

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



HUMAN RIGHTS COMMITTEE

Fifth session

SUMMARY RECORD OF THE 116th MEETING

held at the Palais des Nations, Geneva,
on Monday, 30 October 1978, at 10.30 a.m.

Chairman:

Mr. MAVROMMATIS

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the session.

The meeting was called to order at 10.45 a.m.

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

Byelorussian Soviet Socialist Republic (CCPR/C/1/Add.27)

1. At the invitation of the Chairman, Mr. Stankevitch (Byelorussian Soviet Socialist Republic) took a place at the Committee table.
2. Mr. STANKEVITCH (Byelorussian Soviet Socialist Republic), introducing his country's report (CCPR/C/1/Add.27), said that his Government attached great importance to the International Covenant on Civil and Political Rights and to the work of the Human Rights Committee, which together represented a new and significant phase in the mutual efforts of States to promote respect for the human rights of all. The report had been prepared in accordance with the guidelines issued by the Committee (CCPR/C/5) and contained basic information regarding the implementation of the Covenant in the Byelorussian SSR.
3. In two months' time, the Byelorussian SSR would be celebrating its sixtieth anniversary and the progress made since its establishment. All the Soviet Republics now lived together, as one family, in a spirit of respect for the law, international brotherhood and mutual co-operation. During its short history, the Byelorussian SSR had advanced from a state of poverty and backwardness to achieve a high degree of development. The victory of the Great October Socialist Revolution had also been a victory for the Byelorussian people: formerly deprived of all their rights, they had created a sovereign national State, a task in which they had been assisted by the adoption on 16 November 1917 by the Soviet Government, under the leadership of Lenin, of a declaration proclaiming the equality and sovereignty of all Russian peoples and their right to self-determination, to the constitution of an independent State and to the elimination of all national or religious inequality.
4. The Byelorussian SSR had suffered the scourge of two devastating wars and its people had been subjected to untold horrors, particularly during the Second World War. In the dark period when the Fascists had occupied Byelorussian territory for three years, brutal mass violations of human rights had occurred on an unprecedented scale. The genocide perpetrated against the people had resulted in the loss of 2,230,000 human beings, of the population of the Byelorussian SSR, and the destruction of more than three quarters of the country's material and cultural wealth. The heroic Byelorussian people had thus paid a heavy price for its rights and freedoms, and that was why it was so keenly aware of the importance of those rights and freedoms and so diligent in respecting them in daily life.

5. The outstanding achievements of the Byelorussian people during the years of Soviet power had found expression in the new Constitution which the Supreme Soviet of the Byelorussian SSR had adopted on 13 April 1978. The Constitution affirmed socialist legality and the protection of public order as the principle by which all public bodies and officials should be guided. During the consideration of the draft Constitution, Mr. Masherov, the Chairman of the Constitution Commission, had stated that the democracy and humanism of the socialist system manifested themselves in the basically new character of the relations between the State and the individual, in the steady improvement of the working and living conditions of the Byelorussian people and in the broadening of the rights and freedoms of Soviet citizens.

6. The social and legal structure of the Byelorussian SSR embodied all the elements necessary for the all-round development of the individual, the protection of democratic rights and freedoms, and the active participation of citizens in all aspects of social life. The socialist doctrine of the rights and freedoms of man, and the manner in which those rights and freedoms were implemented, were based on the premise that in a socialist society the conditions that could create a conflict between the interests of the individual and those of the State did not exist. Thus, there was no exploitation of one class by another and no antagonism between the different strata of society: the law expressed the interests not of any one part of society but of society as a whole.

7. As indicated in the report, the provisions of international instruments on human rights had long been incorporated into Byelorussian legislation. Where a particular law might conflict with the provisions of an international instrument, it was stipulated that the latter should prevail. Such stipulations were to be found, for example, in article 221 of the Marriage and Family Code, article 75 of the Public Health Act and article 87 of the National Education Act.

