



# International Covenant on Civil and Political Rights

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## Human Rights Committee Seventy-first session

### Summary record of the 1916th meeting

Held at Headquarters, New York, on Friday, 30 March 2001, at 10 a.m.

*Chairperson:* Mr. Bhagwati

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01-31226 (E)



*The meeting was called to order at 10.10 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant (continued)**

*Second periodic report of the Syrian Arab Republic (CCPR/C/SYR/2000/2; CCPR/C/71/L/SYR)*

1. *At the invitation of the Chairperson, the delegation of the Syrian Arab Republic took places at the Committee table.*

2. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that he welcomed the opportunity to reply to the Committee's questions and wished to convey his Government's apologies for the late submission of its second periodic report.

3. After summarizing his legal qualifications and human rights experience, particularly in crime-related matters, he emphasized that his country was a popular democracy with a republican system of government that attached great importance to the sovereignty of the Constitution, the law and fundamental human rights. Its institutions were democratically elected and its citizens exercised their rights in administering the State and leading society without discrimination as to social class, sex, race, colour, religion or political opinion. Freedom was a sacred right; the State guaranteed the personal liberty of citizens and safeguarded their dignity and security. No one could be investigated, arrested or searched except in accordance with the law, which also prohibited mental and physical torture, as well as degrading treatment, and punished the perpetrators of such acts.

4. The right of legal remedy, defence and appeal was guaranteed by law and the only crimes and punishments were those defined by law. Other basic principles were the presumption of innocence, the open trial of suspects and the right of a suspect to be represented by a lawyer, who was permitted to make unsupervised contact with the suspect at any time. The confidentiality of postal and telegraphic communications was equally guaranteed, as was the inviolability of homes, which could be entered and searched only as prescribed by law.

5. As the State respected all religions, freedom of belief was similarly guaranteed, together with freedom of religious observance. All citizens had the right to

express their opinions freely and publicly, whether verbally, in writing or through any other means, in which connection freedom of the press, printing and publication was guaranteed in accordance with the law. In addition, citizens enjoyed the right of assembly and peaceful demonstration in a manner consistent with the principles of the Constitution and the law.

6. As the Committee was aware, the Syrian Arab Republic had been under a state of emergency since 8 March 1963 in accordance with the State of Emergency Act, pursuant to which the competent authorities were empowered to take the exceptional measures stipulated therein in order to protect the State from danger. That state of emergency had persisted until the present time for a succession of reasons: the political opponents of the regime which came to power in March 1963 had employed violent and destructive means to express their opposition; in 1967, Israel occupied Syrian territory, destroying civilian and economic life and driving out almost half a million inhabitants; and in 1982, the Israeli army had entered Lebanon and engaged in fierce battles with the Syrian army. Moreover, it was now rumoured that the new Israeli Government was preparing to wage sudden war on the Syrian Arab Republic with a view to coercing its acceptance of Israeli conditions at the next peace negotiations.

7. Not only did Israel still continue to occupy Syrian territory and expel inhabitants, but it threatened to expand its occupation, thus creating an exceptional situation which required Syrian troops to remain on perpetual alert in order to meet any emergency. Furthermore, at the end of the 1970s and 1980s, violent clashes between the security forces and armed members of the Muslim Brotherhood were a daily occurrence that often resulted in civilian casualties, while in 1975, the Muslim Brotherhood had embarked on a widescale campaign to assassinate government officials and intellectuals with a view to spreading chaos and alarm throughout the country. He asserted, however, that the State of Emergency Act was applied only within the narrowest limits and that martial law orders were now rarely issued, while no one other than the perpetrators of serious crimes, such as murder, armed assault and drug trafficking, was ever held under the Act and then for no longer than seven days. In any event, martial law orders were administrative decisions which could be set aside on appeal by the

administrative courts, as had happened on a number of occasions.

8. He wished to draw attention to the fact that the information on the Syrian Arab Republic provided by some organizations was highly exaggerated, having originated largely from opponents to the Syrian regime who were intent on harming the Syrian Government and denouncing it in international forums. Had those organizations taken the trouble to verify such information with the competent Syrian authorities, they would soon have discovered that it was false.

