

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



Distr.
GENERAL
CCPR/C/SR.108
26 October 1978
Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Fifth session

SUMMARY RECORD OF THE 108th MEETING

held at the Palais des Nations, Geneva,
on 24 October 1978, at 10.30 a.m.

Chairman:

Mr. MAVROMMATHIS

CONTENTS

Consideration of reports submitted by States parties under article 40 of the
Covenant: initial Reports of States parties due in 1977

This record is subject to correction.

Participants wishing to make corrections should submit them in writing to the
Official Records Editing Section, room E.4108, Palais des Nations, Geneva, within
one week of receiving the record in their working language.

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

GE.78-10576

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

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

Union of Soviet Socialist Republics (CCPR/C/1/Add.21)

1. At the invitation of the Chairman, Mr. Sudarikov (Union of Soviet Socialist Republics) took a place at the Committee table.

2. Mr. SUDARIKOV said that his country's report (CCPR/C/1/Add.22) clearly showed that all the provisions of the International Covenant on Civil and Political Rights were fully reflected in Soviet law. In addition to making a few general comments, he wished to inform the Committee of the extremely important new legislation which had been adopted in the Soviet Union since the submission of the report.

3. From its very inception, the Soviet Union had set itself the goal of safeguarding human rights and eliminating the exploitation of man by man. It had placed not only all political power, but also ownership of the means of production, in the hands of the people. In a recent statement commemorating the sixtieth anniversary of the Great October Socialist Revolution, the head of the Soviet State, Mr. Brezhnev, had said that the establishment of the principles of social equality and justice had been the greatest achievement of the October Revolution, and that every Soviet person enjoyed full rights and freedoms enabling him to participate actively in political life. He had also stated that Soviet citizens did not know the humiliating feeling of uncertainty about the morrow, fear of being left without work, without medical care and without a roof over their heads; society safeguarded their interests, and upheld their civic and human dignity.

4. The result of those achievements had been that relations between society as a whole and its individual members in the Soviet State were based on genuine popular power, the basic feature of which was the broad participation of the people in the management of public and State affairs.

5. The political and economic structure of socialism had created the conditions in which the fundamental interests and major goals of society and the individual coincided. Relations between the socialist State and the citizen were therefore based on unity and co-operation between the individual and society, which in turn served as the basis for the full and comprehensive development of the individual.

6. One year earlier, an event of immense importance had taken place in the Soviet Union: the adoption and entry into force of the new Constitution of the USSR. The preamble of that Constitution stated that the basic law of Soviet society was the concern of all for the good of each person and the concern of each person for the good of all. The USSR Constitution further developed the rights and freedoms of Soviet citizens and at the same time embodied their duties. The proclamation of the rights and duties of citizens in the Constitution stipulated their interdependence and provided that the Soviet State, acting in the name of society, was obliged to ensure with every means at its command both the implementation of citizens' rights and the fulfilment of their duties.

7. The establishment of the constitutional rights and duties of citizens of the USSR was equally vital for the individual and for society. In the Soviet Union, implementation of the rights and freedoms of citizens not only corresponded to their needs and interests but was also an essential condition for the successful functioning of society as a whole. At the same time, the fulfilment by citizens of their constitutional duties served as the most important precondition for the unhindered implementation of their inherent rights and for securing the conditions essential to that implementation.

8. The Soviet Union attached great importance not only to upholding the rights and freedoms of citizens in law, but also to protecting them in reality, through appropriate social and economic measures. The Soviet State, guided by the teachings of Lenin, had from the outset proceeded from the assumption that there could be no genuine democracy and freedom unless man was guaranteed employment, education, medical care and social welfare. In that connexion, he noted that the importance of Lenin's humanist ideas had been referred to in resolution 16 (XXV) of the Commission on Human Rights.

9. Soviet citizens enjoyed the broadest social and economic rights, which secured for them the material basis for the ultimate enjoyment of all other rights. Among other rights, the Constitution of the USSR guaranteed the right to work, including the right to choose a trade or profession, the right to education, the right to leisure, the right to health protection, the right to maintenance in old age and the right to enjoy cultural benefits.

