



**International Covenant on
Civil and Political Rights**

Distr.
GENERAL

CCPR/C/SR.1648
11 August 1998

ORIGINAL: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-second session

SUMMARY RECORD OF THE 1648th MEETING

Held at Headquarters, New York,
on Tuesday, 24 March 1998, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

CONTENTS

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

Third periodic report of Cyprus (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Office of Conference and Support Services, room DC2-750, 2 United Nations Plaza.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.10 p.m.

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

Third periodic report of Cyprus (continued) (CCPR/C/94/Add.1; HRI/CORE/1/Add.28)

1. At the invitation of the Chairperson, Mr. Stavrinakis and Ms. Koursoumba (Cyprus) took places at the Committee table.

Part I of the list of issues

Issue 1: Equality of the sexes (article 3 of the Covenant)

2. The CHAIRPERSON read out the content of issue 1, concerning the prevalence of de facto discrimination against women and the concrete measures taken to eliminate it, especially in the areas of employment and remuneration; to enhance women's status in practice; and to provide and promote legal remedies for discrimination against women.

3. Mr. STAVRINAKIS (Cyprus) said that steps were being taken to eliminate all legislative provisions that discriminated against women, such as those currently found in the Republic of Cyprus Citizenship Law and the Aliens and Immigration Law. A law on equal pay for work of equal value was already being implemented. In the public sector, there was no discrimination between men and women with respect to remuneration; in the private sector, women's rights were protected by the equal-pay law. In addition, the collective agreements concluded between trade unions and the employers' federation contained provisions safeguarding the right to equal pay. Regulations spelling out the duties of the inspectors who would ensure the equal-pay law's implementation would be issued shortly.

Issue 8: Non-discrimination (articles 2 (3), 25 and 26 of the Covenant)

4. The CHAIRPERSON read out the content of issue 8, concerning allegations of discrimination, surveillance and harassment of Cypriot citizens of Turkish origin, especially those born after 1974, by the authorities; the measures taken to prevent such discrimination; and the remedies available to the victims.

5. Ms. KOURSOU MBA (Cyprus) said that those allegations, which referred to incidents which had taken place in 1994, had been investigated by the United Nations and the Secretary-General had issued periodic reports thereon. Owing to ongoing police re-education efforts, no cases of harassment of the Turkish Cypriot minority by the police had been recorded since 1994 or 1995. She was confident that the next report of the Secretary-General would reflect that reality. Moreover, the United Nations Peacekeeping Force in Cyprus (UNFICYP)

/...

Liaison Office in Limassol, where the incidents had occurred, had not received any complaints since 1996.

6. Ms. MEDINA QUIROGA asked for information on the prevalence of domestic violence in Cyprus and enquired whether new legislation had helped to reduce the problem and to protect the victims. The existing laws on the family seemed to emphasize issues relating to divorce and to the performance of marriages. However, in many countries, marriage and divorce affected women's rights, such as their legal capacity, freedom of movement or right to own property. She asked whether the new family legislation in Cyprus covered all of those issues.

7. Mr. STAVRINAKIS (Cyprus) said that women had been made aware of the existence of the new law on domestic violence. As a result, they felt more free to lodge complaints with the police or through family counsellors. Although it was still difficult to convict the perpetrators of such offences, the proposed amendment to the law would make it easier to secure convictions when sufficient evidence was available. The proposed amendment would provide, *inter alia*, that courts could admit as evidence statements concerning domestic violence made to mental-health professionals by children undergoing treatment for psychological problems.

8. He specified that the new legislation in that area concerned not the family, but marriage. Currently, Cyprus had one marriage law for persons who did not belong to the Orthodox Church and another for Greek Cypriots. The new law would cover all Cypriots and all aliens in Cyprus. The minimum age at marriage and parental consent requirements would be changed under that law. The law would also establish a registry of marriages. Currently, certificates of freedom to marry were issued by the Church, which could decide not to issue such a certificate for a civil marriage. Under the new law, such certificates would be issued by the marriage registry.

