



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Consideration of reports submitted by States
parties under article 19 of the Convention**

Initial report due in 2005

Syrian Arab Republic*

[16 July 2009]

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I. General overview of the Syrian Arab Republic

A. Geopolitical information

1. Location

1. The Syrian Arab Republic is situated on the eastern shores of the Mediterranean and is bounded by Turkey to the north, Iraq to the east, Palestine and Jordan to the south and Lebanon and the Mediterranean Sea to 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 is approximately 183 km long, making a grand total of 2,413 km.

2. Area

2. The total area of the Syrian Arab Republic is 185,180 km² (approximately 18,517,971 hectares), of which 6 million hectares consist of arable land and the rest is mountains and desert. In 1967, Israel occupied 1,260 km² of territory in the Syrian Golan, which was partly liberated (around 60 km²), together with the town of Quneitra, after the October 1973 liberation war. Today, 1,200 km² of territory in the Syrian Golan remains under Israeli occupation. The total area of the Golan is 1,860 km² and the Golan's borders overlap almost entirely with the administrative boundaries of the Quneitra governorate.

3. Climate

3. The Syrian Arab Republic has a predominantly Mediterranean climate, with rainy winters, dry summers and two short transitional seasons.

4. Administrative divisions

4. The Syrian Arab Republic is divided into 14 governorates. Each governorate is made up of districts which, in turn, are divided into subdistricts comprising a number of villages. The village is the smallest administrative unit.

5. Each governorate is administered by a governor, who is appointed by a decree of the President of the Republic, while districts and subdistricts are run by district or subdistrict chiefs, who are appointed by a decision of the Minister for Internal Affairs. Villages are run by village councils, headed by mayors who oversee the administration of each village and the surrounding farmland.

6. The chain of administrative responsibility runs from the bottom to the top, with the mayor reporting to the subdistrict chief, who in turn reports to the district chief, who in turn reports to the governor.

7. The seat of the governorate is in the city which gives the governorate its name, while that of the district is in the town which gives the district its name. In addition to the 14 governorates, there are 61 districts and 210 subdistricts.

5. Demography

8. Syria is a rich social and human mosaic. Throughout the ages it played host to the many venerable civilizations which successively ruled this geographically strategic part of the world. It was an intellectual, cultural and human melting pot for ancient civilizations such as those of the Assyrians, the Canaanites, the Aramaeans, the Phoenicians, the Syrians and the Eblans — the latter giving the world its first alphabet, Ugaritic — and for Arab and

Islamic civilizations. This land has deservedly been given many names, such as the “Land of Civilizations”, the “Cradle of Civilization”, etc.

9. Today, the Syrian Arab Republic is home to an ethnically and religiously diverse population. The inhabitants live together in harmony, unity and security, have the same rights and duties and are bound to one another by ties of citizenship and coexistence.

10. The population of the Syrian Arab Republic as of mid-2008 was estimated at 19,664,000: 10,042,000 males and 9,602,000 females.

11. Some 53.5 per cent of the population lives in rural areas, while the remainder (46.5 per cent) lives in urban areas.

12. The annual population growth rate for the period from 2000 to 2008 was 2.45 per cent and the total fertility rate in 2004 was 3.6 children per woman.

13. The demographic balance in the Syrian Arab Republic was disturbed when Israel occupied the Golan region of the Syrian Arab Republic. In 1967, as part of a systematic campaign aimed at terrorizing and intimidating the Syrian citizens of the Golan and at destroying their villages and property, more than 150,000 Syrians were forcibly displaced and had to abandon their homes and villages as a result of the Israeli occupation. However, the Israeli campaign did not succeed in its objective of ridding the Golan of its Syrian population. The people of the villages of Mas`adah, Buq`ata, Ayn Qunyah, Al-Ghajar and Suhayta in the far north of the Golan refused to leave their homes, notwithstanding the risks, threats and atrocities to which Israel subjected them. The estimated population of these villages in 2003 was 25,000.

14. Today, as a result of population growth, the number of displaced Syrians from the occupied Syrian Golan is estimated at approximately 500,000.

15. On 14 December 1981, Israel announced that it had annexed the occupied Syrian Golan. Following that announcement, the Security Council adopted resolution 497 (1981) declaring the Israeli annexation of Syrian Arab territory to be null and void. In an attempt to erase the Syrian Arab identity of the population, Israel adopted a decision requiring the people of the Syrian Golan to carry Israeli identity cards and this after it had eliminated, destroyed, modified the features of or renamed Syrian villages in the Golan. However, the Syrian population rejected the decision. Israel has been attempting since 1967 to erode the Syrian villages by encircling them and expropriating their agricultural land for use in settlement building. Israel is pursuing efforts to expand the existing 44 settlements in order to accommodate 4,500 new families to be brought in from different parts of the world over the coming decade and to be settled in the occupied Syrian Golan with the aim of altering and reversing the demographic facts on the ground.

16. The demographic disruption described above has been exacerbated by the presence of approximately half a million Palestinian refugees in the Syrian Arab Republic. The refugees were forced to leave their land following the Israeli occupation of Palestine and arrived in waves, the biggest influxes occurring in 1948 and 1967.

17. In addition, in 2003, around one and a half million Iraqi refugees were forced to seek refuge in neighbouring States, mainly the Syrian Arab Republic, as a result of the United States occupation of the Republic of Iraq. This has affected all aspects of life in the Syrian Arab Republic.

18. In this connection, we should point out that a national committee representing the relevant Syrian governmental and non-governmental organizations was formed to prepare the present report, in conjunction with prisoners' welfare associations.

Economic information

1. Features of the economy of the Syrian Arab Republic

19. The Constitution of the Syrian Arab Republic stipulates, in article 13, that the economy is a planned, socialist economy which is designed for the elimination of all forms of exploitation.

20. The Constitution regulates three kinds of property:

- (a) Public property, including natural resources and public utilities;
- (b) Joint property, including property belonging to civil and professional organizations;
- (c) Private property, including that owned by individuals.¹

21. In the 1960s, the Syrian Arab Republic embraced the principle of comprehensive economic planning and issued the first five-year plan for 1960–1966. The tenth five-year plan for 2006–2010 is currently in effect.

22. The main purpose of these plans is to lay the foundations for social justice and to achieve economic development.

23. In 1970, with the advent of the Corrective Movement, the Syrian Arab Republic embraced the principle of economic pluralism, whereby the public, private and mixed-economy sectors each play a role in economic and social development, with particular emphasis being laid on the lead role of the public sector. The nature and the size of each sector in the national economy have not remained static throughout the successive phases of development, however, but have been shaped by the economic and social imperatives of each phase.

24. From the early 1990s onwards, the policy of economic pluralism was characterized by further liberalization of the private and mixed-economy sectors, and a number of laws and regulations were introduced, in particular the Investment Promotion Act No. 10 of 1991, which opened the way for the participation of these two sectors in production, distribution, import, export, investment and services activities.

25. Pursuant to Act No. 22 of 2005, the Syrian Commission on Financial Markets and Securities was established to regulate and develop financial markets and related activities and to promote savings and investment.

26. In this connection, we should point out that the Investment Act No. 10, as amended, was replaced by Legislative Decree No. 8 of 2007, while the commission known as the “Syrian Investment Commission” was established by Legislative Decree No. 9 of 2007 to promote national investment and development and to improve the investment climate in the Syrian Arab Republic.

¹ Article 14 of the Constitution of the Syrian Arab Republic stipulates:
The law regulates three types of property:

- 1. Public property, consisting of natural resources, public utilities and public and State enterprises and institutions. The State undertakes to invest in and to oversee the administration of this property, which citizens have a duty to protect.
- 2. Joint property, which includes property owned by public and professional organizations, production units, cooperatives and other social institutions protected and supported by law.
- 3. Private property, consisting of property belonging to individuals. The law defines the social function of such property in the service of the national economy and in the context of the development plan. Such property may not be used in a manner prejudicial to the public interest.

27. The leadership of the Syrian Arab Republic takes a keen interest in economic liberalization and in updating the regulations on economic pluralism with a view to supporting and increasing reliance on the private and mixed-economy sectors, to generating employment in those sectors and to developing public sector systems and management. In early 2000, the Syrian Arab Republic embarked on a new economic path based on social market principles, in addition to those principles mentioned above.

28. According to the figures produced by the Central Statistics Bureau, in 2003, gross domestic product (GDP) amounted to 1,151 billion Syrian pounds (LS) at constant prices, an increase of 1.1 per cent over the figure of LS 1,006 billion in 2002. In 2005, GDP stood at LS 1,135 billion, compared with LS 1,085 billion in 2004, while in 2006, GDP amounted to LS 1,211 billion, an increase of 5.2 per cent over the 2005 figure. In 2007, GDP at constant prices was LS 1,288 billion, an increase of 6.3 per cent. As for current prices, GDP was LS 1,067 billion in 2003, an increase of 4.9 per cent over the figure of LS 1,017 billion in 2002. In 2004, GDP was LS 1,263 billion, as against LS 1,709 billion in 2006, 14.2 per cent higher than in 2005. GDP at current prices was LS 2,020 billion in 2007, an increase of 19 per cent.