10. The principle of equality of rights for Soviet citizens was formulated in article 39 of the Constitution, which stated that citizens of the USSR enjoyed in full the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the constitution of the USSR and by Soviet laws. That article also stipulated that the socialist system ensured the expansion of the rights and freedoms of citizens and the continuous improvement of their living standards as social, economic, and cultural development programmes were fulfilled.

11. Human concerns also determined the foreign policy of the Soviet State. Ever since the Decree on Peace adopted in the earliest days of the Soviet regime, the USSR had centred its foreign policy on the struggle for peace and friendship between peoples. The struggle for the preservation and strengthening of peace was directly related to the safeguarding of human rights, and the Soviet Union fully shared the conviction expressed in operative paragraph 2 of Human Rights Commission resolution 5 (XXII) that unqualified respect for and the promotion of human rights and fundamental freedoms required the existence of international peace and security. Only if there were peace and tranquillity throughout the world could individual human rights and freedoms be genuinely protected. One day, or even one hour, of modern warfare could reduce all human ideals to dust, setting mankind back years and even decades. The supreme right among all human rights and freedoms was the right to life which, even if it was given pride of place in the law books of a State, would be trampled upon and lose all meaning the moment a modern war was unleashed. It was for that reason that the Soviet State had striven consistently for peaceful co-existence between States with different social systems and had waged a persistent struggle for détente, general and complete disarmament and the eradication of war from the life of society.

12. The current session of the Committee was taking place at the same time as the thirty-second session of the General Assembly, at which a large number of important and complex issues were to be considered. It would not be an exaggeration to say, however, that at the very centre of all current international problems discussed at the United Nations was the problem of preserving and consolidating peace. Mr. Brezhnev had said that the central aim of the Soviet Union's struggle for peace was to reduce the threat of the outbreak of another world war and of the widespread killing of people by nuclear weapons. Proceeding from that premise, the Soviet Union had submitted new proposals aimed at the preservation of peace, at limiting the arms race and at disarmament, at the current session of the General Assembly.

13. The struggle for peace and the security of peoples was one of the most important constitutional principles of Soviet foreign policy. Article 28 of the Constitution stated that the USSR steadfastly pursued a Leninist policy for peace and advocated the reinforcement of the security of nations and broad international co-operation. Article 29 provided that the USSR's relations with other States were based on observance of the principles of sovereign equality; mutual renunciation of the use or threat of force; inviolability of frontiers; territorial integrity of States; peaceful settlement of disputes; non-intervention in internal affairs; respect for human rights and fundamental freedoms; equal rights of peoples and their right to decide their own destiny; co-operation among States; and fulfilment in good faith of obligations arising from the generally recognized principles and rules of international law, and from the international treaties signed by the USSR. The Constitution also stated directly that the principle of respect for human rights was one of the principles of Soviet foreign policy and its relations with other States. An example of the implementation of that principle was the active participation of the Soviet Union in all the activities of the United Nations aimed at promoting general respect for human rights and fundamental freedoms, as well as the ratification by the Soviet State of all basic international instruments in that sphere, including the two International Covenants.

14. There existed in the Soviet Union a well-ordered system of legislation designed to ensure that citizens of the USSR did indeed enjoy genuine broad democratic rights and freedoms. The fact that the ratification by the Soviet State of the International Covenants on human rights in 1973 and their entry into force in the USSR in 1976 had not necessitated any substantive changes in or additions to Soviet laws was clear evidence of the highly developed character of Soviet legislation relating to human rights and freedoms.

15. With regard to the implementation of the International Covenants in the Soviet Union, he said that under Soviet law, and particularly under the Act on the Conclusion, Implementation and Denunciation of International Treaties signed by the USSR, adopted in July 1978, the provisions of an international treaty were applied in the USSR not directly but through domestic legislation. The obligations of the USSR under international treaties were obligations of States as a whole, and their fulfilment by Soviet organizations and citizens was based on specific requirements of Soviet

domestic legislation, which reproduced the relevant provisions of international treaties signed by the USSR. As the Soviet report (CCPR/C/1/Add.22) indicated, observance of all the requirements of the International Covenant on Civil and Political Rights, was ensured by the provisions of Soviet domestic law, which contained norms analogous to those of the Covenant, developing them and guaranteeing compliance with them. That was fully consistent with the requirements of Part II, article 2, of the Covenant.

