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Summary record of the 1917th meeting

Held at Headquarters, New York, on Friday, 30 March 2001 at 3 p.m.

Chairperson: Mr. Bhagwati

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01-31231 (E)



The meeting was called to order at 3.05 p.m

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

Second periodic report of the Syrian Arab Republic (continued) (CCPR/C/SYR/2000/2)

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

Constitutional and legal framework within which the Covenant is implemented (article 2 of the Covenant); gender equality and principle of non-discrimination (article 3 of the Covenant); right to life, treatment of prisoners, right to liberty and security of the person (articles 6, 7, 9 and 10 of the Covenant); freedom of movement and protection against arbitrary or unlawful interference (articles 12, 13 and 17 of the Covenant) (continued)

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

2. **Sir Nigel Rodley** said that there was apparently a discrepancy between the information which the Committee was receiving from non-governmental organizations and the delegation's presentation. The delegation had focused on safeguards relating to arrest and detention before trial. It had described the procedures applicable under normal circumstances. The reporting State should explain whether those procedures were also applicable under a state of emergency.

3. The report indicated that a number of allegations could be clarified if non-governmental organizations sought information from the State party; however, according to the information received by the Committee, many allegations had been transmitted to the State party but had gone unanswered.

4. Reference had been made to the invitation extended to non-governmental organizations to visit the country during the 1990s. A representative of one of the organizations had attended a session of the State Security Court. On that occasion a person had been brought before the Court in very bad condition and had stated that his condition had been caused by acts of torture. The Court had refused to take that statement into account. As to the death penalty, while it was rarely applied, Amnesty International had received

information in 2000 that a prisoner had been executed in 1992 and the news had not been conveyed to the victim's family.

5. He would appreciate information concerning the occasions when lawyers had refused to appear before a court because they had doubts concerning its impartiality.

6. The delegation had referred to student visits to prisons organized by a university professor. It would be interesting to learn whether any governmental prison monitoring system was in place. The delegation had stated that the professor wrote letters to the Minister of the Interior. He presumed that it was the same minister who was responsible for law enforcement, and would be grateful if the delegation could comment on the appropriateness of the same authority having jurisdiction over initial detention centres as well as remand and conviction centres.

7. **Mr. Mekdad** (Syrian Arab Republic) said that his Government had made every effort to submit its reports on time, but had been prevented from doing so by technical difficulties. When he joined the Ministry of Foreign Affairs in 1992, he was given the responsibility for preparing his Government's report to the Committee; however, no sooner had he begun to compile the information than he had been sent to New York to join the Permanent Mission to the United Nations. His successor had then taken over the task, but had been delayed by the lack of national machinery for preparing such reports, particularly in the areas of human resources, finances and follow-up. It was to be hoped that a solid basis now existed for the preparation of future reports to the Committee.

8. From the 1940s to the 1960s, his country had experienced more than one coup d'état per year. The psychological impact of repeated upheavals on ordinary citizens had disrupted economic, political and social stability. It was only in 1970 that the cycle of violence ended and the country began to enjoy a peaceful existence. However, in 1975 armed groups began killing innocent civilians. The Muslim Brotherhood staged a bloody campaign. Teachers, government officials and others were killed for reasons not well understood. He himself was a student at Damascus University when a professor was murdered in his office. A group attacked the city of Hama and killed people indiscriminately for seven days. Clearly, the State had a responsibility to protect its citizens and

put an end to the killings, but the allegations made by some non-governmental organizations that the State had carried out massacres were simply untrue.

9. Some of the criminals fled the country; others lived abroad and were blacklisted. That was necessary to protect the families of the victims.

10. References had been made to the alleged death in prison of a well-known individual; in fact, he had not died in prison, but in Paris. It was difficult to grasp the reason for such falsification.

11. The story of Lebanon was a protracted account of destruction and war. Despite local and international efforts to end the destruction, tens of thousands had died as a result of the civil war. His Government was not responsible for those crimes. His Government had intervened at the end of 1975 and sent thousands of troops to stop the war. His Government's position at the time had been that no party should be defeated in a civil war. Though aware that some political forces were intellectually close to its positions, it had not allowed such considerations to influence its efforts to end the war. The current situation in Lebanon, with freedom of movement between different parts of the country, would never have been possible had it not been for his country's sacrifices.

