional Protocol has not expired;

(ii) Six communications: 18/ six months time-limit has expired, but Human Rights Committee has not yet adopted its final views;

(iii) One communication: Human Rights Committee has concluded its consideration by adopting its final views.

Zaire

One communication declared admissible (the six months time-limit established by article 4 (2) of the Optional Protocol has not expired).

18/ An additional registered communication has been merged with one of these six communications.

VI. QUESTION OF CO-OPERATION BETWEEN THE COMMITTEE AND THE SPECIALIZED AGENCIES CONCERNED

455. At its sixth session, the Committee had before it a note prepared by the Secretary-General indicating those parts of the new reports which, in his view, fell within the fields of competence of the ILO and UNESCO and which may be transmitted, in consultation with the Committee to the specialized agencies concerned, in accordance with article 40, paragraph 3 of the Covenant and previous Committee decisions. The Committee agreed to the transmission of the relevant parts of the reports to the ILO and UNESCO.

456. The Committee was also informed of the contents of a letter received from the ILO concerning the question of its representation at the Committee's sixth session in view of the decision, reflected in the Committee's report to the General Assembly at its thirty-third session, 19/ that the specialized agencies would not be invited to submit comments on the parts of the reports of States parties falling within their fields of competence and reiterating the readiness of the ILO to provide any information on matters within its competence which the Committee might wish to receive.

457. At its seventh session, the Committee, for lack of time, did not discuss this question and decided to postpone consideration of this item to a future session.

VII. FUTURE MEETINGS OF THE COMMITTEE

458. At its seventh session, the Committee decided, after consultation with the representative of the Secretary-General, to begin its ninth session a week after the date which had been tenatively fixed for that session, that is, from 17 March to 4 April 1980 instead of from 10 to 28 March 1980. The working group concerning communications under the Optional Protocol would meet from 10 to 14 March 1980 instead of from 3 to 7 March 1980. The dates for the tenth and eleventh sessions were confirmed, that is, from 14 July to 1 August 1980 and 20 to 31 October 1980 respectively with the working group for each of these sessions meeting a week earlier.

VIII. ADOPTION OF THE REPORT

459. At its 175th and 176th meetings on 16 and 17 August 1979, the Committee considered the draft of its third annual report, covering the activities of the Committee at its sixth and seventh sessions, held in 1979. The report, as amended in the course of the discussions, was adopted by the Committee unanimously.

19/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 40 (A/33/40), para. 605.

ANNEX I

States parties to the International Covenant on Civil and Political Rights and to the Optional Protocol as at 17 August 1979

A. States parties to the International Covenant on Civil and Political Rights a/

State party	Date of receipt of the instrument of ratification or accession (a)	Date of entry into force
Austria b/	10 September 1978	10 December 1978
Barbados	5 January 1973 (a)	23 March 1976
Bulgaria	21 September 1970	23 March 1976
Byelorussian Soviet Socialist Republic	12 November 1973	23 March 1976
Canada	19 May 1976 (a)	19 August 1976
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Costa Rica	29 November 1968	23 March 1976
Cyprus	2 April 1969	23 March 1976
Czechoslovakia	23 December 1975	23 March 1976
Denmark b/	6 January 1972	23 March 1976
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Finland b/	19 August 1975	23 March 1976
Gambia	22 March 1979 (a)	22 June 1979
German Democratic Republic	8 November 1973	23 March 1976
Germany, Federal Republic of b/	17 December 1973	23 March 1976
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Hungary	17 January 1974	23 March 1976
India	10 April 1979 (a)	10 July 1979

a/ Japan ratified the Covenant on 21 June 1979 and the Covenant will enter into force for Japan on 21 September 1979.

b/ States parties which have made the declaration under article 41 of the Covenant.

State party	Date of receipt of the instrument of ratification or accession (a)	Date of entry into force
Iran	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Italy b/	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Jordan	28 May 1975	23 March 1976
Kenya	1 May 1972 (a)	23 March 1976
Lebanon	3 November 1972 (a)	23 March 1976
Libyan Arab Jamahiriya	15 May 1970 (a)	23 March 1976
Madagascar	21 June 1971	23 March 1976
Mali	16 July 1974 (a)	23 March 1976
Mauritius	12 December 1973 (a)	23 March 1976
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Netherlands b/	11 December 1978	11 March 1979
New Zealand b/	28 December 1978	28 March 1979
Norway b/	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Peru	28 April 1978	28 July 1978
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Romania	9 December 1974	23 March 1976
Rwanda	16 April 1975 (a)	23 March 1976
Senegal	13 February 1978	13 May 1978
Spain	27 April 1977	27 July 1977
Suriname	28 December 1976 (a)	28 March 1977
Sweden b/	6 December 1971	23 March 1976
Syrian Arab Republic	21 April 1969 (a)	23 March 1976
Trinidad and Tobago	21 December 1978 (a)	21 March 1979
Tunisia	18 March 1969	23 March 1976
Ukrainian Soviet Socialist Republic	12 November 1973	23 March 1976
Union of Soviet Socialist Republics	16 October 1973	23 March 1976

