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Sixty-second session

SUMMARY RECORD OF THE 1660th MEETING

Held at Headquarters, New York,
on Wednesday, 1 April 1998, at 3 p.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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The meeting was called to order to 3.15 p.m.

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

Fourth periodic report of Finland (continued) (CCPR/C/95/Add.6)

1. At the invitation of the Chairperson, Mr. Hallberg, Mr. Veijalainen, Ms. Ertman, Mr. Viljanen, Ms. Pietarinen and Mr. Schalin (Finland) took places at the Committee table.

2. Mr. HALLBERG (Finland) said that his Government was keen to take an activist position on human rights implementation. The Government bill on amending fundamental rights provisions of the Constitution, which had been approved by Parliament and entered into force in August 1995, had stressed the particular importance of Finnish participation in international cooperation for the protection of human rights. The authorities believed that remedies other than criminal sanctions were usually the most appropriate way of dealing with discrimination. Such cases were generally dealt with in administrative courts. Efforts had also been made to ensure that the rule-of-law principle was meaningful in respect of human rights, and therefore a delegation from the Supreme Administrative Court would be attending a special world congress in Lisbon to discuss ways of putting that principle into practice.

3. Finland had traditionally adopted a somewhat legalistic approach. In an attempt to inject more humanity into its legal proceedings, efforts were currently being made to introduce a more purpose-oriented system attuned to the spirit rather than the letter of the law. Fundamental rights and human rights were directly applicable in daily court practice. Whenever the Finnish Parliament authorized the ratification of a treaty, it also adopted an act stating that any provisions of the treaty pertaining to the sphere of legislation would be applied as agreed. The act was then made law by a presidential decree. The International Covenant on Civil and Political Rights had been incorporated into Finnish domestic law in that way, and was therefore directly applicable in the courts.

4. Mr. VILJANEN (Finland) said that Finnish criminal law was based on the assumption that criminal sanctions should be the last resort in protecting an individual's human rights. In Finnish legal thinking there was a close connection between economic, social and cultural rights on the one hand and civil and political rights on the other. The best way to protect the liberty of individuals was to ensure that fair and just economic and social conditions prevailed throughout society. The payment of monetary compensation was a frequently used means of punishing human rights violations, for example in cases of discrimination, but criminal sanctions had occasionally proved necessary. In that connection, paragraph 101 of the report (CCPR/C/95/Add.6) dealt with amendments to the Penal Code in respect of new penal provisions for the violation of political freedoms. The basic idea behind the new provisions, which had come into force in 1995, was that the State had an obligation to secure the right to freedom of expression, assembly and association and to prevent violations of such rights, if necessary by the use of criminal

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sanctions. The main impact of the new provisions had been to emphasize the importance of political freedoms.

5. Committee members had enquired why so much new legislation had been drafted following Finland's ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1990, whereas comparatively little had followed Finland's accession to the Covenant in 1976. The main reason was the gradual growth of human rights awareness in Finland; in 1976, Finnish lawmakers had simply been unaware of the legislative measures required by the Covenant. The enactment of the new legislation in the 1990s had in fact strengthened the position of the Covenant in Finnish law.

6. It was true that the functions and duties of the Parliamentary Ombudsman and the Chancellor of Justice overlapped to a certain extent. In practice, however, neither authority interfered in cases submitted to the other. Other ombudsmen such as the Equality Ombudsman and the Ombudsman for Aliens did not have the constitutional status of the Parliamentary Ombudsman, who alone had the power to take measures against public servants or authorities. In 1997 a total of 2,700 individual complaints had been filed with the Parliamentary Ombudsman and 1,500 with the Chancellor of Justice.

7. The hembygdsrätt, a sort of regional citizenship peculiar to the Province of Åland, was designed to guarantee the rights and culture of the Province's Swedish-speaking population. It did not restrict freedom of movement but it did impose some limitations on the right to acquire land in the Åland Islands.

8. Mr. HALLBERG (Finland) said that it was important to stress that the institutions of the Parliamentary Ombudsman and the Chancellor of Justice did not function as courts.

