



**International covenant  
on civil and  
political rights**

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES  
PARTIES UNDER ARTICLE 40 OF THE COVENANT**

**Third periodic report**

**SYRIA\***

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## **Introduction**

1. The International Covenant on Civil and Political Rights places the States parties thereto under certain obligations in order to ensure that their legislation and their legal and judicial systems are in conformity with the provisions of the Covenant.
2. In this report, the Syrian Arab Republic will diligently endeavour to show, in a clear and reliable manner, the extent to which Syrian legislation is compatible with the rights recognized in the Covenant by listing those rights, article by article, and comparing them with the domestic laws and legislation in force in Syria in order to acquaint the Committee with the legal framework within which the provisions of the Covenant are being implemented in the Syrian Arab Republic.
3. In accordance with the provisions of article 40 of the International Covenant on Civil and Political Rights, under which the States parties undertake to submit reports on the measures they have adopted which give effect to the rights recognized therein, this report has been prepared in the light of the guidelines formulated by the Human Rights Committee for reports on the International Covenant on Civil and Political Rights.
4. Syria acceded to the International Covenant on Civil and Political Rights on 21 April 1969 under the terms of Legislative Decree No. 3 and, consequently, the Covenant became part of its domestic legislation and, as such, is enforceable in accordance with the provisions of the Constitution.
5. The Constitution is the fundamental law in the country. The rights referred to in the International Covenant on Civil and Political Rights are guaranteed in the Syrian Constitution, which is the country's basic law, and in the legislation in force in the country. This is confirmed by article 12 of the Constitution, which stipulates that: "The State shall serve the people and its institutions shall protect the basic rights of citizens and enhance their lives ... etc."

## **PART I**

### **Syrian Arab Republic: An overview**

#### **(a) Geopolitical data**

6. The Syrian Arab Republic is situated on the eastern coast of the Mediterranean and borders Turkey in the north, Iraq in the east, Palestine and Jordan in the south and Lebanon and the Mediterranean in the west. Its borders extend 845 km with Turkey, 596 km with Iraq, 356 km with Jordan, 74 km with Palestine and 359 km with Lebanon, while its Mediterranean coast extends about 183 km, making a total of 2,413 km of Syrian borders on all four sides.
7. **Area:** The overall area of the Syrian Arab Republic is 185,180 km<sup>2</sup> or 18,517,971 hectares, of which 6 million hectares are arable land while the remaining area is mountainous and desert. In 1967, Israel occupied 1,260 km<sup>2</sup> of the Golan territory of which a part was recovered in addition to Kuneitra in the wake of the liberation war in October 1973. Today, 1,200 km<sup>2</sup> remain under Israeli occupation. The total area of the Golan is 1,860 km<sup>2</sup> and is bordered almost entirely by Kuneitra Governorate.

8. **Climate:** Overall, the climate of the Mediterranean region prevails, with rainy winter, dry summer and two short transitional seasons.

9. **Administrative divisions:** Syria's territory is divided into 14 governorates, each of which is normally divided into districts, and districts are divided into sub-districts, each comprising a number of villages, which are the smallest administrative units. A governorate is headed by a governor, a district or a sub-district is headed by an administrator, and a village is run by a council headed by a mayor who is in charge of the village and its farming land. Governors are appointed by a decree, while administrators of districts and sub-districts are appointed by the Ministry of the Interior. Mayors are administratively subordinate to the governor but report to the administrator of the sub-district who in turn reports to the administrator of the district; this latter reports to the Governor. The seat of the governorate is normally in the city after which the governorate is named; and the seat of a district is the town which bears its name. In addition to 14 governorate seats, there are 61 districts and 210 sub-districts.

10. **Demography:** Various ancient civilizations were fused in Syria thousands of years ago: Assyrian, Kanaanite, Aramaic, Phoenician, Syrianic and Ebla, the last of which gave the world its first alphabet in history, Ugharit. For this reason Syria has been called the cradle of civilizations, and its people have many different ethnic and religious origins. According to statistical estimates of 2003, Syria has a population of 17.34 million, of whom 8.874 are males and 8.466 are females, with 52 per cent living in rural areas and 48 per cent in urban areas. Annual population growth between 1995 and 2000 has been estimated at 0.027 per thousand. In 2001, the fertility rate was 3.8 per thousand. The balanced demographic distribution was disturbed by the Israeli occupation of Syrian territory in 1967, forcing the displacement of over 150,000 persons. With natural growth, the number of displaced persons has reached 305,661 in 2004. Five per cent of the population of remote villages of Golan remained in the villages of Mossaadah, Bakaaba, Ein Qenieh, Ghagar (gypsy) and S'heita, with a total of 25,000 inhabitants in 2003. On 14 December 1981 Israel annexed the occupied Golan territory and imposed on the population Israeli identity cards and Israeli laws, but the Security Council adopted resolution 497 (1981) which declared this annexation null and void. The occupation forces also used villages and agricultural land to establish 44 settlements since 1967, and are expanding the settlements to accommodate 4,500 new Jewish immigrant families over the next 10 years.

**(b) Political data**

11. **The Constitution:**

The Constitution of the Syrian Arab Republic was enacted on 13 March 1973 to govern the State and its various institutions, serving as the basis of all legislation. It comprises a Preamble and four Chapters: Chapter 1 on political, economic, educational and cultural principles and freedoms, rights and public duties (arts. 1-49); Chapter 2 on powers of the State, comprising three parts, legislative power, executive authority and judicial authority (arts. 50-148); Chapter 3 on amending the Constitution is made up of one article, article 149, and Chapter 4, on general and transitory provisions, also made up of one article, article 150. The Preamble states that the Constitution is based on major principles, notably that freedom is a sacred right, and a citizen's freedom can be complete only with economic and social liberation.

### **Features of the system of government in the Syrian Arab Republic**

12. The Syrian Arab Republic is a democratic, people's socialist sovereign State. No part of its territory can be ceded. It is a part of the Arab homeland (article 1 of the Constitution). The system of government is republican and sovereignty is vested in the people (article 2 of the Constitution). The Socialist Arab Ba'th Party is the leading party in society, and leads a patriotic and progressive front seeking to unify the resources of the people's masses and place them at the service of the Arab nation's goals, (article 8 of the Constitution). At present, this front comprises nine parties, including the Ba'th Party. People's councils are organs elected in a democratic way at which the citizens shall exercise their rights in administering the State and leading the society (article 10 of the Constitution).

13. In Chapter 2 the Constitution provides for three powers, namely the legislative authority, the executive authority and the judiciary.

#### *Legislative authority*

14. The People's Assembly assumes legislative authority in accordance with article 50 of the Constitution:

“The members of the People's Assembly shall be elected by general, secret, direct and equal ballot in accordance with the provisions of the Electoral Law” (art. 50). “For four years beginning on the date of its first meeting. This term can be extended by law only in a state of war” (art. 51).

15. Under article 71 of the Constitution, the People's Assembly assumes the following functions:

- (a) Nomination of the President of the Republic;
- (b) Approval of laws;
- (c) Debate of cabinet policy;
- (d) Approval of the general budget and development plans;
- (e) Approval of international treaties and agreements;
- (f) Approval of general amnesty;
- (g) Acceptance or rejection of the resignation of a member of the Assembly;
- (h) Withholding confidence in the cabinet or a minister.

16. The Constitution provides that two-thirds of the members of the People's Assembly may propose amending the Constitution (art. 149). It further states that the amendment proposal shall include the provisions to be amended and the reasons for it. Upon receipt of the proposal the People's Assembly shall set up a special committee to examine it.

*Executive Authority*

17. The Executive Authority in the Syrian Arab Republic comprises the President of the Republic, the Cabinet of Ministers and local people's councils (town councils).

18. Nomination for the post of President is made by the People's Assembly upon a proposal by the Arab Socialist Ba'th Party Regional Command and the nomination shall be put to a referendum among citizens. The President exercises executive authority on behalf of the people within the limits defined in the Constitution (art. 93) as follows:

1. He shall, through consultation with the Cabinet, lay down the State's general policy and supervise its implementation, (art. 94).
2. He may call a cabinet meeting under his chairmanship. He may also request reports from the Ministers, (art. 97).
3. He shall promulgate the laws approved by the People's Assembly, and may veto these laws through a decision giving the reasons for his objection within a month after the receipt by the President. If the Assembly again approves them by a two-thirds majority the President of the Republic shall issue them, (art. 98).
4. He shall issue decrees, decisions and orders in accordance with the legislation in effect, (art. 99).
5. He may declare war and general mobilization and may conclude a peace agreement after approval by the People's Assembly, (art. 100).
6. He may declare and terminate a state of emergency in the manner stated in the law (art. 101).
7. He shall accredit the heads of diplomatic missions to foreign governments and accept the accreditation of the heads of foreign diplomatic missions, (art. 102).
8. He is the supreme commander of the army and armed forces, (art. 103).
9. He shall ratify and abolish international treaties and agreements in accordance with the provisions of the Constitution (art. 104).
10. He may issue amnesty and reinstatement decisions (art. 105).
11. He can bestow decorations, (art. 106).
12. He may dissolve the People's Assembly through decision giving the reasons. Elections shall be held within 90 days from the date of the dissolution, (art. 107).
13. He may call on the People's Assembly to convene in extraordinary session, (art. 108).

14. He shall appoint civilian and military officials and terminate their services in accordance with the law, (art. 109).

15. He may draft project laws and submit them to the Assembly for approval, (art. 110).

16. He shall assume legislative authority at times specified in the Constitution, (art. 111).

19. The Council of Ministers is the State's highest executive and administrative body. It is constituted of the Prime Minister, his deputies and the ministers and it supervises the execution of the rules and regulations and supervises the operation of the State machinery and institutions. The Prime Minister supervises the activities of the ministers, (article 115 of the Constitution).

20. The local people's councils are bodies which exercise their powers within the administrative units in accordance with the law, (article 129 of the Constitution).

#### *The judicial authority*

21. The judicial authority comprises judges, public prosecution office and the Supreme Constitutional Court. Article 131 of the Constitution stipulates that the judicial authority is independent and that the President of the Republic shall guarantee this independence with the assistance of the Higher Council of the Judiciary. The Supreme Constitutional Court is composed of five members, of whom one would be the President and all of whom shall be appointed by the President of the Republic by decree, (article 139 of the Constitution). The mandate of the Supreme Court is to determine the validity of the special appeals regarding the election of the members of the People's Assembly and to submit to the Assembly a report on its findings, (article 144 of the Constitution). It shall also examine and rule on the constitutionality of laws (article 145 of the Constitution).

22. The judiciary are independent and have full authority to act in accordance with article 131 of the Constitution. Judges are independent and are subject to no authority except that of the law, (article 133 of the Constitution).

- Some international conventions in the field of human rights to which Syria has acceded:

23. Syria is a party to a large number of international instruments which establish rights and obligations and ensure respect for human dignity and fundamental human rights. These include:

1. The International Covenant on Civil and Political Rights, of 16 December 1966, to which Syria acceded on 21 April 1969.

2. The International Covenant on Economic, Social and Cultural Rights of 16 December 1966, to which Syria acceded on 21 April 1969.

3. The Slavery Convention of 1926 to which Syria acceded on 25 June 1931.

4. Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, to which Syria acceded on 4 August 1954.

5. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practises Similar to Slavery of 7 September 1956 to which Syria acceded on 17 September 1958.
6. The four Geneva Conventions of 1949 to which Syria acceded on 2 November 1953.
7. The First Protocol Additional to the Four Geneva Conventions of 1977 to which Syria acceded on 14 November 1983. Syria also acceded to the Second Additional Protocol.
8. The International Convention on the Suppression and Punishment of the Crime of Apartheid of 31 December 1965, to which Syria acceded on 18 June 1976.
9. The International Convention on the Elimination of all Forms of Racial Discrimination of 31 December 1965, to which Syria acceded on 21 April 1969 and accepted the amendment of article 8 thereof in 1998.
10. The International Convention Against Apartheid in Sports of 10 December 1985 to which Syria acceded on 28 November 1988.
11. The Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1949 to which Syria acceded on 25 June 1955.
12. The International Convention for the Suppression of Traffic in Women and children, signed in Geneva on 30 September 1921, as amended by the Protocol signed in New York on 12 November 1947, to which Syria acceded on 17 November 1947.
13. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and its Final Protocol adopted in New York on 21 March 1950, to which Syria acceded on 12 June 1959.
14. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
15. Protocol Amending the Convention for the Suppression of the Traffic in Women and Children, concluded in Geneva on 3 September 1921 and the Convention for the Suppression of Illicit Trafficking in Adult Women concluded in Geneva on 11 October 1933, to which Syria acceded on 17 November 1949.
16. Convention on the Elimination of All Forms of Discrimination Against Women of 28 December 1979 to which Syria acceded on 27 March 2003.
17. Convention on the Rights of the Child of 30 November 1989, to which Syria acceded on 15 July 1993.
18. The First Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, to which Syria acceded on 17 October 2003.

19. The Second Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, to which Syria acceded on 17 October 2003.
24. Syria also joined 48 Conventions relating to the rights of workers and trade union freedoms which were adopted by the International Labour Organization, including:
  1. Convention No. 1 on Hours of Work, 1919.
  2. Convention No. 2 on Unemployment, 1919.
  3. Convention No. 11 on Right of Association (Agriculture), 1921.
  4. Weekly Rest (Industry) Convention, 1921.
  5. Workmen's Compensation (Accidents) Convention, 1925.
  6. Forced Labour Convention, 1930.
  7. Holidays with Pay Convention, 1936.
  8. Minimum Wage-Fixing Machinery Convention, 1928.
  9. Working Hours (Commerce and Offices) Convention, 1990.
  10. Convention on Equal Treatment between National and Foreign Workers in Respect of Compensation for Accidents.

Syria has also acceded to a number of international conventions relating to cultural and intellectual human rights adopted by UNESCO.

**(c) Economic aspect**

**Features of the economic system in the Syrian Arab Republic**

25. In article 13, the Constitution of the Syrian Arab Republic defines the economic system as a planned socialist economy which seeks to end all forms of exploitation. The law regulates ownership which is of three kinds (art. 14):
  1. Public ownership, which includes natural resources and public utilities.
  2. Collective ownership which includes property belonging to popular and professional organizations.
  3. Individual ownership which includes property belonging to individuals.
26. Since the 1960s the Syrian Arab Republic has adopted the principle of comprehensive planning of economy, and the first five year plan was announced for the period 1960-1966. Currently the tenth five year plan is under way. The main objective of these plans is to establish foundations of social justice and to accomplish economic development. Since 1970, and with

the onset of the Corrective Movement, the economic approach in Syria has been built on economic pluralism under which each of the public, private and mixed sectors plays a role in the process of economic and social development, with emphasis on the leading role of the public sector. However, the nature and size of each sector in the overall structure of national economy has not remained static throughout successive phases of development, but rather varied to meet economic and social requirements of each phase. It should be noted that the social aspect has always enjoyed relative importance in the economic policy of Syria.

27. As of the early years of the 1990s the approach of economic pluralism has been characterized by additional freedom for the private sector and the mixed sector and several laws and regulations were adopted at the time to support these two sectors. Foremost among these laws was Law No. 10 and its amendments to promote investment, which allowed these two sectors to exercise activities in the areas of production, distribution, import and export and in the areas of investment and services, which were previously reserved for the public sector.

28. The central question facing the political leadership in the management of the economy in Syria at present is “the process of economic liberalization” and “the modernization of the system of economic pluralism”, as this process will not only further expand the private and mixed sectors but also further develop procedures and management in the public sector. According to the latest statistics by the Central Office of Statistics for 2003, gross domestic product reached LS 1,672 billion at constant prices, with a rate of growth of 2.7 per cent compared with 2001, in which gross domestic product had reached LS 1,627 billion. At current prices the figure is LS 1,708 billion, a growth rate of 4.4 per cent compared with 2001 in which the figure was LS 1,626 billion.

29. In 2000 national income was LS 820,307 million, and increased in 2001 by 6.3 per cent to reach LS 842,400 million and LS 912,935 million in 2002, an increase of 4.6 per cent from 2001.

30. The implementation of the ninth five year plan of the Ministry of Economy and its affiliate bodies was characterized by the modernization of legislation and laws and by structural reform of economic policies in order to ensure the transition of the economy from traditional forms to the information economy, and to provide for the development of economic relations with Arab and foreign countries. This plan was divided into two phases:

(a) From 2001 to 2003: follow-up of reform and structural adjustment; and

(b) From 2004 to 2005: consolidation of opportunities for growth on the basis of high-level directives to ensure the continuation of the policies of economic reform, modernization and development.

31. Banks in Syria have an extremely important role to play in the promotion of economic and social activities. For this reason the State oversees, manages and directs the banking system. Each of the six currently operating banks is assigned a specialized activity, role and objectives different from the others. With their network of branches in the capital and capitals of governorates as well as other areas of Syria these banks offer services and facilities to institutions and individuals within their own regulations and terms of reference.

32. Significant achievements of Syrian banks may be summed up as follows:

- (a) Protection of savings by citizens, ensuring their growth and investment to finance various sectors;
- (b) Helping the State to implement its monetary policy and to adjust this policy to take account of public interest;
- (c) Provision of banking services to public, economic and social sectors; and
- (d) Performing an effective role as a tool of financial control of public institutions and profits.

Recently, the private sector received funding from the Islamic Development Bank and the Syrian Commercial Bank to finance Arab exports to non-Arab countries.

33. Syria has endeavoured to develop its commercial and economic relations with all countries of the world and to defend its interests and the interests of the third world in international economic forums. It entered into trade and economic, scientific and technical cooperation agreements with many developed and developing countries, in addition to other agreements for protection of investment and elimination of dual taxation. Syria also maintains cooperation with EU countries and expects to sign a partnership agreement with the EU in the framework of the Barcelona process that aims at the creation of a European-Mediterranean free trade zone. Syria is also a member of the larger Arab free trade zone, which constitutes the first step within the framework of the League of Arab States to set up a joint Arab market. Syria also actively participates in international economic forums and is a member State in the Economic and Social Commission for West Africa (ESCWA).

- Recent legislations and laws and concrete measures to ensure the growth of the national economy

34. In the period from 2000 through 2003 many agreements, protocols and memoranda of understanding were signed with various Arab and foreign countries, and actions have been taken for the functioning of joint high-level and ministerial committees with Arab and foreign countries, trade committees, and follow-up and expert groups.

1. Ratification and implementation of agreements to set up free trade zones jointly with a number of Arab and foreign countries.
2. Ratification of numerous international trade agreements.
3. Conclusion of agreements with various countries to promote and guarantee investments.
4. Support of the Syrian business sector in its second phase since 2000 with funds amounting to €12 million over five years.
5. Elaboration of the memorandum of justification for the accession of Syria to the World Trade Organization.

6. Creation of an executive secretariat of the National Committee formed by Syria and member States of ESCWA to facilitate transportation and foreign trade, achieve trade efficiency and promotion of technological tools among providers of trade services (small and medium level).
7. Decrees to create free zones in Syria, including coastal free zones in a number of Syrian coastal cities.
8. A decree on the accession of Syria to the treaties of cooperation on patents.
9. Decree No. 40 of 27 January 2003 on the new investments system and free zones.
10. Decree No. 141 of 3 April 2003 creating the Monetary and Credit Council which issued decisions to authorize a number of private banks to operate in Syria and issued decision No. 4 of 28 May 2003 to amend interest rates on loans and credits of public banks.
11. Legislative Decree No. 33 of 8 July 2003 on measures to combat smuggling of precious coins and metals.
12. Legislative Decree No. 44 of 12 August 2003 increasing the Syrian contribution to the capital of the International Agency for the Insurance of Investment.
13. Legislative Decree No. 49 of 21 August 2003 on the creation of a banking training centre within the Ministry of Economy.
14. Decree No. 54 of 2 September 2003 amending the clause for the addition of another clause in the law on the real estate charges in respect of fees of voluntary or compulsory insurance of debts and mortgages.
15. Legislative Decree No. 59 of 9 September 2003 to combat money laundering.
16. Decree No. 120 of 22 March 2003 incorporating foreign trade bodies into one institution called the General Authority for Foreign Trade, which entered into force as of 1 July 2003.
17. Legislative Decree No. 13 of 15 February 2003 amending article 156, paragraph 2, of the Customs Law No. 9 of 1975 to exempt donations and gifts from within Syria or from outside sources to ministries and other State departments and authorities from taxes and customs on condition that the donor has no interest or benefit in any State organization.
18. Legislative Decree No. 36 of 21 July 2003 on conditions for the importation of vehicles for the disabled.
19. Law No. 15 of 2003 ratifying the trade and economic agreement with Saudi Arabia.

20. Law No. 17 of 14 October 2003 ratifying the Agreement on the Establishment of the Arab Academy for Electronic Business.

21. Legislative Decree No. 11 of 2003 on the accession of Syria to the Treaty of Cooperation on Patents.

35. In 2004 successive laws and legislative decrees were issued for the modernization of laws as a cornerstone in economic development and for the promotion of the private sector as an important component of national wealth and the continued investment in human development and rehabilitation of managerial cadres as a basis for modernization. Special mention should be made of Legislative Decree No. 16 of 14 February 2004 on the abolition of economic security tribunals. Earlier, another decree was issued to permit the use of foreign currencies. Syria is currently seeking to join the World Trade Organization given that it was one of the first States that had signed the GATT Agreement.

## **PART II**

### **Compliance of the Syrian Arab Republic with provisions of the Covenant**

#### **Article 1. The right to self-determination**

36. As a founding member of the United Nations, Syria exercises and applies the right of people to self-determination in accordance with the purposes and principles of the Charter of the United Nations under which all peoples have the right to self-determination by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development. Syria has joined the international community in its efforts to promote human rights and the freedom of peoples to determine their status and to dispose of their wealth and natural resources. Hence, Syria supported the relevant General Assembly resolutions, particularly resolution 514 (XV) of 14 December 1960 and the subsequent resolutions, thus confirming its commitment to defend the principles of international law Syria considers that self-determination forms a firm basis for respect for human rights. One of the guiding principles of Syria's foreign policy is defence of the right of peoples to self-determination and rejection of all forms of colonialism and racial discrimination.

37. Article 1 of the Covenant affirms that people should not be deprived under any circumstance of their own means of living. The Israeli occupation of the Syrian Golan since 5 June 1967 constitutes a barrier that prevents Syrian citizens in the occupied Golan from exercising their political, economic and social rights and exploitation of the natural resources of the Syrian people and deprives Syria of the possibility to apply provisions of the Covenant on all its territories.

38. The democratic political life in the Syrian Arab Republic guarantees the enjoyment by the Syrian Arab people of their right to adopt the political and economic systems of their own free choice. This right is guaranteed by the Constitution which stipulates in article 2 that sovereignty is vested in the people and that every individual has the right to participate in political, economic, social and cultural life (art. 26) and to vote and stand as a candidate in elections. To enshrine these principles the Law of Local Government was issued under cover of Legislative Decree No. 15 of 11 May 1971 providing for, inter alia:

1. Concentrating responsibility in the hands of the people to exercise leadership functions and to expand as far as possible areas for the application of democracy and the realization of the will of the people as well as ensuring their continued watch over sound implementation through their representatives in the elected local councils.
2. Giving the local administrative units the responsibility for economy, culture and services within the limits of general plans, laws and regulations adopted by the State.
3. Transferring powers in respect of these matters to local authorities so that the functions of the central authority may be confined to planning, legislation, introduction of new technologies, rehabilitation, training and implementation of major projects.

## **Article 2**

39. Syria ratified the International Covenant on Civil and Political Rights in 1969, since which time it has formed part of the country's domestic legislation. When the Republic's Constitution was drafted in 1973, the legislature showed due regard for the provisions of that Covenant and of other conventions and treaties which it had ratified. Accordingly, there is no conflict between the articles of the Constitution and the provisions of the Covenant. It is noteworthy that, in the event of conflict between any domestic legislation and the provisions of an international treaty to which Syria is a party, the provisions of the international treaty prevail. In its ruling No. 23, of 1931, the Court of Cassation stipulated that: "No domestic legislative enactment can lay down rules that conflict with the provisions, or even indirectly affect the enforceability, of a prior international treaty". This understanding was further reinforced in another decision by the Civil Chamber of the Court of Cassation, decision 1905/366 of 21 December 1980, which was published in the *Lawyer's Journal*, p. 305, 1981. This decision states that national courts do not enforce agreements on grounds that the State has entered into international obligations for their implementation but on grounds of the fact that these treaties have become part of the State laws. In case of any conflict between a treaty provision and a domestic law the national court shall apply provisions of the international treaty and give it weight over domestic law. Article 25 of the Syrian Civil Code further stipulates that: "The provisions of articles that are superseded by, or conflict with, an international treaty in force in Syria shall cease to apply". Furthermore, article 311 of the Syrian Code of Criminal Procedure stipulates that: "The above rules shall apply without prejudice to the provisions of treaties concluded in this connection between Syria and other States".

40. Syria has justifiably been called the "land of civilizations" since, for thousands of years, numerous civilizations have merged in its territory, which is inhabited by citizens of various racial and religious origins. Consequently, the phenomenon of discrimination or preference on grounds of race, religion or colour is unknown and alien to Syrian society.

41. These social values are reflected in the Republic's Constitution, article 25 of which stipulates that citizens are equal before the law in regard to their rights and obligations and every citizen has the right to participate in political, economic, social and cultural life, this right being regulated by law. In order to ensure harmony between the need to establish legal rules to implement the Covenant, on the one hand, and to implement the universal legal rule that "there is no crime and no punishment without a provision in the law" and the principle that "an accused person is innocent until convicted", legal rules were developed to ensure the implementation of

the Covenant. However, notwithstanding the absence of any form of discrimination in Syrian society, the legislature has taken preventive measures to deter any attempt to promote discrimination. Article 307 of the Penal Code prescribes a penalty of imprisonment for six months to two years, together with a fine of LS 100-200, for any act that is intended to instigate confessional or racial bigotry or provoke conflict among the various communities and component elements of the nation or which results in such instigation or provocation. Article 308 prescribes the same penalty for anyone belonging to an association that has been established for the above-mentioned purpose and also makes provision for the dissolution of the association and the confiscation of its property.

42. All citizens, regardless of their occupational or social status, have a legally guaranteed right to seek legal remedy in respect of any act of injustice committed against them. Article 319 of the Penal Code stipulates that: "Any act that is likely to prevent a Syrian from exercising his civil rights or fulfilling his civil obligations shall be punishable by detention for a term of one month to one year". Article 57 of the Syrian Code of Criminal Procedure is also explicit in this regard, since it affirms that: "Anyone who deems himself to be the victim of a felony or a misdemeanour has the right to file a complaint with the Department of Public Prosecutions, which has an obligation to institute public proceedings if the complainant brings a personal action". In regard to the exercise of this right, the Code makes no distinction between one person and another on grounds of colour, gender, race, religion, language or even nationality and this legal right applies to any offence committed against the claimant.

43. Any violation of the constitutional rights recognized in the Covenant is an offence punishable under the Penal Code. In order to deter officials from any abuse of their authority or influence, Syrian law regards abuse of authority as an aggravating circumstance that merits a heavier penalty insofar as article 367 of the Penal Code stipulates that: "With the exception of cases in which the law imposes special penalties for offences committed by officials, those of them who commit any offence in their official capacity or by abusing the authority or influence derived from their posts, through incitement, collusion or involvement, merit the heavier penalties prescribed in article 247". The judiciary, which is an independent authority in accordance with the Constitution and Act No. 98 of 1961, as amended, adjudicates in any dispute brought before it as a result of a complaint concerning any violation of the rights of citizens.

44. The incorporation of the provisions of the Covenant in the Syrian national legislation constituted an effective tool to raise awareness of the Covenant and has even made these provisions part of everyday culture in the life of Syrian citizens. As is known, laws acknowledge the legislative rule of "no ignorance of law", and Syrian laws are published in the Official Gazette and the mass circulation newspapers in Syria. Familiarizing the judiciary and administrative authorities with the provisions of the Covenant is a more specialized process, and the two faculties of law in Syria function as a forum to ensure awareness of rights and duties and international obligations. As a result, the precepts of the Covenant constitute an essential basis for the work of the judiciary. A judge must be a graduate of the Faculty of Law and many officials in the State machinery are graduates of the Faculty of Law. The Ministry of Foreign Affairs undertakes to inform concerned authorities of developments in international law, international obligations and human rights, and transmits to them all information, circulars and resolutions dealing with the evolution of the concepts of human rights. In their turn these competent authorities incorporate these rights in the culture of personnel in the respective departments in keeping with Syria's international obligations, including the Covenant.

45. The late President Hafez al-Assad had created a Complaints Bureau under the Ministry of Presidential Affairs by virtue of article 25 of Presidential Decree No. 29 of 1971. The Bureau receives and investigates complaints and grievances filed by citizens and takes appropriate action thereon and submits a monthly report to the President of the Republic, thereby ensuring that all citizens enjoy the right to lodge a complaint in respect of any violation of their rights or freedoms. A complaint may be referred to the Central Authority of Oversight and Inspection to investigate whether it contains charges that may constitute a violation of the duties of an official. Article 25, paragraph 2, of the Constitution provides that “the supremacy of law is a fundamental principle in the society and the State” and “the State ensures the principle of equal opportunities for citizens”. Article 28, paragraph 4 states that “the right of litigation, contest, and defence before the judiciary is safeguarded by the law”. A judicial or administrative decision or public notices in Syria cannot disregard the rule of law but rather confirm and are consistent with its provisions, thereby ensuring the implementation of decisions taken in favour of a wronged citizen.