9. In conclusion, he affirmed that the Syrian Arab Republic was party to a variety of binding international human rights instruments and which it fully implemented. Desiring to maintain cooperation with all United Nations organizations and bodies, his Government was ever willing to engage in dialogue and exchange on any issue with a view to eliminating any lack of clarity, as demonstrated by the appearance of its representatives before the Committee. He assured the Committee of his Government's interest in its observations and questions, which would be carefully considered by the competent Syrian authorities.

*List of issues (CCPR/C/71/L/SYR)*

*Constitutional and legal framework within which the Covenant is implemented (article 2 of the Covenant)*

10. **The Chairperson** invited the delegation of the Syrian Arab Republic to reply to the questions in paragraphs 1-2 of the list of issues on whether the Covenant could be directly invoked before the courts, what remedies were available, and whether there were any judicial decisions in that respect; what legislative or other measures had been taken to ensure respect for the rights set forth in the Covenant; what legal, administrative and other remedies were available; and whether there was an independent body responsible for ensuring respect for human rights.

11. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) confirmed that Covenant rights could be directly invoked before the courts; in his own pleas on behalf of defendants, for example, he frequently referred to the principles enshrined in the Covenant and to the legal texts which were consistent with those principles. There were two remedies available to persons claiming violation of their Covenant rights. The first was the administrative

remedy of recourse to the Complaints Bureau set up by the late President Hafez Al-Assad in 1970 to deal with citizens' complaints and grievances, which was required to submit monthly reports to the President of the Republic.

12. Any person whose Covenant rights had been violated could also avail himself of the remedy of the courts in order to seek punishment of those who had caused the violation and claim compensation. Article 25 of the Civil Code explicitly stated that any legal provision which conflicted with the provisions of international treaties would cease to apply, a principle further affirmed in article 311 of the Code of Criminal Procedure. The same rule was also established by independent judges and regarded as a fundamental legal axiom.

13. Since the accession of the Syrian Arab Republic to the Covenant on 12 April 1969, the Syrian legislator had used its provisions as a constant reference whenever codifying a law relating to the Covenant. The importance which his country attached to the Covenant was broadly demonstrated by the drafting of the 1973 Constitution, which was not only fully consistent with the provisions of the Covenant but even reflected them in some of its articles. The Complaints Bureau attached to the Office of the President also carefully monitored application of the provisions of the Covenant. After again referring to his earlier explanation of the administrative and legal remedies available to persons whose rights or freedoms had been violated, he stated that the task of ensuring respect for human rights was borne by the courts and by the Complaints Bureau.

*State of emergency (article 4 of the Covenant)*

14. **The Chairperson** invited the delegation of the Syrian Arab Republic to reply to the questions in paragraph 3 of the list of issues: constitutional mechanism by which a state of emergency could be declared, whether there had been any derogation from Covenant rights since the declaration of the state of emergency in Syria, and if so, why the Secretary-General had not been notified of that derogation.

15. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that, pursuant to article 1 of Legislative Decree No. 51 of 22 December 1962, a state of emergency could be declared in the event of war or the threat of war or in the event that security and public order was endangered as a result of internal

unrest or the occurrence of a general disaster. Article 2 of the Act provided that a state of emergency should be declared by means of a decree adopted by a majority of two thirds at a meeting of the Council of Ministers chaired by the President, with the proviso that the decree should be presented to the House of Representatives at its next meeting. Article 101 of the Constitution also provided that a state of emergency was to be declared by the President of the Republic as prescribed by law.

16. There had been no derogation from Covenant rights after the declaration of the state of emergency. Since the Syrian Arab Republic's accession to the Covenant in 1969, the Government had done its utmost to ensure that no such derogation occurred. The provisions of the State of Emergency Act were strictly applied and the Martial Law Administrator made no use of his powers beyond the limits stipulated therein. The State of Emergency Act was now only minimally applied solely in connection with extremely serious crimes and for very short periods of time.

*Gender equality and principle of non-discrimination  
(article 3 of the Covenant)*

17. **The Chairperson** invited the delegation of the Syrian Arab Republic to reply to the questions in paragraph 4 of the list of issues: measures taken by the State party to ensure gender equality in matters relating to personal status, and whether it planned to take measures to enhance the participation and representation of women in the political field and in civil society.

18. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that the Personal Status Act had been in force in the Syrian Arab Republic since 1953 and was based on the Shariah with respect to Muslims and on Christian law with respect to Christians. The Act provided for full equality between husband and wife.

