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Held at the Palais Wilson, Geneva,
on Monday, 21 October 2002, at 3 p.m.

Chairperson: Mr. BHAGWATI

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (agenda item 7) (continued)

Third periodic report of Togo (CCPR/C/TGO/2001/3; CCPR/C/75/L/TGO)

1. At the invitation of the Chairperson, the members of the Togolese delegation took places at the Committee table.
2. The CHAIRPERSON invited the delegation to introduce the third periodic report (CCPR/C/TGO/2001/3).
3. Mr. KPOTSRA (Togo) said that when his Government had last presented a periodic report in 1994, it had described the efforts that had been made to establish a multiparty system and a State based on the rule of law. A Government of national unity had been established with the aim of ensuring reconciliation and economic revitalization. In presenting the third periodic report, his Government wished to reiterate its commitment to good governance, democracy and fundamental freedoms. The political reforms undertaken over the past 15 years were aimed at ensuring the establishment of a peaceful democracy with the broadest possible national consensus based on the country's unique history, society and culture.
4. Despite the difficulties on the path to democratization, nearly all the institutions of the Fourth Republic had begun functioning effectively. The authority of the State and public safety had been restored, and the economy was back on track. In carrying out the reforms, his Government had made a special effort to ensure that they took place in a context of harmony and consensus. It had held an inter-Togolese dialogue which had brought together the country's main political forces and had led to a framework agreement in July 1999. The Government had thus engaged in a constructive dialogue with the opposition, in particular on electoral matters.
5. Because of the urgent need to overcome the serious economic problems caused by the chronic crisis and exacerbated by the unjustified imposition of economic sanctions by Togo's development partners for over a decade, the Government had decided to call for early elections, which were scheduled for 27 October 2002. It hoped that those elections, which were being boycotted by the so-called traditional opposition, would take place in a peaceful, transparent and orderly manner and would produce a National Assembly representative of the various trends of national political thought.
6. The third periodic report contained two parts. The first described the political and institutional structure since the elections of August 1993, and covered the efforts to ensure reconciliation, to restore public safety, to permit the return of citizens who had fled the country in 1990 and 1991, and to hold an effective inter-Togolese dialogue. It outlined the adoption of institutional laws, the establishment of mechanisms to safeguard the rule of law, the strengthening of judicial institutions and the introduction of domestic legislation to implement international human rights instruments. It also described the work done to raise awareness of human rights throughout the country. The second part described the legislative, regulatory, administrative and practical measures taken to give effect to the rights and freedoms contained in

the Covenant, including the reorganization of the judiciary, measures to combat racial and gender discrimination, ways of ensuring basic freedoms, and the protection of the family and children's rights.

7. The subject of human rights figured prominently in the Togolese legal, political and institutional system and was the focus of many articles of the Constitution. Thanks to the clear commitment of Togo's leaders, the human rights situation had improved markedly. Togolese democratization and the consolidation of a State based on the rule of law were long-term processes requiring time and effort, and could be perfected. If the progress made in the areas of civil and political rights was to be sustained, it must be accompanied by a tangible improvement in the enjoyment of social and economic rights and be reflected in better living conditions for the Togolese people.

8. The CHAIRPERSON invited the Togolese delegation to respond to the questions contained in the list of issues (CCPR/C/75/L/TGO).

9. Mr. ASSOUMA (Togo), addressing question 1 of the list of issues, said that the Government had, with the assistance of an expert from the Office of the United Nations High Commissioner for Human Rights (OHCHR), established a National Legislation Harmonization Commission with a view to bringing the law into line with the provisions of the Covenant. The Commission had closely examined a number of major laws, including the Penal Code, the Civil Code, the Labour Code, the Health Code and basic laws dealing with commercial and rural affairs, and had issued proposals for modifications.

10. Turning to question 2, he said that the President of the Republic, the Prime Minister and the President of the National Assembly, with the approval of one fifth of its members, could request the Constitutional Court to rule on the constitutionality of a bill prior to its enactment. If the bill in question was of an institutional nature, then the same office-holders were in fact obliged to seek the Court's opinion regarding its constitutionality. In addition, the president of the High Audio-visual and Communications Authority and the president of the Economic and Social Council were obliged to verify the constitutionality of their bodies' by-laws. The Constitutional Court also heard cases involving electoral disputes.