46. In line with the concern of the Syrian Government with human rights education and the harmonization of national legislation with these rights and monitoring violations of human rights, the Prime Minister issued decision No. 2989 of 2 June 2004 to form the National Committee for International Humanitarian Law under the Minister of State for the Affairs of the Red Crescent and composed of representatives of the Ministries of Foreign Affairs, Defence, the Interior, Justice and Higher Education and the Syrian Arab Red Crescent organization. The Committee was given the task of fostering and coordinating national action for integrated awareness of international humanitarian law, harmonizing national legislation, monitoring violations of human rights and raising awareness of these rights, including in the ranks of the armed forces and internal security forces.

### **Article 3. Gender equality and non-discrimination**

47. In the Syrian Arab Republic women exercise all rights as men without any discrimination between women and men. The Syrian Constitution contains provisions that safeguard the rights of women. Article 26 stipulates that “Every citizen has the right to participate in the political, economic, social and cultural life. The law regulates this participation.” Article 45 further provides that “The State shall guarantee for women all opportunities enabling them to fully and effectively participate in the political, social, cultural and economic life. The State must remove the restrictions that prevent women’s development and participation in building the ... society.” There is no inconsistency between articles 26 and 45, but rather they are complimentary because article 25 provides for equality among citizens in regard to their rights and obligations and enjoins the State to exert all efforts to promote the advancement of women and their participation in various aspects of life.

48. Education in Syria is free, and the Ministry of Education applies Law No. 35 of 1981 on compulsory education, which provides for the enrolment of all boys and girls of the age of 6-12 years in primary schools. Law No. 32 of 2002 has made education compulsory up to the age of 15 and considered that both primary and preparatory stages of education constitute basic education. This helps in the eradication of illiteracy, in addition to efforts by officials of compulsory education to restore drop-outs to schools and monitor their attendance through cooperation and coordination with competent authorities to implement the law. Provisions of articles 7-65 of the Law of Compulsory Education No. 35 of 1981 apply to parents who refuse to

send their children of both genders to school. These articles provide that if persuasion fails parents may be prosecuted and may face a financial penalty and imprisonment for a period of no more than one month.

- In the workplace

49. Women enjoy, on an equal footing with men, the same opportunities for employment and appointment in public office in various sectors of the State on the same terms and conditions of work and for similar remuneration. Article 1 of the Labour Act No. 91 of 1959, as amended, defines an employer in these terms: “An employer is any individual or body corporate employing one or more workers for any form of remuneration.” It may be noted that the concept of the employer is expressed in gender-neutral language covering both men and women on an equal footing. This is also true of the definition of “agricultural employer contained in article 4 of the Agricultural Relations Act No. 134 of 1985, as amended. This equality between men and women is also enshrined in the definition of “worker” contained in article 2 of the above-mentioned Labour Act which stipulates that: “A worker shall be understood to mean any male or female working for any form of remuneration ...”. Article 5 of the Agricultural Relations Act likewise defines an agricultural worker as “any man, woman or adolescent engaged in remunerated agricultural work for an agricultural employer or a farmer ...”.

50. Article 1 of the Civil Service Statutes (Act No. 1 of 1985) defines “civil servant” in neutral terms that apply to both men and women since, in accordance with that definition, a civil servant is “anyone appointed to a post for which provision is made in the organizational structure of a public body”. This equality is explicitly confirmed in article 130 of the Labour Act which stipulates that: “Without prejudice to the provisions of the following article, all the stipulations regulating the employment of male workers shall also apply, without discrimination, to female workers performing the same type of work”.

51. Equality between men and women is further confirmed by Legislative Decree No. 4 of 1972 under which female employees are entitled to the same family allowances as male employees in the circumstances specified therein. The Social Insurance Act No. 92 of 1959 likewise places men and women on an equal footing in regard to all insurance benefits.

52. All Syrian citizens enjoy equal eligibility to participate in running the affairs of the State, without any discrimination or distinction as to race, colour or gender. The Syrian Constitution goes even farther in article 25 where it considers this participation not as a right but also as a duty and provides that each citizen, male or female, should participate in public affairs through democratically elected people’s councils. Through these councils citizens exercise their right to run the State and lead the society either directly or through their representatives.

53. Furthermore, we also find that men and women enjoy equal opportunities in the political sphere. The Electoral Law promulgated by Legislative Decree No. 26 of 1973 provides for the right of women to vote in public elections and to stand as candidates in elections to the People’s Assembly. Men and women are subject to the same conditions for candidates in category A or category B established by the Electoral Law. In the last elections for the People’s Assembly male candidates were 9,556 while female candidates were 849. In the current session of the

People's Assembly there are 30 women members out of 250 or 12 per cent of total membership. In the judiciary, females represent 13.1 per cent. There are two female ministers in the current cabinet and women occupy several important posts in other departments of the State.

54. In other occupations, Syrian women working in the agricultural sector represent more than 25.5 per cent of all workers while in industry they represent 14 per cent. Business women have become part of the fabric of Syrian society, representing more than 1.3 per cent of the business community, and associations of industrial business women were formed, reflecting the role of women in economic integration. In the public sector women account for more than 20 per cent and they constitute the larger segment in the field of education with more women teachers than male teachers. Girls attending vocational training also increased their numbers to 20 per cent.

55. Syrian law protects women against all forms of violence, rape and abuse. The Syrian Penal Code promulgated by Legislative Decree No. 148 of 1949, as amended, punishes rape in its articles 489, 490 and 492. In articles 500-501 it punishes abduction and in articles 510-511 it punishes incitement to obscenity or violation of ethics and public morality.

56. Anti-Prostitution Law No. 10 of 1961, as amended, makes it a crime to commit or facilitate obscenity or prostitution in articles 1, 2, 3, 4, 6 and 7.

57. In Syria there are no cases of systematic rape and sexual slavery or practices similar to slavery. Any cases of rape or abduction are individual cases and the perpetrator is punished under applicable laws and statutes.

- Development and modernization of laws relating to women

58. Syrian laws and legislation concerning women were modernized to fulfil the need to develop Syrian legislation so that it may cope with the evolution of the social system.

59. Since 2000 the following acts and laws relating to women were promulgated:

1. Law No. 78 of 31 December 2001 amending some articles of the Law of Social Security No. 92 of 1959 as amended, establishing the right of a working woman to bequeath her pension payments to her lawful heirs.
2. Legislative Act No. 35 of 13 May 2002 amending article 54 of the Civil Service Statutes Act No. 1 of 1985 to extend maternity leave for working women.
3. Decree No. 257 of 10 August 2002 ratifying the Agreement Establishing the Organization of Arab Women, signed in Cairo on 15 July 2002.
4. Decree No. 330 of 25 September 2002 providing for the ratification by the Syrian Arab Republic of the Convention on the Elimination of all Forms of Discrimination against Women adopted by the United Nations General Assembly in resolution 34/180 of 28 December 1979.

5. Law No. 18 of 2003 amending article 19 of Law No. 34 of 1975 as follows: “the term of custody ends on the day a boy reaches the age of 13 and a girl reaches the age of 15”.

60. Finally, it should be noted that the Women’s Federation, which was established under the terms of Act No. 33 of 1975, as amended, as a Syrian popular organization enjoying independent corporate personality and financial autonomy, is playing an effective role in Syrian political life through participation in the formulation of development plans and programmes on an equal footing with other popular organizations such as the General Federation of Trade Unions, the General Federation of Farmers and the Federation of Craftsmen. Women are fully entitled to seek to eliminate any obstacles impeding their enjoyment of their rights. In fact, one of the tasks of the Women’s Federation is to defend women’s rights if they are obstructed in any way.

#### **Articles 4 and 5**

61. The State of Emergency Act, which was promulgated in Legislative Decree No. 51 of 22 December 1962, as amended by Legislative Decree No. 1 of 9 March 1963, and which is currently in force in the Syrian Arab Republic, is an exceptional constitutional regime, based on the concept of an imminent threat to the country’s integrity, under which the competent authorities are empowered to take all the measures provided by law to protect the territory, territorial waters and air space of the State, in whole or in part, from the dangers arising from external armed aggression by transferring some of the powers of the civil authorities to the military authorities. Article 101 of the Constitution states that the President of the Republic can declare and terminate a state of emergency in the manner stated in the law. Article 1 of this Act specifies the reasons justifying its promulgation by stipulating that a state of emergency can be proclaimed in the event of war, a situation entailing the threat of war or a situation in which security or public order in the territory of the Republic, or any part thereof, is jeopardized by internal disturbances or the occurrence of general disasters.

62. Since 1948, the Syrian Arab Republic, which was a founding member of the United Nations, has been subjected, like other neighbouring Arab States, to a real threat of war by Israel and, on many occasions, this threat of war has culminated in actual aggression against the territory, territorial waters and air space of the Syrian Arab Republic, particularly in 1967 when Israel seized part of the territory of the Syrian Arab Republic, which it is still occupying, and expelled a large proportion of its population. The latest incident of Israeli aggressions was in Ein El-Saheb on 5 October 2003.

63. This state of affairs, consisting in a real threat of war, the continued occupation of part of the territory of the Syrian Arab Republic and the existence of a real threat of seizure and ongoing occupation of further land in violation of United Nations resolutions, gave rise to an exceptional situation that necessitated the rapid and extraordinary mobilization of forces in the Syrian Arab Republic and, consequently, the promulgation of legislation to ensure the Administration’s ability to act rapidly in the face of these imminent threats when application of the ordinary legislation cannot guarantee rapid action in such circumstances. Accordingly, there was a need to promulgate this Act and maintain it in force. It should be borne in mind that all countries of the world have applied exceptional legislation, in one form or another, when they were faced with a state of war or a threat of war in order to protect their national security. This is a fundamental right recognized in the International Covenant on Civil and Political Rights,

article 4 of which stipulates that: “In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation”.

64. Under the terms of article 4 of the Emergency Act, the Martial Law Administrator, the Prime Minister or his deputy (the Minister of the Interior) are empowered to issue written orders for the adoption of measures, restriction of the liberty of persons, censorship of correspondence, communications and the information media, specification of the opening and closing times of public establishments, withdrawal of firearms and ammunition licences, evacuation or isolation of certain areas, appropriation of movable or immovable property, placement of companies under State control and prescription of penalties, up to a maximum of three years' imprisonment and a fine of LS 3,000, for any violation of those orders.

65. The composition of the Higher State Security Court and the procedures that it applies do not differ in essence from the composition and procedures of the ordinary courts empowered to hand down final judgements. The Higher State Security Court consists of two divisions, each of which comprises three judges, two of whom are civilians and the third a military judge. The presence of the military judge on the bench is intended solely to ensure the Court's competence to hear cases involving military personnel who might be brought before it on charges relating to the Code of Military Justice in order to cover all aspects and all stages of the trial proceedings in a uniform manner. This is consistent with the legislation in force concerning the composition of the courts of cassation, in which a military judge also sits for the same above-mentioned reasons. The military judges assigned to these courts do not act in any military capacity during the trial proceedings.

66. In view of the sensitive nature of the cases referred to the Higher State Security Court, its judgements are final but are not enforceable until they have been ratified by the Head of State who, by law, has the right to annul the judgement, order a retrial or a stay of proceedings to reduce or commute the penalty. The President of the Republic may issue amnesty for those convicted by the court; in fact he has exercised this power several times. This provides an indication of the legislature's desire to safeguard the country's security and integrity in the exceptional circumstances with which it is faced and which necessitated the promulgation of the Emergency Act.

67. In accordance with article 7 of Decree No. 47/68 under which the Higher State Security Court was established, defendants appearing before this Court enjoy the same guaranteed right of defence that they would have before the ordinary courts.

68. The application of the provisions of the Emergency Act in Syria does not mean in any way a suspension of the provisions of the Constitution and other laws nor a derogation from other international obligations, including obligations in which Syria has entered by virtue of bilateral or multilateral international agreements, such as provisions of the International Covenant on Civil and Political Rights and the obligation to submit reports under article 40 of the Covenant. Furthermore, the grounds for a declaration of a state of emergency do not involve any discrimination on grounds of race, colour, gender, language, religion or social origin. The

declaration of the state of emergency has not led to any violations of articles 6, 7, 8, paragraphs 1 and 2, 11, 15, 16 and 18, which remain enforceable under the Constitution and laws, in conformity with the Covenant.

69. Available mechanisms for recourse against exercise of exceptional powers in a state of emergency:

To prevent any abuse in the enforcement of a state of emergency the law restricts the application of emergency laws and empowers administrative tribunals to annul decisions made by the martial law administrator. A Committee is set up to examine the application of martial laws prior to their imposition:

1. Article 25, paragraph 2, of the Constitution states that: “the supremacy of law is a fundamental principle of the society and the State”.
2. Article 164 of the Civil Code states that “any person who commits an error that causes injury to others shall be liable to pay compensation”. It is obvious that this article does not distinguish between a private citizen or an official who commits such an act.
3. Article 138 of the Penal Code provides that “any person who commits a felony that causes moral or material injury to others shall be obliged to pay compensation”.
4. Pursuant to the Constitution, applicable laws penalize torture or the use of mental or physical pressure to obtain a confession to serve as a ground for prosecution and punishment, even if such acts are committed by a public official (article 391 of the Penal Code).
5. Article 358 of the Penal Code provides for “imprisonment for 1-3 years for the wardens and guards of prisons or other penal or disciplinary institutions if they admit a person or keep him beyond the legal term without a judicial writ or order”.
6. All decisions made by the martial law administrator are administrative decisions and may be revoked by administrative tribunals if they are found to be legally defective. In fact, administrative tribunals have revoked a number of decisions by the martial law administrator after appeals from the affected citizens.

70. Finally, it should be noted that, although the Emergency Act remains in force, in actual fact it is virtually in abeyance since it is applied only in a limited number of cases solely involving offences against the security of the State in keeping with the directives which the President of the Republic announced before the People’s Assembly to the effect that this Act should be applied to the minimum extent and with great circumspection. To formalize this position, Administrative Decree No. 16 of 14 February 2004 was issued to abolish economic security tribunals which were considered a feature of emergency laws and an example of extraordinary tribunals.

## Article 6

71. Since the right to life is one of the most sacred human rights, the Syrian legislature has taken care to prescribe the severest penalties for anyone who deprives a human being of this right. In fact, the penalty for intentional homicide ranges from life imprisonment with hard labour to capital punishment (arts. 533, 534 and 535 of the Penal Code).

72. The requirement that the executive authority should implement laws does not mean in any way that this authority has powers to implement these laws outside of the established framework, and any person who oversteps these boundaries shall be held accountable.

73. Article 28, paragraph 2, of the Constitution states that: “No one shall be kept under surveillance or detained except in accordance with the law.”

74. An accused or convicted person, or any other person under judicial investigation, may not be exposed to any mental or physical pressure to obtain an admission of an act punishable by law (article 391 of the Penal Code).

75. The death penalty is applied in accordance with the provisions of article 6 of the Covenant and is imposed only in rare cases when the crime is deemed to be exceptionally atrocious or is committed by a highly dangerous habitual criminal. Following is a discussion of crimes punishable by the death penalty and the circumstances for the actual implementation of sentence:

### **Serious offences committed against persons**

76. Premeditated murder: Article 535 of the Penal Code prescribes the death penalty for homicide if it is committed:

(a) Wilfully;

(b) In preparation for, or during the commission of, a felony or with a view to facilitating the flight of the instigators, perpetrators or abettors of a felony or enabling them to evade punishment;

(c) Against any of the offender’s ascendants or descendants.

### **Offences committed against public or private property**

77. Article 577 of the Penal Code prescribes the death penalty for an act of arson that leads to loss of life in the circumstances specified in articles 573 and 574. Article 573 refers to “a deliberate act of arson in a building, factory, workshop or warehouse, in any inhabited or uninhabited property situated in a town or village, in a train, railway carriage or vehicle transporting one or more persons other than the offender, in a ship sailing or moored in any harbour or in an aircraft flying or parked at an airport, regardless of whether or not the offender owns them”.

78. Article 574 refers to “a deliberate act of arson in a building that is inhabited or ready for habitation outside populated areas, or in a forest, woodland, orchard or farmland before the crop has been harvested, regardless of whether or not the offender owns them”.

**Offences against State security which include the following:**

79. Crimes of treason which cover the following offences:

(a) Any Syrian who bears arms against Syria in the ranks of the enemy (article 263, paragraph 1, of the Penal Code);

(b) Any Syrian who conspires or enters into contact with a foreign State with a view to inciting it to commit aggression against Syria or providing it with the means to do so, provided that his act produces an effect (article 264 of the Penal Code);

(c) Any Syrian who conspires or enters into contact with the enemy with a view to helping, in any manner whatsoever, to ensure the triumph of its forces (article 265 of the Penal Code);

(d) Any Syrian who, with a view to paralysing the country’s national defence, in any way damages installations, facilities, ships, aircraft, equipment, supplies, provisions, communications or anything of a military nature or intended for use by the armed forces, provided that such acts take place in time of war or the expected outbreak thereof, or if they lead to the death of any person (article 266 of the Penal Code);

(e) Any act of aggression designed to provoke civil war or intercommunal strife by arming Syrians, encouraging them to bear arms against each other or instigating mass murder or the looting of commercial premises, provided that such acts achieve their aim (article 298 of the Penal Code);

(f) Gangsters: Any group of three or more persons roaming the public highways and countryside in the form of armed gangs seeking to rob passers-by, attack persons and property or commit any other act of banditry and any member of such a group who, during the commission of such a felonious act, kills or attempts to kill or subjects a victim to torture or barbaric treatment (article 326, paragraph 3, of the Penal Code).

80. Serious military crimes in time of war:

(a) Any member of the armed forces who commits the offence of desertion to the enemy (article 102, paragraph 1, of the Code of Military Justice);

(b) Any member of the armed forces who deserts, through a conspiracy, in the face of the enemy, or who leads a conspiracy to flee the country, in time of war (article 103, paragraph 5, of the Code of Military Justice);

(c) Any member of the armed forces who refuses to obey an order to attack the enemy or insurgents (article 112 (e) of the Code of Military Justice);

(d) Insubordination or rebellion in the face of the enemy (article 113, paragraph 7, of the Code of Military Justice);

(e) Acts of incitement to insubordination under martial law or in wartime (article 114, paragraph 3, of the Code of Military Justice);

(f) Anyone who subjects a wounded or sick soldier to acts of violence that aggravate his situation with a view to rendering him defenceless in an area of operations of a military combat force (article 132 (b) of the Code of Military Justice);

(g) Any member of the armed forces who, intentionally and in any way whatsoever, burns, destroys or damages buildings, installations, warehouses, water supply lines, railway lines, telegraph or telephone lines or exchanges, air bases or airports, ships, steamers, vehicles, any immovable army property or anything used for purposes of national defence (article 137 of the Code of Military Justice);

(h) Any Syrian soldier or soldier in the service of Syria who bears arms against Syria and any prisoner who is recaptured after breaking a pledge to refrain from bearing arms (article 154 of the Code of Military Justice);

(i) Any member of the armed forces who surrenders to the enemy, or in the interests of the enemy, the troops under his command or at the position assigned to him, army weapons, ammunition or supplies, maps of military positions, factories, harbours and docks, secrets of military operations, campaigns or negotiations, and any member of the armed forces who enters into contact with the enemy in order to facilitate the latter's operations or who takes part in a conspiracy designed to influence the decisions of the competent military commander (article 155 of the Code of Military Justice);

(j) Anyone who, in wartime or in an area in which martial law has been proclaimed, intentionally aids the enemy, causes harm to the army or to the forces of allied Governments, divulges a secret, a signal, a directive or a password for sentries or guard posts, falsifies service-related news or orders in the face of the enemy, guides the enemy to positions held by forces of the army or of allied States, guides the said forces in a wrong direction, spreads panic in a Syrian military unit or causes it to carry out incorrect movements or operations or prevents dispersed troops from regrouping (article 156 of the Code of Military Justice);

(k) Any member of the armed forces who commits the acts of espionage referred to in articles 158, 159 and 160 of the Code of Military Justice.

81. The Narcotic Drugs Act No. 2 of 1993 also makes provision for the death penalty in the following articles:

Article 39 (a): The death penalty shall be imposed on anyone who commits the following acts:

- (i) The smuggling of narcotic substances;
- (ii) The illicit fabrication of narcotic substances;

- (iii) The illicit cultivation of plants listed in Schedule No. 4, the smuggling of such plants at any stage of their growth or the smuggling of their seeds;
- (iv) If mitigating circumstances can be invoked, the court may commute the death penalty to life imprisonment.

82. Mitigating circumstances are inadmissible in the following circumstances:

- (a) Repeated commission of any of the offences referred to in this article or in article 40 of this Act. Final foreign convictions for similar offences shall constitute evidence of a repeated offence;
- (b) Commission of the offence by a civil servant assigned to combat drug-related offences;
- (c) Use of a minor to commit any of the offences referred to in this article;
- (d) Commission of any of these offences by a person belonging to, working for or collaborating with an international drug-smuggling ring;
- (e) Exploitation by the offender of his official authority, position or legal immunity in order to commit, or facilitate the commission of, any of the offences referred to in this article.

83. Article 40 (a) of the Narcotic Drugs Act:

- (i) Anyone who possesses, acquires, purchases, sells, delivers, receives or traffics in narcotic substances or plants listed in Schedule No. 4, or who cedes them, acts as an intermediary therein or offers them for consumption with a view to trafficking therein, in an illicit manner;
- (ii) Anyone who transports narcotic substances or plants or the seeds of plants listed in Schedule No. 4 if he is aware that he is transporting narcotic substances for purposes of illicit trafficking therein;
- (iii) Anyone who, being authorized to possess or use narcotic substances for a specific purpose, disposes of them in a manner inconsistent with that purpose;
- (iv) Anyone who manages, prepares or makes available premises in which drugs can be consumed in return for payment;
- (v) The penalty shall be capital punishment in the cases referred to in subparagraphs (i) to (v) of paragraph (b) of the preceding article 39. The same shall apply if the offences referred to in these articles are committed in educational establishments or their service facilities, in cultural, sports or reform institutions, in houses of worship, in camps or prisons or detention centers or in the immediate vicinity of educational establishments or camps.

84. Article 50 prescribes the death penalty for anyone who intentionally kills a civil servant responsible for the implementation of the Act during or by reason of his discharge of his duty.

### **Enforcement of the death penalty in practice and its rare implementation**

85. The application of the death penalty does not mean that law enforcement authorities have the power to implement this penalty outside the framework of law. Any person who does that is punished by the law.

86. Under the terms of the Code of Criminal Procedure, promulgated in legislative Decree No. 112 of 13 March 1950, as amended, every accused person has a guaranteed right to be informed of the charge brought against him and the evidence presented in substantiation thereof. He is given sufficient time and means to prepare his defence and contact a lawyer and has the right to a trial without undue delay since the Code does not allow the judge to delay the resolution of a case or the collection of evidence therein. Trials are normally held in the presence of the accused but, if he is unable to attend, he can be tried in absentia. At trials attended by persons accused of a felony, the latter have the right and the obligation to avail themselves of the services of a lawyer and, if they fail to do so, a lawyer is appointed by the court.

87. Under the legal aid system, the Bar Association designates a lawyer to defend an accused person at no cost to himself. The accused person can summon witnesses and present any evidence that might help to substantiate his pleas. He can also present arguments based on this evidence and contest the evidence presented by his adversaries.

88. All the proceedings must be translated into a language that the accused understands and, to this end, the court assigns an interpreter through whom he is informed of the trial proceedings. The Code does not permit the extortion of confessions, nor does it allow the accused to testify against himself. He is merely questioned about the events, which he is totally free to deny or admit. The accused also has the right to lodge an appeal with the Court of Cassation against any criminal sentence within one month from the date on which it is handed down in his presence.

89. Notwithstanding the above-mentioned provisions for death penalty, the implementation of this penalty is restricted by many guarantees so that it may not be carried out except in cases that provoke a public outcry in a society that believes that the right to life is a sacred right and at the same time believes that deterrent punishment should be applied to a murderer in order to protect the lives of the innocent. It should be noted however that Syrian laws do not provide for this penalty for the mere act of murder if it were not combined with other crimes that indicate that the felon is an extremely dangerous person, such as combining murder with rape or theft, defilement of the corpse or multiple murders or the death of multiple victims, especially children and women.

90. Although the death penalty is provided for in the law, it is not often applied by the judge. The rights of the defendant before, during and after the trial are protected by many procedural and substantive guarantees provided for in the Constitution and the law in keeping with the provisions of the Covenant. Thus this penalty is applied only to the most serious crimes with due regard to the principle of non-retroactivity unless it is in the interest of the defendant. A death sentence should also be handed down by a competent court in accordance with the law.

General or individual amnesty, commutation of the penalty in accordance with the law and practice and the principle of doubt are all to be interpreted in the interest of the defendant and lay the burden of proof on the prosecutor. The death penalty is not applied on juveniles under 18 or on pregnant women. Other guarantees provided for in article 14, paragraph 3, of the Covenant are elaborated in the Syrian law as follows:

(a) The death penalty can be imposed only for an offence that was punishable by this penalty at the time of its commission. However, the offender benefits from the most lenient legislation, even if it is promulgated after his commission of the offence. No penalty that was not prescribed at the time of commission of the offence can be imposed (article 6 of the Penal Code). No legislation prescribing a heavier penalty can be applied to offences committed before its entry into force (article 8 of the Penal Code);

(b) Accordingly, a penalty that is less severe than capital punishment can be imposed if new legislation abolishes the death penalty for the offence in question or prescribes an alternative penalty, since any offence punishable by a penalty or a preventive or reform measure that has been abolished by new legislation no longer has any legal standing and criminal sentences imposed in respect thereof are no longer enforceable (article 2 of the Penal Code). Any new legislation that abolishes or reduces a penalty applies to offences committed prior to its entry into force unless they formed the subject of a final judgement (article 8 of the Penal Code);

(c) A death sentence cannot be imposed for offences committed by a person under 18 years of age pursuant to article 29 (a) of the Juveniles Act, as amended by Legislative Decree No. 52 of 1 September 2003;

(d) A death sentence imposed on a pregnant woman is not carried out until her delivery (article 43, paragraph 4, of the Penal Code and article 454, paragraph 4, of the Code of Criminal Procedure). Death sentences are not carried out on Fridays, Sundays or official or religious holidays (article 454, paragraph 3, of the Code of Criminal Procedure);

(e) In judicial practice, death sentences are rarely imposed on pregnant women and no death sentence has been carried out in Syria on a pregnant woman or young mother after her delivery;

(f) Anyone found to be insane at the time of commission of an offence is exempted from the penalty (article 230 of the Penal Code). If the offender is afflicted with insanity after committing an offence, during the investigation or trial or after sentencing, enforcement of the penalty is deferred until he is cured. The customary practice is consistent with the provisions of the law in this regard;

(g) Impaired discretion or mental capacity at the time of commission of an offence constitute grounds for the imposition of a lesser penalty. Consequently a mentally retarded person who commits an offence punishable by death is liable only to a lesser penalty (articles 232 and 233 of the Penal Code);

(h) There is no special law of evidence concerning offences punishable by death. The Syrian judiciary applies the principle of moral certainty under which the judge has full discretion to admit evidence that satisfies his conscience, subject to the general rule that the

accused should benefit from any reasonable doubt. There are numerous instances in which, due to doubts concerning the evidence presented in court, the Syrian judiciary has acquitted persons of crimes that might have been punishable by death;

(i) No death sentence has ever been carried out on an offender against whom a final judgement has not been handed down or before completion of the legal procedures needed to confirm its enforceability after it has become final;

(j) The death penalty is not carried out on a person sentenced thereto until the Board of Special Pardons, consisting of five judges, has been consulted. Execution of the sentence must also be approved by the President of the Republic in a decree ordering its execution at a specified time and place.

91. Death sentences are carried out by hanging in the case of ordinary persons, or by firing squad in the case of military personnel, with the minimum amount of suffering. They are carried out in the prison unless a public execution is ordered by decree. The execution is attended by the president of the judicial body that passed the sentence or by a judge chosen by the Attorney-General or one of his assistants, and also by the president of the court of first instance, the clerk of the court that passed the sentence, the convicted person's lawyer, a minister of religion, a physician, the prison warden and a police officer. The last death sentence imposed in Syria was handed down on 2 August 1987 against Samih Fahd Awwad, who was found guilty of felonious complicity in the murder of his father. The last judgement confirming a death sentence was handed down on 6 June 1993 against the same person.

92. Since then and until 2001 no death penalty was passed until 2002 when the death sentence was implemented on a number of criminals convicted of cruel and savage crimes such as defilement of a corpse, rape, dismemberment or the murder of a number of people for a petty reason. Following are the crimes and the decrees approving the death penalty: murder and rape, Decree No. 173; murder and rape, Decree No. 174; murder and rape, Decree No. 175; murder, stabbing and obscene act, Decree No. 228; deliberate murder, Decree No. 227; murder and rape, Decree No. 229; murder, Decree No. 283; and obscene act, Decree No. 284; deliberate murder, Decree No. 285; murder for the purpose of robbery, Decree No. 307; deliberate patricide, Decree No. 308; murder of three children in the course of robbery, Decree No. 309; deliberate murder, Decree No. 352; murder and robbery, Decree No. 353; deliberate murder, Decree No. 354 and deliberate murder, Decree No. 369.

