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HUMAN RIGHTS COMMITTEE

Sixtieth session

SUMMARY RECORD (PARTIAL)* OF THE 1606th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 25 July 1997, at 3 p.m.

Chairperson: Ms. CHANET

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* No summary record was prepared for the rest of the meeting.

GE.97-17539 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of India (CCPR/C/76/Add.6; CCPR/C/60/Q/IND/3) (continued)

1. At the invitation of the Chairman, the members of the Indian delegation took places at the Committee table.

2. The CHAIRMAN invited members of the Committee who had not yet done so to put orally their additional questions concerning part II of the list of issues (CCPR/C/60/Q/IND/3).

3. Mr. POCAR welcomed the information supplied by the Indian delegation to the effect that executions were rare in India today and that their number was diminishing. However, the figures cited related to 1995, and a rise in the number of executions in 1996 was reported from other sources. Could the Indian delegation confirm that the number was continuing to diminish? Furthermore, had there been any amendments to the Penal Code with a view to reducing the number of offences punishable by death?

4. Mr. ANDO said that, as he understood it, the National Commission for Minorities could operate as a civil court. If that was so, what was its membership and by what rules was it governed? Was there any jurisprudence in that connection? What was the relationship between the Commission, ordinary civil courts and the special officer mentioned in paragraph 128 of the report?

5. Referring to the conflict which appeared to exist between people of the plains and certain mountain tribes in the north-east of the country, in particular in Assam State, he remarked that it was no doubt rooted in different economic ways of life. He asked how the Indian authorities intended to settle the conflict, and stressed that development plans had to take account of differences between the ways of life of the communities concerned. Any lasting solution to the problems in the north-east of the country would have to be achieved through negotiation and would involve a long-term process which could not be imposed upon the populations against their will.

6. Some clarifications with regard to the provisions of article 19 of the Constitution would be welcome. India had made a declaration relating to the provisions of article 19 (3) of the Covenant to the effect that those provisions could only be applied in conformity with article 19 of the Indian Constitution. Yet the grounds for restricting the freedom of expression were considerably more numerous in the Constitution than in the Covenant. Furthermore, certain laws appeared to be able to take precedence over the provisions of article 19 of the Constitution. It would be useful if that point could be clarified.

7. Mr. KRETZMER said that he had some questions in connection with the implementation of article 22 of the Covenant. The Foreign Contribution Regulation Act imposed restrictions on the financing of non-governmental organizations, in particular those concerned with human rights, by foreign organizations. The Act had been adopted under the state of emergency in 1976,

but was still in force. For what reason did the authorities consider it to be still necessary today? Furthermore, were there any precise criteria for deciding what contributions from abroad were acceptable, and why was that decision left to the Ministry of the Interior when it was actually a matter for the Ministry of Finance?

8. Ms. EVATT said that she was pleased to hear that the prisons administration would soon come under the control of the central authorities of the Union. The information gave grounds for the hope of an improvement in the conditions of detention, which at present were particularly poor. It would appear that in some States of the Union detainees were separated into categories not on the basis of the offence committed but according to other criteria, such as their educational level. And it also seemed that detention conditions and treatment varied depending on the category in which the detainee was placed. Was that the case? If so, how was it compatible with the Covenant? Furthermore, what steps had been taken to put an end to practices of ill-treatment and violence in detention centres and to implement the recommendations of the National Commission for Human Rights on that score?

9. She also asked for information on the action brought by the People's Union for Civil Liberties (Punjab Unit) in connection with cases of ill-treatment inflicted by members of the police force. It would seem that torture was routinely practised in police stations, and some comment from the Indian delegation on that point would be welcome.

10. So far as refugees were concerned, their living conditions were said to be such as to have obliged a number of people to return to their place of origin. That amounted to unacceptable coercion.

11. Lastly, certain sources spoke of collective fines being imposed in some seriously troubled areas. Was that correct? If so, did such fines derive from a judiciary or an administrative procedure, and how was the compatibility of such measures with the provisions of article 14 of the Covenant ensured?