11. Cases were initiated by a simple request and without any fees. Individuals were not allowed to bring cases before the Constitutional Court except where the person was a candidate contesting election results. When the constitutionality of a law was challenged by an individual in an ordinary court, it was not the individual but the court itself that referred the case to the Constitutional Court for a ruling. Neither the Constitutional Court nor the ordinary courts had been seized with cases in which the Covenant's provisions had been directly invoked, and there was no provision for such cases to be brought before the courts.

12. In reply to question 3, he said that the National Human Rights Commission had been established by a provision of the Constitution. Its membership included representatives of the country's magistrates, lawyers, traditional chiefs and law professors. Each group elected two candidates, and the National Assembly then chose between the two for election to the Commission. Members were elected for a renewable mandate of four years, enjoyed immunity from prosecution and received financial compensation to ensure their independence. Certain

functions, such as the holding of elected office or a post in the public or private sector or in the military, were incompatible with membership in the Commission. Cases were generally brought before the Commission in writing, but in the event of a grave and massive violation of human rights the Commission could carry out investigations on its own initiative. The Commission had its own budget, which was allocated from the State budget, and was not permitted to receive donations or any other form of financial support that could involve conditionality.

13. The Commission acted as an ombudsman. When a request for assistance or complaint was received, it sought first to resolve the dispute by designating a rapporteur from among its members, who tried to mediate. If no solution could be found, it sought redress by working with the president of the National Assembly or the President of the Republic. About 70 per cent of admissible cases were solved by the rapporteurs. The Commission received approximately 80 requests a year, about a quarter of which were declared inadmissible as they involved matters such as debt settlements or domestic disputes.

14. He answered question 4 by saying that full consideration had been given to all the recommendations of the joint United Nations/Organization of African Unity (OAU) International Commission of Inquiry. In March 2001, the President of the Republic had issued a decree establishing a national commission of inquiry composed of four magistrates in order to shed light on the various allegations of extrajudicial executions, forced or involuntary disappearances and torture or ill-treatment. The national commission of inquiry had worked for four months and had issued a report, which had been forwarded to the United Nations Commission on Human Rights. It had concluded that the allegations made by the International Commission of Inquiry and Amnesty International had been unfounded and false. The International Commission had itself stated that it could not confirm the allegations of Amnesty International according to which hundreds of people had been killed in extrajudicial executions.

15. Moving on to question 5, he observed that all the allegations made by the International Commission had been investigated by the national commission of inquiry, which had studied 18 cases mentioned by the International Commission and 5 others raised by the delegation of the United States of America during the session of the Commission on Human Rights. The national commission had found two cases of ill-treatment of detainees, and its investigation had resulted in the suspension of two members of the gendarmerie.

16. As to the allegations of extrajudicial executions, it had found that five of the names of people allegedly killed were unknown to the gendarmerie and the police. Two others had died in captivity while serving penal sentences. One had accidentally been shot by a gendarme during a violent political demonstration, and the gendarme in question had been arrested and prosecuted. One had been stabbed to death, but the perpetrators had never been found, and another had been found burnt in his car. Another, who happened to be a cousin of the President, had been shot by car-jackers. In another incident, an eight-year-old girl had been accidentally shot by a gendarme at a checkpoint in Lomé. The case was currently being prosecuted.

17. A number of the alleged disappearances involved people whose names were unknown to the police. Other cases apparently involved people who had left Togo and were living in Ghana. International arrest warrants had been issued for some.

18. On question 6 he said that investigations had been carried out concerning the allegations of the excessive use of force against demonstrators; they had concluded that the law enforcement agencies had discharged their duties properly in order to ensure public safety and that excessive force had not been used. In many instances, demonstrators had been killed or injured by the crowds at the demonstrations

19. Turning to question 7, he said that the very few instances of torture or ill-treatment had been totally without authorization. When found, the perpetrators were punished by suspension without pay or by dismissal from the army or security forces. Two gendarmes had recently been punished under military regulations for gratuitous violence against a leading member of the opposition.