8. A decisive step forward in achieving genuine equality of rights and freedoms had been the elimination of the ownership of private property and of the exploitation of man by man. In addition, the Constitution laid down norms for the creation of the economic and social conditions necessary for the exercise of human rights. For example, article 51, which guaranteed the protection of the family by the State, provided that the State assisted the family by developing a broad system of child-care institutions, by organizing and improving communal services and by paying various grants and allowances. Similar provisions existed with regard to political freedoms such as the freedom of speech, of the press and of assembly, and other rights guaranteed under the Constitution and by national legislation.

9. In the context of mature socialism, the economic foundations of socialist democracy had been strengthened and the rights of citizens were now more substantial and more firmly guaranteed. Thus, under the Constitution, all citizens were guaranteed full equality before the law, without distinction as to origin, social or property status, race or nationality, sex, education, language, attitude to religion, type and nature of occupation, domicile or other status. Equality of rights was also guaranteed in all spheres of economic, social and cultural life; it

was embodied in a number of laws, including the Act concerning the Legal Structure of the Republic (article 5), the Civil Code (article 6), the Criminal Code (article 9), the Labour Code (article 16), the Marriage and Family Code (article 4) and the National Education Act (article 4). Under the Constitution, citizens had not only equal rights but also equal obligations, for the unity of rights and obligations was a fundamental concept of socialism and a basic principle in the way of life of the Soviet citizen.

10. In the Byelorussian SSR, legal redress was available for any violation of a citizen's rights and freedoms, and the implementation of the provisions of the Covenant was guaranteed by a system of administrative, criminal and civil law that was readily acceptable to all. Moreover, officials who violated human rights, or who obstructed a citizen in the exercise of them, were liable to disciplinary, administrative or criminal sanctions.

11. The Byelorussian SSR had become a mature socialist democracy. As Mr. Brezhnev, Chairman of the Presidium of the Supreme Soviet of the USSR had stated, the ever increasing participation by the masses in the management of the State had been confirmed as the basic feature of the political development of Soviet society. The prediction made by Lenin, the founder of the Soviet State, that socialism would mean the involvement of the masses at every stage in the day-to-day management of the country was being realized and would continue to be the basic criterion for assessing the success of socialist democracy.

12. The new Constitution contained a number of provisions designed to promote the authority and broaden the powers of the Soviets of People's Deputies. It required those Soviets, which formed the basis of the political system in the Byelorussian SSR and constituted the most important instrument for representing the true power of the people, to keep the population informed about their work and decisions. That provision ensured the consistent application of the principle of openness, one of the most important elements in the work of the Soviets.

13. Another way in which the citizen's participation in public affairs was being increased was through public discussion. No important law was enacted without prior discussion by the people: thus, some 6 million citizens had taken part in the discussion of the draft Constitution, and over 330,000 proposals and comments had been submitted. Legislation that had been the subject of public discussion included enactments on the environment, education, and marriage and the family. Such general discussion helped the people to understand more clearly the close connexion between everyday affairs and over-all development, an interrelationship that was clearly reflected in the political and public activities of work collectives, whose rights were affirmed in article 8 of the Constitution.

14. The legislation of the Byelorussian SSR guaranteed the implementation of the civil and political rights recognized in the Covenant. For example, not only was the right to freedom of expression, recognized in article 19 of the Covenant, guaranteed under article 48 of the Constitution, but the right to criticize shortcomings in the work of State bodies and public organizations was also guaranteed under article 47, which further prohibited the persecution of any person for such criticism. Article 56 of the Constitution gave citizens the right to lodge a complaint against the actions of officials, State bodies and public bodies, while detailed regulations governed the procedure and time-limits for the examination of such complaints.

15. All Government bodies, public organizations and officials were required under articles 1, 2, 4 and 55 of the Constitution to respect the individual and to protect the rights and freedoms of citizens. An important role in protecting citizens' rights was played by the Office of the Procurator, which ensured that the law was uniformly applied by all ministries, enterprises, organizations, local Soviets of People's Deputies, work collectives, officials and citizens, as well as by people's control bodies and trade unions. The rights of minors were protected by commissions appointed by the local Soviets.

16. The courts, which comprised the Supreme Court of the Byelorussian SSR, regional courts and district (city) people's courts, administered justice in accordance with the Constitution. Judges and people's assessors were elected; they were independent and subject only to the law. In all their activities, the courts educated citizens in a spirit of loyalty to their homeland, full observance of Soviet law, a careful attitude to socialist property, an honest attitude to public duty, and respect for the rights and dignity of other citizens and for the rules of socialist society.