9. Mr. VEIJALAINEN (Finland) said that a child born in Finland to stateless persons would acquire Finnish nationality by virtue of the ius soli principle. A Finnish citizen could not be deported from or denied entry to Finland; stateless people could in theory be deported, but in practice it was difficult to deport them because no State was willing to receive them. People who had previously committed minor offences such as shoplifting and petty theft, or who had entered or remained in the country illegally, were "blacklisted" and denied entry to Finland. The blacklist system was rarely used to prevent the entry of individuals who had committed more serious crimes, although such cases did exist.

10. A specific deportation case concerned the Iridiamant community, the so-called lifestyle indians, whose leader, a Belgian citizen, was discovered to be an internationally wanted criminal. The members of the community were all citizens of the European Union. A deportation order had been served, but in the event all the members of the community had left Finland voluntarily. In 1997 millions of people had been allowed to enter the country; only 2,300 individuals had been refused entry, mainly because they had failed to obtain a visa or lacked the means to support themselves in Finland.

11. In 1995 there had been 700 asylum seekers; in 1996, 730; and in 1997, 940. More than 50 per cent of asylum seekers had been allowed to stay, but refugee

status had been granted to just 1 or 2 per cent of that total. The rest had been issued residence permits on humanitarian grounds. Following objections from the Committee at the submission of the previous periodic report, the police had discontinued the practice of keeping official registers of Romanies.

12. Ms. Medina Quiroga (Vice-Chairperson) took the Chair.

13. Ms. PIETARINEN (Finland) said that discrimination and racism were priority areas of concern for the Government. The Committee had asked for information on various minorities, including the Russian and Romani communities. A distinction had been drawn between the "old Russian" community, which had lived in Finland for centuries and numbered some 5,000 individuals, and "new Russians" who had arrived more recently. Many of the latter group were ethnic Finns who had originally moved to Russia and Estonia in the seventeenth, eighteenth and nineteenth centuries; some 20,000 such people had returned to Finland in recent years.

14. At the constitutional level, linguistic rights were defined in section 14 of the Constitution Act, which provided, inter alia, that the national languages were Finnish and Swedish; that everyone had a right to use his or her language before the courts and other authorities and to obtain documents in those languages; that the Government would provide for the needs of the Finnish- and Swedish-speaking populations equally; and that minorities were entitled to maintain and develop their own languages and cultures. Approximately 6 per cent of the population was Swedish-speaking. The Government maintained educational establishments of many kinds in both the national languages. Some universities were to a certain extent bilingual. The Swedish-speaking minority had a number of cultural institutions of its own, for example a part-time television channel, a full-service radio channel and several theatres and newspapers. The national broadcasting company was required to provide the Finnish- and Swedish-speaking population with programme services according to equal criteria. Television broadcasts in Swedish accounted for about one tenth of total programming time. Despite those guarantees and provisions, however, some Swedish speakers had encountered difficulties in using Swedish when interacting with the authorities.

15. The 1992 Act on the Use of the Sami Language Before the Authorities guaranteed the Sami the right to write and speak in their own language when dealing with the authorities and to receive replies from the authorities in the same language, a process which required translation and interpretation services. The Educational Centre of the Sami Area, in whose administration Sami played a key role, aimed at preserving and developing Sami culture and traditional Sami livelihoods; subjects were taught in both the Finnish and Sami languages, fluency in which was a requirement for teachers. State funds were allocated for the preservation of Sami culture, and their use was determined by the Sami Thing. There was a Sami radio channel, and a Sami museum was under construction. Action was still needed to establish Sami-language television broadcasts, especially children's programmes, to support Sami art and to protect Sami handicraft and cultural traditions.

16. In the early 1970s a programme had been launched to improve the written Romani language, and a Romani textbook had been published in 1982; in 1996 the Research Institute for the Languages of Finland had taken on the project of

preserving the purity of Romani, and a Romani language board had been established for that purpose in 1997. In 1995 the Finnish Broadcasting Corporation had begun to broadcast, nationwide, a 10-minute programme in the Romani language, featuring news, interviews and music. Although there were no Romani language publications per se, articles written in Romani appeared in magazines especially devoted to the Romani population.