93. In 2003 the death penalty was implemented on a number of criminals convicted of the following crimes: murder and robbery, Decree No. 63; deliberate murder and robbery, Decree No. 64; murder and armed robbery, Decree No. 157; murder and robbery, Decree No. 296; deliberate murder, Decree No. 297; deliberate murder, Decree No. 298; deliberate murder, Decree No. 411; murder of husband, Decree No. 412; murder, robbery and looting, Decree No. 428; murder for a base motive, Decree No. 430 and deliberate murder, Decree No. 429.

94. It should be noted that the above-mentioned death penalties were applied for criminal acts that were committed a long time before judgement was passed. The execution of the sentence also took place after a long time from the date of the judgement.

95. The Syrian legislation in force provides all the guarantees needed to safeguard the rights of persons facing the death penalty as such persons can lodge an appeal with the Court of Cassation against their sentence and, if they fail to lodge such an appeal, article 240 of the Code of Criminal Procedure places the Department of Public Prosecutions under an obligation to lodge an appeal on their behalf. Even if the Court of Cassation upholds the sentence, it cannot be carried out until the Board of Special Pardons, consisting of five judges, has been consulted (article 459 of the Code of Criminal Procedure). The next stage preceding enforcement of the death sentence is approval by the President of the Republic, who has the constitutional right to grant a pardon.

96. Any person sentenced to death is entitled to apply to the Head of State for a pardon and may renew his application after one year in the event of its rejection.

97. There is always the possibility of applying for a special pardon or commutation of a death penalty, as there are no specific offences which cannot be pardoned. This applies to all cases in which death sentences are imposed. A special pardon can be requested after a death sentence has been imposed until the time when it is carried out.

98. Accordingly, in Syria death sentences are not carried out until the file has been examined by a number of judicial and legal bodies and any person sentenced to this penalty therefore enjoys a number of safeguards that usually protect him from any judicial error.

99. The surveys conducted by the Ministry of Justice of the Syrian Arab Republic confirm that the number of cases in which death sentences are imposed or carried out is very limited due to the judicial and legal procedures that their enforcement requires, as well as the general amnesty decrees that are regularly promulgated. In actual practice, this penalty is applied only in very rare cases involving heinous offences the circumstances of which preclude any prospect of the offender's reform.

100. As we have affirmed in our response to the comments and recommendations made by the Committee in the context of its consideration of our country's second periodic report, the Syrian Government never prevented any non-governmental organization from observing the situation of human rights in Syria. We have no objection in the future to authorize any such non-governmental organization, under applicable laws and regulations, to do so. Indeed there are a number of human rights committees and human rights activists who express their views without fear of, or objection from, the executive authorities as long as they carry out their activities in accordance with the law.

### **Article 7**

101. Article 28, paragraph 3, of the Syrian Constitution stipulates that: "No one may be subjected to physical or mental torture or degrading treatment, the perpetrators of which shall be liable to the legally prescribed penalties."

102. Under the legislation in force, it is prohibited to subject an accused or convicted person, or any person under judicial investigation, to any mental or physical pressure with a view to the extortion of a confession or information. Article 391 of the Penal Code stipulates as follows:

“1. Anyone who subjects a person to illegal acts of violence with a view to obtaining from him a confession to an offence or information pertaining thereto shall be liable to a penalty of detention for a term of three months to three years.

2. If such acts of violence cause sickness or wounds, the minimum penalty shall be one year’s detention.”

103. Any act that is likely to prevent a Syrian from exercising his civil rights or fulfilling his obligations is punishable by detention for a term of one month to one year if it is committed through the use of threats, violence or any means of physical or mental coercion (article 319 of the Penal Code).

104. The courts look into any allegation by a citizen concerning his subjection to physical or mental torture or degrading treatment, award appropriate compensation and impose the prescribed penalty. A number of complaints in this connection have been brought against police officers, who have been punished and ordered to pay compensation.

105. If an accused person claims that his confessions were extracted by force the judge shall investigate the claim and reject the confessions. This is an established practice by the Syrian judiciary in confirmation of the principle that confession is to be made freely and is to be rejected if extracted by force.

106. Anyone claiming to be the victim of such illegal acts merely has to file a complaint with legal costs and prosecution of a civil servant, the amounts of which are assessed by the judicial authority. The Department of Public Prosecutions then has an obligation to institute public proceedings before the competent judicial body (article 1 and article 5 of the Code of Criminal Procedure).

107. Pursuant to article 138 of the Penal Code and article 4 of the Code of Criminal Procedure, any injured person may go to court to claim compensation for the injury.

108. The Complaints Bureau attached to the Office of the President of the Republic investigates complaints from citizens claiming to be the victims of torture or cruel or inhuman treatment and takes the necessary action in regard thereto.

109. The law provides for the creation of mechanisms to ensure that no one is subjected to torture and other cruel, inhuman or degrading treatment or punishment and assigned the pursuit of perpetrators of such legal abuses to the law enforcement authorities. Article 6 of the Code of Criminal Procedure provides that “officials of law enforcement have the task of investigation of offences, collection of evidence and apprehension of perpetrators and bringing them to courts where they may receive their punishment”.

110. According to article 7 of the Code of Criminal Procedure, functions of law enforcement are performed by the Public Prosecutor, his deputies, assistants and examining magistrates.

111. The Public Prosecutor is assisted in his functions by governors, director-general of the police, directors of the police including prison wardens, director of public security, superintendents of public security who are formally assigned as heads of police stations or divisions and heads of public security departments, captains of naval vessels and aircraft and all

other officials entrusted with law enforcement powers. They all perform the functions of law enforcement within the limits established by the law and under the authority of the Public (art. 8).

112. The Public Prosecutor oversees the overall administration of justice, supervises judiciary divisions, prisons, detention centers and oversees law enforcement. He represents the Executive Authority before tribunals and judiciary divisions” (art. 15, para. 1). He institutes procedures on behalf of public authorities and implements penal sentences.

113. The Public Prosecutor may admonish any law enforcement officials or magistrates who fail to perform their functions and he may recommend to their superiors the application of disciplinary measures.

114. In order to ensure separation between legislative and executive authorities the law provides that a judge may not rule in a case in which he performed the function of public prosecution.

115. As noted above, the judiciary authority, Public Prosecution Office and the Ministry of the Interior oversee detention stations and prisons to ensure observance of the law and respect of prisoners and detainees.

116. Article 423 of the Code of Criminal Procedure provides that the treatment of persons in detention centers and prisons shall be inspected by an examining magistrate and a judge of the peace at least once a month and by a presiding judge of a criminal court at least once every three months.

117. Article 8 of the Prison Regulations provides that the Minister of the Interior shall appoint an inspector or inspectors of prisons to visit prisons and to investigate actions by prison guards or inmates in the prison.

118. To protect the freedom of a person from unlawful imprisonment the law requires any person who learns that a person is detained in a place other than places assigned by the Government for imprisonment and detention to inform the Public Prosecutor, his assistants or the judge of peace thereof (article 424 of the Code of Criminal Procedure).

119. When officials mentioned above are informed of such detention they shall immediately go the place where a person is so detained and release whoever is detained illegally (art. 425).

120. If they fail to take the above-mentioned action they shall be considered accomplices in the offence of denying the personal liberty and they shall be prosecuted accordingly.

### **Article 8**

121. Article 25 of the Constitution stipulates that “Freedom is a sacred right and the State has an obligation to safeguard the personal liberty, dignity and security of its citizens”, “All citizens are equal before the law in regard to their rights and obligations” and “The State shall safeguard the principle of equality of opportunity for its citizens”.

122. Article 555 of the Penal Code prescribes a penalty of detention for a period of six months to two years for anyone who in any way deprives another person of his personal liberty.

123. Accordingly, there is no form of slavery in Syria, as all citizens are equal before the law and Syria is a party to all the international conventions and instruments prohibiting Slavery, particularly the Slavery Convention of 1926, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956.

124. In keeping with article 8, paragraph 3 (b), of the Covenant, persons punished by imprisonment with hard labour only serve in fact simple imprisonment. Since the enactment of the Penal Code in 1949, hard labour has been only a theoretical penalty as persons punished by this penalty are treated exactly like other prisoners.

125. The Prison Regulations promulgated in Decree No. 1222 of 1929, as amended, set forth the principles governing work in prisons (arts. 93-100). Under the terms of Legislative Decree No. 139 of 1935, prisoners may also be required to engage in building work, tree planting and road construction, maintenance, repair and sign-posting work in return for payment. Persons sentenced to imprisonment with hard labour are not required to engage in other forms of work not provided for in the Prison Regulations, any infringement of which is punishable, under the Penal Code, as an abuse of authority and a breach of the law.

126. By law, juveniles who have reached the age of 10 but are under 18 years of age cannot be sentenced to any penalty, being liable only to a penalty of confinement in a juvenile reform institution (article 30 of the Juveniles Act No. 18 of 1974, as amended most recently by Legislative Decree No. 52 of 1 September 2003).

## **Article 9**

### **Paragraph 1**

127. As already indicated, freedom is a sacred right guaranteed by the Constitution and the law (articles 424 and 425 of the Code of Criminal Procedure). By law, no one may be detained without charge, since this would constitute the punishable offence of illegal deprivation of liberty.

128. Article 357 of the Penal Code stipulates that: "Anyone who arrests or detains a person in circumstances other than those provided for by law shall be liable to a term of imprisonment with hard labour." Under article 358, any warden or guard of a prison or a disciplinary or reform institution, and any official vested with their powers, who admits a person into the institution without a court order or instruction or who retains a person therein for a period longer than that ordered is liable to a penalty of detention for one to three years.

### **Paragraph 2**

129. Any person detained under provisions of Syrian law is to be informed of the reasons for his detention and the nature of offence that caused his detention as well as the legal provision under which it is punishable (article 108 of the Code of Criminal Procedure). He is also to be delivered copies of the arrest warrant and detention order, (art. 109).

130. The examining magistrate may, in charges of crimes and misdemeanour, issue only an arrest warrant but may, after cross-examination of the defendant, change it to a detention order if necessary (art. 102).

131. If a defendant is arrested under a warrant and stays in custody for more than 24 hours without a cross-examination or without being referred to the Public Prosecutor, his detention is to be considered an arbitrary act and the official responsible for this act may be prosecuted under article 105 for illegal deprivation of personal liberty as provided for in article 358 of the Penal Code.

132. When an accused person appears before an examining magistrate the magistrate shall verify his identity, inform him of the charges against him and asks for his plea, cautioning him that it is his right not to respond except in the presence of a lawyer. This caution is to be entered in the investigation record. If the accused person refuses to retain a lawyer, or if no lawyer is retained on his behalf within 24 hours, the investigation is to proceed without a lawyer (article 69, paragraph 1, of the Penal Code).

133. If the accused person is unable to retain a lawyer in a criminal charge the Bar Association or the judge may retain a lawyer on his behalf (article 69, paragraph 2, of the Penal Code).

### **Paragraph 3**

134. Syrian law ensures expeditious proceedings in the interest of the accused. For example, article 104 of the Code of Criminal Procedure places the examining magistrate under an obligation to promptly question an accused person who has been summoned to appear before him. Any suspect who is arrested under the terms of a warrant must be questioned within 24 hours from the time of his arrest and, on the expiration of this deadline, the senior officer at the police station automatically sends the suspect to the public prosecutor, who requests the examining magistrate to question the suspect. If the examining magistrate is absent or refuses to question him, the public prosecutor requests another examining magistrate, a president of a court of first instance or a justice of the peace to question him and, if they were unable to do so, the public prosecutor must release the suspect immediately.

135. Provisions of Syrian laws underline the need for speedy implementation of procedures in the interest of the accused person:

(a) Under article 115 of the Code of Criminal Procedure: “Anyone arrested under the terms of a warrant must be taken, without delay, to the public prosecutor in the district of the examining magistrate who issued the warrant and the public prosecutor must provide the arresting officer with a receipt of delivery of the suspect, after which the latter is remanded in custody and the examining magistrate is duly notified.”;

(b) Under article 116 of the Code, any failure to observe the above instruction in summonses, processes and arrest warrants must be immediately notified to the public prosecutor and the examining magistrate and the clerk responsible therefor is liable to a fine;

- (c) Under article 117 of the Code, a person arrested on the charge of committing a misdemeanour for which the maximum penalty is one year's detention must be released within five days from the time of his arrest if he has a fixed abode in Syria and is not a repeat offender;
- (d) Article 122 sets a deadline of 24 hours for any appeal against a decision to release a suspect;
- (e) Under article 131 of the Code, the public prosecutor must make his requests known to the examining magistrate within a maximum of three days from the date on which he receives the file;
- (f) Under article 136, whenever the public prosecutor has reason to believe that a subject has committed a misdemeanour or a contravention, he must send the case file, together with the bill of indictment, to the clerk of the competent court within two days from the date of his receipt thereof;
- (g) Under article 137, if the examining magistrate deems the act allegedly committed by the suspect to be of a criminal nature, he must immediately order the dispatch of the investigation file to the public prosecutor so that the requisite indictment procedures can be completed;
- (h) Under article 140, any appeal against a decision by the examining magistrate must be lodged within 24 hours and notice thereof must be served within a similar period;
- (i) Under article 144, the public prosecutor must prepare his case within five days from the time of his receipt of the file and he must draw up his report within the following five days;
- (j) Under article 145, the judge to whom the case is referred must decide on the admissibility of the public prosecutor's requests either immediately or within three days;
- (k) Under article 158, the public prosecutor must draw up his report within five days from the time on which he receives the file from the judge to which it was referred;
- (l) Under article 161, the accused person must be sent to the place of custody at the criminal court within 24 hours from the time when he is notified of the decision to prosecute;
- (m) Under article 220, courts of conciliation must render judgement during the trial hearing or, at the latest, at their next session;
- (n) Under article 232, concerning trial procedures for misdemeanours committed in the presence of witnesses, the court must sit immediately or, at the latest, on the following day. Article 233 empowers the public prosecutor to summon the witnesses orally in such cases and article 234 does not permit a delay of more than three days;
- (o) Under article 235, if the court believes that the case is not ready for judgement it may postpone the trial until the first feasible date;

(p) Under article 253, in the event of an appeal against its judgement, the court of first instance must transmit the file to the court of appeal within three days;

(q) Under article 263, the president of the criminal court must question the accused on arrival;

(r) Under article 273, this must be done not later than 24 hours from the time of arrival of the accused at the place of custody.

#### **Paragraph 4**

136. Any person who has been deprived of his liberty because of detention or arrest has the right of recourse to a court to decide without delay on the legality of his detention, and the court is to order his release if the detention is illegal.

137. Under provisions of the law, an accused person is entitled to the above-mentioned right immediately upon his detention. If the accused person contests the competence of the investigating authority or demands that the case should not be heard or should be dropped or that his act is not punishable by law, the examining magistrate must, after hearing the claims of the accused person and consulting with the public prosecutor, decide on the claim within one week (article 73, paragraph 1, of the Code of Criminal Procedure). It should be noted that, under paragraph 3 of the same article, that the period of one week established in paragraph 1 does not mean that the accused person should remain detained for all this period.

138. A decision by the examining magistrate to reject the claims of the accused person is subject to review in accordance with provisions relating to appeal against decisions of examining magistrates, but the review does not involve a suspension of the investigation (article 73, paragraph 2, of the Code of Criminal Procedure).

139. If the examining magistrate determines that the act does not constitute a crime or that there is no sufficient evidence that the accused person has committed the act he may decide to order a mistrial and order the release of the accused person if he is not detained for another reason (article 132 of the Penal Code). The decision of the examining magistrate may be appealed before a referring judge who examines the appeal as a matter of urgency.

140. If the referring judge determines in a misdemeanour case that the act of the accused person does not constitute an offence and that evidence is not sufficient to press a charge he may decide to drop the case and release the accused person unless he is detained for another reason (art. 149, para. 1).

141. The law safeguards the right of the accused person at all stages of the investigation to contact his family, either at his residence or at the place of his work, to inform them of the charges against him.

142. Article 70 of the Code specifies the persons who may be present at the investigation but the examining magistrate may, under paragraph 3 of this article, conduct the investigation without their presence. Notwithstanding this provision the examining magistrate must relay the outcome of his investigation to the family of the accused person or others who may be concerned.

143. Article 72 deals with investigation while the accused person is under detention and provides that the examining magistrate may decide against any communication with the accused person. This implies that the accused person may normally be contacted, including by his family. However, the law underlines the right of the defence counsel to have constant contact with the accused person as paragraph 2 of this article provides that the ban on communication with the accused person does not cover the lawyer who may contact the accused person at any time and in privacy.

#### **Paragraph 5**

144. Does anyone who has been the victim of unlawful arrest or detention have an enforceable right to compensation?

(a) Article 164 of the Civil Code stipulates that “anyone who causes harm to another has an obligation to pay compensation”;

(b) Under article 138 of the Penal Code and article 4 of the Code of Criminal Procedure, anyone who suffers detriment as a result of an offence has the right to apply to the courts to claim compensation for the damage suffered. The civil obligations in respect of which compensation can be awarded are specified in articles 129 to 146 of the Penal Code. Moreover, article 57 of the Code of Criminal Procedure stipulates that anyone who deems himself to be the victim of a felony or a misdemeanour has the right to file a complaint with the Department of Public Prosecutions, which has an obligation to institute public proceedings if the complainant brings a personal action;

(c) This legal right can be exercised by any person, without distinction as to colour, gender, race, religion, language or nationality;

(d) This right also applies to any offence committed against the victim. Since the rights recognized in the Covenant are also covered by the provisions of the Constitution, any violation thereof constitutes an offence under the Penal Code (articles 319-324 and articles 555 and 556).

### **Article 10**

#### **Paragraph 1**

145. Article 28, paragraph 3, of the Syrian Constitution stipulates that: “No one shall be subjected to physical or mental torture or degrading treatment, the perpetrators of which shall be liable to the legally prescribed penalties.”

146. Syrian law regards the decent treatment of prisoners as an obligation, as any abusive or degrading treatment constitutes a legally punishable offence. Article 391 of the Penal Code stipulates that “anyone who subjects a person to illegal acts of violence with a view to obtaining from him a confession to an offence or information pertaining thereto shall be liable to a penalty of detention for a term of three months to three years and, if the acts of violence against him lead to sickness or wounds, the minimum penalty shall be one year’s imprisonment”.

147. To ensure that all persons deprived of their liberty are treated humanely and with respect for their inherent dignity, the ministries of justice and the interior and the Office of the Public Prosecutor are required to inspect conditions in prisons to ascertain that inmates receive decent treatment:

(a) Article 1, paragraph (e), of the Code of the Judicial Authority stipulates that the Ministry of Justice has the competence to inspect prisons and places of custody to ensure that the conditions of their inmates conform to legal requirements and that applicable health rules and other regulations are observed;

(b) Article 13 of the same Code provides that the inspection directorate in the Ministry of Justice and the Chairman of the Supreme Judiciary Council shall inspect prisons, places of custody and reform institutions to ensure that detention, the implementation of penalties, measures of custody and reform, treatment by officials of persons under their control and the implementation for health and internal regulations are carried out in conformity with the provisions of the law;

(c) Under article 422 of the Code of Criminal Procedure, the well-being of persons held in places of custody and prisons must be verified once a month by the examining magistrate and the justice of the peace, and once every three months by the presidents of the criminal courts, who must also ensure that they are being treated in a decent manner: article 30 of the Syrian Prison Regulations stipulates that it is prohibited for any prison officer or guard to treat detainees in a harsh manner, give them derogatory nicknames, address them with foul language, make fun of them, force them to work for their personal benefit or require them to assist them in their work except in circumstances in which this is explicitly permitted;

(d) Article 58 of the Penal Code stipulates as follows:

“1. Anyone sentenced to a penalty of deprivation of liberty for not less than three months shall receive better treatment in prison as his behaviour improves.

2. This better treatment shall apply to food, type of work, working hours, the obligation to remain silent, recreation, visits and correspondence in accordance with the law concerning the enforcement of penalties.”

(e) The Syrian Prison Regulations guarantee health care for prisoners. The Regulations also lay down rules concerning the treatment of convicted persons which, in some respects, differs from the treatment of persons held in custody. This is in conformity with the provisions of the Constitution, article 28, paragraph 1, of which stipulates that an accused person is innocent until proved guilty.

## **Paragraph 2**

148. Pursuant to the principle that an accused person is innocent until proved guilty, accused persons are separated from convicts and are treated in a different manner consistent with their status as unconvicted persons. The Prison Regulations contain an entire section on the need to

separate the various categories of detainees and the need to segregate males from females and juveniles from adult inmates. In fact, section III of the Syrian Prison Regulations stipulates that segregation is compulsory in all prisons:

(a) Under article 32, all prisons must allocate completely separate cells for men and women in such a way as to prevent any contact between them. The following categories of detainees must also be segregated:

- (i) Suspects and accused persons held in custody for legal indebtedness, insolvency or damages owed in respect of the commission of an indecent act;
- (ii) Persons sentenced to a term of less than one year's detention for a misdemeanour, persons convicted of a misdemeanour or a felony who must be sent to a central prison, persons convicted of an indecent act and persons detained for a debt owed to the State in respect of a felony or misdemeanour;
- (iii) Young detainees.

(b) Segregation in medium-size prisons. Article 33: In medium-size prisons, detainees shall be segregated as follows to the extent permitted by the number of cells and guards:

- (i) Suspects, accused persons and persons held in custody for legal indebtedness, insolvency or damages owed in respect of the commission of an indecent act;
- (ii) Persons convicted of an indecent act;
- (iii) Persons sentenced to a term of less than one year's detention for a misdemeanour, persons convicted of an indecent act and persons detained for a debt owed to the State in respect of a felony or misdemeanour;
- (iv) Persons convicted of a felony or a misdemeanour who must be sent to a central prison;
- (v) Young detainees.

(c) Segregation in large prisons. Article 34: In large prisons, the following categories shall be segregated, as far as possible, wherever the number of cells and guards permits:

- (i) Suspects, accused persons and persons detained for legal indebtedness, insolvency or damages owed in respect of an indecent act who have no criminal record;

- (ii) Suspects, accused persons and persons detained for legal indebtedness, insolvency or damages owed in respect of the commission of an indecent act who have a criminal record;
- (iii) Persons sentenced to a term of less than one year's detention and persons detained for a debt owed to the State in respect of a felony or misdemeanour who have no criminal record;
- (iv) Persons sentenced to a term of less than one year's detention and persons detained for a debt owed to the State in respect of a felony or misdemeanour who have a criminal record;
- (v) Persons convicted of a misdemeanour who must be sent to a central prison;
- (vi) Young detainees.

(d) Segregation in the central prison. Article 35: In the central prison, convicts shall be segregated as follows, subject to the provisions of article 32, paragraph 1:

- (i) Persons sentenced to up to three years; detention;
- (ii) Persons sentenced to a term of less than 10 years' imprisonment with hard labour;
- (iii) Persons sentenced to a term of 10 or more years' imprisonment with hard labour;
- (iv) Persons sentenced to life imprisonment with hard labour;
- (v) Young detainees serving a custodial sentence as a reform measure.

(e) Common provisions concerning segregation of the various categories of detainees which are applicable to all prisons:

- (i) Article 36: Detainees awaiting transfer and military personnel shall be placed in the category to which they belong. For purposes of the application of articles 31 and 32, any detainee who has previously served a sentence of not less than one month's detention shall be deemed to have a criminal record;
- (ii) Article 37: Registered prostitutes convicted of a contravention shall be placed in a separate cell in the women's section;
- (iii) Article 38: All the categories of detainees to which reference is made in articles 32, 33, 34, 35, 36 and 37 shall be segregated in separate dormitories, workshops, canteens and recreation areas;

- (iv) If the number of recreation areas is insufficient for all the categories of detainees, the recreation hours shall be set in such a way as to enable the areas to be used in succession by all the said categories;
- (v) Article 39: The warden or head guard shall implement the orders received from the examining magistrate or the president of the court pursuant to article 457 of the Code of Criminal Procedure and, in particular, shall take the necessary measures to ensure that suspects and accused persons held in solitary confinement by order of the judicial authority are not placed with other detainees; when large numbers of detainees are to be released on the same day, measures are to be taken to ensure that they do not meet in the administrative offices or on their departure from the prison;
- (vi) Juveniles under the age of 18 are to be placed in reform institutions and no penalty will be imposed on them but rather reform measures carried out in institutions set aside for juveniles. In these institutions juveniles are separated according to age and the type of offence they have committed (article 29 of the Juvenile Act as amended by Legislative Decree No. 52 of 1 September 2003).

(f) Measures that must be taken to prevent overcrowding:

Article 41: In order to remedy overcrowding or prevent its anticipated occurrence, the senior district administrator shall send to the Minister, as soon as possible, a report proposing the transfer of convicts to another prison.

(g) With regard to the procedures to be followed on arrival:

- (i) Article 42 stipulates that, on arrival at the prison, detainees must be placed in individual waiting rooms or cells until they are sent to the appropriate section;
- (ii) They are subject to the prison admission procedures, including measurement of their height and weight, and undergo the requisite cleansing operations, after which they may be required to wear prison uniform.

149. In addition to the above, in order to segregate juvenile defendants from adults, the Juveniles Act No. 18 of 1974, as amended by Act No. 51 of 1979, makes provision for the establishment of special juvenile courts which, under the terms of article 31 thereof, consist of full-time and part-time district courts competent to hear cases involving felonies, misdemeanours and contraventions. Juveniles are treated in a manner conducive to their social rehabilitation and reform. They are to be placed only in reform institutions and are not to be held in prisons under any circumstance.

150. Article 45 of the Juvenile Act No. 18 of 1974 provides that:

“No court or examining magistrate may endorse the detention of a juvenile in a place other than the observation centres established or recognized by the Ministry of Social Affairs and Labour. Where no such centres are available the juvenile shall be placed in places set aside for the custody of juveniles.”

Under article 46, the examining magistrate and the Juvenile Court shall decide as soon as possible in a case referred to them to protect the interests of the juvenile defendant.

### **Paragraph 3 - Rehabilitation**

#### *Education and worship*

151. Article 114 of the Prison Regulations stipulates that a primary educational unit must be established at the central prison and may also be established at other prisons by decision of the Minister of the Interior. The said units must be placed under the control of a high school teacher seconded by the Ministry of Education to the Ministry of the Interior and whose salary is paid from the budget of the latter Ministry in accordance with the conditions laid down in the Ministry of Education's employment statutes, or a local high school teacher, appointed by decision of the Minister of the Interior, who is paid an additional allowance from the budget of the Ministry of the Interior, or any other persons accepted by the Minister of the Interior, on the basis of a proposal from the senior district administrator and subject to approval by the Minister of Education, on the understanding that the said person is not entitled to any salary or allowance.

152. Under article 115, all young detainees and all detainees under 40 years of age who have been sentenced to a term of more than three months' imprisonment are subject to compulsory education regardless of whether they are illiterate or able to read but unskilled in the art of writing.

153. Under article 116, civil servants or other persons duly authorized by the senior district administrator may deliver tutorials or lectures on ethical or scientific subjects, provided that the subjects that the said other persons wish to discuss are approved by the senior district administrator.

154. Attendance of such tutorials and lectures is compulsory for convicts. However, if they are of a religious nature, attendance is compulsory only for those who have asked to participate in the ceremonies of the religion forming the subject of the lecture.

#### **Library**

155. Article 117 stipulates that books from the prison library must be made available to detainees, who are permitted to read them on holidays and also during the week at the end of the working day, provided that they have completed the assignments set by their teacher, after which they are free to devote the rest of their time to reading. Suspects, accused persons and persons serving a term of detention without labour are not subject to any restriction in this regard.

## **Religious observance**

156. Article 118 stipulates that, on the basis of a proposal by the senior district administrator, the Minister of the Interior shall appoint at every prison ministers of religion for each religious confession who shall be granted access to detainees at their request.

## **Facilities provided for students, including university students, in Syrian prisons**

157. On 29 February 2004 there were 951 students in Syrian prisons divided as follows: basic education: 781; secondary education: 136; university level: 34. They receive the following facilities:

- (a) In Damascus prison, a section of the prison is set aside as “school wing”;
- (b) In other prisons, rooms are set aside to provide comfortable conditions for study and which contain study aids and equipment;
- (c) Prisons are provided with libraries for reading;
- (d) For students of basic and secondary education, all books are provided free of charge and teachers are recruited jointly by the directorate of education and the prison administration;
- (e) For university students, the school board follows the registration of students in various colleges in coordination with the prison administration and arranges with examination centres to ensure the transfer of students to these centres to sit for their examinations.