17. The Byelorussian SSR spoke out vigorously in international fora in the cause of peace and friendship and against violations of human rights. As a founder Member of the United Nations, it remained loyal to its obligations under the Charter and to the principle of respect for human rights.

18. Mr. MORA ROJAS said that, in dealing with article 2 of the Covenant, the Byelorussian report did not indicate that the rights recognized in the Covenant were in fact ensured to all individuals in the Byelorussian SSR. He also wondered whether an individual's political views could affect his enjoyment of equal rights in the Byelorussian SSR.

19. Referring to the second paragraph of the section of the report dealing with article 13 of the Covenant, he asked whether the statement that aliens did not have the right to form parties referred to political parties, and whether it implied that non-aliens could in fact form political parties, and if so under what conditions.

20. In connexion with article 6 of the Covenant, he wondered whether there was any possibility that the death penalty might be abolished in the Byelorussian SSR in the near future.

21. In the section dealing with article 9 of the Covenant, the penultimate paragraph indicated certain time-limits within which an accused must be brought to trial. He wondered whether the Byelorussian legal system was able to adhere to those time-limits, given the volume of work it faced, and what the consequences were if it did not. Was the accused then released, in accordance with the legal provisions relating to unlawful detention?

22. The report was very brief in its discussion of article 12 of the Covenant, and he would like to have more information regarding the application in the Byelorussian SSR of each of the four paragraphs of that article. In particular, he wished to know whether an exit visa for travel abroad was granted automatically as a mere formality, or whether restrictions were placed on freedom of movement to territories which were not part of the USSR, and if so, what they were. If specific authorization was required for travel abroad, on what grounds could it be denied and what period of time elapsed before it could be obtained?

23. He welcomed the reference in the section on article 13 of the Covenant to the right of asylum, an extremely valuable provision which was especially important to the countries of Latin America.

24. In connexion with article 14 of the Covenant, he noted that Byelorussian legislation provided for the equality of all citizens before the law and the court, irrespective of their social, property or official status, nationality, race or religion. However, no mention was made of political opinion, and he wondered whether that implied that citizens of different political opinions could be treated unequally by the court. Referring to the fifth paragraph on page 15 of the report, he said he would be grateful for further information regarding the exceptional instances in which the accused need not be present during the examination of the case. The following paragraph, referring to the role of the advocate, failed to make clear whether the advocate was a private individual or a State official and whether the accused had the possibility of choosing his lawyer freely. The report also failed to make clear the exact difference between the defence counsel and the advocate, and he would like further clarification on that point.

25. In connexion with the section on article 16 of the Covenant, he asked whether recognition of the right to legal capacity applied equally and under the same conditions to aliens and to citizens of the Byelorussian SSR.

26. The section on article 18 referred to freedom of anti-religious propaganda, and he wondered whether its counterpart, freedom to engage in religious propaganda, was also protected. The explanation given in the last paragraph of the section was unclear on that point.

27. Referring to article 19 of the Covenant, he asked what access citizens in the Byelorussian SSR had to the media in order to exercise their right freely to express opinions. He would also like some clarification regarding the legal limitations of the rights recognized in article 19 of the Covenant. Were the principles of socialist realism imposed on literary and artistic works?

28. With respect to the right of free association, provided for in article 22 of the Covenant, he said that there was a difference between the unrestricted right of association and the right to associate only in organizations recognized by the State.

29. Mr. KOULISHEV said that he particularly welcomed the very useful information on pages 2 and 3 of the report concerning the specific jurisdiction of the Byelorussian SSR within the USSR as a whole and its competence in matters relating to human rights. He also welcomed the evidence contained in the report that the Byelorussian SSR not only implemented human rights domestically but also participated in international co-operation, particularly through the submission of information to international bodies. It was clear from the introductory part of the report that the Covenant was effectively implemented in the Byelorussian SSR both through legal provisions stating that the rules of international treaties or international agreements to which the Byelorussian SSR was a party were applicable to the territory of the Byelorussian SSR and through specific legislative enactments.