17. Replying to questions from Ms. Evatt, she said that in 1996 the Ministry of the Environment had conducted a housing survey which had shown that most Romanies lived in municipal rented flats. Although, owing to prejudice, it was often difficult for Romanies to find housing on the open market, they had had success in procuring public housing. Although the Finnish Penal Code prohibited discrimination in employment, the Romani people did suffer from that problem. Many Romanies had stated that discrimination was part of their everyday life. The Advisory Board for Romani Affairs, which came within the jurisdiction of the Ministry of Social Affairs and Health, was made up of Romanies, representatives from Romani associations and government representatives. Its task was to advance the Romani cause in Parliament and before the authorities. Furthermore, the Romani Educational and Cultural Development Unit was responsible for promoting Romani education and culture.

18. Further measures must undeniably be taken to combat racism, and in that connection she drew attention to the combined thirteenth and fourteenth periodic reports of the Government of Finland to the Committee on the Elimination of Racial Discrimination, which contained detailed information concerning Finland's efforts in that regard. The problem of racism was taken seriously in Finland: the President had recently stated, in his traditional New Year speech, that measures must be taken to combat racism and xenophobia. In 1996, the Government had established a Ministerial Group whose mandate was to secure good ethnic relations among citizens, to intervene when necessary in manifestations of racism, and to draft an action plan to change attitudes in such a way as to promote an atmosphere of security. The Ministerial Group was assisted by the Anti-Racism Committee, which had drafted the Decision-in-Principle by the Council of State on Measures for Promoting Tolerance and Combating Racism; that decision, which had been devised to combat racism, promote a tolerant atmosphere and help immigrants integrate into Finnish society, enjoined authorities to intervene promptly in cases of racist activity. Plans were under way to provide training to authorities in dealing with ethnic relations and ethnic discrimination, and to enhance opportunities for people belonging to ethnic minorities to be recruited for civil service posts.

19. Finland had also established an Advisory Board for Refugee and Migrant Affairs, on which were represented, inter alia, the responsible government authorities, the municipalities, the Finnish Evangelical Lutheran Church, such non-governmental organizations as the Finnish Red Cross, and immigrants themselves; an Advisory Board for Sami Affairs; the Commission against Racism, Xenophobia, Anti-Semitism and Intolerance; and the Commission for Migration and Refugee Policy. The Parliamentary Ombudsman and the Chancellor of Justice had the task of ensuring that authorities took such issues into account. The Ombudsman for Aliens was responsible for protecting the status of foreigners and promoting cooperation among foreigners, authorities and organizations. In addition, the labour protection authorities were responsible for ensuring that

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the anti-discrimination provision of the Labour Code was respected in the areas of employment relations and recruitment.

20. Replying to questions from by Mr. Lallah, she said that although there were indeed independent groups in Finland that promoted intolerance and racism, there were no political parties whose platforms were based on such ideas. The curriculum guidelines of comprehensive schools, secondary schools and vocational training institutes featured education in the principles of human rights, cultural respect and tolerance. Finnish education was grounded in the principle of equality for all, regardless of gender, race or economic standing; a plan of action had been drawn up to promote interaction among cultures in schools. Under the terms of the Decision-in-Principle, teacher-training programmes would include an intercultural education component, consisting of such themes as ethnic relations, tolerance, human rights, cultural identity, and the teaching of immigrants.

21. Replying to a question from Mr. Ando, she said that, as far as she was aware, there were no discriminatory restrictions on publishing.