158. Remunerated work is also made available to convicts under the provisions of section VI of the Prison Regulations which stipulate that:

- (a) Workshops must be established at the central prison and at all other prisons in Syria. These workshops are either operated directly by the State or assigned to contractors. When they are operated directly by the State, the Minister of the Interior determines the terms and conditions of employment, as well as the wages to be paid to the detainees. On the basis of a proposal by the senior district administrator, the Minister of the Interior may assign them to contractors in accordance with general terms and conditions the provisions of which must be in conformity with the model annexed to the Prison Regulations. Work is scheduled in such a way as to ensure that no convict remains idle (art. 93);
- (b) Work may also be assigned to suspects, accused persons and persons detained for legal indebtedness, insolvency or damages owed in respect of an indecent act, if they so request. Prison inmates can continue to exercise their craft or profession unless it is incompatible with health, order, security or the Regulations. If the craft that they were exercising is an activity for which provision is made in the prison, they are employed therein in accordance with the conditions laid down in the schedule of wage rates, otherwise the wages of prisoners employed by external master craftsmen are paid to the prison official acting as accountant or public works contractor who divides them into shares payable to the prisoner and the Treasury. Detainees

working for their own account have an obligation to pay a contribution equivalent to the amount that would have been received by a contractor or the Treasury if they were employed on work within the prison;

(c) The senior district administrator determines the amounts of the said contributions on the basis of a proposal by the warden or head guard and, if necessary, may require a pledge in this regard. In addition to guarding the detainees, the guards are also responsible for ensuring the smooth and orderly performance of their work;

(d) Work authorizations and determination of workers' rates of pay:

Article 94 stipulates that definitive authorizations cannot be granted until the work has been approved by the Minister of the Interior, on the basis of a request from the contractor, after consulting the senior district administrator. Workers' rates of pay must be set, in a definitive manner, during the month following introduction of the craft or occupation into the prison and may be reviewed, if necessary, by order of the Minister of the Interior. Workers' rates of pay must be posted at their places of work.

(e) Convicts' earnings:

(i) Article 95 stipulates that convicts' earnings from their work must be distributed between them and the State or the contractor depending on the manner in which work is organized at the prison;

(ii) Detainees without previous convictions or who have been sentenced to one or more terms of detention totalling not more than one year receive five tenths of their earnings, while detainees who have been sentenced to one or more terms of detention totalling from one to five years receive four tenths and detainees who have been sentenced to imprisonment with hard labour or to one or more terms of detention totalling more than five years received three tenths;

(iii) Under the terms of article 96, half of the amount payable to convicts in respect of their work is retained for them, as a reserve, until their release;

(iv) Under article 97, the other half of the earnings due to the convicts is placed at their disposal and the warden or head guard may permit them to send assistance to their families from that amount.

(f) Earnings of suspects and persons detained for indebtedness:

Under the terms of article 98, suspects and persons detained for indebtedness who request work are subject to the same rules as convicts in regard to the terms and conditions of their work except that they cannot be compelled to work. They are entitled to receive seven tenths of the wages that they earn and have full disposal of that amount during the period of their detention.

(g) With regard to measures taken against the contractor in the event of his failure to provide work:

Article 99 stipulates that, if work at the prison is assigned to a contractor, the warden or head guard must specify, in the daily report that he sends to the senior district administrator, the number of detainees left without work, as well as the number of detainees who requested work while not being obliged to do so. At the end of each month, the senior district administrator must submit to the Minister a list of the numbers of working days lost in this way at each prison in his district, together with his proposals concerning the financial penalty to be imposed on the contractor and, if necessary, ways to provide work on the requisite terms and conditions.

(h) With regard to the employment of detainees on work of public benefit, article 110 stipulates that prisoners may be employed on construction or similar work in the prison or placed at the disposal of Ministries, military authorities or municipalities so that they can be employed on work of public benefit outside their prisons or local institutions;

(i) The bodies employing such prisoners are responsible for the costs of their transportation and have an obligation to provide them with food and overnight accommodation;

(j) The official body employing the prisoners pays a daily wage to each of them. Every such body wishing to employ prisoners must submit to the Ministry of Interior an application specifying:

(i) The number of prisoners that it requires;

(ii) The means at its disposal to guard them.

(k) Agreement to employ prisoners in itself implies an undertaking by the official body concerned to observe all the regulations laid down in this regard.

159. Article 4 of the Juveniles Act lists appropriate reform, care and rehabilitation measures and article 5 empowers the court to impose the reform measures which it deems conducive to the juvenile's reform in the light of the information to it concerning his psychological and social situation.

### **Juvenile reform measures**

160. The protection and precautionary disciplinary measures provided for in the Juveniles Act No. 18, as amended by Act No. 51, have been standardized in order to give the juvenile court an opportunity to choose those most appropriate to the juvenile's situation since the purpose of the legislation is to ensure the reform and social rehabilitation of the juvenile delinquent.

161. The composition of the juvenile courts has been expanded so that, when hearing important juvenile cases involving felonies or misdemeanours, the juvenile judge is assisted by representatives of the Ministry of Social Affairs and Labour and the Ministry of Education who, in their capacity as highly qualified sociologists, help to determine the reform measure most appropriate to the juvenile since, when dealing with cases of juvenile delinquency, the fundamental aim of the court is to reform the juvenile and not simply to impose a penalty as normally happens in cases involving adults.

162. A juvenile police force has been established to supervise juveniles and protect them from exposure to the risk of delinquency and the commission of illegal acts. This force, which is modelled on its counterparts operating in most foreign and Arab States, currently consists of ordinary police officers pending completion of the training of specialized personnel to carry out the tasks that will be assigned to them.

163. The specialized functions of institutions, such as social service offices and surveillance centres, which assist the juvenile courts have been regulated in such a way as to ensure that their respective roles, as well as the administrative authorities by which they are supervised, are clearly defined by law.

164. The duration of a juvenile's placement in a reform institution has been set at a minimum of six months in order to give the juvenile an opportunity to adopt a proper mode of conduct and absorb the guidance and advice provided by the institution's specialists and also in order to give the latter an opportunity to submit proposals to the juvenile court concerning the juvenile's release or continued education and rehabilitation in the light of his conduct in the institution.

165. The juvenile's guardian is liable to a fine if the court finds that the juvenile's delinquency is the result of neglect. The purpose of these fines is to encourage parents to assume their educational and social responsibilities towards their children.

166. A Probationary Service, staffed by highly qualified and experienced probation officers attached to the Ministry of Social Affairs and Labour in its capacity as the body responsible for the welfare and reform of juveniles, has also been established.

167. Women are given an opportunity to serve as juvenile judges in view of their natural ability to understand the mentality of juveniles and choose the most appropriate measures for their protection and reform.

168. The stage of childhood (young persons under 7 years of age) has been excluded from the scope of application of criminal law in view of the inability of such persons to distinguish between right and wrong.

169. By law, young persons who have reached 10 but are under 18 years of age are entitled to special treatment insofar as they are subject only to remedial reform measures and no penalties are applied to them.

170. The rules and procedures of the juvenile courts are characterized by their simplicity and informality insofar as juvenile court hearings are more like family gatherings or psychological clinics attended only by the persons concerned.

171. The rehabilitation and social reintegration of juveniles are ensured through the social care that they receive from the time of their admission to the reform institution.

172. The Ministry of Social Affairs and Labour in Syria has established a number of institutions and centres to cater for the welfare of juvenile delinquents in order to keep them away from public prisons and provide them with the reform and educational facilities that they

require. In accordance with the provisions of the Compulsory Education Act, the Ministry has obtained the approval of the Ministry of Education for the establishment of primary schools at reform institutions for juvenile delinquents at Damascus.

173. In addition to theoretical education, vocational training is provided, for socio-economic purposes, in the crafts for which facilities are available at these institutions. In this way, juveniles are taught a trade on which they can rely for an honest livelihood after leaving the institution so that they can improve their living conditions and reintegrate in society. A national fund has also been established to find employment for juvenile delinquents and improve occupational attitudes towards them.

### **Article 11**

174. Article 460 of the Code of Civil Procedure stipulates that no one may be imprisoned solely for inability to fulfil a contractual obligation, stating that:

“no person may be imprisoned to ensure a contractual obligation, except in the case of damages payable under the terms of a criminal judgement, payment of maintenance, payment or recovery of dowry, handover of a child to the person to whom custody has been assigned and assurance of the child’s right to see his or her parent.”

175. In the case of damages awarded in respect of a criminal offence arising from an unlawful act the imposition of a penalty of detention in this connection is not incompatible with article 11 of the Covenant. Maintenance and payment of recovery of dowry in the event of annulment of a contract of marriage or temporary or permanent separation are matters involving conjugal rights and Syrian law does not regard marriage solely as a contractual obligation since, by virtue of its inviolable and sacrosanct nature, it cannot be viewed simply as a contractual debt between two parties which is regulated by the provisions of the Civil Code and contractual law; in fact, being the cornerstone of the family, it is governed by the Personal Status Act the rules and principles of which, notwithstanding some similarities, differ from those applicable to contracts.

176. Although marriage is essentially based on a legal contract between a man and a woman under which he is permitted to take her as his lawful wife with a view to the production of common progeny, its effects and the obligations of the parties thereto are not determined by the will of the two parties. On the contrary, they are governed by the general provisions of public order based on society’s view of marriage which, consequently, cannot be regarded as a purely civil contractual obligation, nor can its effects be regarded simply as the results of a contract. Moreover, since the concept and scope of matters of personal status transcend the laws and regulations governing civil status, such matters fall outside the sphere of contractual obligations in the sense intended in the International Covenant on Civil and Political Rights.

177. The handover of a child to the person to whom the child’s custody has been assigned and assurance of the child’s right to see his or her parent do not constitute a contractual obligation in the sense that imposition of a penalty of detention for any violation thereof would be incompatible with article 11 of the International Covenant.

178. Accordingly, since these cases, which fall outside the scope of contractual law, are the only ones in which a penalty of detention is permissible, there is no incompatibility in this regard between Syrian law and article 11 of the Covenant.

### **Article 12**

179. Article 33, paragraph 2, of the Syrian Constitution stipulates that: “Every citizen has the right to liberty of movement within the territory of the State unless prohibited therefrom under the terms of a court order or public health and safety regulations.”

In Syria, no laws or measures restrict the liberty of movement or choice of residence of citizens.

180. Legislative Decree No. 29 of 1970 regulates the right of foreigners to enter, reside in and leave the territory of the Syrian Arab Republic. It stipulates that entry into and departure from the country are permitted only to holders of a passport that meets the following conditions:

- (a) The passport must be valid;
- (b) It must have been issued by the competent authorities in the country of issue, by any other recognized authority, or by the Ministry of the Interior.

181. In place of a passport, an alternative document is acceptable, provided that:

- (a) It has been issued by an authority empowered to issue passports;
- (b) It gives the bearer the right to return to the country which issued the document.

The latter provision is intended merely to ensure that our country is not the final destination of stateless persons.

182. In all cases, the passport or document must be furnished with a visa by the Ministry of the Interior, a diplomatic or consular authority of the Republic, or any other body authorized by the Government of the Republic for that purpose.

### **Visas**

183. The aforementioned Decree authorized the Ministry of the Interior to issue, with the agreement of the Ministry of Foreign Affairs, an ordinance specifying types, validity and cost of visas and the conditions on which they are issued or waived.

184. Pursuant to that Decree, decisions were taken regarding types of visas, the manner in which they are issued and the fees receivable. There are two types of visa:

1. Diplomatic and equivalent visas.
2. Ordinary visas.

185. Diplomatic visas are issued gratis to the following:

- (a) Holders of foreign diplomatic passports;
- (b) Holders of a United Nations laissez-passer;
- (c) Foreign dignitaries carrying ordinary passports, whose Syrian counterparts are granted diplomatic passports.

186. Other visas equivalent to diplomatic visas are: “special”, “business” and “courtesy”.

1. Special visas are granted to the following:

- (a) Holders of special or equivalent foreign passports;
- (b) Holders of a United Nations laissez-passer;
- (c) Foreign dignitaries holding ordinary passports, whose Syrian counterparts are granted special passports.

2. “Official business” visas are granted to foreign passport holders for a specific purpose.

Courtesy visas are granted to the following under the terms of the ordinance:

- (a) The personnel of international organizations and specialized agencies and State representatives attending conferences;
- (b) The administrative and clerical staff of foreign diplomatic and consular missions;
- (c) The dependants of members of foreign national consular and diplomatic corps.

3. There are two types of ordinary visa:

1. Entry.
2. Transit.

These are valid for one entry into or transit through the Republic, unless it is specifically indicated that they are for more than one journey in the six months subsequent to the date of issuance.

4. In exceptional circumstances, such visas may be valid for one year and, with the approval of the Ministry of the Interior, may be valid for a number of journeys and for a period exceeding one year.

5. The validity of the visa may not exceed the validity of the passport. In fact, it must expire two months prior to the expiry of the passport:

(a) The ordinance stipulated that visas shall be written in Arabic and French;

(b) Unless approved by the Ministry of the Interior, a visa shall not be granted to any foreigner wishing to enter the country for work purposes, with some specific exceptions provided for in the ordinance.

187. Any foreigner who has entered the territory of the Syrian Arab Republic in a regular and legal manner and has obtained a residence permit is not subject to Legislative Decree No. 29 of 1970 regulating the entry, residence and departure of foreigners with the exception of article 9 thereof, which stipulates that any foreigner who wishes to change his place of residence must notify his new address to the Department of Migration and Passports or its regional office in the governorate in which his new residence is located.

This provision does not apply to holders of tourist visas during the first month following their arrival.

188. With respect to article 12, paragraph 4, of the Covenant and comments thereon, article 33, paragraph 1, of the Syrian Constitution stipulates that a citizen may not be expelled from the homeland.

189. Pursuant to article 12, paragraphs 2, 3 and 4 of the Covenant, and following the consideration of the country's second periodic report, Ordinance 1387 of 25 November 2002 was issued to exempt all citizens of the requirement to obtain an exit visa; accordingly a Syrian or any person of a similar status may leave and return provided he is in possession of a regular passport valid for no less than two months without any restrictions. The Ordinance however requires employees of the State to obtain the authorization of their office before departure. Minors and persons with reduced capacity require the consent of their guardians in accordance with provisions of the Personal Status Act.

190. Article 4 of Legislative Decree No. 29 of 1970 stipulates that foreigners shall be permitted to enter or leave the territory of the Syrian Arab Republic only at the places designated by the Ministry of the Interior and with permission from the embassy of the Syrian Arab Republic abroad or the competent border authority, under the terms of a visa stamped in their passport or equivalent travel document.

### **Article 13**

191. The residence of an alien in Syria is not terminated and an alien will not be deported unless he commits an act that justifies deportation in accordance with article 34 of Legislative Decree No. 29 of 1970 which governs the entry, residence and departure of aliens in Syria. Such acts may include the following:

(a) Entering or leaving Syrian territory without a valid passport or an equivalent document issued by the competent authorities of his own country or any other recognized authority (art. 2);

(b) Illegal entry or departure, such as entering or leaving at points other than those specified such as border stations (art. 4);

(c) Overstaying the specified period of residence (art. 15);

(d) Commission of a crime punishable by law;

(e) Article 25 of Legislative Decree No. 29 of 1970 stipulates that: “The Minister of the Interior shall be empowered to deport any alien from Syria if security and the public interest so require. He may order the provisional detention of any person whom he decides to deport or may place such person under restricted residence with the obligation to report to the competent police authority at specified times until his deportation. The Minister of the Interior exercises his powers in a manner that complies fully with the provisions of the Covenant in this respect.”

192. Under article 26 of the same Legislative Decree: “No alien who has been deported shall be permitted to return to Syrian Arab territory without authorization from the Minister of the Interior.” Syrian Arab citizens cannot be deported and any alien subjected to this measure has the right to appeal to the courts.

193. The expulsion procedures are as follows:

(a) When an alien who has committed an offence or a contravention is arrested, he is brought before the competent court and, if the court decides to release him, he is referred to the Department of Migration and Passports for consideration of his situation. The Procedural and Investigation Section of the Department studies his circumstances and prepares a memorandum for the Minister proposing either deportation or expulsion depending on the type of offence for which the person in question was arrested;

(b) If it is decided to expel or deport him, one of the Department’s patrols escorts him to an airport or land border post where an expulsion or deportation order, as appropriate, is drawn up in due and proper form and the alien leaves the country;

(c) In the case of deportation, he is prohibited from returning to the country.

194. Protests against deportation decisions and bans on re-entering the country can be lodged with Syria’s diplomatic missions abroad, which refer them to the Ministry of the Interior through the Ministry of Foreign Affairs. The matter is submitted to the Minister and, in the light of his decision, the person concerned is notified, through the Ministry of Foreign Affairs, of the positive (annulment of the ban on re-entry) or negative response.

195. Political refugees cannot be extradited because of their political principles (article 34 of the Constitution).

#### **Article 14**

196. The Syrian Arab Republic has a democratic republican system of government in which sovereignty is exercised by the people in the manner specified in the Constitution, which is based on the principle of the separation of legislative, executive and judicial powers. The legislation in force in the Republic was promulgated in accordance with the provisions of the Constitution,

with which it is required to be consistent, and, in its content and aims, is in conformity with the principles set forth in the International Covenant on Civil and Political Rights. Moreover, the Syrian Arab Republic's ratification of the Covenant on 21 April 1969 signifies that the provisions of the Covenant have become part of the domestic legislation in force.

## **Paragraph 1**

### ***Independence and competence of the judiciary***

197. The judicial authority is independent, its independence being guaranteed by the President of the Republic with the assistance of the Higher Council of the Judiciary (article 131 of the Constitution). Judges are independent and, in their administration of justice, are subject to no authority other than the law. The rights and freedoms of all persons are guaranteed by the honour, conscience and impartiality of the judges (art. 133). Any attempt to influence a judge in favour of an accused person constitutes a punishable offence under the terms of article 409 of the Penal Code, chapter IV of which prescribes penalties for offences which impede the administration of justice or obstruct the implementation of judicial decisions.

198. As a confirmation of the independence of the judicial authority, judicial practices indicate that any violation of the legal provisions that give effect to the International Covenant has been prosecuted and that the administration cannot refuse to implement a court judgement because such refusal would be punishable under article 361 of the Penal Code.

199. Syria does not apply the jury system. Its judges are always professional and it is only in civil cases that the parties are permitted to agree to the arbitration of persons other than judges who are merely required to be competent adults acceptable to the parties.

200. Any party to a dispute can request disqualification of a judge for the reasons specified in article 174 of the Code of Civil Procedure in accordance with the procedures laid down in articles 175-189, which also apply to the judges in criminal courts.

201. The law specifies the place where a competent judicial authority may exercise its jurisdiction for trying an offence, any violation of these provisions would constitute grounds to invalidate the judgement. The Court of Cassation, however, may decide to remove the case from one governorate to another if the neutrality of the court is questionable or if there is a fear that security in the court may be jeopardized.

### ***Appointment, promotion, transfer, discipline and removal of judges***

202. The law defines the terms of appointment, promotion, transfer, discipline and removal of judges (article 136 of the Constitution). The Judicial Authority Act promulgated by Legislative Decree No. 98 of 15 November 1961 specifies that judges are appointed by a decree drafted by the Minister of Justice on the basis of a decision by the Higher Judiciary Council before the decree is issued by the President of the Republic. Only professional judges may sit in a court in accordance with principles provided for in the Judicial Authority Act.

203. Articles 70, 71, 72, 73, 74 and 75 of the Judicial Authority Act on qualifications of judges are reproduced below:

1. Article 70: Every person appointed to the judiciary or the Department of Public Prosecutions must meet the following conditions:

(a) He must have been a Syrian citizen for at least five years and must enjoy his civil rights;

(b) He must be free of contagious and other diseases and infirmities that would prevent him from exercising the function assigned to him in any part of the State;

(c) He must not have been convicted of a felony or an offence prejudicial to honour and must not have been sentenced to a penalty of more than one year's detention;

(d) He must hold a degree in law from a university in the Syrian Arab Republic or an equivalent degree from another university provided that, in the latter case, he must also hold a certificate of secondary education or an equivalent certificate and must have passed the equivalence examination required under the laws in force;

(e) He must be over 22 years of age if appointed as assistant judge, assistant shari'a judge or assistant prosecutor, over 24 years of age if appointed as justice of the peace, judge of a court of first instance, shari'a judge, examining magistrate or deputy prosecutor, over 30 years of age if appointed as justice at a court of cassation or solicitor-general and over 35 years of age if appointed to other posts;

(f) The Higher Council of the Judiciary must have approved his nomination.

2. Article 71: Judges and prosecutors shall be appointed by a decree signed by the Minister of Justice on the basis of a decision taken by the Higher Council of the Judiciary.

3. Article 72, paragraph 1: the Higher Council of the Judiciary may decide to appoint the following holders of degrees in law directly to judicial posts:

(a) Judges and prosecutors in the Council of State, specialists in the Department of Governmental Affairs and present or previous members of the teaching staff of a faculty of law to a grade equivalent to that of their present or previous posts;

(b) Professors who have actually practised law:

(i) For a period of eight years at grade 5 or below;

(ii) For a period of six years at grade 6 or below;

(iii) For a period of four years at grade 7;

Paragraph 2: In any year, these appointments must not exceed one quarter of the vacant posts unless there are no judges meriting promotion thereto.

4. Article 73: The Higher Council of the Judiciary shall formulate regulations, to be published by order of the Minister of Justice, concerning the probation of judges appointed at the lowest judicial grades.

5. Article 74, paragraph 1: The Higher Council of the Judiciary shall consider the permanent appointment of judges who have completed two years' probation.

Paragraph 2: If the Higher Council of the Judiciary has not taken a decision on the question of permanency or dismissal following completion of the period of probation, the judge's appointment shall automatically be deemed to be permanent.

6. Article 75, paragraph 1: Judges to whom the Higher Council of the Judiciary refuses to grant permanent appointments shall be dismissed from the service by decree.

Paragraph 2: Judges who are dismissed from the service shall be entitled to receive a pension or an indemnity in accordance with the laws in force.

204. Judges enjoy immunity from dismissal or transfer in accordance with the provisions of articles 92 and 93 of the Judicial Authority Act.

1. Article 92, paragraph 1: All judges shall enjoy immunity from dismissal or transfer.

Paragraph 2: For the purposes of this article, dismissal shall mean separation from service.

Paragraph 3: For the purposes of this article, transfer shall mean transfer from one town to another or from a post specified in the decree of appointment to another post.

2. Article 93, paragraph 1: Immunity from dismissal shall not be enjoyed by judges who have served in the judiciary for less than three years.

Paragraph 2: Immunity from transfer shall not apply to:

(a) Magistrates at the Department of Public Prosecutions, who may be transferred by decree on the basis of a proposal from the Minister of Justice;

(b) Judges who have served in the judiciary for less than three years;

(c) Judges who submit a written request for transfer;

(d) Judges who have served for a period of three years or more in the post specified in their decree of appointment, if circumstances necessitate their transfer;

(e) Judges who are transferred on promotion from one grade to another;

(f) Assistant judges of the peace, assistant shari'a judges and assistant examining magistrates;

(g) Judges on whom the Higher Council of the Judiciary imposes a penalty more severe than forfeiture of salary. Care must be taken to ensure that the transfer referred to in this subparagraph is of a punitive nature and cannot be regarded as promotion or a token of esteem.

205. Judges can be dismissed from office only after a thorough investigation, the results of which must be referred, by decree, to the Higher Council of the Judiciary, and on the basis of a decree enforcing the provisions of the Council's decision to dismiss them, as stipulated in section VII of the Judicial Authority Act.

### *Disciplinary penalties*

1. Article 105: disciplinary penalties that can be imposed on a judge are:

(a) Censure: the delivery to the judge of a letter specifying the contravention committed and drawing his attention to the need to avoid such contraventions in future. It may be decided not to record the censure in the judge's file (art. 106);

(b) Forfeiture of salary: the deduction of an amount not exceeding one tenth of the judge's gross monthly salary for a period of not less than one month and not more than one year (art. 106);

(c) Delayed promotion: depriving the judge of promotion for a period of up to two years (art. 106);

(d) Dismissal: termination of the judge's services and payment of his final entitlements in accordance with this Act. A judge who has been dismissed shall not be re-appointed to the judiciary (art. 106).

2. Article 107: disciplinary penalties shall be imposed on judges by the Higher Council of the Judiciary, to whom they shall be referred by a decree issued on the basis of a proposal submitted by the Minister of Justice or the President of the Higher Council of the Judiciary but which shall not be published in the Official Gazette.

3. Article 108: judges who are remiss in their duties, who say, do or write anything prejudicial to their personal honour or the honour of the judiciary, or who violate public laws and regulations, shall be referred to the Higher Council of the Judiciary.

4. Article 109: a judge who is referred to the Higher Council of the Judiciary may avail himself of the services of another judge unless otherwise decided by the Council itself.

5. Article 110: a judge who is referred to the Higher Council of the Judiciary may avail himself of the services of another judge to defend him. Any judge who, on being referred to the Higher Council of the Judiciary, fails to appear before it or fails to appoint another judge to represent him may be judged in absentia but has the right to lodge a protest against such judgement within five days from the date on which he is notified thereof.

6. Article 111:

(a) The President of the Higher Council of the Judiciary has the right to appoint a member of the Council as rapporteur to complete the investigation, if necessary;

(b) The hearing must be conducted in camera before the said Council.

7. Article 112: these disciplinary penalties are not subject to pardon.

8. Article 113: the penalty of dismissal is enforceable by decree, while the other penalties are enforceable by an order issued by the Minister of Justice which must not be published in the Official Gazette.

206. A judge's refusal to adjudicate in any dispute brought before him would constitute a denial of justice, in respect of which an action could be brought against the judge in accordance with article 486 of the Code of Civil Procedure.

### **Military justice**

207. Military justice in Syria dates back to the 1860s, under the Ottoman rule of Syria. At that time the Ottoman Military Penal Code and Code of Military Procedure was applicable. When the French mandate on Syria started in 1920 the Ottoman laws continued to be applicable until Legislative Decree No. 126 of 30 May 1935 was promulgated to apply the letter and spirit of the French Military Penal Code. This code was applied and continued in force even after the termination of the French mandate until it was amended by Legislative Decree No. 15 of 14 April 1949. The Military Penal and Criminal Procedure Code in force at present is Act No. 61 of 27 February 1950 which is derived from the Lebanese Military Penal Code; this latter code is largely based on the French Military Penal Code.

208. Like in many other countries, military justice in Syria is meant to respond to the special nature of the army and armed forces and governs the hierarchical military relations which are characterized by a high degree of military discipline. The supreme interest of the country requires particular observance of the military order and protection of military secrets and weapons, equipment and assets of the armed forces.

209. Military justice is administered by the following judicial authorities:

(a) Single-judge military courts which examine misdemeanours and contraventions - articles 1 and 3 of the Military Penal and Criminal Procedure Code;

(b) Permanent military courts, which are composed of a president and two members, to review felonies of a criminal nature. They also examine cases involving officers even if the nature of their offence falls in the jurisdiction of the single-judge courts (articles 134 and 34);

(c) Military magistrates, who investigate important misdemeanours and felonies of a criminal nature, (articles 16 and 24);

(d) Military Court of Cassation, which is a division of the Syrian Court of Cassation, the supreme court in Syria, but one of the judges in this chamber is replaced by an officer with the rank of colonel at least (art. 31). The Military Court of Cassation (which is a court of law) reviews judgements and decisions by military courts and military magistrates (art. 32);

(e) Military public prosecutor and assistant prosecutors, who exercise all functions of magistrates of public prosecution in accordance with provisions of the Court of Criminal Procedures applicable in ordinary courts (arts. 16-22).

210. Military judges are:

(a) Graduates of the Faculty of Law who joined the army after a competitive examination;

(b) Graduates of the Military Academy who obtain a degree from the Faculty of Law;

(c) Judges who are transferred from the Ministry of Justice to Military Justice.

211. It has been the practice for the last 30 years that military judges are selected after a competitive examination of candidates with a law degree. Successful candidates are appointed on probation for two years after which they are appointed in the office of the Military Public Prosecutor and are assigned judiciary functions only after successful training.

212. Observance by military courts of guarantees provided in the Covenant:

(a) Procedures followed by the military magistrates, military courts and the military chamber of the Court of Cassation are the same procedures applied by ordinary courts as provided for in the ordinary Code of Criminal Procedure. Article 69 of the Military Penal and Criminal Procedure Code provides that a trial is to be conducted in accordance with procedures established for similar offences in the ordinary law;

(b) The right to defence before military courts is established by the law. A defendant or an accused person before military justice enjoys the same rights and guarantees enjoyed by their civilian counterparts. A defendant or an accused person has the right to choose a lawyer to defend him before the military magistrate, the single-judge military court or other military courts, and if he does not choose a lawyer the president of the court shall appoint a lawyer. In all cases a defendant has the right not to answer questions by a military magistrate except in the presence of a lawyer (articles 70 and 72-75 of the Military Penal and Criminal Procedure Code);

(c) Article 65 of the Military Code of Criminal Procedure stipulates that a trial by a military court shall be public and may otherwise be declared invalid unless the court decides to hold it in camera for reasons of public morality or in the interest of the army and the armed forces. However, in all cases verdicts shall be handed down in an open session;

(d) Verdicts delivered by military and single-judge courts in absentia may be contested within a period of five days commencing on the day following the date of communicating the verdict. Except in specified cases, all such verdicts are subject to appeal (articles 15, 79 and 80 of the Military Penal and Criminal Procedure Code). In all cases, including exceptions specified by the law, article 81 of the Code authorizes the Minister of

Defence to appeal judgements before the Court of Cassation. Article 15, paragraph 4, stipulates that sentences of capital punishment are excluded from these exceptions and they may be appealed before the Court of Cassation in all cases;

(e) Delinquent juveniles are not tried by military courts and are tried only by competent juvenile courts;

(f) Military prisons receive full health care, and buildings should be well-ventilated and sunny, and should contain bathrooms, toilets and other amenities for inmates. Food should be adequately nutritious and foodstuffs and utensils should be kept clean and are subject to medical supervision. Inmates have the right to correspondence and to receive visitors, etc.

