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Addendum

UKRAINIAN SSR

[31 August 1978]

Since the entry into force of the International Covenant on Civil and Political Rights, an extremely important event has occurred in the Ukrainian SSR - namely, the adoption of a new Constitution. In the country's new Fundamental Law, the radical social and economic reforms which mark a qualitatively new stage in the development of our society have found their constitutional affirmation. This historical document confirms the results of the 60-year development of the Soviet State, demonstrates the outstanding achievements in building an advanced socialist society and marks a further step in the development of socialist democracy.

In March 1978, preparation of the draft of the new Constitution of the Ukrainian SSR, elaborated by a special Commission of the Supreme Soviet of the Ukrainian SSR under the chairmanship of V.V. Shcherbitsky, was completed. By decision of the Presidium of the Supreme Soviet of the Ukrainian SSR, the draft Fundamental Law of the Republic was made public for a nation-wide discussion in which more than 32 million citizens took part. In the course of a broad, creative and genuinely nation-wide discussion of the draft of the new Constitution of the Ukrainian SSR, working people expressed their views on it in more than 8,000 comments and proposals, which were carefully examined by the Commission of the Supreme Soviet of the Ukrainian SSR. Many of them were taken into account by the Commission in the finalization of the draft.

The new Constitution (Fundamental Law) of the Ukrainian SSR, which was the result of a genuinely popular law-making process, was adopted on 20 April 1978. It raises to a higher and qualitatively new level the protection of all the rights and freedoms of every citizen of the Ukrainian SSR individually and of the Ukrainian people as a whole. In the Ukrainian SSR, a new socialist society has been created in which the sole and sovereign master of the country is the people, which itself settles all questions concerning its life. Having eliminated exploitation and other forms of oppression of man by man, socialism in the Ukrainian SSR has in fact guaranteed working people real freedoms and genuinely democratic rights, well-being and solid confidence in the future.

The new Constitution of the Ukrainian SSR fully guarantees and ensures in practice the implementation in the Ukrainian SSR of all the provisions laid down in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other United Nations instruments of international law concerning human rights. The rights and freedoms affirmed in the International Covenant on Civil and Political Rights were guaranteed to all citizens without discrimination by the 1937 Constitution of the Ukrainian SSR and by subsequent legislation long before the elaboration, adoption and entry into force of the Covenant. Now, the provisions of the Covenant are reflected in existing legislative acts such as the 1978 Constitution (Fundamental Law) of the Ukrainian SSR, the 1963 Civil Code of the Ukrainian SSR, the 1963 Code of Civil Procedure of the Ukrainian SSR, the 1971 Labour Code of the Ukrainian SSR, the 1969 Marriage and Family Code of the Ukrainian SSR, the 1960 Criminal Code of the Ukrainian SSR, the 1961 Code of Criminal Procedure of the Ukrainian SSR, the 1971 Correctional Labour Code of the Ukrainian SSR, and many others.

The rights and freedoms accorded to citizens by the legislation of the Ukrainian SSR are exercised by them in practice.

A brief survey of the situation regarding the implementation in the Ukrainian SSR of the rights and freedoms provided for in the International Covenant on Civil and Political Rights is given below.

Article 1

The Ukrainian SSR has recognized and continues to recognize the right of peoples to self-determination. Proceeding from this position, it took part in the preparation, and welcomed the adoption by the General Assembly, of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the 1970 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which provides a comprehensive definition of the content of the principle of self-determination. Now also the Ukrainian SSR supports international action aimed at the complete elimination, as soon as possible, of the vestiges of colonialism in all its forms and manifestations.

Article 2

Under article 32 of the Constitution of the Republic:

"Citizens of the Ukrainian SSR are equal before the law, without distinction of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type and nature of occupation, domicile, or other status.

"The equal rights of citizens of the Ukrainian SSR are guaranteed in all fields of economic, political, social and cultural life."

The principle of the equality of citizens before the law, which is affirmed in article 32 of the Constitution of the Ukrainian SSR, is further developed and given concrete expression in all branches of current legislation. All citizens of the Ukrainian SSR have equal rights to protection by the State organs of legal

protection (courts, Procurator's Office, etc.), and the effective protection of the rights and legal interests of citizens in the event of their infringement is guaranteed.

For example, article 5 of the Law on Court Organization in the Ukrainian SSR provides that "justice in the Ukrainian SSR shall be administered on the principle of equality of citizens before the law and the court, irrespective of their social, property and occupational status, nationality, race or creed". A similar provision is contained in article 6 of the Code of Civil Procedure and in article 16 of the Code of Criminal Procedure of the Ukrainian SSR.

Every citizen in the Ukrainian SSR has a right to apply to the court in the event of infringement of his lawful rights. Article 4 of the Code of Civil Procedure of the Ukrainian SSR provides that:

"Any interested person shall have the right, following the procedure laid down by law, to apply to the Court for protection if his rights or legally protected interests are infringed or contested ..."

Article 56 of the Constitution of the Ukrainian SSR provides that:

"Citizens of the Ukrainian SSR have the right to lodge a complaint against the actions of officials and of State and public bodies. Complaints shall be examined according to the procedure and within the time-limit established by law.

"Appeals against actions by officials that contravene the law or exceed their powers, and infringe the rights of citizens, may be lodged in a court in the manner prescribed by law.

"Citizens of the Ukrainian SSR have the right to compensation for damage resulting from unlawful actions by State and public organizations, or by officials in the performance of their duties."

Current legislation also provides for the protection of the rights of citizens in administrative procedures, and also by comrades' courts and trade-union and other public organizations.

The Criminal Code of the Ukrainian SSR (articles 165-167) establishes the criminal liability of officials for abuse of authority or of official position, for exceeding their authority or official powers, or for negligence, in particular if it causes substantial harm to the legally protected rights and interests of citizens. In addition, the Criminal Code of the Ukrainian SSR contains separate articles establishing criminal liability for infringement of the political, labour and other rights of citizens (e.g. articles 127-139). The legislation on criminal procedure and civil procedure contains details of the legal measures for protection of citizens' rights during investigations and inquiries, and during the hearing of court cases.

Protection of the rights of citizens in the Ukrainian SSR is the duty of all State organizations (article 4 of the Constitution of the Ukrainian SSR. Public organizations also assist in this activity. Under the Constitution of the

Ukrainian SSR, the duty of taking measures to protect the rights of citizens is assigned in particular to the Council of Ministers of the Ukrainian SSR (article 118, paragraph 4) and to the Soviets of People's Deputies (article 125). Current legislation also makes the judicial system and the organs of the Procurator's Office responsible for protecting from any infringements the political, labour, housing and other personal and property rights and interests of citizens of the Ukrainian SSR.

The manner in which the requirements of article 2 of the Covenant are reflected in the legislation and practice of the Ukrainian SSR is illustrated below with respect to specific rights.

Article 3

The principle of the equality of rights of men and women was clearly reflected in the legislation of the Ukrainian SSR long before it was affirmed in international instruments adopted by the United Nations, ILO, UNESCO and other organizations; and it is being consistently implemented. Article 33 of the Constitution of the Ukrainian SSR, for example, states that:

"Women and men have equal rights in the Ukrainian SSR.

"The exercise of these rights is assured by according women equal access with men to education and vocational training, equal opportunities in employment, remuneration and promotion and in social, political and cultural activity, and by special labour and health protection measures for women; by the establishment of conditions enabling mothers to work; by legal protection and material and moral support for mothers and children, including paid leave and other benefits for pregnant women and mothers, and gradual reduction of working time for mothers with small children."

Equality of men and women in family relations is guaranteed in the Marriage and Family Code of the Ukrainian SSR (article 4 et al.).

Women in the Ukrainian SSR take an active part in public and political life. They belong to public organizations such as the Communist Party, trade unions, the Young Communists League, sports clubs, and so forth. Women also occupy leading positions in these organizations. More than 55 per cent of the members of trade union committees in the Republic are women.

More than 35 per cent of the total number of deputies in the highest organ of State power - the Supreme Soviet of the Ukrainian SSR - and nearly 48 per cent of all the deputies in local Soviets in the Ukraine are women.

Women occupy senior posts in organs of the State administration, including the posts of head and deputy head of ministries and departments, chief of section, etc.

There are a considerable number of women members of organs of the judiciary. For example, 10 out of the 38 members of the Supreme Court of the Ukrainian SSR, and 30 out of the 75 people's assessors of the Supreme Court, are women. Many women serve as judges in provincial and district People's courts.

Women take part also in diplomatic work. They are included in delegations of the Ukrainian SSR to the United Nations General Assembly and international conferences, and take part in the work of other organs of the United Nations and other international organizations.

Article 6

In the Ukrainian SSR the right to life, like other civil and political rights, is guaranteed by the Constitution of the Ukrainian SSR and is protected by law and by other means available to the State. The criminal law in force provides for the protection of citizens against any kind of attack on their life and health. Arbitrary deprivation of life or attempts on a person's life are regarded as serious crimes under the law and offenders are criminally liable.

The provisions of the Criminal Code of the Ukrainian SSR establish criminal liability for various types of murder, attempted murder, inducement to suicide and threats to commit murder.