29. The table below contains figures on national income for the period 2000–2007.

<i>Year</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
National income (in billions of LS)	821	893	930	981	1 167	1 364	1 576	1 905

30. The ninth five-year plan for 2001–2005 focused on two main areas: updating legislation and laws and restructuring economic policies with the aim of moving the Syrian economy away from a traditional model and towards an information-based model, while developing economic ties with Arab and foreign States. The plan was in two phases:

(a) From 2001 to 2003: follow-up on the structural reform and development process;

(b) From 2004 to 2005: consolidation of opportunities for growth based on the higher objective of follow-up on economic reform, modernization and development policies.

31. Public and private banks in the Syrian Arab Republic play an extremely important role in the conduct of economic activities and in the implementation of the Government's economic and financial policies.

32. The Syrian Arab Republic seeks to strengthen its commercial and economic ties with all countries of the world and works with them in defending its interests and the interests of developing countries in international economic forums. It has entered into trade, economic, scientific and technical cooperation agreements with many industrialized and developing countries, in addition to treaties on investment protection and double taxation. In 1977, the Syrian Arab Republic signed cooperation agreements with several member States of the European Union and on 14 December 2008 it initialled a partnership agreement with the European Commission in the framework of the Barcelona Process.

33. The Syrian Arab Republic is a member of the Arab free-trade area, which was set up under the auspices of the League of Arab States as the first stage in the creation of an Arab common market.

34. The Syrian Arab Republic actively participates, with Member States, in the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Development Programme (UNDP) and is a member of the Economic and Social

Commission for Western Asia (ESCWA). Negotiations on accession by the Syrian Arab Republic to the World Trade Organization are under way.

II. General legal framework for the prohibition of torture and other cruel, inhuman or degrading treatment or punishment

Political and legal aspects

1. The Constitution

35. The Permanent Constitution of the Syrian Arab Republic promulgated on 13 March 1973 is the pre-eminent law which regulates the functions of the State, as discharged by its various institutions. The Constitution comprises a preamble and four parts containing a total of 156 articles, which are divided up as follows.

- Part I, entitled “Basic principles”, is divided into four sections: political principles; economic principles; educational and cultural principles; and freedoms and public duties (arts. 1–49)
- Part II, entitled “Powers of the State”, is divided into three sections: legislative power, executive power and judicial power (arts. 50–148)
- Part III, entitled “Amendment of the Constitution”, consists of one article (art. 149)
- Part IV, entitled “General and transitional provisions” comprises seven articles (arts. 150–156)

The preamble states that the Constitution is based on fundamental principles, in particular that: “freedom is a sacred right and a citizen’s freedom can only be complete with economic and social emancipation”.

36. The Constitution of the Syrian Arab Republic contains explicit provisions on the preservation of personal freedom and dignity and the right to a defence in court (for more details, see paragraphs 48 to 55 of this report).

2. Syrian law

37. Syrian laws, including the Criminal Code, guarantee that all persons who, in or during the course of their duties, engage in or order acts of torture or the use of force will be punished. In addition, the authorities have adopted numerous regulations and procedures pursuant to the legislation and laws providing for the punishment of persons who use or order the use of torture or force (for more details see paragraphs 57–61, 97 and 102–103 of the present report).

3. International treaties

38. The Government of the Syrian Arab Republic is a party to a large number of international treaties and instruments which are concerned with respect for human dignity and fundamental rights and with strengthened compliance with related obligations. These treaties and instruments include:

- The International Covenant on Economic, Social and Cultural Rights of 16 December 1966
- The International Covenant on Civil and Political Rights of 16 December 1966
- The International Convention on the Elimination of all Forms of Racial Discrimination of 31 December 1965

- The International Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973
- The International Convention against Apartheid in Sports of 10 December 1985
- The International Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948
- The Convention on the Rights of the Child of 30 November 1989
- The Slavery Convention of 1926 and the Protocol of 1953 amending the Slavery Convention
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7 September 1956
- The Four Geneva Conventions of 1949 and the First Additional Protocol to the Geneva Conventions (Protocol I) of 1977
- The Convention on the Elimination of All Forms of Discrimination against Women²
- The Protocol Amending the Convention for the Suppression of the Traffic in Women and Children, concluded in Geneva on 3 September 1921
- The Convention for the Suppression of the Traffic in Women of Full Age of 11 October 1933
- The United Nations Convention against Transnational Organized Crime of 14 December 2000³
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000⁴
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime of 2000⁵
- The Arab Convention on the Suppression of Terrorism of 22 April 1998
- The Convention of the Organization of the Islamic Conference on Combating International Terrorism of 1999
- The Agreement on the Importation of Educational, Scientific and Cultural Materials, signed at New York on 22 November 1950
- The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, signed at Paris on 14 November 1970
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 18 December 1990⁶
- The International Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948

² Ratified by Decree 330 of 28 December 1979.

³ Ratified by Act No. 14 of 2008.

⁴ Ratified by Act No. 14 of 2008.

⁵ Ratified by Act No. 14 of 2008.

⁶ Ratified on 10 April 2005.

- The Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, and the Protocol amending the Convention signed in New York on 12 November 1947
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Final Protocol, New York, 21 March 1950
- The Protocol on the Suppression and Punishment of Trafficking in Women and Children, concluded at Geneva on 3 September 1921
- The Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 4 December 1989

39. In addition, the Government of the Syrian Arab Republic has acceded to 58 International Labour Organization (ILO) conventions on workers' rights and trade union freedoms, including the following:

- The Holidays with Pay (Sea) Convention, 1936 (No. 54)
- The Forced Labour Convention, 1930 (No. 29)
- The Hours of Work (Commerce and Offices) Convention, 1990 (No. 30)
- The Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
- The Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
- The Weekly Rest (Industry) Convention, 1921 (No. 14)
- The Hours of Work (Industry) Convention, 1919 (No. 1)
- The Unemployment Convention, 1919, (No. 2)
- The Right of Association (Agriculture) Convention, 1921 (No. 11)
- The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- The Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- The Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- The Worst Forms of Child Labour Convention, 1999 (No. 182)
- The Basic Cooperation Agreement between the Government of the Syrian Arab Republic and the United Nations Children's Fund (UNICEF), signed at Damascus on 18 September 1997

40. The Government of the Syrian Arab Republic had also acceded to a number of international treaties on cultural and intellectual rights in the framework of the United Nations Educational, Social and Cultural Organization (UNESCO).

4. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

41. The Syrian Arab Republic ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 1 July 2004,⁷ since which date the Convention has been part of its domestic legislation. The Convention does not conflict with the Syrian Constitution. Indeed, under domestic law, in the event of a conflict between any law and an international treaty to which the Government of the Syrian Arab Republic is a party, it is the international treaty which takes precedence. As stated in Court of Cassation ruling No. 23 of 1931: “A domestic law may not establish norms which are inconsistent with an existing international treaty, nor may it modify, albeit indirectly, a treaty’s implementing provisions.” Under article 25 of the Syrian Civil Code, pre-existing or other articles of law that conflict with an international treaty in force in the Syrian Arab Republic are inapplicable. In addition, article 311 of the Syrian Code of Civil Procedures stipulates: “Pre-existing norms shall be applied without prejudice to treaties concluded or to be concluded between the Syrian Arab Republic and other States in this regard.”

42. The Permanent Syrian Constitution of 1973, in particular articles 71 and 104 thereof, places treaties on a par with domestic law, provided that those treaties have been concluded and adopted in conformity with the Constitution. A duly approved international treaty which has been concluded and has entered into effect and which is incompatible with an existing law has the same legal validity as a domestic law. Hence, the courts are bound to apply the international treaty in the event of a conflict with domestic law, since the treaty effectively amends the law. The Syrian Court of Cassation, in a ruling issued in 1980, affirmed this principle in the following terms: “When the State enacts a law acceding to an international convention or an international treaty, the international instrument acquires the status of domestic law and must be applied by the courts by virtue of its being a part of domestic law, not because the State has undertaken to implement it.” The Court adds: “When an international instrument conflicts with domestic law, the former shall take precedence.” In its deliberation on the merits of an appeal laid before it, the Court explained:

“It remains for the domestic courts to give precedence to an international treaty over domestic law, inasmuch as article 25 of the Civil Code, which was written into law after a discussion on disputes over the territorial jurisdiction of laws, stipulates that existing provisions will only apply where there is no conflict with a special law or an international treaty in effect in the Syrian Arab Republic.”⁸

43. Syrian law therefore recognizes the principle that international treaties take precedence over domestic law when there is a conflict between them.

44. It must be pointed out that Syrian legislation long anticipated the Convention against Torture in terms of its recognition of human rights principles and of the need for protection from persecution and torture.

45. The judicial, administrative and other authorities with competence for or jurisdiction over the matters covered in the Convention are: the Supreme Constitutional Court; the ordinary and the military courts; the State Security Court; civilian public prosecutors; the Military Prosecutor-General; the labour court; military and police disciplinary panels; administrative and labour disciplinary tribunals; and the administrative authorities responsible for the police service and the management of prisons.

⁷ Ratified by Legislative Decree No. 39 of 2004.