9. Mr. YALDEN asked for more details on the Ombudsman's activities relating to human rights in general, such as the number of complaints received concerning violations. If the Ombudsman reported regularly to the legislature, he would like a copy of the report. With respect to discrimination against Turkish Cypriots, he questioned the statement that no cases had been noted since 1994, as a 1996 report of the Secretary-General (E/CN.4/1996/54) had indicated that UNFICYP had found that capricious discrimination against, and police harassment of, Turkish Cypriots in southern Cyprus prevented them from leading fully normal lives. The latest report of the Committee on the Elimination of Racial Discrimination also referred to such discrimination.

10. Ms. EVATT asked whether the new law on women's equality prohibited discrimination in the private sector and provided individual remedies for women victims of discrimination by private employers. With respect to persons of Turkish Cypriot origin or descent, she had heard recent reports that the freedom of movement of such persons was limited and that they encountered difficulties in obtaining identity cards and employment. She wondered whether specific measures had been taken in relation to those issues.

11. Mr. LALLAH asked whether the current laws concerning marriage had discriminatory features relating to the rights of the spouses during marriage

/...

and after its dissolution, such as the right of succession and economic rights. In many countries where personal laws were influenced by religion, such laws tended to discriminate against women.

12. Mr. BUERGENTHAL asked why the new law referred to in paragraph 46 of the report (CCPR/C/94/Add.1) had been enacted and whether any cases to which the law applied had arisen.

13. Mr. ZAKHIA asked, with reference to the criminal responsibility of children, whether child offenders were subject to the same courts, sentences and prisons as adult offenders.

14. Ms. KOURSOMBA (Cyprus) said that the first incidents of discrimination against Turkish Cypriots had come to the attention of her Office in 1994 and that they had been referred to in the Secretary-General's semi-annual reports between 1994 and 1996. However, as a result of the steps taken by the authorities, such incidents had gradually been eradicated.

15. With respect to restrictions on freedom of movement, the Turkish Cypriots referred to were those living mainly in Limassol and Paphos. Those persons tended to move between the northern and southern parts of the island and had no permanent employment. In southern Cyprus, they were treated like all other citizens of the Republic and received unemployment benefits. Special services had been established to assist them in applying for unemployment benefits and finding work, and the Government provided housing for them. The UNFICYP Liaison Office in Limassol had been monitoring the situation.

16. The Ombudsman was authorized to investigate complaints concerning all acts of the Administration, not only those relating to human rights. The Ombudsman submitted annual reports to the House of Representatives and the Council of Ministers; any complaints relating to human rights were also transmitted to the Attorney-General, who determined whether there was sufficient evidence to initiate proceedings. She would be pleased to provide the Committee members with copies of the Ombudsman's annual report.

17. Mr. STAVRINAKIS (Cyprus) said that men and women in Cyprus had the same rights to own and inherit property. Under the Law on the Relations between Parents and Children, both parents had equal rights concerning the custody of children. Men and women were treated equally under the law regulating the property relations between husbands and wives. With respect to criminal prosecutions under the law against racial discrimination, there had as yet been no convictions. With respect to the question on the treatment of juvenile offenders, juvenile courts usually sat at locations other than those of courts for adult offenders, and the procedures were different; for example, trials were not open to the public. The rules of evidence were the same for both adult and juvenile offenders. However, in the case of juveniles, the courts had a wide choice of non-custodial orders aimed at rehabilitation; the most common was the probation order. Under a recent amendment to the relevant legislation, judges could issue probation or community service orders that stipulated certain conditions regarding compulsory education if the child or young person agreed to such treatment. However, no such orders had as yet been issued.

Part II of the list of issues

Issue 9: Status of the provisions of the Covenant (article 2 of the Covenant)

18. The CHAIRPERSON read out the content of issue 9, concerning the adoption of the law on international treaties and its effects on the Covenant's implementation, with special reference to paragraphs 27 to 31 of the report.

19. Mr. STAVRINAKIS (Cyprus) said that the bill in question had not been enacted. Its main objective had been to create machinery for determining which provisions of international conventions were self-executing. However, in its laws ratifying such conventions, Cyprus had begun to specify which provisions were self-executing.

Issue 10: Corporal punishment (articles 7 and 24 of the Covenant)

20. The CHAIRPERSON read out the content of issue 10, concerning the repeal of a provision of the Civil Wrongs Law under which the use of force against a child by a parent, guardian or teacher and the use of force against a mentally disabled person were not punishable offences in certain circumstances.

