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Chairman: Mr. MAVROMMATIS

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 (agenda item 3)

Report of the Syrian Arab Republic (CCPR/C/1/Add.1/Rev.1)

1. The CHAIRMAN recalled that it had been decided by lot that the initial report of the Syrian Arab Republic (CCPR/C/1/Add.1/Rev.1) should be the first to be considered by the Committee. He welcomed the decision by the Syrian Government to appoint a representative to present its report and invited her to take her place at the Committee table under rule 68 of the Committee's provisional rules of procedure.
2. Miss FADLI (Syrian Arab Republic) said it was appropriate that the Syrian Arab Republic was the first State party to have its report considered by the Committee since Syria was not only a country with age-old humanist traditions but was at present making every possible effort to eliminate all aspects of underdevelopment inherited from periods of foreign domination and to establish a social order fully in accord with modern human values. The recent concept of the human person as an end in himself, endowed with inherent dignity, and of equality of rights and freedom had its roots in the ancient civilizations and religions which had flourished in the region where Syria was situated. After the invasions of the past, to which it had been exposed by its situation at the point of convergence of three continents, the very existence of Syria was still threatened by the expansionist policies of world zionism and imperialism, and it was accordingly obliged to take measures to meet that threat and the social problems it created. It was her Government's hope that universal respect for the basic principles of human rights and the right of nations to freedom, justice and peace would find increasingly tangible expression in the near future. She welcomed the efforts of the Committee to achieve progress towards that goal.
3. The CHAIRMAN thanked the representative of the Syrian Arab Republic for her introductory remarks. The questions that the Committee would put were intended to obtain further information and clarification and to enhance the Committee's understanding of the country whose report was being considered.
4. Sir Vincent EVANS observed that, in embarking upon consideration of reports submitted by States parties, the Committee was carrying out one of the most important functions assigned to it under the Covenant. By deciding to be represented at the meeting, the Syrian Government had set a precedent that he was sure that all members of the Committee hoped would be followed by other States parties.
5. The revised draft of the report was much more informative than the original, and made it easier to relate its contents to provisions of the Covenant. Since the measures of implementation referred to in the report were all provisions of the Syrian Constitution, he wished to ask a few general questions with a view to clarifying the constitutional position. Noting that some States parties had taken the step of incorporating the relevant provisions of the Covenant in their domestic law, thus giving them direct effect, whereas others had given them effect by constitutional provisions or by other legislative measures, asked whether the Covenant had been given direct effect in the domestic law of Syria.

6. He also asked what remedies were available to the individual in the Syrian courts to ensure compliance by the State authorities with the provisions of the Constitution. Could the provisions be invoked in the domestic courts and did they prevail over other laws or over administrative acts which the courts might find to be incompatible with the Constitution? Were there any derogations permitted from the Constitution, and, if so, were any at present in force, and what was their extent and nature?

7. Turning to particular provisions of the Covenant, he noted from paragraph 3 of the report that there was provision for sentence of death under the Syrian Constitution. Article 6, paragraph 2 of the Covenant stated that sentence of death might be imposed only for the most serious crimes, and there were other provisions in the Covenant requiring that persons must be treated with humanity and with respect for the inherent dignity of the person. The question he wished to ask was: in respect of what particular offences might the death penalty be imposed in the Syrian Arab Republic, how frequently was it imposed, and how was it carried out?

8. Paragraph 4 of the report quoted article 28, paragraph 3 of the Constitution, corresponding to article 7 of the Covenant prohibiting torture or cruel, inhuman or degrading treatment or punishment. What other laws and regulations were there in force in Syria to ensure that the provisions of that article of the Constitution were respected by the police and other authorities, and what methods of interrogation of suspected or accused persons involving mental or physical pressure were permitted, and what remedies were there under Syrian law for persons who claimed to be victims of unlawful treatment?