19. The marriage age for young women, who had the right of consent to marriage, was 17, although girls who were physically mature could marry at a younger age with leave from the religious chief justice. Both husband and wife had authority within the family and although the Shariah empowered men to pronounce divorce, there were several restrictions on their exercise of that right and divorce was moreover dependent on a court ruling. Nonetheless, women were

also permitted to seek divorce through the courts. A husband's estate was divided between his wife, her children and any stepchildren, although she was entitled to receive a share of one eighth, irrespective of the number of children and other legitimate claimants.

20. The Constitution and laws in the Syrian Arab Republic guaranteed women's political rights, both in theory and practice, to an extent rarely witnessed in any other country. Women enjoyed all the same constitutional, legal, political and social rights as men and had the right to vote in general elections, as well as the right to stand as candidates for the membership of any council. The proportion of women in the People's Assembly currently stood at 10.4 per cent and the Ministers of Culture and Social Affairs were both women. Women had the absolute right to work and received the same remuneration as men for the same work. In many university and government institutions, the number of women employees often considerably outnumbered men, as in the University of Damascus, where the faculty of law had 70 women members and only 10 men. The Syrian Government pursued its policy on women by taking positive and effective measures aimed at strengthening the accomplishments already achieved.

*Right to life, treatment of prisoners, right to liberty and security of the person (articles 6, 7, 9 and 10 of the Covenant)*

21. **The Chairperson** invited the delegation of the Syrian Arab Republic to reply to the questions in paragraphs 5-9 of the list of issues: information on imposition and execution of the death penalty over the past 10 years, and on commutation, how many persons awaiting execution, minimum and maximum ages for the death penalty; measures taken to investigate allegations of extrajudicial executions, disappearances, torture, other inhuman or degrading treatment or punishment and arbitrary detention by the army and security forces, and action taken; legal provisions and information regarding police custody and pre-trial detention; actual conditions in prisons and other places of detention and statistics on number of prisoners and breakdown by age, sex and type of offence; measures taken to improve prison conditions and investigate deaths in custody, comments on allegations of denial of medical care, subjection of prisoners to forced labour.

22. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that the death penalty

was so rarely carried out as to be virtually obsolete. His own extensive study of Syrian courts and prisons had concluded that the legal provision for the penalty was retained for use in exceptional cases only. In the past 10 years, no death sentences had been carried out and the occasional death sentence pronounced by the criminal court was invariably commuted to imprisonment by the Court of Cassation or by the President of the Republic on the recommendation of the Board of Special Pardons, which was part of the Ministry of Justice. For those reasons, no statistics on the death penalty had been provided to the Committee. The death penalty could not be imposed on anyone who was under 18 years of age at the time of perpetrating the crime and the Ministry of Justice was currently considering the possibility of determining a maximum age beyond which the death penalty could be neither imposed nor executed.

23. He had personally contacted the authorities concerned in order to seek the information requested by the Committee in connection with extrajudicial executions and other acts carried out by members of the army or any other security forces, but had been assured that the allegations referred to were entirely false. He had, however, received assurances that the authorities would comply with the requirements of the law and the Covenant in holding to account anyone who perpetrated such violations.

24. The Code of Criminal Procedure provided fundamental guarantees in connection with police custody and pre-trial detention. Pursuant to articles 424 and 425, a person could not be detained without charge, while article 104 provided that the examining magistrate should promptly question any person summoned to appear before him. Any person arrested on a warrant was also to be questioned by the examining magistrate within 24 hours of his arrest.

25. Anyone placed in custody by the examining magistrate had a deadline of 24 hours within which to appeal against a decision to refuse his request for release. Under article 117, anyone arrested in connection with a misdemeanour which carried a maximum penalty of one year had to be released within five days of his arrest, as long as he had a fixed abode in the Syrian Arab Republic and no previous convictions. Any person caught in the act of committing a crime could not be held for more than 24 hours without a court order. Any contravention of the provisions of the law relating to pre-trial detention was

regarded as perpetration of the offence of arbitrary detention covered under article 358 of the Penal Code.

26. The Code of Criminal Procedure expressly provided all the guarantees needed to facilitate a suspect's access to a lawyer. Under article 69, the examining magistrate was required to inform a suspect of his right to remain silent if a lawyer was not present and, through the Bar Association, to seek the appointment of a lawyer for any suspect who so requested. No criminal court proceedings could take place unless the suspect had a lawyer to represent him, failing which the presiding judge was required to appoint a lawyer, whose services were free of charge. A suspect was entitled to contact his lawyer at any time, to meet with him in private and to exchange uncensored correspondence with him.