### **State Security Higher Court**

213. The State Security Higher Court fully applies the Penal Code and the Code of Criminal Procedure. Thus sessions are held in public, statements are made verbally and all rights of defence are protected, including the right to retain a lawyer and to consult with the lawyer in privacy. The right to defence is explicitly provided for in article 7 of the Act establishing this Court.

214. There is no truth in claims that the public is not allowed to attend sessions of this court or that the court has turned down claims of torture. The court respects fully the provisions of the Covenant and follows trial procedures meticulously.

215. As to comment No. 16 in the comments and recommendations made by the Committee on the second periodic report of Syria to the effect that judgements delivered by State security courts are not subject to appeal, we would like to indicate that article 8 of the Act establishing the State Security Higher Court provides that judgements made by the court shall be enforceable only after ratification by the Head of the State who may annul the judgement and order a retrial or may annul the judgement and file the case or commute the penalty. Filing the case would have the same effect as a general amnesty. The decision of the Head of the State in this matter is final and not subject to any appeal or review.

216. It is clear from the above that assigning the final authority to ratify judgements by the State Security Higher Courts to the Head of the State constitutes a major guarantee for the defendants and is equal to the guarantee provided by the right to appeal these judgements.

217. It is evident that the appointment, removal and discipline of judges in Syria are carried out in accordance with the Constitution and the law and the safeguards in this respect are no less than the safeguards provided for in any other State in the world. Judges are immune from removal or transfer except as provided for by the law as indicated in articles 92 and 93 of the Judicial Authority Act.

### **Supreme Constitutional Court**

218. The Constitution promulgated by Decree No. 208 of 13 March 1973 provides for the following:

(a) Article 139: the Supreme Constitutional Court is composed of five members, of whom one will be the President, and all of whom shall be appointed by the President of the Republic by decree;

(b) Article 140: it is not permissible to combine the membership of the Supreme Constitutional Court with a ministerial post or membership to the People's Assembly. The law shall prescribe other functions which cannot be combined with court membership;

(c) Article 141: the term of membership of the Supreme Constitutional Court shall be four years subject to renewal;

(d) Article 142: members of the Supreme Constitutional Court cannot be dismissed from membership except in accordance with the provisions of the law;

(e) Article 143: before assuming their duty, the President and members of the Supreme Constitutional Court shall take the following oath before the President of the Republic in the presence of the speaker of the People's Assembly: "I swear by the Almighty God to respect the country's Constitution and laws and to carry out my duty with impartiality and loyalty";

(f) Article 144: the Supreme Constitutional Court shall determine the validity of the special appeals regarding the election of the members of the People's Assembly and shall submit to it a report on its findings;

(g) Article 145: the Supreme Constitutional Court shall look into and decide on the constitutionality of laws in accordance with the following:

- (i) Should the President of the Republic or a quarter of the People's Assembly members challenge the constitutionality of a law before its promulgation, promulgation of such law shall be suspended until the court makes a decision on it within 15 days from the date the appeal was filed with it. Should the law be of an urgent nature, the Supreme Constitutional Court must make a decision on it within seven days;
- (ii) Should a quarter of the People's Assembly members object to the constitutionality of a legislative decree within 15 days of the date of the People's Assembly session, the Supreme Constitutional Court must decide on it within 15 days from the date the objection was filed with it;
- (iii) Should the Supreme Constitutional Court decide that a law or a decree is contrary to the Constitution, whatever is contrary to the text of the Constitution shall be considered null and void with retroactive effect and shall have no consequence.

(h) Article 146: the Supreme Constitutional Court shall have no right to look into laws which the President of the Republic submits to public referendum and are approved by the people;

(i) Article 147: the Supreme Constitutional Court shall, at the request of the President of the Republic, give its opinion on the constitutionality of bills and legislative decrees and the legality of draft decrees;

(j) Article 148: the law shall determine the procedure of hearing and adjudicating in matters coming under the jurisdiction of the Supreme Constitutional Court. It shall also define the Court staff, the qualifications of its members, and prescribe their salaries, immunities, privileges and responsibilities.

219. The fact that judges of the Supreme Constitutional Court are appointed for a term of four years does not entail any form of pressure on the judges or obliging them through their continued affiliation to the Executive Authority. This term is only an organizational matter and has been selected for no other purpose. As an affirmation of the independence of the Court, article 142 of the Constitution quoted above affirms that members of this Court cannot be dismissed except in accordance with the provisions of the law. In actual practice, and since the formation of the first Supreme Constitutional Court in 1973, judges on this Court continue to exercise their functions until their mandate ends with their death or retirement. There has been no instance of the refusal by the President of the Republic to renew the term of any judge on the Court.

#### **Public announcement of verdicts**

220. In accordance with article 128 of the Code of Civil Procedure, trials are held in public, although they may be held in camera in order to preserve public order or protect public morals or family honour. In accordance with article 202 of the Code of Civil Procedure, the judgement, together with its substantiating grounds, must be read out in public. All judgements, even those resulting from a trial held in camera, must be handed down at a public session, failing which they are deemed to be null and void.

#### **Equality before the Court**

221. Article 25, paragraph 3 of the Constitution states the following:

- “Citizens are equal before the law in their rights and duties”;
- “Supremacy of the law is a fundamental principle in the society and the State”;
- It follows that all citizens are equal before the Court.

#### **Paragraph 2 of article 14 of the Covenant**

222. Article 28, paragraph 1 of the Constitution affirms that “every defendant is presumed innocent until proved guilty by a final judicial decision”. Paragraph 4 stipulates that “the right of litigation, contest and defence before the judiciary is safeguarded by the law”. Article 29 affirms that what constitutes a crime or penalty can only be determined by law. Uncertainty is to be construed in the interest of the defendant, and the burden of proof falls on the plaintiff whether it is a private person or the public prosecution office.

223. Article 30 of the Constitution also specifies that “laws are binding only after the date of their enactment and cannot be retroactive. In other than penal cases, the contrary may be stipulated.”

The above provisions indicate that the rights established in article 14 of the Covenant are also established by the Syrian Constitution. The right to go to court and the right to independent and impartial trial are two constitutional rights. Both the Constitution and the law enable a citizen to exercise this right through either administrative procedure or by recourse to courts to seek remedy in case of any violation of his rights.

### **Paragraph 3**

224. A judge’s refusal to adjudicate in any dispute brought before him would constitute a denial of justice, in respect of which an action could be brought against the judge in accordance with article 486 of the Code of Civil Procedure. Every accused person is presumed innocent until convicted by a court judgement (article 28 of the Constitution), must be informed of the charges brought against him and has the right to choose his lawyer and contact him in private, to be judged in his presence as soon as possible, to cross-examine the witnesses, to have the charges against him translated into his own language and to appeal against judgements in accordance with the legal procedures. No one can be tried for an offence for which he has previously been prosecuted.

225. Under the terms of article 108 of the Code of Criminal Procedure, arrest warrants must specify the offence in respect of which they are issued, as well as its type and the legal provision under which it is punishable. Article 109 of the Code further stipulates that summonses and arrest and detention warrants must be presented to the person on whom they are served and a copy thereof must be left with him.

226. No one may be detained for a period longer than that prescribed for cases of *flagrante delicto* (24 hours) except on the basis of a judicial order. Article 105 of the Code of Criminal Procedure stipulates that, on the expiration of this period, the detainee must be brought before the competent magistrate for consideration of his situation. Any violation of this stipulation would constitute an arbitrary act of unlawful restriction of personal liberty, the perpetrator of which could be prosecuted under the terms of article 358 of the Penal Code.

227. Liberty is the rule and detention is the exception. There is no legal regulation that contradicts this principle during a trial. Any detainee can be released in accordance with the legal provisions contained in articles 117-130 of the Code of Criminal Procedure and has the right to apply to the courts to secure his release.

228. Accordingly, no one can be detained without charge, as this would constitute a punishable act of unlawful restriction of liberty. Anyone detained on a criminal charge must be brought before the Department of Public Prosecutions within a period of 24 hours, which may be extended to a maximum of 48 hours, and the Department of Public Prosecutions must refer him directly to the competent magistrate within a maximum of 24 hours.

229. Every person who is arrested must be informed immediately of the reasons for his arrest and, on being brought before the Department of Public Prosecutions, must be notified of the charges brought against him. On being questioned by the examining magistrate, he is again informed of those charges. This must always be done, through a sworn interpreter, in a language that he understands. The court invariably grants the accused an ample period of time, set at its discretion, to prepare his defence and he has the right to avail himself of the services of a lawyer as soon as he is referred to the judicial authority. The lawyer is also given ample time to study the case and prepare his pleas. The accused has no legal obligation to reveal the names of his witnesses before his case goes to trial.

230. There is no stipulated time limit for the submission of evidence, which can be presented at any time during the investigation or trial. This right is also enjoyed by the accused person.

231. Everyone has the right to avail himself of the services of a lawyer to prepare his defence. The accused is notified of this right only in cases involving felonies in which, if he fails to choose a lawyer, the court appoints one for him. Since the law does not set a specific time limit for the appointment of counsel for the defence, the court grants the accused ample time, at its discretion, to do so. Article 274 of the Code of Criminal Procedure stipulates that the president of the criminal court must ask the accused whether he has chosen a lawyer to defend him and, if he has not done so, the president must immediately appoint one, failing which the proceedings would be invalid. Article 69 of the Code of Criminal Procedure further stipulates that the examining magistrate must notify the accused that he is not obliged to answer questions in the absence of his lawyer, this notification being recorded in the examination report. In cases involving felonies, if the accused does not choose a lawyer and requests that one be appointed, the examining magistrate calls upon the President of the Bar Association to appoint a lawyer for him.

232. The contract appointing a lawyer is a consensual contract which would be invalid if concluded under any form of coercion. Subjection of the accused to any pressure to choose one lawyer rather than another would constitute an offence of abuse of authority.

233. The accused has the right to contact his lawyer at any time and to meet or correspond with him without such meetings or correspondence being subject to surveillance or censorship by the guards. This is stipulated in the Prison Regulations and reference thereto is also made in the Code of Criminal Procedure.

234. The Statutes of the Bar Association and the Code of Criminal Procedure stipulate that, in cases involving felonies, the court must appoint a lawyer to defend the accused free of charge.

235. The judge's impartiality, competence and sense of justice are the primary guarantees of a prompt trial and the time limits which the Code of Criminal Procedure sets for appeals ensure that there is no undue delay. The obligation for witnesses to appear at the stipulated time also constitutes an assurance that trials will not be delayed. These principles apply at all stages of the examination, trial and appeal.

236. No arrest warrant can be issued unless it specifies the accusation made against the person on whom it is to be served. It is impossible to estimate an average time, since this differs in every case depending on the possibility of the service of notice, the attendance of witnesses, the

collection of evidence, the preparation of a defence and the time taken for the court to reach an appropriate verdict. It also depends on the number of cases pending before each court, the ability and competence of each judge and countless other factors which make it impossible to specify an average time. However, the general rule is that no sentence should be passed before the court is sufficiently convinced of the accused person's guilt in the light of the evidence submitted. Evidence must be collected rapidly and crimes must be punished before their social consequences have been forgotten, but without prejudicing the right of defence. The judge has full discretion to weigh all these factors.

237. Articles 190, 257 and 278 of the Code of Criminal Procedure stipulate that criminal trials must be held in public. Article 128 of the Code of Civil Procedure also stipulates that civil actions must be heard in public.

238. The law does not prohibit the press or other information media from attending or reporting on trials. However, it is prohibited to publish investigation documents before they are read out at a public hearing and it is also prohibited to publish judicial writs or the proceedings of trials conducted in camera or the hearings of divorce and desertion actions or any material the publication of which is prohibited by the court (article 410 of the Penal Code). The court may, on the basis of a substantiated decision, hold a trial in camera in the interests of public order or public morals.

239. The accused is tried in absentia if, after process has been served upon him, he fails to attend the trial at the specified time.

240. Evidence is not admissible unless it can be challenged by the opposing parties. A lawyer does not have the right to represent a defendant who is being tried in absentia. Public proceedings cannot be instituted against a deceased person, as any offence that he might have committed becomes non-actionable on his death.

241. No penalty can be imposed on a person suffering from insanity. If an offender was afflicted with a mental disorder which reduced his power of discretion or volition at the time of commission of the offence, the penalty is reduced in accordance with the provisions of articles 232 and 241 of the Penal Code. Expert medical reports determine the mental capacities of the accused, who is tried and sentenced in accordance with the above-mentioned principles under which, if his offence is punishable by detention for a term of two years or more, he is confined in an institution by order of the court until he is found to be cured.

242. If the accused or any of the witnesses are unfamiliar with the Arabic language, the president of the court must appoint a sworn interpreter capable of providing a correct and reliable translation, failing which the proceedings would be null and void (article 303 of the Code of Criminal Procedure). The same applies in the case of persons who are deaf or dumb. The accused has the right to request replacement of the interpreter, this being a matter on which the court must rule (articles 203-207 of the Code of Criminal Procedure).

243. The interpreter interprets all the trial proceedings for the accused, who may also request a translation of the court documents. Although the appointment of an interpreter is a matter falling within the sole competence of the court, the accused is entitled to express his point of view in this regard, which the court takes into due consideration. The accused has the same rights as the prosecution in regard to witnesses (article 282 of the Code of Criminal Procedure).

244. An accused person may call any witnesses he wishes to call and no objection may be made to the witnesses he calls except for relatives who may be suspected of collusion with the accused person, such as spouses, brothers and sisters and other blood relations or in-laws. However, their testimony may be considered valid if no objection is made by the Public Prosecutor or the plaintiff, or the accused person in case the plaintiff has called the witnesses. In the case of such objections the president of the court has the discretion to hear their statements for information (article 292 of the Code of Criminal Procedure). If a witness is called but fails to appear at the court, the court may decide to defer its consideration of the case and orders the witness brought in (art. 301).

245. The accused and his defence counsel have the right to put any questions that they wish, through the president of the court, to a witness and may make any comments that they deem appropriate, in the interests of the defence, against the witness and his testimony (article 289 of the Code of Criminal Procedure).

246. The accused is presumed innocent until convicted by a final court judgement (article 28 of the Constitution of the Syrian Arab Republic).

#### **Paragraph 4**

247. The Juveniles Act No. 18 of 30 March 1974 specifies the procedures to be followed in regard to the examination, trial, sentencing and punishment of juveniles. A minor cannot appear as a party in a civil action; he must be represented by his guardian or a person appointed by the latter.

248. The Juveniles Act No. 18 was amended by Act No. 51 of 8 April 1979, which adopted the following substantiated principles:

(a) The aim of the legislature being the reform and social rehabilitation of juvenile offenders, the Act made provision for a number of reform measures and empowered the judge to choose the one most appropriate in the juvenile's case;

(b) Expansion of the composition of the juvenile courts so that, when hearing cases involving major misdemeanours or felonies, they would include a highly qualified and specialized representative of the Ministry of Social Affairs and Labour and the Ministry of Education to help to determine the reform measure most appropriate in the juvenile's case;

(c) Establishment of a juvenile police force to supervise juveniles and protect them from the risk of delinquency;

(d) Regulation of the functions of institutions which assist the juvenile courts, such as social service offices and surveillance centres;

(e) Stipulation that the minimum duration of a juvenile's placement in a reform institution should be six months in order to give the juvenile time to adopt a proper course of conduct and accept guidance from the institution's specialists and also in order to enable the institution's staff to submit proposals to the juvenile court concerning his release or ongoing education and rehabilitation in the light of his conduct;

(f) Imposition of a fine on the juvenile's guardian, if the court finds that the juvenile's delinquency resulted from his guardian's neglect, in order to make the guardian aware of his responsibility.

249. A juvenile is defined as any male or female under 18 years of age (article 1 of the Act).

250. A juvenile cannot be prosecuted for an offence if he was under 10 years of age at the time of its commission (article 2 of the Juvenile Act as amended by Legislative Decree No. 52 of 1 September 2003).

251. A juvenile over 10 years of age who commits an offence is liable only to reform measures. Previous provisions were abolished, i.e. articles 3 and 29 of the Juvenile Act which imposed a reduced penalty on juveniles over 15 years of age who committed felonies and Legislative Decree No. 52 of 1 September 2003 provides only for reform measures in a juvenile institution.

252. A juvenile may be remanded in custody, if such is in his interest, for a period of up to one month (article 10 of the Act). Article 4 of the Act specifies the reform measures, which include: delivery into the custody of one or both parents, of a family member or of an institution capable of undertaking his upbringing; placement in a surveillance centre or juvenile reform institution; placement in care; probation; restricted residence or prohibition from frequenting places of ill repute or from engaging in certain types of work; or subjection to the obligation to receive care.

253. Juveniles must be tried in camera (article 49 of the Act). The procedures concerning flagrante delicto and direct prosecution before the court do not apply to them (article 41 of the Act). They are not subject to the provisions concerning repeated offences and judgements handed down against them are not entered in their criminal record, nor are they liable to subsidiary penalties (article 58 of the Act).

## **Paragraph 5**

254. All penal judgements are handed down by courts of first instance and an appeal can be lodged with a higher (appellate) court against any judgement in a criminal case, and an appeal may be also lodged against the judgement by the appellate court with the Court of Cassation in cases involving felonies, with the exception of judgements imposing a fine of less than LS 100, which are considered to be final. Appeals can be lodged by the public prosecutor or the parties to a civil action (article 165 of the Code of Criminal Procedure).

255. All judgements passed by civil courts may be appealed to an appellate court or to the Court of Cassation in accordance with provisions established in the Civil Code and the Code of Civil Procedure.

256. There is no restriction on the right of appeal to a higher court. However, the appeal must be lodged within 10 days from the date on which the accused is notified of the judgement if he was tried in absentia or deemed to be present, or from the date on which it is handed down if he was tried in his presence (article 251 of the Code of Criminal Procedure). An appeal can be lodged in respect of a fact and/or a point of law and the appellant can avail himself of the services of a lawyer in the same way as during or before the trial. In civil actions, appeals are lodged through the submission of a petition specifying the judgement concerned and the reasons for the appeal and the appellant must deposit the legally required security (article 232 of the Code of Civil Procedure).

257. Any citizen, regardless of his financial circumstances, can lodge an appeal in respect of a fact and/or a point of law in view of the trivial amount of the fee and the security involved. However, with the exception of temporary injunctions or restraining orders, interlocutory decisions are appealable only in conjunction with the final judgement.

258. Any convicted person can apply to the Head of State for a pardon. All such applications are considered by a Board of Pardons, consisting of five judges, which recommends their acceptance or rejection in accordance with the procedures laid down in articles 459 to 467 of the Code of Criminal Procedure.

259. Anyone who is the victim of a violation of his basic rights has an unrestricted right to bring a legal action against the perpetrator of the offence or to file a substantiated administrative complaint with the latter's superior. Damages are assessed by the court when the violation has been proved but are not awarded in respect of a judicial error unless it is found to be the result of a major fault or deliberate fraud. There are no specific violations in respect of which a complaint cannot be filed.

## **Paragraph 6**

### **Right to compensation in case of acquittal**

260. Article 164 of the Civil Code stipulates that any person who causes injury to a third party shall be liable to pay compensation.

261. Under article 138 of the Penal Code and article 4 of the Code of Criminal Procedure, any person who is injured as a result of a felony has the right to initiate action to obtain compensation for the injury. Articles 367-378 of the Code of Criminal Procedure deal with the question of compensation at retrials of felonies and misdemeanours.

(a) Article 367 states that "a retrial may be requested of felonies and misdemeanours regardless of the court that has tried the case and the penalty imposed in its respect in the following circumstances:

- (i) If a person is sentenced for murder but later evidence surfaced to prove that the alleged victim is in fact alive;

- (ii) If a person is convicted of a felony or misdemeanour and another person was later convicted for the same act and the two judgements cannot be reconciled, leading to the confirmation of the innocence of one of the two convicted persons;
- (iii) If a person is convicted but the witness for the prosecution was convicted of perjury; the testimony of this witness shall not be accepted in the retrial;
- (iv) If after the judgement a new development or evidence unknown at the time of the trial is revealed to establish the innocence of the convicted person.

(b) Article 368 establishes the right of a spouse, children and heirs or beneficiaries of a will to request a retrial of a person who is dead or pronounced missing by a court decision;

(c) Article 374 stipulates that if a defendant is deceased or becomes insane after the court decision to annul a judgement against him, the Penal Chamber in the Court of Cassation may, at the request of the Public Prosecutor, cancel its own decisions to refer the case to another court and may judge it in accordance with article 372;

(d) Article 375 specifies that:

- (i) If a convicted person claims compensation for an injury caused by a previous judgement, the court may award him the compensation as part of its verdict of acquittal;
- (ii) If the convicted person has died, the request for compensation may be made by the spouse, parents or children; no other relatives may claim compensation unless they prove that the original judgement has caused them material harm;
- (iii) A claim for compensation may be made at any stage in the retrial process.

(e) Article 376 stipulates that:

- (i) The State shall pay the compensation decided by the court and may collect it from the plaintiff, informer or the person who made a false testimony and provided grounds for the original verdict;
- (ii) Compensation includes legal fees and expenses.

(f) Article 377 stipulates that:

- (i) A person who requests a retrial shall pay expenses and charges for instituting procedure until a decision is made to accept the request for the trial;
- (ii) Subsequent charges and expenses are to be borne by the State;

- (iii) If a retrial leads to a judgement of penalty the convicted person shall pay the charges and expenses for instituting procedures;
  - (iv) The person who requests retrial shall be obligated to pay charges and expenses if it is proved that he had no grounds for his request.
- (g) Article 378 stipulates that:
- (i) The judgement acquitting a convicted person after retrial shall be posted at the entrance of the government establishment or municipality in the town in which the original verdict was issued, at the place where the offence was committed, in the home town of the applicants for the trials and the town of the last residence of the convicted person if he has died;
  - (ii) The judgement of acquittal shall be published in the *Official Gazette* and may also be published in five newspapers that the applicant for retrial chooses, and the State shall bear the costs of publication.

### **Paragraph 7**

262. Under Syrian law, no one can be retried or punished again for an offence for which he has previously been convicted or acquitted by a final judgement. Article 181 of the Syrian Penal Code stipulates that “a single act can be prosecuted only once”. This applies even if the judgement handed down by the court of first instance contravened the rules of jurisdiction, since a judgement that has become final cannot be declared invalid due to defects (Court of Cassation, Economic Security, 38, Act of 25 February 1984, Lawyers magazine, Rule 49 of 1985).

263. When a person accused of an act has been tried and sentenced or acquitted, he cannot be retried for the same offence (see: Court of Cassation, Misdemeanour, 452, Act 871 of 1 May 1982, Compendium, Rules 4656-4657, second session, 1498, 2187-2189 and 2411-2417, Part III).

### **Article 15**

264. According to article 30 of the Constitution: “The provisions of laws shall apply only to acts that take place subsequent to the date of their entry into force and they shall not have retroactive effect, except in non-criminal matters in which stipulations to the contrary shall be admissible”. Consequently, under the Penal Code, an offence is punishable only by the penalty prescribed therefor at the time of its commission.

265. Article 1 of the Syrian Penal Code stipulates that: “No penalty or precautionary or reform measure shall be imposed for an offence which was not legally designated as such at the time of its commission”. Under article 8: “Any new legislation that abolishes or reduces a penalty shall apply to offences committed prior to its entry into force unless they formed the subject of a final judgement”. Under article 9: “New legislation imposing heavier penalties shall not apply to offences committed prior to its entry into force”. Accordingly, Syrian legislation embodies the principle that criminal laws are not applicable retroactively, except in cases where retroactivity serves the interest of the accused person.

### Article 16

266. The promulgation of a new law to abolish the penalty for an offence that was provided for in the old legislation invalidates penal sentences pronounced in accordance with the old legislation. Article 2, paragraph 1, of the Penal Code states that: “No offence shall be punishable by a penalty or precautionary or reform measure that has been abolished by a new law. Penal sentences handed down under the old law shall be without effect.”

267. If a new law changes the manner in which a penalty is implemented, the change shall not be applicable to acts committed before its enactment unless it is in the interests of the defendant or the convicted person. Article 10, paragraph 1, of the same Code states that “a new law that amends the manner of implementing a penalty in such a way as to change its nature shall not be applicable to acts committed before its entry into force, unless the new law favours the accused or convicted person”.

### Article 16

268. Everyone in the Syrian Arab Republic is recognized as a person before the law, with all that this implies by way of rights and obligations, from the time when he is formed as a foetus in his mother’s womb and is born live until his death. Article 25 of the Constitution stipulates that citizens are equal before the law in regard to their rights and obligations, without any discrimination, in conformity with the principle of the rule of law in society and in the State and every citizen is entitled to exercise his rights and enjoy his freedoms in accordance with the law (article 27 of the Constitution). Consequently, every Syrian citizen has a constitutional right to be recognized as a person before the law.

269. The Syrian legislature sets a minimum age in some matters of legal personality. For example, article 46 of the Syrian Civil Code stipulates that: “Every person who has attained the age of majority, who is in full possession of his mental faculties and who is not subject to any form of guardianship is fully competent to exercise his civil rights.” This does not mean that a person with diminished legal capacity does not enjoy legal personality; he has rights, but he cannot exercise them in person.

270. Legal personality applies even to a foetus, which is recognized as a person (for purposes of entitlement, competence and domicile) from the time when it develops from a fertilized ovum in its mother’s womb into an embryo and subsequently a foetus which is born as a child, and remains inherent in the child until he or she reaches the age of discretion, followed by the age of maturity and finally dies. From the time of its formation, the foetus is vested with certain rights governed by the rules of reduced legal capacity since, at this stage, the foetus is a live but unborn person forming part of its mother. These rights are:

- (a) The right to filiation;
- (b) The right to inherit;
- (c) Entitlement to receive a legacy (on being born live);
- (d) Entitlement to receive an endowment (such as an endowment of real property which is received in the same way as a legacy).

271. Although legal capacity begins when a person is born live and acquires a name, a surname, a domicile and a nationality, such a person is not competent to exercise his civil rights since he lacks discretion. According to article 47 of the Syrian Civil Code:

- “1. Anyone who is incapable of acting with discretion shall be incompetent to exercise his civil rights.
2. Everyone under seven years of age shall be deemed to be incapable of acting with discretion.”

Article 164 of the Personal Status Act stipulates that: “A minor shall not be entitled to receive his property before reaching the age of majority”.

3. However, “after hearing the opinion of the testamentary guardian, a magistrate may permit a person who has reached the age of 15 to receive and manage part of the said property”.

272. With regard to civil and criminal liability, under the legal principles of Syrian legislation a person who lacks discretion does not bear civil or criminal liability for his acts. According to article 165, paragraph 1, of the Syrian Civil Code: “A person shall be accountable for his unlawful acts only if they are committed while he is capable of distinguishing between right and wrong”. With regard to juvenile delinquents, article 2 of the Juveniles Act No. 18 stipulates that: “A juvenile shall not be liable to prosecution for an act committed while he is under seven years of age”.

273. Under Syrian law, a Syrian citizen is competent to act as a party in judicial proceedings on reaching the age of 18, which is the age of majority (art. 15 of the Code of Civil Procedure), and is competent to testify before the courts on reaching the age of 15 since article 59 of the Code of Evidence stipulates as follows:

- “2. No one under 15 years of age shall be competent to testify before a judge.
3. However, the statements of a person under 15 years of age may be heard without administering the oath, but only as presumptive evidence.”

274. The legal principles in force in Syria apply to all citizens without distinction, as affirmed in article 1 of the Syrian Civil Code which stipulates that: “The provisions of the law shall apply to all matters to which they refer in letter or in spirit.”

275. The right to bring a legal action before the courts is guaranteed to all citizens, subject to the sole condition of proof of capacity and interest (art. 11 of the Code of Civil Procedure).

276. Syrian law empowers the competent courts to monitor the proper implementation of measures ordered by the Administration while the provisions of the Emergency Act are in force. Accordingly, a citizen’s legal personality cannot be restricted even when the provisions of the Emergency Act are being applied, since the decisions of the Martial Law Administrator are administrative decisions which, if legally defective, can be annulled by the administrative courts

which, in fact, have already annulled several such decisions on the basis of actions brought by citizens claiming to have suffered prejudice as a result of decisions taken by the Martial Law Administrator.

### Article 17

277. As already indicated, article 25 of the Constitution stipulates that liberty is a sacred right and the State has an obligation to safeguard the personal liberty, dignity and security of its citizens. Article 28 of the Constitution further stipulates that no one may be investigated or arrested except as provided by law.

