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Seventh session

SUMMARY RECORD OF THE FIRST AND THIRD PARTS (PUBLIC)*/ OF THE 160th MEETING

held at the Palais des Nations, Geneva,
on Friday, 3 August 1979, at 3 p.m.

Chairman: Mr. MAVROMMATIS

later: Mr. KOULISHEV

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*/ The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.160/Add.1.

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 (agenda item 5) (continued)

Report of the Ukrainian Soviet Socialist Republic (CCPR/C/1/Add.34) (continued)

1. Mr. BOURCHAK (Ukrainian Soviet Socialist Republic) continued his delegation's explanation of the points raised by members of the Committee concerning the initial report of the Ukrainian Soviet Socialist Republic, particularly by Sir Vincent Evans, Mr. Tarnopolsky and Mr. Tomuschat with regard to article 10 of the Covenant. Under article 49 of the Correctional Labour Code, the penal administration made detainees participate in socially useful work, taking into account their skills, abilities and specialization. The detainee was called upon to work in his field of specialization or in a sector calling for a similar type of competence. Furthermore, all correctional labour institutions provided a vocational training for people who had no skills. That was a further aspect of the educational function of labour. The recipients were generally people who had not engaged in any particularly useful activity and who had taken to crime; they were given vocational training to enable them to obtain qualifications and work.

2. Under article 74 of the Correctional Labour Code, persons serving a sentence in a correctional labour institution must enjoy conditions which conformed with the rules of hygiene and medical standards. The habitable area prescribed by the law was a minimum of 2 square metres in correctional institutions or 2.5 square metres for minors and in prisons. The convicts were entitled to a bed and bed linen. They received clothing, underclothes and shoes suited to the season and climatic conditions. The clothing was provided free of charge to minors and disabled persons of the first and second category. Other detainees had to pay for their clothing by an automatic deduction from their wages.

3. Solitary confinement was generally imposed as a punishment in the case of a breach of the regulations. The penalties provided for under article 67 were a warning, a reprimand, deprivation of visits, stopping of parcels. Transfer to an individual cell, in other words subjection of a prisoner to solitary confinement, could not be imposed for more than six months, or a year in centres with special regulations where habitual offenders were usually detained. With regard to the medical service, article 76 of the Correctional Labour Code provided that correctional institutions should have essential medical facilities. Health protection and control of epidemics were ensured in such institutions in accordance with the law on health protection.

4. Sir Vincent Evans had asked whether persons serving a sentence were able to receive visits from their lawyer or from members of their family. There were detailed provisions covering those points in Ukrainian legislation. For example, article 40 of the Correctional Labour Code provided that convicts serving a sentence of deprivation of freedom could receive visits from their lawyers, following their submission of a written request or after formulation of a written request to that effect by a close relative or the representative of a social organization. If the convict or the lawyer so requested, the interview took place without witnesses in correctional labour centres. The visit from the lawyer was not included in the number of visits from close relatives provided for by the law, and the law in no way restricted the number and duration of visits from lawyers.

5. The Ukraine had for years been applying a system of supervision of the penitentiary system by society. Article 122 provided for the establishment, in correctional labour institutions, of supervisory committees which participated in the rehabilitation of detainees and supervised, on behalf of society, the running of institutions in which sentences involving deprivation of freedom handed down by the courts were served. The decree concerning the supervisory committees had been confirmed by law. The committees were made up of social labour experts, experienced educators, former workers, retired teachers, reserve officers, etc.; officials of the Ministry of the Interior, the Procurator's Office or the Ministry of Justice, or members of the Bar, were expressly excluded. The system therefore constituted a social control, in the full sense of the word, of penal institutions. The supervisory committees enjoyed extensive privileges and the penal administration could not impose penalties without their agreement.