20. Mr. KPOTSRA (Togo) said, in reply to question 8, that the National Legislation Harmonization Commission set up to revise the Penal Code had proposed in its report that life imprisonment should be substituted for capital punishment. The Government had not yet taken steps to put that recommendation into effect. As had already been stated, there had been no executions in Togo in the period under review. The Government and the National Assembly were still considering the possible abolition of the death penalty. As far as accession to the Second Optional Protocol was concerned, it would be premature for the delegation to express an opinion since the Protocol had not yet been adopted by the General Assembly. At the most recent session of the Commission on Human Rights, a decision had been taken by roll-call vote to recommend through the Economic Social Council that the General Assembly should adopt the Second Optional Protocol. The matter was currently being discussed in the Third Committee of the Assembly. The proposal to substitute life imprisonment for capital punishment involved the further problem of a growing prison population. The difficulties encountered by developing countries in that respect were well known. Despite the Government's best efforts, there was persistent overcrowding in Togolese prisons.

21. Turning to question 9, he said that the offences categorized by the Penal Code as attacks against internal State security were of two kinds. The first offence was that of inciting citizens to take up arms against the authority of the State or bringing in mercenaries to overthrow national institutions. The second was incitement of the populace to civil war with all its attendant devastation, looting and massacres.

22. On question 10, he replied that the duration of police custody as provided for in the Code of Criminal Procedure was 48 hours. That period could be extended for a further 48 hours on the authorization of the public prosecutor. In serious and complex cases involving more than one area of the country, police custody could be for up to eight days. When an examining judge took up a case and the case went to trial, the prisoner was informed of his right to have access to a lawyer. In practice, the families of arrested persons were informed by the examining judge, although there was no provision to that effect in the Code of Criminal Procedure.

23. Moving on to question 11, he said that steps had been taken to put into affect the Lomé Agreement Framework and the security forces had been informed. So far there had been no complaint from persons claiming to have been subjected to political violence.

24. In response to question 12, he said that any violation by the police of the provisions of the Penal Code was strictly forbidden. Police officers, even at the highest levels, were punished if they engaged in or permitted torture or degrading treatment.

25. Mr. ASSOUMA (Togo) said that his delegation had already touched on the question of prison conditions. It was unfortunately true that conditions in some prisons, especially in the capital, Lomé, were poor. On 2 August 2002, Lomé prison was holding 1,275 prisoners in premises designed for 600. Plans to build another prison had been abandoned for lack of means. The food provided was acceptable. In principle, there were two meals a day, although sometimes, when stocks fell low, only one was provided. There was a prison infirmary but drugs were in short supply. Fortunately, the pharmacy was restocked from time to time by Catholic nuns. Minor illnesses were treated in the prison infirmary and serious cases were sent to the university hospital. Women prisoners were held separately but their conditions were the same. Juvenile prisoners were held in a smaller, separate, building where they enjoyed better treatment. They received three meals a day and overcrowding was not so serious. Their infirmary was better equipped and they benefited from social services. Lastly, he noted that ex Bâtonnier Agboyibo had been pardoned by the Head of State and released on 14 March 2002.

26. Turning to the next section on freedom of religion, freedom of expression, freedom of association and right of peaceful assembly, he said, in response to question 14, that the allegations of the harassment and intimidation of journalists had all been investigated. Although the right to freedom of expression was guaranteed by article 19 of the Covenant, that article went on to say that the exercise of that right could be subject to such restrictions as were provided by law and necessary for respect of the rights or reputations of others. Under article 26 of the Togolese Constitution, freedom of the press was recognized and guaranteed by the State and protected by law. Within the limits defined by law, everyone was entitled to express opinions or convey information, orally or in writing. The prosecution and arrest of certain journalists had usually been in response to complaints by individuals of libel or false reporting. The allegations of arbitrary arrest were untrue and the result of a deliberate strategy by members of the press to obtain immunity. For example, the weekly journal Le Regard had published the private correspondence of a party leader with his colleagues. Despite a warning from the authorities, other publications had followed suit. On the complaint of the Minister concerned, the journalists responsible had been arrested and indicted. Another publication, the Tribune du Peuple, had published general comments based on incomplete information that defamed the entire military establishment. Another publication had falsely stated that its director had been forced by threats from the security forces to take refuge abroad. At that time he had in fact been holding a press conference at a hotel in the capital. The paper had therefore been indicted for false reporting. Radio Victoire, to which reference had been made, had been issued a provisional licence but, instead of renewing it, had continued to broadcast without authorization.