⁸ Syrian Court of Cassation, civil 366, ruling 1905, 21 December 1980, issued by the second civil division.

5. Bilateral judicial treaties

46. The Syrian Arab Republic has concluded treaties on judicial matters with several States with a view, inter alia, to assisting individuals who are nationals of foreign States to secure their rights and obtain legal assistance and to transferring persons sentenced to deprivation of liberty to serve the remainder of their sentence in their home country.

47. According to article 20 of the Syrian Criminal Code, Syrian law applies to every Syrian abroad who commits, instigates or participates in the commission of a serious or a major offence which is punishable under Syrian law. The same rule applies, even if the accused has forfeited Syrian nationality or acquires Syrian nationality after committing a serious or a major offence.

Part II

Information on each article of the Convention

1. Legislative, judicial, administrative or other measures to give effect to the Convention

A. The Constitution

48. The Constitution of the Syrian Arab Republic contains explicit provisions safeguarding the freedom and dignity of persons and their right to a defence in court.

49. Article 49 of the Constitution stipulates as follows:

“(a) Every accused person is innocent until found guilty further to a reasoned court judgement.

“(b) No one may be investigated or arrested except in accordance with the law.

“(c) No one may be subjected to physical or mental torture or degrading treatment and the law shall prescribe the penalties for those who commit such acts.

“(d) The right to seek a legal remedy and to mount an appeal and a defence in court is guaranteed by law.”

50. Article 29 of the Constitution states: “No offence or penalty shall be recognized without a corresponding legal provision.”

51. Article 31 of the Constitution provides: “Homes are safeguarded and may not be entered or searched other than under the conditions stipulated by law.”

52. Article 33 of the Constitution stipulates:

“1. A citizen may not be expelled from the nation.

“2. Every citizen has the right to move around the country, unless prohibited from doing so pursuant to a court order or public health and safety laws.”

53. Article 34 states:

“Political refugees shall not be extradited on account of their political principles or their defence of liberty.”

54. Article 35 of the Constitution stipulates:

“1. Freedom of belief is safeguarded and the State shall respect all religions.

“2. The State shall guarantee the freedom of all religious denominations, without prejudice to the preservation of public order.”

55. Article 46 of the Constitution states:

“1. The State shall care for all citizens and their families in the event of an emergency, an illness, a disability, a child being orphaned and old age.

“2. The State shall protect citizens’ health and provide preventive health care, treatment and medicine.”

56. It is clear from the foregoing that, under the Basic Law of the State, all persons are guaranteed the right to: a fair trial; preservation of their dignity; protection from torture; respect for their wishes and beliefs; respect for the inviolability of their home; and protection from expulsion from the nation. Moreover, political refugees cannot be extradited on account of their political principles or their defence of liberty.

B. The Criminal Code

57. The Syrian Criminal Code issued by Legislative Decree No. 148 of 22 June 1949 prohibits torture, safeguards human dignity, forbids the use of any form of duress and prohibits detention or imprisonment under circumstances not provided for by law, as explained below.

58. Article 357 of the Code provides:

“Any public official who arrests or detains a person in circumstances not provided for by law shall be subject to a penalty of a fixed-term of imprisonment with hard labour.”

59. Article 358 of the Criminal Code stipulates:

“Any warden or guard of a prison or of a disciplinary or correctional facility and any official vested with the functions of these persons who admits a prisoner without a court order or decision or keeps a prisoner there for longer than the stipulated term shall be subject to a penalty of from one to three years in prison.”

60. Article 360 of the Code stipulates:

“1. Any public official who, acting in his official capacity, enters a person’s home or an annex thereto in circumstances not permitted by law shall, without prejudice to the applicable rules, face a penalty of from three months to three years in prison.

“2. The penalty shall be not less than six months, if the act was accompanied by a search of the premises or any other arbitrary act.”

61. Article 391 of the Criminal Code states:

“1. Anyone who batters a person with a degree of force that is not permitted by law in order to extract a confession to, or information about, an offence shall be subject to a penalty of from three months to three years in prison.

“2. If the assault causes an illness or an injury, the penalty shall be a minimum of one year’s imprisonment.”

C. The Code of Criminal Procedures

62. The Code of Criminal Procedures safeguards human dignity, human freedom and the right to a self-defence. Hence:

63. Article 69 of the Code stipulates:

“1. Investigating judges shall, upon presentation of accused persons, verify the identity of the accused, inform them of the allegations made, ask them to respond to them and caution them about their right not to respond without their lawyer being present. This caution shall be recorded as a separate entry in the investigation report.

“2. Where an accused person in a criminal case cannot afford a lawyer and asks the investigating judge to appoint counsel for him/her, the appointment shall be made by the chairman of the Bar in his jurisdiction, if there is a bar association there. Otherwise, the judge shall make the appointment, if there is a lawyer in his jurisdiction.”

64. Article 89 of the Code stipulates:

“1. Homes may not be entered and searched unless the person whose home is to be entered and searched is suspected of committing, aiding and abetting or participating in a criminal offence or of possessing items connected to an offence or of harbouring an accused person.

“2. For a judge to enter a home in the absence of the above-mentioned conditions constitutes an arbitrary act which may give rise to a formal complaint.”

65. Article 104 of the Code states:

“1. The investigating judge shall immediately question the accused persons brought in pursuant to a writ of summons. Persons brought in pursuant to a warrant shall be questioned within 24 hours of placement in custody.

“2. Once the 24 hours have expired, the custody officer, acting on his own initiative, shall refer the accused to the public prosecutor, who in turn shall ask the investigating judge to interview the accused. If the investigating judge declines or is absent, or if any other lawful impediment exists, the public prosecutor shall ask another investigating judge, the president of a court of first instance or a justice of the peace to conduct the interview. If the accused cannot be interviewed, the public prosecutor shall order his/her immediate release.”

66. Article 105 of the Code provides:

“If an accused person is arrested pursuant to a warrant and is held in custody for over 24 hours without being questioned or presented to a public prosecutor in accordance with the preceding article, his/her arrest shall be deemed an arbitrary act and the official responsible for it shall be prosecuted for deprivation of liberty under article 358 of the Criminal Code.”

67. Article 117 of the Code states:

“1. In any type of offence, the investigating judge, upon consultation with the public prosecutor, may decide to release an accused person who has been summoned, provided that the accused undertakes to attend all proceedings when asked to do so and to comply with the judgement when it is handed down.

“2. If the offence is a major offence for which the maximum penalty is one year's imprisonment and if the accused is a Syrian national, the accused must be released within five days of being questioned.”

68. Article 274 of the Code stipulates:

“The president or a judge designated by him shall ask the accused whether he/she has elected defence counsel. If this has not been done, the president or his deputy shall immediately appoint a lawyer; failing which any subsequent

proceedings shall be legally null and void, even if the court appoints a lawyer for the accused at trial.”

69. Under the same Code, judges are entitled to inspect prisons and to protect individuals from unlawful imprisonment. Hence, under articles 15, 25 and 26 of the Code of Criminal Procedures, public prosecutors, investigating judges and justices of the police must release any person being detained illegally in a place not designated by the Government for the purpose of detention.

D. Code of Military Procedures

70. The Code of Military Procedures provides guarantees for accused persons who are presented to investigation departments or the courts at different levels. It recognizes the principle that a lawyer must be present when the accused is questioned and that defendants must be represented in court, particularly when the offence being tried carries a custodial sentence.

71. Article 70 of the Code stipulates:

“Every defendant brought before the military courts to answer for a crime shall be represented by counsel.”

72. Article 71 provides:

“No one has the right to undertake the defence of an accused person who is absent.”

73. Article 72 stipulates:

“The defence of accused persons who do not engage a lawyer shall be undertaken by a lawyer or an officer.”

E. The Juvenile Offenders Act

74. The Juvenile Offenders Act No. 18 of 30 March 1974, as amended, is among the progressive laws in effect in the Syrian Arab Republic. It incorporates the latest concepts and theories about the care of juvenile offenders.

75. The Act affirms the general rule that only reform measures are to be imposed on juvenile offenders. Juveniles over the age of 15 who commit a serious offence of any kind receive lighter sentences, which will be served in special facilities. Under article 26 of the Act, other juveniles are subject to welfare and reform measures which are applied in reform institutions that provide education, vocational training, appropriate work and advice and guidance on dealing with life and making a decent living.

F. Regulatory provisions

76. Article 23 of the Prisons Regulation states:

“All prisons shall have completely separate wards for men and women which shall be arranged in such a way as to prevent any communication between one ward and another. Inmates in the following categories shall be held in separate quarters:

(a) Persons accused of lesser offences, persons who have been charged and those who have been detained on account of a debt, insolvency or an indecent act;

(b) Persons sentenced to less than one year’s imprisonment for an offence; persons convicted of a major offence or a serious crime who must be sent to

a central prison; persons convicted of an indecent act; and persons imprisoned for a debt owed to the State in respect of a serious crime or a major offence;

(c) Young prisoners.”

77. Article 40 of the Act stipulates:

“Young prisoners shall be kept entirely separate from adult prisoners both at night and during the day.