16. Situations could occur in which international treaties signed by the USSR established rules other than those contained in Soviet law or in which an international treaty laid down obligations concerning a matter not regulated by Soviet legislation. To ensure the fulfilment by the Soviet Union of all obligations in such cases, the Act on the Conclusion, Implementation and Denunciation of International Treaties provided for the enactment of appropriate domestic legislation. Under article 24 of that Act, proposals for the adoption, for the purpose of implementing an international treaty, of an appropriate law of the USSR, a decree or ordinance of the Presidium of the Supreme Soviet of the USSR or an ordinance or directive of the Council of Ministers of the USSR, were submitted by the ministries, State committees and departments concerned, in consultation with the Ministry of Justice of the USSR. By way of exception to that general rule, specific instruments provided that if an international treaty signed by the USSR established rules other than those contained in Soviet law, those rules could apply directly. Such provisions were contained, inter alia, in the Fundamental Principles of Marriage and Family Legislation (article 36) and the Fundamental Principles of Health Protection Legislation (article 35).

17. Following the adoption of the new Constitution of the USSR, the Union and Autonomous Republics, had adopted new constitutions in 1978. In all the Republic constitutions, great prominence was given to the legal status of the individual and the protection of Soviet citizens' rights and freedoms. In the section entitled "The State and the individual" they contained provisions which were similar to those of the Constitution of the USSR but were formulated in relation to the needs and specific conditions of the Republic concerned. Thus, article 41 of the Constitution of the Russian Soviet Federative Socialist Republic (RSFSR) stated that every citizen of the RSFSR was a citizen of the USSR, that citizens of other Union Republics enjoyed equal rights with citizens of the RSFSR, in the territory of the RSFSR, and that citizens of the RSFSR abroad enjoyed the protection and assistance of the Soviet State. Similar provisions could be found in the constitutions of the other Union Republics.

18. Because of the rôle of local representative bodies in the implementation and protection of the rights and legal interests of citizens, and the immediate accessibility of those bodies to the population, the Republic constitutions contained far more detailed provisions than did the Constitution of the USSR concerning the activity of local Soviets of Working People's Deputies. Thus, under articles 143 and 149 of the constitution of the RSFSR, local Soviets of Working People's Deputies had the right to reverse acts of lower Soviets if they were inconsistent with existing legislation, and the executive committees of the Soviets of People's Deputies had the right to overturn decisions and directives of the executive committees of lower Soviets of People's Deputies.

19. The articles of the Republic constitutions concerning the relationship between local Soviets and public organizations and labour collectives, the submission by local Soviets of the most important issues for discussion by citizens, and the involvement of citizens in the work of bodies accountable to the Soviets, were of great importance for the implementation of the right of citizens of the USSR to participate in the management of State and public affairs and in the discussion and adoption of laws and decisions of State-wide and local significance. For example, article 144 of the Constitution of the RSFSR provided that local Soviets of People's Deputies should carry out their activities in close consultation with public organizations and workers' collectives, submit the most important issues for discussion by citizens and involve citizens in the work of bodies accountable to the Soviets.

20. In a multinational State, the right of citizens to use their own language was extremely important. At the same time, that right guaranteed the enjoyment of other rights of citizens embodied in Soviet law, for example in articles 45, 116 and 159 of the Constitution of the USSR. The Constitutions of the Union Republics safeguarded the right of citizens freely to use their own language, as well as other languages used by the population.