Under existing criminal legislation, the death penalty is an exceptional measure of punishment and pending its abolition is applied, for the most serious crimes, in execution of a final judgement by the competent court. It should be emphasized that the law provides for the death penalty only as an alternative to deprivation of liberty, i.e., it provides for the possibility of applying this measure of punishment and not for the obligation to apply it; and in practice it is applied only in exceptional cases, where there are particularly aggravating circumstances. Cases for which the death penalty may be applied are usually examined both by the court of appeal and under the supervisory procedure.

Article 24 of the Criminal Code of the Ukrainian SSR states that persons who have not attained the age of 18 years before the commission of the crime, and women who are pregnant at the time of the commission of the crime or at the moment judgement is rendered, may not be sentenced to death. The death penalty may not be applied to a woman who is pregnant at the moment judgement is to be executed.

A person sentenced to death, like persons sentenced to any other punishment, has the right to apply for a pardon or a mitigation of sentence.

In accordance with article 108, paragraph 12 of the Constitution of the Ukrainian SSR, the Presidium of the Supreme Soviet of the Ukrainian SSR may grant amnesty or pardon citizens sentenced by courts of the Ukrainian SSR.

If the court of second instance upholds the sentence, the convicted person has the right to apply to the Presidium of the Supreme Soviet of the Ukrainian SSR for a pardon. A convicted person's appeal cannot be ruled

irreceivable on the grounds of the seriousness of the crime or bad conduct or for any other reason. The application for pardon is transmitted by the administration of the place of detention, within 10 days from the date of receipt, to the Presidium of the Supreme Soviet of the Ukrainian SSR.

In considering applications for pardon or mitigation of sentence, the Presidium of the Supreme Soviet of the Ukrainian SSR takes into account the character of the convicted person, the nature of his crime, whether he has any criminal record, whether he has already been the subject of an amnesty, pardon or conditional early release, his age, family status and other relevant circumstances.

Pardon or mitigation of punishment may be granted by the Presidium of the Supreme Soviet of the Ukrainian SSR in all cases.

Article 7

The legislation of the Ukrainian SSR strictly forbids all forms of cruel treatment. For example, article 52 of the Constitution of the Ukrainian SSR provides that citizens of the Ukrainian SSR are guaranteed inviolability of the person. For all administrative and judicial organs and persons entitled to institute criminal proceedings, to conduct an inquiry, investigation and court examination or to oversee the serving of sentences by convicted persons, the Code of Criminal Procedure and the Correctional Labour Code prescribe procedures which ensure to the maximum possible degree the establishment of the truth in the case, the observance of legality and the prevention even of the possibility of the use of torture and other cruel, inhuman and degrading treatment or punishment.

In particular, article 5 of the Code of Criminal Procedure of the Ukrainian SSR provides that no one may be tried except on the grounds and in accordance with the procedure established by law; and article 22 of the Ukrainian Code of Criminal Procedure contains provisions forbidding any attempt to obtain testimony from the accused by the use of force, threats or any other illegal means.

In defining the purposes of punishment, article 22 of the Criminal Code of the Ukrainian SSR states that the purpose of punishment is not to inflict physical suffering or to degrade human dignity. The same provision is contained in article 1, part 2 of the Correctional Labour Code of the Ukrainian SSR, which deals with the purpose of punishment.

In addition to provisions forbidding the use of physical or psychological pressure on persons against whom criminal proceedings have been initiated or who are receiving punishment in the form of deprivation of liberty, the legislation of the Ukrainian SSR establishes 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.

In the Criminal Code of the Ukrainian SSR, the use of force to obtain testimony is regarded as a serious crime. Under article 175 of the Criminal Code the extraction of evidence during interrogation, by illegal acts on the part of persons conducting the inquiry or preliminary investigation, is punishable by deprivation of liberty. Extraction of evidence, accompanied by the use of force or by mockery against the person of the accused, is punishable by deprivation of liberty for a longer term.

In addition to the provisions concerning criminal liability, article 443 of the Civil Code of the Ukrainian SSR states that the relevant State organs bear material liability, in the cases and within the limits specially prescribed by law, for harm caused by official misconduct on the part of the organs of inquiry or preliminary investigation, the Procurator's Office or the court.

In the Ukrainian SSR all necessary measures, including legislative measures, have been taken to ensure the safety of patients during treatment and to protect them from experiments.

Article 54 of the Law of the Ukrainian SSR "On health protection" contains provisions regarding the procedure for surgical operations and the use of complex methods of diagnosis. This article stresses that surgical operations which cannot be postponed shall be performed and complex methods of diagnosis applied by doctors without the consent of the patients or their parents, guardians or trustees, only in exceptional cases when a delay in the establishment of a diagnosis or in the performance of an operation imperils the life of the patient and there is no possibility of obtaining the consent of the persons concerned.

Article 8

The foundation of the economic system of the Ukrainian SSR, as affirmed in the Constitution of the Republic, is socialist ownership of the means of production in the form of State property (belonging to the entire people), and collective farm and co-operative property. All power in the Ukrainian SSR belongs to the people in the person of the Soviets of People's Deputies, which constitute the political foundation of the Ukrainian SSR.

In the Ukrainian SSR, there are none of the economic, political or legal preconditions for the emergence or existence of slavery, the slave trade or forced labour. There is complete freedom of employment in the Republic and every citizen has the right freely to choose his work. Article 38 of the Constitution of the Ukrainian SSR states that:

"Citizens of the Ukrainian SSR have the right to work (that is, to guaranteed employment and pay in accordance with the quantity and quality of their work, and not below the State-established minimum), including the right to choose their trade or profession, type of job and work in accordance with their inclinations, abilities, training and education, taking due account of the needs of society."

This right is exercised by the free conclusion of a labour contract. The law also establishes the freedom to cancel this contract by giving the management two weeks' notice in writing (article 38 of the Labour Code).

Supporting the efforts of States to achieve the complete elimination of slavery and the slave trade throughout the world, the Ukrainian SSR became a party to the 1926 Slavery Convention and the Protocol Amending the Slavery Convention signed at Geneva on 7 December 1953, and to the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.

With respect to article 8, paragraph 3 (b) of the Convention, the criminal law of the Ukrainian SSR makes no provision for a punishment consisting of deprivation of liberty combined with hard labour; and this punishment is not prescribed in practice.

Article 9

Article 52 of the Constitution of the Ukrainian SSR provides that citizens are guaranteed inviolability of the person. No one may be arrested except by a court decision or on the warrant of a prosecutor.

In accordance with this constitutional provision, there are in the Ukrainian SSR a whole series of juridical, political, material and other guarantees for the genuine exercise of the right of citizens to freedom and inviolability of person, and for the protection of this right if it should be violated. Existing legislation in the Ukrainian SSR permits deprivation of liberty only for the commission of specific criminal acts and only on the grounds and in accordance with the procedure established by law. Article 158 of the Constitution of the Ukrainian SSR provides that: "No one may be adjudged guilty of a crime and subject to arrest except by the sentence of a court and in conformity with the law".

The law states that even detention in custody is allowed only when a person is suspected of having committed a crime. The Code of Criminal Procedure of the Ukrainian SSR provides that a person suspected of having committed a crime punishable in law by deprivation of liberty may be detained in custody only on one of the following grounds, as listed in article 106 of the Code of Criminal Procedure of the Ukrainian SSR:

- (a) when the person is caught in the act of, or immediately after, committing the crime;
- (b) when eyewitnesses, including victims, directly identify the person as the offender;
- (c) when clear traces of the crime are discovered on the suspected person or his clothing, or in his keeping or in his dwelling.

In every case of detention of a person suspected of having committed a crime, the organ of inquiry is required by the Code of Criminal Procedure of the Ukrainian SSR to prepare a report stating the grounds and reasons for his detention. The suspect must be informed what he is suspected of, and the notification must be mentioned in the report. Every instance of detention is reported within 24 hours to the Procurator who, within 48 hours of receiving notification of the detention, is required either to sanction detention in custody or to release the person detained.

Detention in custody until a judgement enters into legal force is permitted under the Code of Criminal Procedure of the Ukrainian SSR as one measure of preventive restraint if there are sufficient grounds for believing that the accused will hide from an inquiry, preliminary investigation or court or will impede the establishment of the truth in a criminal case or will engage in criminal activity. Under a decree of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 23 March 1977, detention in custody is an exceptional measure of restraint for persons suspected of crimes for which the law prescribes deprivation of liberty for a period of no more than one year. This measure is applied, as a rule, only in cases of crimes for which the law provides punishment in the form of deprivation of liberty for a period of more than one year.

Arrest as a measure of restraint is usually applied only after a charge has been brought. Under article 157 of the Code of Criminal Procedure of the Ukrainian SSR the procurator, before sanctioning arrest, is obliged personally to acquaint himself with the documents of the case and, where necessary, to interrogate the accused (or suspect) regarding the substance of the charge brought against him and the circumstances relating to the application of measures of restraint.

If there is sufficient evidence of the commission of the crime by a specific person, the law requires the investigator to issue an order (giving reasons) for proceedings to be instituted against that person. The order must indicate specifically the crime of which the accused is suspected, the article of criminal law dealing with the crime, etc. A copy of the order must be forwarded immediately to the procurator.

