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SUMMARY RECORD OF THE 1825th MEETING

Held at Headquarters, New York,
on Wednesday, 22 March 2000, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

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The meeting was called to order at 3.30 p.m.

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

Fourth periodic report of Mongolia (CCPR/C/103/Add.7)

1. At the invitation of the Chairperson, the delegation of Mongolia took places at the Committee table.

2. Mr. GANBOLD (Mongolia) said that, over the period under review, Mongolia had entered a new stage of establishing a civil and democratic society. The democratic coalition had won the parliamentary elections in 1996, and the former Communist party had become the opposition. Despite the unfavourable economic situation, the coalition Government was strengthening the democratic reforms which had begun in the early 1990s.

3. Another priority area for the Government was improvement of the legal framework. In 1997 Parliament had adopted a special legal programme, which included a reform of the judiciary and the courts. The Government had already presented more than 10 draft bills to regulate the activities of legal institutions in connection with the protection of citizens' fundamental rights.

4. Mongolia's fourth periodic report contained information on some provisions of the Covenant which had been implemented after 1992. The Government had considered the Committee's recommendations during consideration of the third report in 1992. In 1995 Parliament had adopted a State of Emergency Act, which prohibited any discrimination during a state of emergency.

5. The Government had just published for the first time statistics on the implementation of the death penalty in Mongolia. Although 24 persons had received such sentences in 1999, only 11 of the sentences had been carried out. The other persons had either been pardoned by presidential decree, or the sentences had been rescinded on the basis of a decision by the Supreme Court.

6. In connection with restrictions on the registration of political parties, it was prohibited by law to establish a political party that promoted fascism or incited national discord.

7. Since 1996, when the report had been submitted to the Committee, the Great State Hural (the Mongolian Parliament) had enacted the following laws in order to improve the legal provisions for strengthening human rights: the Martial Law Act, the State of War Act, the Law on the Implementation of Decisions on the Arrest or Imprisonment of Suspected Criminals and Defendants, the Employment Act and the Family Act.

8. In the same period, Mongolia had also ratified a number of international conventions. The Great State Hural had adopted new legislation relating to the family and to employment, in order to ensure equal rights for men and women.

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9. Compared to the previous law, the new Family Act had further clarified the provisions concerning impediments to marriage, as well as the provisions for the adoption of Mongolian children by foreign citizens. Foreign citizens had the same rights and obligations as Mongolian citizens, unless otherwise provided for in an international treaty.

10. The Act further confirmed the equal rights of both spouses in relation to the family. The law also prohibited the dissolution of a marriage in certain situations: when the wife was pregnant, when there was a child less than 1 year old, or when the respondent had been ill for an extended period.

11. Under the Employment Act, any discrimination in connection with employment on the grounds of nationality, race, sex, social status or origin, property, religion or opinion was prohibited.

12. Article 4 of the Covenant and article 26 of the Martial Law Act, which had been adopted in 1998, prohibited any discrimination on the grounds of nationality, language, race, sex, social status or origin, wealth, office, religion, opinion or education.

13. The new Law on the Implementation of Decisions on the Arrest or Imprisonment of Suspected Criminals and Defendants and the Law on the Implementation of Court Decisions fully complied with the principles of article 7 of the Covenant.

14. One of the main innovations in the new Labour Act was the reduction in the working week from 46 to 40 hours. Children aged from 14 to 15 could reduce their working week to 30 hours, and children aged from 16 to 17, to 36 hours. The reduction in working hours allowed parents more time for taking care of the family and children, as well as their personal education.

15. In connection with article 10, the Law provided for an unrestricted number of short visits and eight longer visits per year for imprisoned minors and did not allow them to work; it also provided for the organization of professional training and general education. In order to ensure an adequate level of nutrition, the Government had contracted private persons and enterprises to supply food for prisoners. Some measures, such as medical treatment for prisoners with tuberculosis, and the provision of medical check-ups, were gradually yielding positive results.

16. In order to ensure equal rights to legal representation in court, the Government had assigned a specific sum to finance legal proceedings for those unable to pay for legal services.

17. With regard to religion, he noted that there were 151 monasteries in Mongolia, 98 of which were Buddhist, 47 Christian, and 2 Muslim.