12. Mr. SCHEININ, noting that article 29 of the Indian Constitution closely resembled article 27 of the Covenant, both texts dealing, in particular, with the cultural life of minorities, asked for information on the hydroelectric power station at Sardar Sarovar project. What was being done about resettling the very large indigenous populations of the area? Was their right to preserve their traditional way of life and their culture duly guaranteed? More generally, what lesson had the Indian authorities drawn from the experience and from the long negotiations involving ILO and other international organizations?

13. He gathered from paragraph 125 of the report (CCPR/C/76/Add.6) that the Constitution recognized religious and linguistic minorities but not ethnic ones. That being so, what steps were being taken to guarantee that ethnic minorities enjoyed the rights provided under article 27 of the Covenant, in particular with regard to effective democratic participation in the conduct of the country's affairs, bearing in mind also the provisions of article 1 of the Covenant? Were there any special arrangements guaranteeing a form of autonomy to such minorities?

14. Lastly, he had understood the Indian delegation to say that the Committee's final observations on the consideration of the report of India (CCPR/C/76/Add.6) would be published in a document intended for the public at large. However, in view of the structure of the information media in India, it was to be feared that the final observations would not receive sufficient coverage, especially among the disadvantaged castes and tribes. Did the Indian delegation envisage addressing a special recommendation to the Government in that respect?

15. The CHAIRPERSON invited the Indian delegation to reply to the questions put orally on part II of the list of issues (CCPR/C/60/Q/IND/3) and to those in part I which had not yet been answered. She understood that the Indian delegation needed a few moments to prepare its replies.

The meeting was suspended at 3.25 p.m. and resumed at 3.40 p.m.

16. Mr. ASHOK DESAI (India) apologized to the members of the Committee for being unable, because of India’s size and complexity, to respond fully to all their questions.

17. The use of firearms by the police was regulated by a series of orders and binding rules and the police could not invoke self-defence as a justification for breaches of those texts. Generally speaking, authority must be exercised in the light of the circumstances at the time, and the texts concerning the use of firearms were of great importance for determining the appropriateness of such exercise.

18. The reported amendment to article 22 of the Constitution was not yet in force. It had been adopted by Parliament, but stipulated that it would come into force at what the Government felt was the right time. The Government had accepted the principle of the amendment, but had not yet put the change into effect.

19. Concerning measures to overcome the slowness of the judicial system and so improve its image, he observed that the speed or otherwise of proceedings often depended on the diligence of the judiciary; his country’s authorities were open to all suggestions for improving the current situation in that regard.

20. The TADA Act, which had lapsed, had been passed to deal with a situation of terrorism. It had established an offence of terrorism, as well as a penalty applicable following proceedings fully compatible with the Covenant. However, as some aspects of it had been strongly criticized, the Act had not been extended. The Committee could be assured that even when the Act had been in force all the relevant rights under the Covenant had been safeguarded. On the other hand, India had a national security act that was distinct from the TADA Act and under which some 600 persons were currently detained. Because of India’s declaration to the effect that article 9 of the Covenant could only be applied in conformity with article 22 of the Constitution, the provisions of that part of the Covenant were not applicable to persons arrested or detained under the national security act.

21. With regard to the number of death sentences, there was a marked trend towards liberalization; the number of executions was now far lower than in the

past. To his knowledge, there had been no increase in the number of offences for which the death penalty could be imposed; the question put in that respect had presumably arisen from a misunderstanding. The law on narcotics and psychotropic substances provided for the death penalty in some serious cases of persistent trafficking, but the provision in question had never yet been applied.

22. Mr. Ando had asked about the analogy between the National Commission for Minorities (paras. 23 and 24 of the report) and the civil courts. The Commission could summon people to appear as witnesses and could also take testimony under oath and require the production of certificates relating to civil status and of archival documents, etc.; in other words, it could take the same action as civil courts in inquiries into allegations of breaches of minority rights. All attempts to evade summons issued by the Commission would entail legal consequences. The Commission was not, however, a court and its findings were recommendations.