22. Replying to a question from Lord Colville concerning racist propaganda, she said that the Ministry of Justice was responsible for the printed word, whereas the spoken word came within the purview of the criminal courts. If the Ministry of Justice found that some printed matter contravened Finnish law, it was obliged to prosecute. Furthermore, if the public prosecutor or the chief of police became aware of such an offence, he was obliged to report it to the Ministry of Justice. In its Action Plan against Racism, the Ministerial Group on Good Ethnic Relations stressed that charges must be brought if printed matter was found to be racist or to instigate discriminatory actions. In practice, such complaints were rare. In 1996, the Ministry of Justice had been requested to take a decision in only two cases related to ethnic discrimination; neither case had been found to merit further investigation or to contravene the Freedom of the Press Act. In 1997, however, the Ministry of Justice had recommended that charges should be brought in a case involving the publication of racist material, and the competent court had found the editor of the publication guilty of ethnic agitation. The Ministry of Justice was currently considering whether to transfer responsibility in that sphere to the Office of the State Public Prosecutor.

23. Mr. KRETZMER observed that the Committee, in its draft General Comment on article 12, paragraph 4, had specified that the term "his own country" was broader than the concept "country of his nationality". He was aware that under the terms of the Finnish Constitution, a citizen could not be deported from Finland or denied the right to return. It seemed, however, that a distinction was drawn between Finnish citizens and resident aliens. He wished to know whether aliens had the right to apply for citizenship after they had legally resided in Finland for a certain period of time, and on what grounds a resident alien could be deported.

24. Mr. LALLAH noted that the measures taken by Finland to protect foreigners and ethnic minorities against discrimination included the creation of various posts of Ombudsman, but the latter seemed to lack the power to initiate actions.

He enquired whether the Government had considered creating an institution which was empowered to bring cases before the courts.

25. Mr. YALDEN said that first, it would be useful to know whether, under the provisions prohibiting discrimination in the workplace, any employers had been prosecuted for discriminatory conduct, and, if so, whether they had been fined or imprisoned. Second, Finland had indicated that an individual could not be discriminated against on the basis of his health. He would like to know whether that was the same as a disability, and which governmental entity was responsible for ensuring that the ban on such discrimination was enforced. Third, he enquired whether the Government had any plans for handling the problems of the Russian minority, which apparently was much larger than the Sami and Romani minorities, in such areas as language and education.

26. Ms. ERTMAN (Finland) said that many measures had been taken to remove obstacles to the achievement by women of higher pay and higher-level jobs. She drew attention to a set of statistical tables that her delegation had circulated to the members of the Committee. A comparison of the 1995 monthly earnings of State officials showed that women's earnings represented about 77 per cent of men's earnings, and a comparison of the monthly earnings of employees showed that women's earnings represented about 86 per cent of men's earnings. Those figures resulted largely from the greater number of women in low-paid work. When the comparisons were broken down by occupation, the difference between the earnings of men and women shrank markedly.

27. She had no specific information concerning employers who had been imprisoned for practising discrimination. The Equality Ombudsman had, however, issued some relevant statements.

28. Finnish policy concerning disabilities was grounded in the principles of equal opportunity and full participation in society. The Constitution provided protection for disabled persons, and established the rights of persons whose disabilities obliged them to use sign language. As early as 1985, the Finnish Government had established a National Council for the Disabled, which had subsequently drafted a relevant national programme. The Services for the Disabled Act had been adopted to promote opportunities for disabled persons, to assist them in living as equal members of society, and to remove obstacles and disadvantages caused by their disabilities. The services provided under that Act included housing, transport and escort services, rehabilitation, adaptation training, and financial support, for, inter alia, home improvements, domestic appliances and personal helpers. Municipal governments were responsible for the provision of disability services, which they could choose to provide themselves or procure from individuals or corporations. A disabled person had the right to housing unless he required institutional care.

29. With respect to the right of minors to join or leave a church or religious sect, section 5 of the Constitution Act provided that children had a right to influence matters affecting them, such as decisions on child custody in divorce cases. Ninety per cent of Finland's population belonged to either the Evangelic-Lutheran or the Greek Orthodox Church. The status of both of those churches was regulated by law. Although parents had the right to decide on the

religious upbringing of their children, a person could choose to join or leave a church or religious sect even before reaching the age of 18.