27. Suspects held in prison custody were segregated from convicted prisoners in suitable accommodation. All prisons in the Syrian Arab Republic were modern buildings constructed along European and United States lines. Sick prisoners were attended to in prison health centres by specialists and psychiatrists and received free medication from prison pharmacies, while those requiring surgery were transferred to government hospitals. Prisons also had their own permanently staffed dental clinics, as well as their own medical laboratories.

28. Education in prison was free of charge. Literacy classes were held, together with primary, preparatory, secondary and technical classes, and in 2000, 62 inmates of the central prison in Damascus were pursuing a university education, 20 of them in the faculty of law. Religious instruction was provided by Muslim and Christian clerics and prison libraries were well stocked with legal, literary and cultural works.

29. Prisons also had their own wide-ranging sports teams, as well as their own music and theatre groups. Annual programmes of guidance lectures were organized and social and psychiatric workers were available for those prisoners who required their help. Every prison had an association for the welfare of prisoners that also extended various forms of material and other assistance to the families of prisoners, who were entitled to weekly visits from relatives and sometimes received daily visits, if necessary. Prisoners were also able to exchange correspondence with relatives and were permitted to have a radio or a

television set which received both home and satellite channels.

30. The cause of any deaths in custody was determined by a committee headed by a judge and including a medical examiner. Autopsies were performed in the presence of the committee and a member of the prisoner's family, following which an autopsy report was compiled. There was no truth in the allegation that the authorities did not allow the performance of autopsies on the bodies of political prisoners. The penalties of hard labour and detention with labour provided for in the 1949 Penal Code were not imposed in practice. Prison work was optional and consisted of normal activities such as cultivation, manual work and occupational endeavours. The remuneration received for such work was either paid to prisoners when they left prison or to their families while they were still in prison.

*Freedom of movement and protection against arbitrary or unlawful interference (articles 12, 13 and 17)*

31. **The Chairperson** invited the delegation of the Syrian Arab Republic to reply to the questions in paragraphs 10-12 of the list of issues: information on the law concerning aliens, residence and expulsion, and compatibility of the discretionary power of the Ministry of the Interior with article 13 of the Covenant; compatibility of the requirement for an exit visa with article 12 of the Covenant; measures taken to ensure the integrity and confidentiality of correspondence, and legal provisions governing the interception of the correspondence of individuals.

32. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that aliens in the Syrian Arab Republic could choose to take up residence wherever they wished. They were, however, required to register their address with the Department of Migration and Passports, which must also be notified of any change of address. Such measures were merely precautionary and had the dual purpose of protecting aliens and of organizing the alien residence procedure. Any alien served with a deportation or expulsion order from the Ministry of the Interior had the right to lodge a complaint against the order with a Syrian diplomatic mission abroad. If the Minister of the Interior rejected the complaint, the alien could seek to have the order set aside by the administrative court.

33. In accordance with article 12, paragraphs 2 and 3, of the Covenant, the Ministry of the Interior issued Ordinance No. 1016 of 13 November 1999, which provided for extensive facilities in connection with the travel, departure and return of citizens and with the issuance of passports and exit visas. The Ministry of the Interior was currently considering the introduction of further travel facilities in the near future. He stressed that exit visas were not intended to restrict the freedom of citizens. On the contrary, they were intended to thwart any attempt by criminals and persons with financial commitments to flee the country.

34. The confidentiality of all postal and telegraphic communications was guaranteed under article 32 of the Constitution, while article 567 of the Penal Code punished any person who deliberately destroyed or opened correspondence not addressed to him or tapped a telephone conversation and then disseminated the information to the detriment of a third party or passed it on to any person for whom it was not intended. Under article 4 of the State of Emergency Act, the Martial Law Administrator was authorized to monitor letters and telephone conversations, although the practice was employed only when necessary.

35. **Mr. Amor** said that the purpose of the dialogue was to ensure that all laws of the State party conformed with the provisions of the Covenant. Many questions arose in that connection, and all parts of the report required further clarifications. It was notable that the report had arrived over 17 years late, which was odd since the Syrian Arab Republic had been the first country to have its initial report examined by the Committee. The second report was more formal and schematic than the first, and lacked a description of the practical implications of the laws it discussed.