23. Replying to another question from Mr. Ando on minorities, he said that Indian society was not a melting pot in which the various constituent groups fused with one another. On the contrary, it preserved their particularities; indeed, the Constitution contained special provisions reserving to certain States of the Union areas of competence upon which the federal authorities could not encroach. Depending on the State, those areas included religious and social practices, customary law, the administration of civil and criminal justice, property and the transfer of land and resources. Furthermore, every State had an elected government and could preserve its own traditions and culture; that was a means of safeguarding distinct lifestyles, especially those of tribal peoples.

24. India's reservation to article 19 (Freedom of expression) was linked to special electoral provisions concerning elections. Under Indian electoral law, candidates were not allowed to campaign for election by claiming allegiance to a religion: anyone who presented themselves as the candidate of, say, Christians would be guilty of corruption. That was what had prompted the reservation to article 19.

25. He emphasized that the interests of the people who would be displaced to make way for the Sardar Sarovar hydroelectric dam project had been taken into account by the inter-State water tribunal. That body, which had been presided over by a Supreme Court judge, had ruled on the height of the dam and the resettlement programme would be carried out in parallel with the construction work. There was ample opportunity for critics of the building or size of the dam to express their views, for example, through the seven or eight television channels, which would not fail to mention all the relevant information.

26. Questions had been asked about what was a very old traditional practice in some parts of India, that of the devadasi (temple dancers and prostitutes). That highly localized practice had been banned by the laws of the States of the Union, which the authorities enforced because that enabled the victims to be helped by offering them alternative employment. Concerning the effect of

federal legislation, the relevant law, such as the Immoral Traffic Prevention Act, would be immediately applicable if the practice degenerated into prostitution.

27. Responding to Mr. Klein, who had spoken of children being deliberately blinded, Mr. Singh stressed that such incidents did not necessarily come to the authorities' notice.

28. Lord Colville had requested statistics concerning refugees in India. There were in India 19,327 refugees under the auspices of the Office of the United Nations High Commissioner for Refugees; they comprised 18,244 refugees from Afghanistan, most of whom were in Delhi and were living outside camps, could choose their own employment and were receiving UNHCR assistance; 467 refugees from Myanmar, 234 from Somalia, 205 from Iran, 91 from Sudan and 86 from elsewhere. Indian courts had handed down several important judgements concerning the right of refugees to assistance and relief. In one specific case, the court had ordered the release of a refugee who had been placed in detention and that person had been authorized, on the basis of article 21 of the Indian Constitution, to apply to UNHCR for refugee status. There had also been the case of an Iranian whom the Government had wanted to expel because he had had no valid documents or visa: after being granted refugee status by UNHCR, he had been authorized to stay in India. India, therefore, protected refugees in accordance with its humanitarian obligations.

29. Furthermore, since 1992 the Indian authorities had, in agreement with UNHCR, been making spot checks in the State of Tamil Nadu to ensure that Sri Lankan refugees were not being repatriated without their consent. Checks had also been carried out on board vessels being used in the repatriation. There were many non-governmental organizations dealing with Tibetan and other refugees. Refugees had access to information thanks to UNHCR, which provided them with newspapers and magazines. The Indian delegation had not had time to assemble the information requested from it with regard to action on the recommendations of the National Commission for Human Rights concerning the refugees living in six camps in the State of Tripura where there was allegedly no sanitation or medical care.

30. Concern had been expressed, following representations by one non-governmental organization, that India was not a safe country for such organizations. Another non-governmental organization, however, had observed that a great variety of human rights activists and organizations were operating in India in defence of a wide range of rights and that, notwithstanding the many difficulties that non-governmental organizations could encounter in materializing those rights, human rights issues were widely debated throughout the country. The same organization had said that in India the media played a very important role in pointing out human rights violations. There were, admittedly, problems in regions where there was frequent violence, but that violence affected the population as a whole and not just organizations.