78. Article 214 of the Police Service Regulation provides:

“Except for specified offences in which there are witnesses, the police shall not make an arrest without an order or a warrant issued by a competent authority. Any officer or non-commissioned officer or policeman who, in breach of this provision, presents, delivers or serves an arrest warrant or who participates in executing a warrant or who arrests a person caught in the act shall be prosecuted for making an arbitrary arrest.”

79. Circular No. 10 dated 26 December 2004, issued by the Minister for Internal Affairs, reaffirms the content of article 28, paragraph 3, of the Constitution, which prohibits the use of physical or mental torture or degrading treatment and provides for the punishment of the perpetrators of such acts according to the law and other legal articles which criminalize the use of force and violence and prescribe severe penalties for any person who commits such acts. In the circular, members of the police are requested to hold meetings to: “familiarize themselves with the prohibitions on the use of violence against persons on remand and prisoners and to receive instructions on performing their duties in a responsible manner. Successful investigators can arrive at the desired result using proper scientific and technical methods to establish the facts of a case without needing to resort to illegal methods”.

80. Minister for Internal Affairs circular No. 19439 of 4 July 2004 stipulates that police units must abide by Legislative Decree No. 39 of 1 July 2004 ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

81. The Ministry of Social Affairs and Labour has established regulations and procedural rules for social welfare institutions and centres and the residential facilities which they run and oversee (such as juvenile offenders institutions, employment homes for vagrants, institutes for the blind and special education institutes for the welfare of the deaf and profoundly deaf), prohibiting the use of violence and torture against the residents of these institutions. These institutions were established to protect inmates, offer them health, psychological and social assistance, assist with their rehabilitation and correct their behaviour with a view to their social reintegration. Any staff member in such a facility who carries out an act that is prohibited under the Convention is liable to the penalties laid down in the Criminal Code, in addition to administrative and disciplinary sanctions which can include dismissal and termination of employment.

2. Cases where the law has been enforced and perpetrators punished

82. We provide below, by way of example, a non-exhaustive list of cases where persons guilty of torture, unlawful detention and harsh treatment were punished pursuant to the laws in force.

- Case No. 1881 of 7 August 2008: a police sergeant was dismissed for beating two girls while questioning them about a robbery
- Case No. 577 of 9 March 2007: a police officer (district chief) and a number of his men were sent to court and convicted under article 366 of the general Criminal Code for abuse of authority; they had deprived two persons of their liberty and tortured

them while questioning them about a robbery. The officer and the men were dismissed by a disciplinary board

- Case No. 339, Aleppo Criminal Division No. 3, 31 August 2002: two police sergeants were prosecuted for causing fatal bodily harm, were sentenced to a fixed term of imprisonment with hard labour and were ordered to pay 700,000 Syrian pounds (LS) in compensation to the families of the deceased
- Case No. 82, Aleppo Criminal Division No. 1, 9 December 1999: a police sergeant and two police constables were convicted of causing fatal bodily harm, were sentenced to a term of imprisonment with hard labour and were ordered to pay compensation to the family of the deceased

83. We cite below some examples of cases tried by the military courts.

- Case No. 1099, judgement No. 588 of 2007, issued by the first Military Court of Damascus: a torture case in which the perpetrator was convicted and sent before a military disciplinary board which inflicted disciplinary sanctions
- Case No. 493, first Military Court of Damascus, judgement No. 436 of 2007: a case of deprivation of liberty and torture in which the perpetrator was prosecuted and sent before a military disciplinary board which inflicted disciplinary sanctions

Article 1

84. Syrian law does not define torture but does prescribe harsh penalties for law enforcement personnel who infringe freedoms, ill-treat persons being interviewed or use force and violence. This is consistent with the guarantees set out in the Constitution of the Syrian Arab Republic and in a number of Syrian laws.

85. Article 28 of the Constitution of the Syrian Arab Republic stipulates:

- “1. Every accused person is innocent until found guilty pursuant to a reasoned court judgement.
- “2. No one may be investigated or arrested except in accordance with the law.
- “3. No one may be subjected to physical or mental torture or to degrading treatment and the law shall define the punishment for any person who commits such acts.
- “4. The right to a legal remedy, to mount an appeal and to a defence in court is safeguarded by law.”

86. Article 29 of the Constitution states:

“No offence or penalty shall be recognized without a corresponding legal provision.”

87. Article 33 of the Constitution stipulates:

- “1. A citizen may not be expelled from the nation.
- “2. Every citizen has the right to move around the country, unless prohibited from doing so pursuant to a court order or public health and safety laws.”

88. Article 46 of the Constitution provides:

- “1. The State shall provide for all citizens and their families in the event of an emergency, an illness, a disability, a child being orphaned and old age.
- “2. The State shall protect the health of citizens and provide preventive health care, treatment and medicine.”

89. Article 357 of the Criminal Code stipulates:
- “Anyone who arrests or detains a person under conditions other than those stipulated by law shall be subject to a fixed term of imprisonment with hard labour.”
90. Article 358 of the Code provides:
- “Any warden or guard of a prison or disciplinary or correctional facility and any official vested with the functions of these persons who admits a prisoner without a court order or decision or keeps a prisoner there for longer than the stipulated term shall be subject to a penalty of from one to three years in prison.”
91. Article 391 of the Criminal Code stipulates:
- “1. Anyone who batters a person with a degree of force that is not permitted by law in order to extract a confession to, or information about, an offence shall be subject to a penalty of from three months to three years in prison.
- “2. If the assault causes an illness or an injury, the minimum penalty shall be one year’s imprisonment.”
92. Article 69 of the Code stipulates:
- “1. Investigating judges shall, upon presentation of accused persons, verify the identity of the accused, inform them of the allegations made, ask them to respond to them and caution them about their right not to respond without their lawyer being present. This caution shall be recorded as a separate entry in the investigation report.
- “2. Where an accused person in a criminal case cannot afford a lawyer and asks the investigating judge to appoint counsel for him/her, the appointment shall be made by the chairman of the Bar in his jurisdiction, if there is a bar association board there. Otherwise, the judge shall make the appointment, if there is a lawyer in his jurisdiction.
- “3. Where speed is of the essence due to a fear of losing evidence, the accused may be interviewed before his/her lawyer is summoned to attend.”
93. Article 89 of the Code stipulates:
- “1. Homes may not be entered and searched unless the person whose home is to be entered and searched is suspected of committing, aiding and abetting or participating in a criminal offence or of possessing items connected to an offence or of harbouring an accused person.
- “2. For a judge to enter a home in the absence of the above-mentioned conditions constitutes an arbitrary act which may give rise to a formal complaint.”
94. Article 104 of the Code provides:
- “1. The investigating judge shall immediately question accused persons brought in pursuant to a writ of summons. Persons brought in pursuant to a warrant shall be questioned within 24 hours of placement in custody.
- “2. Once the 24 hours have expired, the custody officer, acting on his own initiative, shall refer the accused to the public prosecutor, who in turn shall ask the investigating judge to interview the accused. If the investigating judge declines or is absent, or if any other lawful impediment exists, the public prosecutor shall ask another investigating judge, the president of a court of first instance or a justice of the peace to conduct the interview. If the accused cannot be interviewed, the public prosecutor shall order his/her immediate release.”
95. Article 105 of the Code provides:

“If an accused person is arrested pursuant to a warrant and is held in custody for over 24 hours without being questioned or presented to a public prosecutor in accordance with the preceding article, his/her arrest shall be deemed an arbitrary act and the official responsible for it shall be prosecuted for deprivation of liberty under article 358 of the Criminal Code.”

96. Article 117 of the Code states:

“1. In any type of offence, the investigating judge, upon consultation with the public prosecutor, may decide to release an accused person who has been summoned, provided that the accused undertakes to attend all proceedings when asked to do so and to comply with the judgement when it is handed down.

“2. If the offence is a major offence for which the maximum penalty is one year’s imprisonment and if the accused is a Syrian national, the accused must be released within five days of being questioned.”

Article 2, paragraph 1

97. Article 105 of the Code of Criminal Procedures stipulates:

“If an accused person is arrested pursuant to a warrant and is held in custody for over 24 hours without being questioned or presented to a public prosecutor in accordance with the preceding article, his/her arrest shall be deemed an arbitrary act and the official responsible for it shall be prosecuted for deprivation of liberty under article 358 of the Criminal Code.”

98. The legislature has established rules which guarantee the rights of persons in detention to undergo medical examinations and to maintain contact with their families. Every prison has a medical centre where prisoners who are ill are examined and anyone complaining of an illness is treated. Treatment is prescribed and is provided free of charge. Large prisons have their own clinics which treat sick prisoners.

99. Persons in detention can contact their relatives and families using the direct dial telephones installed in each prison. They are entitled to receive visits, subject to the conditions laid down in the Prisons Regulation No. 1222.

100. The Act sets out the disciplinary measures to be taken against law enforcement personnel in order to guarantee that any of them who breach the regulations will be brought before disciplinary boards and tribunals.