21. Mr. STAVRINAKIS (Cyprus) said that the provision in question was not punitive in nature and that it referred to certain defences brought by persons who inflicted corporal punishment on others; for example, such punishment was permissible if used to chastise a child. It was unfortunate that that provision had not yet been amended, but its amendment was currently under consideration.

22. He wished to take the opportunity to clarify the status of the death penalty in Cyprus. The death penalty was provided for under both the Military Criminal Code and the ordinary Criminal Code. The former had been amended to limit the imposition of the death penalty to wartime or times of warlike activities. Under the Military Criminal Code, the death penalty was never compulsory; military courts could impose any sentence they deemed appropriate. The death penalty could no longer be imposed for premeditated murder. The only offences for which it could be imposed were high treason, piracy and instigation of invasion. The law on piracy reflected the law in force in England and provided for the same punishment as did the English law. However, since English courts had reduced that punishment to life imprisonment or a lesser sentence, Cyprus no longer imposed the death penalty for piracy.

23. Likewise, the death penalty for treason was not enforceable because there were no clear-cut legal provisions concerning treason. Once again, the law in Cyprus reflected English law and the situation in England. A bill had been submitted in Cyprus which would expressly abolish the death penalty for those three offences and would redefine the offence of treason.

24. Mr. Bhagwati, Vice-Chairperson, took the Chair.

Issue 11: Conditions of detention and treatment of prisoners (article 10 of the Covenant)

25. The CHAIRPERSON read out the content of issue 11, concerning the revision of the Prison Law and Regulations and the composition, independence and functions of the Prison Council in the light of paragraphs 116 and 117 of the report.

26. Ms. KOURSOU MBA (Cyprus) said that the Prison Law and Regulations had been adopted in 1996 and amended slightly in 1997. Under that legislation, the Prison Council was an independent body appointed by the Council of Ministers, which determined the number of its members. It was composed of individuals from both the public and private sectors, the only requirement being that the District Commissioner of Nicosia must be a member. The Council had extensive powers, including the right to hear and investigate complaints concerning prisoners, examine prison buildings, investigate the living and working conditions, occupational training and conditions of employment of prisoners and conduct inquiries. It was also responsible for cooperating with the Director of Prisons on matters related to the welfare of prisoners, submitting to the competent Minister and the Director of Prisons any relevant reports, observations or suggestions and drawing attention to any abuse of power in the treatment of prisoners. Members of the Prison Council had the right to visit all parts of prisons at any time and to speak with any prisoner in the presence of a prison officer; the latter provision was intended solely to protect the Council member. Council members had the duty to make regular visits to prisons, inspect prison records, investigate complaints, particularly with regard to the punishment of inmates, and report any problems with regard to the health or living conditions of prisoners to the President of the Council. The Council could reduce or cancel any disciplinary sentence, subject to submission to the Minister of a report explaining why the sentence in question was considered excessive.

Issue 12: Right to compensation (articles 9 (5) and 14 (6) of the Covenant)

27. The CHAIRPERSON read out the content of issue 12, concerning steps taken to incorporate into domestic law the right to compensation of a person who had suffered unlawful arrest or detention or a miscarriage of justice.

28. Mr. STAVRINAKIS (Cyprus) said that under Cypriot legislation, the State was directly responsible for any offence against a citizen committed by the Government or a civil servant. Compensation for miscarriage of justice was a controversial issue, and the Government was wary of proposing legislation to guarantee it. However, the Government, though not legally obliged to do so, had paid compensation to individuals who had lodged complaints concerning the operation of government machinery and he was certain that it would pay similar compensation should a case of miscarriage of justice arise.

Issue 13: Right to privacy (article 17 of the Covenant)

29. The CHAIRPERSON read out the content of issue 13, regarding the amendment of article 17 of the Constitution and the establishment of safeguards to protect

the right to privacy and prevent discrimination, particularly with regard to the privacy of sexual relations between consenting adults of the same sex.

30. Mr. STAVRINAKIS (Cyprus) said that the Government had considered proposing an amendment to article 17 of the Constitution in order to authorize the police to eavesdrop on the conversations of persons suspected of serious offences and, in particular, of drug trafficking. Such monitoring was currently authorized only in the case of prisoners and bankrupts.