18. In 1998, the Parliament had enacted a law on the freedom of the press, which guaranteed the individual's right to freedom of opinion. The law prohibited any legislative acts which would limit press freedom. The Government did not have any right of censorship of the press, except in the case of the dissemination of pornography or of propaganda for war and acts of violence, and

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it was prohibited from financing any activity attempting to establish such censorship. The law also prohibited the State from establishing any State-controlled mass media.

19. According to current statistics, about 940 newspapers, 101 radio and television stations and 195 journals were registered in Mongolia, and there were currently 22 political parties, which were registered by law with the Supreme Court.

20. In 1997, the Parliament had adopted a law on non-governmental organizations, which guaranteed the individual the right of association and to establish a non-governmental organization in order to defend social or personal interests before State organizations. According to the statistics, there were 1,540 non-governmental organizations in Mongolia, and 98 funds, 67 of which were operating in the field of human rights.

21. In 1998, the Prime Minister of Mongolia had signed a memorandum on cooperation in the field of human rights with the Office of the United Nations High Commissioner for Human Rights. Mongolia appreciated the cooperation of that Office on a project to develop a national human rights programme. The Government was interested in continuing cooperation on implementation of such projects.

List of issues (CCPR/C/68/L/MNG)

22. The CHAIRPERSON drew attention to the list of issues contained in document CCPR/C/68/L/MNG.

23. Mr. GANBOLD (Mongolia), referring to issue 1, said that Mongolian law was fully in accordance with the provisions of the Covenant. There had been no cases where articles of the Covenant had been relied on by the courts, but there had been one or two cases of appeals to the Constitutional Court by citizens.

24. With regard to issue 2, according to article 19, paragraph 1, of the Constitution of Mongolia, the State was responsible to its citizens for creating adequate economic, social, legal and other guarantees to ensure human rights and freedoms and for preventing violations of human rights and freedoms. The judicial organs were responsible for protecting human rights and remedying violations. There was also a Constitutional Court which monitored the implementation of the Constitution and reviewed and decided matters relating to violations thereof. A parliamentary subcommittee on legal questions dealt with matters relating to guarantees of human rights and freedoms, amnesty, emigration and citizenship. The Parliament had fully rehabilitated those citizens who had been illegally condemned during the Communist regime, entitling them to receive a State pension.

25. Replying to issue 3, he said that, in response to an appeal from the Great State Hural, the United Nations High Commissioner for Human Rights was cooperating with the appropriate parliamentary subcommittee with a view to the establishment of a national institution to deal with human rights and was providing assistance in the establishment of a national human rights programme.

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The Ministry of Justice had submitted draft legislation to the Government concerning the creation of a post of ombudsman.

26. With regard to issue 4, in May 1990, a new Labour Act had been adopted which prohibited any gender discrimination, as well as any questions to new employees concerning their personal life, pregnancy, family situation, opinions, party affiliation and religion, unless there were special requirements connected with the employment. The Education Act adopted in 1995 provided for equal opportunities in education for all, with no discrimination on the basis of sex, but unfortunately the incidence of domestic violence was increasing. The Government was focusing on combating such abuse and in some major cities non-governmental and social organizations had established centres against domestic violence. The Criminal Code of Mongolia included provisions to combat crimes against women, including domestic violence.

27. Responding to issue 5, he said that the Constitution of Mongolia established the right of women to participate in political, economic, social and cultural life and in family relations; any infringement of those rights, as well as the use of force, in such cases as forced marriages, the prevention of marriage, organized prostitution, sexual relations with minors and the unwarranted dismissal of pregnant women and of women with children under three years of age, were considered offences under the Criminal Code of Mongolia. In administrative proceedings, the court restored the rights of citizens which had been violated and made the officials responsible accountable for any loss resulting from their illegal decisions. In civil proceedings, the courts took decisions to restore the situation prior to the violation of a citizen's rights, to recognize rights and to compensate for any loss. It was the function of the organs responsible for executing judicial decisions to provide remedies for any material or moral loss resulting from such offences, and the mass media restored the honour and dignity of individuals and companies.