21. The adoption of the new Constitution of the USSR had necessitated the updating and further improvement of current Soviet legislation, principally with a view to the strengthening and further development of socialist democracy in the light of current legislation and the needs of the progressive development of Soviet society. To that end, the Presidium of the Supreme Soviet of the USSR had on 12 December 1977 adopted an Ordinance concerning the organization of work to bring the legislation of the USSR into line with the new Constitution. That document contained a comprehensive plan which provided for the preparation of more than 20 new legislative instruments, listed current instruments requiring revision or amendment in accordance with the USSR Constitution, named the bodies responsible for the preparation of the relevant projects and proposals, and established deadlines for fulfilling those tasks, all of which had to be completed by 1982. The instruments to be prepared under the plan included acts on elections to the Supreme Soviet, on the Council of Ministers, on people's control, on Soviet citizenship, on the Supreme Court, on the Office of the Procurator, on territorial, regional and area Soviets of People's Deputies, on the legal profession, on the use and protection of the housing stock, on the procedure for examination and implementation of electors' mandates and on the rights of workers' collectives. In accordance with the trend towards broader court control over acts of the administration, the plan also provided for the preparation of a new and detailed legislative instrument concerning the procedure for lodging a complaint in court against acts of officials that contravened the law, exceeded their powers, or infringed the rights of citizens. In addition, it envisaged the preparation of an instrument on compensation for damage caused to citizens by the unlawful acts of State and public organizations or of public officials in the performance of their official duties.

22. Many of the instruments called for by the plan were designed to regulate the activity of bodies and organizations responsible for protecting the rights and legal interests of citizens. Their adoption would be a further step in the development and realization of the human rights and freedoms established in the Constitution of the USSR. For example, the legislative act on the legal profession would contain specific provisions relating to the right of the defendants to legal assistance. Stipulations concerning the right of citizens to participate in the management of State and public affairs were contained in the acts on people's control, on the procedure for conducting nation-wide referenda, on territorial, regional and area Councils of People's Deputies and on the examination and implementation of electors' mandates.

23. In accordance with the plan, the Act on the Council of Ministers of the USSR and the Act on Elections to the Supreme Soviet of the USSR, many of whose provisions related directly to certain articles of the Covenant, had been adopted at the ninth session of the Supreme Soviet of the USSR in July 1978. The Act on the Council of Ministers of the USSR, which reflected the varied scope of the work of the Government of the USSR, incorporated both current legislation and provisions appropriate to the current tasks, functions and rights of the Council. Its social and political significance lay in the fact that its provisions related not only to the further improvement of the management of State affairs but also to the further development of socialist democracy and to the welfare of the people. Thus, the Act stated that raising the welfare and culture of the people, the defence of citizens' rights and freedoms and the creation of favourable conditions for the comprehensive development of the individual were among the basic functions of the Council of Ministers of the USSR. The democratic methods of work of the Council of Ministers were emphasized in article 3 of the Act, which stipulated that it must perform its work in accordance with the principles of democratic centralism, socialist legality, public proceedings and due regard for public opinion. To that end, the Council of Ministers was obliged to make use of proposals submitted not only to State bodies and public organizations but also by workers' collectives and citizens, and was also obliged to inform the population of its work and of the basic decisions adopted.

24. The Act on Elections to the Supreme Soviet of the USSR reflected and embodied in specific stipulations all the provisions of the Constitution of the USSR concerning the electoral system, including those relating to the equal rights of citizens. Article 2 of the Act stated that any direct or indirect limitation of the electoral rights of citizens of the USSR on grounds of their origin, social or property status, race, nationality, sex, education, language, attitude to religion, length of residence in a particular locality, or type and nature of occupation, was prohibited. The Act reflected the policy of expanding the role of public organizations and workers' collectives in political life. It provided that public organizations and workers' collectives were to be granted premises free of charge for meetings and given access to the mass media for their pre-electoral activity. Another measure aimed at the broader involvement of citizens in the electoral campaign was the extension of the deadline for the nomination of candidates for election to the Supreme Soviet of the USSR. The Act also laid down the procedure for establishing electoral districts and sectors, compiling lists of candidates and issuing voters' cards.