31. Ms. KOURSOU MBA (Cyprus) said that if it was decided to amend the Constitution in that regard, safeguards would be established in order to protect the right to privacy. Any violation of that right by the Government would be reported to the Commissioner for Administration. Moreover, the courts had already ruled that the use of recorded conversations was inadmissible.

32. She did not understand the reference to sexual relations between consenting adults of the same sex since that matter was covered, not by article 17 of the Constitution, which guaranteed privacy of communications, but by article 15, which established the right to respect for private and family life. There had, in fact, been problems in that area since the Criminal Code prohibited "unnatural offences". The European Court of Human Rights had received a complaint lodged by a homosexual who had claimed to have been evicted because of his sexual orientation. The Government had taken the view that the relevant provisions of the Criminal Code had been superseded and negated by the Constitution and were therefore unenforceable. However, the European Court had ruled in favour of the author of the complaint and called for the amendment of the Criminal Code. The Government had therefore sponsored a bill which would have amended the Code by enumerating those acts which were considered unnatural, including sexual relations committed with a minor, in public, or by taking advantage of a position of dependency or authority. Unfortunately, the bill had been misinterpreted as promoting or legalizing certain forms of sexual activity to which public opinion and religious authorities were opposed, and the bill had been pending for years. She hoped that it would soon be adopted.

33. Ms. Chanet resumed the Chair.

Issue 14: Rights of aliens (articles 12 and 13 of the Covenant)

34. The CHAIRPERSON read out the content of issue 14, concerning the current status of the law concerning immigration in the light of paragraph 161 of the report.

35. Ms. KOURSOU MBA (Cyprus) said that although aliens required a permit in order to work and were restricted as to their period of residence in the country, they enjoyed the same rights as citizens. The Aliens and Immigration Law, which dated from the colonial period, was slated for amendment.

Issue 15: Right to fair trial (article 14 of the Covenant)

36. The CHAIRPERSON read out the content of issue 15, regarding the compatibility of the Covenant with the new Criminal Code in the light of paragraphs 182 et seq. of the report.

37. Mr. STAVRINAKIS (Cyprus) said that he did not understand the question since Cyprus had no new Criminal Code.

38. The CHAIRPERSON suggested that the delegation should reply at a later date on the basis of the current Criminal Code.

Issue 16: Dissemination of information about the Covenant (article 2 of the Covenant)

39. The CHAIRPERSON read out the content of issue 16, concerning steps taken to disseminate information on submission of the report, its consideration by the Committee and, in particular, the Committee's concluding observations in the light of paragraphs 16 and 85 of the report, and the need for information on the education and training of government officials, teachers, judges, lawyers and police officials concerning the Covenant and its Optional Protocols.

40. Mr. STAVRINAKIS (Cyprus) said that the Government disseminated all of its reports to international bodies and that human rights education was included in the curriculum of instruction for civil servants.

41. Ms. KOURSOUNBA (Cyprus) said that although the Government's periodic reports to the Committee had not attracted wide attention, the Committee's comments thereon would also be disseminated and would attract greater public interest.

42. The human rights conventions ratified by Cyprus, together with the extensive bill of rights contained in the Constitution, constituted the national legislation in that field. The police were given regular instruction in human rights and the law officers of the Republic participated in panel discussions on such issues. As a result of media attention, the general public and the schools had become highly sensitized to human rights issues.

43. Lord COLVILLE asked the delegation to convey the Committee's best wishes to Mr. Mavrommatis, a former member who was currently chairing the Board responsible for supervising the conduct of the media.

44. With regard to issue 13, he noted that the bill entitled "Information and Official Documents Law", mentioned in paragraph 219 of the report, must be passed as soon as possible if Cyprus wished to join the European Union, all of whose member States had already implemented legislation guaranteeing the confidentiality of personal data contained in government records.

45. With regard to issue 14, he noted that Cypriot legislation made a distinction between men and women immigrants with regard to marriage and wondered why the draft legislation regularizing that situation, which had been proposed in 1994, had not yet been adopted.

46. With respect to issue 15, he said that while he welcomed the proposed revision of the Evidence Law mentioned in the supplementary report, the principle that all relevant evidence was admissible in court would require a stipulation that evidence obtained through threats or inducements could not be used by the prosecution; moreover, judges must have the right to rule evidence

inadmissible if the new legislation was not to violate article 14 of the Covenant. However good the Central European legislative models might be, the question of the admissibility of evidence had already given rise to certain problems in those countries.