101. Article 214 of the Police Service Regulation stipulates:

“Except for specified offences in which there are witnesses, the police shall not make an arrest without an order or a warrant issued by a competent authority. Any officer, non-commissioned officer or policeman who, in breach of this provision, presents, delivers or serves an arrest warrant or who participates in executing a warrant or who arrests a person caught in the act shall be prosecuted for making an arbitrary arrest.”

102. Under article 30 of the Prisons Regulation of 1929 and Act No. 496 of 1957, no public official or guard may use force against detainees or employ them to perform private services for them or ask them for assistance in carrying out work, other than in authorized cases. Anyone who breaches these rules and the directives on guard work and custodial service is liable, depending on the gravity of the breach, to the penalties prescribed in the laws and regulations in force.

103. Any public official who breaches the Convention or the prevailing laws is liable to disciplinary action. The person will be brought before a disciplinary tribunal and will face

disciplinary sanctions ranging from a warning to termination of employment and dismissal or referral to the courts. A person may be prosecuted by the Office of the Public Prosecutor further to a complaint from an aggrieved party and may face a private prosecution, if this is a condition of the public prosecution case.

104. In any event, aggrieved parties may seek fair compensation for material and psychological damage. A number of verdicts have been returned against public officials found guilty of breaching the law. The officials were punished and ordered to pay compensation to the victims (see paragraph 82 of the present report).

105. Under the Code of Criminal Procedures, lawyers must be engaged to defend persons charged with serious crimes. The aim here is to guarantee defendants their constitutional right to a defence, since the legislature views being charged with a serious offence as a grave matter. This procedure is one of the inalienable rights that is afforded in the framework of the right to a defence and is followed by all State courts, including the military courts.

106. Article 72 of the Code of Military Procedures stipulates:

“The defence of accused persons who do not engage a lawyer shall be undertaken by a lawyer or an officer.”

107. Article 73 of the same Code provides:

“The public prosecutor shall verify, three days before the sitting, that the defendant has chosen a person to defend him, even if that person is not a defence lawyer or, if the lawyer is not able to defend him, the public prosecutor shall appoint a lawyer from the officers or lawyers designated by the chairman of the bar for this purpose.”

108. Article 74 of the Code stipulates:

“In an offence in which there are witnesses, a lawyer shall be appointed at the sitting itself, if the accused agrees to be tried straight away. Otherwise, the case will be postponed until the earliest possible sitting to be convened by the court after a lawyer has been appointed.”

109. Article 75 stipulates:

“The case file shall be deposited with the court registry and shall be made available to the lawyer not less than 24 hours before the sitting. The lawyer may make a copy of the entire case file, except for any classified documents which he may be prohibited from copying.”

Article 2, paragraph 2

110. The State of Emergency Act issued by Legislative Decree No. 51 of 22 December 1962, as amended by Legislative Decree No. 1 of 9 March 1963, applies to exceptional situations where there is an internal or external threat to national survival. The Act empowers the competent authorities to take all lawful measures to protect all or part of the territory, the territorial waters and the airspace of the State against these threats.

111. The Syrian Arab Republic, which is a founder member of the United Nations, has been subjected by Israel to the actual threat of war since 1948. Sometimes, this threat has reached the stage of an attack against Syrian territory, airspace and territorial waters. A case in point is the occupation by Israel in 1967 of part of Syrian Arab territory, which continues to be occupied to the present day, and the displacement of a large section of the population. Other Israeli attacks include the assault against the Ayn al-Sahib area on 5 October 2003,

violations of Syrian airspace on 28 June 2006 and the attack against a site in the north of the Syrian Arab Republic on 6 September 2007.

112. The aforementioned situation, namely, the one created by Israel, where there exists a real threat of war, where part of the territory of the Syrian Arab Republic remains under occupation and where there is a real threat that the occupation may be widened - all this in violation of United Nations resolutions calling for respect for the sovereignty, independence and territorial integrity of States - has created an exceptional state of affairs in which the Syrian Arab Republic needs to mobilize its forces quickly and as a matter of urgency so that the authorities can take prompt decisions to deal with imminent threats, in keeping with article 46 of the Constitution (see paragraph 55 above) and the laws in force. Thus, the State of Emergency Act needs to remain in force.

113. The State of Emergency Act is applied in the narrowest of circumstances in the Syrian Arab Republic and under very special conditions. Hence, the Act does not in any way take precedence over the Constitution and Syrian laws or over any other international commitments.

114. In order to avoid any excesses in regard to an existing state of emergency, the legislature has imposed restrictions on the operation of the State of Emergency Act. It allows the competent courts to overturn decisions of the Military Governor, as illustrated by the examples listed hereunder.

- Administrative Court ruling No. 140 of 6 April 1995
- Ruling No. 726/1 of 2002
- Ruling No. 1242/1/2002 of 22 September 2002
- Administrative Court ruling No. 1951 issued on 29 December 2002 in case No. 2139 of 2002
- Higher Administrative Court ruling No. 29 issued in Appeal No. 61 of 1971
- Administrative Court ruling No. 291 of 1970
- Administrative Court ruling No. 147 issued in Appeal No. 275 of 1973
- Administrative Court ruling No. 562 issued in case No. 890 of 1976

Article 2, paragraph 3

115. The Syrian laws in effect classify torture as an offence and prescribe penalties for those who commit this offence, whether acting on orders from a superior or on their own initiative or in any other circumstances.

116. A person who receives an order to carry out torture can refuse to obey and can register his/her objections with a higher authority. The so-called duty of obedience cannot be used as part of a defence under criminal law, because torturers must be punished under the laws in force.

117. Article 182 of the Criminal Code stipulates:

“An act which is carried out in exercise of a right without abusing that right shall not be deemed an offence.”

118. Article 183 states:

“1. The exercise of a right is any act dictated by a compelling need to oppose an unlawful or unjustified assault upon one’s person or property or upon the person or property of a third party.

“2. Personal protection shall be afforded to natural and legal persons.

“3. If the defence commits a breach of law, the perpetrator of the offence may be exempted from punishment subject to the conditions laid down in article 277.”

Article 3

119. Under article 33 of the Syrian Constitution, no Syrian may be expelled from the national soil. Furthermore, the general legal principles which regulate all the relevant treaties on judicial matters prohibit the extradition to a foreign State, on any grounds whatsoever, of a Syrian national and of any person who is a resident of the Syrian Arab Republic, where the person being extradited would risk being subjected to torture, degrading treatment or intimidation. Syrian nationals and foreign residents are entirely at liberty to respond to a request from a foreign State for assistance in providing testimony or expertise. These persons cannot be compelled to travel to that foreign State in order to render such assistance. The foreign State must return the citizen or the foreign resident to the Syrian Arab Republic upon completion of the requested service.

Article 4

120. Disciplinary measures, such as suspension from work, transfer or a disciplinary sanction, are imposed where allegations of torture during the investigation stage are made.

121. Torture offences are time-barred from prosecution under the Code of Criminal Procedures and the general Criminal Code.

122. As for judgements handed down in such cases, the statute of limitations is twice the number of years in the prescribed penalty, provided that this period is not less than 5 and not more than 10 years. As for criminal cases, generally speaking, the statute of limitations is twice the number of years in the prescribed penalty, provided that this period is not more than 20 and not less than 10 years.

123. The statute of limitations on major offences is three years, if a public prosecution has not been initiated against the offender. The statute of limitations on a serious offence is 10 years, if a public prosecution has not been initiated against the offender.

Article 5

124. One of the general rules which the Syrian Arab Republic, in keeping with the Syrian Constitution, includes in the treaties on judicial matters that it concludes with other States is that Syrian citizens may not be extradited to a foreign State.

125. With regard to the extradition of criminals who commit torture or other offences, the judicial treaties that the Syrian Arab Republic has signed with a large number of States contain provisions making extradition compulsory if the offence was committed in the territory of the requesting State, unless the offender is a national of the Syrian Arab Republic, in which case extradition cannot be effected and the judicial authorities must instead apprehend and initiate proceedings against the individual concerned. It has been established by Syrian case-law that, in the application of domestic legislation, the legal norms set forth in bilateral or multilateral judicial conventions or treaties have priority and take precedence over domestic laws, as they have a higher status than them.

126. Under article 20 of the Syrian Criminal Code, Syrian law applies to every Syrian abroad who commits, instigates or is an accessory to a serious or a major offence which is punishable under Syrian law. The same rule applies to persons who have forfeited Syrian nationality or who acquire it after committing a serious or a major offence.

127. Under article 23 of the same Code, Syrian law applies to every foreign resident of the Syrian Arab Republic who commits, instigates or participates in the commission abroad of a serious or a major offence under articles 19 to 21 of the Code, where the person's return is not requested or granted.

128. Syrian law does not apply to the offences listed in article 20, which carry a penalty of less than three years' imprisonment, or to any offence listed in article 23 which is not punishable under the laws of the State in which the offence was carried out (Criminal Code, art. 24).

129. If there is a discrepancy between Syrian law and the law of the place where the offence was committed, a court, when applying Syrian law in conformity with articles 20 to 23, may take account of this discrepancy in a manner that is beneficial to the defendant (Criminal Code, art. 25).