State party	Date of receipt of the instrument of ratification or accession (a)	Date of entry into force
United Kingdom of Great Britain and Northern Ireland b/	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976 (a)	11 September 1976
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Yugoslavia	2 June 1971	23 March 1976
Zaire	1 November 1976 (a)	1 February 1977

B. States parties to the Optional Protocol

State party	Date of receipt of the instrument of ratification or accession (a)	Date of entry into force
Barbados	5 January 1973 (a)	23 March 1976
Canada	19 May 1976 (a)	19 August 1976
Colombia	29 October 1969	23 March 1976
Costa Rica	29 November 1968	23 March 1976
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Finland	19 August 1975	23 March 1976
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Madagascar	21 June 1971	23 March 1976
Mauritius	12 December 1973 (a)	23 March 1976
Netherlands	11 December 1978	11 March 1979
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Senegal	13 February 1978	13 May 1978
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
Uruguay	1 April 1970	23 March 1976
Venezuela	10 May 1978	10 August 1978
Zaire	1 November 1976 (a)	1 February 1977

ANNEX II

Membership of the Human Rights Committee

Name of member	Country of nationality
Mr. Néjib Bouziri b/	Tunisia
Mr. Abdoulaye Dieye b/	Senegal
Sir Vincent Evans a/	United Kingdom of Great Britain and Northern Ireland
Mr. Manouchehr Ganji a/	Iran
Mr. Bernhard Graefrath b/	German Democratic Republic
Mr. Vladimir Hanga a/	Romania
Mr. Dejan Janča b/	Yugoslavia
Mr. Haissam Kelani a/	Syrian Arab Republic
Mr. Luben G. Koulishev a/	Bulgaria
Mr. Rajsoomer Lallah b/	Mauritius
Mr. Andreas V. Mavrommatis a/	Cyprus
Mr. Anatoly Petrovich Movchan a/	Union of Soviet Socialist Republics
Mr. Torkel Opsahl b/	Norway
Mr. Julio Prado Vallejo b/	Ecuador
Mr. Waleed Sadi b/	Jordan
Mr. Walter Surma Tarnopolsky a/	Canada
Mr. Christian Tomuschat b/	Germany, Federal Republic of
Mr. Diego Uribe Vargas a/	Colombia

a/ Term expires on 31 December 1980.

b/ Term expires on 31 December 1982.

ANNEX III

Rules 72 to 77 of the provisional rules of procedure a/

XVI. PROCEDURE FOR THE CONSIDERATION OF COMMUNICATIONS RECEIVED UNDER ARTICLE 41 OF THE COVENANT

Rule 72

1. A communication under article 41 of the Covenant may be referred to the Committee by either State party concerned by notice given in accordance with paragraph 1 (b) of that article.

2. The notice referred to in paragraph 1 of this rule shall contain or be accompanied by information regarding:

(a) Steps taken to seek adjustment of the matter in accordance with article 41, paragraphs 1 (a) and (b), of the Covenant, including the text of the initial communication and of any subsequent written explanations or statements by the States parties concerned which are pertinent to the matter;

(b) Steps taken to exhaust domestic remedies;

(c) Any other procedure of international investigation or settlement resorted to by the States parties concerned.

Rule 73

The Secretary-General shall maintain a permanent register of all communications received by the Committee under article 41 of the Covenant.

Rule 74

The Secretary-General shall inform the members of the Committee without delay of any notice given under rule 72 of these rules and shall transmit to them as soon as possible copies of the notice and relevant information.

Rule 75

1. The Committee shall examine communications under article 41 of the Covenant at closed meetings.

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a/ As adopted by the Committee at its 169th meeting (seventh session) on 10 August 1979.

2. The Committee may, after consultation with the States parties concerned, issue communiqués, through the Secretary-General, for the use of the information media and the general public regarding the activities of the Committee at its closed meetings.

Rule 76

A communication shall not be considered by the Committee unless:

(a) Both States parties concerned have made declarations under article 41, paragraph 1, of the Covenant which are applicable to the communication;

(b) The time-limit prescribed in article 41, paragraph 1 (b), of the Covenant has expired;

(c) The Committee has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law, or that the application of the remedies is unreasonably prolonged.