27. Responding to question 15, he said that the 1998 Act establishing a Press Code had proved inadequate. The amendments to it provided for in the Act of 23 February 2000 had been aimed at preventing further disorder, incitement to hatred and the general lack of professionalism. Unfortunately, two years after the establishment by that Act of the Press and Communications Code, it had become apparent that some press organizations were deliberately ignoring the rules and continuing to cast aspersions on honourable citizens. It had become

necessary, therefore to introduce new measures making it obligatory for the media to employ professional journalists. A new law, enacted on 3 September 2002, had amended the Act of February 2000 and instituted a press card, certifying the holder as a person possessing professional qualifications as a journalist. Both the press and the broadcasting media were free, and there were currently some 40 private newspapers. It should be noted that many press organs deliberately chose to disobey the rules and to continue to libel persons and institutions and to damage the nation's reputation. The purpose of the Act of 3 September 2002 was to guarantee the professionalism of editors and reporters.

28. Turning to question 16, he said that, since 1991, 434 churches or religious organizations had applied to the Ministry of Interior for registration. Of those, 95 had been given formal status after the completion of the administrative formalities. The refusals had been based on investigations into the morality of the association in question and the sites selected for holding religious services.

29. In response to question 17, he observed that there was no compulsory military service in Togo, which possessed a professional army recruited on a voluntary basis. Thus, the question of conscientious objection did not arise.

30. Mr. KPOTSRA (Togo), replying to question 18, said that NGOs wishing to engage in activities in Togo must first declare themselves as associations. The right to form an association was governed by the French Act of 1901, made applicable in Togo by Order No. 265 of 8 April 1946. There were currently about 1,800 associations around the country. Associations could be created by declaring themselves to the Ministry of the Interior and Security and depositing with it their statutes, by-laws, a list of the members of their executive boards and the names of their founders. They could operate freely even before receiving recognition from the Ministry. The conditions governing collaboration between the Government and NGOs were set out in Decree 92-130/PMRT, whereby NGOs were defined as national, international and foreign, non-political and non-profit making associations, established by private initiative and engaged in activities of general interest, solidarity or cooperation for development. Under article 4 of that Decree, any national organization wishing to be recognized as an NGO must apply to the Ministry of Planning after first being approved by the Minister of the Interior and Security.

31. The CHAIRPERSON invited the members of the Country Report Task Force to put questions to the delegation.

32. Mr. GLÈLÈ AHANHANZO, Country Rapporteur for Togo, welcomed the Togolese delegation and expressed his appreciation for the written information and statistics in the report. He had been particularly struck by the integration of the spirit and rights of the Covenant in the Constitution. He would like to know, however, what practical steps had been taken to harmonize the country's legislation with the Covenant's provisions. As the Committee had noted, most of the laws in effect in Togo pre-dated the 1992 Constitution. Were the provisions of the Family Act and the Penal Code in harmony with the provisions of the Constitution and the Covenant? With regard to the Constitution Court, he asked whether there had been any cases in which that Court had been directly approached by individuals.

33. Mr. YALDEN said it was not clear which body in Togo dealt with complaints of human rights violations. Noting that the Constitution outlawed all forms of discrimination, he would like to know to which body women or minorities, for example, took their complaints and with what results, and whether there was a mechanism for dealing with complaints in areas such as employment in the private sector. He would also like to know whether the National Human Rights Commission published an annual report giving details of the nature of any complaints it had dealt with. Lastly, he asked for information on the duties of the Ministry of Promotion of Democracy and the Rule of Law and on its relationship with the National Human Rights Commission.

34. Mr. SOLARI YRIGOYEN said that the human rights situation in Togo had been fairly unsettled ever since the country had gained independence, but it seemed that the current Government was making a serious attempt to establish democratic institutions, despite what might be described as an excessively presidential regime. However, he was concerned that the report should still be talking of achieving the rule of law “progressively”, when in fact the rule of law needed to be instituted immediately and then strengthened. Moreover, the self-congratulatory tone of some parts of the report, such as paragraph 23, where Togo expressed its satisfaction with the current political situation and with the international community’s positive assessment of improvements in the field of human rights, contrasted strongly with claims by the Government’s critics that human rights were constantly being called into question. The fact that the Commission on Human Rights, in its resolution 1996/67, had decided to terminate its consideration of the situation of human rights in Togo should not be interpreted as meaning that the United Nations was not still concerned about that situation; in fact, in response to a number of serious allegations by NGOs, it had set up, together with OAU, the joint International Commission of Inquiry for Togo, which had visited the country in 2000.

