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POLITICAL RIGHTS**



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SUMMARY RECORD OF THE 117th MEETING

held at the Palais des Nations, Geneva
on Monday, 30 October 1978, at 3.15 p.m.

Chairman: Mr. MAVROMMATIS

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SECRET
The meeting was called to order at 3.30 p.m.

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

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

1. Sir Vincent EVANS thanked the Government of the Byelorussian SSR for its co-operation and its report, and congratulated its representative on his very interesting introduction of that document at the previous meeting. The report was of special interest in view of the status of the Byelorussian SSR as one of the constituent Republics of the Union of Soviet Socialist Republics. It would unquestionably help the Committee better to understand the relationship between the USSR and its constituent Republics, particularly with regard to the implementation of the International Covenant on Civil and Political Rights, which had been accepted both by the USSR and, in the exercise of its independent sovereignty, by the Byelorussian SSR. It was not only the USSR which had responsibility for the implementation of the Covenant; within the Union, the Byelorussian SSR was also directly and independently responsible for the performance of the same obligation.
2. It was stated in the report that "international co-operation among States in the field of human rights must primarily be directed towards the struggle against mass and gross violations of human rights occurring as a result of policies of aggression, colonialism, racism, apartheid, and the exploitation of man by man", and that it was linked to détente. While he believed that such international co-operation could indeed help to promote détente, he also believed that respect for human rights in each individual State was an even more important factor in the realization of détente.
3. It was the primary responsibility of each State party to ensure the enjoyment of all the rights and freedoms guaranteed by the Covenant to each individual within its jurisdiction, but individuals must also know what their rights were. The question thus arose what steps the Byelorussian SSR had taken to publicize the Covenant. Was the text of the Covenant readily available in the various languages used by the different population groups in Byelorussia?
4. With regard to the means by which effect was given to the provisions of the Covenant, it was stated in the third paragraph on page 4 of the report that "the Codes of the Byelorussian SSR contain provisions stating that the rules of an international treaty or international agreement to which the Byelorussian SSR is a party are applicable in the territory of the Byelorussian SSR". However, he had understood from the statement by the representative of the Byelorussian Government that that did not mean that all the provisions of the Covenant had been incorporated into the domestic law of the Byelorussian SSR. He wondered, therefore, whether an individual in that country who considered that his rights under the Covenant had been violated or were in danger of being violated could invoke the provisions of the Covenant before the courts or the administrative authorities. What remedies were open to such an individual in accordance with

the undertaking given by States parties in article 2, paragraph 3 (a), of the Covenant "to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity"? Would the Covenant prevail in the event of incompatibility with a domestic law or administrative practice or decision?

5. With reference to the description of the jurisdiction of the Byelorussian SSR within the Union of Soviet Socialist Republics given on pages 2 and 3 of the report, he asked how responsibility for the implementation of the rights and freedoms protected by Covenant was divided between the Republic and the Union. How much latitude did the Byelorussian SSR actually have with regard to the adoption of legislative or other measures in that respect? The Union presumably laid down the broad legal framework within which each constituent Republic exercised its jurisdiction, but that was not sufficient to ensure the implementation of the Covenant, which depended still more on the detailed laws and practices that were in force. How much discretion did each constituent Republic have in such matters, and what degree of central control did the federal authorities exercise to promote the uniformity of the laws and practices of the constituent Republics? Could a constituent Republic such as that of Byelorussia adopt - for instance, with regard to such matters as freedom of movement, freedom of conscience or freedom of expression - standards that were more liberal or more restrictive than the norms laid down for the Union as a whole?

6. He looked forward to receiving replies to a number of questions that had been raised with respect to discrimination on grounds of political opinion and to the application of the death penalty.

7. Referring to article 7 of the Covenant, which prohibited torture and cruel, inhuman or degrading treatment or punishment, and article 10, paragraph 1, of that instrument, which provided that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person", he noted that the representative of the Soviet Government had said that, in some circumstances, a person might be held in solitary confinement for up to one year. In his opinion, that was an extremely harsh form of punishment, and he would like to know whether it was permitted in the Byelorussian SSR. If so, had any consideration been given to the question of its compatibility with the provisions of the Covenant to which he had referred?