30. Turning to the section on article 2 of the Covenant, he noted that article 34 of the new Byelorussian Constitution accorded citizens of different races and nationalities equal rights. He would, however, like more information on how that equality was implemented, since it could be assumed, for example, that there must be certain differences in respect of the right to vote and the right to be elected.

31. In the section on article 3 of the Covenant, he particularly commended the widespread involvement of women in the administration of the State and in all public affairs, as reflected in the very impressive figures on the number of women holding public office.

32. Mr. PRADO VALLEJO felt that the report was unclear as to whether the provisions of the Covenant were applied in the Byelorussian SSR through a law or decree, or whether they were an integral part of Byelorussian law. He also wondered what legal possibilities a Byelorussian citizen had to appeal to a court in order to invoke the provisions of the Covenant if he felt that his human rights had been violated, and how the court or administrative authority would react to such an appeal.

33. Like Mr. Mora Rojas, he wished to have more information regarding article 6 of the Covenant and wondered whether there was any prospect of eliminating the death penalty in the foreseeable future. In which specific cases was the death penalty invoked and what was meant by "crimes against the State"?

34. In the section on article 12 of the Covenant, the report stated that freedom of movement was guaranteed under article 10 of the Byelorussian Civil Code and that the resolution adopted on 22 September 1970 by the Council of Ministers of the USSR was the main normative document in that connexion. It would be useful to have more information regarding that resolution. He also wished to know what rules applied with respect to visas and wondered how many were granted and how many had been refused. More information was required regarding the machinery available for implementing article 12 of the Covenant.

35. It was stated in the section on article 14 of the Covenant that court hearings in camera were only allowed in cases provided for by the law. He wished to know what those cases were and on what grounds it was possible to waive the constitutional rule that proceedings in all courts must be open to the public.

36. It would be interesting to learn how the provisions of article 19 of the Covenant were implemented in practice and the extent of legal limitations on the right to hold and freely to express opinions. In particular, the prohibition of the dissemination, preparation or possession of certain types of literature seemed to conflict with the provisions of article 47 of the Constitution, which stipulated that persecution for criticism was prohibited.

37. With regard to article 26 of the Covenant, he asked how "national hostility or discord" was defined and what punishment was meted out to a person found guilty of inciting national discord.

38. Mr. OPSAHL said that it was particularly interesting for the Committee to be provided with information concerning another dimension of Soviet implementation of the provisions of the Covenant, since in the case of other federations only the Federal Government was entitled to ratify the Covenant. The report submitted by the Byelorussian SSR (CCPR/C/1/Add.27), and particularly the sections relating to articles 19 and 25 of the Covenant, thus supplemented the report submitted by the USSR (CCPR/C/1/Add.22).

39. Referring to the introductory section of the report, he asked whether the last paragraph on page 3 represented a reservation with respect to that part of international co-operation whose primary aim was not directed towards the struggle against mass and gross violations of human rights. In fact, international co-operation was also directed towards improving conditions in countries where mass and gross violations of human rights were not alleged: for instance, co-operation within the Council of Europe had effectively promoted civil and political rights, as could be seen from the fact that co-operation with other European countries within the framework of the European Convention on Human Rights had led Norway to amend its Constitution to ensure greater religious freedom for its citizens. He fully agreed with the view expressed in the first paragraph on page 4 of the report concerning relations between States with different social systems, and believed that members should consider how, through its functions, the Committee could promote international détente.

40. Reference was made on page 3 of the report to the right of the Byelorussian SSR to enter into relations with foreign States. It would be interesting to know how those relations were conducted. Was there a Byelorussian Ministry of Foreign Affairs with diplomatic representatives in other States or did the Byelorussian SSR send representatives only to international organs?

41. According to the third paragraph on page 4 of the report, the Codes of the Byelorussian SSR contained provisions stating that the rules of an international treaty to which the Byelorussian SSR was a party were applicable in the territory of the Byelorussian SSR. He would like to know whether there were any practical examples

of how the provisions of the Covenant might override contrary provisions of domestic law. For instance, under article 64 of the Marriage and Family Code, the father and the mother had equal rights and duties in respect of their children. According to the Constitution of the Byelorussian SSR, however, mothers of small children were entitled to work shorter hours. Was there any possibility of the very progressive Byelorussian law on marriage and the family being amended with a view to reducing the working hours of fathers of small children?