Article 133 of the Code of Criminal Procedure of the Ukrainian SSR states that the accused must be charged no later than two days after criminal proceedings have been instituted against him and the investigator must explain the substance of the charge. Accomplishment of these acts is certified by the signature of the accused on the order for instituting proceedings, and by the signature of the investigator indicating the date on which the charge has been brought. If the charge has not been brought within the time-limit established by the Code of Criminal Procedure of the Ukrainian SSR, the suspect must be released.

Any person who is deprived of liberty in consequence of arrest or detention has the right to have his case heard in court. Furthermore, the law requires the competent organs to bring the case to court. Article 233 of the Code of Criminal Procedure of the Ukrainian SSR requires a prosecutor, when he has

received a case from an organ of inquiry or an investigator, to consider the case and deal with it appropriately within a period not exceeding five days. Having confirmed the indictment prepared by the organ of inquiry or the investigator, or having prepared a new indictment, he must refer the case to the competent court (article 232 of the Code of Criminal Procedure of the Ukrainian SSR). At the same time the procurator must inform the accused to which court the case has been referred.

The case must be examined by the judge individually or by the court in procedural session within a period not exceeding five days or, if it is complicated, within a period not exceeding 10 days from the day on which it is referred to the court (article 241 of the Code of Criminal Procedure of the Ukrainian SSR). With respect to each of the defendants, the judge or the court is obliged to indicate in particular whether there are grounds for dismissing the charge or suspending proceedings (article 242 of the Code of Criminal Procedure of the Ukrainian SSR).

Officials are obliged in their actions to adhere strictly to the procedures and time-limits indicated in the Code of Criminal Procedure of the Ukrainian SSR; and compliance with these procedures and time-limits is constantly monitored by the Procurator's Office. In accordance with the law, the procurator must in particular:

- (i) Strictly ensure that no citizen is unlawfully charged with a criminal offence or subjected to any other unlawful limitation of his rights;
- (ii) Verify the legality of the detention of persons suspected of a crime;
- (iii) Verify that organs of inquiry and preliminary investigation strictly adhere to the procedures and time-limits established by law for the investigation of crimes.

The procurator must also immediately release from detention any person who has been illegally arrested or illegally held in custody in places of deprivation of liberty.

Under article 173 of the Criminal Code of the Ukrainian SSR, knowingly unlawful arrest and knowingly unlawful detention are regarded as offences against justice and criminal proceedings are instituted against persons guilty of such offences. The presence of such rules in the Criminal Code of the Ukrainian SSR serves as an important measure to prevent the violation of the right of citizens to freedom and inviolability of the person.

Article 56 of the Constitution of the Ukrainian SSR states that citizens of the Ukrainian SSR "have the right to compensation for damage resulting from unlawful actions by State organizations and public organizations, or by officials in the performance of their duties".

Furthermore, under article 443 of the Civil Code of the Ukrainian SSR, the organs of inquiry and preliminary investigation, the Procurator's Office and the courts are materially liable for harm caused by the wrongful acts of their officials in the cases and within the limits expressly provided for by law.

Article 10

Under the legislation in force in the Ukrainian SSR, persons sentenced to deprivation of liberty for committing a crime are not deprived of their rights. In accordance with the provisions of article 8 of the Correctional Labour Code of the Ukrainian SSR, such persons have the obligations and enjoy the rights established for citizens, but they are subject to restrictions within limits defined by law.

Punishment in accordance with criminal and correctional labour legislation is not applied or executed for the purpose of inflicting physical suffering or degrading human dignity. It is aimed at reforming and re-educating convicted persons in the spirit of an honest attitude to labour and respect for the rules of socialist society. It should be added that the "reforming and re-educating" of convicted persons in the Ukrainian SSR is not just an "important aim" of punishment but one of its principal objectives, and it is designed to ensure that anyone who has strayed from the path of labour can return to useful activity.

The law provides that accused persons shall be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

Men are kept separate from women, and adults from minors, in correctional labour institutions (article 21 of the Correctional Labour Code of the Ukrainian SSR). Offenders who have not attained their majority are detained under conditions appropriate to their age and legal status.

Changes and additions aimed at the further humanization of punishment in general, and punishment in the form of deprivation of liberty in particular were introduced into the penitentiary legislation of the Ukrainian SSR by decrees of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 23 March 1977. In particular, possibilities for conditional early release were considerably extended. A system of suspended sentences was introduced for convicted minors. Legal provision was made for a new and more humane form of punishment - the conditional sentence - which is largely to replace deprivation of liberty. The main feature of this type of punishment is that isolation of the convicted person is replaced by restriction of liberty, with the possibility for offenders to engage in productive work in ordinary production collectives and, at the same time, to maintain and strengthen social links, including family links. These measures are conducive to the reformation and social re-education of persons deprived of liberty.

Article 11

In the Ukrainian SSR the law does not provide for deprivation of liberty on the ground of failure to fulfil any contractual obligations, and cases of this nature are unknown in judicial practice.

Article 12

The question of liberty of movement, and of the freedom of citizens and other persons lawfully residing in the territory of the Ukrainian SSR to choose their place of residence, is governed by a number of normative instruments. For example, article 10 of the Civil Code of the Ukrainian SSR states that citizens may choose their place of residence in accordance with the law.

Citizens also enjoy the right to liberty of movement and have other rights in accordance with the requirements of article 12 of the Covenant.

Article 13

The legal status of aliens in the Ukrainian SSR is determined by the legislation in force in the Republic. For example, article 35 of the Constitution of the Ukrainian SSR provides that: "Citizens of other countries and stateless persons in the Ukrainian SSR are guaranteed the rights and freedoms provided by law, including the right to apply to a court and other State bodies for the protection of their personal, property, family and other rights".

Article 565 of the Civil Code of the Ukrainian SSR specifies that "citizens of other countries shall in the Ukrainian SSR enjoy civil legal capacity on an equal footing with Soviet citizens".

Article 423 of the Code of Civil Procedure of the Ukrainian SSR also provides that citizens of other countries have the right to apply to the courts of the Ukrainian SSR and enjoy procedural rights equally with Soviet citizens.

As stipulated in article 13 of the Covenant, an alien lawfully in the territory of the Ukrainian SSR may be expelled therefrom only in pursuance of a decision reached by the competent authority. The legislation in force does not prohibit him from adducing arguments against his expulsion (except in cases where imperative considerations of State security require a different approach), and such arguments are examined by the competent officials.

Article 14

One of the most important democratic principles of socialist justice in the Ukrainian SSR is the principle of the equality of citizens before the law and the courts. This principle is affirmed in article 154 of the Constitution of the Ukrainian SSR, in article 16 of the Code of Criminal Procedure, and in article 6 of the Code of Civil Procedure. In these texts it is stated that justice in the Ukrainian SSR is administered on the principle of the equality of citizens before the law and the court irrespective of their social, property and official status, nationality, race or creed.

The provision of the Covenant to the effect that "in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law" and also other provisions of article 14 of the Covenant, are incorporated in a whole series of legal norms.

For example, in article 149 of the Constitution of the Ukrainian SSR and article 1 of the Law concerning Court Organization in the Ukrainian SSR, it is clearly specified that justice in the Ukrainian SSR is administered only by courts elected on democratic principles - the Supreme Court of the Ukrainian SSR and the provincial and people's courts. The same principle with respect to criminal procedure is formulated in article 15 of the Code of Criminal Procedure and, with respect to civil procedure, in article 6 of the Code of Civil Procedure of the Ukrainian SSR.

One of the objectives of criminal procedure, as defined in article 2 of the Code of Criminal Procedure of the Ukrainian SSR, is to ensure the correct application of the law so that no innocent person may be charged with a criminal offence or convicted. In accordance with the law, the person conducting the inquiry, the investigator, the procurator and the court are obliged to "take all the measures

prescribed by law for the comprehensive, thorough and objective scrutiny of the circumstances of the case and to bring to light circumstances which prove the innocence or guilt of the accused persons as well as those which aggravate or mitigate his guilt" (article 22 of the Code of Criminal Procedure of the Ukrainian SSR). In accordance with the requirements of article 323 of the Code of Criminal Procedure of the Ukrainian SSR, the "sentence of the court must be legal and reasoned"; "the court assesses the evidence in accordance with its inner convictions based on a comprehensive, thorough and objective examination of all the circumstances of the case, and guided by the law and the socialist concept of justice".

The direct nature of criminal proceedings in the Ukrainian SSR plays an important part in establishing the truth in a case and in assuring the protection of human rights. The court of first instance, in examining a case, must undertake a direct scrutiny of the evidence in the case; interrogate the accused, the victims and the witnesses; hear the findings of the experts; inspect the material evidence, and make public the records and other documents (article 257, part 1, of the Code of Criminal Procedure of the Ukrainian SSR). The court founds its judgement only on the evidence which has been examined in the judicial session (article 323, part 2, of the Code of Criminal Procedure of the Ukrainian SSR).

One of the democratic foundations of socialist justice in the Ukrainian SSR is the public nature of court proceedings. The principle of the publicity of court hearings is set forth in general form in the Constitution of the Ukrainian SSR, article 155 of which states that: "Proceedings in all courts shall be open to the public. Hearings in camera are only allowed in cases provided for by law, with observance of all the rules of judicial procedure". This general constitutional provision is given concrete expression in article 11 of the Law on Court Organization in the Ukrainian SSR and in the Code of Criminal Procedure of the Ukrainian SSR. In article 20 of the Code of Criminal Procedure of the Ukrainian SSR, it is stated that examination of cases in all courts of the Ukrainian SSR is public, except where this is contrary to the interest of protecting State secrets.

