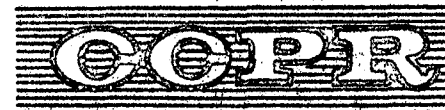


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ON CIVIL AND
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Fourteenth session

SUMMARY RECORD OF THE 322nd MEETING

Held at the Wissenschaftszentrum, Bonn-Bad Godesberg,
on Wednesday, 21 October 1981, at 3 p.m.

Chairman: Mr. MAVROMMATIS

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

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

Netherlands (continued) (CCPR/C/10/Add.3 and Add.5)

1. Mr. SADI expressed appreciation to the Government of the Netherlands for its report and the positive role it had always played within the United Nations system in protecting human rights.

2. With regard to article 1 of the Covenant, he was impressed with the way the Netherlands Government viewed the right of self-determination as not confined to peoples under colonial and foreign domination. However, paragraph 3 of that article required States parties actually to promote the realization of the right of self-determination that meant more than simply supporting resolutions. Further details from the Netherlands Government concerning its efforts to help peoples seeking the right to exercise self-determination - in South Africa, Namibia, and Palestine, for example - would be welcome.

3. His second point concerned the status of the Covenant within the legal order of the Netherlands. The Committee had received assurances that the Covenant enjoyed direct application, yet the report stated on page 8 that the Netherlands legal system already met the requirements of the Covenant "to a considerable extent". Similarly, on page 2 it was stated that "many of the rights mentioned in the Covenant" were already obtained in the Netherlands. Did those statements imply that the Netherlands legal system did not totally meet the requirements of the Covenant? Clarification from the Netherlands representatives was needed.

4. Turning to the question of equality between the sexes, he said it was well known that the Netherlands was advanced in that area. However, some statistics concerning the status of women in various professions, in the private as well as public sector, would be helpful to the Committee.

5. In the section of the report concerning article 20, paragraph 1, of the Covenant, it was stated that "it is particularly difficult to formulate a statutory prohibition of war propaganda without interfering excessively with freedom of expression". However, in his view freedom of expression must not be so broad as to permit the existence of war propaganda, and it was disturbing that a democracy as important as the Netherlands viewed that provision of the Covenant in such a negative way.

6. Concerning article 23 of the Covenant, he noted that the parents' consent was necessary for a person under the age of 21 to marry. In his opinion, it was contrary to the spirit and letter of the Covenant to impose such an age restriction for marriage. Also in connection with the family, he wished to know what safeguards existed to protect children from pornography. He believed protection of the family must be given its proper weight in conjunction with the right to freedom of expression, the exercise of which, as was stated in article 19, paragraph 3, of the Covenant, carried with it special duties and responsibilities. It was unfortunate that child pornography had become commercialized and tolerated in various Capitals of the Western world.

7. With regard to political parties, he asked about the conditions and restrictions applicable to the establishment of political parties in the Netherlands. Could parties be formed to promote certain ideologies, such as nazism and racism, that were contrary to the spirit and letter of the Charter? He would also like to know whether the electoral system was so designed as to protect the "one man, one vote" principle. In his view, equality between individuals implied equality in political power, for which the "one man, one vote" principle was a necessary requirement.
8. The Netherlands report did not contain enough information on ethnic, religious and linguistic minorities, which certainly existed in view of the country's colonial history. Further elaboration was needed on that point.
9. In conclusion, he asked whether sufficient publicity had been given to the Covenant and whether it had been translated into Dutch and made accessible to the public.
10. Mr. AGUILAR said that his comments would relate exclusively to part B of the Netherlands report (CCPR/C/10/Add.5) concerning the Netherlands Antilles, whose autonomy process he had followed with interest. Referring to Mr. Braam's statement at the previous meeting, he asked for more information about the results of the round-table conference held in February 1981 between the Netherlands, the Netherlands Antilles and its four island territories concerning self-determination and about the process of consultation of each island and of all the islands together.
11. Referring to the report's comments concerning article 12, he noted that the Admission and Expulsion Act, which restricted the entry and residence of persons not associated with the Netherlands Antilles on the basis of certain criteria, was not compatible with paragraph 1 of that article, in respect of which the Government of the Netherlands had entered a reservation. He asked whether there were similar restrictions on the right of inhabitants of the Netherlands Antilles to settle in the European part of the Netherlands. If that measure was designed to protect the Netherlands Antilles, as Mr. Braam had stated at the previous meeting, then it would follow that a Netherlands national residing in the Netherlands Antilles could freely settle in the continental part of the country. In that connection, he asked whether any other restrictions on liberty of movement were contemplated under article 12 of the Covenant.
12. With regard to article 19 of the Covenant, he noted Mr. Braam's statement that the Government of the Netherlands Antilles intended to promote the amendment of the Governor's Decree of 15 October 1955 requiring the text of speeches, talks, plays and other radio programmes to be submitted to the local chief of police three days before the broadcast for his approval, since that provision was not compatible with article 19, paragraph 3, of the Covenant. He asked for confirmation from Mr. Braam that the Decree, though still in force, was not applied in practice.