Rule 77A

Subject to the provisions of rule 76 of these rules, the Committee shall proceed to make its good offices available to the States parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the Covenant.

Rule 77B

The Committee may, through the Secretary-General, request the States parties concerned or either of them to submit additional information or observations orally or in writing. The Committee shall indicate a time-limit for the submission of such written information or observations.

Rule 77C

1. The States parties concerned shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

2. The Committee shall, through the Secretary-General, notify the States parties concerned as early as possible of the opening date, duration and place of the session at which the matter will be examined.

3. The procedure for making oral and/or written submissions shall be decided by the Committee, after consultation with the States parties concerned.

Rule 77D

1. Within 12 months after the date on which the Committee received the notice referred to in rule 72 of these rules, the Committee shall adopt a report in accordance with article 41, paragraph 1 (h), of the Covenant.

2. The provisions of paragraph 1 of rule 77C of these rules shall not apply to the deliberations of the Committee concerning the adoption of the report.

3. The Committee's report shall be communicated, through the Secretary-General, to the States parties concerned.

Rule 77E

If a matter referred to the Committee in accordance with article 41 of the Covenant is not resolved to the satisfaction of the States parties concerned, the Committee may, with their prior consent, proceed to apply the procedure prescribed in article 42 of the Covenant.

ANNEX IV

Submission of reports and additional information by States parties under article 40 of the Covenant during the period under review a/

A. Initial reports

States parties	Date due	Date of submission	Date of reminder(s) sent, if any
Canada	18 August 1977	18 April 1979	
Colombia	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Costa Rica	22 March 1977	14 August 1979	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Dominican Republic	3 April 1979	NOT YET RECEIVED	
Guinea	23 April 1979	NOT YET RECEIVED	
Guyana	14 May 1978	NOT YET RECEIVED	(1) 14 May 1979
Iraq	22 March 1977	5 June 1979	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Jamaica	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Kenya	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Lebanon	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Mali	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Mongolia	22 March 1977	20 December 1978	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978

a/ From 4 November 1978 to 17 August 1979 - end of fifth session to end of seventh session.

States parties	Date due	Date of submission	Date of reminder(s) sent, if any
Panama	7 June 1978	NOT YET RECEIVED	(1) 14 May 1979
Peru	27 July 1979	2 July 1979	
Poland	17 June 1978	23 March 1979	
Rwanda	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Senegal	12 May 1979	8 August 1979	
Spain	26 July 1978	26 March 1979 b/ 9 May 1979 c/	
Suriname	27 March 1978	1 May 1979	
United Kingdom of Great Britain and Northern Ireland	19 August 1977	10 November 1978 b/ 23 February 1979 d/	
United Republic of Tanzania	10 September 1977	NOT YET RECEIVED	(1) 22 February 1978
Uruguay	22 March 1977	NOT YET RECEIVED	(1) 30 September 1977 (2) 22 February 1978 (3) 29 August 1978
Venezuela	9 August 1979	NOT YET RECEIVED	
Zaire	31 January 1978	NOT YET RECEIVED	(1) 14 May 1979

B. Additional information submitted subsequent to the examination of the initial reports by the Committee

States parties	Date of submission
Tunisia	22 March 1979
Sweden	27 March 1979
Hungary	28 May 1979

b/ Second part of the initial report.

c/ Introductory statement made by the representative of Spain at the 141st meeting. Issued at the request of the Government.

d/ Third part of the initial report.

ANNEX V

Text of communications between the Government of Chile and the Human Rights Committee

A. Letter dated 9 July 1979 from the Minister for Foreign Affairs of Chile to the Chairman of the Human Rights Committee

Through its Ambassador to the United Nations, my Government has been informed of the statement read out by you on 26 April 1979 on behalf of the Committee of which you are Chairman.

In accordance with article 40, paragraph 4, of the International Covenant on Civil and Political Rights, my Government considers that the statement in question constitutes the report and general comments which the Human Rights Committee must transmit to the State concerned when it has studied the reports submitted by the latter.

Pursuant to article 40, paragraph 5, of the Covenant and with reference to rule 71, paragraph 1, of the Committee's provisional rules of procedure, my Government wishes to make the appropriate observations on the aforementioned report and general comments of the Committee.