12. President Hafez al-Assad was the first to recognize the independence of Lebanon. The two countries were so close that families were divided between them, yet they were two separate countries. There had been very few so-called Lebanese detainees in Syria, compared with the number of Syrian troops dedicated to ending the war killed in the country. With no Government and no law to restrain the conflict in Lebanon, Syrian troops had been forced to detain those elements which had killed many Syrian soldiers. All those detainees had been handed over to the Lebanese authorities. As his Government had stated, there was not a single Lebanese detainee in the Syrian Arab Republic, and it was ready to cooperate with the Lebanese Government in locating Lebanese nationals claimed to be in his country.

13. A member of the Committee had referred to an article of the Constitution which stated that art should be in the service of the people. Stating that art should serve society did not mean restricting freedom of expression and his Government had not taken such action. There were thousands of books in his country on all kinds of subjects, and artists exercised their

imaginations freely. Of course there were many people in his country calling for restrictions on freedom of expression. Some writers outside the Syrian Arab Republic had been criticized for breaking religious taboos, but his Government had not restricted them in any way.

14. **Mr. Sarraj** (Syrian Arab Republic) said that his delegation was grateful for the Committee's observations and hoped that the members of the Committee would not believe the criticisms that held that there was a gap between theory and practice in his country. His Government welcomed a dialogue and would take full account of the comments made by the members of the Committee.

15. Noting the concerns expressed by the Committee with regard to the state of emergency, he stressed that, like many countries, the Syrian Arab Republic provided for temporary suspension of some human rights during such emergencies and he reassured the Committee that the purpose was not to violate human rights but to enable the authorities to respond to a situation of force majeure. With regard to capital punishment, he stressed that the death penalty was only imposed following a trial, in accordance with the law; recently death sentences had been commuted and therefore to all intents and purposes capital punishment no longer existed in the Syrian Arab Republic. He denied reports from some organizations concerning the imposition of the death penalty without trial and concerning enforced disappearances. It should be noted that if a person disappeared it was not necessarily the result of any action on the part of the authorities since it was a simple matter to cross the border and "disappear" from Syria. He also said that corporal punishment of students was forbidden by law, although there might be isolated cases of mistreatment, which were punished by the Ministry of Education.

16. In response to questions about the status of women, and references to their lack of rights, polygamy, and the ease with which a husband, but not a wife, could divorce a spouse, he stressed that women in fact enjoyed a high level of rights guaranteed by the Sharia and the Koran. Polygamy was a relatively rare occurrence, a vestige of ancient traditions, and relegated mostly to the uneducated. A husband who wished to divorce his wife was required to appear before the courts and a wife could also appear before a court to request a divorce by proving that life with her husband had become intolerable. Many women were

also employed in specialized occupations and worked without the permission of their husbands, although under the law a husband could object to his wife working.

17. In response to questions concerning non-governmental organizations, he said that they were not prohibited: any organization could ask to operate in the country and he hoped that in the near future he would be able to inform the Committee that many non-governmental organizations were doing so.

18. Allegations that some students from the Faculty of Law had been imprisoned were untrue; in fact the persons referred to were prisoners who had continued their studies in jail and had received a high school diploma and went on to study law.

19. He confirmed that the Covenant took precedence over domestic law; the existence of the Court of Appeal and recent court decisions had also upheld the precedence of international law over domestic law, which had been progressively amended to take into account international obligations.

20. The requirement that travellers must apply for visas was not a restriction on freedom; on the contrary, it was only natural, before allowing someone to leave the country, to ensure that they had met all their obligations such as military service, alimony and child support payments etc., neither should employees take leave for long periods of time without informing their employers. Under the current policy of the Ministry of the Interior, anyone could apply for an exit visa for up to one year; exceptionally, women did not have to apply for a visa, they could leave whenever they wanted.

Right to a fair trial (article 14 of the Covenant)

21. **The Chairperson** read out the questions relating to article 14: measures in place to ensure the independence and impartiality of the judiciary; provisions governing the tenure, dismissal and disciplining of members of the judiciary; article 70 (b) of the Judicial Authority Act pursuant to which disabled persons are denied access to posts in the judiciary (para. 191); education and training programmes in place to promote the independence and impartiality of the judiciary; composition and jurisdiction of the Higher State Security Court (para. 53); selection of judges; consistency of the finality of court judgements, without any appeal to a

higher court, with article 14, paragraph 5 of the Covenant; composition and jurisdiction of military courts; compliance of the procedure in those courts with article 14, paragraphs 1, 2 and 3, of the Covenant; right of appeal in compliance with article 14, paragraph 5 of the Covenant; criteria for identifying political crimes such as those referred to in paragraph 60 of the report; and, with reference to the provisions of the Covenant, confiscation of the property of officials and other persons accused of subordination pursuant to the provisions of article 364 (b) of the Penal Code (para. 199 of the report).

22. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) assured the Committee that the judiciary enjoyed full independence and freedom in the pronouncement of its decisions and rulings and that the late President Hafez al-Assad's well-known advice of non-interference in the judiciary was carried out to the letter. The Constitution and laws of the Syrian Arab Republic contained numerous provisions, mentioned in the report, which emphasized that independence. Members of the judiciary were tenured, dismissed and disciplined in accordance with the law and with strict guarantees. Judges were selected from among the best candidates, regardless of personal considerations, qualification being the sole criterion. Judges had immunity from dismissal and transfer within the limits stipulated in articles 92 and 93 of the Judicial Authority Act. They were dismissed only on the basis of investigative inquiries and their case was referred by decree of the President of the Republic to the Higher Council of the Judiciary, which was the only institution in the land with the authority to try judges. In the event of a guilty verdict, the Council would either censure the judge, reduce his remuneration or dismiss him, depending on the seriousness of the error or offence that he had committed. Disabled persons were denied access to posts in the judiciary under article 70 (b) of the Judicial Authority Act on the grounds that appropriate physical capabilities were required to perform the functions of a judge. He would, however, refer the Committee's observations on the subject to the competent authorities, as he agreed that there was nothing to prevent disabled persons from holding judicial office if their disability did not interfere with the performance of their duties. Approximately one year earlier, an academy had been opened to dispense training to judges before they assumed office and training courses were also occasionally organized for judges already in office.

23. Established pursuant to Act No. 47 of 1968, the Higher State Security Court was presided over by a civil judge and had one other civil judge and one military judge as members. The Court fully applied the Penal Code and the Code of Criminal Procedure. Its hearings were held publicly and its proceedings were conducted orally. The rights of defence were guaranteed, including the appointment of a lawyer to represent the suspect, with whom all contact was unsupervised. If the suspect refused the appointment of a lawyer, the Court was under obligation to request the Bar Association to designate a defence lawyer on his behalf. The right of defence was expressly provided for in article 7 of the law establishing the Court. It was common knowledge in the Syrian Arab Republic that the president and members of the Court were selected from among the finest judges; a former president of the Court of Cassation and one of the best-known judges in Syrian history, for instance, had served as president of the Higher State Security Court for a period of 10 years.

24. In addition to the civil courts, the Syrian Arab Republic also had military courts to try military service members for any crime which they committed. In 1950, the Code of Military Justice was promulgated, comprising every guarantee normally found in ordinary law. Application of the Penal Code and the Code of Criminal Procedure, which were applicable to all civilians and members of the military, was mandatory in the case of any matter not provided for in the Code of Military Justice. He assured the Committee that the military courts in the Syrian Arab Republic were no different from the civil courts; he himself had argued before them on behalf of suspects accused of serious crimes and was therefore in a position to confirm that all the necessary guarantees were in place and that the standard of the courts and their rulings were worthy of esteem.

25. Articles 195 and 196 of the Penal Code defined political crimes as crimes perpetrated with a political motive or which violated a political right. As a professor of penal law, he was able to affirm that the Syrian Penal Code embraced the best and latest theories of political crime; the two articles referred to, for instance, were broadly similar to the theory of political crime expounded in the French legal system. Sentences of death, hard labour and detention with labour could not be handed down for political crimes. Political prisoners were not required to wear prison

uniform and were permitted to read books and newspapers. They also received special treatment as far as food and recreational hours were concerned and were not obliged to carry out any menial tasks during their time in prison.

26. The Penal Code had been amended with the addition of article 364 (b) in connection with dereliction of duty or resignation by officials at a time when the country was in desperate need of their services. He stressed, however, that the article was new and had never been applied; no arrests had ever been made; officials were tried in absentia and every two or three years, a general amnesty was declared for those guilty of the offence in question. The judicial authority had never confiscated the movable or immovable property of any official tried in accordance with the provisions of article 364.