278. Under article 30, homes are inviolable and may neither be entered nor searched except in the legally specified circumstances. Under article 32, the confidentiality of postal and telegraphic communications is guaranteed in accordance with the provisions of the law. Under article 44, paragraph 1, the family, which is the basic unit of society, is protected by the State.

279. Any public official who, in his capacity as such, enters the home of any person or its outbuildings in circumstances other than those provided for by law and without respecting the legal regulations is liable to a penalty of detention for a term of three months to three years and the penalty must not be less than six months if the offence is accompanied by a search of the premises or any other arbitrary act committed by the offender (art. 360 of the Syrian Penal Code).

280. Article 86 of the Code of Criminal Procedure stipulates as follows:

1. Homes may not be entered or searched unless the person whose home is to be entered or searched is suspected of committing or aiding and abetting in the commission of an offence, being in possession of items relating to an offence or concealing a wanted person.
2. A magistrate's entry into a person's home without respecting the above-mentioned conditions shall be deemed an arbitrary act in respect of which a complaint may be lodged with the courts.

281. Article 90 stipulates that, without prejudice to the preceding provisions, the examining magistrate may conduct investigations in any place in which there is a possibility of finding items the discovery of which would help to determine the truth. Articles 91-101 specify the procedures to be followed in this regard. In cases of flagrante delicto, as defined in article 28 of the Code of Criminal Procedure, the public prosecutor is empowered to search the scene of the crime in accordance with the procedures set forth in article 36 of the Code of Criminal Procedure. Article 42 of the Code of Criminal Procedure further stipulates that, in the case of offences not classified as flagrante delicto which are committed in residential premises, the public prosecutor may conduct a search therein if the owner of the premises requests him to conduct an investigation.

282. Any contravention of these legal principles would constitute a punishable violation of the inviolability of homes in accordance with the provisions of articles 557 and 558 of the Penal Code.

Article 557:

1. Anyone who enters another person's house or home or the outbuildings thereof against the other person's will, and anyone who remains in the said premises against the will of the person entitled to evict him therefrom, shall be liable to a penalty of detention for a term of up to six months.
2. The penalty shall be detention for a term of three months to three years if the act is committed at night, by breaking and entering, through the use of violence against persons, by using weapons, or if it is committed by a number of persons acting in association.
3. In the case referred to in paragraph 1, prosecution can take place only on the basis of a complaint from the aggrieved party.

Article 558:

1. A custodial penalty or a fine of up to LS 100 shall be imposed on anyone who, by breaking and entering or using violence against persons, gains access to another person's premises which are not open to the public or remains therein contrary to the wishes of the person entitled to evict him therefrom.
2. The offender can be prosecuted only on the basis of a complaint from the aggrieved party.

283. In cases other than these, homes cannot be entered or searched except in accordance with the provisions of the Emergency Act. The Police Service Regulations specify the times at which such premises can be entered, as well as the procedures to be followed, in the event of offences classified as flagrante delicto.

284. It is a punishable offence for anyone to divulge without a legitimate reason, or to use for his personal benefit, a secret that comes to his knowledge by virtue of his situation, his job, his occupation or his field of specialization. Article 566 of the Penal Code prescribes a penalty of detention for a term of two months to two years for anyone attached to the Postal and Telegraph Administration who abuses his said capacity by opening, destroying or stealing a sealed letter or divulging its content to a person other than its addressee. Anyone attached to the Telephone Administration who divulges the content of a telephone communication which he heard by virtue of his job or his work is liable to the same penalty.

285. Article 567 of the Penal Code also stipulates that it is a punishable offence for any other person to deliberately destroy or divulge the content of a letter or telegram not addressed to him or to divulge, to the detriment of another person, the content of a telephone communication overheard in the course of his duty.

286. To safeguard confidentiality of postal communications and telecommunications, Law No. 1 of 11 January 2004 was recently enacted to ensure this confidentiality. Article 5 of this law states that all employees shall take legal oath immediately before assuming their functions in the presence of the justice of peace in the region under which he pledges to respect the confidentiality of correspondence which is not to be violated, impaired or contravened.

287. Under article 568, it is an offence punishable by three months' detention to publicly libel or slander any person. It is likewise an offence, punishable by detention for a term of one week to three months and a fine, to defame any person by word, gesture or threat, in writing, graphically or in a telephone or telegraphic communication.

### Article 18

288. The legal principles on which the socio-political system in Syria is based emphasize the concept of religious freedom. Freedom of belief and of religious observance and respect for all religions are guaranteed in article 35 of the Syrian Constitution, which stipulates as follows:

- “1. Freedom of belief is inviolable and the State shall respect all religions.
2. The State shall guarantee freedom to engage in all religious observances in a manner consistent with public order.”

289. Accordingly, freedom of belief is one of the inviolable human rights that are safeguarded by the Constitution, which is the fundamental law of the Syrian Arab Republic. Any act which prevents a Syrian from exercising his constitutional rights is punishable, under the terms of article 319 of the Penal Code, by a penalty of detention for a term of one month to one year. Offences against religion are punishable under article 462 of the Penal Code, which stipulates that anyone who denigrates religious observances that are performed in public or incites others to denigrate such observances is liable to a penalty of detention for a term of two months to two years. Article 463 of the same Code prescribes a penalty of detention for a term of one month to one year for:

- “(a) Any person who disrupts or uses acts of violence or threats to impede the practice of any religious rites, celebrations or associated observances;
- (b) Any person who destroys, damages, defaces, desecrates or defiles a place of religious worship, a religious symbol or any other object that is venerated by the members of a religious community or group of people.”

290. Any act which constitutes an instigation to intercommunal or confessional bigotry or disruption of national harmony is punishable by a harsher penalty under the terms of article 307 of the Syrian Penal Code, which stipulates that: “Any act or written or oral communication that is intended to instigate confessional or racial bigotry or provoke conflict among the various communities and component elements of the nation shall be punishable by detention of a term of six months to two years, together with a fine and prohibition from exercising the rights specified in the second and fourth paragraphs of article 64” (namely, the right of access to public office or public service in the administration of the civil affairs of the community or in the management of a professional association and the right to vote or to stand as a candidate in elections to any communal organization or professional association).

291. The law does not prohibit any religious community from exercising its own cultural rights, manifesting its religion or using its language. The freedom of religious observance that is enjoyed by all religious communities is illustrated by their freedom to conduct their religious affairs in public and by the fact that they can have their own personal status laws applied by their

religious authorities. This is in keeping with the religious pluralism of Syrian society, although the Constitution stipulates that the religion of the President of the Republic must be Islam. In fact, Syrians are free to engage or refrain from engaging in their religious observances since there is no authority empowered to compel them to perform such observances. This applies to all the religious communities. In accordance with the provisions of the Constitution and the law, the State accords these communities freedom to manifest their religion and to engage in their observances in their respective houses of worship. The Syrian legislature recognized freedom of thought, conscience and religion when it promulgated the personal status law to which Muslims are subject in regard to marriage and its effects, as well as the personal status laws governing marriage and its effects in the case of the numerous Christian communities in Syria and the personal status laws concerning marriage in the Mosaic community. These regulations are respected and protected and each of the said communities has its own courts which hear disputes arising from the application of those laws.

292. With regard to article 18, paragraph 4, of the Covenant, the State respects the liberty of parents and guardians to ensure the religious and moral education of their children in a manner consistent with the rights of others and with public morals and public order. In fact, in addition to supporting religious and moral education at all educational stages, the State guarantees the right of every religious community to receive religious education. This applies even in prisons, since article 118 of the Syrian Prison Regulations stipulates that: “On the basis of a proposal by the senior district administrator, the Minister of the Interior shall appoint at every prison ministers of religion for each religious confession who shall be granted access to detainees at their request.

293. It is clear from article 35 of the Constitution that the Constitution guarantees the application of non-discrimination on grounds of religion as no mention is made of any specific religion. Furthermore, there is no discrimination among citizens belonging to various faiths and the religion of a person is not indicated on identity cards of Syrian citizens.

### **Article 19**

294. Laws and regulations on education in Syria guarantee the freedom of expression at schools and universities. This right is enjoyed by both students and teachers who have the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. The exercise of this freedom is subject only to those restrictions provided for in the law and which are necessary for respect of the rights or reputations of others; or for the protection of national security or of public order (*ordre publique*) or of public health or morals. This conforms with the provisions of article 19 of the International Covenant on Civil and Political Rights.

295. Freedom of expression in Syria is protected by the Constitution and by law and every citizen has the right to participate in the political, economic, social and cultural life (article 26 of the Constitution) and article 38 of the Constitution affirms that “every citizen has the right to freely and openly express his views in words, in writing and through all other means of expression. ... The State guarantees the freedom of press, printing and publication in accordance with the law”.

296. Legislative Decree No. 50 of 2001 organized the functioning of printing houses, bookshops and publishing firms and establishes the conditions and procedures of licences for periodicals. It also includes chapters on the prohibition on publishing certain items under the law, public display of publications and their distribution and principles of subscriptions and advertisements. Other chapters deal with publishing offences. Article 1 of the Decree states that “printing houses, bookshops and publications of all kinds are free and their liberty is restricted only under provisions of the law”. The Syrian Publication Act guarantees the right of all citizens to freedom of expression. Anyone who wants to express a point of view can do so through licensed private local media in accordance with the act or through government publications and media. These publications are free to publish anything they wish whatever the source at their own legal responsibility and in a manner consistent with the Publication Act. Syrian media enjoy the freedom of expression and the Emergency Law does not affect in any way the freedom of information or opinion in Syria, nor does it prevent journalists from performing their professional duties using any journalistic methods. This freedom is only restricted by the provision that it should not contradict laws and regulations in force. Publications authorized under the Publication Act and published by official or non-official bodies are subject to no censorship.

297. Article 25 of the Publications Act states that “legally authorized political parties may, at their request, obtain a licence to publish a periodical publication as an organ of the party. The party, as a moral entity shall have control over the licence.” The licence is issued under article 12 (a) of the act “by a decision of the Prime Minister upon a proposal from the Minister of Information to those who fulfil legal qualifications; the Prime Minister may withhold a licence for reasons of public interest.

298. Chapter II of the Publications Act governs the distribution, transportation and sale of publications. The Syrian Arab Authority for Publications distributes Syrian publications throughout Syrian territories and has the right to appoint agents to distribute publications in accordance with its own regulations. Non-periodical publications, such as books, leaflets, etc. are distributed through privately owned bookshops which are required to obtain licences from the Ministry of Information to conduct business, but the Ministry has no role whatsoever in the procedures of work of any bookshop. It should be noted that article 23 of the Publications Act prohibits all printing houses from publishing the following:

- (a) Indictment sheets or means of investigation of felonies or misdemeanours before they are read out in a public session;
- (b) Details of the proceedings in cases of libel, slander, defamation and insult;
- (c) Proceedings of trials held in camera and all other trials dealing with divorce, desertion or filiation and all proceedings which a court or an investigative authority prohibits from publication as well as reports by forensic medical experts on crimes against morality;
- (d) Confidential memoranda pertaining to the People’s Assembly;

(e) Articles or news items which jeopardize national security and social unity or dealing with security, safety, movements, numbers, armaments, equipment or installations of the armed forces except those published by the Ministry of Defence or authorized for publication by the Ministry;

(f) Books, correspondence, articles, features, graphics and news items which constitute violation of privacy.

299. The Minister of Information bans the entry or circulation of foreign publications if they detract from national sovereignty, jeopardize national security or violate public morals, in accordance with article 10 of the act under article 19, paragraph 3, of this Covenant. The Publications Act punishes any violation of these provisions in several articles including:

(a) Article 49 (a): persons who commit libel, slander and denigration through publications shall be punished by imprisonment for a period of two months to a year and a fine of LS 100,000-200,000;

(b) Article 50: any attack on public morality and ethics through publications, and the distribution of publications, graphics, pictures, films, posters and any other items that may violate morality shall be punishable and the offensive items shall be confiscated and destroyed;

(c) Article 51 (a): any person who circulates incorrect information or publishes fictitious or faked documents attributing them to others shall be punished with imprisonment with a term of 1-3 years and a fine of LS 500,000-1 million;

(d) Article 52 (a): any person who instigates a felony through a publication in circulation or on sale, or which is ready for sale for being displayed in a place of commerce or public gatherings or through billboards, or whose instigation directly produces an attempt to commit a felony, shall be punished with the same penalty as imposed on an accomplice;

(e) Article 52 (b): any person who commits felonies of homicide, looting or arson in a manner that encourages others to commit similar acts shall be punished by a prison term of 6 months to 3 years and a fine of LS 100,000-200,000;

(f) Article 53: the use of any of the means listed in article 52 of this decree to instigate members of the armed forces not to perform their military duties or not to obey their commanders as required by military laws and regulations shall be punishable with a prison term of 1-3 years and a fine of LS 500,000-1 million, unless the act is punishable by a harsher sentence;

(g) Article 54: any person who uses a publication or an advertisement or threatens in any other way another person with exposure, failure or otherwise spreads information about him that may impair his reputation and honour or the reputation and honour of one of his relatives shall be punished in accordance with provisions of the Penal Code;

(h) Article 55 (a): any person who gets in touch with a foreign State or receives money from this State or its representative or agent in return for favourable publicity for the State or its plans through publications shall be punished with a prison term from 6 months to 2 years and a fine of LS 50,000-100,000.

300. On the other hand the law guarantees the rights of an accused person in all offences committed through publications and other felonies provided for in the Penal Code through the various media. Article 59 of the Penal Code states that: “The court grants an accused person no more than one week to appoint an attorney and to submit his defence.” Article 60 emphasizes the need for an attorney for the defence of the accused person and stipulates: “it is imperative that the accused person retains a lawyer to defend him in proceedings instituted for acts punishable in this decree; otherwise the president of the court appoints a lawyer to defend the accused person”. The Court of First Instance is assigned consideration of offences through publications and may suspend the publication of any periodical; and its decisions shall be subject to appeal.

301. In respect of the legal statutes of broadcasting and television, a general authority for broadcasting and television is affiliated to the Ministry of Information. This authority is financially and administratively independent and operates in accordance with laws and regulations. In 2001 Law No. 10 was promulgated allowing the private sector to establish private commercial broadcasting services, and the Ministry of Information granted preliminary licences for the establishment of four broadcasting stations in Syria.

302. There are two kinds of press in Syria:

(a) Public press which expresses the views of the Executive Authority. All citizens have the right to express their views on any matter or issue put to public discussion through the public/governmental media;

(b) Private press: authorization was given to issue some 75 publications by the end of 2003. According to the Syrian Publications Act the press is independent and has no relation whatsoever with the Executive Authority and its functioning is governed by the Publications Act.

303. Journalists in Syria are employed in both public and private sectors in accordance with employment procedures formulated by the Journalists Union to which they belong. All persons employed in the press or in other media are members of the union. The protection of journalists from any intervention in their work and their liability for what they publish are governed by the Publications Act and the law creating the Journalists Union. Practising journalism in Syria is not restricted by any conditions except those contained in the Publications Act and the statutes of the Journalists Union.

304. Syrian media discuss in detail the International Covenant on Civil and Political Rights and continue to recall its provisions and explain them to the masses in order to raise their awareness of their rights and obligations under the Constitution and the law.

305. It should be noted that the promotion of cultural diversity which is the prime source of pluralism and variety of views has been manifest in the many libraries and cultural institutions spread throughout the territory of the Syrian Arab Republic, whether these are independent or affiliated to cultural centres. This is an example of the principle of popular culture in action under which cultural media circulate among the widest readership. While books are considered the main source for knowledge, electronic means have been used in more than 40 cultural centres. All 396 cultural centres in Syria provide the following services and activities:

- (a) Lending books;
- (b) Organization of lectures, poetry reading, literary evenings and seminars;
- (c) Reading competitions for children and young people.

In 2003 cultural centres were frequented by 2,062,867 citizens to borrow books, read at the centres or attend other activities. There is a multiplicity of information media and sources of knowledge which are being promoted in line with the International Covenant. Electronic publication and expansion of access to the Internet was marked with the establishment of 40 Internet cafés at the cultural centres during 2003. These new centres provide for freedom of expression and freedom of information and communication which in turn promotes democracy, civil responsibility, participation of women, intellectual property rights and rights of children, etc.

306. The Ministry of Culture has organized several useful events in this respect, such as:

- (a) A month long event (10 May-10 June 2003) for the promotion of books during which the price of books was reduced to LS 50 while a paperback was priced at LS 25 and children's books at LS 10;
- (b) National celebrations at cultural centres such as celebrating the International Child Day on 26 June of every year and the Arab Child Day on 1 October of every year;
- (c) Cultural and education seminars on civil and political rights were organized at most cultural centres.

At present, the Ministry of Culture is pursuing the following activities:

- (a) Automation of service at cultural centres to provide cultural services through electronic networks such as Internet;
- (b) Supporting cultural societies in cooperation with cultural centres and providing material and moral support of their activities;
- (c) Publishing periodicals on cultural activities with special emphasis on human values in all districts. Activities are also under way to provide maximum access to knowledge at national libraries and cultural centres in order to realize the objectives of the International Covenant. As an evidence:
  - (i) The number of popular cultural institutions grows from 38 institutions in the statistical data of 1986 to 79 institutions in the statistics of 2003;
  - (ii) The number of cultural centres since the statistics of 1986 rose from 79 to 396 centres in the statistics of 2003.

307. A symposium was organized in cooperation with the World Intellectual Property Organization (WIPO) on 16-19 June 2003 for lawyers, judges and customs officials to familiarize them with issues related to intellectual property.

308. Another symposium was organized in cooperation with Norway on 29 February-2 March 2004 on the intellectual property rights of authors and translators. It was attended by a number of international experts and the invitations were extended to writers, translators, lawyers, specialists in various fields and the public. The objective of this symposium was to publicize intellectual property rights and to discuss how to protect them, and how to organize collective action to recover those rights for their owners.

309. The Ministry of Culture is currently working on amending Law No. 12 for the protection of authors' rights and associated rights in order to bring it into line with international agreements on intellectual property such as:

(a) The Berne Convention for the Protection of Literary and Artistic Works of 1886, as amended in 1979;

(b) The Rome Convention for the Protection of Performers and Producers of Phonograph and Broadcasting Organizations of 1961;

(c) WIPO Copyright Treaty (WTC) of 1996;

(d) WIPO Protection of Performers Treaty (WPPT) of 1996.

310. As a result of these efforts Syria joined the Berne Convention for the Protection of Literary and Artistic Works by virtue of Legislative Decree No. 8 of 29 January 2004. It also joined the Madrid Agreement on the International Registration of Marks of 1891 and its Protocol of 1989 by virtue of Legislative Decree No. 92 of 25 March 2004 and the Convention Establishing the World Intellectual Property Organization signed in Stockholm on 14 July 1967 by virtue of Law No. 16 of 19 May 2004.

311. The Ministry of Culture organizes national seminars for the public in order to publicize the International Covenant and to follow up its implementation. Action has been taken to encourage popular participation in the field of culture and human rights through alphabetisation programmes and activities covering writing, publication, translation, the advancement of fine and applied arts and of theatre, cinema and music, publication of specialized journals, reprinting Arabic classical books and protection of archaeological sites. Law No. 12 of 2001 was enacted to protect authors' copyrights and related rights.

312. The Ministry of Culture has organized other activities which highlighted the status and freedom of women in the history of Syrian society as noted above. The Ministry also encouraged interreligion dialogue and communication through art exhibitions, such as an interreligion dialogue exhibition in Damascus and Aleppo in 2001 and an Islamic exhibition in Sicily under the title of Al-Bustan Between Two Civilizations on 18 May 2003.

## **Article 20**

313. Chapter IV of the Syrian Constitution, concerning public freedoms, rights and obligations, clearly shows that any propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited in Syria. There is no discrimination among citizens on grounds of race, colour, gender, language, religion, opinion, national or social origin, wealth or other status. In fact, under the Constitution,

no one can be discriminated against on the above-mentioned grounds since this would be incompatible with the fundamental general principles of the Constitution which advocate humanitarianism and the rejection of discrimination on any ground whatsoever. Articles 307 and 308 of the Syrian Penal Code prescribe penalties for acts which are discriminatory on religious or racial grounds, thereby covering all the types of discrimination referred to in the Covenant.

314. Incitement to civil war or intercommunal strife is a punishable offence under the Penal Code, article 298 of which stipulates that: “Any act of aggression designed to provoke civil war or intercommunal strife by arming Syrians, encouraging them to bear arms against each other or instigating mass murder or the looting of commercial premises shall be punishable by life imprisonment with hard labour or, if such acts achieve their aim, by the death penalty”. Article 278 prescribes a penalty of temporary detention for:

- (a) Anyone who contravenes measures taken by the State to preserve its neutrality in time of war;
- (b) Anyone who, by engaging in acts or making written or spoken statements not authorized by the Government, exposes Syria to the risk of acts of aggression, disrupts its relations with foreign States or exposes Syrians to reprisals against their person or their property.

315. Advocacy of a war of aggression is prohibited as a matter of principle since it would constitute interference with a view to changing the Constitution of another State and violating the rights of the latter’s citizens, which would be incompatible with Syria’s public policy as can be inferred from its general legal provisions. In this context, it is to be noted that applicable law in Syria imposes severe penalties on all acts of terrorism and the penalty covers the perpetrators and accomplices, participants and the instigators as well as those who provide a hiding place for any of them. Article 304 of the Penal Code which specifies and describes terrorist acts stipulates that: “terrorist acts are any acts that are meant to create a state of panic and are committed by using such tools as explosives, incendiaries, toxic or incendiary products or pathogens or biological agents that produce a public hazard”.

316. Article 305 defines penalties for those who commit terrorist acts as follows:

- (a) A conspiracy to commit terrorist act or acts is punishable by imprisonment with hard labour;
- (b) Any act of terror is punishable by imprisonment for a term of 15-20 years with hard labour;
- (c) The terrorist act is punishable by the death penalty if the act produces sabotage, even partial sabotage, in a building, industrial establishment, a vessel or any other installation or if it leads to disruption of communications and means of transportation or produces the death of a human being.

317. Article 212 of the Penal Code places an accomplice in such a crime on the same footing as a perpetrator and punishes him with the same penalties. It also provides for a harsher penalty in accordance with article 247 for any person who facilitates participation in such a crime or manages a business activity on behalf of perpetrators.

318. The Syrian Arab Republic has endeavoured to ensure an effective fight against terrorism through cooperation with Arab countries, members of the European Union and Mediterranean countries. It signed the Arab Agreement to Combat Terrorism established by the Council of Arab Ministers of the Interior and Justice in Cairo on 22 April 1998. This Agreement provides for joint action to combat terrorism including the following:

(a) Consolidation of protection, security and safety of personalities and of diplomatic, consular, regional and international missions accredited in the contracting States in conformity with relevant international instruments;

(b) Coordination of information activities with due regard to the information policy of respective States in order to explain and thwart the objectives and schemes of terrorist groups and organizations;

(c) The creation of a database to compile and analyse information on terrorist elements, groups, movements and organizations and to follow new developments in the phenomenon of terrorism and successful experiences in the fight against terrorism; and to update this information and make it available to competent bodies in contracting States;

(d) Measures to combat terrorism:

(i) To arrest and prosecute perpetrators of terrorist crimes;

(ii) To ensure effective protection of informers and witnesses;

(iii) To provide necessary assistance to victims of terrorism;

(iv) To establish effective cooperation between competent bodies and citizens to confront terrorism;

(v) Each contracting State may ask another contracting State to act on its behalf in its own territory in respect of any judicial action in relation to a terrorist crime;

(vi) Each contracting State extends possible and necessary assistance to other contracting States to conduct investigations or trials of terrorist crimes.

319. Syria has adopted effective and strict measures to prevent and combat all forms of terrorism through the following:

(a) Banning any form of involvement or initiation or participation in the organization, funding or instigating or facilitating the planning or implementation of terrorist acts or initiation of or participation in any such acts in any form;

(b) Application of more strict procedure for observation and control of borders, airports, ports and entry points to stop the infiltration of terrorists smuggling arms, ammunition and explosives;

(c) Providing effective protection for all personnel in the area of criminal justice;

(d) Promulgation of Legislative Decree No. 51 of 2001 on weapons, ammunition, explosives and all hazardous substances to control their importation, exportation, storage, transportation, trade, acquisition and use.

### **Article 21**

320. The right to peaceful assembly is guaranteed in Syria. It was approved in the Constitution in article 39 which states: "Citizens have the right to meet and demonstrate peacefully within the principles of the Constitution. The law regulates the exercise of this right."

321. Conditions for the authorization of public assembly are the submission by persons desiring to hold a meeting or organize a demonstration of a request to the competent authorities, specifying the venue of the meeting or demonstration, its objective and the persons in charge of it. That request is examined in the light of the requirement of public order, safety, health and morals as well as the rights of others. The Syrian authorities have not refused a request that is in conformity with applicable laws and regulations.

322. Syrian law in no way restricts the exercise of this right except where necessary in order to protect public safety, national security, public order, the rights of others, public health or public morals. In Syria, the right of citizens to assemble and demonstrate is denied only if the assemblage or demonstration in question is likely to become riotous and disturb public peace, etc. The law imposes punishments for this type of demonstration and assembly. Article 335 of the Syrian Penal Code prescribes the following penalty for participation in a riotous demonstration: "Anyone who, while participating in an assemblage which is not of a private nature given its aim or purpose, the number of persons invited thereto or participating therein, the location at which it is held or the fact that it is held in a public place or at a location which is open to the public or exposed to public view, shouts or chants riotous slogans, displays an emblem likely to disrupt security or engages in any other form of disorderly conduct shall be liable to a penalty of detention for a term of six months to one year and a fine of LS 100".

323. All people are equal before the law without any distinction. There is no discrimination among people on any grounds whatsoever such as national, ethnic or social origin, colour, gender, language, religion, opinion, wealth or lineage, or any other grounds. Being liberal-minded, Syrian society is characterized by the absence of any intolerance. The phenomenon of discrimination is unknown and alien to Syrian society. Syria is also waging a fierce battle against all manifestations of racism whatever they take place, particularly those manifestations exercised by the Israeli occupation authorities against Arab citizens.

324. The Constitution of the Syrian Arab Republic has guaranteed the principle of equality before the law. Article 25 of the Constitution stipulates that:

- (1) Freedom is a sacred right. The state protects the personal freedom of the citizens and safeguards their dignity and security;
- (2) The supremacy of law is a fundamental principle in the society and the State;
- (3) Citizens are equal before the law in their rights and duties;
- (4) The State ensures the principle of equal opportunities for citizens.

325. The law has protected all members of the Syrian society from any kind of discrimination despite its non-existence in the history of Syria. In order, however, to prevent its emergence, Syrian legislation has set punishments for any act, writing or speech designed to arouse sectarian or racial tendencies or to incite conflict among various communities and diverse constituents of the nation (article 307 of the Syrian Penal Code).

326. Article 308 of the same Code prescribes a penalty for anyone belonging to an association that has been established for the purpose mentioned in article 307 cited above. In articles 46 and 263, the Code sets a penalty for crimes affecting religious feelings. The Statutes of the Arab Baath Socialist Party, which is the leading party in the Syrian Arab Republic and in the National Progressive Front, designate participation in the elimination of apartheid, of all policies and practices of racial discrimination or segregation and of racist propaganda as a cornerstone of the State's public policy. According to those Statutes, the value of citizens can only be said to be respected when they have been granted equal opportunities. Articles 28 and 94 of the Party's statutes emphasize that citizens are equal in terms of human value and that there must be no discrimination among them on grounds of gender, origin, language or religion.

327. It should be noted that the Syrian Arab Republic was among the first States to accede to the international conventions against apartheid. It acceded not only to the International Convention on the Elimination of all Forms of Racial Discrimination but also to the International Convention on the Suppression and Punishment of the Crime of Apartheid, the International Convention against Apartheid in Sports, the Convention on the Prevention and Punishment of the Crime of Genocide, the Slavery Conventions and the two International Covenants. Syria has submitted its periodic reports on the International Convention on the Elimination of all Forms of Racial Discrimination.

## **Article 22**

328. The right of association and the right to freedom of peaceful association are recognized in article 48 of the Constitution of the Syrian Arab Republic, which stipulates that: "The popular masses have the right to establish trade-unions, social and professional organizations and production or service cooperatives, the framework, interrelationships and operational scope of which shall be prescribed by law". This article supplements the provisions of article 39 of the Syrian Constitution, which stipulates that: "Citizens have the right to assemble and demonstrate peacefully in a manner consistent with the principles of the Constitution". It is also in conformity with the rights recognized in the Covenant, particularly in articles 21 and 22 thereof.

329. Under article 9 of chapter I of the Syrian Constitution: “Popular organizations and cooperative associations are groupings comprising the working forces of the people which seek to promote social development and further the interests of their members”. This article is in conformity with article 26 of the Constitution, which emphasizes the right to participate in political, economic, social and cultural life in keeping with the provisions of article 22, paragraph 1, of the Covenant.

330. In Syria, the right of association was introduced in 1935, with the promulgation of Legislative Decree No. 152 of 18 September 1935 concerning trade unions for the liberal professions and craftsmen. This was followed by the establishment of the General Federation of Trade Unions, a non-governmental trade-union organization, on 18 March 1938. The Federation has a legal personality and has the right to own such immovable and movable property as is necessary for the attainment of its objectives. It exercises domestic and foreign activities and is active internationally. It is a member of the World Federation of Trade Unions and the International Federation of Trade Unions. It issues a weekly journal entitled *Workers Social Struggle*.