Court hearings in camera are permitted where the court so rules, giving its reasons, in cases of crimes committed by persons below the age of 16 years and in other cases for the purpose of preventing the divulgence of information concerning intimate aspects of the life of persons involved in the case. The judgements of the court are pronounced publicly in all cases. A similar rule is contained in article 10 of the Code of Civil Procedure of the Ukrainian SSR.

Since court hearings are normally public, judicial activity is placed under the surveillance of the people and of public opinion and, at the same time, court trials have an educational effect. Accordingly, there is a practice in the Republic whereby, to conduct their hearings, courts move out to the enterprise, collective farm, workers' club or other community most affected by the crime under examination.

One of the cardinal principles of criminal and civil procedure which ensures an objective and impartial court decision in each specific case is the principle that judges are independent and subject only to the law. This principle is affirmed in law in article 153 of the Constitution of the Ukrainian SSR. It is

also expressed in the following terms in article 7 of the Law on Court Organization in the Ukrainian SSR, and in article 18 of the Code of Criminal Procedure and article 8 of the Code of civil Procedure of the Ukrainian SSR: "In administering justice in criminal and civil cases, judges and people's assessors are independent and subject only to the law." Judges and people's assessors try cases on the basis of the law and in accordance with the socialist concept of justice, under conditions which preclude the exercise of any external influence upon the judges. Under article 150 of the Constitution of the Ukrainian SSR, all courts in the Ukrainian SSR are formed on the principle of the electiveness of judges and people's assessors.

Under articles 54-63 of the Code of Criminal Procedure and articles 18-23 of the Code of Civil Procedure of the Ukrainian SSR a judge, procurator and other participants in criminal or civil proceedings may take part in the trial and shall be removed from the proceedings if they have, directly or indirectly, a personal interest in the outcome of the case or if there are other circumstances which cast doubt on their impartiality.

The principle of presumption of innocence whereby "everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law" is embodied in the entire system of criminal procedure rules and, in particular, in the following provisions of the Code of Criminal Procedure of the Ukrainian SSR:

- (a) Every person who has committed a crime shall be subjected to just punishment, and no innocent person shall be charged with a criminal offence and convicted (article 2);
- (b) No one may be prosecuted except on the grounds and in accordance with the procedure established by law (article 5);
- (c) No one may be deemed guilty of the commission of a crime and subjected to criminal punishment except by a judgement of the court (article 15);
- (d) The court, the procurator, the investigator and the person conducting the inquiry shall not have the right to lay the burden of proof on the accused (article 22);
- (e) The testimony of the accused, including testimony in which he recognizes his guilt, shall be subject to verification. A charge may be based on a confession of guilt by the accused only if this confession is confirmed by the entire body of evidence available in the case (article 74, part 2);
- (f) A conviction may not be founded on assumptions and shall be rendered only where, in the course of the judicial examination, the prisoner's guilt in committing the crime has been proved (article 323, part 2) etc.

Questions relating to the guarantees in criminal cases listed in article 14 of the Covenant are dealt with in very great detail in the Code of Criminal Procedure of the Ukrainian SSR. Thus, under the provisions of article 140 of the Code, an investigator, having satisfied himself of the identity of an accused person, must inform him of the decision to bring a charge against him and must

explain the nature of the charge. Under provisions of the Code of Criminal Procedure of the Ukrainian SSR the accused has the right, inter alia: to know of what he is accused; to give explanations concerning the charge brought against him; to present evidence; to petition for the interrogation of witnesses, or for a confrontation, etc.; to challenge the investigator, the procurator, the composition of the court, the expert or the interpreter; to acquaint himself with all the evidence in the case; to have a defence counsel; and to file complaints concerning actions and decisions by the investigator, the procurator and the court.

The right of the accused to be informed of the nature and grounds of the charge brought against him, in a language which he understands, derives from the provisions of article 157 of the Constitution of the Ukrainian SSR and of article 12 of the Law on Court Organization in the Ukrainian SSR. These provisions state that legal proceedings in the Ukrainian SSR shall be conducted in the Ukrainian language or in the language spoken by the majority of the people in the locality. Persons participating in court proceedings who do not know the language in which the proceedings are conducted are assured of the right to become fully acquainted with the materials in the case through an interpreter, and also of the right to address the court in their own language.

This general provision is given concrete expression in article 19 of the Code of Criminal Procedure of the Ukrainian SSR, which states that persons participating in the case who do not know the Ukrainian language shall be assured of the right to make statements, give testimony, plead in court, and file petitions in their own language, and also the right to the services of an interpreter in accordance with the procedure established by law. The investigative and judicial documents referred to in article 254 of the Code of Criminal Procedure of the Ukrainian SSR are, in accordance with the procedure established by the law, handed to an accused person who does not know Ukrainian in a translation into his own language or into another language which he does know.

Correspondingly, if the defendant does not know the Ukrainian language, after the judgement has been rendered the interpreter reads it to the defendant in his own language or in a language which he does know (article 341 of the Code of Criminal Procedure of the Ukrainian SSR).

The guarantee that a person charged with a criminal offence will be tried without undue delay is ensured by strict observance of the time-limits established by the Code of Criminal Procedure of the Ukrainian SSR for conducting the enquiry (article 108) and the preliminary investigation (article 120), and for referring the case for examination in court (article 256).

Under article 43, part 2, of the Code of Criminal Procedure of the Ukrainian SSR, the defendant has the right to participate in the court hearing in courts of first instance.

Article 262 of the Code of Criminal Procedure of the Ukrainian SSR supplements this general provision with the following specific requirements:

- (i) The hearing of a case at a session of the court of first instance shall be conducted with the participation of the defendant, whose presence in court shall be mandatory;

- (ii) The hearing of a case in the absence of the defendant is permitted only in exceptional cases, namely if the defendant is outside the country and evades appearance in court, or if the case involves a crime which is not punishable by deprivation of liberty and the defendant asks to be tried in his absence. Even in such a case, however, the court has the right to rule that the appearance of the defendant is mandatory.

Under article 156 of the Constitution of the Ukrainian SSR, a defendant in a criminal action is guaranteed the right to legal assistance. Article 161 of the Constitution of the Ukrainian SSR provides that: "Colleges of advocates are available to give legal assistance to citizens and organizations. In cases provided for by legislation, citizens shall be given legal assistance free of charge". The right to legal assistance is also affirmed in article 21 of the Code of Criminal Procedure of the Ukrainian SSR. This article provides, in particular, that the investigator, the procurator and the court shall ensure for the accused the possibility of defending himself by the ways and means established by law, against the charge brought against him and to protect his personal and property rights.

Article 218 of the Code of Criminal Procedure of the Ukrainian SSR provides that a person charged with a criminal offence shall be given a genuine possibility to prepare his defence and to communicate with the defence counsel of his choice. The article states, in particular, that the investigator must inform the accused that he is entitled to acquaint himself, both personally and with the help of defence counsel, with all the materials in the case and that he may petition for an extension of the preliminary inquiry; in this connexion, the accused and defence counsel cannot be restricted with regard to the time necessary for the examination of all the materials in the case.

The defendant's right to legal assistance is also confirmed by article 43 of the Code of Criminal Procedure of the Ukrainian SSR. General provisions concerning the participation of defence counsel in court proceedings are to be found in many articles of the Code of Criminal Procedure of the Ukrainian SSR. In particular, article 43 of the Code of Criminal Procedure of the Ukrainian SSR provides that it is defence counsel's duty to make use of all the ways and means of defence specified in the law for the purpose of bringing to light any circumstances exonerating the accused or mitigating his responsibility, and to render all necessary legal aid to the accused. The law provides that defence counsel has the right to meet the accused alone, without restrictions as to the number or duration of such meetings.

Under article 142 of the Code of Criminal Procedure of the Ukrainian SSR the accused has the right to petition for the interrogation of witnesses or for a confrontation during the preliminary enquiry and, with the investigator's permission, to be present at specific stages of the investigation. In accordance with article 263 of the Code of Criminal Procedure of the Ukrainian SSR, the defendant has a right in a court session to petition for the calling of witnesses, to put questions to other defendants and witnesses, etc.

The accused has a right to the services of an interpreter free of charge both during the judicial examination and during the preliminary investigation.

The right of the accused or the defendant "not to be compelled to give evidence against himself or to plead guilty" is guaranteed by existing criminal procedure and criminal legislation.

Article 22 of the Code of Criminal Procedure of the Ukrainian SSR contains a direct prohibition of attempts "to obtain testimony from the accused by the use of force, threats or other illegal means". Article 175 of the Criminal Code of the Ukrainian SSR, as already stated above, establishes criminal liability for the extraction of evidence during interrogation by illegal acts on the part of the person conducting the inquiry or the preliminary investigation. If such actions are accompanied by the use of force or mockery against the person being interrogated, the offender is punished by deprivation of liberty for a longer period.