30. Mr. Yalden's question concerning the Russian minority would be answered in the context of issue 11, but she wished to point out that some three fourths of that population group had moved to Finland within the last decade and that the Government's future policy concerning them was therefore hard to foresee.

31. Mr. VEIJALAINEN (Finland), replying to a question from Mr. Kretzmer, said that the longer an alien had remained lawfully in Finland, the more rigorous the requirements for deportation. The law provided explicitly that all relevant factors must be taken into account in the consideration of deportation cases. In practice, it was very hard to deport an alien who committed an offence after having lived in Finland lawfully for a number of years. The right of appeal to the Supreme Administrative Court was available in deportation cases. Aliens who had remained lawfully in Finland for at least five years could adopt Finnish nationality if they had no criminal record and if they had a secure livelihood; that requirement was reduced to three years in the case of an alien married to a Finnish citizen. Aliens who had been in Finland for three months or less were subject to expulsion under the procedures for refusal of entry.

32. Mr. VILJANEN, replying to a question from Mr. Ando, said that an Act of Parliament had exempted Jehovah's Witnesses from military and civil service. Prior to the Act's entry into force, a number of Jehovah's Witnesses had gone to prison each year for a term equivalent to the time they would have spent performing military or civil service. Although the exemption conflicted with the principle of equality, it was based on respect for the right to freedom of conscience and religion.

33. Ms. Chanet resumed the Chair.

34. Mr. SCHALIN (Finland), replying to a question from Mr. Klein, said that Finland's three remaining reservations to the Covenant merely reflected the Government's wish to register doubts as to the precise interpretation of its provisions and did not reflect national practices whose purposes differed from those of the Covenant. Regarding the reservation to article 14, paragraph 7, the reconsideration of a prison sentence in exceptional circumstances, even if the judgement was thereby reversed, was also allowed in many other democracies. Likewise, the reservation concerning propaganda for war simply reflected an agreement among the Nordic countries to defend, in principle, the right to freedom of expression. In its reservation to article 10, paragraphs 2 (b) and 3, Finland had declared that, although it normally segregated juvenile offenders from adult offenders, it did not wish to preclude the possibility of more flexible arrangements. The number of juveniles in prison was small: in each month of 1996, there had been between 1 and 13 such prisoners on remand and between 2 and 7 serving sentences. As at 1 February 1998, there had been two juveniles serving prison terms and eight juveniles on remand. Finland had already withdrawn a number of its reservations to human rights instruments, and all reservations, including those relating to the Covenant, were subject to continuous review.

35. With respect to the performance of medical experiments on mentally ill persons, the inviolability of human dignity, which was guaranteed by the Constitution Act, applied to all persons in Finland, including the mentally ill. Moreover, the law on patients' rights provided that authorization for any treatment administered against the patient's will must be renewed every six months. Replying to Mr. Ando's question concerning the performance of experiments on human embryos, he said that, in the travaux préparatoires for the Constitution Act, it had been considered that the inviolability of human dignity also applied to human embryos.

Issue 7: Review of penal law and procedure (articles 9 and 14 of the Covenant)

36. The CHAIRPERSON read out the question relating to issue 7, concerning the scope of the reform of criminal procedure and its impact on the implementation of articles 9 and 14 of the Covenant.

37. Mr. VILJANEN (Finland) said that the reform of the Penal Code included the revision of provisions concerning war crimes and offences against humanity, offences against democracy, treasonable offences, homicide and injurious offences, offences against liberty and endangerment, as well as labour, environment and data offences and violations of incorporeal rights.

38. The most notable of the amendments made to the Coercive Criminal Investigation Means Act when Finland had ratified the European Convention on Human Rights in 1990 had related to the time limit for the submission to a court of a detention request concerning a person under arrest, as noted in paragraph 35 of the report (CCPR/C/95/Add.6). However, section 22 of that Act, referred to in the same paragraph, had been repealed in 1997. Instead, such detentions had to be reviewed by the court ex officio every two weeks.