25. The further democratization of electoral law was also reflected in the new Act on Determining the results of votes. Whereas under earlier provisions regarding elections to the Supreme Soviet of the USSR candidates receiving more than half the votes of the voters taking part in the election, had been declared elected, the new Act stipulated that a candidate was elected if he received more than half the votes of all of the electors. The regulations governing elections to Councils of People's Deputies included important provisions guaranteeing the right of candidates to appear at gatherings and meetings, to make use of the mass media, and to be released from official duties in order to participate in pre-election activities.

26. In 1973, the Soviet Union had been the first of the great Powers to ratify the International Covenant on Civil and Political Rights, thereby expressing its readiness to undertake and strictly to fulfil the obligations provided for in the Covenant. The Soviet Union wished to express the same readiness to co-operate with the members of the Human Rights Committee in the noble work of encouraging the development of general respect for universal human rights and basic freedoms.

27. Mr. MORA ROJAS said that the clear and well-ordered statement of the representative of the Government of the USSR would facilitate the Committee's work. It provided evidence of the existence of the rule of law in a developed socialist country. Nevertheless, there were some matters, particularly with respect to the effective implementation of laws governing the protection of human rights, on which he would welcome further information.

28. In the first place, he was uncertain whether the provisions of the International Covenant on Civil and Political Rights were applied directly in the USSR or whether Soviet domestic law contained provisions that adequately protected the rights established in the Covenant.

29. Turning to the initial report submitted by the USSR (CCPR/C/1/Add.22), he noted that the section on article 2 of the Covenant contained a reference to article 4 of the Constitution of the USSR, which stated that the Soviet State and all its bodies functioned on the basis of socialist law. It would be interesting to know the exact scope of socialist law from the point of view of the Soviet State.

30. Also with reference to article 2 of the Covenant, it was stated that, under article 5 of the Fundamental Principles of Civil Procedure of the USSR and the Union Republics, any interested person had the right, following the procedure laid down by law, to apply to the court for protection if his rights or legally protected interests were infringed or contested. It would be useful to have further details about that procedure, and also to know what steps could be taken under the judicial system to protect private property rights, to which reference was made in the third paragraph on page 5 of the report.

31. In the section on article 6 of the Covenant, it was stated that the death penalty could be applied only for the most serious crimes. What were those crimes? It was also stated that the death penalty could not be applied to persons under the age of 18 years. It would be interesting to know whether provision was made in the Soviet legal system for placing minors in guardianship.

32. According to the USSR Government's comments on article 7 of the Covenant, the purpose of punishment was to correct and re-educate the convicted person. It would be interesting to know the exact scope of the correction and re-education measures that could be applied. In the same section, the meaning of the statement that all necessary measures, including legal measures, had been taken in the Soviet Union to ensure the safety of patients during treatment was unclear.

33. Referring to article 9 of the Covenant, the Soviet Government stated that in exceptional cases the penalty of detention in custody could be applied for crimes for which the law required deprivation of liberty for a period not exceeding one year. What were the exceptional cases? It would also be useful to know the exact meaning of the phrase "and in conformity with the law", which occurred at the end of the second paragraph of the section on article 9 of the Covenant.

34. In the final paragraph of the section on article 9 of the Covenant, it was stated that a procurator who found that a detainee was being kept in illegal conditions must release him immediately. He wished to know what was the force of the procurator's decision vis-à-vis the decision of the administrative police service which had ordered the detention.

35. Turning to the section on article 12 of the Covenant, he asked whether, in practice, Soviet citizens were able to travel freely between the Union Republics and outside the USSR. It would be interesting to know the conditions in which the rights covered by article 12 of the Covenant could be exercised. Was an exist visa all that was required in order to be able to visit another country or was it necessary to obtain a special permit?

36. He wished to know how the legal profession was exercised in the USSR and whether there was a professional body to regulate legal practice.

37. Referring to the first principle mentioned in relation to article 15 of the Covenant, he said that it was not clear whether the criminal law system in the Soviet Union operated on the basis of the principle that the crime must be defined by law (tipicidad).

38. It was stated in the section on article 16 of the Covenant that no one could be restricted in his legal capacity, except in the cases and in the manner established by law. It would be helpful to have further information about the cases in which legal capacity could be restricted.