13. The report's treatment of article 23 raised the question of what constituted a family. In his view de facto unions were often as stable as legal marriages and deserved the protection of legislation in many countries. The Civil Code of the Netherlands Antilles appeared to protect families resulting from marriage but not de facto families. That situation was particularly prejudicial to women, who often contributed to running a home or a business without having the right to a settlement when a union was dissolved.
14. With regard to the information on article 25 (c), concerning access to public service, a reading of the last two paragraphs of the Netherlands' submission indicated that women's access to employment in the civil service was not equal to that of men. Mr. Braam had stated that the restriction on appointment and termination of employment of women in the civil service applied only to married women who were not considered bread-winners. That raised an important legal question, for it followed from Mr. Braam's remarks that protection against discrimination was extended only to single women or married women who were bread-winners, which implied that a woman who did not work outside of the home did not have the same needs as a woman who did. He asked whether that conclusion stemmed from a clearly stated legal provision or from an administrative interpretation.
15. He welcomed the fact that the Optional Protocol to the Covenant had entered into force in the Netherlands and the Netherlands Antilles. That was especially important for the Netherlands Antilles if they soon became independent, in which case the European Convention for the Protection of Human Rights and Fundamental Freedoms would no longer apply to them.
16. Sir Vincent EVANS said that, as far as the status of the Covenant under the Constitution of the Netherlands Antilles was concerned, it was his understanding that the position was the same as in the Netherlands itself: both the courts and the administrative authorities would give overriding effect to the self-executing provisions of the Covenant, and if they did not do so residual power for that purpose rested ultimately with the Queen acting on the advice of her ministers. It was therefore to the Kingdom of the Netherlands that the Committee had to look in order to ensure that the provisions of the Covenant were complied with.
17. In paragraph 1 (c) of document CCPR/C/10/Add.5 it was stated that, as an organ of the Government of the Netherlands Antilles, the Governor might annul any regulation by an island territory administration which restricted the individual in the exercise of his basic rights and that, if the Governor did not annul such a regulation, any individual might institute legal proceedings, whereupon the court might declare the regulation inoperative. That raised the question of what court and what individuals were referred to. Was the court in question a court in the Antilles or was it the Supreme Court of the Kingdom of the Netherlands? Did the term "individual" refer only to an alleged victim or was it possible for any individual who claimed that a given legislative measure or administrative act was contrary to the Covenant to institute an actio popularis?

18. A further matter requiring clarification was whether all the many remedies available, up to and including a petition to the Queen, had to be exhausted before the Government of the Netherlands would hold the Committee competent to consider the merits of a case brought by an individual claiming some violation of the Covenant. The point was important, since exhaustion of all the remedies might involve a number of lengthy and perhaps expensive procedures before the individual concerned was able to have the merits of his complaint adjudicated upon by the Committee.

19. At the previous meeting the Committee had been given some information concerning the number of times the provisions of the Covenant had been referred to in the decisions of the Netherlands' courts. It would be interesting to receive some similar information in respect of the Netherlands Antilles.