Freedom of opinion, assembly and association, right to take part in the conduct of public affairs, the principle of non-discrimination and the rights of persons belonging to minorities (articles 19, 21, 22, 25, 26 and 27)

27. **The Chairperson** read out the questions relating to articles 19, 21, 22, 25, 26 and 27: restrictions of the freedom of press and expression in law and in practice; respect for the provisions of article 19 of the Covenant when the expression of opinions were subjected, without any precise criteria, to vague limitations of “constructive criticism” and “the integrity of the country and the nation” (para. 274); the legal regime applicable to radio and television broadcasting; violations of the liberty of opinion and expression to which certain persons had been subjected, notably Mr. Nizar Nanyuf; restrictions on the freedom of assembly (paras. 281 to 284 of the report) and their compatibility with article 21 of the Covenant; restrictions on freedom of association in political and trade union matters, in the light of the provisions of article 22 of the Covenant; reconciliation of the situation of political monopoly enjoyed by the Baath party with the provisions of article 25 of the Covenant; compatibility of the ineligibility of persons who could neither read nor write to stand for election to parliament with the principle of equality; consistency of the apportionment of at least 50 per cent of seats to peasants with the socio-economic structure of the population; laws, regulations or directives which applied only to the

Kurdish minority; and guarantee of applicability of the principle of non-discrimination.

28. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that the freedom of expression was guaranteed in the Syrian Arab Republic and that conscience was the only restriction on the freedom of thought. There was a press association which was a popular democratic organization responsible for the professional affairs of journalists. No legal or administrative restrictions were placed on journalists in the Syrian Arab Republic, even under a state of emergency. The phrase in article 38 of the Constitution which referred to "constructive criticism in a manner conducive to the integrity of the country and the nation" was construed only in the context of mobilizing energies for that purpose, a practice which was universally taken for granted. There were no radio or television stations in the Syrian Arab Republic other than those run by the State, which was currently encouraging the private sector to set up local and satellite television stations. Both media broadcast talks by politicians, intellectuals and legal personalities, all of whom were fully free to express their opinions.

29. With regard to Mr. Nizar Nayyuf, he said that he was arrested on 2 January 1992 and tried by the Higher State Security Court for the crime of belonging to an unauthorized secret organization which aimed to stir unrest and incite the overthrow of the Government by violence and force. The investigation which had been conducted revealed that the organization in question had been responsible for various acts of violence in the governorates and that it had an armed military wing. At his trial, Mr. Nayyuf had a lawyer to defend him and he and his co-accused were offered every legal guarantee of self-defence by the Court. The charge against him was proved and he was sentenced to a 10-year term of imprisonment on 24 May 1992.

30. At the end of 1999, at the request of the Committee on Conventions and Recommendations of the United Nations Educational, Scientific and Cultural Organization (UNESCO), he himself had successfully mediated with the Syrian authorities for the release of Mr. Nayyuf. At that point, Mr. Nayyuf had not only refused to comply with the normal legal procedure of applying to the Higher State Security Court for a stay of execution of his sentence and for his release but had also spoken out against the Syrian authorities. He was confident, however, that the Syrian authorities would soon accede to his own recent request for them to

renew their efforts to release Mr. Nayyuf and he would be pleased to inform the Committee of the outcome.

31. The Syrian Arab Republic placed no restrictions on freedom of assembly and peaceful demonstration other than those necessary to safeguard public safety, national security, public order, health, public morals and third party rights. No meeting or peaceful demonstration which was duly notified to and authorized by the competent authorities had ever been banned. The right of association was guaranteed under article 48 of the Constitution and the State encouraged the establishment of trade unions, associations, parties, youth organizations and recreational centres, all of which exercised their functions and responsibilities in full freedom. Over 700 licensed associations were officially registered for a wide diversity of groups, including women, farmers, students, children, lawyers, disabled persons, doctors and engineers, and protected the rights and interests of their members.

32. The Arab Baath Socialist party had no political monopoly in the Syrian Arab Republic, as there were five other parties of different political leanings with which it formed the coalition of the National Progressive Front; in contrast, certain developed countries had only two or three political parties. Moreover, there were no obstacles to new parties joining that coalition.

33. Membership of the People's Assembly, a legislative authority, presupposed the ability of a candidate to read and write, which did not imply, however, any requirement with regard to academic qualification. The apportionment of at least 50 per cent of the seats to labourers and peasants reflected the socio-economic structure of the population, in which peasants alone accounted for 52 per cent according to official statistics.