9. Referring to paragraph 5 of the report dealing with surveillance and detention, he asked whether there were in Syria any persons not convicted of crimes who were detained without trial for political reasons and, if so, how many of them there were, for what reasons they were detained, and whether their detention could be reconciled with the provisions of the Covenant?

10. With regard to the freedom of expression guaranteed under article 19 of the Covenant, he noted that article 38 of the Constitution provided for the right to participate in supervision and constructive criticism in a manner that would safeguard the soundness of the domestic and nationalist structure and strengthen the socialist system. The wording of that provision might suggest that freedom of expression was permitted only within certain limits and in conformity with certain ideological structure. Was freedom of expression, and in particular freedom of the press, limited in that way in the Syrian Arab Republic, and was the press subject to any form of Government censorship and, if so, what form did it take?

11. Paragraph 14 of the report quoted article 39 of the Constitution, stating that citizens had the right to meet and demonstrate peacefully within the principles of the Constitution and that the law regulated the exercise of that right. What were the limitations which were imposed in practice on the exercise of the right to peaceful assembly, which was guaranteed under article 21 of the Covenant?

12. As to the right to establish and operate trade unions, referred to in paragraph 15 of the report, he suggested that that matter should be referred to the International Labour Organisation for comment.

13. Mr. LALLAH noted that the Syrian Constitution established a number of fundamental rights and guaranteed various freedoms. Had there been judgements of the higher courts which had pronounced on the extent of those freedoms or on any limitations with regard to them? He had particularly in mind the references to surveillance, detention, and forced labour in paragraph 5 of the report. Was there any particular difference in the Syrian legal system between detention as such and imprisonment, and were there any particular conditions that applied to each of those notions, if indeed there was a difference between them? He was not personally familiar with the legal characteristics of surveillance; were there legal provisions which defined it? Article 9 of the Covenant provided that no one should be deprived of his liberty except on such grounds and in accordance with such procedure as were established by law. He noted that article 357 of the Syrian Penal Code stated that any official who had arrested or imprisoned a person outside the scope of the law should be sentenced to a term of forced labour. Could the Committee be given some idea of the law which defined to what extent persons could be kept under surveillance or detained?

14. Referring to paragraph 8 of the report, he requested information about the laws dealing with immigration and deportation, and about the grounds on which persons could be deported - not necessarily Syrian citizens but also persons lawfully resident in the Syrian Arab Republic. What was the extent to which they could have recourse to tribunals or authorities, and what was the extent of their right to be heard?

15. Mr. OPSAHL observed that the report was based mainly on constitutional provisions but that it also referred to ordinary legislation and, on at least one point, to regulations. He would be grateful to know what legislative or other measures had been taken to ensure the rights set out in article 8 of the Covenant with regard, for example, to compulsory labour.

16. Article 14 of the Covenant covered a whole complex of provisions relating to the right to a fair and public hearing by a competent, independent and impartial tribunal established by law. The report made only brief reference to specific aspects of the article, and it would be helpful to have some information regarding the legal or constitutional provisions guaranteeing those rights, particularly as concerned the main clause in paragraph 1 of the article.

17. It had been suggested that the trade union rights mentioned in paragraph 15 of the report should be referred to the International Labour Organisation. Article 22 of the Covenant dealt, however, with freedom of association on a wider basis than the right to establish and operate trade unions, and article 48 of the Syrian Constitution also appeared to be broader in scope. The impression given by the report was that it was through the enactment of laws that associations were formed. He therefore wished to know whether that was the only basis on which they could be formed or whether there were other measures, legislative or otherwise, which protected the freedom of association, independently of its basis in the law, such as the freedom to form political parties.

18. Lastly, how was the guarantee of equality of the sexes, referred to in paragraph 2 of the report, implemented, especially with regard to the civil and political rights established by the Covenant?