331. Mention should be made of a number of associations, trade unions and federations operating in Syria, which exercise their activities in conformity with the relevant articles of the Covenant.

- 1st The General Federation of Farmers, which was established on 14 February 1964 and has branches in all governorates. It takes care of the farmers’ interests. It was elected as an active and permanent member of the secretariat of the World Federation of Agricultural Workers. It is also a constituent member of the General Federation of Arab Farmers and Agricultural Cooperative Workers and the International Federation of Agricultural Producers. It issues a weekly journal and a quarterly entitled *The Farmers’ Struggle*.
- 2nd The Women’s General Federation, which was established in 1967 and has branches in all governorates. It seeks to organize the energies of women. It is a member of the General Arab Women’s Federation and the Women’s International Democratic Federation. It issues a monthly magazine entitled *Arab Woman*.
- 3rd The Teachers’ Association, which was established in 1960 and takes care of teachers’ rights. It is a member of the Arab Teachers’ Federation and the International Federation of Teachers. It issues a fortnightly journal entitled *Builders of Generations* and a quarterly carrying the same title.
- 4th The Arab Writers’ Union, which was established in 1969 and comprises seven societies concerned with: Translation; Story and Novel; Research and Studies; Literary Criticism; Child Literature; Theatre; and Poetry. The Union issues annually about 70 books and 5 periodicals: *The Literary Situation*, a cultural monthly; *The Literary Week*, a weekly literary magazine; *Foreign Literatures*; a quarterly concerned with *Arab Heritage*; and *Historical Studies*; and *Political Thought*, a quarterly.

- 5th The Union of Journalists, which was established in 1974. It is a member of the Federation of Arab Journalists and in the International Journalists' Organization.
- 6th The National Federation of Syrian Students, which is a students' organization that was established on 23 April 1963. It comprises 26 branches inside and outside the Arab homeland and has relations with over 100 Arab and international students' organizations. It seeks to defend the students' interests and issues a magazine entitled *The Generation of the Revolution*.
- 7th The Union of Revolution's Youth, which is a supporting educational organization that seeks to take care of youth. It was established in 1970. It takes part in most Arab and international youth activities and is a member of the Arab Youth Federation. This organization issues a weekly journal entitled *The March* and a monthly magazine entitled *The Pioneers*.
- 8th The Baath Vanguard's Organization. It includes in its membership children of primary school age, 6-12 years old, and is an educational organization. It maintains extensive relations with world children organizations since 1986. It issues a monthly magazine entitled *The Vanguard*.
- 9th The General Federation of Craftsmen's Societies. The organization of Craftsmen was regulated in Syria by virtue of Legislative Decree No. 250 for the year 1969. In 1970, the General Federation of Craftsmen's Societies was established and comprised 12 branches that consisted of 94 craftsmen's societies in various crafts. The Federation maintains relations of cooperation with craftsmen's organizations in several Arab and foreign countries. It is a member of the Arab Cooperative Craftsmen Federation. It issues a quarterly entitled *Craftsmen*, which deals with craftsmen's interests and activities.
- 10th The General Sporting Union, which was established in 1971 as a grass-roots organization representing sports people participates in external Arab and international activities, games tournaments and world championships. It is a member of the International Olympic Committee, the Asian Olympic Council and the International Committee for Mediterranean Games, the Executive Bureau of the Arab Council of Ministers of Sports and Youth and the International Federation of Games for West Asian States. It issues a journal entitled *The Sporting Union* as well as some books and sports information bulletins.
- 11th The General Union for Housing Cooperation. It was established in 1981 and supervises the housing cooperation sector in all Syrian governorates. It includes in its membership 1,642 housing cooperative societies that seek to provide housing for its low-income members at cost prices. The Union issues a quarterly entitled *The Voice of Housing Cooperation*.

- 12th The Pharmacists' Association, which was established in 1952 and enjoys legal personality and financial autonomy. The Pharmacists' Association Act in Syria was issued by Decree No. 9 for the year 1990. The association is a member of the Federation of Arab Pharmacists. It issues a periodical bulletin and participates in the publication of the "Arab Pharmaceutical Bulletin".
- 13th The Bar Association. It is one of the oldest free professional syndicates and associations in Syria and was established in 1953. It is a member of the General Union of Arab Lawyers and the International Bar Association. It issues a monthly magazine entitled *The Lawyers*.
- 14th The Engineers' Association, which was established in 1950 and is a member of the Federation of Arab Engineers and some international engineering bodies. It issues a magazine called *The Syrian Engineer*.
- 15th The Dentists' Association, which was established in Syria in 1952. It is a member of the Federation of Arab Dentists and issues a periodical magazine entitled *Syrian Dentistry*. It takes part in the publication of the *Arab Dentist* magazine.
- 16th The Physicians' Association, which was established in 1952 pursuant to Legislative Decree No. 142, which also included, in Chapter 11, the establishment of two syndicates: one for Midwives and one for technical nurses. It is a member of the Federation of Arab Physicians and issues the *Medical Studies* magazine.
- 17th The Agricultural Engineers Association, which was established in 1965. It is a member of Arab agricultural bodies and takes part in their activities.
- 18th The Artists Association, which was established in 1967 and aims at the revival and development of Arab arts.
- 19th The Fine Arts Association, which was established by virtue of Decision 742 of 1969 of the Ministry of Culture. It comprises those who are working in fine arts.
- 20th The Contractors' Syndicate, which was established in 1956. It is a syndicate that brings together construction contractors and seeks to render the role of construction and reconstruction more effective in supporting development and the protection of the rights of contractors. The syndicate is a member of the Federation of Arab Contractors. It takes part in regional and international activities and conferences and issues a quarterly entitled *The Contractor*.

332. The trade unions and professional associations in Syria discharge their functions and responsibilities in full freedom and adopt decisions consistent with those of the highest trade organization, i.e. the General Congress of the Federation of Trade Unions, which meets every five years and is empowered to discuss the rights and interests of workers and consider any matter of concern to them. The following measures have been taken to consolidate the principle of free collective equality:

(a) The principle of the appointment of trade-union leaders has been abolished in favour of electoral processes at all trade-union organizational levels;

(b) Clearly defined rules have been laid down for the formation of trade-union committees by groups of workers working for a single employer;

(c) The trade-union movement is being encouraged through confidence-building measures and its trade-union organizations are being strengthened so that the working class can form a cohesive unit.

333. Under the terms of the Trade Union Regulatory Act No. 84 of 1968, trade-union activities are voluntary and a worker is free to join the union established for the occupation in which he is engaging at any location whatsoever. He is absolutely free to join the union representing his labour sector or occupation, regardless of his ideological, political or confessional affiliations. Membership of trade unions is subject to no conditions or restrictions whatsoever. The worker's choice of the union that he wishes to join is subject solely to his type of work or occupation. He is likewise free to withdraw from the union.

334. Non-Syrian Arabs working in the territory of the Syrian Arab Republic also have the right to join Syrian trade unions, participate in their elections and occupy senior posts therein on an equal footing with Syrian Arab workers. However, non-Arab foreign workers are subject to the condition of reciprocal treatment by the States whose nationality they hold (article 25 of the Trade Union Regulatory Act). From the procedural standpoint, a worker wishing to join a trade union is required to submit an application, together with a copy of his personal identity card, to the union's office (article 26 of the Trade Union Regulatory Act). The worker's membership of the union is deemed to be accepted and valid from the date of payment of his membership fee and his first monthly subscription (article 27 of the above-mentioned Act), which is a small nominal amount.

335. With regard to the conditions governing the formation of trade unions, article 2 of the Trade Union Regulatory Act No. 84 of 1968 stipulates that: "Any group of workers, regardless of their number, may form a trade-union committee". Article 3 stipulates that: "The trade-union committees in each occupation have the right to form in the same governorate a trade union enjoying corporate personality." It should be noted that the Act lays down the following conditions for the formation of a trade-union committee by a group of workers:

(a) The name of the trade-union committee must be added to the list of trade-union committees in the governorate. It is to be so added through a decision taken by the Council of the General Federation of Trade Unions on the basis of a proposal by the labour federation in the governorate and the trade union;

(b) The definition of "group of workers", as set forth in the Act, must apply to the group wishing to form a trade-union committee.

336. Paragraph 4 of Legislative Decree No. 84 defines “group of workers” as follows:

“(a) All the workers working in the governorate in a single factory or workshop, a single institution or facility, a single administration or department or a municipality;

(b) All the workers working for a single employer in the governorate, without prejudice to the provisions of paragraph (a);

(c) All the workers working in an occupational branch in the governorate in which the trade-union committee is to be established, without prejudice to the provisions of paragraph (a).”

337. With regard to the organizational structure of the country’s trade unions, it is as follows:

1st The trade-union committee, consisting of five elected members, in a workshop or factory is the smallest trade-union body.

2nd All the trade-union committees in a specific labour sector in a governorate elect the trade union’s executive, consisting of 5-9 members. The trade union represents the workers in a single occupational sector at the governorate level.

338. The Syrian Arab Republic has a total of 194 trade unions distributed among its 14 governorates. The trade unions are represented by 2,459 grass-roots trade-union committees which, in turn, represent all the 814,540 trade-union members in the public, private and mixed sectors.

339. The seven-member executives of the occupational federations are elected. The country has eight such occupational federations, which represent the workers in all occupations and in all sectors. These are:

(a) The Occupational Federation of Textile Workers’ Unions;

(b) The Occupational Federation of Public Service Workers’ Unions;

(c) The Occupational Federation of Petroleum and Chemical Workers’ Unions;

(d) The Occupational Federation of Construction and Woodworkers’ Unions;

(e) The Occupational Federation of Transport Workers’ Unions;

(f) The Occupational Federation of Printing, Cultural and Information Workers’ Unions;

(g) The Occupational Federation of Metallurgical and Electrical Industry Workers’ Unions;

(h) The Occupational Federation of Food Industry Workers’ Unions.

340. The Trade Union Congress, which is the highest constitutional labour body, consists of all the delegates of the trade unions and occupational federations, the number of whom is in proportion to the total membership of each trade union and occupational federation. The Congress, in turn, elects the 75-member Council of the General Federation, which is the General Federation's governing body. The Trade Union Regulatory Act defines the powers of the Council which elects the Executive of the General Federation which, by law, consists of 11 full-time members.

341. The State has avoided the need for workers to resort to strike action by adopting a policy of joint (collective) employment contracts and organizing conciliation and arbitration panels and procedures to settle any collective disputes that arise between workers and their employers. Articles 89-106 of section 2, chapter II, of the Labour Act regulate the joint contract of employment, which is an agreement governing conditions of employment concluded between one or more trade unions and the employers employing workers belonging to those unions or the organizations representing the employers.

Articles 188-210 of chapter V of the Labour Act regulate the conciliation and arbitration procedures for the settlement of labour disputes, which takes place in two stages.

342. The first stage consists in conciliation and the second stage consists in arbitration. In accordance with article 209 of the Labour Act, workers are forbidden to strike or to partly or wholly withhold their labour when an application has been made for conciliation and during the course of the procedures before the competent administrative authority or the conciliation or arbitration panel. Employers are not permitted to halt their operations, wholly or in part, unless they are obliged to do so for valid reasons, in which case they must apply, by registered mail, for the approval of the Minister of Social Affairs and Labour. The decision on such applications is taken by the Minister. Under the terms of article 65 of the Civil Service Statutes, it is prohibited for workers to participate in the organization of meetings at their place of work in violation of the provisions of the laws in force. They are not permitted to abandon, suspend or obstruct the work with a view to disrupting order or halting or impeding production, nor are they permitted to incite other workers to do so.

343. In this connection, it should be noted that Syria has been a member of the International Labour Organization since 1947 and, by 31 December 1997, had ratified 46 international labour conventions, including:

(a) The Freedom of Association and Protection of the Right to Organize Convention No. 87 of 1948;

(b) The Right to Organize and Collective Bargaining Convention No. 98 of 1949.

344. With regard to the establishment of associations in the Syrian Arab Republic, article 1 of the Private Associations and Institutions Act No. 93 of 1958, as amended, stipulates that: "For the purposes of the implementation of this Act, 'Association' shall mean any grouping endowed with a continuous organization, established for a specified period and consisting of individuals or bodies corporate, for a non-profit-making purpose."

345. The restrictions which this Act places on the establishment of such associations in order to protect public safety, national security, public order, public health and morals and the rights of others are the same as those placed on exercise of the right of peaceful assembly in order to protect the public interest. Under article 2 of the said Associations Act: “Any association which is established for an illicit reason or purpose, or which contravenes the law or the moral code, or the purpose of which is to prejudice the integrity or form of the republican government shall be null and void”.

346. The Act stipulates that, when an association is established, written statutes approved by the Ministry of Social Affairs and Labour must be drawn up for it and the said statutes must specify the purpose underlying the establishment of the association. It also stipulates that the association must not transcend the purpose for which it was established.

347. The right to form political parties is inviolable. The Syrian Constitution emphasizes the need for a National Progressive Front, led by the Arab Baath Socialist Party, to pursue the following aims:

- (a) To mobilize the combined capacities of the masses in furtherance of the objectives of the Arab nation (art. 8 of the Constitution);
- (b) To liberate the occupied Arab territories;
- (c) To formulate economic, social, cultural, political and military plans;
- (d) To decide on questions of peace and war;
- (e) To approve the five-year plans, discuss economic policy for the development of the agricultural sector on which the development of the national economy is based, and promote and develop the cooperative movement;
- (f) To further the cultural, social and political development of citizens;
- (g) To complete the establishment of the popular democratic system, with its constitutional institutions and local councils, in order to ensure the full sovereignty of the people;
- (h) To further develop the democratic structure of the popular and occupational organizations, provide them with every possible means to play their fundamental role of ensuring the people’s control of the various organs of the executive authority, and expand the base of these organizations.

348. The National Progressive Front, which was formed in the early part of 1972, currently comprises the following nine parties:

- (a) The Arab Baath Socialist Party;
- (b) The Syrian Communist Party;
- (c) The Syrian Communist Party (a dissident of the just-mentioned party);

- (d) The Arab Socialist Union Party;
- (e) The Socialist Unionists Party;
- (f) The Arab Socialist Movement;
- (g) The Arab Socialist Movement (a dissident of the just-mentioned party);
- (h) The Democratic Socialist Unionist Party;
- (i) The Democratic Arab Union.

### **Article 23**

349. The Syrian Arab Republic shows special concern for the family, which is the basic unit of society. Accordingly, the State is continuing its diligent endeavours to protect the family, which it regards as the most important social institution for the rearing and development of citizens. In fact, the family constitutes the social unit from which individuals derive all their social and humanitarian values from childhood to old age and which plays the major role in the upbringing of future generations and the provision of the human resources which society requires. The need to protect and strengthen the family, as a basic social institution, is emphasized in article 44 of the Syrian Constitution, which stipulates that:

1. The family is the basic unit of society and shall be protected by the State.
2. The State shall protect and encourage marriage and endeavour to eliminate material and social impediments thereto. It shall protect mothers and children, take care of young people and ensure conditions conducive to the development of their talents. Under article 46, paragraph 1: "The State shall provide for every citizen and his family in the event of accident, sickness, disability or orphanhood and in old age".

350. According to the definition contained in article 36 of the Syrian Civil Code, a person's family consists of his kinsfolk, i.e. all those who are linked to him by common descent. Accordingly, prior to marriage, a natural person (male or female) forms part of the family of his or her parents. The kinsfolk include brothers and sisters who have a common ascendant (father or mother) as well as the father or mother (the common ascendants).

351. The legislation in force in the Syrian Arab Republic, including the Personal Status Act, the Labour Act, the Standard Employment Act, the Social Insurance Act, the National Service Act and the Social Welfare Act, comprise provisions that protect the family and the marriage institution.

352. Marriage is a consensual contract between a man and a woman under which he can take her as his lawful wife. The Syrian Personal Status Act devotes an entire section to marriage and its effects for all the religions and religious confessions practiced in Syria.

353. The Personal Status Act applied in Syria, and amended by Law No. 34 of 1975, guarantees full equality between the spouses before and during the marriage and in the process of selection and conclusion. Thus a girl has the right to accept or refuse to marry a man. The Act also sets the age for marriage at 17 years for the female and 18 years for the male; however, customs and religious affiliations may determine this age in some cases and this leads to an intervention of the judiciary. In addition to the consent of the parent, the approval of a judge is a prerequisite to conclude a marriage of a male at age 15 and a female at age 15. The judge in this case is a senior shari'a judge or the president of shari'a courts in Syria. The approval by such a judge is a sure guarantee to ensure the physical and mental condition of the young man or young woman.

354. The Personal Status Act No. 34 of 1975 guarantees the rights of a wife against any moral abuse. Article 2 of the law states that: "a judge may refuse to allow a married man to take another wife unless he has a legitimate reason and is able to provide sustenance". Article 4, paragraph 3, of the same Act protects the material rights of the wife by stating that the dowry of a wife is an outstanding debt and comes immediately after the debt of sustenance due provided for in article 120 of the Civil Code.

355. Although there is equality in regard to conjugal rights, after marriage the ongoing organization of the family, as the basic unit of society, requires leadership and authority, the scope of which must be clearly defined in case a dispute arises between the spouses and in order to establish the necessary balance between rights and obligations. Hence, within the family framework, the respective roles of the husband and the wife differ in view of the special nature of women, which is necessary for the perpetuation of human life (menstruation, pregnancy, childbirth and breastfeeding) and which entails certain rights and precludes engagement in certain occupations. This difference in regard to the distribution of roles within the family framework is not discriminatory since it does not assign excessive rights or obligations to either party and does not affect their civil or political rights; it merely relates to family matters and relations between the spouses.

356. Divorce is a right for both husband and wife, since a party that seeks divorce has to resort to courts to obtain a ruling on divorce. The Personal Status Act gives the husband the right to seek divorce on certain terms specified in articles 85-104 of the Act. The same Act gives a wife the right to seek divorce in accordance with terms specified in articles 105-115. However, the desire to perpetuate the marriage bond is evident in article 11 of the Act which stipulates that "when a request for divorce or separation is submitted to the court the judge may defer consideration for a month in the hope of reconciliation". Article 13 of the Act provides that the judge shall appoint two mediators, one from each side, to seek reconciliation of the husband and the wife. This mediation mechanism is governed by articles 14 and 15 of the Act.

357. The Act guarantees the right of a wife who has been arbitrarily divorced to institute judicial action to obtain compensation. Article 117 states that "when a man divorces his wife and the judge ascertains that the divorce is arbitrary and has no reasonable ground, and that the wife may as a result suffer poverty and destitution", compensation shall be awarded to the wife. Article 8 of the Personal Status Act No. 34 of 1975 establishes that "alimony for a divorced wife shall be assessed with due regard to the material condition of the husband, regardless of the material condition of the wife, but shall not be less than the amount necessary for adequate sustenance.

358. A wife has the right of custody of underage children and this right may be waived only by the wife. The Personal Status Act defines the terms, procedures and eligibility of custody as elaborated below. The Personal Status Act No. 57 of 17 September 1953, amended by Law No. 34 of 1975 also contains measures to ensure protection of children when a marriage is dissolved in the following articles:

Article 173 as amended by article 25 of Act No. 34 of 1975

When the property of a minor is jeopardized by the misconduct of a guardian or for any other reason the court may remove or limit the control of the guardian and the judge may assign some legal financial functions of the guardian to the custodian if he ascertains that such a decision would be in the interest of the minor and after hearing the guardian.

Article 26 of Act No. 34 of 1975, new paragraph (c) was added to article 176

Upon the death of the father, guardianship of the property of the minors shall be exercised by the guardian named by the father, even if the guardian is not a relative, but the guardianship is subject to confirmation by a judge who ascertains that all legal conditions are met.

Article 27 of Act No. 34 of 1975 provides for the addition of new subparagraph 4 (p) to article 182

The extent and plan of work shall be defined in the case of repair, restoration or modification of real estate belonging to the minor or the construction or destruction of a building or planting of trees and other such acts that require authorization.

Article 28 of Act No. 34 of 1975, new paragraph 3 was added to article 191

The warden of the orphanage shall exercise of the functions of a custodian in the best interests of the minor until such time that a new custodian has been appointed to succeed a custodian whose custody was terminated for any reason.

359. Finally it should be noted that certain actions were taken to protect marriage and family such as:

(a) Decree No. 15 of 2004 that allows expatriates subject to conscription to get married without the requirement of obtaining a licence from the competent conscription station;

(b) Law No. 42 of 2003 creating a public entity called Syrian Authority for Family Affairs, to accelerate efforts to advance the situation of family and to better integrate the family in the development of human resources;

(c) Legislative Decree No. 35 of 13 May 2002 amending article 54 of the basic statutes of civil service No. 11 of 1985 to extend maternity leave of working mothers under which the mother may obtain a daily one-hour break for 18 months for the purpose of lactation;

(d) Law No. 88 of 2003 amending article 19 of Law No. 34 of 1975 as follows: “the term of custody comes to an end on the day a boy reaches the age of 15 and a girl reaches the age of 15”;

(e) Legislative Decree No. 33 of 2002 raising family allowance;

(f) The Ministry of Social Affairs has taken the following measures to eliminate material and social impediments to marriage:

- (i) The Federation of Charitable Associations has established a Love and Compassion Fund to help young people to marry and make marriage easier for single persons by providing financial and in-kind assistance for persons wishing to marry;
- (ii) Some private associations have amended their statutes in order to be able to provide assistance for persons wishing to marry.

#### **Article 24**

360. The high ratio of children and young people to the total population in Syria represents a major challenge to the development process, although fertility rate has declined to a relatively moderate level in the last few years. The Government, for its part, tries its best to alleviate financial and social constraints that affect the family, to provide protection for mothers and children and care for the youth, and to make available to them all the means that would help them to achieve their full potential.

361. Syrian legislation recognizes the right of every child, without any kind of discrimination, to all measures of protection that he/she needs as a minor, to be provided by his/her family, by the society and by the State. Special measures have been taken to protect children, in addition to those measures that guarantee the enjoyment by all citizens of the rights that are enshrined in the Covenant. The Syrian Arab Republic ratified the Convention on the Rights of the Child on 13 June 1993 under the terms of Act No. 8, in accordance with the provisions of the Constitution and the decision taken by the People’s Assembly at its meeting of 5 June 1993. The Convention entered into force on 14 August 1993, and the first report of the Syrian Arab Republic under the Convention was submitted on 16 January 1997. By virtue of such accession, the Convention has become part of the country’s domestic law, enforceable and respected by all. This has been reiterated in article 25 of the Syrian Civil Code, which stipulates that “The provisions of the preceding articles shall apply without prejudice to any provision to the contrary that may be embodied in an international convention to which the Syrian Arab Republic is a party.” It is also confirmed by article 311 of the Syrian Code of Criminal Procedure, which stipulates that “The above rules shall apply without prejudice to the provisions of treaties entered into between Syria and other States.”

362. Through its policies and the laws in force, the State endeavours to ensure that the interests of the child are given priority, with a view to enabling him/her to be a sound member of a healthy society. The welfare and proper care of the children is the most important element in

the life of the Syrian family. The State gives priority attention to ensuring effective protection for the child in all aspects of his/her life, such as education, health, culture, as well as legal protection. This is further discussed below.

### **Legal protection**

363. Legal protection is accorded to the child by virtue of the provisions of the Civil Code, especially the Personal Status Act and its provisions relating to custody of the child. Article 137 of the latter Act lays the following conditions for the custody of a child. The custodian must be an adult person who is physically, mentally and morally capable of taking care of the child.

- (i) Article 139 provides for the right of custody according to the following order: the mother, her mother, her grandmother, the father's mother, the father's grandmother, a sister, a half sister on the mother's side, a father's sister, a sister's daughter, a half sister's daughter, an aunt, or, in the absence of the above, a male kin in the order of inheritance;
- (ii) A female custodian shall not be precluded on account of her having a job as long as such job does not interfere with her ability to provide care for the child in an acceptable manner. A mother or a grandmother who is entitled to custodianship may apply to the law court to enable her to have custody of the child, and the judge shall award custodianship in the case without further proceedings, upon ascertaining her identity by a document issued by the Civil Registrar. The judge shall also decide on a provisional amount of child support to be paid by the person who, in the view of the judge, is responsible for sustenance of the child. The judgment shall be implemented by the appropriate enforcing agency. A person who has a grievance related to the judgment, in respect of the custody, the responsibility for child support or the amount thereof may appeal to the appropriate appeals court. Such a case shall be reviewed according to the procedures of appeal applicable to the verdicts given under shari'a law, although filing an appeal does not in itself waive the implementation of the verdict until a final verdict is issued by the court of appeals. Article 140 details the role of the judge in the selection of the custodian where there is more than one eligible candidate.

364. The Syrian legislation ensures that every person born in Syria shall have identification that shows his/her civil status. According to the law, the father or, in his absence, the relatives, the attending physician or midwife, or the director or the officials of the institution where birth took place, should notify the Civil Registrar of any such birth. All children should be registered in the official civil records. Article 26 of the Civil Status Act stipulates that "The father is under obligation to deposit with the Civil Registrar, within the specified time, a birth certificate authenticated by the local mayor." The same law provides that every child must be registered within a period not exceeding 15 days from the date of delivery. In the absence of the father, this obligation devolves on the local mayor or the male relatives of the newborn child who live in the same house in which the child was born. The attending doctor or nurse is also required to notify the Civil Registrar of the occurrence within the period specified in article 22. Article 37 requires that directors of institutions such as hospitals, prisons, and quarantine stations, etc., have an obligation to notify such incidents to the Civil Registrar within the

specified time. Such cases do not require authentication by the local mayor, but should be registered in a special register to be kept with the institution.

365. Under Syrian law, newborn foundlings must be handed over to the official authorities so that an investigation can be undertaken with a view to determining their identity. Article 24 of the Civil Status Act requires anyone who finds a newborn child to hand him/her over to the police authorities in urban centres, or to the local mayor in rural areas, together with the clothes and other objects found on the child, specifying the time, place and circumstances in which the child was found. The police, or the local mayor, should draw up a report specifying the child's apparent age and any distinguishing marks. A birth certificate should then be established by the appropriate authorities and reported to the Civil Registrar for registration in accordance with the preceding provisions. The Civil Registrar should assign a name to the child and his/her parents, in accordance with article 2 of the Act No. 107 of 4 May 1970.

366. Every child born in Syria has the right to acquire the nationality of his/her parents as a right based on blood affiliation if the child's father is known, as a right based on both blood and territorial affiliation if the child's mother is Syrian and the father is unknown, or as a right based solely on territorial affiliation if the child's parents are unknown or if, although known, they are unable to pass their nationality on to the child. Article 3 of the Syrian Nationality Act stipulates as follows:

“The following persons shall be deemed, ipso facto, to be of Syrian nationality:

(a) Anyone born in or outside the country to a Syrian father. (In which case the person is entitled to Syrian nationality whether or not the birth was registered in the Syrian Arab Republic);

(b) Anyone born inside the country to a Syrian mother, but his/her paternity has not been legally established. (In which case, if the father fails to recognize the child as his own, or if the marriage has not been registered for any reason, the child is deemed to be Syrian).

(c) Anyone born inside the country to parents who are unknown, of unknown nationality or stateless. A foundling who has been found within the country shall be deemed to have been born therein at the place in which he/she was found, unless there is strong evidence to the contrary;

(d) Anyone born inside the country and who, at birth, was not entitled to acquire a foreign nationality by right of filiations. (In this case, a child born inside the country to a father who has lost his original nationality for any reason is deemed to be of Syrian Arab nationality.

(e) Anyone of Syrian origin who has not acquired another nationality and has not applied for Syrian nationality within the time limits specified in the above-mentioned laws and decisions.

The provisions of this article apply even if the birth took place before the entry into force of the Act.

367. It is worthwhile in this regard to refer to a proposed amendment to the Nationality Code, which is currently under consideration. It would grant Syrian nationality to the children of a Syrian woman who is married to a non-Syrian. The bill is sponsored by the Syrian Women Federation.

368. The provisions relating to acquiring the nationality of the Syrian Arab Republic apply also to nomads, unregistered births, and persons whose ascendants were not entered in the Syrian registers. All such persons are considered Syrians. Every person is given a name. A name is one of the most important rights inherent in the human person and is the independent individual entity in the community. However, a name does not merely refer to a person and distinguish him or her from other persons; it also indicates the status that a person enjoys in his or her family or society. Accordingly, under Syrian law, every person must have a name and a surname. Article 40 of the Civil Code stipulates that: "Every person shall have a name and a surname and the surname shall be passed on to the person's children". By law, a newborn child must be named by the father, since the child will bear the father's name. Children of unknown paternity are named by their mother, and foundlings are named by the Civil Registrar.

369. In the Syrian Arab Republic, children enjoy protection as required by their status as minors, on the part of their family, the society and the State. Under Syrian law, a minor is any person under the age of 18. According to article 46 of the Syrian Civil Code: "Every person who has attained the age of majority, who is in full possession of his mental faculties and who is not subject to any form of guardianship is fully competent to exercise his/her civil rights". The age of majority is 18 completed Gregorian years. Article 1 of the Juvenile Delinquents Act No. 18 of 30 March 1974 stipulates as follows: "For the purposes of the implementation of the provisions of this Act, the terms listed below shall have the following meanings: 1. Juvenile: Any male or female person under 18 years of age."