35. The claim in paragraph 329 of the report that the presidential elections in 1993 and 1998 had been conducted transparently was contradicted by the accounts of many national and international observers. Moreover, many human rights organizations blamed the 1994 Amnesty Act for the impunity enjoyed by the perpetrators of human rights violations, such as the murderers of Mr. Tavio Amorin, former chairman of the Political Affairs, Human Rights and Liberties Commission of the High Council of the Republic. The signing of the Lomé agreement by the Government and its opponents following international mediation had been a welcome development, but the agreement made no mention of combating impunity for serious human rights violations.

36. He found the answer to question 5 in the list of issues unsatisfactory. The 1999 report by Amnesty International entitled “Togo: rule of terror” had concluded that extrajudicial executions were taking place in Togo, and the International Commission of Inquiry had concurred with its conclusions. And yet the Government had rejected the report’s findings outright, with the Ministry of the Interior going so far as to claim that Amnesty International had been paid an enormous sum of money by the Togolese opposition to draft the report. The International Commission had confirmed the reports of extrajudicial killings after talking to fishermen who had found bodies on the beaches of Togo and neighbouring Benin, but it had not been able to

establish the number of such killings. He would like the delegation to provide more detailed information on the victims of extrajudicial executions, including those who were common criminals and those who had died in prison.

37. He was also dissatisfied with the answer to question 6, on the excessive use of force. The delegation's claim that the police only intervened to keep order and never used excessive force flew in the face of all the evidence collected from many different sources.

38. While he welcomed the delegation's honest acknowledgement of the problems in Togolese prisons in its reply to question 13, there were too many reports by reputable organizations of people dying in prison from poor food or lack of food for him to accept its answer that the food situation in prisons was tolerable. He was glad to learn that ex-Bâtonnier Agboyibo had been released from prison, but it appeared from all accounts that he had been jailed simply for reporting a number of deaths linked to people close to the Government and that due process had not been observed during his trial, in contravention of article 14 of the Covenant. He would like to know if that distinguished human rights defender had received any compensation for the months he had been illegally held in prison.

39. Mr. KLEIN said that a lack of resources was no excuse for the failure to respect the human rights enshrined in the Covenant. In fact, it cost very little to observe many of those rights. For example, it cost nothing to refrain from torturing people or to respect the inherent dignity of the human person, even though resources were needed to ensure the proper functioning of the system of justice. While it was certainly good news that articles 6 and 7 of the Covenant could be invoked directly in the courts, there were too many allegations of torture to be ignored and the assertion in paragraph 122 of the report that the Togolese justice system had "not yet heard a typical case of torture" was far from reassuring in the light of the multitude of sources that contradicted that assertion. The Government should set up an independent procedure for investigating complaints of torture, which would, at the very least, leave it in a better position to refute allegations of torture. Another serious problem was the legal and de facto impunity enjoyed by the perpetrators of torture, which could only encourage the offenders to continue offending.

40. He did not wish to dwell on the problem of overcrowding in prisons or on the reports that prisoners sometimes had to pay for a place to sleep or for food, but he would like to know more about the methods used to ill-treat detainees and whether such practices as forcing them to beat each other with sticks were prohibited and punished. He requested information on "Camp Landja", a military camp reputed to have become a torture camp under the control of the President's son, Ernest Eyadéma. In that and other camps there was a high mortality rate, a failure of justice and no sign of compensation for victims.

41. There appeared to be a consensus in the country that capital punishment should be banned, but death sentences continued to be handed down. He sincerely hoped that no more death sentences would be carried out in Togo and that Togo would consider signing the Second Optional Protocol to the Covenant.

42. Ms. CHANET said that, while it was clear that the Covenant enjoyed constitutional status in Togo, problems arose when legislation that pre-dated the Constitution was incompatible with the provisions of the Covenant. Attention had already been drawn to such problems in respect of the Code of Criminal Procedure by, among others, NGOs and the International Commission of Inquiry. There was widely observed to be a gap between the provisions of the Constitution, domestic legislation and the reality on the ground, and there also appeared to be a widespread fear of reprisals that prevented people from speaking out on human rights violations.