28. With regard to issue 6, the new State of Emergency Act, as well as the Martial Law Act and the State of War Act, established the basis for the declaration of a state of war or a state of emergency and provided for special measures in such situations. Unlike the State of War Act, which regulated the basis for the declaration of war or the ending of a war, the State of Emergency Act and the Martial Law Act dealt with the rights of citizens in connection with the special measures taken in such situations. However, even in those situations, the basic human rights established by the international covenants were not violated. Article 17 of the State of Emergency Act prohibited any discrimination on the basis of nationality, ethnic origin, race, age, sex, social status or origin, wealth, occupation, religion, opinion or education in the implementation of extraordinary measures during a state of emergency.

29. Referring to issue 7, he said that the death penalty was imposed for offences covered in a special section of the Criminal Code which were judged by a city court or the State Supreme Court as the court of first instance. Those offences included murder committed for political purposes, the assassination of a foreign representative for political purposes, sabotage, premeditated murder committed with aggravating circumstances, and rape of a minor. Some members of Parliament had begun to call for the abolition of the death penalty, but it could not be completely abolished as yet, although the number of cases to which

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it applied was decreasing. The death penalty was not imposed on women, men over 60 years of age and minors. The President could commute the death penalty to life imprisonment and the Supreme Court could rescind the sentence.

30. With regard to issue 8, he said that, according to article 23 of the Law on the Implementation of Decisions on the Arrest or Imprisonment of Suspected Criminals and Defendants, every detained person had the right to hot food once a day and tea and a snack twice a day. The daily ration had to be no fewer than 2,200 calories. Children, pregnant women prisoners and those detained in prison hospitals were entitled to additional food. Independent organizations monitored the conditions in prisons. In accordance with article 45 of the Law, such monitoring was carried out by the public prosecutor's office, which could at any time draw attention to shortcomings. Written complaints could also be sent to the public prosecutor or judicial organs in the event of unlawful treatment of prisoners.

31. With regard to issue 9, he said that statistics showed that the number of cases in which sanctions were imposed on police or prison officers for abuse of their authority had increased, from seven cases involving seven officers in 1995 to 19 cases involving 20 officers in 1999.

32. In connection with issue 10, he said that those accused of repeated offences or of particularly serious offences, as well as those accused of obstruction of justice or of attempting to evade justice, were held in custody. Decisions to hold accused persons in custody were made by the public prosecutor. A detained person could not be held in custody for more than two months without the authorization of the highest authority, the Procurator-General. If a detained person was acquitted by the court or if his sentence was reduced, he had to be released from custody directly in the courtroom.

33. With reference to issue 11, significant changes had been made in the provisions of the law governing deprivation of liberty and other penalties. In accordance with the law, all expenditures in prisons must be fully paid out of the central budget and the State was responsible for ensuring acceptable conditions in prisons. There were currently 6,465 prisoners. The number of deaths of prisoners from disease and other causes was declining: in 1995, 192 prisoners had died from disease and 17 from malnutrition, whereas, in 1999, 161 had died from disease and none from malnutrition.

34. With regard to issue 12, he said that an alien could be expelled from Mongolia if he had used a false document to enter the country or failed to depart from the country after the expiry of a leave to stay, or if he refused to leave the country after the revocation of a leave to stay. The decision to expel an alien was taken by the Council for Foreign Citizens' Matters and executed by the police authorities. Since the adoption of the Law on the Legal Status of Foreign Nationals in 1995, 63 foreign nationals had been expelled from Mongolia: 6 Vietnamese, 2 Cameroonians and 55 Chinese.

35. Referring to issue 13, he said that, according to article 16, paragraph 14, of the Constitution of Mongolia, every citizen had the right to appeal to the court for protection if he considered that his rights or freedoms, as spelled out in Mongolian law or in an international treaty, had been violated. He also

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had the right to compensation for any damage caused by a third party, the right not to be required to testify against himself or members of his family, including his parents and his children, the right to defence, the right to participate in legal proceedings, the right to appeal against a court decision and the right to seek pardon. Those rights were guaranteed by the Law on Courts and by the Codes of Criminal and Civil Procedure of Mongolia. According to the Constitution, judicial power was vested solely in the courts. The judiciary consisted of the Supreme Court, the provincial and capital city courts and the courts of first instance. The unlawful institution of courts was prohibited in any circumstances.