8. In connexion with article 8 of the Covenant, which prohibited slavery and the slave trade, the holding of persons in servitude, and forced labour, he would be grateful if the representative of the Byelorussian Government would explain how the provisions of article 38 of the Constitution of the Byelorussian SSR, which guaranteed citizens of the Republic the right to work, including "the right to choose their trade or profession, type of job and work in accordance with their vocation, abilities, training and education, with due account of the needs of society", was applied in the socialist society of his country. Were citizens of the Byelorussian SSR really free to choose their jobs, or did the initiative lie with the authorities responsible for the direction of labour?

9. Turning to articles 9 and 14 of the Covenant, which guaranteed respectively the right to liberty and security of person and the equality of all citizens before the courts, and observing that reference was made on page 10 of the report to the detention of persons subjected to "preventive arrest", he asked whether any persons were being detained for political reasons for any purpose other than that of bringing them to trial and, if so, on what grounds and under what laws that form of detention without trial was permitted. How many political prisoners of that kind were there in the Byelorussian SSR? Did the security agencies have special powers to arrest persons for a purpose other than that of bringing them to trial?
10. It was stated in the third paragraph on page 11 of the report that "a person arrested or detained has the right to know of what he is accused and on what grounds he has been arrested or detained". Were the rules that applied in that respect fully compatible with article 9, paragraph 2, of the Covenant, which required that "any person who is arrested shall be informed, at the time of arrest, of the reasons for his arrest"?
11. Did the statement in the fourth paragraph on page 11 of the report that "the investigation in a criminal case must be completed not more than two months from the date of the initiation of proceedings" indicate the maximum period for such investigation in the Byelorussian SSR? He had understood from the statement of the representative of the Soviet Government at an earlier meeting that elsewhere in the Union a person could be held for nine months, or in some cases even longer, before being brought to trial.
12. With regard to the right of an accused person to consult a lawyer of his own choosing - a right which was of cardinal importance in the administration of justice - it seemed from the fourth paragraph on page 15 of the report that a great deal was left to the discretion of the person in charge of the investigation of the case. Until what stage in the proceedings might permission for the accused to consult a lawyer of his own choosing be withheld? Was it possible for the accused to be denied that right throughout his interrogation and the investigation of his case, in other words, for a period of several weeks or months?
13. In view of the fact that article 14, paragraph 3 (d), of the Covenant gave every accused person the right to be tried in his presence, he would appreciate an explanation of the statement in the fifth paragraph on page 15 of the report that "Examination of the case in the absence of the accused is permitted only in exceptional circumstances and if it does not prevent the establishment of the truth in the case". He would also like to know what restrictions were imposed on the right of the accused person to call witnesses in his defence.
14. Article 19 of the Covenant guaranteed the freedoms of opinion and of expression, including the freedom to seek, receive and impart ideas, subject to respect of the rights or reputations of others and the protection of national security or of public order, health or morals. The rights to those freedoms were inherent in the dignity of the human being and essential to the full development of his personality; they enabled him to secure the enjoyment of all his other rights under the Covenant and, more generally,

to propagate his own ideas for the improvement of the society in which he lived. No régime was perfect, and in any democratic society the individual ought to be free to voice his criticisms and his opinions, provided he did so by peaceful means. Several other speakers had drawn attention to the terms of article 48 of the Constitution of the Byelorussian SSR set out on page 21 of the report, which appeared to subject the freedoms of speech, the press and assembly to the limitations deemed necessary, "in accordance with the interests of the people and in order to strengthen and develop the socialist system". That formula could be interpreted as permitting greater restriction of those rights and freedoms than was necessary to protect public safety and order. To what extent was the individual permitted in practice to express his dissension from the existing order or to propagate his ideas for peaceful improvement and change? In other societies, the free expression of opinion in private and public and in the press was permitted as a healthy means of testing the validity of the existing régime and its policies and practices and of promoting peaceful and orderly change in accordance with the freely expressed wishes of the people. What restrictions were there on the freedoms of expression, of assembly and of the press in the Byelorussian SSR? What was permitted and what was not?

15. Mr. HANGA joined other speakers in praising the Byelorussian Government for its report, which was in accordance with the Committee's guidelines and the provisions of the Covenant, and thanked its representative for the additional information he had supplied, which enabled the Committee to have a better understanding of how the Covenant was being implemented in the Byelorussian SSR.

16. Many questions had been put as to the incorporation of the provisions of the Covenant into Byelorussian domestic law, but he would particularly like to know what was the relationship between the provisions of public international law, on the one hand, and the provisions of domestic law, on the other, in the Byelorussian SSR, a federated State within a single unitary federation. In the event of incompatibility, which provisions prevailed?