39. It would be interesting to know the real scope of the right to hold and freely to express opinions in the USSR. What steps did the Government take to facilitate the access of citizens to communications media such as the press, radio and television? It would also be interesting to know whether, in the Soviet Union, the principle of socialist realism was still applied in literary and artistic works.

40. In conclusion, he asked what procedures were followed in order to determine whether the right to hold and freely to express opinions was exercised to the detriment of State or public security. In that connexion, he wished to know whether there was a system of censorship of literary or artistic works or of material disseminated by the information media.

41. Sir Vincent EVANS said that, in view of the special position of the USSR in the community of nations, much attention and interest was focused upon it and its legal and social systems by people in other countries. A measure of that interest was the fact that a translation of the draft Constitution of the Soviet Union, which had been adopted in its final form in October 1977, had been published in full in the Times of London of 6 June 1977 and had been the subject of much comment in the British press.

42. For the purposes of the Committee, the constitutional framework within which the rights laid down in the International Covenant on Civil and Political Rights were implemented was of basic importance. That was why the guidelines issued by the Committee for the preparation of reports under article 40 of the Covenant had suggested that the first part of the report should deal briefly with the general legal framework within which such rights were protected in the reporting State. Although a certain amount of information in that regard had been included in the report submitted by the USSR (CCPR/C/1/Add.22), which had been supplemented by the statement of the Soviet representative, the system in that country contained features that might not be fully understood by those used to other constitutional systems. It would therefore be helpful if some further information could be provided on a number of points.

43. The first point concerned the status of the International Covenant on Civil and Political Rights within the Soviet system. The Covenant was primarily concerned with the individual's rights and freedoms in his relations with the State and its authorities. Consequently, it was of prime importance for people to be able to ascertain what their rights under the Covenant were. He would therefore like to know what steps had been taken in the Soviet Union to publicize the text of the Covenant in the official languages in use in that country, and whether the text was readily available in those languages to persons wishing to study it.

44. In some countries, the provisions of the Covenant had become part of domestic law and could therefore be invoked by individuals before the courts or in their dealings with the administrative authorities. Other States, including the Soviet Union, had not, however, incorporated the provisions of the Covenant into domestic law but had taken steps to ensure that their domestic law and practice were in conformity with the provisions of the Covenant, subject to any reservations that they had made when ratifying the Covenant. In many of those countries, individuals could invoke the Covenant in their dealings with the administrative authorities and before the courts, so that the relevant provisions of domestic law and practice could be interpreted consistently with international obligations assumed by the State under the Covenant. He would like to know the position in the Soviet Union in that regard: could an individual invoke the provisions of the Covenant in his dealings with the State authorities and in proceedings before the courts and, if so, what effect would those bodies give to the provisions of the Covenant if the latter were found to be inconsistent with domestic law and practice? If an individual considered that some law or practice, or a decision of the courts or of a public authority, was not in conformity with the Covenant, what remedy was available to him?

45. That point was crucial. Chapter 7 of the Soviet Constitution was entitled "The basic rights, freedoms and duties of citizens of the USSR" but those rights and freedoms were not defined in exactly the same terms as in the Covenant. A very important proviso in the Soviet Constitution, for example, was that the

exercise by a citizen of his rights and freedoms "must not be to the detriment of the interests of society or the State or infringe the rights of other citizens". That was a very general formula which could be interpreted in a far more limited way than the provisions of the Covenant. Other limitations, expressed in terms different from those permitted under the Covenant, were built into definitions of specific rights in the Soviet Constitution: for example, certain rights were only guaranteed to the extent that their exercise was in the interests of the working people and for the purpose of strengthening the socialist system. In addition, the rights set forth in the Soviet Constitution were made contingent on certain broadly expressed duties. If a citizen felt that the restrictions resulting from the Constitution were not consistent with the Covenant, had he any recourse in the courts? Could he freely raise the matter with the authorities of the State, or for public discussion? Or might even those steps be regarded as incompatible with the interests of the State?