20. If the Covenant was to be really effective as an international charter of rights for the individual, it was important that the individual should be aware of his rights under it. It would therefore be interesting to know whether the Covenant had been translated into Dutch and whether copies of it were readily available to the public. Such a consideration was, of course, doubly important in the case of a country which had accepted the Optional Protocol. It was also very important that public authorities should be aware of the obligations of the State under the Covenant. Had the Covenant been brought to the attention of the police, prison officers, and public officials in general as part of their training, and was it intended to extend the ombudsman system to the Antilles?

21. Commenting on part II of the report on the Netherlands Antilles, he noted that article 3 of the Constitution read: "Everyone in the territory of the Netherlands Antilles shall have an equal right to the protection of his person and property". He wondered whether that provision was really broad enough to cover all the aspects of non-discrimination covered by article 2 of the Covenant. It was doubtful whether the freedoms of assembly, religion and association, for example, fell within its scope.

22. The information given with regard to article 7 of the Covenant was inadequate, since no mention was made of any legislative provisions designed to give effect to the prohibition of torture or of cruel, inhuman or degrading treatment or punishment. Was the Committee to understand that such matters fell into the self-executing category? Even if they did, it was important that effective procedures should be provided to deal with cases of alleged ill-treatment. Such cases occurred even in the best-regulated societies, and the issue was particularly important for the protection of detained persons. Mr. Opsahl had raised the same question at the previous meeting in respect of the Netherlands, and some clarification of the position with regard to the Antilles would also be welcome. In the Netherlands there was a Board of Visitors whose function was to visit prisons and detention centres and to ensure that the inmates were properly treated.

Some system of supervision of that kind, independent from the police and the prison authorities, was necessary, and he would like to know whether there was anything comparable to the Netherlands' Board of Visitors in the island territories.

23. Another very vulnerable class of persons were those detained in institutions for the mentally ill. It would be interesting to know what procedures existed in the Antilles to ensure that persons were not detained unjustifiably in such institutions.

24. Considerably more information was needed with regard to the implementation of article 9, which contained a number of detailed safeguards. It was necessary to know how each of them was implemented in the legal and judicial system of the Antilles. Article 106 of the Constitution stated that, except in the cases provided for by law, no person might be detained other than at the order of a court stating the reasons for the detention. What exactly were the exceptional cases provided for by law?

25. The same article of the Constitution stated that the period within which the cases of all apprehended persons must be heard should be laid down by law. If the Committee did not know what periods had been laid down, it could not decide whether they were in compliance with the provisions of the Covenant. In addition, more information was required regarding measures to give effect to paragraphs 3 and 4 of article 9. The same considerations applied to article 14. The report really gave no information regarding the implementation of paragraphs 2 and 3 (a), (b), (c), (e), (f) or (g), or paragraphs 4, 5 and 6. It might be that some of those provisions were regarded as self-executing, in which case it was necessary to know which they were. Some, however, would certainly not appear to fall into that category: paragraph 5 was one of them, and the Committee needed to know that there were provisions in force and that effect was being given to them. Similar considerations applied to the information given in respect of article 17 of the Covenant.

26. The information given with regard to article 25 of the Covenant, which stipulated that every citizen should have the right and the opportunity to vote without unreasonable restrictions, contained a list of persons who were denied the right to vote. He wondered whether the exclusion of the persons falling into category (c) was really justified; it seemed rather unreasonable that persons who had served a term of imprisonment exceeding one year should be deprived of their right to vote during a period of three years after serving the term and for life if they served a second term of imprisonment exceeding one year.

27. Mr. HANGA said that there was some confusion regarding the relationship between the Netherlands and the Netherlands Antilles. There appeared to be two countries, each of which managed its own affairs; however, the State appeared to be unitary, since the Antilles was said to be an autonomous entity but an integral part of the Netherlands. Yet there were two Constitutions, and representatives of

both the Netherlands and the Netherlands Antilles had appeared before the Committee, thereby indicating that there were two countries. A reservation to the Covenant had been entered by the Government of the Netherlands in respect of the Netherlands Antilles only. He wondered what the consequences of such a situation were in international law.