17. It was stated on page 5 of the report that the application of article 2 of the Covenant, which provided for equality of rights and guaranteed legal protection, was the responsibility of the courts, the Office of the Procurator and other administrative bodies. It would, however, be helpful to know the role of public organizations in that field. What part did they play in that guarantee? What administrative recourse existed in the event of violation of civil and political rights?

18. He noted from the fourth paragraph on page 6 of the report that "The equal rights of citizens of the Byelorussian SSR are guaranteed in all fields of economic, political, social and cultural life". He was aware that private property existed in Byelorussian SSR, and asked how civil and criminal law guaranteed such property. If it was violated, what provisions of civil and criminal law applied?

19. With regard to article 8 of the Covenant, it was stated on page 9 of the report that in the Byelorussian SSR "there is freedom of employment, which is ensured by guarantees of the right to work and by legislative provisions concerning freedom to dissolve a labour contract". It would be of great interest to the Committee to know under what conditions the employer or employee could ask for the termination of a labour contract.

20. There was a reference in the consideration of article 10 of the Covenant by the Government of the Byelorussian SSR to the educative role of law. It would be very useful to know what the educative role of socialist law entailed, in what circumstances such legal education took place in schools, factories and agricultural co-operatives, and what its principal results for society had been.

21. It was stated on page 14 of the report that "justice in the Byelorussian SSR is administered only by the courts, which alone are empowered to fulfil this function". What court was responsible for settling labour conflicts? What was the legal status of people's judges and people's assessors? To what extent was the legal status of those judges and assessors the same as that of professional judges? What was the role of people's courts, particularly with regard to the provisions relating to the civil and political rights set out in the Covenant?

22. Article 19 of the Covenant related to the right to hold opinions without interference and to freedom to express opinions. On that point he would like to know whether a citizen who required legal, political, economic or other information could apply to a newspaper or periodical to obtain it. Would his letter and the reply to it be published in the newspaper or periodical?

23. Article 22 of the Covenant referred, in particular, to trade unions. In that connexion, it would be of interest to know what part the trade unions played in the economic machinery of the Byelorussian SSR. To what extent did trade unions contribute towards increasing production and national wealth? What was the legal status of trade union decisions? Were they equivalent to mere recommendations or did they have some greater legal status? What part did trade unions play in the conclusion of collective agreements?

24. With regard to article 25 of the Covenant, it was stated on page 27 of the report that "The country's State and public organizations are becoming more representative and are affecting broader segments of the population", and that "some of the functions of State bodies are in many cases transferred to public organizations". He would like to know what those functions were and which of them the State was planning to transfer to public organizations.

25. With regard to the same article of the Covenant, the Government of the Byelorussian SSR stated on page 27 of its report that "considerable attention is paid to improving legislation, strengthening the socialist legal order and further improving civil, labour, administrative law and certain other laws in the light of new social phenomena". As the final task was to build communism, which presupposed the absence of the State and the absence of law, how could improvements in legislation be reconciled with the creation of a different society from which law and the State would be absent? In theory, that was a question to which there might be various answers. What interested him, however, was the practical point of view of those who were responsible for implementing the Covenant.

26. Mr. LALLAH said he welcomed the responsible manner in which governments in general and that of the Byelorussian SSR in particular had drafted and submitted full reports. He was also happy to note the number of international law instruments

which had been ratified by the Byelorussian SSR and the number of reports and documents giving information which it had sent to the Secretary-General and to various United Nations bodies concerning the human rights situation in its territory. He concluded from those reports that in the Byelorussian SSR there was an explicit faith in the promotion of human rights, and he hoped that the co-operation between the Government of the Byelorussian SSR and the Committee would prove to be fruitful, not only for Byelorussia but also for the other States parties to the Covenant.