130. Under article 29 of the Criminal Code, judgements handed down by foreign courts in respect of acts which are classified as serious or major offences under Syrian law may be applied as follows:

- In order to enforce related measures concerning prevention, loss of capacity and forfeiture of rights, subject to compliance with Syrian law, and to guarantee restitution, compensation and other civil [measures].
- In order to impose such measures provided for by Syrian law concerning prevention, loss of capacity, forfeiture of rights, restitution, compensation and other civil measures.
- In order to apply the provisions of Syrian law on recidivism, habitual offending and criminal conspiracy and to suspend the operation of a judgement in effect and to restore a person's good name. The Syrian courts may verify that the foreign judgement is legally valid on formal grounds and on the merits by reviewing the case documents.

131. Under article 34 of the general Criminal Code, an extradition request may be refused, if it relates to a political offence or appears to be politically motivated, if the person whose extradition is sought was previously enslaved in the requesting State, or if the penalty prescribed by the law of the requesting State is incompatible with the social order. What is meant by the social order is that the person whose extradition is sought would be subjected to physical disfigurement, burning by fire or amputation.

132. The State of Emergency Act issued by Legislative Decree No. 51 of 22 December 2006 does not impose any restrictions on the extradition or return of persons.

133. In dealing with extradition, the Syrian Arab Republic follows a mixed (administrative and judicial) approach, although it is dominated by the judicial approach, such as the one used in Anglo-Saxon systems. Provisions on this approach are found in article 35 of the Criminal Code and Act No. 53 of 5 April 1955, concerning the rules on extradition.

134. A committee known as the Extradition Committee reviews extradition requests. Its members are appointed by decree, upon the recommendation of the Minister of Justice, and the Committee consists of:

- The Deputy Minister of Justice (Chairperson)
- A judge from the Ministry of Justice (Member)
- A judge from the Ministry of Justice (Member)

Article 6

135. Article 357 of the Criminal Code stipulates:

“Any public official who arrests or imprisons a person under circumstances not provided for by law shall be subject to a penalty of a fixed-term of imprisonment with hard labour.”

136. Article 358 of the Criminal Code stipulates:

“Any warden or guard of a prison or disciplinary or correctional facility and any official vested with the functions of these persons who admits a prisoner without a court order or decision or keeps a prisoner there for longer than the stipulated term shall be subject to a penalty of from one to three years in prison.”

137. It must be pointed out that the right to seek a legal remedy in the Syrian Arab Republic is safeguarded by the Constitution and the law. Consequently, any individual who claims that his/her rights have been violated by an official entity or an individual may lay the matter before the ordinary or the administrative courts. Once a final decision has been handed down, it must be enforced, regardless of the status of the person against whom the decision finds.

138. There should be nothing in the proceedings that is obscure or complicated. The complainant or aggrieved party must just need to lodge a complaint or an ordinary petition with the Attorney-General in order to institute proceedings in accordance with due process.

139. Under article 6 of the Code of Criminal Procedures, members of the Criminal Investigation Department are responsible for investigating offences, gathering evidence, apprehending criminals and referring them to the courts with competence for imposing sentences.

140. The Prosecutor-General oversees the delivery of justice, judicial departments, prisons, detention facilities and law enforcement, represents the executive authority in court and in judicial bodies, brings public prosecutions and enforces sentences. The judiciary, the Office of the Public Prosecutor and the Ministry of the Interior monitor places of detention and prisons in order to verify compliance with the law and the proper treatment of prisoners and detainees.

141. Syrian criminal laws make no distinction between Syrians and foreigners in terms of their treatment in court. Hence, under the criminal laws in force, equality of treatment is extended to all persons who appear in court, and foreigners are afforded the same guarantees and rights as Syrians, even if the foreigner committed a criminal offence abroad, provided that the Syrian courts have jurisdiction in the matter.

142. Torture offences are censured in Syrian legislation both by the Constitution and by the laws in force, in particular the Syrian Criminal Code issued by Legislative Decree No. 148 of 1949, regardless of whether the perpetrator is a public official or an ordinary individual. A torture offence committed by a Syrian is governed by Syrian law, whether the offence took place in the Syrian Arab Republic or abroad. Similarly, torture offences committed by Syrians or foreigners in the Syrian Arab Republic are governed by Syrian law further to article 15 of the Criminal Code, concerning territorial jurisdiction, and article 20 thereof, concerning personal jurisdiction. In any event, persons accused of torture are afforded the guarantees and rights set out in the Code of Criminal Procedures, including the right, under article 69 of the Code, not to respond in the absence of their lawyer to allegations presented by an investigating judge. In addition, Syrian legislation prohibits the use of any form of torture or duress against suspects, accused persons or defendants in any stage of an investigation and trial and during preliminary investigations conducted by the police. Alleged criminals have the right to present all evidence likely to prove them

innocent and it is for the courts to dismiss and to assess this evidence. A verdict of guilt must be based on certain and incontrovertible evidence.

143. Persons convicted of an offence can appeal against the verdict pursuant to the Code of Criminal Procedures. No one may be arrested without a court warrant, otherwise the arrest will be deemed an arbitrary act. Article 105 of the Code of Criminal Procedures stipulates:

“If an accused person is arrested pursuant to a warrant and is held in custody for over 24 hours without being questioned or presented to a public prosecutor in accordance with the preceding article, his/her arrest shall be deemed an arbitrary act and the official responsible for it shall be prosecuted for the offence of deprivation of liberty under article 358 of the Criminal Code.”

144. Article 104 simply provides that an accused person brought in pursuant to a warrant must be questioned by an investigating judge within 24 hours of being placed in custody.

145. Article 15 of the Code of Criminal Procedures states:

“The Prosecutor-General shall oversee the justice process and judicial departments, prisons, detention facilities and law enforcement, engage in the administration of justice, represent the executive authority in court and judicial departments and report directly to the Ministry of Justice.”

146. Article 25 of the Code stipulates:

“Any official authority or public official that learns during the course of their duties about the commission of a serious or a major offence shall immediately report the matter to the competent public prosecutor and shall send all information, reports and documents about the offence.”

147. Article 26 of the Code states:

“1. Anyone who witnesses a public security breach or an attack upon a person’s life or property shall report the matter to the competent public prosecutor.

“2. Anyone who learns in other circumstances about the commission of an offence shall report the matter to a public prosecutor.”

Article 7

148. Torture offences committed by Syrians or foreigners in the Syrian Arab Republic are governed by Syrian law further to the provisions of article 15 of the Criminal Code on territorial jurisdiction, which read as follows:

“1. Syrian law applies to all offences committed in the Syrian Arab Republic.

“2. An offence shall be deemed to have been committed in the Syrian Arab Republic:

“(a) If an element of the offence, an act that is inseparable from the offence or a primary or subsidiary act that contributed to the offence was carried out therein;

“(b) If the outcome of the offence occurred or was expected to occur therein.”

149. The matter of personal jurisdiction is taken up in article 20 of the Criminal Code, which states:

“Syrian law applies to every Syrian who commits, instigates or participates in the commission abroad of a serious or a major offence which is punishable under Syrian law. The same rule applies, even if the accused has forfeited Syrian

nationality or acquires Syrian nationality after committing a serious or a major offence.”

150. In any event, persons accused of torture are afforded the guarantees and rights set out in the Code of Criminal Procedures, including the right not to respond in the absence of their lawyer to allegations presented by the investigating judge. This is in keeping with article 69 of the Code, which states:

“1. Investigating judges shall, upon presentation of accused persons, verify the identity of the accused, inform them of the allegations made, ask them to respond to them and caution them about their right not to respond without their lawyer being present. This caution shall be recorded as a separate entry in the investigation report.

“2. Where an accused person in a criminal case cannot afford a lawyer and asks the investigating judge to appoint counsel for him/her, the appointment shall be made by the chairman of the bar in his jurisdiction, if there is a bar association there. Otherwise, the judge shall make the appointment, if there is a lawyer in his jurisdiction.

“3. Where speed is of the essence due to a fear that evidence may be lost, the accused may be interviewed before his/her lawyer is summoned to attend.”

151. Syrian legislation prohibits the use of any form of torture or duress against suspects, accused persons or defendants in any stage of an investigation and trial and during preliminary investigations conducted by the police. Alleged criminals have the right to present all evidence likely to prove them innocent and it is for the courts to dismiss and to assess this evidence. A verdict of guilt must always be based on certain and incontrovertible evidence. Persons convicted of an offence can appeal the court’s verdict in accordance with the Code of Criminal Procedures. No one may be arrested without a court warrant, otherwise the arrest will be deemed an arbitrary act. Article 105 of the Code of Criminal Procedures stipulates:

“If an accused person is arrested pursuant to a warrant and is held in custody for over 24 hours without being questioned or presented to a public prosecutor in accordance with the preceding article, his/her arrest shall be deemed an arbitrary act and the official responsible for it shall be prosecuted for the offence of deprivation of liberty under article 358 of the Criminal Code.”

152. Article 339 of the Code of Criminal Procedures stipulates:

“The Office of the Public Prosecutor, the plaintiff, and the respondent, each acting within their respective areas of competence, may appeal to the Court of Cassation against a verdict handed down in absentia by a criminal court in a serious offence.”