34. There were no problems with regard to Kurdish citizens of the Syrian Arab Republic, who were fully equal to other citizens in matters such as education, employment, elections and so on. They held posts in the judiciary and in universities, the armed forces and other offices of government. A number of Kurds occupied senior government positions and played an effective role in the country's political, social and economic life. He emphasized that the information which the Committee had received on discrimination against Kurdish citizens was wholly untrue and said that the Kurds who had sought refuge in the Syrian

Arab Republic from situations in neighbouring countries were well looked after; their humanitarian difficulties were resolved and they enjoyed all rights accorded to refugees.

Rights of the child (article 24)

35. **The Chairperson** read out the questions relating to article 24: measures taken and rules applied to ensure the implementation of article 24 of the Covenant; and measures taken in the light of that article to protect the rights of refugee and Syrian-born Kurdish children.

36. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that all State institutions devoted a great deal of attention to maternal and child welfare. The provisions of the Convention on the Rights of the Child, which the Syrian Arab Republic had ratified on 13 June 1993, were fully applied and details of the rights enjoyed by children were contained in the Syrian report to the Committee on the Rights of the Child, which had been considered on 16 January 1997. Syrian-born Kurdish children were regarded as citizens and enjoyed full rights, without discrimination or preference. Kurdish children who had come to the Syrian Arab Republic from neighbouring countries enjoyed similar rights.

Dissemination of information about the Covenant

37. **The Chairperson** read out the questions relating to dissemination of information about the Covenant: steps taken to disseminate information on the submission of reports and their consideration by the Committee, and in particular on the Committee's concluding observations; and education and training on the Covenant provided to all public servants, including teachers, judges, lawyers and police officials.

38. **Mr. Sarraj** (Dean of the Faculty of Law, University of Damascus) said that the Syrian authorities and the Ministry of Information endeavoured to inform citizens about the Covenant, which, together with the Universal Declaration of Human Rights, was often accorded special status in the pages of the newspapers. Human rights were currently studied in primary and secondary schools, as well as in universities, particularly in the faculties of law, arts, education and sociology. The Ministry of Justice had also decided to introduce human rights as a subject of study for trainee judges and judges already in office. In

conjunction with the Bar Association, he would also make his own efforts to ensure that human rights was a core subject of study for trainee lawyers. In addition, the Police College provided human rights instruction to officers and individuals, with particular focus on the human rights provided for in the Covenant.

39. In brief, it was difficult to define and lay down criteria for human rights without considering the political, social and economic circumstances in the country concerned. The Syrian Arab Republic, however, fervently desired to safeguard human rights, freedom and dignity. Those rights, which were embodied in international treaties and instruments, were also part of Arab history. In safeguarding those rights, his country was therefore applying rules derived from the principles, values and heritage of Arab culture. Crucially, it should be stated that, since assuming office, President Bashar al-Assad had continued to support and protect human rights on the basis of the principles enshrined in the Syrian Constitution and laws and in international law, treaties and instruments.

40. **Mr. Lallah** thanked the delegation for the new information on the current situation and recalled that, since the State party's first report, the Committee had changed its methods and currently drafted concluding observations on each report. He stressed the importance under the new guidelines of providing the Committee not only with information on the legal framework for implementation of the Covenant but also on developments since the previous report.

41. There was still some confusion about whether or not a state of emergency was currently in effect and he wondered to what extent human rights had been suspended.

42. Paragraph 1 of the report noted States parties' obligation to ensure that their legislation and judicial systems were in conformity with the Covenant but he stressed that it was essential that the State party provide factual information on how that obligation was being implemented in substance and what limitations, if any, there were on the provisions of the Covenant.

43. With regard to article 14, by Sir Nigel Rodley, he shared the concern expressed about the workings of the Higher State Security Court. The State party should provide the Committee with more specific information on complaints involving arbitrary detention, excessively long detention, delays between arrest and

trial, lack of counsel and denial of the right to appeal, as well as the protections guaranteed under articles 10 and 14 (3) of the Covenant. He also requested more information on the organization of trials, in particular proceedings before the military courts and the right to a fair trial, whether the military courts imposed any special restrictions on the rights of the accused and why they were necessary.

44. With regard to freedom of opinion, in particular relating to political and public affairs, he noted the new President's commitment to the promotion of human rights and was encouraged that recently many organizations had been speaking out freely, there had been greater discussion of civil and political rights and the return of exiles and a group of lawyers had written the President to call for greater independence for the judiciary. There had also been encouraging developments with regard to freedom of the press and those trends should be accelerated given that political pluralism was healthy in a democratic society. In general there seemed to be greater compliance with the Covenant and increased freedom of thought. On the other hand, the process was too slow and he requested further information on the status of decrees issued under the state of emergency: for example Military Decree 2 (1963) relating to censorship.