39. The Act on Legal Proceedings in Criminal Matters, referred to in paragraphs 64 to 73 of the report, had entered into force in October 1997. In addition to the features described in paragraphs 65 and 72 of the report, the new procedure defined more clearly the roles of the public prosecutor and the judge, according to the principle of accusatory procedure. More emphasis would be placed on the statement of reasons in the court's final decision.

40. A criminal case could be examined and decided upon in the absence of the accused if the latter's presence was not necessary in order to resolve the case and if the accused had been summoned to appear under the threat that the matter could be resolved in his or her absence. In such cases, the penalty could consist of a fine or imprisonment for a maximum of three months. If the accused consented to the consideration of the case in his or her absence, the penalty could not exceed six months' imprisonment.

41. Another aspect of the new criminal procedure was the victim's right to counsel in certain situations. The court could assign counsel to a victim for the pre-trial investigation and for the trial itself in cases of sexual offences or homicide. An amendment to the Act, which would enter into force at the beginning of 1999, provided that, in cases filed by the public prosecutor, the State must reimburse the reasonable legal expenses of the accused if the charges or any other claims were dropped, not examined or dismissed.

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Issue 8: Preventive detention (article 9 of the Covenant)

42. The CHAIRPERSON read out the questions relating to issue 8, concerning the adoption of the bill on the elimination of preventive detention and information on the amendments to the Penal Code mentioned in paragraph 101 of the report.

43. Mr. SCHALIN (Finland) said that Finland's newly appointed Minister of Justice had not yet taken a final stand on the status of preventive detention. However, a legislative reform that would abolish the legislation on preventive detention had been planned. Even if that legislation was not abolished, the legislation concerning the Prison Court was to be amended to exclude the Director-General of Corrections from membership of the Court and to establish a regular two-party process in the Court. Those amendments would eliminate all grounds for alleging that the Prison Court was not a court within the meaning of article 9, paragraph 4, of the Covenant.

Issue 9: Liberty and security of the person (article 9 of the Covenant)

44. The CHAIRPERSON read out the question relating to issue 9, concerning the compatibility with article 9, paragraph 3, of the Covenant of articles 47 and 48 of the Aliens Act (378/91), according to which aliens could be detained on the order of a police officer for up to four days before their case was heard by a court.

45. Mr. VEIJALAINEN (Finland) said that detention was a subsidiary measure which was used rarely and for relatively short periods where the applicant's identity was in question or there was reason to believe that he would commit an offence or go into hiding. A police officer who decided to place an alien in detention must inform the court without delay and, at the latest, on the following day, of the place where the detainee was being held, and the court must rule on the case within four days of the date on which the alien had been taken into custody. Chapter 1, article 13, of the Coercive Criminal Investigation Means Act stipulated that an alien under arrest on suspicion of an offence must be brought before the court no later than the third day after his arrest. Although in most cases the courts decided on the day following detention whether the person in question should be held in custody or released, detention could be extended in some cases, particularly in remote areas or over a long weekend.

Issue 10: Conditions of detention (article 10 of the Covenant)

46. The CHAIRPERSON read out the question relating to issue 10, concerning measures to ensure that aliens detained pending determination of their status were kept separate from offenders and that juvenile offenders were kept separate from adults.

47. Mr. VEIJALAINEN (Finland) said that under articles 45 and 46 of the Aliens Act, no one under 18 years of age could be placed in detention without prior consultation with the social welfare authorities or the Ombudsman for Aliens. In practice, aliens placed in detention were held at police stations or public prisons, and the Ministry of the Interior and the Ministry of Labour were

conducting a survey to determine the possibility of establishing detention facilities at reception centres for asylum-seekers.

Issue 11: Rights of persons belonging to minorities (article 27 of the Covenant)

48. The CHAIRPERSON read out the questions relating to issue 11, concerning the extent to which the Sami people and the Sami Delegation (Sami Thing) took an active part in decisions affecting them, such as those relating to mining, forestry and fishing, which could affect their economic activity of reindeer herding; the adoption of the Sami Act; and information on the situation of other minorities.