36. The relationship between the Syrian Constitution and domestic laws required further analysis and consideration. The Constitution guaranteed rights and freedoms, but the applicable laws seemed to limit those rights and freedoms or to violate the provisions of the Covenant. In every case, the question arose whether the law provided protection beyond that which was established in the Constitution, or, on the other hand, limited those rights and freedoms. Furthermore, the report and the legal texts employed terms and definitions that were subject to multiple interpretations.

37. While national statehood and revolutionary aims might provide protection for rights and freedoms, they

could also limit or deny those rights and freedoms. The security concerns of the Government must not justify any action or excess, or foster exaggerated fears. The means must be proportionate to the ends. The security concerns were reflected in the number of political crimes, subject to the death penalty, of death sentences and deaths inflicted without trial, of torture for political reasons and of missing persons.

38. Furthermore, an interest in the protection of foreigners on the territory of a State party must not become a means of limiting the freedom of movement of foreigners. The same principle held for the right to hold meetings, to form political organizations and to engage in trade union activities.

39. He was referring to the cases of many persons sentenced to death, including a woman, following trials that could not be considered fair, and of persons who had been subjected to torture in the military prison at Palmyra. In addition, large numbers of people had been imprisoned without a trial; in one case, a man who had never been tried had been released after 18 years of confinement. There were 1,500 political prisoners, including persons who had been imprisoned for using religion for political purposes, persons who belonged to the national leadership of the Baath Party and foreigners. There was a long list of Lebanese citizens imprisoned in the Syrian Arab Republic, some of whom had never been tried. Other Lebanese had been tried and sentenced to death by hanging. Moreover, the part of the report devoted to article 10, in particular the reference to hard labour raised questions: any prison regime should be designed to rehabilitate the prisoner.

40. He requested the delegation of the Syrian Arab Republic to enlighten the Committee on all the matters he had raised in order to foster a fruitful discussion and clearly to determine the status in that country of the rights and freedoms protected by the Covenant.

41. **Mr. Tawfik Khalil** said that the Committee was aware that the Syrian Arab Republic was entering a new era; although it did not represent a break with the past, it was nonetheless a welcome change. The responses of the delegation regarding the state of emergency should have stressed that the declaration of a state of emergency had to be limited to circumstances in which the life of the nation was threatened. Article 4 explicitly stated that States parties might take measures derogating from their obligations under the Covenant to the extent strictly required by the exigencies of the

situation. Emergencies were exceptional, and therefore temporary situations. The state of emergency in Syria had been in force for the past 38 years, and the authorities took it upon themselves to exercise the option of using extraordinary powers, however rarely, impacting both rights subject to derogation and rights not subject to derogation.

42. He would like to know whether there were still blacklists of Syrian nationals who were forbidden to renew their passports. In some cases whole Syrian families lived abroad without benefit of Syrian documentation, a violation of article 24, paragraph 3, of the Covenant. He would also like to know whether it was true that the Syrian Arab Republic had denied nationality to 140,000 Kurds in violation of that article, with the result that successive generations of Kurdish children were stateless. Those violations directly contradicted the statements made in the discussion of the article in the country's report.

43. Amnesty procedures had brought about the release of an estimated 600 prisoners who were members of opposition groups, a trend that he hoped would gain momentum. In that regard, he would like to know how many political prisoners remained behind bars. He understood that members of Amnesty International had visited the Syrian Arab Republic, had engaged in a mutually beneficial dialogue with Syrian officials, and had gathered information. Although many other cases could be cited, he joined with that organization and with other non-governmental organizations in expressing concern over the case of the imprisoned author Nizar Nayouf.

44. **Ms. Chanet** said she welcomed the resumption of the Committee's dialogue with the Syrian Arab Republic. Although the report conformed to the guidelines, it was overly theoretical; and the Committee's role was to determine the enjoyment of human rights in practice. Although some rights enshrined by the Covenant were reflected in the Syrian Constitution, others were relegated to domestic legislation, creating a legal disequilibrium that raised problems. Article 27 of the Constitution contained a general limitation clause, for example, although some Covenant articles contained such clauses, they were offset by the protections guaranteed by that instrument. A constitutional limitation clause violated the terms of the Covenant.