42. He would be interested to know how responsibility for implementing the provisions of the Covenant was divided between the USSR and the Byelorussian SSR, since it was difficult to determine from the Constitutions of the two countries and the reports submitted by their Governments whether the responsibility for the protection of specific human rights lay with the Union or with individual Republics. For instance, in matters relating to article 9 of the Covenant, how could the Byelorussian SSR ensure the legality of the actions of agents of the Procurator's Office of the USSR who, according to article 168 of the Constitution of the USSR, exercised their powers independently of any local bodies? Similarly, did responsibility for conditions in prisons, labour camps and hospitals, particularly hospitals to which individuals were sent against their will, lie with the Union or with the Republic?

43. Turning to the section of the report relating to article 6 of the Covenant, he noted that in the Byelorussian SSR the death penalty was an exceptional measure of punishment for crimes against the State. It would be useful to have a precise description of those crimes. Was the death penalty ever applied for crimes other than those against the State?

44. The section of the report relating to article 7 of the Covenant was incomplete in that it referred mainly to the treatment of persons subject to investigation in criminal proceedings. In many countries the treatment of persons who were considered a risk to society or in some way "abnormal" had become a problem. Sometimes, individuals were even locked up in deplorable conditions against their will at the request of persons with whom they disagreed - for instance, a wife or the authorities - and it had been discovered that the system of protection against conditions that did not meet the standards laid down in articles 7 and 9 of the Covenant was inadequate. It would be interesting to know how that problem was dealt with in the Byelorussian SSR.

45. He asked whether the Government of the Byelorussian SSR interpreted article 8 of the Covenant as embodying the right not to work. Did any forms of compulsory labour other than those listed in article 8 exist in the Byelorussian SSR?

46. The protection afforded under article 52 of the Constitution did not appear to be consistent with that required under article 9 of the Covenant. Under the Constitution a person could be arrested on a criminal charge on the warrant of a procurator, whereas article 9 of the Covenant clearly required the intervention of the courts in such cases. It was necessary to know whether control of the legality of deprivation of freedom was really exercised by the courts. According to article 55 of the Constitution, citizens had the right to protection by the courts against encroachments on their honour and reputation, life and health, and personal

freedom and property. Did that provision grant recourse to the courts in cases where a person had been deprived of his personal freedom, even on the order of a procurator? If not, there would seem to be an inconsistency between the provisions of the Constitution and those of the Covenant.

47. He would like to receive further information concerning exile as a form of punishment. Should exile be regarded as a deprivation of liberty or only as a restriction on movement? There was no reference to exile in the section of the report relating to article 12 of the Covenant.

48. It would be interesting to know how the provisions of article 18, paragraph 4, of the Covenant were implemented. Were there any restrictions on persons who wished to pass their religious beliefs on to their children?

49. Reference was made in the section to article 19 of the Covenant to article 48 of the Constitution. The phrase "in accordance with the interests of the people" in that article was ambiguous, since it could mean either that the rights protected in that article were guaranteed because they were in accordance with the interests of the people, or that they were guaranteed only in so far as they accorded with those interests. If the latter interpretation was correct, how did the Government reconcile its position with the fact that there were minority opinions in all countries? Was it true that opinions must be expressed in one of the recognized forms? If so, how could that requirement be justified under the Covenant?

50. It was well known that in some States parties to the Covenant persons had been prosecuted and even persecuted for having formed committees claiming only to supervise the implementation of human rights. Was such prosecution or persecution considered consistent with the provisions of the Covenant?

51. It appeared that citizens of the Byelorussian SSR were not entirely free to join the Communist Party. That restriction on membership of the Party seemed to conflict with the provisions of article 22, paragraph 2, of the Covenant.

52. Referring to article 27 of the Covenant, he asked whether minorities existed in the territory which had joined the Byelorussian SSR after the Second World War. If they did, it would be useful to have some information about their present position.

The meeting rose at 1.15 p.m.