19. Mr. MORA ROJAS requested information on the precise meaning of the phrase "in a manner appropriate to his conduct" in article 28 of the Penal Code, which was quoted in paragraph 6 of the report. Moreover, referring to paragraph 7 of the report, he asked whether imprisonment could be imposed to ensure the payment of allowances to parents and children, in addition to the satisfying of obligations relating to the dowry of a wife or the payment of alimony to her. Lastly, he wished to know whether there were any exceptions to the non-retroactivity of laws prescribed by article 30 of the Constitution, particularly in respect of penal cases; he did not think paragraph 10 of the report was clear on that point.

20. Mr. MOVCHAN said he shared the views of previous speakers concerning the objectivity and comprehensive nature of the report, and welcomed the fact that it had been revised to provide as much information as possible not only about the constitutional, but also the legislative, position. It was clear that Syria was approaching the implementation of its obligations under article 20 of the Covenant constructively.

21. He did not fully understand the provisions of article 28 of the Penal Code, referred to in paragraph 6 of the report. The same provision should surely apply irrespective of the period for which a person was deprived of his freedom.

22. With regard to paragraph 16, he expressed the hope that any future report submitted by the Syrian Government to the Committee would provide the text of the new law on the status of the individual which would make interesting reading. The Covenant and other international instruments relating to human rights set out rights which were to be applied universally, but their implementation obviously had to take into account the characteristics and stage of development of the country concerned. Some countries considered that economic and social rights were the foundation of all other freedoms; others did not. He noted that the preamble to the Covenant stated that the individual had duties to other individuals and to the community to which he belonged, and drew attention to article 19 of the Covenant concerning the right to freedom of expression, and in particular to its paragraph 3, which provided for restrictions of that right as provided by the law, wherever necessary. He also considered that article 20, paragraph 1 of the Covenant was extremely important and hoped that, in its future reports, the Syrian Government would provide information on the steps it was taking to ensure that propaganda for war was effectively prohibited.

23. Mr. PRADO VALLEJO welcomed the presence of the Syrian representative at the meeting, as it was evidence of her country's respect for its obligations under the Covenant and its desire to co-operate with the Committee. However, he felt that the report which it had submitted needed to be clarified and amplified in certain respects if the Committee was to have an objective and factual picture of the situation with regard to human rights in Syria.

24. The report reproduced substantive provisions of Syrian constitutional law, which showed that Syria had standards which were in general in accord with the principles set out in the Covenant. Nonetheless, it was very important to know how those principles were implemented and what measures were taken to see that the rights proclaimed in the Constitution were respected. In that context, he referred to article 4 of the Covenant, which dealt with the circumstances in which the obligations contracted under the Covenant could be suspended, and asked the Syrian representative whether any decree or decrees had been enacted in Syria limiting human rights during a state of emergency and, if so, for what period of time they had been in force. If they had been in force for a considerable period, it could be held that they were not covered by the provisions of article 4 of the Covenant.

25. Referring to paragraphs 4 and 5 of the report, he asked what practical measures were prescribed in Syrian legislation to punish those who had tortured others or imposed arbitrary penalties. Inadequate administrative measures could result in failure to observe human rights.

26. Mr. TOMUSCHAT said it would be useful to know the exact relationship between the Syrian Constitution and internal legislation; which prevailed?

27. Referring to paragraph 2 of the report, he said that there appeared to be some contradiction between articles 25 (3) and 45 of the Constitution; the latter gave the impression that women had to be helped to achieve equal opportunities with men, so that equality of opportunity did not in fact exist.

28. Article 33 of the Constitution, quoted in paragraph 8 of the report, made no reference to the right to leave the country, a right which was guaranteed in article 12, paragraph 2 of the Covenant. What was the position in that respect? He would also like to know whether there was any guarantee in law or administrative practice of the right to enter the country, which was not mentioned in the report. Moreover, referring to article 13 of the Covenant, he wished to know whether the provisions of that article were implemented by legislative, administrative or other provisions in Syria.

29. He also felt that it would be useful for the Committee to see the actual provisions of the Penal Code and the Code of Criminal Procedure which guaranteed every person charged with a criminal offence rights similar to those provided for in article 14 of the Covenant; that article was extremely important and the Committee was under a duty to ensure that the standards it laid down were strictly observed.