45. Paragraph 29 of the report indicated that Syrian domestic law could not contravene the provisions of international treaties. She nevertheless questioned whether certain decisions recently taken by the court of cassation suggested that the laws were not in conformity with the Covenant, such as, for example, the law on the status of women, the laws that entailed the death penalty, and the law governing the media. She would like to know whether any internal laws had been contested for failure to abide by international law, and the Covenant in particular.

46. Despite the delegation's denial that there was a state of emergency, other information indicated that the Syrian Arab Republic was continually in a state of emergency. How did the state of emergency stand under the law? It would be useful to know whether the state of emergency in force during the 1960s had been lifted, and if so, how, when, and by what decision. In any event, paragraph 51 of the report was not in conformity with the requirements of article 4. She would like to know in what circumstances a state of emergency could be legally declared in the Syrian Arab Republic, whether a time limit applied, whether the rule of proportionality was respected, whether the rights that could be derogated from were established by law, and whether such provisions were reflected in the Constitution.

47. Although she understood that capital punishment was no longer in frequent use, she had noted that it was legally applied to an impressive number of crimes. She questioned whether it was necessary to retain so many potential applications of the death sentence in Syrian law.

48. The delegation had also stated that forced labour no longer existed in Syrian prisons; it was her understanding, however, that the notion of forced labour had simply been dropped from the law. She would be interested to know if there were legal forms of forced labour, whether prisoners worked, whether they were remunerated for their work, and what hours and conditions applied. She shared Mr. Amor's concerns regarding Lebanese imprisoned in Syria, and cited in particular the case of Mr. Harb, who had been identified by the United Nations Working Group on Arbitrary Detention.

49. In addition, she would like to know how the Complaints Bureau, discussed in paragraph 90 of the report, functioned, and how many complaints of torture

it had received. Furthermore, since the report discussed only judicial detention, she would like to know if there were cases of administrative detention, what regulations covered such detention, and whether a person held in administrative detention could contest the detention before a court.

50. Syrian marriage laws violated the principle of gender equality, since different requirements applied to men and women, in particular that a woman must obtain permission from a male member of the family to marry, that a woman could not work without her husband's consent, and that a man could unilaterally divorce his wife by repudiation. She would like to know whether those laws remained in force, whether adultery was treated differently in men and women, whether crimes of honour existed, and whether marital rape was a punishable crime.

51. Finally, although it was possible, under article 12, paragraph 2, of the Covenant to restrict exit visas in specific cases, such as, for example, when the person in question was leaving the country in an effort to shirk financial responsibilities, a blanket refusal to issue exit visas to the general population was not in conformity with the Covenant.

52. **Mr. Solari Yrigoyen** said that although some positive changes seemed to have taken place since 1977, when Syria had presented its initial report, they were very few considering the amount of time which had elapsed. The new report placed great emphasis on legal theory, but contained very little detail about how the law was applied in practice, yet that was the kind of information the Committee was seeking for each article of the Covenant.

53. The state of emergency which had been in force in 1977 was still in force now, 38 years later, on the basis that the initial grounds for proclaiming it still existed. That did not square with information the Committee had received from other sources. Moreover, it appeared over the period of the emergency thousands of people had been detained without charge or trial, or had been tried before military tribunals. He had no doubt that the state of emergency had led to many serious human rights violations. What possibilities were there, since the death of the former President Assad in 2000, for lifting the state of emergency? Why had Syria not met the requirement in article 4 (3) to inform other States parties of derogations to the Covenant and the reasons for them?



54. The Committee had been told that the death penalty was very rarely carried out in Syria. It had also been told that no statistics on the subject were available, for the very reason that it was so rare. However, it had learned from other sources that executions did in fact take place, and in 1999 there had been at least two, those of Haytham Said Yaghi, aged 21, and Firaz bin Qassem Yaghi, aged 19, who had been executed in a public square after being found guilty of murder. If in fact the death penalty was not being carried out, the Committee would be glad to learn that the Government was planning to abolish it; if it was continuing in force, the Committee must be given the statistics it had requested. Had it been applied in the cases of Khaija Yhya Bukhari and Dani Mansurati, two cases of disappearances which had not yet been cleared up? Other disappearances involved Lebanese citizens taken prisoner by members of the Syrian armed forces. The Committee wanted information about those cases. There was no basis in law for taking prisoners from a neighbouring friendly country.

55. On the question of torture, the Committee had information that the practice was continuing during custody and during interrogation. Apparently, it was regularly practised in the military prison at Palmyra.