27. His first question related to secession, which was linked to the right to self-determination set forth in article 1 of the Covenant. The report of the Byelorussian SSR stated on page 2 that "Under the Constitution, the Byelorussian SSR retains the right freely to secede from the USSR" and on page 5 that "The right of nations to self-determination, including secession, is the legal expression of national sovereignty". He would like to know what effect the restrictions contained in article 34 of the Constitution of the Byelorussian SSR had on the reality of the right of secession. Under that article "any advocacy of ... exclusiveness" was punishable by law. The question arose as to what was meant by "advocacy of exclusiveness" and whether it included advocacy of secession as a political goal. That question was particularly pertinent since it was stated on page 21 of the Byelorussian Government's report, with regard to article 19 of the Covenant: "Thus, agitation or propaganda designed to undermine or weaken Soviet power and the dissemination for these purposes of slanderous fabrications defaming the Soviet State and its social system are forbidden, as is the dissemination, preparation or possession for these purposes of literature of the same content". Could propaganda advocating secession be regarded as propaganda aimed at weakening Soviet power, or as defaming the Soviet social system, and would it be punishable?

28. The question also arose, in connexion with the above-mentioned provisions, whether urging a change in the political system would in itself be illegal. Or would such an action be illegal only if it occurred outside the framework of the political parties existing in the Byelorussian SSR? If urging a change in the political system could not be prohibited under that heading, could it be prohibited by invoking the protection of public order, as provided for in article 19, paragraph 3, of the Covenant? The freedom of opinion and expression recognized in article 19 of the Covenant was perhaps intended to prevent violent changes or to reduce the possibilities of such changes during which human beings might lose their freedom or even their life. He wondered whether the legal system of the Byelorussian SSR contained sufficient provisions to prevent excessive severity towards those who expressed a desire for change.

29. With regard to article 6 of the Covenant, he would like to know exactly what crimes were punishable by death. What in practice were the "particularly aggravating circumstances" which would lead to the death penalty in exceptional cases? He would also like to know how many death sentences and how many executions there had been in recent years.

30. In the passage of the Byelorussian Government's report relating to article 10 of the Covenant, it was stated on page 12 that "Pursuant to article 4 of the Regulations on Pre-trial Detention, accused persons are kept in isolated interrogation cells". With regard to article 14 of the Covenant, it was stated on page 14 that "The presumption of innocence in Soviet criminal law is one of the fundamental principles which has been affirmed in a number of the provisions of the legislation", and that "In the course of the preliminary investigation and the court examination of a case, the guilt of the accused shall be subject to proof" and, on page 16, that "To give evidence in a preliminary investigation or in a court examination is not an obligation but a right of persons suspected, accused or brought to trial" and that "They may therefore refuse to give any evidence at all; they may change the evidence they have given earlier, and may even repudiate a statement acknowledging their guilt". In view of the importance accorded to those rights, did accused persons who were temporarily detained in isolation for the duration of the interrogation have access to legal aid during the interrogation? That guarantee was of great importance, as the sentence would be based on the results of the interrogation and anyone who was kept in solitary confinement throughout the interrogation would be in a very weak position in relation to the powerful bodies carrying out the interrogation.

31. In the passage of the Byelorussian Government's report devoted to article 9 of the Covenant, it was stated on page 10 that the Procurator's Office was also responsible for exercising control over the legality of the detention of persons subjected to preventive arrest. As detention was a serious measure involving deprivation of freedom, why was control over legality of preventive detention exercised by the procurator and not the judge? In the Byelorussian system the procurator was a member of the executive: as such, he did not perhaps have the independence enjoyed by the judge. In any event, it would be useful to have some clarification on that point.

32. It was further stated on page 11 of the report with regard to article 9 of the Covenant that in the Byelorussian SSR, "a person conducting an inquiry, an investigator or a procurator who deliberately institutes proceedings against an innocent person bears criminal responsibility for his act. Any deliberate unjust sentences, decisions, rulings or orders by a judge are likewise subject to criminal punishment." He wondered whether that was not to impose an intolerable burden on human beings endeavouring to behave in a free and independent manner. Would it not be preferable to provide for the possibility of appeal in the case of a judge who was not considered to be fully competent, or the possibility of a civil action brought by the person whose rights had been violated? The question arose whether the possibility of criminal proceedings might not have an adverse effect on the impartiality of judges.

33. The Government of the Byelorussian SSR also referred in its report to the Regulations on Pre-trial Detention in Custody. It would be helpful for Committee members to have a copy of those Regulations so that they could see how they guaranteed the rights set forth in the Covenant in practice.

34. In the passage in the report relating to article 13 of the Covenant, it was stated on page 13 that nearly all the democratic rights and freedoms provided for in the Constitution were extended to aliens in the territory of the Byelorussian SSR. He would like to know what rights aliens residing in the Byelorussian SSR did not enjoy and which of those that they did enjoy were more strictly controlled than the rights of citizens of the Byelorussian SSR. Did the term "alien" apply to citizens of the USSR or of other Republics of the USSR?