36. Mr. BHAGWATI said that the answers provided by the delegation of Mongolia were not very satisfying, and many areas had not been dealt with. The reporting State should provide more detailed information as to whether Covenant rights had been relied upon by citizens when challenging legislation or government decisions or referred to in constitutional or other motions or in court judgements. The delegation should also make clear, in the case of a conflict between Covenant rights and the national constitution, which of the two would prevail.

37. With regard to women's rights, he noted that there was a difference in the legal age of retirement for men and for women. Moreover, some non-governmental organizations working in Mongolia had reported that there had been cases of domestic and sexual violence against women; that there was a lack of legal protection for the victims of such violence; that a high percentage of women, including underage girls, had suffered sexual abuse; that there was no law against domestic violence; and that cases of marital rape were on the increase. It was also reported that there were 850 maternal deaths per year owing to unsafe abortions, and that there were 262 abortions per thousand live births owing to the lack of access to family planning services and contraception.

38. In the area of employment, it was reported that there was an extensive list of jobs which women were not allowed to take, and that women who were pregnant or raising children under eight years of age were prohibited from doing overtime work or going on business trips, resulting in a considerable curtailment of their opportunities for advancement. It also appeared that in private-sector employment, women could be hired only on condition that they did not get pregnant, and that if a woman employee failed to comply with that condition she could be dismissed or suffer a reduction in salary. Also, in the context of the legislation on prostitution, it appeared that only prostitutes, and not procurers, were penalized.

39. Regarding political participation, only 10 per cent of members of Parliament were women, and no women were government ministers or chairpersons of Cabinet subcommittees. As for article 19 (2) of the Constitution, which provided for limitations of rights in case of a state of emergency or war, certain non-derogable rights were set out; they did not, however, include the rights enshrined in articles 8, 11, 15 and 16 of the Covenant which, under article 4 of the Covenant, were non-derogable even under a state of emergency.

40. He asked the delegation of Mongolia to specify whether the death penalty had existed prior to the transition to democracy, and whether the Government had

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considered removing the death penalty from the statute book. With regard to the independence of the judiciary, he wished to know the composition of the General Council of Courts; he hoped that it was made up of persons who were knowledgeable and who were connected with the judiciary or the legal profession. He would also be grateful for additional information on the provision of legal aid under article 14 of the Covenant and the conditions under which it could be obtained, and it would be interesting to learn how many times the Constitutional Court had taken a decision invalidating a decision of the Government, how many such cases were filed with the Constitutional Court per year and with what results, and whether a citizen could appeal directly to that Court if he considered that his constitutional or Covenant rights had been violated by a legislative measure.

41. Mr. WIERUSZEWSKI said that the reporting State clearly attached considerable importance to its dialogue with the Committee, since it was represented by such a high-level delegation.

42. He supported Mr. Bhagwati's comment that the answers provided by the reporting State to the Committee's written questions were absolutely unsatisfactory, a situation that would force members of the Committee to repeat many of those questions from the floor. The Committee's support and assistance to the reporting State was particularly important for a country in transition such as Mongolia; they could be given in a satisfactory manner, however, only if adequate material was provided. It was also regrettable that few of the numerous non-governmental organizations dealing with human rights issues within the country had had the opportunity to contribute to the report.

43. Noting that the reporting State had ratified the Optional Protocol to the Covenant, he wondered why the Committee had not received any communications as a result. It was part of the Government's obligations under the Optional Protocol to disseminate information on the communications mechanism. The delegation of Mongolia should indicate whether it had made the relevant texts and mechanisms known to the public and to non-governmental organizations.

44. The reporting State should also provide further details on the competence of the Constitutional Court and its effective role, specifying how many times a procedure before that Court had been initiated by individuals and whether access to the Court was limited to citizens of the country. The reporting State had mentioned the victims of past and present human rights violations; he wondered, however, what the scale of the problem was, and what compensation was being offered to such victims.

45. As for discrimination, information had been provided on the legal framework, but not on the de facto situation in relation to any particular aspect, particularly discrimination based on gender. The reporting State should clarify the percentage of women in the workforce, particularly in high positions such as government posts, to enable the Committee to evaluate the effect of the legislative measures adopted so far.