47. If the issue of evidence made it difficult to prosecute cases of domestic violence, it might be more effective for such cases to be handled by the civil courts, which were more flexible and could issue immediate injunctions; he suggested that that policy should be implemented immediately, whether or not the Evidence Law was amended.

48. Lastly, with respect to Mr. Stavrinakis' remarks concerning treason, piracy and the death penalty, he said that one house of the British Parliament had recently voted to eliminate the death penalty for those offences and that he hoped that the other house would do the same when it next met.

49. Mr. YALDEN, speaking with respect to issue 13, noted that whereas article 17 of the Covenant dealt with the privacy of both communications and family life, those questions were covered by articles 17 and 15 of the Cypriot Constitution, respectively. The issue of concern to the Committee was whether homosexuality was legal in Cyprus. The delegation had stated that the provisions criminalizing it were still on the books but were unenforceable, but the Committee considered that it was the responsibility of the Cypriot legislature to remove those provisions immediately. In 1996, his own country, Canada, had faced a similar problem which had been resolved through Government authorization of a free vote in the House of Commons; discrimination on grounds of sexual orientation had been made illegal.

50. With regard to the death penalty, he noted that the Canadian House of Commons was currently considering a bill which would eliminate the death penalty for the last remaining offence to which it was applicable, treason in time of war, and that Canada might soon be in a position to accede to the second Optional Protocol to the Covenant. He hoped that the Cypriot legislature would take similar action.

51. Mr. KRETZMER, speaking with respect to article 12 of the Covenant, requested further information concerning restrictions on freedom of movement between the occupied portion of the island and that which was under Government control.

52. Ms. MEDINA QUIROGA said that she was puzzled by the status of the Covenant in Cyprus. Paragraph 3 of the report stated that the Covenant had superior force to any other municipal law under article 169 of the Constitution, although that article also posed the problem of reciprocity, a principle which seemed to have been followed in the case of the legislation on torture mentioned in paragraph 92 of the report. However, the supplementary report seemed to suggest that since the law ratifying the Covenant had not specified which of its provisions were self-executing, none of those provisions actually took precedence over domestic legislation. Moreover, it was more usual for the question of the self-executing nature of instruments to be dealt with by the courts at the time when their provisions were invoked rather than by the legislature. She asked for clarification of the matter.

53. She also wondered whether the bill amending the legislation on conscientious objection could still be amended, since the current draft continued to discriminate against conscientious objectors with regard to their right to raise an objection and to the duration of alternative service.

54. Mr. KLEIN agreed with the remarks made by Ms. Medina Quiroga regarding self-executing provisions. He understood from the Cypriot delegation's remarks that only the legislature, not the judiciary, could decide which provisions of an international treaty were self-executing, and in addition the legislature could pick and choose which provisions fell into that category. Regarding the expulsion and deportation of aliens alluded to in paragraphs 136 to 138 of the report, there was no mention of the possibility of having cases reviewed by the competent authority. The reporting State should clarify what, if any, competent authority had the power to review such cases in accordance with article 13 of the Covenant.

55. Ms. EVATT, referring to paragraph 120 of the report, asked whether the new interpretation of life imprisonment had lessened the possibility that persons already serving life sentences would ultimately be released. Specifically, the reporting State should indicate whether persons sentenced to life imprisonment - hitherto understood as being 20 years - would not now be considered for early release. She would appreciate information on whether the law on the detention of persons suffering from contagious or infectious diseases (paragraph 111 of the report) had been applied in relation to prisoners with AIDS, and whether there was an AIDS problem in prisons generally.

56. On the topic of repeal of the provisions outlawing homosexuality, the delegation should indicate whether the Cypriot authorities had given any thought to the introduction of a more general law on discrimination. Regarding the issue of conscientious objection, the Committee had been informed that some 18 Jehovah's Witnesses had been imprisoned for significant periods for refusing to perform military service. Additional data should be provided on how the proposed new provisions would apply in their case, if at all. With reference to paragraph 235 of the report, she noted that the Government was responsible for the issuance of television and radio licences. The delegation should indicate whether any thought had been given to setting up an independent agency to perform that function. Lastly, it was unclear whether film censorship in Cyprus was indeed censorship or simply a means of classifying films.