The meeting was suspended at 4.50 p.m. and resumed at 5.05 p.m.

35. Mr. TOMUSCHAT commended the report submitted by the Byelorussian SSR. The meetings being held by the Committee marked a turning-point in the history of human rights: for the first time, a procedure had been established which applied to the States of all regions in the world, irrespective of the ideological and political differences separating them, and which was designed to exercise, through a friendly and constructive dialogue, a kind of international control. The Committee was not an international court but was similar to one in certain respects, particularly in regard to its obligation to be guided exclusively by legal criteria - which rightly distinguished it from a political body. Its function was to improve the human rights performance of all countries, mainly by bringing into the open the deficiencies of their systems and thereby perhaps causing States to review their position and to correct situations that were not in accordance with the provisions of the Covenant.

36. The procedure provided for under article 40 of the Covenant should make it possible to secure the basis for peaceful and friendly relations among States. Frankness, which should not be confused with hostility, must be the main virtue of the Committee if it was to live up to the great responsibility entrusted to it. Mutual respect and friendship would not suffer - far from it.

37. He had noted from the report of the Byelorussian SSR that the Covenant had not been incorporated into domestic law. That was admissible, but should not prevent citizens from invoking the Covenant in their dealings with State agencies. On the contrary, in such a case, the Covenant should have the active support of the population if it was to become a living constitution that effectively shaped the relationship between the State and the individual. That presupposed that the Covenant was known, and that its text was available to everyone. What measures had been taken to publicize it in the Byelorussian SSR? Admittedly, it had appeared in the Official Gazette, but how many people read it? Had any popular editions been prepared? Had the Byelorussian SSR sought the co-operation of the United Nations in preparing such editions? Was there a United Nations information centre at Minsk? If so, did it distribute the text of the Covenant?

38. He had been struck by the comparison of article 2 of the Covenant with article 34 of the Constitution. Article 2, paragraph 1, and article 26 of the Covenant were much broader in scope than article 34 of the Constitution of the Byelorussian SSR. The Covenant prohibited discrimination on the ground of "political or other opinion", a criterion that was not to be found in the Constitution of the Byelorussian SSR. That, however, was an extremely important point for the implementation of the Covenant, since anyone fearing that he would be the subject of discrimination if he expressed a political conviction would be

unable to make full use of the rights under the Covenant. Was it to be deduced from the fact that the Constitution of the Byelorussian SSR made no mention of discrimination on the ground of opinion that such discrimination might be exercised as soon as a person was not in agreement with the political principles formulated by the Communist Party? If that were not so, would it not be advisable to bring the Constitution of the Byelorussian SSR into line with the Covenant?

39. He would also like to know whether the statement on page 6 of the report that "Every citizen in the Byelorussian SSR has a right to apply to the Court in the event of infringement of his lawful rights" also applied to any person to whom the authorities had refused an emigration visa or permission to form an association. The report stated that the Criminal Code established the criminal liability of officials for abuse of authority or of official position and, in general, for any infringement of a right protected by the law. But in such a case it was not personal abuse of power that was to be feared but rather abuse of power by the State. He would like to have further information as to the remedies available to citizens in such cases.

40. With regard to article 6 of the Covenant, relating to the right to life, he noted that the death penalty could be imposed for "crimes against the State". He would like an explanation of what was meant by a crime against the State, since that was an abstract concept. It would be helpful if the Byelorussian SSR could provide the Committee with the text of the relevant provisions referred to in that connexion and if specific examples could be given of crimes against the State for which death had been pronounced.

41. Article 7, which prohibited torture and cruel, inhuman or degrading treatment, should be read in the light of article 2, paragraphs 1 and 2, of the Covenant, under which State Parties undertook not only to respect a right recognized under the Covenant but also to ensure it to all individuals. In other words, it was not enough for a State to prohibit torture or cruel, inhuman or degrading treatment; it was also bound to set up mechanisms by which control could be exercised over all those who dealt with prisoners. The report of the Byelorussian SSR did not refer to any measures of that kind. Did they exist in the Byelorussian SSR? Had the parliament of that country ever instituted an enquiry into conditions in prisons and labour camps? What remedies were available to the prisoners themselves when they felt that their rights had been violated? To what authority could they appeal? Were there any legal provisions governing such remedies? If so, it would be helpful if the Committee could have details of them. It should be stressed that an institution outside the prison administration was in a much better position to give an impartial ruling on any allegations of ill-treatment.