46. In relation to the issue of pre-trial detention, the reporting State had said that an independent body had been created to supervise such detention; however, the exact significance of the term "independent" needed clarification.

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Also, he wondered what the relationship between that independent body and the public prosecutor was, and whether the Prosecutor-General was part of the Government or independent of it. Paragraph 39 of the report specified that the State Security Office had come under new forms of supervision, but it should be made more clear who supervised that Office and what remedies were provided for the victims of any unlawful actions it might have committed. Specific examples should be provided as to the effective remedies available against such actions. He also asked whether the Government had considered ratifying the 1951 Convention relating to the Status of Refugees.

47. He agreed with Mr. Bhagwati that more information should be provided relating to the independence of the judiciary and how it was implemented. The reporting State should specify what formal and material guarantees of that independence had been created. He also wondered whether the Government was concerned about the issue of corruption in the judiciary and law enforcement organs, which was a problem in many countries, and what steps had been envisaged to prevent the development of such practices.

48. Lord COLVILLE said that he was disappointed in the quantity of information provided by the delegation. For example, in issue 2, the Committee had requested information on how judicial remedies were enforced. The section of the report dealing with article 9 of the Covenant indicated that there were bodies which implemented court decisions. He would be grateful for additional information on their effectiveness.

49. He had read of cases in which individuals had brought complaints of violations of labour laws before the courts. The courts had found in their favour and had awarded them compensation, but no action had been taken, and there had been no remedy available to the individuals involved. He failed to understand why that should be so. Either the bodies which implemented the decisions were completely ineffective, or, as he suspected, obtaining redress depended on knowing the right person. He hoped that the delegation could dispel that suspicion.

50. Similar considerations applied to the question of detention. What the Committee had requested in issue 10 was recent statistics on the length of pre-trial detention. There were reports that such detention was sometimes lengthy and accompanied by lack of food or other conditions that would violate the Covenant, perhaps in order to extract a confession. Three members of the Great State Hural itself had recently been detained and accused of criminal offences. They had been released promptly, but had not been charged or tried. It was at the stage of pre-trial detention that there was a danger of torture or other inhumane or degrading treatment. Further details should be provided on the procedures for enabling detainees to complain about their treatment while in detention.

51. As to the provision that, upon arrest, persons could immediately have access to a lawyer, he would be grateful for information on whether that had the effect of providing remedies. It would also be useful to learn whether there was any other body that had access to persons being detained.

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52. The report contained only a short paragraph on article 14 of the Covenant. In the light of the major changes that had been made to the Civil and Criminal Codes, he was certain that a fuller account could be given.

53. Article 50, paragraph 1 (1), of the Constitution stated that the Supreme Court was the court of first instance in criminal cases. That obviously made it impossible to appeal against its decisions, which was a violation of article 14, paragraph 5, of the Covenant. Further details on court proceedings should be provided.

54. Like Mr. Wieruszewski, he was concerned at the low salaries paid to certain judges. Such a situation almost certainly gave rise to the temptation to accept bribes. The reporting State should indicate whether judicial salaries were being reviewed.

55. Mr. ANDO welcomed the Government's efforts to build a modern nation based on respect for human rights. At the same time, he shared the disappointment of previous speakers at the brevity of the delegation's replies. The Committee's purpose in considering a State party report was not to criticize, but to assess the real situation of human rights in the country and recommend solutions. To that end, detailed replies were necessary.

56. Article 18, paragraph 2, of the Constitution referred to the principle of reciprocity in the application of international treaties. In the case of multinational human rights conventions, there was little scope for that principle. Human rights treaties sought to ensure that a country's citizens were guaranteed minimum human rights. The reporting State should clarify the implications of that constitutional provision.

57. With regard to paragraph 21 (e) of the report, he shared Mr. Bhagwati's concern regarding the gap between the constitutional provisions and article 4 of the Covenant on non-derogable rights.

58. Paragraph 26 of the report referred to distinctions made in the imposition of the death penalty. Such distinctions amounted to discrimination unless they were based on objective and reasonable criteria. The reporting State should clarify the ground on which it made those distinctions.