57. Mr. SCHEININ asked the Cypriot delegation to specify which provisions of the Criminal Code criminalized unnatural sexual activities. On the question of conscientious objection, the Committee would appreciate knowing whether the aggregate 28-month prison term for failing to perform military service was considered an alternative to military service, and if so, whether such an interpretation was compatible with article 10, paragraph 3, of the Covenant. On the practicalities of imprisoning conscientious objectors, the reporting State should indicate whether they were segregated from other prisoners or whether they were detained alongside persons who had committed violent crimes.

58. Article 10, paragraph 1, of the Covenant specified that all persons deprived of their liberty must be treated with humanity and respect for the inherent dignity of the human person. The confusion over the interpretation of

life imprisonment in Cyprus, and the fact that it was subject to presidential prerogative, seemed to be incompatible with the spirit of that article.

59. Mr. STAVRINAKIS (Cyprus) said that amendments to discriminatory provisions in respect of immigration and citizenship had not been submitted to the Council of Ministers at an earlier date owing to certain political misgivings in connection with settlers. However, a way had been found to circumvent the difficulties and the bill had recently been submitted; it was hoped that enactment would follow shortly. The new evidence bill stated that all relevant evidence was admissible before the courts, but there were a number of exclusionary provisions. For example, confessions obtained under duress were inadmissible. In addition, certain rules of admissibility had been converted into rules for weighing evidence, thereby providing judges with guidance as to the appropriate weight to be attached to dubious pieces of evidence. However, the Bar Council had objected strongly to certain sections of the bill, so there was some way to go before it became law. The criminal courts generally dealt with matters relating to domestic violence more speedily than the civil courts; there were no new provisions on assault and the exercise of violence, but the penalties for all forms of violence recognized by the Criminal Code had been increased as a deterrent measure. It was true that the civil courts might be of use in issuing restraining orders.

60. Work on the data protection bill was nearing completion and would soon be submitted to the Council of Ministers for approval. All remaining death penalty provisions were scheduled for abolition. The issue of self-executing provisions had given rise to some confusion. During consideration of the second periodic report, the Committee had expressed doubts as to whether citizens had advance knowledge of their rights and how to exercise them. A situation might arise in which the courts would declare themselves unable to try a case because a certain provision was not self-executing and a special domestic law was therefore required to provide a mechanism for the execution of a particular right. Under the procedure currently in force, citizens were informed that the rights embodied in various provisions of the Covenant had been deemed self-executing by the legislature and that the legislature did not intend to enact another domestic law in order to implement the relevant provision.

61. The bill on conscientious objection had not yet been submitted to the Council of Ministers. The provision specifying the term of imprisonment had been included because, under the law as it currently stood, refusal to perform military service was considered a continuing offence. A person who evaded his military service obligation could therefore theoretically be imprisoned for life, and it had been thought necessary to impose a ceiling on the term. Imprisonment of conscientious objectors was not an alternative to service, but periods of imprisonment would be offset against the objector's duty to serve in the event of repeated refusal to cooperate. It should be borne in mind that, generally speaking, the defence of conscientious objection was only raised after the matter had come to court.

62. Although the law stated that the Council of Ministers was responsible for deportation decisions, in practice all such decisions were delegated to the Minister of the Interior. However, Cyprus still lacked a reviewing authority.

Any complaints about deportation orders had to be pursued through the courts. A reviewing authority would be established under the new law on immigration.

63. Ms. KOURSOU MBA (Cyprus) said that the Cypriot authorities were very sensitive about human rights in relation to the law of evidence. Any evidence obtained in violation of human rights was inadmissible. Judges' rules in relation to confessions were applicable in Cyprus and had the force of law. In relation to the European Union directive on data protection, Cyprus gave priority to all issues which were of priority to the Union. Articles 171 to 174 of the present Cypriot Criminal Code criminalized homosexual behaviour under the generic term of sodomy. The new bill repealed those sections, while continuing to attach penalties to sexual acts with minors, mentally handicapped persons or financial dependants, and sexual acts committed in public.