153. Article 340 states:

“To appeal to the Court of Cassation is:

“(a) A right extended to the convicted person;

“(b) A right extended to the respondent and the plaintiff, solely with regard to civil obligations;

“(c) A right extended to the Office of the Public Prosecutor; where a sentence of death is delivered in the presence of the parties, the case shall be referred to the Court of Cassation, together with the Court’s opinion, not more than one month from the date on which the deadline for an appeal by both sides expires.

“The Court of Cassation shall decide whether to uphold or to overturn a death sentence referred to it pursuant to the preceding paragraph.”

154. The Constitution of the Syrian Arab Republic contains explicit provisions on the preservation of freedoms, personal dignity and the right to a defence in court (Constitution, arts. 28, 29 and 33).

Articles 8 and 9

155. Extradition is carried out under the conditions agreed to by States which have entered into treaties on this matter and subject to their laws. Article 30 of the Syrian Criminal Code stipulates:

“No one shall be extradited to a foreign State, except for the cases stipulated in this Code, unless in implementation of a treaty which carries the force of law.”

156. The Syrian Arab Republic has acceded to and ratified a number of treaties on judicial cooperation and extradition and has enacted several laws on these matters. Examples include the following:

- The Convention on Friendship, Good Neighbourliness and Extradition signed with Turkey on 30 May 1962
- The Judicial Convention between the Syrian Arab Republic and Lebanon of 3 August 1953
- The Judicial Convention between the Syrian Arab Republic and Jordan of 23 December 1953
- Act No. 53 of 5 April 1955, concerning extradition procedures
- Act No. 55 of 27 December 1955, ratifying the Judicial Convention on Extradition of Ordinary Criminals and Persons Prosecuted for Ordinary Offences
- Act No. 155, ratifying the Judicial Convention on Extradition, Judicial Notices and Letters Rogatory, and the Enforcement of Judgements, adopted by the Council of the League of Arab States on 14 September 1952
- Legislative Decree No. 30 of 18 February 1971, concerning judicial cooperation with the Democratic Republic of Germany
- Act No. 34 of 25 September 1977, ratifying the Judicial Cooperation Convention between the Syrian Arab Republic and Bulgaria
- Legislative Decree No. 27 of 12 August 1979, concerning the Judicial Convention between the Syrian Arab Republic and the United Arab Emirates
- Legislative Decree No. 28 of 12 August 1979, concerning the Judicial Convention between the Syrian Arab Republic and Romania
- Act No. 36 of 16 August 1981, concerning the Judicial Convention between the Syrian Arab Republic and Algeria
- Act No. 7 of 1 April 1982, concerning the Judicial Convention between the Syrian Arab Republic and Turkey
- Act No. 8 of 1 April 1982, concerning the Judicial Convention between the Syrian Arab Republic and Greece
- Act No. 28 of 1982, concerning the Judicial Convention between the Syrian Arab Republic and Tunisia
- Act No. 14 of 1983, concerning the Riyadh Convention on judicial cooperation

- Act No. 23 of 24 October 1985, concerning the Judicial Convention with Poland
- Act No. 10 of 29 March 1986, concerning the Judicial Convention between the Syrian Arab Republic and Cyprus
- Legislative Decree No. 27 of 1986, concerning the Judicial Convention between Hungary and the Syrian Arab Republic
- Judicial Cooperation Convention of 1998 on Civil, Commercial, Criminal and Personal Status Matters and the Transfer of Convicted Persons between the Syrian Arab Republic and Egypt
- Judicial and Legal Cooperation Convention of 1999 between the Syrian Arab Republic and the Sudan
- Judicial and Legal Cooperation Convention of 1999 between the Syrian Arab Republic and Kuwait
- Judicial and Legal Cooperation Convention of 2000 between the Syrian Arab Republic and the United Arab Emirates
- Judicial and Legal Cooperation Convention of 2001 between the Syrian Arab Republic and Bahrain

157. A person who commits the offence of torture must be extradited, if the conditions set out above are met. In other words, extradition is obligatory, subject to fulfilment of the relevant conditions and provided that there is no impediment to the process. If these conditions are not met, the competent Syrian judicial authorities must try the perpetrator of the offence.

158. We should point out that extradition is not absolutely contingent upon the existence of a treaty. Extradition may be carried out without reference to a treaty but in accordance with the laws in force in the Syrian Arab Republic, including the Criminal Code, provided that the conditions established by law are met. The Syrian Criminal Code stipulates that perpetrators shall be prosecuted and punished for offences that they commit outside the Syrian Arab Republic which are not covered by the rules on territorial and personal jurisdiction. In such cases, prosecutions are brought further to the general jurisdiction rule which requires the judiciary to prosecute offenders for whom extradition requests have been rejected or have not been made. The purpose of this stipulation is to ensure that no criminal evades prosecution and punishment.

Article 10

159. The Ministry of the Interior takes part in local, Arab and international human rights seminars and courses and has run several seminars and courses on the subjects of human rights, children and juvenile offenders, in conjunction with the United Nations Children's Fund (UNICEF) bureau in Damascus, and on international humanitarian law and human rights with the delegation of the International Committee of the Red Cross (ICRC) in Damascus. The subject of human rights is included in the curricula for officer training courses taught at the Officer Training Institute and in courses and foundation courses run by the Police Academy for cadets, non-commissioned officers and members of the ranks. The Ministry of the Interior, in conjunction with the Geneva Institute for Human Rights, ran four human rights training courses for police officers in 2007 and another four in 2008. Several officers have been sent to Switzerland to attend human rights courses and were issued with trainers' certificates; these are continuing courses.

160. A number of police officers assigned to the Syrian Commission for Family Affairs have attended training courses in the Syrian Arab Republic and abroad on treating women and young persons in an appropriate and respectful manner.

161. Medical doctors are assigned as duty doctors in prisons and there are clinics in central prisons to treat prisoners who are ill. If necessary, a prisoner may be transferred to a clinic outside a prison and will remain under guard until he or she is on the road to recovery. Syrian prisons are free from sexually-transmitted diseases, since the authorities carry out regular health inspections and free treatment and medicines are made available to all prisoners.

162. Article 105 of the Prisons Regulation stipulates:

“Prisoners who are ill shall be treated in their cells or in sick wards, unless they have an infectious disease. They shall only be sent to the provincial prison hospital, if they cannot be treated in prison.”

163. Article 106 provides:

“A sick ward shall be established in every detention facility, whether in a central prison or a provincial prison, so that it can be used as a hospital for prisoners in these institutions or for prisoners who may be transferred there from a district facility.”

164. Article 111 states:

“If, during a prison visit, a doctor detects signs of an illness, he/she shall make a note about it in the logbook and shall give his/her opinion about an appropriate remedy. The warden or chief guard shall forward the doctor’s comments to the officer in charge.”

165. Article 112 provides:

“All necessary means to prevent and combat infectious and transmittable diseases shall be taken by the administration in consultation with the prison doctor. The clothing of a prisoner who dies or who is suffering from a transmittable disease shall be disinfected, together with the prisoner’s cell.”

166. Prison food, consisting of three meals a day, is distributed to all prisoners without exception. There are also clubs in prisons for those who wish to purchase such items of food as they may need.

167. Prison welfare associations work with the Ministry of Social Affairs and Labour and operate as civil society organizations in the governorates where they are found, providing health and psychological care and training, education and rehabilitation services to prisoners and detainees and protecting them from torture and cruel or degrading treatment and physical harm with a view to their social rehabilitation and reintegration. They also provide employment and follow-up care, even after release, and protection from all forms of physical and sexual exploitation in prison or detention.

168. The aims of these associations include providing prisoners with a decent living, protecting them from violence and making sure that prisoners are segregated according to the gravity and nature of the offence and their sex.

169. Under the internal regulations of employment homes for vagrants and the homeless and of institutes for juvenile offenders, staff, social workers and supervisors are urged to treat inmates humanely during their time at these institutions. Juvenile offenders are sent to these institutions pursuant to court judgements or decisions, and any staff member or public official who breaches the applicable laws and regulations on treatment of inmates at these institutions is subject to the penalties specified in the Criminal Code and the Disciplinary Tribunals Act.

170. Labour inspectors from the Ministry of Social Affairs and Labour, while interviewing employees and employers at enterprises subject to the Labour Code No. 91 of

1959, as amended, are prohibited from arresting, torturing or ill-treating an employer who is in breach of the Labour Code, under pain of legal and disciplinary sanctions.

171. The Ministry of Social Affairs and Labour requires staff at these homes and institutions to attend in-house and external training courses, which are run jointly with relevant international organizations and with civil society participation, on management of these institutions with a view to providing the humane care which the inmates deserve.

Article 11

172. The Prisons Regulation which was issued by Ministry of the Interior decision No. 1222 of 1929, as amended, contains regulations and directives on treatment of persons in custody (see paragraphs 76-77 and 161-166 of the report).

173. The Regulation also applies to the rights of prisoners to communicate with their lawyers and family members and to visiting rights (see paragraph 99).