46. Another feature of the Soviet Constitution that was highly relevant to the general framework within which civil and political rights were implemented in the Soviet Union was the role of the Communist Party. The Constitution laid down that the Party was the leading and guiding force of Soviet society and the nucleus of its political system and of all State and public organizations. If, as he assumed, the Communist Party thus had a constitutional power to issue policy directives to all organs of the State, he would like to have more information on how the system worked in practice and its implications for human rights. Furthermore, he understood that a minority of the population were members of the Communist Party and that not everyone who applied for membership was elected. Given the key constitutional role which the Party played in the government of the Union, was it not at variance with article 25(a) of the Covenant in discriminating against non-Party members regarding their right to take part in the conduct of public affairs? It would be helpful if the Committee could have information about the means by which the Party issued guidance to State organs. He would also like to know whether the directives issued to State organs were published or were confidential. Did they extend to the nomination of candidates for elections or appointments and, if so, how was that system justified as being compatible with article 25(b) of the Covenant? Did the Party issue guidance to the courts or the prosecuting authority, either in general terms or in particular cases or classes of cases?

47. The people's control bodies, provided for under article 92 of the Soviet Constitution, were an interesting extension of the concept of the Ombudsman found in a number of Western European countries, including the United Kingdom; they clearly had a role to play in the protection of the individual's rights, particularly in his relations with the administrative authorities. It would be interesting to have further information about those bodies and how they operated in practice.

48. Referring to the implementation of specific rights under the Covenant, he noted that the grounds for non-discrimination against citizens as laid down in article 34 of the Soviet Constitution did not include political or other opinions - which was one of the grounds on which discrimination was prohibited under Articles 2 and 26 of the Covenant. It would be helpful if the Soviet representative could comment on that point.

49. Article 6 of the Covenant dealt with what had been termed the supreme right, namely, the right to life, and laid down that sentence of death might be imposed only for the most serious crimes. He asked what crimes could be punished by death under existing Soviet law and in how many cases and for what crimes that penalty had in fact been imposed in recent years. He also wondered whether the possibility of its abolition was being considered.

50. Article 7 of the Covenant prohibited cruel, inhuman or degrading treatment or punishment. Reports had been published of healthy persons being interned in Soviet psychiatric institutions for political or punitive reasons, which would appear to be a clear violation of the terms of that article. He asked whether those reports had been investigated and what precautions were being taken in the Soviet Union to ensure that such treatment did not occur. Also in connexion with article 7, he said that some of the sentences meted out in recent years to persons convicted of political offences seemed excessively severe to observers in other countries. It would be appreciated if some comments could be made to assist the Committee in its understanding of the matter.

51. Article 10 of the Covenant required that all persons deprived of their liberty should be treated with humanity and with respect for the inherent dignity of the human person. In that connexion, he noted the statement in the report submitted by the USSR (CCPR/C/1/Add.22, page 11) that the Fundamental Principles of Corrective-Labour Legislation of the USSR and the Union Republics stipulated that the execution of a sentence should not have the purpose of inflicting physical suffering or degrading human dignity. The purpose of the punishment, however, was another matter, and in his view Article 10 of the Covenant was far more concerned with the degree to which the punishment did in fact inflict physical or mental suffering. One very cruel form of punishment was solitary confinement, and he would like to know the rules of Soviet penal establishments in that regard. He also understood that dietary régimes played an important role in the treatment of prisoners in the Soviet Union, different categories of prisoners being placed on diets of varying nutritional content. Such treatment, especially if combined with arduous physical labour, could cause severe suffering and damage to health. He would therefore appreciate information regarding Soviet practice in the matter and conditions in prisons and prison camps generally.

52. With regard to Articles 9 and 14 of the Covenant, dealing respectively with deprivation of liberty and the rights of accused persons, he noted the statement on page 9 of the report submitted by the USSR that, as a rule, detention in custody was applied as a measure of restraint to persons accused of a crime. In that connexion, he asked whether persons were detained without trial for political or other reasons, except for the purpose of bringing them to trial, and, if so, on what grounds and under what laws. Under all legal systems persons could, of course, be detained pending trial in certain circumstances, but the Covenant laid down safeguards for the individual and, in particular, required that he should be brought to trial within a reasonable time or released. From page 10 of the Soviet report it appeared that a prisoner might be held in custody pending trial for as long as nine months in some cases. What was not clear was whether that already lengthy period could be extended for additional periods and, if so, in what circumstances.