28. From the passage in the Netherlands' report (CCPR/C/10/Add.3) concerned with the direct legal consequences of the Covenant, in which reference was made to article 65 of the Netherlands' Constitution and to the case law of the Netherlands Supreme Court, it might be possible to conclude that the provisions of the Covenant were not all directly applicable and that it was for the courts to decide whether or not any particular provision of an international instrument was directly applicable. It would be interesting to know what remedy was available to a person who lodged a complaint with a court only for the court to decide that the relevant provision of the Covenant had no direct legal consequences and could therefore not be applied.

29. In section I (f) (i) of the report a distinction was made between "formal" and "substantive" law. It was further stated that, in the opinion of the Netherlands Government, expressions such as "prescribed by law", "lawfully", and "legislative measures" contained in the Covenant did not refer to "formal" law but to "substantive" law - in other words, to all generally applicable laws and regulations emanating from both the central legislative and other bodies and office-holders with regulatory powers. However, the applicable legislative acts and regulations emanating from the central legislature pertained to "formal" law, as was categorically stated in the first paragraph of section I (f) (i). Consequently, the provisions of the Covenant pertained to both "formal" and "substantive" law. An explanation of such an apparent contradiction would be appreciated.

30. With respect to article 4 of the Covenant, it was stated that a proposed constitutional amendment on states of emergency submitted to the Second Chamber as part of the general revision of the Constitution permitted derogation from the right of demonstration and the right to profess one's religion or belief other than in buildings or enclosed spaces. He wondered whether such an amendment was fully in conformity with the provisions of article 18 of the Covenant.

31. From the information pertaining to article 11 of the Covenant it appeared that a solvent debtor could be imprisoned in certain circumstances. That seemed illogical if no fraud or other offence was involved, since the debtor's property could be distrained upon and the creditor thereby satisfied.

32. In connection with article 13 of the Covenant reference was made to the possibility of applying for an interlocutory injunction to prevent expulsion from the country. Were the results obtained from such a procedure definitive or provisional?

33. With regard to article 14 of the Covenant, it would be interesting to know who appointed the members of the judiciary responsible for hearing cases and whether they were irremovable. The information concerning re-education measures given in connection with paragraph 4 of that article was extremely important.

34. It would be interesting to know whether a person who alleged his rights under article 17 of the Covenant to have been violated was entitled to sue for moral as well as material damages under the Netherlands legal system.

35. On page 26 of the report reference was made to an instruction issued by the Prime Minister on the freedom of civil servants to express their opinion outside the civil service. Article 19, paragraph 3, of the Covenant provided for restrictions in such cases, but they had to be expressly laid down by law. Did a Prime Minister's instruction have the force of law in the Netherlands legal system?

36. The 1855 Association and Assembly Act mentioned on page 28 of the report in connection with article 21 of the Covenant seemed outdated and needed to be replaced. Under it a licence was required for open-air meetings. What remedy was available if such authorization was refused?

37. In connection with article 23 of the Covenant, it would be interesting to know whether, in the event of divorce, alimony was paid by one of the spouses if either husband or wife was unable to work. In the case of the de facto unions referred to in the last paragraph of the section relating to implementation of that article, it was important that the children born of such unions should be considered to be legitimate, since it was clear from the information concerning article 24 that an illegitimate child did not have the same status as a legitimate child under existing Netherlands law. As far as adoption was concerned, some information on the consequences which followed if one of the adoptive parents was a foreigner would be welcome.

38. Mr. HERDOCIA ORTEGA noted that on page 3 of document CCPR/C/10/Add.3 it was stated that there was no separate legal procedure in the Netherlands for the protection of human rights. The representative of the Netherlands had explained that national and municipal ombudsmen were being established and would enter upon their duties in 1982. In that connection, he wished to draw the Committee's attention to United Nations General Assembly resolution 33/46, which recommended Member States to establish national commissions for the promotion and protection of human rights. He wondered whether the Netherlands intended to set up such a commission. The Secretary-General of the United Nations had recently issued a circular reminding Member States of the resolution in question and inquiring what action they were taking pursuant to it. If there was no official intention to establish such a commission in the Netherlands, were there any private groups for the promotion and protection of human rights in the country?

39. The report also stated that the principle of equal treatment laid down in article 2, paragraph 1, of the Covenant was dealt with in article 4, paragraph 1, of the Netherlands' Constitution and would be incorporated in article 1, paragraph 1, of the revised Constitution. The proposed amendment was important, since the Netherlands' Constitution in its present form did not fully satisfy the requirements of the Covenant in that respect.