174. Standing Order No. 1103 issued by the Minister for Internal Affairs on 10 August 2002 sets out the procedure for notifying accredited foreign consulates in the Syrian Arab Republic about offences which the nationals of the States concerned commit in the Syrian Arab Republic. The Order states: "When a foreigner, a non-Syrian Arab or a person of similar status commits in the Syrian Arab Republic an offence for which that person must be placed in custody, the operations department shall be immediately notified by telegramme of the details of the charge preferred. The department shall in turn inform the consular department (for Arabs and foreigners) of the Ministry of Foreign Affairs. The liaison section shall notify the competent authorities in the home country of the person in custody."

175. A special committee is currently drafting a penal institutions bill in line with developments in this domain.

176. The Minister for Internal Affairs established a development committee at the Ministry on 5 December 2007 to study and refine legislation and regulations on the Ministry's work. As part of the process, a number of officers were sent to Turkey to learn about and benefit from the experience of prisons there. The committee learns from the experiences in other countries in policing and in the development of national police institutions in all domains.

177. In order to guarantee everyone deprived of their liberty humane treatment which preserves the inherent dignity of the person, the Ministry of Justice, the Ministry of the Interior and the Prosecutor-General are empowered to inspect prisons to verify that inmates are being treated humanely.

- Under article 1, paragraph (e), of the Judicial Authority Act, the Ministry of Justice is empowered to inspect prisons and detention facilities to verify the legality of conditions for convicted prisoners and persons on remand and compliance with health and other applicable regulations
- Under article 13 of the same Act, the inspection department of the Ministry of Justice and the President of the Supreme Council of the Judiciary must inspect prisons, detention facilities and reform institutions to verify the legality of inmates' detention, the enforcement of penalties and of preventive and reform measures, the treatment of inmates under the supervision of officials and compliance with health regulations and internal rules and procedures
- Article 422 of the Code of Criminal Procedures stipulates that checks must be carried out by investigating judges and justices of the peace once a month and by criminal court presidents at least once every three months to verify the well-being of

persons in detention and in prison, in order to ensure that inmates are receiving decent treatment

- Article 30 of the Syrian Prisons Regulation prohibits all prison officers and guards from using force against prisoners and from giving them derogatory nicknames, addressing them in foul language, making fun of them, forcing them to do personal favours for them and asking them to help them in their work unless this is permitted in special cases

Article 12

178. The authorities empowered to initiate and carry out criminal and disciplinary proceedings, further to Deputy Minister for Internal Affairs Standing Order No. 261 of 28 March 1984, concerning the enforcement of disciplinary tribunals' judgements, will refer any person who practises torture to a disciplinary tribunal as soon as the torture occurs. Referral may be based either on a complaint or a recommendation of the President or of a committee formed by the Minister for Internal Affairs.

179. A person who is subjected to torture may be referred to a police doctor and the necessary samples will be taken for use as legal evidence against the perpetrator.

180. The alleged perpetrator will be suspended from duty for a period of from three months to one year (disciplinary suspension) while the investigation is under way.

181. Cases where prosecutions were brought and penalties imposed are mentioned above (see paragraph 82).

Article 13

182. The Constitution of the Syrian Arab Republic states: "Citizens are equal before the law in terms of rights and obligations." The Constitution guarantees citizens "the exercise of their rights and the enjoyment of their freedoms in accordance with the law" and states that every citizen is entitled to contribute to political, cultural and social life, as regulated by law.

183. Consequently, there is no discrimination (between persons based on colour, sex, race, language or nationality) or selectivity in this area, and this constitutes the best guarantee against any form of discrimination, the Constitution being the highest law of the State and therefore binding on all, on pain of legal prosecution.

184. Syrian criminal laws make no distinction between Syrians and foreigners in terms of their treatment in court. Hence, under the criminal laws in force, equality of treatment is extended to all persons who appear in court and foreigners are afforded the same guarantees and rights as Syrians, even if they committed a criminal offence abroad, provided that the Syrian courts have jurisdiction in the matter.

185. In addition to the legal procedures which guarantee citizens the right to seek a legal remedy in court and to secure their rights, the late President Hafiz al-Assad issued Republican Decree No. 29 of 1971, establishing a complaints office overseen by the Ministry of Presidential Affairs of the Republic. The office is responsible for receiving and processing complaints and grievances from citizens and for taking appropriate action. It submits a monthly report to the President of the Republic. In this way all citizens are granted the equal right to bring a complaint about any violations of their rights and freedoms and complaints may be forwarded to the Central Oversight and Inspection Commission for investigation, if the allegations involved relate to professional misconduct.

Articles 14 and 15

186. Under the Code of Criminal Procedures and the Criminal Code victims of crime, including the crime of torture, have the right to obtain compensation by applying to a competent court which will award fair and appropriate compensation depending on the circumstances of the case. The award will take account of the damage suffered, loss of earnings and other losses and all other circumstances. Compensation will be awarded taking into account all material and psychological damage incurred.

187. Moreover, the State may be held liable, together with the perpetrator of the act, and may be ordered to provide appropriate compensation jointly with the perpetrator. In such cases, only the authority where the perpetrator works shall be held liable.

188. These provisions are found in article 142 of the Criminal Code and article 57 *et seq.* of the Code of Criminal Procedures.

189. By law, anyone who is tortured by a public official can bring an action seeking the prosecution and punishment of that official. The victim can submit a complaint to the Office of the Public Prosecutor to bring a public prosecution case against the official with a view to the infliction of punishment if guilt is proved.

190. Where a victim files a complaint with the Office of the Public Prosecutor and it refuses to prosecute the public official concerned, the complainant can apply directly to an investigating judge or competent court to bring an action against the perpetrator. In this case, the perpetrator will be prosecuted directly by the court without the involvement of the Office of the Public Prosecutor.

191. Some legal norms derived from court judgements:

- No reliance may be placed on a confession extracted using violence or force⁹
- A confession in a criminal case is the weakest evidence¹⁰
- Defendants are not bound by their previous statements or prior confessions¹¹
- Silence does not amount to a confession¹²
- It is for the court to widen an investigation in order to determine the validity of a confession¹³
- If a court suspects that a confession has been extracted by force, it shall investigate the matter in accordance with due process principles in order to ensure that justice is done¹⁴

Article 16

192. There is nothing in Syrian law which authorizes any form of cruel or inhuman treatment in police stations, prisons or any other place. All persons in detention awaiting trial or release and all convicted prisoners receive comprehensive care in terms of accommodation and proper food. They are free to pursue any pastime that they like in prison such as reading, drawing and playing musical instruments, and there are libraries containing culture and history books in these places. Any prisoner can borrow a book free

⁹ Court of Cassation ruling No. 1460/1503 of 10 November 1980.

¹⁰ Court of Cassation ruling No. 461/449 of 27 May 1978.

¹¹ Court of Cassation ruling No. 765/873 of 26 December 1963.

¹² Court of Cassation ruling No. 3182/2626 of 17 October 1963.

¹³ Court of Cassation ruling No. 357/314 of 15 April 1953.

¹⁴ Court of Cassation ruling No. 297/374 of 20 April 1966.

of charge and the prison administration can allow prisoners to pursue their studies and to sit examinations. There are schools up to the third grade of secondary education in central prisons and university students can attend university and sit examinations under guard. There are vocational schools in prisons which deal with a full range of subjects and teach occupations such as metal work, carpentry, mechanics, etc., with a view to the rehabilitation and social reintegration of prisoners.

193. The Prisons Regulation in the Syrian Arab Republic provides for the delivery of health care to prisoners. Specialized doctors examine prisoners on a continuous basis and prisoners and detainees are transferred if necessary to a hospital where they can be examined and can undergo surgical operations at the State's expense.

194. Women are assigned special detention and imprisonment facilities which are completely segregated from the facilities for men. They receive health and human care, particularly if they are pregnant or breastfeeding. Women and their infants are provided with appropriate medical care and special food delivered by female police officers.

195. Where the perpetrator of an offence is a juvenile, only the reform measures set out in the Juveniles Act No. 18 of 1974, as amended, shall be imposed. These measures are listed in article 4 of the Act as follows:

- (a) Placement under the supervision of one or both parents or of the legal guardian;
- (b) Placement with a family member;
- (c) Placement in an institution or with an association that is licensed to care for young persons;
- (d) Placement in a supervision centre;
- (e) Placement in a special juvenile reformatory;
- (f) Detention in a custodial facility;
- (g) Probation;
- (h) Restriction of residence;
- (i) Injunction on frequenting of places of ill-repute;
- (j) Injunction on performing any kind of work;
- (k) Care.

196. Juvenile reform institutions offer education, vocational training, appropriate work and advice and guidance on dealing with life and making a decent living, in accordance with article 26 of the above-mentioned Act. Juveniles over the age of 15 who commit serious offences (the gravest kinds of offences under Syrian law) receive much lighter sentences and are held in reform institutions where they must be assigned to a special juvenile wing, as stated in article 29 of the Juveniles Act. Under no circumstances may juveniles frequent or be placed in the same quarters as adult prisoners. Juvenile welfare in reform institutions is assured by qualified personnel who are recognized for their skill and good moral standing.

197. It is noteworthy that juvenile offenders are not given a criminal record and are not subject to capital punishment.