The Committee's statement that it finds the reports submitted by the Government of Chile "insufficient" is unfounded, for the Government of Chile has conscientiously fulfilled all the obligations which it assumed in ratifying the Covenant. Its report was submitted at the proper time and in the proper form, and an addendum, which the Committee considered as a second report, was also presented setting out all the legal changes which had taken place between the date of the report and that of the Chilean representatives' appearance before the Committee. Furthermore, those representatives replied to all the questions put by the members of the Committee.

By declaring the report submitted by Chile to be insufficient, "taking into account the reports of the Ad Hoc Working Group and the resolutions of the General Assembly of the United Nations", the Committee committed a grave error of substance, because Chile is a party only to the International Covenant on Civil and Political Rights. It is not a party to the Optional Protocol to the Covenant, nor has it declared under article 41 of the Covenant that it will authorize the consideration of complaints made by other member States.

In this case, the Committee's competence is limited to the text of the Covenants and the report and addendum submitted by Chile.

Therefore, the Committee cannot transmit or endorse complaints or allegations by States, non-governmental organizations or individuals such as in practice constitute the reports of the former Ad Hoc Group and serve as the sole basis for the resolutions of the General Assembly.

By taking into consideration reports and resolutions of other bodies with different structures and procedures, the Committee is altering its own procedure. By "considering" such material and finding the report submitted by a member State "insufficient" on that basis alone, the Committee is instituting an ad hoc procedure which Chile cannot accept.

To sum up, the Committee has declared a report submitted by a member State to be "insufficient" on the sole basis of material which lies outside its specific competence and - what is equally serious - without giving any reasons, whether based in fact or in law, to support its claim.

I cannot but convey to you, Sir, my Government's astonishment that a former member of the Ad Hoc Working Group of the Commission on Human Rights, who is now styled "Special Rapporteur for Chile" and who, by endorsing the Group's reports, prejudged the issue with regard to my country, should have participated in the study of my Government's reports and in the statement to which we refer.

My Government has declared formally that it neither recognizes nor accepts any of the ad hoc procedures which have been and are being applied in its respect by certain United Nations bodies, including the procedure of appointing a so-called Special Rapporteur. Henceforward my Government will co-operate only with such bodies as respect both their own procedures and Chile's sovereignty.

For reasons stated above, my Government will submit reports to the Committee of which you are Chairman only within the legal framework of its juridical commitments, which do not include either the Optional Protocol or the recognition of competence referred to in article 41 of the Covenant.

Accept, Sir, the assurances of my highest consideration.

(Signed) Herman CUBILLOS SALLATO
Minister for Foreign Affairs

B. Letter dated 17 August 1979 from the Chairman of the Human Rights Committee to the Minister for Foreign Affairs of Chile

The Human Rights Committee has taken note of your letter of 9 July 1979. In this connexion the Committee wishes to observe the following.

The Committee has considered the two reports of the Government of Chile and the answers given by their representatives on the basis of the requirements in article 40, paragraphs 1 and 2 of the Covenant. It was assisted by the General Assembly resolutions and the reports of the Ad Hoc Working Group on the Situation of Human Rights in Chile. Throughout this examination the Committee followed its normal procedure in considering reports under article 40 of the Covenant.

As a result of this consideration the Committee found that the information contained in the reports and answers was incomplete.

Therefore, taking into account the statement of the representative of the Government made in response to the request by the Chairman on behalf of the Committee on 26 April 1979, as well as the confirmation of Chile's obligations contained in the final paragraph of your letter, the Committee trusts that your Government will submit the report requested in accordance with article 40 of the Covenant.

(Signed) Andreas V. MAVROMMATIS
Chairman
Human Rights Committee

ANNEX VI

Procedural and substantive issues relating to the admissibility of communications, which have been the subject of decisions by the Human Rights Committee a/

The standing of the author

580. Article 1 of the Optional Protocol provides that the Committee can receive communications from individuals who claim to be victims of violations of rights set forth in the Covenant. In the Committee's view this does not mean that the individual must sign the communication himself in every case. He may also act through a duly appointed respresentative and there may be other cases in which the author of the communication may be accepted as having the authority to act on behalf of the alleged victim. For these reasons, rule 90, paragraph (1) (b), of the Committee's provisional rules of procedures provides that normally the communication should be submitted by the alleged victim himself or by his representative (for example, the alleged victim's lawyer), but the Committee may accept to consider a communication submitted on behalf of an alleged victim when it appears that he is unable to submit the communication himself. The Committee regards a close family connexion as a sufficient link to justify an author acting on behalf of an alleged victim. On the other hand, it has declined to consider communications where the authors have failed to establish any link between themselves and the alleged victims.