40. Referring to article 9 of the Covenant, he noted from the last paragraph on page 13 of the report that a suspect could be detained for a total period of 102 days. Articles 89 to 93 of the Code of Criminal Procedure regulated compensation for placement in custody and pre-trial detention in cases where subsequently, i.e. in the judgement of the Court, deprivation of liberty was proved to have been unjust, either because it had not been proved that the accused had committed the offence of which he had been charged or because pre-trial detention was not permitted by law for the offence of which he had been convicted. He would like to know whether the fact that the accused could be detained on the basis of such a broad range of conditions had resulted, in cases of arbitrary arrest, in many claims for compensation. Furthermore, he wished to know whether the compensation cases to which such arbitrary arrest gave rise were determined solely on the basis of equity, in other words, whether it was left to the discretion of the Court to decide whether or not there should be compensation or whether a person arbitrarily detained had a statutory right to compensation. In any event, the existing legislation was clearly incompatible with the provisions of article 9 of the Covenant.

41. With regard to the question of imprisonment for debt, he said that the complicated procedure described in the penultimate paragraph on page 17 of the report seemed to be incompatible with article 11 of the Covenant, which stated that no one should be imprisoned merely on the ground of inability to fulfil a contractual obligation.

42. Referring to the information provided in connection with articles 21 and 22 of the Covenant, he drew attention to the statement that the Dutch Constitution recognized the right of the population to associate and assemble and that the Netherlands had no specific legislation on the freedom of trade unions and employers' associations. He noted, however, that the Netherlands was a party to ILO Conventions Nos. 29, 87, 105 and 141 and asked whether the Government had experienced any difficulty in implementing those Conventions.

43. With respect to the information contained in the last paragraph on page 31 of the report concerning article 23 of the Covenant, he expressed concern at the fact that the family was no longer regarded as the sole natural and fundamental unit of society, and that many people preferred to live together unmarried. He would like to know whether there was any opposition to the legislation which it was planned to enact to take account of those developments and to what extent the proposed changes were compatible with the provisions of the Covenant.

44. Mr. ERMACORA said that the Netherlands had submitted a substantial report which would enable members to have an accurate picture of the situation prevailing in that country. Adherence by the Netherlands to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant and the Optional Protocol thereto had the effect of providing greater protection for the rights of individuals in that country.
45. With regard to the information provided relating to the Netherlands Antilles (CCPR/C/10/Add.5), he requested details concerning the number of persons relieved of the obligation to perform military service by reason of conscientious objection.
46. Although he was aware that the Netherlands no longer had an obligation to provide information under Article 73 (e) of the Charter of the United Nations and that the autonomy granted to the Netherlands Antilles was a model of self-determination, he would like to know what arrangements were being made to enable the people of the country to achieve full independence.
47. With regard to article 7 of the Covenant, he did not consider that the information provided in the report fully met the purpose of that provision. He would like to know whether corporal punishment was actually prohibited under the legislation of the Netherlands Antilles.
48. As to article 27, he would like to know the composition of the population of the Netherlands Antilles and how the provisions of that article were applied in the legal context of the country.
49. As to article 25, he asked whether only certain groups of persons were able to hold certain positions in the civil service and what was the position of women with regard to access to employment.
50. Lastly, with regard to article 4, he inquired as to how far the granting of exceptional powers in time of public emergency was compatible with the provisions of the Covenant.
51. Mr. DIEYE said that by and large the report submitted by the Netherlands was most satisfactory.
52. With regard to the question of capital punishment indicated he would welcome information concerning the offences for which the death penalty could still be imposed.
53. As to the question of torture, the report stated that ill-treatment was a criminal offence, which normally carried a maximum prison sentence of three years, but that if the victim suffered serious bodily injury or died, the maximum penalty was a sentence of six or nine years respectively. He wondered whether the latter sentence was sufficient for an offence which had resulted in the death of the victim.
54. Referring to the question of pre-trial detention, he noted that an examining magistrate's order for remand in custody was valid for a maximum period of six days, with the possibility of extension for a

further six days. He wondered whether the examining magistrate could automatically extend the period of detention or whether such an extension had to be justified by the nature of the investigation and, in the latter case, what were the grounds justifying an extension. The report also stated that the suspect could not be detained for a period exceeding 102 days. He would like to know whether 102 days was always a sufficient period to enable the investigation to be completed and whether that provision was scrupulously observed in all instances.