The provision of article 14, paragraph 4, of the Covenant to the effect that "in the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation" is developed in many rules of the Code of Criminal Procedure of the Ukrainian SSR (with the additions and amendments incorporated on 23 March 1977), several of which are contained in section 8 of the Code, entitled "Procedure in cases of crimes committed by minors". In this section it is provided, in particular, that:

- (a) The court, the procurator and, with the procurator's consent, the investigator are entitled to terminate criminal proceedings against a minor who has committed a crime which does not represent a great public danger. The above-mentioned officials may proceed in this manner if the guilty person can be reformed without the application of criminal punishment. The materials in the case must then be transmitted to a commission on juvenile offenders. Termination of a criminal case on these grounds is not permitted if the minor does not consider himself guilty or if his legal representative objects to the transmission of the materials in the case to a commission on juvenile offenders for examination (article 9);
- (b) In cases involving offences by minors, committal for trial cannot be ordered by a judge individually but only at a procedural session (article 237);
- (c) The circumstances which must be established by the commission on juvenile offenders include, in particular, the following: the minor's age; his state of health and general development; the conditions of his life and upbringing; the presence in the case of any adult instigators or other persons who have incited the minor to engage in criminal or other antisocial activity, etc. (article 433);
- (d) Arrest and detention in custody as a measure of preventive restriction may be applied to a minor only in exceptional cases (article 434);
- (e) Besides the measures of preventive restriction provided for in article 149 of the Code of Criminal Procedure of the Ukrainian SSR, accused minors may be placed under the supervision of parents, guardians or trustees, and minors receiving their education in a children's institution may be placed under the supervision of the administration of the institution concerned (article 436);

(f) If a minor has not attained the age of 16 years or if he is recognized to be mentally retarded, a teacher or doctor and the parents or other legal representatives may be present at the discretion of the investigator or procurator, or at the request of the defence counsel, when the said minor is charged or questioned (article 438);

(g) Besides the parents or other legal representatives of a minor defendant (article 441), representatives of the commission on juvenile offenders (article 442) and representatives of the educational establishment, enterprise, institution or organization where the minor has been working or studying (article 443) also participate in the court hearing of cases of offences committed by minors.

The provision of the Covenant to the effect that "everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal" is reflected in the Code of Criminal Procedure of the Ukrainian SSR in the following ways:

(a) The convicted person and his defence counsel and legal representative, as well as the victim and his representative, have the right to appeal against the court's sentence by way of cessation. It is the duty of the procurator to protest by way of cassation against every illegal or invalid judgement. A person who has been acquitted by the court has the right to appeal by way of cessation against that part of the judgement of acquittal which contains the reasoning and grounds for acquittal (article 347);

(b) Under article 384 of the Code of Criminal Procedure of the Ukrainian SSR, a higher court has the right to protest, by way of judicial supervision, against court judgements, rulings or decrees that have acquired legal effect. An illegal or invalid judgement may thus be annulled or amended by way of cessation or supervision.

Ukrainian legislation rules out the possibility of a second conviction for a crime of which a citizen has already been convicted or acquitted. Under the provisions of article 6, paragraph 9, of the Code of Criminal Procedure of the Ukrainian SSR, no criminal case may be initiated, and if initiated shall be subject to termination, with respect to a person concerning whom there has been a judgement, on the same charge, which has already taken legal effect, or concerning whom there has been a court ruling or decree to terminate the case.

Article 15

The provisions of article 15 of the International Covenant on Civil and Political Rights are reflected in article 6 of the Criminal Code of the Ukrainian SSR, which states that:

"The criminality and punishability of an act shall be determined by the law in force at the time of the commission of the act. A law making the act no longer punishable or mitigating the punishment shall have retroactive force, that is, it shall also apply to acts committed before its promulgation. A law making the act punishable or providing for a heavier penalty shall not have retroactive force".

Under article 3 of the Criminal Code of the Ukrainian SSR, only a person guilty of committing a crime - that is, a person who has intentionally or by negligence committed a socially dangerous act as defined by criminal law - is subject to criminal liability and punishment. Criminal punishment is applied only by sentence of the court.

Article 16

Under article 9 of the Civil Code of the Ukrainian SSR, the capacity to have civil rights and duties (civil legal capacity) is recognized equally for all citizens of the Ukrainian SSR and other Union republics. A citizen's legal capacity begins at birth and ceases at death. A citizen's capacity by his acts to acquire civil rights and to create civil obligations for himself (civil legal ability) comes fully into being at his majority, that is, upon his attaining the age of 18 years. In cases where the law permits marriage before the age of 18 years, a citizen who has not attained the age of 18 years acquires full legal ability at the time of contracting the marriage. Under article 12 of the Civil Code of the Ukrainian SSR, no-one may be restricted in his legal capacity or legal ability, except in the cases and in the manner established by law. Transactions aimed at limiting legal capacity or legal ability are invalid.

Under the provisions of the Constitution of the Ukrainian SSR (see the section on article 13) and of the Civil Code, citizens of other countries and stateless persons in the Ukrainian SSR enjoy legal capacity and legal ability on an equal footing with Soviet citizens, with some exceptions established by the legislation in force. Under article 572 of the Civil Code of the Ukrainian SSR, if an international treaty or international agreement to which the Ukrainian SSR is a party establishes rules other than those contained in the civil legislation, the rules of the said international treaty or international agreement shall apply.

Article 17

The rights and freedoms referred to in article 17 of the Covenant are also fully guaranteed in the Ukrainian SSR. The laws in force in the Republic prohibit arbitrary or unlawful interference with the inviolability of a citizen's home or correspondence, unlawful attacks on his honour and reputation, and arbitrary or unlawful interference with his private or family life. For example, article 53 of the Constitution of the Ukrainian SSR states that citizens of the Ukrainian SSR are guaranteed inviolability of the home; no-one may, without lawful grounds, enter a home against the will of those residing in it. According to article 54 of the Constitution "the privacy of citizens and of their correspondence, telephone conversations and telegraphic communications is protected by law".

The criminal procedure legislation of the Ukrainian SSR provides that a home may be entered without the consent of the person residing in it only after criminal proceedings have been initiated and in pursuance of a decision by the investigator which is duly warranted and sanctioned by the procurator, and when there are sufficient grounds for assuming that criminals, instruments of the crime or other objects or documents of importance in establishing the truth in the case are hidden upon the premises or are in the possession of a particular person. Thus, a search of a citizen's home, the impounding of correspondence and its seizure at post or telegraph offices may be carried out only on the grounds and in the manner established by law. These grounds and procedure are clearly determined by law, inter alia, in chapter 16 of the Code of Criminal Procedure of the Ukrainian SSR. At the same time, criminal liability is established for unlawful search, unlawful eviction and other illegal acts which infringe the inviolability of the home or of the secrecy of correspondence (e.g. articles 130 and 131 of the Criminal Code of the Ukrainian SSR).

Ukrainian law provides legal means of protecting the honour and dignity (reputation) of citizens. A citizen has the right to sue by law for retraction of information defamatory to his honour and dignity where such information is untrue. Furthermore, the Criminal Code of the Ukrainian SSR establishes criminal liability for slander (that is, the dissemination, in any form whatever, of fabrication known to be false which bring another person into discredit), for insults and for making denunciations or giving testimony known to be false (articles 125, 126, 177 and 178 respectively of the Criminal Code of the Ukrainian SSR), etc.

Articles 20, part 2, and 185, part 2, of the Code of Criminal Procedure of the Ukrainian SSR and article 10, part 2, of the Code of Civil Procedure of the Ukrainian SSR, and also article 112 of the Marriage and Family Code of the Ukrainian SSR and article 115 of the Criminal Code of the Ukrainian SSR prohibit interference in the private and family life of citizens.

Article 18

The provisions of article 18 of the Covenant are also reflected in Ukrainian legislation. In particular, article 50 of the Constitution of the Ukrainian SSR provides that:

"Citizens of the Ukrainian SSR are guaranteed freedom of conscience, that is, the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Incitement of hostility or hatred on religious grounds is prohibited. In the Ukrainian SSR, the church is separated from the State and the school from the church".

Existing legislation in the Ukrainian SSR gives adult citizens the right to form religious societies, to participate in their activities and give them material support, to elect governing bodies for their religious societies, to establish religious centres or worship independently, etc. Believers who set up religious societies have the right to hold prayer meetings, perform religious rites and engage in the other ritual activities characteristic of a particular religion.

The separation of the church from the State in the Ukrainian SSR ensures that there is no interference by the State and its organs in the religious and canonical activities of associations of believers, and no interference by religious organizations in the political, economic, socio-cultural and other activities of State and public organizations.

Protection from encroachments on the lawful rights of believers, religious associations and ministers of religion is provided by law. For example, article 138 of the Criminal Code of the Ukrainian SSR establishes criminal liability for violation of the laws concerning the separation of the church from the State and the school from the church. In particular, criminal liability is established, according to this article, for acts such as refusing to employ a citizen or admit him to an educational establishment, dismissing him from work, expelling him from an educational establishment or depriving him of the privileges and advantages to which he is entitled by law and for any other substantial restriction of his rights, on the ground of his attitude to religion. In addition, article 139 of the Criminal Code of the Ukrainian SSR establishes criminal liability for interfering with the performance of religious rites in so far as they do not disturb the public order and are not accompanied by an encroachment upon the rights of citizens.