45. **Ms. Chanet** requested more accurate information on the status of women and current legislation to ensure their rights, for example, with regard to the notions of repudiation and disobedience, the Personal Status Act and the situation of married women in general. She also expressed concern about the criteria for defining the political offences listed in paragraph 60 of the report. The definition of an armed band in paragraph 60 (f), for example, seemed to be ordinary criminal law, not specifically political. In that context, she wondered whether opposition to the aims of the revolution included not only violent acts but also criticism, and requested more information on Legislative Decree No. 6 and the amendments to it (para. 60 (r)). She asked whether political offences were tried by the Higher State Security Court.

46. She expressed concern that there was no appeal of the latter's decisions (para. 53), except to the President, who did not constitute a judicial jurisdiction. She pointed out, moreover, that Syria had not made any reservation to article 14, paragraph 5, of the Covenant in that regard.

47. **Mr. Tawfik Khalil** said that he would be interested to learn more about the current perception of the role of civil society in Syria. It appeared that there had been many positive developments since the new President had assumed power. Nevertheless, according to certain foreign media, after some initial activity, the movement towards the revitalization of the peaceful expression of political views and participation in public life appeared to have been curtailed. There had been reports of some political seminars and private discussion groups, but now it appeared that the participants, the issues discussed and even the texts had to be officially approved, which was in violation of articles 22 and 23 of the Covenant.

48. The delegation had explained that women had the right to seek divorce. However, in some Islamic countries, laws on personal status had been adjusted recently to allow women to repudiate their husbands before a judge and he would like to know whether women had a similar right in Syria.

49. **Mr. Klein** said that, although the delegation had provided much pertinent information, many of the Committee's initial questions had remained unanswered. For example, with regard to the Lebanese detained in Syria, the delegation had merely indicated that currently no Lebanese were detained in Syria. Nevertheless, the detentions had occurred during the period covered by the report, and the Committee would appreciate information on the matter.

50. The Syrian Constitution included several articles on the independence of the judiciary (for example, articles 131 and 133). However, since reality did not always correspond to constitutional provisions countries had constitutional courts to ensure compliance with the Constitution, and also the Covenant. In that context, he would appreciate an explanation of the significance of article 132, which indicated that the President of the Republic presided over the supreme Judicial Council, because it appeared to affect the Judiciary branch's independence from the Executive, as well as an explanation of the functions of the Council.

51. Another question that had remained unanswered related to how judges were appointed and the duration of their term of office. According to article 141 of the Constitution, the period of membership of the High Constitutional Court was four years, and it was renewable. That term was very short and did not ensure

the necessary independence of the judges of such an important court; also, since it was renewable, judges might be reluctant to make judgements against the State. The Committee therefore questioned whether, in reality, judges were as independent as the Constitution stated.

52. **Mr. Ando** said that article 38 of the Constitution guaranteed every citizen the right to freedom of expression and to voice constructive criticism aimed at ensuring “the safety of the structure of the Homeland and the Nation and to enhance the socialist regime”. It was possible that the restrictions implied by that phrase were not in harmony with article 19 (3) of the Covenant, since Syria claimed that an emergency situation subsisted and that it was still in a state of war with Israel.

53. The state of emergency affected freedom of speech and it was unclear why it had to be maintained. For example, the Syrian Arab Writers Union was supposedly independent, but both the Government and the ruling Baath party exerted a strong influence over it and the latter appeared to act as a censorship body. The Committee had received information that two members had been expelled from the Union: one because he had taken part in an international meeting that had also been attended by some Israelis; the other, in relation to alleged expressions of sympathy for Israel.

54. The reporting State should clarify the extent to which Syrians were free to request official information that did not affect national security, because it appeared that the situation in the Middle East was being used to maintain the state of emergency and limit certain freedoms.

55. With an estimated 8.5 per cent of the Syrian population to be of Kurdish ethnic origin, the 1962 census for the province of Al Hasakah showed that many Syrians of Kurdish origin had been classified as unregistered or registered foreigners and had no right to vote, own businesses, participate in politics, hold a Syrian passport, or exercise a profession. Even foreigners should have some of those rights and it would be useful to learn what the Government was doing to provide some degree of protection to such people.