53. A cardinal rule laid down in Article 14 of the Covenant was that an accused person should be allowed to communicate with counsel of his own choosing. If he had understood correctly, the Soviet Union was to enact further legislation in that connexion. Article 158 of the Soviet Constitution provided a right to legal assistance, but he would like to know how soon after arrest an accused person was allowed to consult his lawyer and until what stage in the proceedings he might be kept in custody without being permitted to consult a lawyer of his own choosing. He would also like to know whether there were any restrictions on his choice of lawyer. For instance, did a lawyer have to be especially authorized to take on a particular category of case such as cases of a political or security character? Article 14 of the Covenant also laid down that a defendant on a criminal charge should have the right to call witnesses on his own behalf. Were there any restrictions on that right in Soviet practice?

54. Another important safeguard was that a trial should, except in special circumstances, be held in public. There had recently been reports of cases where it appeared that, although the trial had in fact been held in public, certain members of the public, including relatives and friends of the accused and journalists, had been refused admittance. What was the justification for that measure and how could it be reconciled with Article 14 of the Covenant?

55. Article 12 of the Covenant provided, in paragraph 2, that everyone should be free to leave any country, including his own, a right that was subject only to the restrictions specified in paragraph 3 of that Article. In that connexion, he would like to know what restrictions were still imposed on the issue of passports and visas to Soviet citizens or other persons wishing to emigrate or travel abroad, and what were the conditions for the issue of passports and visas. He also wished to know how those restrictions were justified as being in accordance with the Covenant, and what proportion of applicants were refused passports and visas in practice.

56. Article 19 of the Covenant guaranteed the right to hold opinions without interference and the right to freedom of expression, and laid down that they should be subject to only such restrictions as were "necessary". Those freedoms, which were clearly inherent in the dignity and worth of the human being and were essential to the full development of his personality, were among the most important rights in a democratic society, applying across the whole range of human experience and not least in the political field. No régime was perfect but, in any healthy society, the individual should be free to express his views, offer his criticisms and canvas his ideas for change and improvement, provided he did not seek to propagate his ideas by violent means. Yet it was well known that there had been cases in the Soviet Union in which severe measures had been taken against persons who had sought to express their views, propagate their ideas and promote their rights by peaceful means. Those cases had given rise to much publicity in many countries and people did not see how they could be reconciled with the Covenant.

57. He understood that the limitations on the freedoms guaranteed under Article 50 of the Soviet Constitution were expressed in the Soviet Criminal Code in terms of anti-Soviet agitation and propaganda and defamation of the State and socialist system. Laws couched in such terms could be so interpreted and applied as to produce a seemingly low threshold, by comparison with other countries, in determining what was permissible by way of political comment and propagation of political ideas.

He asked whether such limitations could really be said to be necessary for the protection of national security and public order in a great and powerful State such as the Soviet Union. Was the State not being unduly sensitive to criticism and suggestions for change?

58. Implicit in freedom of expression was a free press. He therefore wished to know to what extent there could be said to be freedom of the press in the Soviet Union and to what extent it was lawful to produce a newspaper or journal that was not officially sponsored or to publish an article or letter that was not officially vetted. Similar considerations applied to the right of freedom of assembly. Could such limitations as existed really be said to be necessary under the terms of article 21 of the Covenant?

59. Lastly, with regard to articles 23 and 24 of the Covenant, relating to protection of the family and the child, new social problems had arisen with the age of sex equality and it was now customary for husband and wife alike to work outside the home. That was one area where States had much to learn from each other and he would like to know more of the Soviet Union's experience in the matter, particularly with regard to the protection of the interests of children in homes with working mothers.

The meeting rose at 1.05 p.m.