59. With regard to paragraph 31 of the report, he would be grateful for further details on the procedure for determining whether illegal actions had been taken by the courts, how such cases were resolved and how compensation was decided on.

60. With regard to paragraph 38, information should be provided on whether free legal assistance was available from the time of the arrest or only during court proceedings.

61. In its reply to the questions relating to issue 8, the delegation had stated that prisoners' diets provided 2,200 calories per day. However, the Committee was concerned not only with nutrition, but with prison conditions in general; further details would be welcome.

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62. Lastly, it was difficult to understand why passports were issued by the Police Department, as stated in paragraph 48 of the report. He would be grateful if the delegation could explain whether the Police Department was under the supervision of the Ministry of the Interior or a similar agency.

63. Ms. CHANET recalled that in 1992, when the Committee had considered the State party's third periodic report, it had requested more information on measures relating to article 4 of the Covenant; the relevant section of the current report appeared to be satisfactory. At the same time, as eight years had elapsed since then, it was reasonable to expect that fuller details should now be provided.

64. She noted that rights under the Covenant were only partially incorporated into the new Constitution. Article 10 of the Constitution stated that the international treaties to which Mongolia was a party had the status of domestic legislation; in other words, they did not have the same status as the Constitution. It was unclear what would happen if there was a conflict between domestic law and the Covenant.

65. With regard to equality between men and women, she associated herself with the questions raised by Mr. Bhagwati.

66. With regard to article 9 of the Covenant, there appeared to be some confusion between pre-trial detention and police custody. She found it difficult to believe that police custody could last for two months. The reporting State should clarify the point at which the prosecutor became involved in monitoring police custody. It would be useful to know what authority was responsible for implementing article 9, paragraph 4, of the Covenant, which required that anyone who was deprived of his liberty should be entitled to take proceedings immediately before a court.

67. With regard to article 12 of the Covenant, she drew attention to the State party's provisions concerning official secrets, which were a vestige of the old regime and could seriously restrict freedom of movement, as civil servants accounted for a large share of the population. "Official secrets" must be clearly defined.

68. Lastly, with regard to article 14, she had the same questions as Lord Colville and Mr. Bhagwati. During its consideration of the third periodic report, the Committee had accepted the delegation's argument that the paucity of information relating to article 14 was due to the fact that the judicial system was being overhauled. Nevertheless, eight years later, the Committee still had no information on how the system functioned. It was unclear how article 14, paragraph 1, of the Covenant, which provided for the right to a hearing by a competent, independent and impartial tribunal, was implemented. The Constitution referred to laws of which the Committee had no knowledge. Fuller details should be provided on how judges were recruited, appointed and promoted, and how their independence was ensured.

69. Mr. YALDEN said that he shared the views expressed concerning the brevity of the replies. The report placed great emphasis on law and little on practice.

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70. No reply had been made to the questions relating to implementation (issue 2), other than a general reference to the courts. Mention had been made of the possible establishment of an ombudsman's office with the assistance of the Office of the United Nations High Commissioner for Human Rights. He would appreciate further information on the jurisdiction and powers of such an office. He noted, however, that the Committee had requested information on enforcement, and that ombudsmen typically did not enforce anything; they were only in a position to make recommendations. He noted further that their jurisdiction usually extended only to State agencies, whereas the Committee was interested also in discrimination by private actors.

71. With regard to the status of women, he agreed with Mr. Bhagwati and others concerning the paucity of information that would enable the Committee to assess the progress of women in civil society. It appeared that women had advanced considerably in employment and education and less in politics and government. It would be useful to have information on whether there was any agency responsible for protecting women's rights.

72. He would also appreciate further details on whether there were any general provisions for enforcing anti-discrimination laws.

73. Lastly, he echoed the requests of other speakers for additional data on prison conditions.

74. Ms. EVATT said that the situation of women was one of the most significant issues for human rights. The delegation had not met the informational requirements; for example, no data had been provided on the incidence of violence against women, the support services available for female victims of violence, how the laws were enforced and what effect they had on the underlying causes of violence, such as alcohol abuse. The delegation had indicated that traditional attitudes towards women's roles still prevailed in the country. She would appreciate further information on any actions taken to ensure that the authorities showed a greater willingness to intervene.