64. Despite the provisions of the existing law on imprisonment of conscientious objectors, in practice a person who had served 10 months for failing to perform military service would be pardoned and given immunity from future prosecution. AIDS was not a common problem in prisons, but prisoners with AIDS were segregated for their own safety. A campaign was under way to educate prisoners about the dangers of AIDS, and it was hoped that eventually it would be possible to re-integrate AIDS sufferers into the rest of the prison population. The recent judicial pronouncement that life imprisonment meant incarceration for the whole of a person's life referred to future convictions and was not retrospective.

65. Mr. STAVRINAKIS (Cyprus) said that, even in those cases where life imprisonment was interpreted in the strict sense, the term of imprisonment would still be subject to reduction by way of presidential pardon. Under the new law regulating the operation of radio and television stations, the responsibility for issuing licences had been vested in a Board, which also exercised disciplinary control over the media. All restrictions on freedom of movement in Cyprus had been imposed by the so-called administration of the north.

66. Mr. BUERGENTHAL, referring to paragraph 3 of the report, noted that the Covenant had been ratified and formed part of the municipal law of Cyprus having superior force to any other municipal law. Judging by the remarks of the Cypriot delegation, he took it that the statement made in paragraph 3 of the report applied only to those provisions of the Covenant which were self-executing. If a provision was deemed to be non-self-executing, it could not be superior to any other law because it could not be invoked in the courts. If that understanding was correct, the Committee should urge the Cypriot legislature to ensure that all the provisions of the Covenant were declared self-executing.

67. Mrs. MEDINA QUIROGA said it was her understanding that certain provisions of the Covenant had been declared self-executing and others had not. If a provision of the Covenant had been declared self-executing, did that mean that the domestic courts could not refuse to apply it? If, in the case of a clash between a provision of the Covenant and a domestic legislative text, a court determined that the provision was not self-executing, did that mean that the Covenant did not prevail?

68. Mr. LALLAH said that Mr. Pocar had raised an important question that had not been answered. Paragraph 243 of the report indicated that a proposed bill would allow the Council of Ministers to prohibit public assemblies for periods as long as two or three months. Although the right to public assembly was one which could be derogated from, under the terms of the Covenant such a derogation required the prior declaration of a state of public emergency. Were such ministerial decisions reviewable by the courts on their merits?

69. Mr. BHAGWATI enquired on what basis a domestic court determined that a provision of the Covenant was self-executing. In common law States, international legislative instruments could be implemented only after their incorporation into domestic law. The State party should explain how provisions of such instruments became self-executing without being incorporated into the domestic legislative framework.

70. Mr. POCAR said it was essential to know how a provision of the Covenant was implemented if it was determined that it was not self-executing.

71. Mr. STAVRINAKIS said that a self-executing provision was one which could be implemented without further legislative action. Cases had arisen in which a citizen, wishing to invoke provisions of an international instrument before a court, had been advised that procedural measures permitting the application of that provision had not yet been taken. Therefore it had been decided that the ratification law should stipulate which provisions were self-executing and therefore did not require the enactment of procedural measures, so that a citizen could know where he stood.

72. Mr. KLEIN asked whether the self-executing provisions were declaratory or constitutive. If the ratification law did not establish that a certain provision was self-executing, did that mean that a judge could not? The State party should explain whether the principle of self-execution enabled a judge to invoke provisions of the Covenant, or hindered him from doing so.

73. Mr. ANDO observed that if Cypriot legislation determined that certain provisions were self-executing and others were not, that necessarily meant that the latter could not be invoked before the courts. Therefore the principle of self-execution seemed to restrict unduly the interpretive powers of the courts. Cyprus should explain how all the terms of the Covenant were effectively implemented under its legislative and judicial systems.

74. Mr. STAVRINAKIS (Cyprus) said that if the House of Representatives declared a provision to be self-executing, the courts were bound to implement that provision. If, on the other hand, the legislature declared that a provision was not self-executing, then the ratifying law must establish procedures for its implementation. If the legislature remained silent with regard to a certain provision, then a citizen had no choice but to attempt to invoke it before the courts. It should be understood that certain instruments expressly stipulated that laws must be enacted to fulfil their provisions; others did not. Those that did not could be implemented without the enactment of such laws.

75. The Government of Cyprus had devised the principle of self-executing provisions in order to satisfy a concern raised by the Committee during the

consideration of its second periodic report, namely that citizens should be clearly informed regarding which provisions of international instruments were applicable.