Considerations arising from the fact that the Covenant and the Optional Protocol became binding on the States parties as from a certain date

581. The Committee has declared communications inadmissible if the events complained about took place prior to the entry into force of the Covenant and the Optional Protocol for the State parties concerned. However, a reference to such events may be taken into consideration if the author claims that the alleged violations have continued after the date of entry into force of the Covenant and the Optional Protocol for the State party concerned, or that they have had effects which themselves constitute a violation after that date. Events which took place prior to the critical date may indeed be an essential element of the complaint resulting from alleged violations which occurred after that date.

The application of article 5, paragraph (2) (a), of the Optional Protocol

582. Article 5, paragraph (2) (a), of the Optional Protocol provides that the Committee shall not consider any communication from an individual "unless it has ascertained that the same matter is not being examined under another procedure of international investigation or settlement". In connexion with the consideration of some of the communications which have been submitted under the Optional Protocol, the Committee has recognized that cases considered by the Inter-American

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a/ Excerpts from the Committee's second annual report, Official Records of the General Assembly, Thirty-third Session, Supplement No. 40 (A/33/40).

Commission on Human Rights under the instruments governing its functions were under examination in accordance with another procedure of international investigation or settlement within the meaning of article 5, paragraph (2) (a). On the other hand, the Committee has determined that the procedure set up under Economic and Social Council resolution 1503 (XLVIII) does not constitute a procedure of international investigation or settlement within the meaning of article 5, paragraph (2) (a) of the Optional Protocol, since it is concerned with the examination of situations which appear to reveal a consistent pattern of gross violations of human rights and a situation is not "the same matter" as an individual complaint. The Committee has also determined that article 5, paragraph (2) (a), of the Protocol can only relate to procedures implemented by inter-State or intergovernmental organizations on the basis of inter-State or intergovernmental agreements or arrangements. Procedures established by non-governmental organizations, as for example the procedure of the Inter-Parliamentary Council of the Inter-Parliamentary Union, cannot, therefore, bar the Committee from considering communications submitted to it under the Optional Protocol.

583. With regard to the application of article 5, paragraph (2) (a), of the Optional Protocol the Committee has further determined that it is not precluded from considering a communication, although the same matter has been submitted under another procedure of international investigation or settlement, if it has been withdrawn from or is no longer being examined under the latter procedure at the time that the Committee reaches a decision on the admissibility of the communication submitted to it.

584. In the course of its consideration of communications, the Committee became aware of a language discrepancy in the text of article 5, paragraph (2) (a) of the Optional Protocol. The Chinese, English, French and Russian texts of the article provided that the Committee shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined under another procedure of international investigation or settlement, whereas the Spanish text of the article employs the language meaning "has not been examined". The Committee has ascertained that this discrepancy stems from an editorial oversight in the preparation of the final version of the Spanish text of the Optional Protocol. Accordingly, the Committee has decided to base its work in respect of article 5, paragraph (2) (a), of the Optional Protocol on the Chinese, English, French and Russian language versions. b/

...

The application of article 5, paragraph (2) (b) of the Optional Protocol

586. Article 5, paragraph (2) (b) of the Optional Protocol provides that the Committee shall not consider any communication from an individual unless it has ascertained that all available domestic remedies have been exhausted. The Committee considers that this provision should be interpreted and applied in accordance with the generally accepted principles of international law with regard to the exhaustion of domestic remedies as applied in the field of human rights. If the State party concerned disputes the contention of the author of a communication that all available domestic remedies have been exhausted, the State party is required to give details of the effective remedies available to the alleged victim in the particular circumstances of his case. In this connexion, the Committee has deemed insufficient a general description of the rights available to accused persons under the law and a general description of the domestic remedies designed to protect and safeguard these rights.

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b/ The views expressed by the members of the Committee on this point are reflected in the summary record of its 88th meeting, document CCPR/C/SR.88.

ANNEX VII

Views of the Human Rights Committee under article 5 (4) of the Optional Protocol to the International Covenant on Civil and Political Rights

concerning

Communication No. R.1/5

Submitted by: Moriana Hernández Valentini de Bazzano on her own behalf as well as on behalf of Luis María Bazzano Ambrosini, Martha Valentini de Massera and José Luis Massera

State party concerned: Uruguay

Date of registered communication: 15 February 1977

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights

- meeting on 15 August 1979;

- having concluded its consideration of communication No. R.1/5 submitted to the Committee by Moriana Hernández Valentini de Bazzano under the Optional Protocol to the International Covenant on Civil and Political Rights;

- having taken into account all written information made available to it by the author of the communication and by the State party concerned;

adopts the following:

VIEWS UNDER ARTICLE 5 (4) OF THE OPTIONAL PROTOCOL

1. The author of this communication (initial letter dated 15 February 1977 and further letters dated 4 August 1977 and 6 June 1979) is a Uruguayan national, residing in Mexico. She submitted the communication on her own behalf, as well as on behalf of her husband, Luis María Bazzano Ambrosini, her stepfather, José Luis Massera, and her mother, Martha Valentini de Massera.