30. Turning to paragraph 12 of the report, he asked whether the guarantee of belief or religion provided in article 35 of the Constitution in fact covered all religions or was interpreted restrictively. Also, was there any legislation that implemented the constitutional provision?

31. Referring to paragraph 13, he noted that article 38 of the Constitution referred to constructive criticism, but pointed out that criticism was often destructive. An individual should be entitled to criticize his Government for acts which he considered had certain shortcomings, although it was obviously necessary to strike a balance between the individual's rights and the legitimate

interests of the community. The provision regarding the prohibition of war propaganda was obviously one such case. There the interests of the community were considered more important than those of the individual. It was the Committee's task to determine whether national legislation had or had not transgressed the limits laid down by the Covenant.

32. Mr. URIBE VARGAS said he wished to take the opportunity afforded by discussion of the Syrian Arab Republic report to make a comment somewhat different from those made by previous speakers and applicable to countries other than Syria. According to article 4 of the Covenant, in time of public emergency threatening the life of the nation, States parties could take measures derogating from their obligations under the Covenant. It would have been perfectly understandable if Syria had invoked the provisions of that article because, as was well known, the situation in Syria had for several years been abnormal. There were, however, other countries, in Latin America for example, where Governments ceased to apply constitutional guarantees on the pretext that the country was in a state of emergency and that the life of the country was in danger. In some cases the emergency leading to suspension of the constitution was nothing more than a student strike. He suggested that countries claiming that, because of a public emergency, they had taken measures derogating from their obligations under the Covenant should be required to indicate the exact nature of the public emergency threatening the life of the nation. It might also be useful if countries which had signed the Covenant were required to indicate the number of days on which the provisions of their Constitution had been normally applied.

33. Mr. TARNOPOLSKY said that the questions he wished to put to the representative of the Syrian Arab Republic were of three kinds. The first concerned ways and means by which the people themselves could ensure that constitutional guarantees were enforced. For example, according to article 45 of the Syrian Arab Republic's Constitution, the State guaranteed women every opportunity that would enable them to contribute to political, social, cultural and economic life, and would act with a view to removing obstacles hindering their development. Supposing a woman felt that the obstacles to her development were not being removed, what steps could she take to remedy the situation? Similar questions could be put with respect to articles 44 and 25 of the Constitution. If it was felt that certain young people were being denied conditions suitable for the development of their capabilities, were there any steps that a person acting on their behalf could take to ensure that the provisions of the Constitution were implemented, and if a citizen felt that he was not enjoying equality of opportunity, were there ways in which he could obtain his constitutional rights?

34. His second group of questions concerned limitations placed by law on constitutional freedoms. With respect to article 31 of the Constitution, for example, it would be interesting to know under what circumstances homes could be entered or searched. It would also be interesting to have additional information concerning the public health and safety laws which, under article 33 of the Constitution, could be invoked to prevent citizens from moving within the territory of the State, and concerning the kinds of laws, in the Penal Code or elsewhere, designed to give effect to the limitations on freedom mentioned in article 38 of the Constitution which referred to the right of citizens to participate in "constructive criticism" in a manner that would safeguard the soundness of the domestic and nationalist structure and strengthen the socialist system.

35. Coming to his last group of questions, he asked, first, what were the most serious crimes for which, according to article 37 of the Penal Code, the death sentence was mandatory? Second, did the words "the penalty may be commuted to imprisonment for six to twelve years" in article 5 of Act No. 58 of 17 September 1953 on juvenile delinquency mean that in some cases the death penalty might not be commuted? He asked that question because, according to article 6, paragraph 5 of the Covenant, the sentence of death could not be imposed for crimes committed by persons below 18 years of age. Third, what was the meaning of the words "in a manner appropriate to his conduct" in article 28 of the Penal Code? Fourth, paragraph 8 of the report made no mention of the freedom to leave any country, including one's own. Was there a reason for that? Finally, article 3 of the Nationality Act gave the impression that there were various statuses, even for persons born on the territory of the Syrian Arab Republic; if so, what were they?