42. With regard to article 8, which prohibited slavery and forced labour, he had noted the statement made earlier that a member of a collective farm was free to leave it. He would appreciate it if that statement could be confirmed and if the text of article 7 of the model regulations governing collective farms could be made available to the Committee.

43. He did not altogether understand what the legal situation was with regard to article 12, concerning the right to freedom of movement and freedom to choose one's residence, including the right to leave any country, and would appreciate it if the text of the resolution adopted by the Council of Ministers of the USSR on 22 September 1970 could be made available to the Committee. On the basis of that text he would revert later to the question of the application of that article. He would, however, now like to know whether there was freedom of movement within the Byelorussian SSR and whether freedom to leave the country to travel abroad was also guaranteed. In what cases could a person be denied the right to travel abroad or to emigrate? If there were restrictions to that right, in the interests of public order, then they should be clearly defined. Much more information was required before the Committee could evaluate the situation. In the meantime, he would be grateful if the representative of the Byelorussian SSR could confirm that to apply for an emigration visa was not considered to be an unworthy act that might be the subject of such sanctions as dismissal, eviction from one's home, etc.

44. With regard to article 13, relating to the rights of aliens, he said that he had not found any indication in the report that an alien had the right to lodge an appeal if his application for a renewal of his residence permit had been refused. It was clear that certain foreign workers might have a legitimate interest in remaining in a country of which they were not nationals. What measures had been taken to protect them?

45. Article 14, which related to equality of citizens before the courts and the right of everyone to a fair and public hearing, was, together with article 9, one of the cornerstones of the Covenant. Without a fair hearing, nobody could be certain that justice would be done. One point, raised by Sir Vincent Evans, was particularly important, namely, the participation of the accused's lawyer during the case. As could be seen from the fourth paragraph on page 15 of the report, the accused's lawyer was not permitted to participate in the proceedings from the beginning. Article 14, paragraph 3 (b), however, provided that the accused was entitled to communicate with counsel of his own choosing, and did not lay down any additional qualifications or requirements.

46. With respect to article 17 of the Covenant, he would like to know whether the police could enter a home solely in the cases referred to on page 18 of the report, which dealt only with cases involving criminal prosecution. Could the police enter a private dwelling without the consent of the occupant if, for example, a person was about to commit suicide? Again, he would like to have the text of the provisions referred to in that connexion.

47. With regard to article 18, concerning freedom of thought, conscience and religion, he had been struck by the explanations given on page 19 of the report, which related directly to article 50 of the Constitution of the Byelorussian SSR. It was said, on the one hand, that freedom to engage in religious worship was recognized and, on the other, that freedom of anti-religious propaganda was guaranteed. Was it to be inferred from those provisions that citizens who were members of a church had to confine themselves to worship in the narrow sense of the term, without being permitted to spread their creed, whereas atheistic propaganda, for its part, was not the subject of any restriction? He trusted that that was not so, for it would then be a case of religious discrimination, which it would be difficult to reconcile even with article 32 of the Constitution

of the Byelorussian SSR. Furthermore, article 2, paragraph 1, and article 26 of the Covenant clearly prohibited all discrimination. Not to hold any religious belief might be regarded as a more progressive, more enlightened, attitude on the part of modern man, but decisions on questions of religious belief were a matter for the individual himself, not for the State.

48. He asked for the full text of the Decree of 23 June 1975 to be made available to the Committee. Articles 17-20 of that Decree appeared to impose far-reaching limitations on religious communities. For what reasons? No such régime was imposed either on the Communist party or on the trade unions. Religious communities therefore seemed to be subject to discrimination for which there was no justification. He wondered how parents could pass on their religious and moral convictions to their children.

49. He would pass over articles 19-21, 23 and 24 of the Covenant certainly not for lack of interest but because the questions which they raised had been dealt with by previous speakers. He would merely point out that the Covenant encouraged the common search for the common good through the joint efforts of all members of the national community. For that reason, article 19 guaranteed freedom of expression and article 25 provided that every citizen had an equal right to participate in public affairs.