2. The author alleges, with regard to herself, that she was detained in Uruguay from 25 April to 3 May 1975 and subjected to psychological torture. She states that she was released on 3 May 1975 without having been brought before a judge.

The author claims that her husband, Luis María Bazzano Ambrosini, was detained on 3 April 1975 and immediately thereafter subjected to various forms of torture such as plantón (the prisoner was forced to remain standing for 14 hours), electric shocks and bastinado (blows). He was accused of complicity in "assistance to subversive association" for having participated in a spontaneous demonstration and was placed at the disposal of a military judge, although the accusation was

consistently denied by the prisoner. Nevertheless the judge indicted him on the basis of his identification by a single alleged witness who did not, however, appear during the preliminary investigation in order to confirm his prior statement. After one year's detention, the judge granted him conditional release, but this decision could not be put into effect since, shortly before, the prisoner had been removed from the place of detention without the judge's knowledge and had been taken to a place unknown to the judge. Once he had been notified of his release, the victim was taken again to an unidentified place where he was held prisoner, and confined incommunicado until, on 7 February 1977, he was tried on the charge of "subversive association", an offence punishable by three to eight years imprisonment. He remained confined together with four other political prisoners in a cell measuring 4 50 by 2.50 metres in conditions seriously detrimental to his health. In a communication addressed to Mrs. Moriana Hernández de Bazzano, the victim's lawyer stated that he had twice requested that the defendant should be granted provisional release, but without success. He also said that under Uruguayan law, the defendant should have been discharged, but that the Court had ordered the preliminary investigation to be closed without the Prosecutor requesting the gathering of any additional evidence.

The author claims that her stepfather, José Luis Massera, professor of mathematics and former Deputy to the National Assembly, was arrested on 22 October 1975 and held incommunicado until his detention was made known in January 1976. She claims that he was denied the right of habeas corpus before the civil and military courts and that an application to the Commission on Respect for Human Rights of the Council of State went unanswered. On 15 August 1976 he was tried by a military court on the charge of "subversive association" for being one of the leaders of a banned political party. The author further states that her stepfather suffered permanent damage as a result of torture. In her letter of 4 August 1977 she states that, having been forced to remain standing with his head hooded for long hours, he lost his balance, fell down and broke his leg which was not immediately taken care of, resulting in that leg being now several centimetres shorter than the other one. The author further submits that her stepfather remains imprisoned and that in his double quality as former Deputy and as an accused tried for a political offence, he has been deprived of all his political rights by a Government decree.

The author claims that her mother, Martha Valentini de Massera, was arrested on 28 January 1976 without any formal charges and that in September 1976 she was accused of "assistance to subversive association", an offence which carries a penalty of two to eight years imprisonment. She was not allowed to receive visits until November 1976, but had again been taken to an unknown place at the time of the submission of the communication in February 1977. In a subsequent letter of 6 June 1979 the author states that her mother was tried by a military court and sentenced to three and a half years imprisonment due to expire on 28 July 1979. Having been subjected to ill-treatment during her detention, her mother had furthermore suffered from the inadequate diet and the prevailing state of unhealthy working conditions, so that her health had been weakened.

3. On 26 August 1977, the Human Rights Committee decided to transmit the communication to the State Party, under rule 91 of the provisional rules of procedure, requesting information and observations relevant to the question of admissibility.

4. By letter dated 27 October 1977 the State Party objected to the admissibility of the communication on three grounds:

(a) the same matter was already being examined by the Inter-American Commission on Human Rights;

(b) none of the alleged victims had exhausted all available domestic remedies;

(c) in so far as the author of the communication was concerned, the alleged violations are said to have taken place prior to 23 March 1976, the date on which the International Covenant on Civil and Political Rights and the Optional Protocol entered into force for Uruguay, and that they have not continued or had effects which themselves constitute a violation after that date.