75. With regard to trafficking and forced prostitution, which were violations of articles 7 and 8 of the Covenant, she wished to know whether there had ever been an instance of prosecution of traffickers or procurers.

76. With regard to the high maternal mortality rate, the reporting State should indicate what actions had been taken to ensure that women had equal access to family planning and contraceptive services.

77. With regard to discrimination in employment, the effect of various aspects of discrimination on women's financial situation should be clarified. Reports indicated that the number of women living in poverty and of female heads of household had increased. It would be useful to learn whether their low income prevented them from carrying out their family responsibilities.

78. Additional details on women's participation in the conduct of public affairs would be welcome. The indications were that such participation remained low; that was an issue which needed to be addressed.

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79. Mr. ZAKHIA said that the questions relating to issue 4 were especially important, as they affected more than half the population. Political democracy must not be established at women's expense. What was needed was a comprehensive, critical overview of the situation of women and the direction it was taking. It was difficult to understand why there had been a free fall in the percentage of women in political leadership, from 24 per cent to 3 per cent, especially since 70 per cent of lawyers and 65 per cent of professors were female. It was unclear why the Government had not set goals for the percentage of women in political and administrative leadership posts, as had been done in other countries. Enhancing the role of women would also be an effective way of combating violence against them.

80. Mr. SCHEININ said that it appeared that fathers were not entitled to parental leave, a fact which could promote discrimination against women in the labour market at a time of transition to a market economy. Thus, the State party's effort to give preferential treatment to women could in the long run lead to discrimination against them. He wondered whether the Government planned to introduce equal rights for men and women with regard to parental leave and, as Mr. Bhagwati had suggested, old age pensions.

81. Paragraph 23 of the report stated that the implementation of extraordinary measures during a state of emergency or martial law must be consistent with the obligations of Mongolia pursuant to international human rights instruments. He asked whether that stipulation was enshrined in domestic law.

82. In view of the fact that women, minors and men over 60 years of age could not be condemned to death (para. 26), the State party might consider abolishing the death penalty altogether.

83. The delegation should explain what procedural guarantees were available to persons subject to administrative detention, including compulsory medical treatment; in particular, he wondered whether all such cases were subject to judicial review and, if so, whether those proceedings were conducted expeditiously in accordance with article 9 of the Covenant.

84. Lastly, while he welcomed the absence of further documented cases of starvation among prisoners, the annual death rate from illness was quite high (2.5 per cent). That situation was presumably partly a consequence of poor conditions of detention, including malnutrition and a high risk of tuberculosis and other illnesses. Mongolia's rate of imprisonment was high and apparently entailed real risk to the lives of detainees. The State party should therefore investigate alternative forms of punishment in an effort to achieve compliance with the provisions of article 10 of the Covenant.

85. Mr. KLEIN acknowledged that the Committee's expectations of the Mongolian Government might have been overly high in light of the fact that the State party was reporting for the first time since the beginning of the transition to democracy and a market economy. Article 19 (1) of the Constitution, which stipulated that the State was responsible to the citizens for the creation of economic, social, legal, and other guarantees ensuring human rights and freedoms, for the prevention of violations of human rights and freedoms, and

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restoration of infringed rights, was an encouraging basis for improvement in that regard.

86. In its reply to issue 1 of the list of issues, the delegation had been unable to point to a single case in which the Covenant had been invoked under domestic law. He suggested that the Covenant's provisions might not be generally known, even within the legal community.

87. With respect to articles 16 and 18 of the Constitution, he suggested that the State party should review its legislation, since nearly all the rights guaranteed under the Covenant could in principle be invoked by citizens and non-citizens alike.

88. It would be useful to know to what extent the Law on the Legal Status of Foreign Citizens, mentioned in paragraph 50 of the report, had made use of the Government's prerogative to restrict the rights of non-nationals to a greater extent than those of citizens (art. 18 (5) of the Constitution).

89. Paragraph 17 of the report stated that employers who discriminated against pregnant or breastfeeding mothers were subject to corrective action or a fine; however, other sanctions, such as invalidation of dismissal, might be more effective.