56. In many instances, conditions in prisons were believed to amount to inhuman and degrading treatment. The Committee should be told about the actual conditions in the prisons and the treatment of prisoners. What remedies were open to prisoners who suffered cruel and degrading treatment, or torture: could they lodge a complaint, and would such complaints be investigated without reprisals against the complainant? Some prisoners in Syrian jails had been termed "prisoners of conscience". Syria, as he knew, was not a party to the Convention against Torture. Moreover, corporal punishment was still inflicted on children in schools, although officially prohibited.

57. Law and practice appeared to be at variance with respect to the status of women, since women did not enjoy de facto equality. Law No. 34 of 1975, the law on marriage, allowed a husband to repudiate his wife. Women were also discriminated against by the laws on inheritance, and by the law requiring wives to obey husbands. How was polygamy dealt with in Syria: was it permitted, or had it been eradicated?

58. He would also welcome information about restrictions on freedom of movement.

59. **Mr. Klein** referred to article 1 of the Constitution, according to which the Syrian Arab Republic was "a democratic people's state". For that purpose, the political environment was crucial. Again, according to article 25, "freedom is a sacred right". If that was so, why were there so many reports and allegations of arbitrary arrests, torture, unfair or delayed trials, and disappearances in Syria? He was glad to learn that the Covenant could be invoked in the courts, but how did the delegation account for allegations that prisoners remained in custody even though their sentences had expired as long as 10 years ago? There were only two possible explanations: either the allegations were untrue, or the individuals concerned were afraid to invoke the Covenant, were prevented from doing so or were unaware of its existence. Any of those explanations raised a concern that the Covenant was being violated, and that the State party was not doing enough to protect the human rights of its citizens.

60. The allegations that Lebanese citizens had been abducted, on Lebanese territory, by the Syrian authorities could not all be false, since there was both eyewitness and victim testimony to the facts. What was the legal basis for those actions by Syria?

61. He found it difficult to understand why there were no representatives of international non-governmental organizations working in Syria. What kind of relationship did the Government have with local and international non-governmental organizations? The head of the delegation had told the Committee that he had checked allegations of extrajudicial arrests, torture and unlawful conditions of detention with the relevant authorities, and that they had all been denied. He could hardly expect them to incriminate themselves by responding otherwise. By establishing supportive relationships with independent non-governmental organizations, the Government would also lend more substance to its report. It did not have to accept what the organizations told it, but it should give them the opportunity to discuss the report. The fact that Syria had ratified the Covenant without reservation meant that it was fully responsible for complying with all its provisions and for protecting the rights proclaimed therein. Syria's Constitution upheld the freedom of the individual; he would recommend that it take action to make that a reality.

62. **Mr. Yalden** referred to the problems which stemmed from discrepancies between the Covenant and national legislation, and between that legislation and the facts on the ground. The Committee's rules made clear that it needed facts about the situation in the country, not merely a recitative of constitutional and statutory provisions. What it had been given in the case of Syria was very deficient. Asked if there was an independent human rights monitoring agency, the delegation had responded that the judiciary was independent, and that there was also a Complaints Bureau attached to the office of the President. Neither would qualify as independent. Was there any prospect of creating a national body to monitor observance of the Covenant rights?

63. Concerning the position of non-governmental organizations, the Committee had been told that Amnesty International had made a visit four years previously, and Human Rights Watch some time before that. Nothing had been said about any national non-governmental organizations. Were there any such organizations accepted by the Syrian authorities, and if there were, what did they do?

64. The head of the delegation had said that he had visited the central prison in Damascus, and that conditions in the prisons generally were good. Other sources of information painted a contrary picture. Unfortunately there was no independent source such as an Ombudsman. He asked about the current situation of Nizar Nayouf.

65. The Committee had been told that the Constitution and the law guaranteed equality for women, but no statistical information had been supplied to bear out that statement. The report contained only the briefest references, in paragraphs 42 and 347, to the position of women in Syria. Apparently they suffered considerable inequality, inter alia, in land ownership and inheritance. The Committee must receive some factual information on the question.

66. **Mr. Shearer** referred to article 23, second paragraph, of the Constitution, which stated that "Artistic creation shall maintain contact with the life of the people". How was that principle applied in practice, for example in painting, music and film-making: were such products ever suppressed under article 23, and how did that provision square with article 19 (3) of the Covenant? He wondered if the application of article 23

was in fact a matter of subjective judgement, and whether it could be used to suppress artistic freedom.