43. According to various sources, individuals could be held in pre-trial custody for up to eight days, without access to a lawyer and without any notification of their rights, despite the fact that under the Code of Criminal Procedure all detainees must be registered and had a right to be informed of the date and place of their trial. Under the Code, a doctor could be consulted during police custody. However, it seemed difficult to guarantee such rights. Paragraph 133 of the report revealed that while police officers were not entitled to make an arrest without a warrant except in cases of flagrante delicto, those provisions were sometimes violated in practice. It would seem, therefore, that the police were not subject to the rules of the Code of Criminal Procedure. The report also indicated, however, that the courts would take action in such cases. She would like to know what sanctions were applicable and whether the detainee could be released. She expressed concern that relatives were often not informed of the whereabouts of detainees, making it easy for people to disappear. She would like to know what legal mechanisms existed to contest custody and arrest. It would also be interesting to learn whether individuals could be held in administrative detention, given that there were no provisions in the Code of Criminal Procedure to that effect.

44. The report stated that the Head of the French Cooperation and Cultural Action Mission had recently agreed to fund a project to improve living conditions in detention centres in Lomé by providing the Ministry of Justice and the Ministry of Human Rights and Rehabilitation with a fund amounting to 50 million CFA francs. The project had been launched in 1997 with a “first-sod” ceremony at Lomé prison. She would be interested to know the results of the project and whether any alternatives to juvenile detention (such as community service) were available or had been envisaged to reduce the overcrowding of prisons.

45. Mr. AMOR welcomed the fact that the Covenant had a clearly defined legal status in Togo, equivalent to that of the Constitution. However, perhaps Togo had been too ambitious, making the discrepancy between the status of the Covenant and the human rights situation in the country all the more disappointing. The delegation had indicated that individuals could, on grounds of unconstitutionality, invoke the Covenant before the courts in cases of human rights violations. He would like to know whether such a case could be referred to any court and whether courts had the discretionary power to refer the case to the Constitutional Court or whether its involvement was automatic. He would also like to know whether any statistics and examples could be provided of cases that had been deemed unconstitutional by the Constitutional Court and whether the grounds of unconstitutionality could be applied to legislation pre-dating the adoption of the 1992 Constitution. If so, it would be interesting to learn whether any provisions of the Penal Code had been challenged on grounds of unconstitutionality and what the results had been.

46. There were currently too many restrictions on the freedom of the press. He would like to know whether the Press and Communications Code (2000) was compatible with article 19 of the Covenant. The Code contained a considerable number of criminal provisions, giving the impression that it was a penal rather than professional code. He had been very surprised to hear from the delegation that certain people working in the media had chosen to flout the professional code of ethics. He wondered what was meant by the word “chosen”. Did it suggest that people had conspired to cause harm or rather that they had a political strategy? He would also like to know what exactly was understood by the professional code of ethics. Was reference being made to the Press and Communications Code, or had somebody devised a specific set of rules for personnel working in the media? The report also mentioned that the private press was working against a background of increasing disorder. He would like to know the reasons for that disorder. Referring to the fact that journalists would soon have to have a card in order to practise their profession, he asked on what basis such cards would be issued. Did journalists have to have any special qualifications? He would also like more information about Radio Victoire, the private radio station which had continued broadcasting after the expiry of its provisional licence. He wondered whether the station had requested a licence renewal and, if so, why its request had been turned down.

47. Turning to the issue of freedom of religion, he asked why only 94 religious organizations had been granted a licence when 434 had requested one. He expressed concern about the subjective nature of the investigations that had been conducted into the morality of the organizations, which ran counter to article 18 of the Covenant. In addition, he wondered why licences had been granted on the basis of location. Did that mean that places of worship were subject to building regulations?

48. Acknowledging that military service was not compulsory, he asked whether any legislation existed to protect people and property from being requisitioned for military purposes.