31. Lord Colville had requested information on the results of inquiries carried out by the National Commission for Scheduled Castes and Tribes. That information was not available for the moment, but would be provided as soon as possible.

32. The view had been expressed regarding child labour that, while it was important to tackle the problem from an overall perspective with a view to its eradication, it was equally important to take proceedings against those who were responsible for it. The Indian delegation took note of that point. The Supreme Court had, in fact, already ruled on the matter in numerous cases and the Indian authorities continued to insist that those decisions and the 1986 Child Labour (Prohibition and Regulation) Act should be fully implemented. His delegation could not provide any precise statistics regarding child labour, but wished to emphasize that it was a complex issue that had to be handled with sensitivity and could not simply be legislated away. Solutions that failed to go to the roots of the problem would merely marginalize children still further and drive them deeper into poverty and perhaps even into delinquency and prostitution. The present Government's prime concern was to continue implementing programmes to combat the underlying causes of child labour and, more specifically, to give effect to its undertaking to make primary education a constitutional right.

33. The first point to be made about castes was that caste was not to be confused with race; they were, indeed, two distinct concepts in the Indian Constitution. Race was not an issue in defining scheduled castes or tribes. Consequently, groups falling into the category of scheduled castes or tribes did not come within the ambit of article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. However they might interpret the term "caste", the Indian authorities were willing to provide information on the action taken to eradicate discrimination against the castes and tribes in question. They were, indeed, already providing such information in the United Nations bodies dealing with discrimination.

34. Mr. Ando had referred to the situation in the north-west States, rightly observing that the problems there were partly attributable to differences in lifestyles. That was another issue with regard to which the Government was striving to implement long-term solutions and to accelerate economic development. Rehabilitation programmes would be provided for the people who would be displaced by the Sardar Sarovar dam project. There were laws and orders in the States in question that prohibited the cession to non-tribals of land belonging to tribals. Furthermore, the Indian Parliament had adopted a few months previously a constitutional amendment whereby villages in tribal areas would be governed by an assembly of elders with responsibility for problems of everyday life, shared natural resources, land, forests and water, disputes settlement and the planning and execution of development programmes, as well as for the supervision of government-instituted development activities within the territory of the village community.

35. Mr. GUPTA (India) said that he would answer questions on the Foreign Contribution Regulation Act. It was incorrect to say that the Act was directed against non-governmental organizations; it merely sought to regulate, according to criteria which it defined clearly, inputs of foreign funds to organizations. For example, political parties were not allowed to receive foreign funds. In other cases, such as that of certain religious or social associations, there was no ban on receiving funds, but it was compulsory to say for what type of activity the money was intended. The aim was to ensure that organizations of whatever kind reported on the source and use of their

funds. As for why it was the Ministry of Home Affairs that dealt with the application of the Act, he could only say that everything to do with business and finance came under that Ministry.

36. Mr. DESAI (India) said that it was true that there were two categories of prisoners in Indian jails: those who had been sentenced, and those who were awaiting trial after having been refused bail. There was nothing abnormal about the fact that prisoners in the second category were better treated: they were not serving a sentence. They were entitled to receive food from their families and visits to them were unlimited. On the other hand, maintaining a distinction between "Class A" and "Class B" convicted prisoners was perhaps unwarranted. His delegation would bring that point up with the Indian Government and the relevant provisions would have to be re-examined when the new prison administration manual was drawn up. He did not know how far work on the manual had progressed.

37. One member of the Committee had spoken of collective fines; he himself was unaware of their existence. There was no provision for that type of penalty, which had applied in the past, in the Penal Code, but it was possible that collective fines were imposed in applying a local law or tribal customary law.

38. Mr. LALLAH said that he had a copy of a State security law of 1950 from the State of Punjab, article 10 of which allowed the imposition of collective fines.

39. The CHAIRPERSON invited the members of the Committee who so wished to make oral statements, it being understood that they would still be able to take part in drafting the Committee's concluding remarks to the Indian Government.