67. The head of the delegation had mentioned visiting a prison where 20 law students were incarcerated. In his own country, imprisonment would disbar a person from practising law, so there would be no incentive to continue a law course. The presence of law students in prison did however make him wonder whether their offences had been trivial ones, such as would not incur a sentence of imprisonment elsewhere.

68. **Mr. Henkin** observed that the reporting obligation under the Covenant was a legal obligation, and that all other rights were jeopardized by a failure to report. He emphasized the importance of reporting to the Committee candidly and on time. In the case of Syria, there was the additional problem of the state of emergency, and the length of time it had lasted. No explanation had been given of the sense in which the life of the nation was supposed to be threatened. What rights had been derogated from as a strict necessity because of the exigencies of the situation? What need was there at present for a state of emergency?

69. He commented that the Committee's work depended in part on the reports of non-governmental organizations. However, it had been told that for some years, leading non-governmental organizations, including the Arab Commission on Human Rights, had been denied permission to enter Syria, and that the Baath Party had prevented Government officials from meeting human rights organizations within the country. The Government should, on the contrary, be pursuing dialogue with non-governmental organizations and with the Committee, in the interest of obtaining accurate information on the human rights situation.

70. **Mr. Lallah** warmly welcomed the resumption of dialogue with Syria after so many years. In 1982, shortly after it had presented its initial report, he had learned of a great massacre which had taken place in the village of Hama and in which thousands of people had been killed or had disappeared, the estimates ranging from 10,000 to 15,000. He would appeal to the Syrian authorities to release all those victims who were still in detention, to establish the whereabouts of those who had disappeared, and to encourage those in exile to return home through appropriate resettlement measures. The scale of the Hama events was unusual even in countries in a state of emergency. He suggested

that the Government conduct its own enquiry into those events and their aftermath.

71. The Constitution banned impunity even for officials who committed human rights violations. However, there were many reports of people complaining, even during court proceedings, of torture by the police and the army. He would like to know whether those complaints were investigated in line with the commitment in the Constitution.

72. According to paragraph 30 of the report, there was no discrimination in Syria on grounds of race, religion or colour. He knew, however, of two decrees which discriminated against Syrian Kurds, prohibiting the use of the Kurdish language in schools and banning non-Arab songs at public festivals: they were the 1986 decree 1012/SAD/25 and the 1989 decree 1865/SAD/25. He would be glad to receive some information about those measures.

73. **Mr. Kretzmer** said that the Government of the Syrian Arab Republic had provided a great deal of information on laws, but nothing on how they were put into practice. The head of the delegation had said that the Committee should not pay attention to information received from other sources because it had all come from hostile organizations. On the contrary, that information had been received from reputable organizations like Amnesty International, Human Rights Watch and the Arab Committee on Human Rights.

74. The Committee had heard blanket denials in the past, and its attitude had consistently been that they were not acceptable, and that the State party must address the specific allegations and describe what action had been taken. The State party had said that there had been no cases of extrajudicial executions, disappearances, torture, other inhuman or degrading treatment or punishment and arbitrary detention by members of the army or other security forces, but the Committee had received information from reputable organizations about specific cases in which specific individuals were alleged to have died in detention, and had asked whether and how those cases had been investigated.

75. With regard to the question whether the provisions of international conventions prevailed over domestic law, the Committee needed to see the text of specific decisions in which the precedent established in court of cassation ruling No. 23 had been invoked.

76. **Mr. Ando** expressed regret about the long delay since the submission of the initial report of the Syrian Arab Republic.

77. The purpose of the Committee's dialogue with State parties was to identify the facts, and then work together on devising solutions; in order to do that, the Committee needed to know about the actual human rights situation on the ground. The rights laid down in the Covenant included rights which were absolute, which could not be restricted under any circumstances; and rights which could be restricted, but only on the grounds specifically indicated in the Covenant. He asked how article 25, paragraph 2, of the Constitution of the Syrian Arab Republic could be reconciled with that approach.

78. He asked whether women enjoyed full equality with men in such areas as property rights, inheritance, education of children, transfer of nationality to children, and working conditions, and whether the Government of the Syrian Arab Republic envisaged ratifying the Convention on the Prevention of All Forms of Discrimination against Women.

*The meeting rose at 1.10 p.m.*