Ukrainian law prohibits activities by religious associations, preaching of religious dogmas, performance of rites, etc., which involve disturbances of public order, cause harm to citizens' health or any other encroachment on their person and rights, incite citizens to refuse to perform their civic duties or violate the law in other ways. It also prohibits atheistic propaganda of a type which offends the religious feelings of citizens and involves encroachments on their person and rights.

In accordance with the principle of the separation of the school from the church in the Ukrainian SSR, the teaching of any kind of religious dogma in educational establishments (except ecclesiastical colleges) is prohibited. Public education in the Ukrainian SSR is secular and excludes the influence of religion (article 4 of the National Education Law of the Ukrainian SSR). Citizens may, however, study religion privately. An ecclesiastical seminary and bible classes, etc. for training ministers of religion are in operation in the Ukrainian SSR. Ecclesiastical literature is published for believers.

The legislation neither forbids nor restricts the freedom of parents or legal guardians to give their children a religious upbringing in accordance with their own beliefs.

Article 19

Citizens of the Ukrainian SSR have the right to hold opinions without interference. They are fully guaranteed the freedom to seek, receive and impart information in accordance with the legislation in force in the Republic. The legal basis for this is the Constitution and other legislative and subsidiary legal acts. In particular, article 48 of the Constitution of the Ukrainian SSR provides that:

"In accordance with the interests of the people and in order to strengthen and develop the socialist system, citizens of the Ukrainian SSR are guaranteed freedom of speech, of the press, and of assembly, meetings, street processions and demonstrations.

"Exercise of these political freedoms is ensured by putting public buildings, streets and squares at the disposal of the working people and their organizations, by broad dissemination of information, and by the opportunity to use the press, television and radio".

Additional legal guarantees for the exercise of these rights are also contained in the Civil Code of the Ukrainian SSR.

Common ways in which citizens exercise the right freely to express their opinions include making speeches at meetings held at their place of work or dwelling, sending letters, complaints or proposals to State and public organizations, and also making use of the mass information media.

The information media in the Ukrainian SSR are a genuinely popular forum. Leading workers, collective farmers, intellectuals, scholars, chiefs of enterprises, collective farms and State farms, and prominent personalities in the government and public life of the Republic systematically make statements in the press, on the radio and on television. The editorial boards of newspapers, periodicals and radio and television programmes maintain extensive links with the workers and their public organizations. Every editorial board has a network of occasional correspondents in industry and in the countryside who actively assist the press, radio and television in the portrayal of all aspects of the life and work of the working people. One indication of the Ukrainian people's confidence in the Republic's information media, and of its high opinion of their activities, is provided by the hundreds of thousands of letters from working people received annually by the editorial boards of newspapers, periodicals and radio and television broadcasting stations. In these letters, members of the public express their thoughts and wishes on every possible aspect of social life, raise important State problems and submit proposals which demonstrate the people's keen interest in the further development of the country's economy, science and culture. Workers' proposals of this kind, together with others, are published and taken into consideration by the appropriate State and economic bodies in drawing up plans for the development of the national economy of the Republic and in drafting laws and government decrees. Many letters containing valuable proposals and critical comments by working people are forwarded by the editorial boards to the institutions and organizations competent to deal with the questions raised. State organs and institutions and public organizations in their activities study attentively the critical comments on specific questions which appear in newspapers and periodicals and on radio and television, and take the necessary measures to correct shortcomings in their work or to support proposals made by the information media. State organs, institutions and organizations inform the public of the measures they take.

The above-mentioned freedoms may not be exercised to the detriment of State or public security, the morals of the population, or the rights, honour and dignity of other persons. For a more detailed discussion of the questions raised in article 19 of the Covenant, see document E/CN.4/1214/Add.5 - Report on freedom of information by the Ukrainian Soviet Socialist Republic.

Article 20

The Ukrainian SSR has always supported and still supports the cause of strengthening international peace and security and friendship and co-operation among peoples. There are in the Republic no classes or social groups which are interested in unleashing a war; and there are therefore no cases of war propaganda. However, in order to prevent this crime, Ukrainian law establishes criminal liability for war propaganda, whatever form it may take (article 63 of the Criminal Code of the Ukrainian SSR).

The socialist society of the Ukrainian SSR is marked by the brotherly concord, unity and equality of rights which exist between the peoples living in its territory. Relations of co-operation, mutual influence and mutual enrichment are strengthened, and national particularities are neither ignored nor exaggerated; and there are provisions prohibiting the dissemination of ideas or views which, by their nature, may provoke a contemptuous or hostile attitude to a particular nation or race, or to individual persons on grounds of their attitude towards religion. Article 66 of the Criminal Code of the Ukrainian SSR establishes criminal liability for propaganda or agitation designed to incite racial or national hostility or discord, and also for the direct or indirect limitation of rights or establishment of direct or indirect privileges for citizens on grounds of their race or nationality.

Article 21

As has already been pointed out, article 48 of the Constitution of the Ukrainian SSR guarantees, together with other freedoms, the right of peaceful assembly. Workers' assemblies and meetings to discuss the widest possible variety of domestic and international issues are widely held in the Ukrainian SSR.

Article 22

The right of citizens of the Ukrainian SSR to freedom of association is affirmed in the Constitution of the Ukrainian SSR, article 49 of which states that:

"In accordance with the aims of building communism, citizens of the Ukrainian SSR have the right to associate in public organizations that promote their political activity and initiative and satisfaction of their various interests.

"Public organizations are guaranteed conditions for successfully performing the functions defined in their rules."

The Constitution of the Ukrainian SSR particularly emphasizes the role of the communist party in the life of Soviet society. Article 6 of the Constitution reads:

"The leading and guiding force of Soviet society and the nucleus of its political system, of all State organizations and public organizations, is the Communist Party of the Soviet Union. The CPSU exists for the people and serves the people.

"The Communist Party, armed with Marxism-Leninism, determines the general perspectives of the development of society and the course of the domestic and foreign policy of the USSR, directs the great constructive work of the Soviet people, and imparts a planned, systematic and theoretically substantiated character to their struggle for the victory of communism.

"All Party organizations shall function within the framework of the Constitution of the USSR."

The Constitution of the Ukrainian SSR also provides that "trade unions, the All-Union Leninist Young Communist League, cooperatives, and other public organizations, participate, in accordance with the aims laid down in their rules, in managing State and public affairs, and in deciding political, economic, and social and cultural matters." (article 1)

All citizens of the Ukrainian SSR have genuine possibilities for exercising their constitutional right to associate with others. The trade unions of the Ukraine have in their ranks nearly 22 million members representing the working class, collective farmers and the intelligentsia. In this mass public institution, factory and office workers of all trades and professions, irrespective of race, nationality, sex or beliefs, participate on a voluntary basis.

The legislation of the Ukrainian SSR also contains guarantees for the effective operation of organizations, including trade unions.

For example, article 243 of the Labour Code of the Ukrainian SSR provides that "... trade unions shall function in conformity with the rules they adopt and shall not be required to register with State bodies. State bodies, enterprises, institutions and organizations shall be responsible for all-round assistance to trade unions in their work."

The trade unions' main tasks are to protect the legitimate interests of all working people, to improve their working and living conditions, to monitor compliance with labour legislation and labour protection and safety rules and to improve the organization of cultural recreation and holidays for the working people.

The trade unions take part in the preparation and implementation of State plans for the development of the national economy and in solving problems relating to the distribution and utilization of material and financial resources; they involve manual and office workers in the management of production, and they organize socialist competition and creative technical activities for the masses.

They also participate in the monitoring of labour and consumption measurement, in the planning and regulation of wages for factory and office workers and in the elaboration of wage scales and of requirements for the payment of bonuses. They invite factory and office workers to play an extensive role in the preparation of labour regulations. They seek to secure the introduction of progressive and technically sound output norms, and they monitor the review of norms and the correct application of existing wage scales.

The trade unions of the Ukrainian SSR have the right to initiate legislation through the Ukrainian Republican Council of Trade Unions.

The Labour Code of the Ukrainian SSR also contains provisions requiring enterprises, establishments and other organizations to provide the necessary premises, transport and means of communication free of charge for factory and local trade union committees (article 249), and to assign to trade union committees free of charge buildings, premises, equipment, gardens and parks for cultural and

educational activities, physical training and sports, and also for young pioneer camps. Enterprises and organizations are obliged to assign funds to trade union organs for cultural work and physical training.

The trade unions administer the State social insurance scheme and also the sanatoria, dispensaries, rest homes and the cultural and educational, tourist and sports establishments for which they are responsible.

As stated at the Twelfth Congress of Trade Unions of the Ukrainian SSR held in March 1977, expenditure on State social insurance in the Republic nearly doubled from 1971 to 1975. During that period, Ukrainian trade unions invested 257 million roubles to develop the material supply base for health centres; and new sanatoria, resort-type and tourist facilities were opened in almost 26,000 localities. Altogether, during the past five years, 29 million workers in the Republic have enjoyed the benefit of organized holidays and treatment in sanatoria and resorts. In the young pioneer camps alone, nearly 8 million children spent periods of convalescence. The number of passes for accommodation in holiday homes and in establishments for the treatment of disabled people doubled. With the assistance of the trade unions, more than 200,000 dwellings are allocated every year.