370. With regard to the age at which civil rights can be exercised, article 47 of the Civil Code stipulates as follows: "Anyone who is incapable of acting with discretion shall be incompetent to exercise his/her civil rights. Everyone under seven years of age is considered incapable of acting with discretion."

371. Under article 164 of the Personal Status Act:

- "1. A minor shall not be entitled to take charge of his/her property before reaching the age of majority.
- "2. After hearing the opinion of the testamentary guardian, a magistrate may permit a person who has reached the age of 15 to take charge of part of the said property."

Under Syrian law, "child", "minor" and "juvenile" are legal terms with the same connotation, namely a person under 18 years of age.

### **Child health care and protection**

372. As part of its efforts to provide health care and protection for the children, the Ministry of Health undertakes several programmes that comprise: national immunization campaigns, eradication of polio, integrated medical plan for the treatment of diseases affecting children, protection against vitamin A deficiency, promoting breast feeding, prevention of diarrhoea and iodine deficiency, and prevention of accidents to the children, in addition to maternity and family planning programmes and enhancing the healthy life of the family.

373. Within the national immunization programme, all children, without discrimination on the basis of colour, race or sex, are given immunization against 11 diseases (international organizations recommend only 6). The programme has been able to cover more than 98 per cent of all children as a result of a national intensive campaign to cover 100 percent of the children. The campaign started with the Governorate of Palmyra in October 2002 and has extended to other areas. Children hospitals have been opened in Homs (2002) and Aleppo (2003), in addition to the Assad Women's Hospital in Hama (also in 2003). Studies are under way for the establishment of similar facilities in Damascus, ar-Raqqa, and Lattakia, in addition to opening children's sections at 16 hospitals, with a capacity of 200 beds each, in 12 other governorates, all of which will be in rural areas to serve the rural population.

374. As a result of the Government efforts in the field of child care and protection, infant mortality rate has dropped to 18.2 per thousand live births in 2003, mortality rate for children under five years of age also dropped to 20.4 per thousand, from 164 per thousand in 1970. Maternity mortality rate also fell from 4.82 per thousand in 1970 to 0.65, as shown in the studies of the World Health Organization and the Syrian Statistical Office.

### **Education**

375. The Ministry of Education implements the Mandatory Education Act No. 35 of 1981. In line with rapid developments in the field of education and information, and as part of the national efforts to eradicate illiteracy and ignorance and to enable the new generations to benefit from the propagation of knowledge and information, it has been decided to integrate the primary and preparatory stages of education into one stage that is free and mandatory for all children from age 6 through age 15. Accordingly, Law No. 32 of 2002 requires that all children in the above mentioned age group must be enrolled in school, without discrimination based on colour, race or sex. The law provides that this elementary stage is free and mandatory to all children. Parents who fail to send their children to school are liable to penalties under articles 5, 6 and 7 of the Mandatory Education Law of 1981. Such penalties may take the form of fines, or even imprisonment up to two months.

376. Violence is not tolerated in schools. The guidelines of the Ministry of Education instruct the teachers to use only educational means of discipline and to refrain from using physical or moral punishment with the children. Abusers are subject to penalties such as payment deductions, denial of promotion, or referral to a disciplinary court, in line with the provisions of the regulations applicable to civil servants, the Ministerial Decision No. 3307 of 1985 on non-severe punishments and the Disciplinary Courts Act No. 7 of 1990.

377. Efforts are being made to integrate children with special needs in ordinary schools. Article 8 of the Rule of Procedures for Basic Education stipulates that: "For registration in schools of basic education, students with special needs should be treated in the same manner as ordinary students, taking into consideration the nature and degree of their disabilities". A committee was established in 2000 to achieve this goal. It comprises representatives of various government and civil society organizations working in this field. The Ministry endorsed the findings and recommendations of the committee. As a result, a national workshop was organized in February 2002, which initiated the pilot project for integration of children with special needs into the education system in four governorates: Damascus (two schools), Homs (one school), Hama (one school under UNRWA supervision), and Aleppo (a kindergarten under the supervision of the National Women Federation). The project is being implemented in cooperation with five organizations, namely UNESCO, UNICEF, Kareem Reda Said Foundation (a charitable organization), S.O.S (Sweden), and S.O.S (Great Britain). The pilot project is now in its second year (2003-04). Selection criteria were established at the initiative of the national workshop.

378. A committee was established at the Ministry of Education for the introduction of human rights education in school curriculum. The committee is jointly chaired by the Under-Secretary of Education and a Coordinator from the Arab League. As a result, it has been introduced in a number of schools as a first step towards its introduction in all schools.

379. The prolongation of primary education, which is both mandatory and free, meets the objectives of the Convention on the Rights of the Child. It has also put an end to child employment, even in rural areas and within the household. Also the conscription age in Syria is in line with the ILO Convention on Minimum Age for Conscription, and its two optional protocols. In Syria, the minimum age of conscription is 18, and no person under the age of 18 may be accepted for voluntary service in the armed forces. The military education course that used to be taught at secondary school was not related in any manner to military service, but was in line with similar educational courses being given in certain countries that face extraordinary security circumstances. In the Syrian context the purpose was to provide training in civil defence and emergency preparedness in the face of the permanent threat that the country faces as a result of Israeli occupation of Palestine and the Syrian Golan Heights. In spite of the continued occupation, the following steps have been taken.

380. Changes in school curricula and uniform at all levels of education, starting with the school year 2003/04. The only extra-curricula activities remaining are recreational and cultural in nature, with emphasis on the respect of teamwork and the rights of the others. In implementation of this policy, the Ministry of Education has taken the following decisions in application of the Convention on the Right of the Child:

(a) The military education course has been replaced in the top three grades of basic education, i.e. grades 7, 8 and 9, by summer activities complementary to the regular curricula, which include innovative activities that have been jointly developed by the Ministry of Education and the National Youth Federation;

(b) The military education subject in the secondary education, i.e. grades 1, 2 and 3 of the secondary school, has been replaced by a summer camp for two weeks for the first and second grade students. The aim is to develop their skills in matters relating to their daily life, themes to be determined jointly by the Ministry and the Federation. In addition, the programme includes discussion and dialogue caucuses on local and national issues;

(c) The teachers who used to teach military education have been diverted to teaching other subject, mostly physical education, or to administrative work;

(d) The colour of the school uniform has been changed to blue for the upper classes of basic education (grades 7, 8 and 9) and to grey for secondary school (all three grades);

(e) The Office of Military Education in the Ministry of Education has been renamed Department of Extra-curricula Activities.

381. It is to be mentioned here that the continued occupation by Israel of the Syrian Golan Heights represents a gross violation to the rights of the Syrian citizens living in the Golan and impedes the application of the Convention on all Syrian soil. There are around 14,000 Syrian children in the Golan, of whom around 6,000 pursue their education in 12 schools (6 elementary, 4 preparatory and 2 secondary). In addition, there is a kindergarten and a crèche that have some 800 pupils. All these facilities have been established by the Syrian citizens themselves, and are run through their own efforts with assistance from the Government of the Syrian Arab Republic and international organizations.

382. The following is a sample of major violations by the Israeli occupation of the rights of the Syrian children in the occupied Golan Heights, according to the articles of the Convention on the Rights of the Child:

(a) Israel imposes Israeli nationality on the Syrian Arab nationals and their children, in violation of United Nations resolutions, Geneva Conventions of 1949, and the Convention on the Rights of the Child (art. 8);

(b) The occupation authorities, through restrictions on the population and their movement, deny the people in the Golan, including their children, the right of freedom of expression, including freedom to seek, receive and impart information, in violation of articles 12 and 13 of the Convention;

(c) Israel violates the right of the children by imposing the teaching of Hebrew in their schools instead of their mother tongue, which is Arabic, and by replacing the Syrian curricula with those of the occupier, by justifying to them the violence and aggression policies committed by the Israeli authorities, and by imposing hefty taxes on Arabic books while exempting Hebrew books from such levies (Violations of article 17);

(d) Israel imposes exorbitant fees for basic education, which is supposed to be free, and imposes restrictions on students who try to apply for admission to higher education either in Israel or in Syria (Violations of article 28);

(e) Israel denies the Golan children the right to enjoy their indigenous culture and imposes on them the Israeli culture in order to alienate them from their original roots. It prevents them from practicing their own cultural and artistic activities. Moreover they are subjected to a concerted effort of misinformation about historic locations and events, as part of a process to change the demographic characteristics of the Golan, including its features and its Arabic history (Violations of article 30);

(f) Israel's practices have a detrimental effect on the Arab child's personality and his/her mental and physical development, because such practices violate the basic human rights and freedoms. The result would be oppressed generations brought up in an environment of fear of the occupation and its practices. Such practices include oppression of the people, besieging them, subjecting them to detention without due process, torture, and other intimidating methods that instil fear and horror in their daily life, especially for the children (Violations of article 29);

(g) Israel is in violation of the Convention regarding the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. There is acute shortage of health facilities including medical centres, emergency services, medical doctors and specialized clinics. There is not a single hospital in the Golan. In addition, medical care suffers from negligence and absence of basic information on the health of the children (Violation of article 24);

(h) Israel prevents the Golan population from forming charitable organizations or social security institutions to care for the children, and denies them and their children their rights to social benefits (Violation of article 26);

(j) By perpetuating its policies of economic strangulation of the occupied Golan Heights, Israel is denying the Syrian citizens of the Golan and their children their right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. With rampant unemployment, discrimination against Arab workers, arbitrary dismissal from their jobs and irregular payment of their wages, most of the families live below the poverty line, and therefore cannot afford to provide the needs of their children. In addition, Israel imposes high taxes on the local products, and keeps the prices low (e.g. apples) in order to deepen the economic crisis and push the youth towards emigration in an effort to evacuate the people from their own land (Violation of article 27);

(k) Israel exploits the child labour, engages the children in hazardous work, with serious effects upon their education and health, especially because of long hours of work and unhealthy conditions. They are employed in the same jobs as adults and get only half the pay (Violation of article 32);

(l) Israel is causing serious harm to the environment and increasing pollution as a result of the outbreak of fires resulting from military exercises or merely intentionally, and the deposit of hazardous chemical and atomic wastes in the Golan soil, which poses a risk to the children's growth and their physical and psychological health;

(m) Israel prevents humanitarian organizations and United Nations agencies from entering the occupied territories because it does not want them to have first hand information on the suffering of the people under occupation and the severe conditions of life in the territories.

(Since 1967 Israel has denied entry to the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories.);

(n) The continued occupation by Israel of the Golan Heights is a serious impediment in the way of Syria's efforts to implement the Convention in all its territories.

383. The Syrian Arab Republic is making special efforts to integrate all citizens in the country, irrespective of their race, in a cohesive society. There are no special laws or regulations governing any group of people that do not apply equally to all citizens. Hence, all children living in Syria enjoy the same rights and the same protection without any kind of discrimination. There are no private schools that belong to any group exclusively. All children have equal access to education opportunities and equal treatment in the education system.

384. The Syrian Arab Republic respects its obligations regarding the rights of the child and it guarantees the enjoyment of those rights by all children. Syria is committed to implement the provisions of the Convention in all its aspects, especially articles 2 and 7. It is also committed to respect its obligations under other human rights instruments. In this respect a number of new and amended laws have been promulgated as follows:

(a) Decree No. 379 of 26.10.2002, on the accession of the Syrian Arab Republic to the two optional protocols to the Convention on the Rights of the Child to which Syria has acceded under the Act No. 8 of 1993;

(b) Decree No. 396 of 3.11.2002 ratifying the International Convention on the Worst Forms of Child Labour (ILO Convention No. 182/1999);

(c) Decree No. 38 of 2002 on the occasion of the International Day of the Child, granting amnesty on all juvenile crimes committed before 24.6.2002 by juveniles who had completed seven years of age but had not completed 18 years of age;

(d) Legislative Decree No. 42 of 2002 ratifying the Agreement on the Establishment and Operation of Children Villages (S.O.S) and the joint venture agreement between the Syrian Arab Republic and the S.O.S organization;

(e) Legislative Decree No. 52 of 2003 amending the minimum age of legal accountability for juveniles set out in the Juvenile Act, which provides that a juvenile who has not completed 10 years of age at the time of committing a crime shall not be prosecuted. The minimum age had been seven. If a juvenile who has completed 10 years of age commits a crime he/she will be subject only to correction measures;

(f) Law No. 436 of 2000 amending articles 124, 125 and 126 of the Labour Code No. 91 of 1959 to prohibit the employment of minors.

Pursuant to the provisions of the Act No. 24, the following decisions were made by the Ministry of Social Affairs and Labour:

- (i) Decision No. 182 dated 28 February 2001 amending Decision No. 415 dated 26 August 1959 specifying the industries where it is prohibited to employ a minor under the age of 16;
- (ii) Decision No. 183 dated 18 February 2001 amending Decision No. 417 dated 26 August 1959 specifying the industries where it is prohibited to employ minors under the age of 18.

(g) Law No. 34 of 21 December 2000 amending articles 47 through 50 of the Agricultural Relations Act No. 134 of 1958 in order to prohibit the employment of minors in agriculture and specify the legal responsibility in the case of non-compliance.

### **At the cultural level**

385. The Syrian Ministry of Culture undertakes numerous activities and takes various measures aimed at providing the children with different sources of information and enabling them to acquire knowledge and to develop appreciation of other cultures. In this regard:

- (a) The Ministry issues a weekly magazine, "Osama" for the children. Some of its themes educate about the rights of the child and the universal human values enshrined in the Covenant;
- (b) A series of tales for the children is published which focuses on human issues with special reference to human rights and respect for all religions;
- (c) The first Children Conference was organized on 8 February 2004, which highlighted a number of themes including issues related to the child development and the rights of the child. The main items discussed at the Conference were: education, child culture, juvenile delinquency, child health, protection of children from economic exploitation, protection from violence, children employment, promotion of healthy life for the child during childhood and adolescence, children and the environment, raising awareness of environmental issues, child sex abuse, educational curricula and books, children with special needs, modern trends in education, children deprived of family care, etc. The Conference issued a number of recommendations;
- (d) The Ministry ensures wide dissemination of all UNICEF literature relating to the rights of the child. Such publications are circulated to all cultural and children centres to encourage children of all religions and sects, Muslims, Christians, Assyrians, and Kurds, to take part in the various activities organized in Syria. Those include carnivals, art and drawing competitions, musical and theatre events, etc. No discrimination of any kind exists in the enjoyment of cultural life in Syria;
- (e) A number of art exhibitions of the child have been organized jointly with some European countries, such as Ukraine and the Czech Republic. The Ministry is working on arranging similar events for more interaction between Syrian children and children of other countries of the world;

(f) Families are encouraged to visit museums, and accorded free admission, especially during school vacations and weekends, with the aim of enhancing awareness of their culture and history as well as the cultures of other societies.

386. Finally, the Syrian Arab Republic celebrates the International Day of the Child every year, focusing on childcare and welfare.

### **Article 25**

387. The Constitution of the Syrian Arab Republic guarantees the basic aspects of the political rights of citizens by emphasizing the fundamental principle that participation in the conduct of public affairs is a sacred right which every citizen must exercise in person or in association with others. In Syria, sovereignty is exercised by the people who, through the democratically elected people's councils, exercise their right to govern the State and guide society (art. 10 of the Constitution) either directly or through their representatives. The State guarantees the principle of equality of opportunity for its citizens, without any discrimination in regard to the exercise of their right to participate in political, economic, social and cultural life in the manner regulated by law. Every citizen has the right of access to public office. An entire section of the Constitution is devoted to the basic principles of the legislative authority vested in the People's Assembly, the members of which are elected directly by universal and equal suffrage and secret ballot in accordance with the provisions of article 50 of the Constitution and article 2 of the Electoral Law promulgated in Legislative Decree No. 26 of 14 April 1973. Article 57 of the Constitution stipulates that the Election Law must include provisions guaranteeing:

- (1) Freedom of the voters in electing their representatives and integrity of the election;
- (2) The right of the candidates to watch over the voting;
- (3) Punishment for those who tamper with the will of the voters.

388. Article 58 of the Constitution specifies that the elections shall be held within 90 days after the end of the term of the previous assembly. The General Election Law establishes a system for elections as follows:

- (a) Candidatures are submitted individually but candidates have the right to campaign as part of a list or a slate;
- (b) The voter in any constituency can vote for at least one candidate or for a number of candidates corresponding to the number of seats assigned to his constituency;
- (c) In each constituency, the number of candidates corresponding to the number of seats assigned for each constituency and who obtain the highest number of votes are declared elected.

389. The Electoral Law emphasizes the right of all Syrian citizens to elect their representatives to the People's Assembly, as well as their right to stand as candidates in elections to the Assembly, in conformity with article 25 of the Covenant. Article 3 of the Electoral Law stipulates as follows: "The right to vote shall be enjoyed by every male and female Syrian Arab

citizen who has reached the age of 18 on the first day of the year in which the election takes place unless he or she is deprived of that right in accordance with this Legislative Decree and the laws in force". The only persons who are deprived of the right to vote are those referred to in article 4 of the Electoral Law, which stipulates that:

"The following persons shall be deprived of the right to vote:

- (a) Persons placed under guardianship, for the duration of the guardianship;
- (b) Persons afflicted with mental illness, for the duration of the illness;
- (c) Persons sentenced under the terms of articles 63, 65 or 66 of the Penal Code or convicted of an offence prejudicial to honour".

390. Following is the text of these articles:

Article 63:

1. A sentence of life imprisonment, with or without hard labour, shall entail lifelong deprivation of civil rights.
2. A sentence of imprisonment, with or without hard labour, or a sentence of expulsion or restricted residence for a felony shall entail deprivation of civil rights from the day on which the judgement becomes final and for a period of 10 years from the date of enforcement of the original penalty.

Article 65:

Every person sentenced to detention or restricted residence for a misdemeanour shall be prohibited from exercising the following civil rights throughout the duration of the penalty:

- (a) The right of access to public office or public service;
- (b) The right to hold office or serve in the administration of his community's civil affairs or in the management of the professional association to which he belongs;
- (c) The right to vote or stand as a candidate in elections to Councils of State;
- (d) The right to vote or stand as a candidate in elections to any community or trade-union organization;
- (e) The right to wear Syrian or foreign orders of merit.

Article 66:

1. In certain cases specified by law, any penalty imposed for a misdemeanour may be accompanied by prohibition from exercising one or more of the rights referred to in the preceding article.
2. Such prohibition shall be imposed for a period ranging from 1 to 10 years.

391. The right of every Syrian citizen, without discrimination, to stand as a candidate for membership of the People's Assembly is guaranteed in the above-mentioned Electoral Law, article 17 of which stipulates that:

“Every male and female Syrian Arab citizen, including military personnel and the categories covered by the provisions of article 5 of this Legislative Decree, shall enjoy the right to stand as a candidate for membership of the People's Assembly provided that they meet the following conditions:

- (a) They must have held Syrian Arab nationality for not less than five years on the date of submission of their candidature;
- (b) They must enjoy the right to vote;
- (c) They must be over 25 years of age on the first day of the year in which the election is held;
- (d) They must be proficient in reading and writing.”

392. With regard to ministers, police officers, governors and civil servants who wish to stand as candidates for membership of the People's Assembly, article 18 of the Electoral Act stipulates that:

“(a) Ministers standing as candidates for membership of the People's Assembly may retain their posts;

(b) Governors and police officers may stand as candidates in a district other than that in which they are working but shall, ipso facto, be granted special leave without pay from the date of submission of their candidature until the conclusion of the electoral process. If they stand as a candidate in the electoral district in which they are working, they shall, ipso facto, be deemed to have resigned but shall be reinstated in their posts if they are not elected;

(c) Any other persons employed by the State, its institutions or agencies in the public or mixed sectors may stand as candidates but shall, ipso facto, be granted the leave provided for in the preceding paragraph.”

393. According to article 15 of the Electoral Law, every 59,000 citizens registered in the civil records, or any fraction of a constituency that exceeds this number, will be represented by one member in the Assembly. Article 16 of the law specifies that the decree calling voters to the polls should specify the number of seats assigned for workers and agricultural labourers. Their percentage in the current assembly is at least 50 per cent of all the seats. The Decree should also specify the number of the People's Assembly which stands at present at 250 members. Article 51 of the Constitution sets the term of the People's Assembly at four years beginning on the date of its first meeting.

394. It should be noted that violations of the Electoral Law fall under the Penal Code, of which article 319 deals with felonies committed in connection with elections. The penalty stipulated in article 756 of the Code also applies to any person who is required to sit on an

election committee, or is assigned with any activity in relation to the elections, but fails to do so. Any person who puts campaign posters outside of the places specified for this purpose is punished by a term of imprisonment of 10 days. A penalty of imprisonment for a term ranging from two months to two years is applied to “any person who casts a ballot while knowing that he is deprived of the right to vote or is suspended from exercising this right by a court ruling and any person who casts more than one ballot in a single election”.

395. The Constitution vests the People’s Assembly itself with the authority to determine the validity of members. Article 62 states that “the People’s Assembly shall rule on the validity of the membership of its members if it is challenged in light of investigations undertaken by the Supreme Constitutional Court within one month of the date of the notification to the Assembly of the Court’s verdict. Membership in the Assembly shall be invalidated only by a majority vote of its members.”

396. Article 27, paragraph (a), of the Electoral Law specifies the cases in which a seat becomes vacant as follows:

A seat in the People’s Assembly shall be considered vacant in any of the following cases:

- (a) Death, as of the date of death;
- (b) Resignation, as of the date of its acceptance by the Assembly;
- (c) Disqualification of candidature, from the date on which the Assembly decides to terminate membership.

397. For further clarifications concerning exercise of the right to vote and to participate in the country’s public affairs, the following is some information concerning elections to the Eighth People’s Assembly in 2003. The number of candidates for membership of the People’s Assembly in all the electoral districts amounted to 10,405 of whom 6,024 represented sector (a) which is workers and agricultural labourers, and 4,381 represented sector (b), which corresponds to other sectors of the population. There were 9,556 male candidates and 849 female candidates in 15 electoral districts with 10,388 polling stations.

398. According to the civil status registers the total electorate amounted to 10,817,821 persons and voters’ registration cards were issued to 7,181,206 persons. Thus the right to vote was exercised by 63.45 per cent or 4,556,475. Out of a total of 250 members of the Assembly, 170 members were elected for the first time. Members of the Assembly belonging to the National Progressive Front amounted to 167 members. In this Assembly female members amounted to 30 against 26 in the previous Assembly. Seven members of the Assembly are aged between 25 and 35 while 118 members are aged between 36 and 50; 145 members are university graduates, 29 have the general secondary school certificates, 33 have a lower education certificate while 43 members have a PhD degree.

399. Participation by citizens in the conduct of the country’s public affairs is not confined to a particular category of the people, since every Syrian Arab citizen has the right of access to public office, from the post of President of the Republic (art. 83 of the Constitution) to the lowest official rank. In fact, the Constitution regards the basic human rights and personal freedoms of

citizens as sacrosanct, all citizens being equal before the law in regard to the exercise of their rights and the fulfilment of their obligations. There is no discriminatory distinction, exclusion, restriction or preference in law, administrative practice or relations between groups or persons. Hence, in Syria, there is no basis for any form of discrimination, exclusion, preference or restriction on grounds of national or ethnic origin, race, colour, birth or gender which would impede the recognition, enjoyment or practice of human rights and fundamental freedoms in the political, economic, social or cultural fields, in employment or in any other sphere of public life.

### Article 26

400. All persons enjoy equal rights before the law, without distinction of any kind, such as national, ethnic or social origin, colour, gender language, religion, opinion, property, birth or other status. Syrian society is distinguished by its tolerance and lack of bigotry. The phenomenon of discrimination is unknown in the country's history and is totally alien to its society. Accordingly, Syria is engaged in a relentless battle against manifestations of racism wherever they occur, and particularly those which the Israeli occupation authorities are practising against Arab citizens.

401. The Constitution consecrates the principle of equality of before the law. Article 25 stipulates that:

- (a) Freedom is a sacred right. The State protects the personal freedom of the citizens and safeguards their dignity and security;
- (b) The supremacy of law is a fundamental principle in the society and the State;
- (c) Citizens are equal before the law in their rights and duties;
- (d) The State ensures the principle of equal opportunities for citizens.

402. Article 27 of the Constitution stipulates that "citizens exercise their rights and enjoy their freedoms in accordance with the law". The Syrian legal system applies to all persons without any discrimination on grounds of colour, race, religion, etc.

403. The law protects all members of Syrian society from any form of discrimination. Even though there has never been any discrimination in Syria, in order to preclude any manifestation thereof the legislature has designated as a punishable offence any act or written or oral communication that is intended to instigate confessional or racial bigotry or provoke conflict among the various communities and component elements of the nation (article 307 of the Syrian Penal Code). Article 308 of the Penal Code prescribes a penalty for membership of any association established for the purpose referred to in article 307. Articles 462 and 463 also prescribe penalties for offences against religious sensibilities. The Statutes of the Arab Baath Socialist Party, which is the leading party in the Syrian Arab Republic and in the National Progressive Front, designate participation in the elimination of apartheid, of all policies and practices of racial discrimination or segregation and of racist propaganda as a cornerstone of the State's public policy. According to those Statutes, the value of citizens can be determined only after they have been granted equal opportunities. Articles 28 and 94 of the Party's statutes

emphasize that citizens are equal in terms of human value and that there must be no discrimination among them on grounds of gender, origin, language or religion.

404. Equality in education is granted by both the Constitution and the law without any discrimination on grounds of race, colour, gender, language, religion, political or other opinion, national or social origin, wealth, lineage or any other grounds.

405. The educational policy in Syria emanates from the constitutional principles consecrated in article 25 of the Constitution which establishes the following principles:

- (a) Supremacy of the law is a fundamental principle in the society and the State;
- (b) Citizens are equal before the law in their rights and duties;
- (c) The State ensures the principle of equal opportunities for citizens.

406. Statutes for basic, secondary and university education strictly observe these principles and establish the following rules:

- (a) Absolute equality in admission to various stages of education;
- (b) Absolute equality in teaching, examinations, decrees, fellowships, grants and benefits;
- (c) Absolute equality in access to tools of scientific research, libraries and laboratories;
- (d) Absolute equality in the selection, promotion, remuneration and benefits of teaching staff.

407. While on the subject of education, it should be noted that the principles of human rights are taught at schools and universities and that the subject of human rights has become several years ago a course in the syllabus of the Faculties of Law, Arts and Education.

408. It should be noted here that the Syrian Arab Republic had been one of the first countries to accede to the International Convention Against Racial Segregation. It has also acceded to the International Convention on the Suppression and Punishment of the Crime of Apartheid and is a party to the International Convention Against Apartheid in Sports, the Convention on the Prevention and Punishment of the Crime of Genocide and all conventions related to slavery and forced labour. It has also acceded to the two international Covenants. At present Syria is drafting its first report under the Convention on the Elimination of All Forms of Discrimination Against Women and will submit it to the competent committee as soon as possible.

### **Article 27**

409. As already indicated, there is no place in the Syrian Arab Republic for any discrimination, exclusion, restriction or preference based on race, colour, descent, national or ethnic origin or gender which has the purpose or effect of nullifying or impairing the recognition,

enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social or cultural fields or in any other sphere of public life.

410. All citizens are equal before the law in regard to their rights and obligations and enjoy their rights and freedoms in accordance with the law and the Constitution. Freedom of belief is inviolable and the State respects all religions and guarantees full freedom of religious observance provided that it is not prejudicial to public order. Accordingly, the right of every religious community to profess and practise its religion and exercise its religious rights is firmly established in the Constitution and the laws in force.

411. The law protects all persons residing in the territory of the State, without any discrimination on grounds of race, origin, religion or nationality. Syria has never known any case of alleged discrimination in regard to this protection. All citizens enjoy the same rights, without any discriminatory treatment on grounds of race, origin, language or religion. They enjoy, on an equal footing, all the rights and privileges recognized in the International Covenant, the Constitution and the laws in force. No one can be prevented from enjoying the right to exercise freedom of thought and religion, freedom to change his religion or belief and freedom to manifest his religion through worship, teaching and religious observance alone or in association with others, in public or in private.

412. It should be noted that, although Islam constitutes one of the mainstays of public order in Syria, which regards religious observance as a basic human right, a citizen's religion or his exercise of this right in no way forms a basis for the establishment of his Syrian identity. For example all citizens of Kurdish origin enjoy Syrian nationality under our new laws or statutes that are specific to Kurds, since they are covered along with Syrian citizens by applicable laws and statutes. As an evidence, there are large numbers of Kurds on teaching staff of Syrian universities, in the army and in the internal security forces. There are Kurdish representatives in the People's Assembly and on the Council of Ministers and some of them had attained the post of President of the Republic or Prime Ministers. Thus Kurds are considered to be fully assimilated into Syrian society where they act and react along with other Syrian citizens.

413. Directives have been issued recently to resolve the situation of those who do not carry Syrian nationality; however, this situation cannot be resolved under a single decree but requires specific decrees for each case, which needs time. Once again we affirm that there is no discrimination or discriminatory measures against them.

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