36. Mr. GRAEFRATH, referring to paragraph 2 of the report and article 45 of the Syrian Arab Republic Constitution, noted that obstacles hampering women's development could not be removed simply through the enactment of laws. It would be interesting to learn what measures, in addition to legal measures, the Syrian Arab Republic intended to take to ensure equality of the sexes. In that context, he asked what remedies were available under Syria's legal and administrative systems to enable people to achieve their rights and have them guaranteed by society.

37. Referring to article 6 of the Covenant, he suggested that it might be important, with respect to the guarantee of the right to life, to discuss not only the question of the death penalty but also what measures the State had taken or would take to reduce infant mortality and increase life expectancy.

38. Turning to paragraph 19 of the report, which referred to the principle of the equality of citizens before the law, he asked how access to the courts was guaranteed. Was it very expensive to go to court and did citizens have to pay for the services of counsel?

39. In conclusion, he referred to paragraph 16 of the report and said that it would be very useful to have additional information on the manner in which the State intended to eliminate the material and social obstacles hampering marriage.

40. Mr. KOULISHEV said that the Syrian Arab Republic report provided a very satisfactory basis for the Committee's work under the Covenant.

41. He had only one question to put to the representative of the Syrian Arab Republic. It would be interesting to know, with respect to article 2 of the Covenant, what remedies - legal, administrative and other - were available to persons whose rights or freedoms were violated.

42. Mr. HANGA recalled that, at the previous meeting, mention had been made of the importance of analysing reports within the framework of the socio-economic and socio-political conditions of the country concerned. Reference to the report under consideration showed that the objective of the popular democracy of the Syrian Arab Republic was the economic and social liberation of the Syrian Arab people as a whole.

The existence of a democracy implied the existence of a form of ownership. Article 14 of the Syrian Arab Republic Constitution, to which reference was made in paragraph 1 of the report, provided proof of the existence of the popular democracy. It would be interesting to learn the role played, in fact and in law, by each of the three forms of ownership referred to in article 14 of the Constitution, for there was a close link between forms of ownership and a country's social and political structures.

43. The CHAIRMAN invited Miss Fadli to reply to the questions raised during the course of the discussion.

44. Miss FADLI (Syrian Arab Republic) said she would endeavour to reply to the best of her ability but would be obliged to refer certain questions to her Government for further information.

45. It should be borne in mind in general that, since achieving independence in 1945, her country had been at war almost continuously; it had been forced to concentrate its efforts on dealing with that difficult situation, had changed its political régime, and had tried to promote the development of its society.

46. Before 1945, education and access to political life had not been guaranteed to women, as was now done in article 45 of the Constitution. There were no laws or regulations which discriminated against women; on the contrary, steps had been taken to protect women and the family. In the past, women had often had the same status as men in the rural areas, and in addition all traditional obstacles to women taking their full place in urban society had now been removed.

47. With respect to discrimination in general, she pointed out that the Syrian Arab Republic's present Constitution and laws had been framed after her country's accession to the International Covenants on Human Rights, and were based on the principles of human rights and international obligations.

48. The death penalty was imposed for the most serious crimes only and was rarely carried out except when the crime was against society and the security of the State; in other cases it was usually commuted to hard labour for life.

49. Anyone inflicting torture was punished under the law and the Penal Code stipulated that any official who had arrested or imprisoned a person outside the scope of the law would be sentenced to a term of forced labour.

50. The only restriction on entry into and exit from Syria was that dictated by the crisis in the Middle East and the state of war, since obviously enemies could not be allowed to enter the Syrian Arab Republic, which was otherwise a free country and a country of transit. The concept of deportation did not exist in law except in the case where an alien lawfully in the territory had committed a crime or where entry had been illegal. Slavery had never been known in Syria as it was contrary to Koranic Law and therefore contrary to Syrian law.