40. Mr. KRETZMER thanked the Indian delegation for its replies and also expressed his gratitude, through the delegation, to the Indian people and non-governmental organizations for having greatly assisted the Committee in the performance of its task under article 40 of the Covenant.

41. Among the matters on which he still had concerns after reading India's third periodic report (CCPR/C/76/Add.6) was the question of emergency powers, which he was convinced the Indian Government continued to use in contravention of article 4 of the Covenant. He also felt that India's reservation to article 9 of the Covenant did not justify non-fulfilment with regard to persons in preventive detention of the requirements of due process, guarantees of which were given in article 22, paragraph 5, of the Indian Constitution. He also found it hard to accept the Indian delegation's contention that article 14 of the Covenant did not apply in the event of preventive detention because criminal proceedings proper had not begun at that stage. That was perhaps the case in Indian domestic law, but care should be taken to avoid too literal an interpretation of the expression "determination of any criminal charge" in article 14, paragraph 1, of the Covenant. Similarly, he considered that the provisions of the National Security (Amendment) Act (paragraph 51 of the report) whereby anyone whose conduct was felt to endanger the security of the State could be detained for up to a year were contrary to article 14, paragraph 3, of the Covenant.

42. The Indian delegation's arguments concerning the Armed Forces (Special Powers) Act were clear, but not wholly convincing. The delegation had said that rights were safeguarded because it was mandatory to obtain judicial permission before opening fire; that requirement, however, applied only in the case of illegal meetings and in all other circumstances the police could open fire at will. In addition, permission had to be obtained from the central Government before proceedings could be brought against members of the armed forces. According to the delegation, that permission was needed because in India anybody could initiate proceedings. His own answer to that argument was that in common-law countries there were other ways of preventing vexatious actions. He remained of the opinion that the requirement to obtain the central Government's approval was among the means of removing the army and the security forces from judicial control.

43. The instances of torture and excessive use of force by the security forces were worrying. He urged the Government to ensure that independent judicial inquiries were conducted in all cases of death subsequent to operations by the police or security forces and to allow the National Human Rights Commission to carry out its own investigations into all acts of violence attributed to the security forces. All obstacles to the investigation of cases of torture must be removed, and the Special Rapporteur on torture must be permitted to visit India.

44. He accepted that the Foreign Contribution Regulation Act was not directed against non-governmental organizations, but it certainly made it harder for them to act.

45. Ms. MEDINA QUIROGA thanked the Indian delegation for the abundant information it had given and stressed the remarkable contribution by non-governmental organizations. She was not unaware of the enormous difficulties that the Indian Government encountered in discharging its obligations under the Covenant, but the Committee's task was to draw attention to discrepancies between States' law and practice on the one hand and the Covenant on the other. Study of India's report had revealed incompatibilities with articles 7, 9, 14, 24, and 3 and 26 of the Covenant. Since India had not entered any reservation to article 3 or article 26, it had an obligation to eradicate discrimination against women, an obligation which in fact appeared in articles 14 and 15 of the Constitution. She found it hard to understand why women's actual situation was so at variance with the Constitution and the Covenant, and the delegation's reference in that connection to reluctance to sanction practices that fell under the heading of freedom of opinion was unacceptable. The Government could surely not view freedom of opinion as authorizing anyone to act, on the grounds of belief or conviction, in a manner detrimental to the fundamental rights of others. By preserving discriminatory laws on personal status, India had placed itself in breach of obligations it had contracted under the Covenant. That was no small matter: it was understandable that women should not want to bear female children when they knew what place was reserved for them in society and what kind of life they would have. The reply given concerning the fate of young girls and women given up to certain religious cults, the devadasi, was unsatisfactory. The situation could not be remedied by applying the Immoral Traffic Prevention Act

in cases where the practice degenerated into prostitution; it was the practice as such that was unacceptable and she trusted that India would take measures against it.