5. On 1 February 1978, the Human Rights Committee:

(a) having ascertained that cases concerning the alleged victims, which had been before the Inter-American Commission on Human Rights, had been withdrawn and were no longer under active consideration by that body;

(b) being unable to conclude that, with regard to exhaustion of domestic remedies, on the basis of the information before it, there were any further remedies which the alleged victims should or could have pursued;

(c) accepting the contention of the State Party that in so far as the communication related to the alleged detention of the author, the Committee could not consider it since it concerned events which allegedly took place prior to the entry into force of the Covenant and the Optional Protocol in respect of Uruguay;

Therefore decided:

(a) that the author of the communication was justified by reason of close family connexion in acting on behalf of the other alleged victims;

(b) that the communication was inadmissible in so far as it related to the alleged detention of the author of the communication;

(c) that the communication was admissible in so far as it related to alleged violations of the Covenant in respect of the treatment of Luis María Bazzano Ambrosini, Martha Valentini de Massera and José Luis Massera;

(d) that the attention of the State Party be drawn to the concern expressed by the author of the communication for the health of Luis María Bazzano Ambrosini and José Luis Massera and that the State Party be requested to arrange for them to be medically examined and given all necessary medication and treatment if this had not already been done;

(e) that the text of this decision be transmitted to the State Party, together with the text of the relevant documents, and to the author;

(f) that, in accordance with article 4 (2) of the Optional Protocol, the State Party be requested to submit to the Committee, within six months of the date of the transmittal to it of this decision, written explanations or statements

clarifying the matter in so far as the communications related to Luis María Bazzano Ambrosini, Martha Valentini de Massera and José Luis Massera, and the remedy, if any, that may have been taken by it.

6. After expiry of the six-month time-limit, the State Party submitted its explanations, dated 16 November 1978, which consisted of a "Review of the rights of the accused in cases before a military criminal tribunal, and domestic remedies available to him for protecting and safeguarding his rights in the national courts of justice".

7. On 18 April 1979, the Committee decided that the submission of the State Party dated 16 November 1978 was not sufficient to comply with the requirements of article 4 (2) of the Optional Protocol, since it contained no explanations on the merits of the case under consideration and requested the State Party to supplement its submission by providing, not later than six weeks from the date of the transmittal of this decision to the State Party, observations concerning the substance of the matter under consideration.

8. The six-week extension granted by the decision of 18 April 1979 expired on 2 July 1979, but no response had reached the Division of Human Rights at the United Nations Office at Geneva by then, nor even by the time of the taking of this decision by the Committee.

9. The Human Rights Committee:

(a) considering that this communication was registered over two years ago

(b) considering that this communication was declared admissible more than one year ago and that the six-month time period required by article 4 (2) of the Optional Protocol expired in September 1978;

(c) considering that the State Party did not comply with the requirements of article 4 (2) of the Optional Protocol since its submission dated 16 November 1978 did not contain any explanations and statements clarifying the matter;

(d) considering that there has been no response from the State Party even after a further extension of six weeks;

(e) considering that the Committee has the obligation under article 5 (1) of the Optional Protocol, to consider this communication in the light of all written information made available to it by the author and the State Party;

hereby decides to base its views on the following facts which have not been contradicted by the State Party;

(i) Luis María Bazzano Ambrosini was arrested on 3 April 1975 on the charge of complicity in "assistance to subversive association". Although his arrest had taken place before the coming into force of the International Covenant on Civil and Political Rights and of the Optional Protocol thereto, on 23 March 1976, his detention without trial continued after that date. After being detained for one year he was granted conditional release, but this judicial decision was not respected and the prisoner was taken to an unidentified place, where he was confined and held incommunicado until 7 February 1977. On that date he was tried on the

charge of "subversive association and remained imprisoned in conditions seriously detrimental to his health. His lawyer twice attempted to obtain his provisional release, but without success.

(ii) José Luis Massera, a professor of mathematics and former Deputy to the National Assembly, was arrested in October 1975 and has remained imprisoned since that date. He was denied the remedy of habeas corpus, and another application for remedy made to the Commission on Respect for Human Rights of the Council of State went unanswered. On 15 August 1976 he was tried on charges of "subsersive association" and remained in prison. As a result of the maltreatment received, he has suffered permanent injury, as evidenced by the fact that one of his legs is several centimetres shorter than the other. In his double quality as former Deputy and as an accused tried for a political offence, he was deprived of all his political rights. a/

(iii) Martha Valentini de Massera was arrested on 28 January 1976. In September 1976 she was charged with "assistance to subversive association". She was kept in detention and was initially held incommunicado. In November 1976 for the first time a visit was permitted, but thereafter she was again taken to an unknown place of detention. She was tried by a military court and sentenced to three and a half years imprisonment, due to expire on 28 July 1979.