56. **Sir Nigel Rodley** said that he would appreciate hearing the delegation’s comments on the case of three people, who, according to information received from a non-governmental organization, had been arrested

without a warrant by the Syrian Intelligence Forces in December 2000 for transmitting a cartoon about the President by electronic mail and who had still not been brought before a judge. The issue was of interest both in order to assess the scope of freedom of expression in Syria and also to learn about the role of the intelligence forces and whether, when making arrests, they operated under the same rules as the police in ordinary criminal cases.

57. The delegation had said that the state of emergency was rarely invoked and the death penalty seldom used; however, the Committee required specific statistical data in both cases.

58. The extent to which the state of emergency influenced the role of the Higher State Security Court needed clarification and also an explanation indicating whether the procedures of that Court varied from the description provided for ordinary criminal procedures, particularly in the pre-trial phase.

59. It was reassuring to learn that the 46 Lebanese who had been detained had now been released, although, until their release, the authorities had denied their existence. The delegation should therefore indicate how the Committee could be confident that there were no more such prisoners being held.

60. **Mr. Amor** said that the Committee would appreciate information on several cases that had been brought to its attention by non-governmental organizations; for example, that of former President Atasi who, it appeared, had spent two decades in prison before being released in 1994, and dying shortly thereafter. More data was also needed about the author, Mr. Haider Haider, who had been imprisoned for exercising his right to freedom of speech, and a Lebanese man who had been arrested in Syria by the army in 1978. The Committee would also appreciate any information on Syrian, Jordanian and Lebanese political prisoners in Syria and, in that connection, the delegation should comment on the validity of the lists that were being circulated, with the names and addresses of those who were still detained in Syria and those who had been released.

61. Despite the information already provided by the delegation, there had been no reference to as many as 150 cases of persons belonging to the Kurdish minority that were pending. They had to do with issues such as children who had not been registered at birth.

62. Although most women's rights appeared to be protected under current Syrian legislation, the Committee would like to know if there were any women's rights that required further implementation.

63. With regard to paragraph 60 (r) of the report, the meaning of the concept "opposing the aims of the Revolution" was unclear; perhaps the delegation could explain how it took freedom of expression into consideration. The definition of political crimes also required clarification.

64. Paragraph 283 of the report indicated that meetings should be free from riotous or disorderly conduct and should not be designed to pressure the State. However, pressuring the State could be in the public interest when public opinion differed from the official opinion; therefore the paragraph appeared to indicate that the right to freedom of association was affected. He would welcome the delegation's comments on that point.

65. Paragraph 285 referred to article 41 of the constitution of the Arab Baath Socialist Party, which apparently provided scope for the establishment of clubs, associations, parties and organizations, "within the limits of Arab nationalist ideology". That provision also appeared to restrict the right to freedom of association and should be clarified.

66. He understood from paragraph 293 of the report that trade unions were subject to legal provisions and that members of the professions were automatically members of a union; he hoped that was not the case and requested further clarification of the situation.

67. **Mr. Mekdad** (Syrian Arab Republic) assured the Committee that his Government's third periodic report would be more in keeping with the Committee guidelines. With reference to a new spirit in his country to which many members had alluded, the current Government was, of course, simply building on earlier accomplishments, and the new elements that were perhaps discernible were an outgrowth of democratic institutions that had already been put in place. The economic situation was receiving careful attention as the new Government sought ways to strengthen the economy in the context of global developments.

68. The Government took a very progressive approach to the mass media, although information had been unrestricted in the past as well. Anyone reading mass-circulation newspapers or periodicals in the

social, economic, political or literary fields would find many sharp criticisms of the Government; and there were no restrictions on journalists. The only restriction was the writer's own conscience, for some traditions and customs had to be taken into account. The State had also been very responsible in its approach to the various private discussion groups established in recent months: it was normal that they should have been asked to inform the Government about the speakers they had invited, for their own protection. That did not prevent them from meeting freely.

69. As a former member of the Syrian Arab Writers' Union, he could vouch for the fact that every member voluntarily agreed to join, in writing, because of the benefits conferred by membership. The Writers' Union was not in any way dominated by one political party. Writers as a group were very independent. The Government helped writers to get their works published, organize literary discussions and exchange information. The two writers referred to had been expelled from the Writers' Union by decision of that independent association and the Government, even when it disagreed with such a decision, could not simply step in. The Writers' Union had its own internal regulations, and provided its actions were in accordance with those rules, it had the final say. That applied to all non-governmental organizations in Syria.