46. The Committee had learned that certain disturbed areas were no longer considered as such for the purposes of a number of restrictive laws. It was to be hoped that effective steps would be taken in the near future to retrain the forces of law and order to carry out their duties in peacetime. She expressed confidence that all the comments that had been made during the consideration of the report would be passed on to the Government and that they would assist India in its efforts.

47. Mr. KLEIN said that the copious information given by the Indian delegation had helped to understand the situation better. No one could deny, however, that major problems remained. Despite all the delegation's explanations, it was hard to see why there were still so many cases of torture and death in detention. The Indian Government could not expect the Committee to be satisfied with such a situation and he urged it to review all the laws that left room for abuse of authority and not to try to replace the TADA Act by a penal-law amendment bill. It was essential to limit the powers of the police and the armed forces by means of clear texts and appropriate training and education. It was true that India was confronted with active terrorism that was causing serious problems, but a State should never answer terror tactics with more of the same.

48. He stressed the need to redouble efforts on behalf of the vulnerable and disadvantaged members of the population. While it was true that change had to come from within society, the Government nonetheless had an obligation to do all it could to promote that change. For example, while it was certainly not the State that mutilated children, the State did have an obligation to protect children against a practice that seemed quite widespread in Indian society. The delegation had said that the survival of the caste system was justified by the will of the public; he could not refute that argument, but he continued to feel that such a system perpetuated fundamental social inequality. As evidence of its goodwill, the Indian Government might consider ratifying the Optional Protocol to the Covenant.

49. Mr. BUERGENTHAL stressed that India was indisputably a democracy where the primacy of law was assured. There was no doubt at all that India had made considerable progress, but the needs were so great that much still remained to be done. Firstly, there was a very serious problem of police violence; the abuses in question, which were concentrated in the disturbed areas, were facilitated by a number of legislative provisions that were incompatible with the Covenant. Whatever the country, there were invariably violations of fundamental rights when security forces had excessive powers. India having been criticized for harassment of human rights activists, it was gratifying that its delegation had said the Government would no longer tolerate certain abuses.

50. Mr. ANDO thanked the Indian delegation for its replies to the numerous questions that had arisen from the complexity of the situation in the country. That there was considerable geographical, demographic, religious and economic diversity in that huge country was true, but it was incumbent on every State to guarantee uniform minimum treatment for all. As its article 50 said, the

Covenant applied to "all parts of federal States without any limitations or exceptions". Consequently, irrespective of the autonomy granted to parts of the Union of India by the constitutional structure, the central Government had an international obligation to ensure a minimum of protection for fundamental rights throughout the country.

51. Attention had already been drawn to the main points of concern: the overly extensive powers of the police, the very existence of the caste system, child labour and debt bondage, and the profound inequalities in all spheres of life. Terrorism often arose out of dissatisfaction in segments of the population that found themselves unable to achieve a political solution to significant problems. India was the world's largest democracy and should strive to combat unacceptable behaviour by legal methods consistent with the objectives of democracy. He had no doubt that the Government had the requisite political will for that.

52. Ms. EVATT thanked the delegation for its detailed replies; they, however, had not dispelled all her doubts and concerns. She was, in particular, still worried by the absence of measures to protect persons under arrest or detention; most of all, she had been disappointed not to hear of any firmer commitment to the abolition of child labour in dangerous sectors of activity. No one underestimated the problems, but far more had been achieved in India than had been thought possible in 1947. It was not too much, then, to ask that compulsory education should be ensured for all the country's children, who were its future. She expressed her admiration for the work of non-governmental organizations in India and for the action of the National Human Rights Commission.