The trade union organizations of the Ukraine place great emphasis on the further development of contacts with the trade unions of the socialist countries and other States. They take part in the work of a number of international organizations, maintain friendly relations with 670 trade union and workers' organizations in 29 countries and act as hosts to more than 170 trade union delegations every year.

In the Ukrainian SSR, the influence, number and authority of other public organizations and societies are constantly increasing. Such organizations include co-operative societies, youth and sports organizations, cultural, technical and scientific societies, creative artists' unions, nature conservation and book lovers' clubs.

In 1956, the Ukrainian SSR ratified ILO Conventions no. 87 concerning Freedom of Association and Protection of the Right to Organize and no. 11 concerning the Rights of Association and Combination of Agricultural Workers. The provisions of these Conventions are being strictly observed.

Article 23

In the Ukrainian SSR, the family, as the nucleus of socialist society, occupies an important place in the system of social relationships. It fulfils the important function of the physical and intellectual reproduction of society. In it are concentrated not only the personal interests of men and women, and parents and children, but also the interests of society as a whole. One of the most important tasks of socialist society is to provide education for children and a normal and full life for husband and wife, without which the all-round development of the personality cannot be achieved. The socialist society is therefore interested in strengthening the family by every possible means.

Under socialism, the role of the family is to ensure a happy and harmonious existence for every person, to take an active part in the building of communism and to prepare for society a new generation of people with high moral standards. Family relationships in the Ukraine are based on a voluntary conjugal union, on feelings of love and friendship free from any material calculations, and on respect for all members of the family, mutual help and the combination of personal and social interests.

In the Ukrainian SSR, the family is the subject of continual attention and care and enjoys legal, material and moral protection and support by the State and society. Article 51 of the Constitution of the Ukrainian SSR reads:

"The family enjoys the protection of the State.

"Marriage is based on the free consent of the woman and the man; the spouses are completely equal in their family relations.

"The State helps the family by providing and developing a broad system of child-care institutions, by organizing and improving communal services and public catering, by paying grants on the birth of a child, by providing children's allowances and benefits for large families, and other forms of family allowances and assistance."

Under the provisions of articles 15 and 16 of the Marriage and Family Code of the Ukrainian SSR, the conditions required for marriage and the creation of a family are mutual consent and attainment of the age for marriage. The minimum age is 18 for men and 17 for women. Executive committees of District or City Soviets of Workers' Deputies (i.e. district or city organs of power) may in exceptional cases lower the minimum age, but not by more than one year.

Mutual consent to marry has legal force if it is expressed in the form established by law, i.e. in the form of a joint written statement by the persons desiring to marry, which is submitted to the registry office and orally confirmed at the time of the registration of the marriage and the signature of the entry by the parties. Consent must be given by each spouse in person.

The law (article 4 of the Marriage and Family Code of the Ukrainian SSR) provides that all citizens, irrespective of nationality, race or attitude to religion, have equal rights in family relationships. Any direct or indirect limitation of rights, or the establishment of direct or indirect privileges, at the time of marriage or in family relationships on the ground of the above criteria is prohibited.

This general rule is given concrete expression in various articles of the Code. For example, article 19 of the Marriage and Family Code of the Ukrainian SSR specifies that, on marriage, the spouses have the right to keep the family name which they had before marriage. In this matter neither of the spouses is accorded any preferential status.

Husband and wife not only have equal rights in the family, but also equal obligations. Article 59 of the Code emphasizes that "father and mother have equal rights and obligations towards their children. They jointly settle questions concerning the education of the children and other questions concerning the life of the family" (article 20).

The Marriage and Family Code of the Ukrainian SSR (article 21) states that married persons fully retain their individuality and freedom to exercise their personal rights. In particular, they are free to choose their occupation, trade or profession and place of residence.

Each of the spouses has equal rights with regard to the possession, use and disposition of property acquired during marriage and owned jointly (article 22). Disposition is by mutual consent (article 23). If property which had been jointly owned is divided, the shares must be equal. In particular cases, the courts may depart from the principle of equal shares for each spouse in the interests of children under age or the special interest of one of the spouses. Joint property may be divided both while the marriage is in being and after it has been dissolved.

The Code also provides for the possibility of individual property owned by one or the other of the spouses.

Article 27 of the Code specifies that the spouses may conclude with each other any property arrangements which are permitted by law. However, arrangements between them which are intended to restrict the rights of the wife, husband or children are considered void and not binding either on the spouses or on third parties.

Family law also establishes equal obligations and rights for each of the spouses in the provision of material support for one another. As a rule, if such support is denied, the spouse who is unfit to work and needs material support and also the wife during pregnancy and for one year after the birth of her child are entitled to a court order for maintenance (alimony) from the other spouse, if the other spouse is capable of providing it.

Under Ukrainian law, a marriage is terminated by the death of one of the spouses or by a court declaration that one of the spouses is dead. However, the relations between the spouses may sometimes be such that further cohabitation becomes impossible. The law therefore provides for the possibility of dissolving a marriage by divorce during the lifetime of the spouses.

Divorce may be pronounced on the application of one of the spouses or both of them (article 38 of the Marriage and Family Code of the Ukrainian SSR), i.e. each spouse has the same rights as regards the dissolution of marriage. If the wife is pregnant or if a child of the marriage is less than one year of age, divorce proceedings cannot be initiated without the consent of the wife. This rule has been included in the interests of the mother and her child, since divorce may have an adverse effect on a pregnant woman or a nursing mother. Accordingly, the law prohibits the institution of divorce proceedings without the wife's consent. If a wife who is pregnant or a mother who has given birth to a child less than one year previously does not agree to a divorce, the court must disallow the application by the husband; or if the application has been accepted, the divorce proceedings must be terminated.

If the court declares a marriage dissolved, it must take action under article 40 of the Marriage and Family Code of the Ukrainian SSR to protect the interests of children under age. Under article 59 of the Code, parents have equal rights and obligations regarding their children even after the dissolution of their marriage.

Article 24

In the Ukrainian SSR, great emphasis is placed on State protection of the interests of children - i.e. on the creation of all the conditions necessary for their upbringing, education, recreation, social security, insurance, etc. A system of State establishments for the protection of child health, and also concerned with the welfare, education, recreation and social security of children and the protection of their rights, has been established and is operating in the Republic.

Rights and duties regarding the upbringing of children in the Ukrainian SSR are primarily assigned to the parents. Article 64 of the Constitution of the Ukrainian SSR states that:

"Citizens of the Ukrainian SSR are obliged to concern themselves with the upbringing of children, to train them for socially useful work, and to raise them as worthy members of socialist society. Children are obliged to care for their parents and help them."

Article 61 of the Marriage and Family Code of the Ukrainian SSR clearly specifies that parents must bring up their children in accordance with existing moral standards and must concern themselves with their physical development, instruction and training for some socially useful work. Parental rights may not, however, be exercised in a manner contrary to the interests of the children. Protection of the rights and interests of children under age is the responsibility of their parents, who require no special powers to act in this capacity. If children under age marry (as permitted under article 16 of the Marriage and Family Code), they acquire full legal capacity and are themselves responsible for the protection of their rights.

Parents are required to provide material support for children under age. They must also send children under age to a school in accordance with the law on general compulsory education (article 64 of the Marriage and Family Code). Parents may be deprived of their parental rights by the court for neglect of parental duties, abuse of parental rights, maltreatment of their children or exerting a harmful influence on their children.

If the parents have died or have been deprived of their parental rights, the children are brought up with the assistance of the State guardianship and trusteeship organs, i.e., the executive committees of local Soviets of People's Deputies.

Existing law provides for the protection of the labour rights of minors and for their employment. Minors may be hired only after they have attained the age of sixteen.

All children without any discrimination on grounds of race, colour, sex, language, religion, national or social origin, property status or birth are entitled to the above-mentioned rights and measures of protection.

The law requires that the birth of every child be registered. Births are registered at the registry office at the place of birth or at the place of residence of the parents or of one of them. The registry office records the first name, patronymic and family name of the child. The time-limit for registration is laid down in article 164 of the Marriage and Family Code; and births are registered free of charge and with due solemnity. A child whose parents are nationals of the Ukrainian SSR also becomes a national of the Republic. Where the parents are of different nationality, the nationality of the child is determined in the manner prescribed by law.

Article 25

In the Ukrainian SSR, nearly the entire adult population of the Republic participates in the conduct of public affairs, either directly or indirectly through freely elected representatives. In doing so, citizens are exercising the right which is affirmed as follows in article 46 of the Constitution of the Ukrainian SSR:

"Citizens of the Ukrainian SSR have the right to take part in the management and administration of State and public affairs and in the discussion and adoption of laws and measures of all-Union and local significance.

"This right is ensured by the opportunity to vote and to be elected to Soviets of People's Deputies and other elective State bodies, to take part in nationwide discussions and referendums; in people's control, in the work of State bodies, public organizations, and local community groups, and in meetings at places of work or residence."

Under article 2 of the Constitution, "all power in the Ukrainian SSR belongs to the people. The people exercise State power through Soviets of People's Deputies, which constitute the political foundation of the Ukrainian SSR."