49. On the issue of NGOs, he would like to know whether domestic and foreign NGOs working in the field of human rights could freely conduct their activities or whether they were subjected to restrictions. The reporting State should clarify what was meant in the report by “non-political NGOs” and should provide further details about the application procedures for recognition of NGO status. In theory, there should be no restrictions on the establishment of NGOs beyond making an application, given that the establishment of an association was a matter governed by the French Act of 1 July 1901, made applicable in Togo in 1946. It would be interesting to know whether previous judicial decisions were taken into account.

50. The CHAIRPERSON invited members of the Committee to put additional questions to the delegation.

51. Mr. KHALIL said that he would like to learn more about the role of the High Audio-visual and Communications Authority, which appeared to be responsible for monitoring observance of professional ethics as well as for promoting the freedom of the press. He would like to know whether any of the elected members of the Authority were journalists. He expressed misgivings about the freedom of assembly in Togo owing to the lack of information.

Was notification the only requirement for holding a meeting and demonstrating peacefully? Or was authorization necessary (which would suggest that it could be withheld)? Paragraph 232 of the report suggested that the right to engage in public activities was confined to political parties with a legal personality, a status granted by the Ministry of the Interior, and implied that no other part of civil society had the right to demonstrate peacefully. He asked the delegation to clarify the differentiation made between the status of NGOs and national associations.

52. Mr. GLÈLÈ AHANHANZO said he would welcome an explanation why, according to information he had acquired in the field, certain individuals had been held for two years in pre-trial detention without being charged. He would also like to know whether the State party had taken any action on the recommendations of the joint United Nations/OAU Commission of Inquiry, especially with regard to the elections scheduled for October 2002 and the fact that the independent monitoring commission had been replaced by a team of judges.

53. Was the custom of rejecting foreign names, especially Christian names, still practised? He would also like information about the current situation of ex-Bâtonnier Agboyibo, given that he had been held in prison for six months without a conviction. Lastly, he expressed concern that, although the Togolese courts had seldom sentenced people to death, the death penalty provided for under the Penal Code could be imposed, inter alia, on any individual facilitating or committing an offence against property or against public morals. The delegation should explain how such offences were defined.

54. Mr. HENKIN observed that, although the Prime Minister of Togo had made a statement to the Commission on Human Rights in April 2002 claiming that his Government had met all its reporting obligations under the 50 international instruments it had ratified, the State party had submitted its report to the Committee over five years late and had failed to submit reports to other treaty bodies. He would like to know if there was any explanation for the late submission or failure to submit reports and whether the Committee could do anything to help the State party to meet its reporting obligations, as the treaty bodies depended on the reporting procedures to carry out their work. He would also like to know whether the National Human Rights Commission was required to publish the results of its investigations.

55. The CHAIRPERSON said he would be interested to know the outcome of the agreement signed by Togo with UNHCR in 1995, the aim of which was to promote, facilitate and organize the voluntary repatriation of Togolese refugees. How many refugees had returned to Togo to date? He would also be interested to learn whether the State party had taken any action on the recommendations made to decision-makers in the prison administration and in the Ministry of Justice following the 1995 training seminars for prison management staff. Lastly, he would like to know whether article 94 of the Constitution, which provided for a state of siege and a state of emergency, set out any non-derogable rights and whether an institutional law had been enacted for the purpose of establishing the conditions for declaring a state of emergency.

56. Mr. KPOTSRA (Togo) expressed his gratitude to the Committee for the interest it had shown in the human rights situation in his country. He had been particularly interested in the information provided by Mr. Solari Yrigoyen, much of which had been unfamiliar to him but had provided a clear picture of activity in Togo. As a number of Committee members had pointed

out, Togo's excessive ambition might unfortunately be behind the current situation of increasing disorder. Haste to implement change and the rule of law often gave rise to a change in political power, as was the case in many other third-world countries. In the past, many of his fellow-countrymen had resorted to any means available to them to facilitate the process of change, including subversion and terrorism. However, it seemed somewhat inappropriate to refer to past events when it was the current situation that was being examined.

57. In reply to a question about the problems faced by the media, he said that although the profession was governed by a set of rules, the precarious economic situation meant that many journalists practised their profession without being properly qualified to do so. His Government would welcome foreign assistance in its efforts to increase professionalism in the media. He expressed concern that his delegation would not have sufficient time to answer all the questions asked by the Committee.

58. The CHAIRPERSON suggested that the delegation's task might be made easier if it grouped some of its answers together.

The meeting rose at 6 p.m.