49. Ms. PIETARINEN (Finland) said that, since 1996, all State and municipal authorities had been obligated to negotiate with the Sami Thing with respect to all important measures that directly and specifically affected the status of the Sami as an indigenous people, including community planning, the management, use and assignment of State lands, licences for mining claims, and the development of teaching in and of the Sami language. In practice, parliamentary committees and various Ministries had regularly heard the views of the Sami; however, the Sami had complained that the Ministries, in some cases, had not negotiated with them on legislative proposals of particular interest. The Parliamentary Ombudsman and the Chancellor of Justice had received a few complaints in that regard, but had not found that any breach of official duty had occurred. Some of the complaints were still pending.

50. The Sami Act, referred to in paragraph 121 of the report, concerned the rights of the Sami to the lands and waters which they had traditionally occupied. However, as the issue of Sami land rights had not yet been resolved, the Act had not yet been adopted.

51. The principle that minority groups were entitled to their own language and culture was taken into account in the educational system, from the pre-school stage onwards. Pupils whose mother tongue was not one of the country's two official languages (Finnish or Swedish) could be taught their own language instead. In such cases, one of the official languages was taught as a second language and the other was offered as an optional subject. Thus, Sami, Romani, Russian or any other foreign language could be taught as a mother tongue or as a foreign language, or could be used as the language of instruction for all subjects.

52. Ms. EVATT asked whether the Sami Act was likely to be adopted in the near future. She wondered whether the failure to adopt the Act was related to Finland's inability to ratify International Labour Organization (ILO) Convention No. 169, on indigenous and tribal peoples, which was mentioned in paragraph 122 of the report. She asked how members of the Sami were identified for the purpose of enabling them to participate in elections to the Sami Thing (Sami Parliament) as either voters or candidates, and wondered whether the Sami could also vote in the elections for the national Parliament of Finland.

53. She understood that new laws on the right of assembly had been enacted and that new offences for interfering with that right had been established.

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However, the police had been known to interfere with demonstrations by animal rights groups, even when the demonstrations involved only two or three people. She asked whether the police or anyone else would be liable to prosecution for such interference under the new legislation.

54. Mr. ANDO said that, as the Finnish delegation knew, individual complaints had been submitted to the Committee, under the Optional Protocol to the Covenant, in relation to the development of land that had traditionally belonged to the Sami. Of course, that problem was not unique to Finland; a number of other countries faced the dilemma of indigenous people's entitlements versus the need to develop modern sources of energy. The problem was that, although indigenous peoples' rights should be protected, there was a point at which the effects of modern life became inevitable. He asked for information on the prospects for a settlement of the issue by the Finnish Government and on the basic attitude of the Government and Finnish society in that regard.

55. Ms. PIETARINEN (Finland) said that Finland had not yet ratified ILO Convention No. 169 because national legislation did not correspond to the provisions of that Convention, particularly with regard to the land rights of the Sami people. The Sami Parliament had been responsible for studying the question since 1993 and, in 1996, the Ministry of Labour and the Ministry of Justice had recommended to the Constitutional Law Committee of Parliament that no decision should be taken until that study had been completed. The Government took the matter very seriously and hoped to resolve it as quickly as possible.

56. Mr. VEIJALAINEN (Finland), replying to Ms. Evatt's question on the right of assembly and animal rights activists, said that the issue had been much in the news of late. In some cases, demonstrations by such groups had resulted in property damage, and it was difficult for the police to decide whether there was a genuine risk of violence.

57. Mr. HALLBERG (Finland) said that Finland attached great importance to freedom of assembly and association, which had been guaranteed as early as the 1906 Constitution. By contrast, freedom of trade had been guaranteed only since 1996.

58. Mr. VILJANEN (Finland) said that the government bill on the right of assembly, which granted anyone the right to organize a demonstration without permit, subject to prior announcement, would be submitted to Parliament in the spring of 1998.