51. The treatment accorded to persons suspected and persons accused differed, in that the accused were imprisoned whereas suspects were detained temporarily at a police station until their fate was decided by a court or other body. Hard labour could be imposed as a punishment for a crime only pursuant to a sentence by a court.

52. In reply to the question raised about the maintenance allowance, she explained that, in accordance with Koranic Law, the woman was entitled to an allowance while she remained with her husband. The dowry, moreover, was considered a priority payment which took precedence even over State obligations. The children were the responsibility of the father, and if the parents separated, the mother could take the children only if she renounced her right to the maintenance allowance.

53. With respect to the retroactivity of laws, she said that no one could be held guilty for an act which was not an offence when it was committed, nor could a more severe law be applied retroactively. The accused was always presumed innocent until he had been found guilty.

54. Juvenile delinquents were treated much less severely than adults, for persons between 15 and 18 years of age were regarded as minors, came under a different jurisdiction and could not be sentenced to death.

55. The position with respect to propaganda for war must be viewed in the context of the present political situation in the Syrian Arab Republic and especially the imminent dangers faced by the country since 1947. Decree 51 on the state of siege had been drawn up in response to that situation so that the country could take measures for mobilization when the security and even the existence of the State were threatened, term security implying the safety of the State against outsiders and the defence of the country and its society.

56. Discussing the rights of aliens in her country, she noted that they could appeal to the Syrian courts to defend themselves against an accusation on an equal footing with citizens. Moreover, like any other persons subject to the jurisdiction of a court, they were required to put up security from which legal expenses and charges would be deducted if they lost the case. That principle existed in many systems of law, including French law, on which that of the Syrian Arab Republic was partly based.

57. Procedures for appeal were laid down by the administrative courts (tribunaux administratives) for all claims against the State and petitions offices (bureaux de requêtes) had been set up through which a citizen who had been the victim of an injustice could lodge a claim. Procedure was speedy and the case was considered immediately by the highest State authorities.

58. The situation with respect to nationality was that the child took the nationality of his known or presumed father. Moreover, any child who was born on Syrian Arab Republic territory and whose nationality was not known was granted Syrian nationality in accordance with the provisions of the International Covenants on Human Rights. Since Syria had no over-population problems, it had taken various steps to encourage large families and to provide concessions for transport and schooling.

59. She further noted that equality of opportunity, as the term was understood in her country, implied that there was no prejudice stemming from rank, fortune or social distinction as there had sometimes been in the past.

60. The amount of property which could be owned by an individual was quite adequate for one family but was limited to avoid exploitation of other persons; all natural resources had been nationalized, however, so that they could be exploited for the benefit of the people as a whole.

61. Referring to the question of freedom of belief, she recalled that the Middle East was the cradle of the three religions of Judaism, Christianity and Islam, which were freely practised, mutually respected and did not give rise to discrimination; all three had co-existed for a very long time and Syrian society was homogeneous from a religious standpoint. Although the law imposed severe penalties on anyone who did not respect the religion of others, a clear-cut distinction was made between religion, on the one hand, and political movements and racist ideologies which had nothing to do with religion, on the other.

62. On the subject of unions, she said that as her country was trying to build up a modern society, all its laws were designed to consolidate progress and to prevent subversive associations from destroying what had been achieved since independence.

63. She would refer the various questions raised concerning appeal procedures and imprisonment to her Government and attempt to give replies at a later date when she had received the necessary information.

64. The CHAIRMAN thanked the representative of the Syrian Arab Republic for her replies and for her intention to refer a number of questions to her Government. He hoped that the Syrian authorities would take into consideration the fact that texts clarified the situation more than general replies. The Committee appreciated the promptness with which the report had been presented and the fact that it had been brought up to date, as well as the information it gave on almost all the articles of the Covenant. He requested the Syrian representative to convey the thanks of the Committee to her Government.

The meeting rose at 6 p.m.