70. He had personally watched the release of the Lebanese journalists from Syrian prison on television, and although they had had a great deal to say, they had voiced no complaints of mistreatment in detention that would have been in violation of the Covenant. The released detainees were now in Lebanon, in the hands of the Lebanese authorities, who would be bringing them to trial.

71. A novel by the Syrian writer Haider Haider had aroused fierce controversy in another Arab country, where threats had been made against him. In the Syrian Arab Republic, intellectuals and writers had defended his freedom of expression, and the Government, which encouraged art and creativity in all its forms, had handled the matter admirably.

72. To his knowledge there were no Lebanese or Jordanian political prisoners in the country. All the Lebanese who had, as explained, been detained during the civil war had long been released, and his Government was confident that Lebanon itself would soon achieve full peace. A number of Jordanians had in

the past been accused of acts of espionage on Syrian territory, but more were now in Syrian prisons.

73. The Arab Baath Socialist Party had its own constitution, but it was the national Constitution, not the Party constitution, that was applied in Syria. The constitution of the Baath Party, to which he belonged, called for Arab unity and the revitalization of the Arab culture and heritage. As a sign that it was a tolerant Party, open to the truth from whatever quarter, it had welcomed the call of the Communist Party for nationalism.

74. It was normal that there should be many trade unions, clubs and other associations affiliated with the Baath Party, given its large membership. Party members were only exercising their democratic duties by being active in such organizations, and it was the principles and objectives of those trade unions and associations that determined whether they were democratic. Trade unions in the country were fully independent, and during elections were the generators of genuine debate.

75. **Mr. Sarraj** (Syrian Arab Republic), referring to the state of emergency, said that the problem did not lie in the 1962 State of Emergency Act itself, which imposed strict restrictions on military power, and did not countenance summary executions, torture or detentions. The problem was that the Committee had been taken in by allegations from outside sources, which the delegation wholly rejected. It was alleged that the Government had taken actions that ran counter to the Covenant during the 1970s and the major part of the 1980s, when the Syrian Arab Republic had been a battleground between the Government and hostile organizations such as the Muslim Brotherhood, which advocated violence and armed struggle.

76. The Government denied those allegations. Since the circumstances in the country were now different, nothing precluded the lifting of the state of emergency. But the crux of the issue was the will of the authorities to apply human rights fully, regardless of the legal regime in force. Members of the Committee had noted the new vision and the genuine desire to apply the principles of the Covenant and other human rights instruments, and consequently the delegation and the Committee saw things in the same light.

77. With regard to the Syrian law governing political crimes, the Syrian Arab Republic had applied its own well-developed legal theory on political crime in

drafting the Penal Code. The Committee had raised objections to having political crimes tried by the Higher State Security Court because it might not give the accused sufficient guarantees. Yet it was a legal court empowered to try such cases. What the Government wanted to ensure was that its theory of political crime as embodied in the Penal Code was fully applied, whether by the Higher State Security Court or the ordinary courts.

78. The Personal Status Act did indeed cover all the various areas affecting women, including marriage, divorce, property rights and the like. The status of women in his country was commendable and the legislation in question had been praised by the Women's League in the Syrian Arab Republic. Polygamy was not a legal crime, nor was it an issue that could easily be decided by the judiciary. It was a social problem, and as such he assured the Committee that it was not a problem at all in his country. Syrian law, like Egyptian law, allowed women to separate from their husbands if a marriage was untenable, and repudiation was an agreement between a wife and a husband, deriving from Islamic law, in which the spouses together repudiated each other, thus legally ending the marriage. The legislation had been very beneficial to women.

79. The 1965 Legislative Decree referred to in the report (para. 60 (r)) dealing with the political crime of opposing the aims of the revolution had never been applied. It had been adopted in unprecedented circumstances when the nation was rife with enemies of the revolution. The legal provision making it an offence to join the Muslim Brotherhood (para. 60 (t)) had been enacted later.

80. Any questions not answered orally would be dealt with in the next periodic report.

81. **The Chairperson** said that it was unfortunate that there had been an inordinate 18-year delay between periodic reports, for which no acceptable reason had been given. That had made it necessary to cover a great deal of ground. Chief among the areas of concern voiced by the members of the Committee were the lack of current justification for the state of emergency and restrictions on rights that were still in effect after four decades; the range of offences punishable by death, far beyond what was permissible under article 6 of the Covenant; the fact that there was no right of appeal from decisions of the Higher State

Security Court; and alleged incidents of torture or maltreatment. He hoped that the next report would take account of all the concerns expressed.

The meeting rose at 6.10 p.m.