59. Lord COLVILLE requested further information on the provisions for trial, conviction and sentencing in absentia. He enquired whether the court could determine matters such as the accused's ability to pay a fine, whether someone could address the court on his behalf with regard to the length of sentence, whether the accused was entitled to a retrial should he later fall within the court's jurisdiction and whether there was machinery to compel convicted offenders to serve their sentences if they were subsequently apprehended even though they had not been present at their sentencing. The question appeared to pose a problem with regard to article 14 of the Covenant. He requested statistics concerning the number of persons under the age of 18 who were imprisoned for serious offences. If there were few such cases, it must be

difficult to establish a system of productive rehabilitation; he enquired how the Government was handling that problem. He found the experiment with community service, described in paragraph 48 of the report, extremely interesting and asked whether convicted offenders must consent to community service and what steps were taken if they refused since non-consensual assignment to such service would amount to the provision of free compulsory labour to the State. He also wondered whether the length of community service was the same as that of the corresponding prison sentence, whether the public had readily accepted the new provisions and whether the experiment had led to a decrease in the crime rate.

60. Mr. VILJANEN (Finland) said that paragraph 48 of the report should be amended to stipulate that community service could replace an unconditional, rather than a conditional, prison sentence. That option applied only to sentences of less than 8 months. In 1996, the courts had handed down 3,383 community service orders and 4,957 prison sentences. In 1997, a new form of community service had been introduced as a substitute for conditional prison sentences in the case of convicted offenders under 18 years of age. The experiment was limited to a small part of the country, and little information on its success was available as yet. The courts had handed down 43 such sentences in 1997. Community service had functioned well and was generally accepted by the population.

61. Trial in absentia was practised only in exceptional cases. Accused persons were issued a summons informing them that they risked conviction even if they did not appear, and retrials were possible within 30 days if illness or other unforeseen circumstances had made it impossible for the accused to appear in court.

62. Lord COLVILLE said he found it extraordinary that, save in the case of exceptional circumstances, persons tried and convicted in absentia had no right to a retrial if they were subsequently apprehended. In most other countries, such cases were either adjourned or tried with the understanding that a convicted offender had an automatic right to a retrial, even in the absence of new evidence. The practice as described by the delegation appeared to be in violation of article 14, paragraph 3, of the Covenant.

63. Mr. HALLBERG said that the delegation would send the Committee additional information on the matter at a later date. The Government considered that its provisions in that regard were in full compliance with the international instruments to which the country was a party.

64. The CHAIRPERSON said that the fourth periodic report of Finland was exemplary, the country had a level of human rights protection which surpassed that required by the international instruments to which it was a party, particularly in regard to its refusal to extradite accused persons to countries where they might risk a death sentence, its implementation of the Committee's decisions on communications under the Optional Protocol even where Finland was not concerned, and its progressive legislation on violence against women and persons who spoke a language other than Finnish. Nevertheless, the country had experienced certain problems common to all of Europe and there was continued discrimination against aliens and Romanians in the areas of employment and daily

life. She welcomed the delegation's statement that the Government was considering the establishment of centres where illegal aliens could be housed until they were sent home.

65. While use of the Internet to disseminate information on the Covenant was an excellent idea, she doubted that many members of the Sami community had access to that information source. She also thought that the Government should consider taking the measures which would enable it to ratify ILO Convention No. 169.

66. Although there might have been a misunderstanding owing to the fact that the delegation did not include an expert on criminal procedure, the provisions on trial in absentia appeared to pose a problem with regard to article 14, paragraph 3, of the Covenant. While that procedure was known in statute law countries, accused persons were usually issued numerous summonses before being tried in absentia and were allowed considerable flexibility in requesting a retrial. She hoped that the next periodic report of Finland would provide further information on the matter.

67. Mr. HALLBERG said that the Government considered dissemination of information over the Internet to be a means of guaranteeing the openness essential to the protection of human rights, which was particularly important in the case of a small, isolated country such as Finland. He thanked the Committee members for their questions and expressed the hope that they had found the delegation's answers useful.

The meeting rose at 6 p.m.