Chapter 10 of the Constitution of the Ukrainian SSR contains provisions governing the electoral system. It provides in particular that deputies to all Soviets of Peoples Deputies' are to be elected on the basis of universal, equal and direct suffrage by secret ballot (article 84). All citizens of the Ukrainian SSR who have reached the age of 18 have the right to vote and be elected with the exception of persons who have been legally certified insane (article 85). Elections of deputies are equal: each citizen has one vote; all voters exercise the franchise on an equal footing (article 86). Elections of deputies are direct: deputies to all Soviets of People's Deputies are elected by citizens by direct vote (article 87). Voting at elections of deputies is secret: control over voters' exercise of the franchise is inadmissible (article 88).

The same principles underlie the right of every citizen of the Ukrainian SSR who has reached the age of 18 to vote in the elections for district and city people's courts. Under article 150 of the Constitution of the Ukrainian SSR, people's judges of district (city) people's courts are elected by the citizens of the district (city) on the basis of universal, equal and direct suffrage by secret ballot for a term of five years. People's assessors of district (city) people's courts are elected for a term of two and a half years at meetings of citizens at their places of work or residence by a show of hands.

Criminal law provides for the protection of the exercise of electoral rights of citizens in case of violation. In particular, under the Criminal Code of the Republic it is an offence for a member of the electoral commission or any other official to obstruct the exercise of a citizen's electoral right by force, deceit, threat or bribery, to forge electoral documents or to miscount votes deliberately and also to violate the secrecy of the ballot (articles 127-129 of the Criminal Code of the Ukrainian SSR).

Another legal guarantee of the freedom of elections in the Ukrainian SSR is the obligation, affirmed in article 96 of the Constitution, for every deputy to report to his constituents on his work and on the work of the Soviet, and also the possibility for a deputy to be recalled at any time by a decision of the majority of the electors in accordance with the procedure established by law, if he has not justified their confidence.

Existing legislation mentions many other practical forms for the exercise of the right of citizens to participate in the management of public and social affairs. For example, under article 97 of the Constitution of the Ukrainian SSR, laws may be enacted by a nation-wide vote (referendum) held by decision of the Supreme Soviet of the Ukrainian SSR. Under the laws concerning the various types of local Soviets of People's Deputies, the most important issues relating to state, economic, social and cultural construction in the territory under the jurisdiction of local Soviets are submitted by the Soviets concerned for discussion at meetings of workers at collective farms, State farms, enterprises, establishments and organizations and also at places of residence and at gatherings of citizens in rural areas.

In addition, article 47 of the Constitution of the Ukrainian SSR states that:

"Every citizen of the Ukrainian SSR has the right to submit proposals to State bodies and public organizations for improving their activity, and to criticize shortcomings in their work."

"Officials are obliged, within established time-limits, to examine citizens' proposals and requests, to reply to them, and to take appropriate action.

"Persecution for criticism is prohibited. Persons guilty of such persecution shall be called to account."

Article 245 of the Labour Code of the Ukrainian SSR affirms the right of factory and office workers to participate in the management of production through trade unions or other public organizations, and through the organs of popular control, public meetings, production meetings, conferences and other forms of independent action. The administrations of enterprises, establishments and organizations are obliged to create the conditions for the participation of factory and office workers in the management of production. The officials of enterprises, establishments and organizations must give prompt consideration to critical comments and proposals by factory and office workers and must inform them of the action taken.

One concrete example of genuine democracy and of strict fulfilment of the voter's wish that the representative organs should truly express the interests of the people and embody the people's authority will be found in the results of the elections to the Supreme Soviet of the Ukrainian SSR which were held in June 1975.

The Ukrainian people elected to the Supreme Soviet their best representatives - persons employed in industry, construction, transport and agriculture, persons employed in science, culture, education and public health, and also public figures and economic executives; and 287 out of the total of 570 deputies in the Supreme Soviet, or 50.3 per cent, are workers or collective farmers directly employed in industrial enterprises, at construction sites or in collective and State farms.

The social composition of the local Soviets of People's Deputies in the Ukrainian SSR, is also significant. Elections to these bodies were held on 19 June 1977. The number of deputies elected to the local Soviets totalled 521,984 including 378,018 workers and collective farmers, i.e. 72.4 per cent of the total.

As an all-embracing mass institution expressing the wishes and interests of the entire people, the Soviets of People's Deputies strictly observe the principle of renewing their membership and thus create genuine conditions for hundreds and thousands of new workers to acquire experience in the administration of the State and in taking decisions on complex questions of State and economic construction. The principle of the systematic renewal of membership is consistently applied in practice. Thus, at the last elections, 54 per cent of the deputies in the Supreme Soviet of the Ukrainian SSR, and 35.6 per cent of those in the local Soviets of People's Deputies, were elected for the first time.

The high degree of interest displayed by the electors is illustrated by the fact that 99.9 per cent of the electorate participated in the last elections to the Supreme Soviet of the Ukrainian SSR and the local Soviets of People's Deputies.

All citizens are also guaranteed access to State service in the Republic on general conditions of equality.

Article 26

In the Ukrainian SSR, socio-economic and other prerequisites and conditions for the existence of discrimination or oppression of any kind have been abolished. Particulars regarding the legal guarantees for the prevention of discrimination of any kind in the Ukrainian SSR will be found in the section on article 2.

Article 27

In the Ukrainian SSR, the necessary conditions have been created for the free development of people of all nationalities and national groups: this is guaranteed by existing legislation. For example, article 34 of the Constitution provides that citizens of the Ukrainian SSR of different races and nationalities have equal rights. Exercise of these rights is ensured by a policy of all-round development and drawing together of all the country's nations and nationalities, by educating citizens in the spirit of Soviet patriotism and socialist internationalism and by the possibility to use their native languages and the languages of other peoples. The article also states that any direct or indirect limitation of the rights of citizens or establishment of direct or indirect privileges on grounds of race or nationality and any advocacy of racial or national exclusiveness, hostility or contempt are punishable by law. The Constitution also states that it is a duty for every citizen of the Republic to respect the national dignity of other citizens and to strengthen friendship among the nations and nationalities of the multinational Soviet State.

In practice all citizens of the Ukrainian SSR, irrespective of nationality, have equal rights and possibilities to take part in the development of the country's culture. All conditions are established for the development of the creative forces and capacities of the representatives of all nationalities and national groups in their efforts to develop a socialist culture which is undivided in its spirit and basic content and at the same time national in form. This culture comprises features and traditions of the culture and life of all nations living in the Republic. The main principles governing the country's cultural development include the principles of interdependence, co-operation, mutual enrichment of national cultures, the development of new customs, etc.

Both the cultural heritage as a whole and also the customs and traditions in architecture, cooking, clothing, etc. observed by the various nations, nationalities and national groups living in the Republic are being preserved and developed.

Believers may freely profess their religion and perform religious rites on a universal basis. Religious beliefs are the personal affair of citizens. Citizens are not compelled to profess another religion in accordance with their nationality.

In the Ukrainian SSR, the free development of the languages of peoples living in its territory is constantly guaranteed, as is the complete freedom of every citizen of the Republic to speak any language and to educate and teach his children in it. No privileges, restrictions or coercion in the use of any particular language are permitted.

The National Education Law of the Ukrainian SSR entitles every citizen to choose the language of instruction. It also guarantees the equality of all citizens in obtaining education, irrespective of nationality or race, sex, religious beliefs or property and social status. In addition to schools where teaching is conducted in Ukrainian and Russian, districts with compact population groups of other nationalities have schools in which teaching is conducted in other languages, including Hungarian, Moldavian, Polish and other languages. Sometimes, Ukrainian and Russian schools also provide classes for instruction in another national language.

In the Ukrainian SSR, some newspapers are published and radio programmes broadcast in the languages of national groups living in the territory of the Republic. Representatives of the various nations, nationalities and national groups can also obtain newspapers, magazines and books, including textbooks, published in the languages of other Soviet Republics.

A large number of museums exist in the Republic. They include history and local folklore museums, others specializing in revolutionary and labour achievements, and also art, ethnographic and literary museums. Their exhibits illustrate interestingly and comprehensively the history of the country and of particular regions, and also the participation and achievements of the representatives of all nations in the economic, social, cultural and other spheres of life in the Ukrainian SSR.

Representatives of the various nationalities work in all spheres of the country's economy. All State organs and public organizations of workers give consistent attention to the education of different sections of the population, and particularly of the rising generation, in a spirit of friendship among nations and rejection of prejudices based on nationality. An important role in this process is played by the school and the family, by pre-school and extra-scholastic institutions for children, by secondary and higher educational institutions, and by public organizations, radio, press and television. All of these, using their own forms and methods, help to create and strengthen among the rising generation, and among the people as a whole, feelings of friendship, understanding and respect for the way of life, customs, traditions and cultural heritage of other nationalities.

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The complex of socio-economic, civic, political, cultural and personal rights and freedoms enjoyed by the citizens of the Ukrainian SSR is not something static. As communism is built and further developed in the country, the range of the rights and freedoms accorded to the individual will steadily widen.

This trend in the further development of our country is affirmed in article 9 of the new Constitution of the Ukrainian SSR, which reads:

"The principal direction in the development of the political system of Soviet society is the extension of socialist democracy, namely ever broader participation of citizens in managing the affairs of society and the State, continuous improvement of the machinery of State, heightening of the activity of public organizations, strengthening of the system of people's control, consolidation of the legal foundations of the functioning of the State and of public life, greater openness and publicity, and constant responsiveness to public opinion."