76. The bill allowing for a ministerial order prohibiting assemblies had not yet been enacted; the Committee's concern that such decisions should be reviewable would be taken into consideration. In principle, all decisions were subject to review by the Supreme Court.

77. The CHAIRPERSON invited the members of the Committee to present their conclusions and observations.

78. Lord COLVILLE said that the summary records would be invaluable in the consideration of the fourth periodic report of Cyprus, because a considerable amount of information had come to light in the discussion that had not figured either in the report or in the supplementary report. The next report should include a description of the practical measures the Government had taken to implement the provisions of the Covenant, and in particular those of article 6.

79. He understood that the Commission of Inquiry mentioned in paragraph 88 of the report was an ad hoc body and therefore not enabled to redress an unsatisfactory situation. The supplementary report discussed the establishment of a new institution, the National Institution for Human Rights, which would assist citizens in directing their complaints to the proper channels. And yet, since an individual citizen whose rights were violated sometimes chose not to seek a remedy, the Institution should also be empowered to address complaints to various branches of the Government in order to ensure that violations were redressed. A mechanism should also be established to monitor its effectiveness. The next periodic report should describe, in practical terms, the activities and functions of that new Institution.

80. He had visited Cyprus only once, in 1984, in his capacity as Chairman of the Working Group on Enforced or Involuntary Disappearances. In his discussions with the Government, and with Turkish Cypriot leaders, he had strived to treat that terrible phenomenon as a humanitarian problem. He was gratified to find that that attitude still prevailed, and that some small progress had at last been made toward learning the fate of those who had disappeared from both the Turkish and the Greek Cypriot communities.

81. Mr. ZAKHIA said that, in his view, Cypriot human rights organizations should be empowered to redress violations of basic human rights principles.

82. The CHAIRPERSON said that the consideration of the report had given rise to a rich and varied discussion. The Government should be commended for preparing its report on time and in conformity with the Committee's guidelines, although regrettably the supplementary report had arrived only that morning. As an occupied country, Cyprus naturally could not guarantee the application of all Covenant rights; and yet the authorities, and in particular the Attorney-General and the Ombudsman (who was now empowered to hear complaints from individuals), had demonstrated a genuine will to combat instances of abuse and torture. Furthermore, as a result of efforts by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, prison conditions

had undergone a significant improvement, and a register was kept of all detained persons.

83. Unfortunately, however, many of the observations and recommendations formulated by the Committee during its consideration of the second periodic report still obtained, including in particular such matters as the imprisonment of debtors, the absence of laws establishing the equal treatment of men and women and the criminal responsibility of juveniles, and the failure to enforce the rights guaranteed under articles 21 and 22 of the Covenant, which were still subject to undue restrictions. Furthermore, many bills had remained on the drafting table or not been enacted. Discrimination was still practised against women and homosexuals. And although the delegation had provided scanty information in that regard, it seemed that discrimination was, both in law and in fact, still practised against members of the Turkish Cypriot community.

84. Furthermore, as members of the Committee had observed, the delay in enacting the bill concerning conscientious objectors should not in itself be permitted to constitute an act of discrimination. The lengthy exchange concerning the role of the Covenant in domestic legislation suggested that laws devised to redress problems sometimes merely exacerbated them. It seemed clear that Cypriot citizens would be unable to determine which provisions of the Covenant they could invoke before the courts. Lastly, she hoped that by the time it submitted its fourth periodic report, Cyprus would be able to announce that the bills described in the third periodic report were in force. She requested the delegation to transmit the Committee's observations to the Government.

85. Mr. STAVRINAKIS said that his delegation had noted the views of the Committee with interest, and would transmit them to the House of Representatives and the Council of Ministers. It had also taken note of the Committee's disappointment that, despite the promises made by Cyprus during the consideration of its second periodic report, little progress had been made in harmonizing Cypriot legislation with the letter and spirit of the Covenant. Those promises had not, however, been empty ones. Although the Government had set in motion many new initiatives, enacting legislation was a slow process. Revitalized by its discussions with the Committee, his delegation would, on its return to Cyprus, exert new pressure on the appropriate executive and legislative authorities to enact the bills currently under consideration. Those bills would also be reviewed to ensure their conformity with the Committee's expectations. He regretted that he had failed adequately to explain the intent of self-executing provisions; an effort would be made to clarify that issue in the next report.

The meeting rose at 5.55 p.m.