53. Mr. LALLAH observed that the dialogue with the Indian delegation had been far more satisfactory than during the presentation of the first report and that the Committee had found evidence of very significant progress: the non-renewal of the Terrorist and Disruptive Practices (Prevention) Act, the establishment of the National Human Rights Commission and the announcement of the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

54. There remained some concerns, in which respect he subscribed to Mr. Kretzmer's remarks concerning the interpretation of article 9 of the Covenant. The maintenance of preventive detention was a feature of certain dictatorships and clearly prohibited by the Covenant. The time had come for India to transform preventive detention into pre-trial detention; even if India had entered a reservation to article 9 of the Covenant, it was altogether legitimate for the Committee to encourage it to move forward. Article 6 of the Armed Forces (Special Powers) Act, which prevented all legal proceedings against members of the armed forces, was extremely worrying; if the Government's fear was that citizens would bring vexatious or frivolous actions, that was a matter better left to the courts to resolve. It was inadmissible for citizens to be deprived of a remedy as was at present the case. Still in the field of law, there had been no reply to dispel the doubts concerning collective punishment, a practice in clear breach of article 14 of the Covenant. He earnestly hoped that India would introduce a uniform civil code, thereby giving effect to article 44 of its Constitution.

55. The CHAIRPERSON extended cordial thanks to the Indian delegation for having readily cooperated with the members of the Committee and answered the numerous questions that had been put to it. The delegation had said that India, now celebrating its fiftieth anniversary, had a Constitution and institutions with all the characteristics of democracy. However, while democracy was the prerequisite for the observance and safeguarding of individuals' fundamental rights, it was not necessarily sufficient, and other measures were needed for the observance and safeguards to be effective. The Committee was, of course, aware of the obstacles that remained in India owing, in particular, to cultural and religious traditions and economic and social conditions, but it was nonetheless up to the State to find ways of ensuring compliance throughout its territory with its international obligations by undertaking reforms and promoting changes in people's mentalities - as, indeed, the National Human Rights Commission had itself recommended to the Indian Government.

56. The members of the Committee had expressed a very large number of concerns. For example, the caste system still seemed to be a major obstacle to equality for all within society, and an affront to the principles set out in article 26 of the Covenant, concerning which India had made neither a reservation nor a declaration. The status of women was still, despite all the Government's efforts, conspicuously worrying and there continued to be breaches not only of article 3, but also of articles 6 and 7 of the Covenant. The particular vulnerability of children similarly continued to give rise to serious questions with respect to article 8 of the Covenant. As for the continuing problem of violence, it could not but be said that the maintenance of a sort of undeclared state of emergency was not a very convincing response, even if the problem did concern certain well-defined areas of the country. With regard to India's reservation to article 9 of the Covenant, she drew attention to the Committee's General Comment 24 concerning reservations and pointed out that preventive detention, even if it was legal, must never be arbitrary. Lastly, it seemed that the practice of torture was still far from having been eliminated in India and, above all, that the trend in that respect was towards a form of impunity for members of the forces of law and order who committed such acts. On the other hand, there had been encouraging signs, such as the repeal of the Terrorist and Disruptive Practices (Prevention) Act and the announcement of the forthcoming ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In that connection, she urged the Indian Government to consider also ratifying the first Optional Protocol to the Covenant; that would be further proof of the State Party's political will to ensure full observance of human rights within its territory.

57. Mr. DESAI (India) said that, even if some differences of opinion had been apparent, he had been gratified by the constructive dialogue between his delegation and the Committee during the discussion of the report. He re-emphasized that India was an immense country with extremely varied cultural and religious traditions where tolerance was essential to the preservation both of unity and of diversity in the interests of respect for democratic institutions and for all citizens' fundamental human rights. Given the very ancient social structures and the difficulties arising from poverty and illiteracy, the authorities' task was not an easy one. Nevertheless, every effort was made to ensure respect for human dignity and social justice as required by the principles of the Universal Declaration of Human Rights and

the Indian Constitution, and to combat violence and terrorism through dialogue and participation with a view to the full application of the rule of law.

58. The CHAIRPERSON thanked the Indian delegation for its contribution. She drew attention to the fact that India's fourth periodic report had been due in 1995 and said that the secretariat would fix a date for its submission. She declared that the Committee had completed its consideration of the third periodic report of India.

59. The Indian delegation withdrew.

The discussion covered in the summary record ended at 5.30 p.m.

The meeting rose at 6.05 p.m.