55. There seemed to be some conflict between the provisions of article 11 of the Covenant and the practice observed in the Netherlands with regard to imprisonment for failure to fulfil a contractual obligation. The relevant procedure described in the report seemed unduly complicated, and he would welcome clarification.

56. With regard to the information provided under article 13, he said that legislation in the Netherlands seemed to provide satisfactory protection for aliens and he noted that a Bill to extend the legal protection and assistance available to them was currently in preparation. He would like to know, however, whether aliens had the same opportunity as nationals of acceding to the courts or whether they were subject to a requirement such as judicatum solvi.

57. He asked whether the provision referred to in connection with article 14, paragraph 5, of the Covenant, whereby serious offences committed in the course of their duties by particular small groups of persons with responsibilities of government were tried by the Supreme Court, was applied to those groups of persons alone or whether it was also applicable to anyone aiding and abetting such persons.

58. It was his impression that in a number of countries including the Netherlands, the degree of freedom of expression enjoyed by individuals might conflict with those countries' obligations under international conventions which limited or prohibited certain types of expression, for instance advocacy of racial or religious hatred. There was also, to his mind, a potential inconsistency between the growing acceptance by certain States, including the Netherlands, of free marriages and homosexual relationships and the provisions of article 23 of the Covenant, which stated that the family was the natural and fundamental group unit of society. He would welcome information concerning recent developments in the Netherlands with regard to de facto unions and homosexuality.

59. Mr. AL DOURI said that the report of the Netherlands was commendable both in form and in substance. It showed that the principles laid down in the Covenant were in general being observed in that country and were being incorporated into domestic law. Considering, however, that the Netherlands report referred to a draft Constitution and a number of Bills before Parliament which were clearly relevant to the Covenant, it was a pity that the Committee should be discussing that report at the present stage rather than after that legislation had been adopted, which it was expected to be during the first half of 1982.

60. He had been surprised to note that the Netherlands delegation had utterly rejected the commentary on the Netherlands report circulated by the Dutch section of the International Commission of Jurists, a document which provided useful information on the legal and social situation in that country. Further clarification of the position of the Netherlands delegation on that matter would have been desirable.

61. In connection with article 1 of the Covenant, the statement on page 1 of the report that the legal framework linking the Netherlands and the Netherlands Antilles could not be amended by one country acting unilaterally and that there must be agreement between them before any changes could take place raised the question of the attitude of the Netherlands Government towards the wishes of the people of the Netherlands Antilles, once expressed. In that connection, however, he had been reassured by Mr. Braam's pledge that the Netherlands Government would not oppose the independence of the Netherlands Antilles at the appropriate time.

62. Although he was satisfied with the Netherlands' firm position regarding self-determination, he could not but note the reality of the economic, political, cultural and even military relations maintained by the Netherlands Government with Israel and South Africa, which were extremely hostile to that principle.

63. With regard to articles 12 and 13 of the Covenant, he welcomed the information that a Bill to extend the legal protection and legal assistance available to aliens was currently in preparation. That statement should, however, be viewed against a background of reports regarding the application of summary deportation procedures to foreign workers, some of whom were, in addition, among the lowest strata of Netherlands society, in contradiction to articles 2 and 26 of the Covenant and to article 4 of the current Netherlands Constitution.

64. Concerning article 20 of the Covenant, it was surprising to note that the right of assembly and association could be restricted when Netherlands public order so required but that it was deemed impossible to prohibit war propaganda which threatened international public order.

65. Mr. TOMUSCHAT said that the Netherlands had submitted an excellent and detailed report which showed that the situation in that country regarding compliance with the Covenant was highly satisfactory. The Netherlands' Government was to be commended for having subscribed not only to the European Convention on Human Rights but also to the Optional Protocol.