90. He had visited Mongolia some years previously and had discussed with the authorities a draft law on compensation and restitution for victims of the former regime. He asked what the final form of that law had been, who had been compensated under it, whether any criminal liability had been assigned and whether article 15 (2) of the Covenant had had any relevance to the proceedings. The Mongolian Government's concept of State secrecy (paras. 47 (c) and 74 of the report) would appear too broad to comply with the provisions of article 12 (3) of the Covenant. He asked the delegation to be more specific as to the definition enshrined in the Law of Mongolia on State Secrecy and, in particular, to explain under what conditions individuals were denied the right to leave Mongolia.

91. Lastly, he wondered whether the recipients of passports were entitled to keep them or whether those documents must be returned after completion of the travel for which they had been issued.

92. Mr. KRETZMER said that he shared his colleagues' concern regarding the paucity of information contained in the report and in the replies to the questions contained in the list of issues (CCPR/C/68/L/MNG).

93. He asked the delegation to comment on reports from non-governmental organizations that the national programme on improving the status of Mongolian women, mentioned in paragraph 18 of the report, had never been implemented for budgetary reasons. The Committee had also been informed that the courts refused to consider allegations of rape unless the victim could demonstrate that physical force had been used. He enquired whether marital rape was an offence under domestic law and whether the Government had a policy to combat trafficking in women.

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94. With respect to article 9 of the Covenant, he asked the delegation to provide a breakdown of statistics on the proportion of convicted prisoners and of persons awaiting trial in Mongolian jails and on the percentage of persons awaiting trial who were held in pre-trial detention. It appeared from paragraph 37 of the report that the stipulation in article 9, paragraph 1, of the Covenant that no one should be deprived of his liberty except as established by law was enshrined in article 16 of the Mongolian Constitution. However, it was not clear on what grounds a person could be arrested or held in pre-trial detention or how long a person could be held before being brought before a judge; he had heard that the maximum period was 72 hours, which would exceed the time period that the Committee had considered permissible under the Covenant.

95. Mr. AMOR said that the lack of information in the report and in the delegation's replies made it difficult for the Committee to initiate a dialogue that would help the Government to improve its human rights record.

96. The implementation of the Covenant's provisions and their invocation before the national courts did not seem very effective; he wondered whether the Covenant and the first Optional Protocol thereto had been reproduced in any official publication so that civil servants, judges and, in particular, the police and security forces could be considered responsible for familiarity with it.

97. The delegation had stated that no national institution to monitor the implementation of human rights in Mongolia had been established but that a post of ombudsman had been created. He would welcome information on how the ombudsman was selected, what his functions were, how individuals could gain access to him, to what extent his existence had been publicized and what he had accomplished.

98. It would be useful to have a description of the regime governing states of emergency. Furthermore, the delegation had stated that the Government would like to abolish the death penalty but had been unable to do so; he wondered what obstacles had been encountered in that regard. The Government should also take steps to improve conditions in the prisons. In that connection, he requested additional information on the prevalence of torture and cruel, inhuman and degrading treatment or punishment.

99. He asked what judicial guarantees were available to protect foreigners from arbitrary expulsion and whether an appeal process had been established. Lastly, the delegation should provide more information on passports, freedom of movement and restrictions on travel.

100. Mr. LALLAH said that since decisions on the expulsion of foreign nationals, according to paragraph 53 of the report, were rendered by the Council for Foreign Citizens' Matters, which was headed by the Minister of Justice, it was difficult to imagine how a foreigner subject to expulsion could appeal against the ruling of such a high-level body.

101. Mr. HENKIN requested further information on the legislation governing the relationship between the State and the Church (art. 9 of the Constitution) and on its compatibility with article 18 of the Covenant.

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102. He found it difficult to believe that domestic violence was not prohibited under Mongolian law and asked how the police handled reports of spousal beating and even murder. Only article 25 of the Covenant referred specifically to the rights of citizens; all other Covenant rights were guaranteed to everyone, without distinction as to nationality. He asked the delegation to provide more detailed information on the rights of foreigners.

103. Lastly, he wondered what problems had arisen in relation to the transition from the former regime and, in particular, whether cases of immunity or impunity had arisen.

The meeting rose at 6 p.m.