10. The Human Rights Committee, acting under article 5 (4) of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the

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a/ Institutional Act No. 4 of 1 September 1976:

(...) The Executive Power, in exercise of the powers conferred on it by the institutionalization of the revolutionary process,

DECREES:

Art. 1. The following shall be prohibited, for a term of fifteen years, from engaging in any of the activities of a political nature authorized by the Constitution of the Republic, including the vote:

(a) All candidates for elective office on the lists for the 1966 and 1971 elections of the Marxist and pro-Marxist Political Parties or Groups declared illegal by the resolutions of the Executive Power No. 1788/67 of 12 December 1967 and No. 1026/73 of 26 November 1973;

(b) All persons who have been tried for crimes against the nation.

Art. 2. The following shall be prohibited, for a term of fifteen years, from engaging in any of the activities of a political nature authorized by the Constitution of the Republic, except the vote:

(a) All candidates for elective office on the lists for the 1966 and 1971 elections of the Political Organizations which were electorally associated with the organizations mentioned in the preceding article, subparagraph (a), under the same coincidental or joint slogan or subslogan;

(b) All persons who have been tried for offences against the Public Administration committed during the exercise of their political functions. (...)

view that these facts in so far as they have occurred after 23 March 1976 disclose violations of the International Covenant on Civil and Political Rights, in particular:

(i) with respect to Luis María Bazzano Ambrosini,

of article 7 and article 10 (1), because he was detained under conditions seriously detrimental to his health;

of article 9 (1), because he was kept in custody in spite of a judicial order of release;

of article 9 (3) and article 14 (1) (2) and (3), because he was not brought to trial within a reasonable time and was tried in circumstances in which he was denied the requisite safeguards of fair trial;

of article 9 (4) because he was denied any effective remedy to challenge his arrest and detention;

of article 10 (1), because he was held incommunicado for months and was denied the right to be visited by any family member;

(ii) with respect to José Luis Massera,

of article 7 and article 10 (1), because during his detention he was tortured as a result of which he suffered permanent physical damage;

of article 9 (2), because he was not promptly informed of the charges brought against him;

of article 9 (3) and article 14 (1) (2) and (3), because he was not brought to trial within a reasonable time and was tried in circumstances in which he was denied the requisite safeguards of fair trial;

of article 9 (4), because he was denied any effective remedy to challenge his arrest and detention;

of article 10 (1), because for months he was denied the right to be visited by any family member;

of article 25, because of unreasonable restrictions on his political rights;

(iii) with respect to Martha Valentini de Massera,

of article 9 (2), because she was not promptly informed of the charges brought against her;

of article 10 (1), because for months she was held incommunicado and was denied visits by any family member;

of article 14 (1) (2) and (3), because she was tried in circumstances in which she was denied the requisite safeguards of fair trial;

and, accordingly, is of the view that the State Party is under an obligation to take immediate steps to ensure strict observance of the provisions of the Covenant and to provide effective remedies to the victims.

ANNEX VIII

List of Committee documents issued

A. Sixth session

Documents issued in the general series

CCPR/C/1/Add.36	Initial report of Barbados
CCPR/C/1/Add.37 and Corr.1 (English and Spanish only)	Initial report of the United Kingdom (second part)
CCPR/C/1/Add.38	Initial report of Mongolia
CCPR/C/1/Add.39	Initial report of the United Kingdom (third part)
CCPR/C/1/Add.40	Supplementary report of Chile
CCPR/C/2/Add.2	Reservations, declarations, notifications and communications relating to the International Covenant on Civil and Political Rights and the Optional Protocol thereto.
CCPR/C/4/Add.2	Initial report of Poland
CCPR/C/6	Consideration of reports submitted by States parties under article 40 of the Covenant - Initial reports of States parties due in 1979: note by the Secretary-General
CCPR/C/7	Provisional agenda and annotations - Sixth session
CCPR/C/SR.123-151 and corrigendum	Summary records of the sixth session

B. Seventh session

Documents issued in the general series

CCPR/C/1/Add.41	Supplementary information of Tunisia
CCPR/C/1/Add.42	Supplementary report of Sweden
CCPR/C/1/Add.43	Initial report of Canada
CCPR/C/1/Add.44	Supplementary report of Hungary
CCPR/C/1/Add.45	Initial report of Iraq
CCPR/C/4/Add.3	Supplementary report of Spain
CCPR/C/4/Add.4	Initial report of Suriname
CCPR/C/4/Add.5	Supplementary report of Spain
CCPR/C/6/Add.1	Initial report of Peru
CCPR/C/8	Provisional agenda and annotations - Seventh session
CCPR/C/SR.152-176 and corrigendum	Summary records of the seventh session

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