66. At the previous meeting, the Committee had been informed that reference had been made to the Covenant in not less than 48 reported cases in the Netherlands. He would like to know whether the Covenant had merely served to confirm the courts' interpretation of domestic provisions or whether the Netherlands courts had evolved a rule to the effect that national legislation should be construed in accordance with the Netherlands' international obligations; the latter would be logical in view of the provision in the Netherlands Constitution under which international law took precedence over national law. He would also like to know whether by virtue of that provision, the Netherlands

courts had ever set aside a national statute as being inconsistent with obligations under the Covenant or the European Convention on Human Rights. He also asked whether it was planned to introduce a system of judicial review of parliamentary enactments under the new Constitution and whether the new provisions were viewed simply as a codification or as a progressive development of existing legal norms.

67. At the previous meeting, the Committee had been informed of pending legislation which was designed to eliminate unwarranted distinctions on such grounds as homosexuality and marital status. The proposed provision did not merely involve the elimination of discrimination by the State authorities but the imposition of obligations on private individuals, who would in future be required to accept behaviour which might be morally repugnant to them. To his mind, that could impair individual liberties under articles 18 and 19 of the Covenant. He hoped that careful consideration would be given to that matter.

68. The Netherlands' legislation appeared to be particularly lenient with regard to drug-taking, which was regarded only as a minor offence. He wondered whether that approach was not perhaps in conflict with article 6 of the Covenant, concerning the need for the right to life to be protected by law. The lives of young people were particularly at risk.

69. Concerning article 10 of the Covenant, he took note of the institution of the Board of Visitors, which was highly commendable.

70. It was difficult to maintain that the existing rules regarding imprisonment for debt were consistent with article 11 of the Covenant, although it was true that there was a distinction between unwillingness and inability to perform a contractual obligation.

71. He noted from the information concerning article 14, paragraph 3 (a) of the Covenant that it was now standard practice to enlist the services of an interpreter in police interrogations and hearings before the Public Prosecutor if the accused did not understand the Dutch language. In his view, however, that should be a right of the accused and not merely a practice that could be departed from in certain circumstances. In connection with the information concerning article 14, paragraph 3 (d), of the Covenant, he did not believe it was necessary to enter a reservation of the kind referred to, since it was implicit in the Covenant that legal proceedings should be brought to conclusion in an orderly manner.

72. In connection with article 17, he asked what was the present legal position regarding intelligence activities such as telephone-tapping in the light of the submission to Parliament of a Bill affording guarantees of privacy in connection with the activities of the internal security service.

73. Noting the Netherlands' comments on article 20, he said that the concept of "propaganda for war" had never been adequately defined. Obviously, the drafters of the provision had had in mind only a war of aggression and not a war of defence or of liberation, but opinions as to what constituted a war of defence or of liberation differed. Again, he wondered whether the provision covered only written propaganda or could also be held to extend, for example, to public military parades involving the display of tanks and rockets. The Committee should attempt to clarify the meaning of "propaganda for war", for as long as the expression remained ill-defined, the States would, perhaps rightly, remain reluctant to accept such a far-reaching obligation.

74. In connection with article 21 of the Covenant, the statement that a licence was required for open-air meetings prompted him to ask on what grounds such a permit could be denied. Rights under the Covenant should not simply be left to the discretion of the administrative authorities.

75. The report stated that, in the Netherlands' view, the provision of article 24, paragraph 3, was to be interpreted in the sense that States should make efforts to ensure that all children had a nationality. In his view, however, a State had a specific obligation to grant its nationality to every child born within its territory who would otherwise be stateless.

76. Finally, he considered that the limitations on the right to vote referred to in subparagraphs (d) and (e) on page 34 of the report did not pass the test of reasonableness.

77. Mr. BURGERS (Netherlands) said that the position of his delegation regarding the commentary submitted by the Dutch section of the International Commission of Jurists appeared to have been misunderstood. He had neither endorsed nor rejected that commentary but had said that, although his delegation was not fully in agreement with its contents, it welcomed the interest displayed in the Netherlands' report by the organization concerned and appreciated its intention to contribute to the constructive dialogue between the Committee and the Netherlands Government by making those comments available.

The meeting rose at 6.05 p.m.