50. Referring to article 27, he noted that the report said very little about the situation of minorities in the Byelorussian SSR, although there were large Polish, Lithuanian and Jewish communities in that country. What was their legal status? What measures had been taken to protect their culture, and to enable them to practice their own religion and use their own language? Did those communities have their own schools, newspapers and books? Had radio and television services been organized for them? It would be useful to have an answer to those questions and to many others.

51. He hoped that the dialogue between the Committee and the Byelorussian SSR would prove to be constructive and would soon lead to tangible results.

52. Mr. GRAEFRAETH observed that the Covenant was universal in character and was aimed at encouraging as many States as possible to promote respect for human rights. In that connexion, article 2 was not merely a technical provision enabling each State to incorporate into its legislation the guarantees laid down in the Covenant in accordance with its Constitutional procedures and, in particular, to decide whether or not citizens could directly invoke the Covenant; the article was also sufficiently broad to allow States with different social systems to co-operate in the field of human rights and did not raise any political system to the level of a model which alone would make it possible to fulfil the obligations deriving from the Covenant. The Committee's role was not to assess the situation of different States, commending some and condemning others for their policies in the matter of civil and political rights; the international community had established other procedures for that purpose. Under article 40, the Committee's task was to study the reports submitted by States parties and to encourage States to implement the provisions of the Covenant

taking into consideration their particular approach, situation and possibilities. The Committee could learn much from the report of the Byelorussian SSR about the particularities of a socialist federal system, and he would be grateful for information on the legislation and special executive powers of the Byelorussian SSR within the Soviet Union.

53. The report (CCPR/C/1/Add.27) showed that the Byelorussian SSR had concerned itself with different forms of international co-operation in human rights. Firstly, as was clear from the penultimate paragraph on page 3, it had shown its willingness to co-operate by acceding to various bilateral or multilateral instruments; secondly, the report emphasized, in the last paragraph on page 3, another aspect of international co-operation, namely the combined efforts that States must make in the struggle against mass and gross violations of human rights: that was a duty of all States Members of the United Nations, not only of those which were parties to the Covenant, and that obligation was closely related to the obligation to maintain international peace and security. It was interesting that the report drew a clear distinction between those two aspects of co-operation in human rights.

54. The question of infant mortality had already been raised in connexion with article 6 and he would not revert to it, except to explain why he considered the question important; the explanation might not be necessary for those living under a socialist system but might clarify the matter for those who were not. Article 2 of the Covenant did not confine itself to requesting States to refrain from infringing human rights but laid an obligation on them to ensure respect for those rights. A State used its power when it took life by imposing the death penalty, but it also used it when it did nothing, or not enough, to reduce infant mortality. It was, of course, necessary to take account of the economic and technical possibilities of States, but what was important for the Committee was that mere formal recognition of a right without practical measures for its implementation was not enough and it was not only in relation to the right to life, set forth in article 6, that that was true.

55. The question had been raised whether article 8 also included the right not to work. The question was, rather; how could a human being live without having the possibility to work? Was it not the duty of the State and society to provide employment for all? The right to life was closely linked to the possibility for every individual to do useful work. In a socialist society, the right and the duty to work were inseparable. That had nothing to do with forced labour; rather, it involved the right to exist and the dignity of the human person.

56. With reference to article 14 of the Covenant, it would be useful for the Committee to be informed how the right to equality before the courts was implemented in the Byelorussian SSR. In very many countries, such equality was recognized in principle, but in fact, for financial reasons, only limited strata of the population enjoyed it: it was expensive to resort to the courts and citizens of modest means often decided not to do so. He would like to know, therefore, what practical steps were taken to ensure that the courts were really accessible to all in the Byelorussian SSR and how the colleges of advocates responsible for giving legal assistance to citizens functioned. On page 16 of

the report it was stated that persons participating in court proceedings had the right to the services of an interpreter: did that apply to persons other than the accused?

57. It was sometimes said that the right to freedom of expression was best guaranteed when all citizens were free to publish a newspaper and establish radio or television broadcasting stations. In fact, that "freedom" was very often reserved for financial monopolies: it would be interesting to know how that right was maintained intact in the Byelorussian SSR and how everyone had the right to the freedom of opinion and expression guaranteed by article 19 of the Covenant.

58. During the introduction of the report, at the previous meeting, it had been stressed that the participation of all citizens in public affairs took the form not only of their participation in elections but also of their involvement in the daily management of affairs. It would be useful if the representative of the Byelorussian SSR could explain to the Committee how citizens were involved in the functioning of the Soviets, the courts and other public bodies.

59. The importance of having elected judges had already been stressed: it would also be extremely interesting for the Committee to know exactly what people's assessors were and to learn how, under article 153 of the Constitution, they had the same powers as judges.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

60. The CHAIRMAN said that at the following meeting the Committee would examine the additional report of Ecuador (CCPR/C/1/Add.29). In order to achieve more orderly deliberations, it had been suggested that members should concentrate on a limited number of points since the Committee had already spent considerable time examining Ecuador's case. He had therefore invited members who wished to do so to inform him in advance of those aspects which they would particularly like to be dealt with, so that they could be brought to the attention of the Committee as a whole. Sir Vincent Evans had accordingly supplied him, purely for guidance, with a list of questions which might be dealt with at the following meeting. They included the situation with respect to return to a normal constitutional régime, the application of article 44 of the Constitution and the role of the Tribunal of Constitutional Guarantees, political prisoners (to be linked to the first point), the implications of article 30 of the Organic Law governing the Judicial Function, the employment of young persons under the age of 18 years, the treatment of the indigenous populations, and the right to vote and the obligation to vote.

61. Mr. MOVCHAN expressed surprise at the new procedure being followed by the Chairman and said that he did not remember that the Chairman had invited members to inform him in advance of questions they hoped would be dealt with. In those circumstances, how would the discussion proceed? Would the officers of the Committee put those questions to the representative of Ecuador and what opportunity would there be for the other members of the Committee to put other questions? He wished to know when the new procedure had been adopted, and hoped that an attempt was not being made to set a precedent.

62. The CHAIRMAN said that there was no question of setting a precedent or of instituting any kind of procedure. The Committee would be examining an additional report for the first time and he had invited members to let him know whether they had any ideas about how to proceed with that examination. A few of them - not the officers - had then suggested that the practice used for the initial reports should not be followed strictly but that there should, rather, be a dialogue with the representative of the State concerned on a more limited number of points. If that procedure was adopted, it would certainly not be the Chairman who would put the questions to the representative of the State but the members of the Committee in their own name. What had been suggested was merely an attempt to rationalize the discussions, certainly not the institution of a new procedure by the officers of the Committee.

63. Mr. OPSAHL said that he did remember that the Chairman had invited members to consider which questions they would like to concentrate on during consideration of Ecuador's additional report. Although he had little time, he had, therefore, started to note down a few points which he considered interesting, some of which were not included in the list proposed by Sir Vincent Evans. It would, for instance, be interesting to know whether, in the situation prevailing in Ecuador, there had been any explicit or implicit derogations from the Covenant; moreover, the question of individual rights should be examined with particular care and, in that connexion, it might perhaps be necessary to request not only legislative texts but also more factual information on the actual implementation of those rights.

64. Mr. MOVCHAN said that it was essential, in view of the nature of the Committee's task, that its members should be able to put questions in their own name and quite independently. The new method proposed did not appear to protect that independence to the extent that the questions would be put through the officers of the Committee. The entire question should be discussed more fully.

65. The CHAIRMAN emphasized that the questions would not be put by the officers but by each member. He was completely in favour of a thorough discussion on the subject.

66. Sir Vincent EVANS thought that a misunderstanding had arisen because Mr. Movchan had not been present when the Chairman had suggested that members of the Committee who so wished should submit to him an unofficial list of the questions which they considered important. At that time, it had been emphasized that, in the case of additional reports, it might not be essential to follow the procedure hitherto adopted for initial reports and that it would be more constructive to concentrate on certain particular points. In supplying a list of questions on an individual basis, he had in no way intended to impose them on the Committee.

67. Mr. MORA ROJAS proposed that the Committee should meet informally to discuss the method of work to be adopted.

68. Mr. GRAEFRATH felt that such a meeting might not be necessary since there was no question of imposing any method of work whatsoever. The Chairman had merely suggested that the Committee should concentrate on certain points but had in no way wished to limit the statements of members of the Committee.

69. The CHAIRMAN said that he would be at the disposal of any member of the Committee who wished to discuss the matter with him.

70. Mr. PRADO VALLEJO informed the Committee that the representative of Ecuador would be prepared to answer all questions irrespective of the manner in which the Committee organized the discussion.

The meeting rose at 6.25 p.m.