6. With regard to a question raised by Mr. Tarnopolsky, he pointed out that article 6 of the Correctional Labour Code of the Ukrainian SSR prescribed that, as a general rule, persons condemned for the first time to a prison sentence who had lived in Ukrainian territory before their arrest or who had been convicted on Ukrainian territory, should serve their sentence in the Ukrainian SSR. In exceptional cases, in the interests of rehabilitation, the convict could be sent to correctional institutions in other Republics, any possibility of an arbitrary decision in that regard being excluded. Both the penal legislation and the correctional labour legislation of the Ukrainian SSR provided for separate detention of first offenders, habitual offenders and criminals guilty of serious offences. Obviously it was possible that there might not be enough criminals in each category in the territory of the various Republics to warrant the establishment and maintenance of separate institutions. In such cases, exchanges were made between the Republics. That situation was provided for by law.

7. With regard to the question raised by Mr. Hanga on the role of society, he referred to the explanation he had just provided regarding the activity of the supervisory committees. On the subject of the educational function of the court, he wished to make it clear that trials were public and that the court held public hearings as well as out-of-court hearings, which was one aspect of legal education. That, however, was not the only method of propagating legal knowledge. A large number of talks and conferences on legal subjects - there had been 400,000 in the preceding year - were organized every year in the Ukrainian SSR. Furthermore, there was a network of "universities of legal knowledge" which welcomed civil servants who had had no legal training or who wished to familiarize themselves with the law.

8. Moreover, legal education occupied an important place in educational establishments. A special course on the principles of Soviet law was provided in the eighth year of secondary education in order to familiarize pupils with the fundamental provisions of Ukrainian legislation in the various branches of the law.

9. Turning to the questions asked by Sir Vincent Evans, Mr. Sadi, Mr. Tarnopolsky, Mr. Tomuschat and Mr. Opsahl concerning the implementation of article 14 of the Covenant, he said that the equality of all citizens before the courts was a constitutional principle referred to in a number of legal instruments, in particular the Penal Code, the Code of Criminal Procedure and the Code of Civil Procedure. Article 155 of the Constitution provided that proceedings in all courts were to be open to the public, hearings in camera being allowed only in cases provided for by law

with observance of all the rules of judicial procedure. For example, article 20 of the Code of Criminal Procedure provided that all hearings should be public, with the exception of cases in which the publicity of debates might prejudice a State secret. Hearings in camera could also be ordered upon a reasoned decision of the court, when the accused was below the age of 16 years or when the case concerned a sexual crime, or again to ensure respect for the privacy of the parties involved. In all cases, the verdict was pronounced publicly. Ukrainian legislation therefore conformed to the provisions of article 14 of the Covenant. As far as the concept of a State secret was concerned, that was a matter for the court to decide, taking into account the opinion of the procurator, the defence counsel and the parties to the trial. With regard to the presence of the accused at the hearing, the law clearly defined all his rights both in the courts of the first instance and in the courts of appeal. That was a general principle enshrined in article 43 of the Code of Criminal Procedure. The question of legal representation of the accused, namely the right of the accused to defence counsel, was dealt with in article 48 of the Code of Criminal Procedure, which stated that defence counsel could participate in the preliminary investigation, challenge the judges, file a complaint concerning the actions of the court, the investigator or the procurator.

10. The question of the right of the accused in the court of first instance and the court of appeal was dealt with in detail in articles 263 and 266 of the Code of Criminal Procedure. Under article 263, paragraph 3, the accused could submit an application on a motion to the court, have a defence counsel, request that the court attach a specific document to his file, have witnesses cited, challenge a member of the court, request an expert opinion and demand any other form of proof. The role of defence counsel was defined in the same way in article 266. In cassation, the system was a little different. Article 358 of the Code of Criminal Procedure provided that the accused must be informed, in all cases, of the date on which his case was to be considered by the court of cassation, at least three days before the opening of the proceedings. All parties must be informed of any change. Since, however, it was a cassation procedure, the absence of the parties who had filed the appeal did not prevent consideration of the substance of the case. If the court considered that the presence of the accused was necessary, it took a decision to that effect. If the convicted person and his defence counsel were present at the court hearing, they were authorized to participate in the debate in all cases. Under articles 74 and 142 of the Code of Criminal Procedure, the accused was entitled to make statements and give evidence; that was a right, not an obligation. Recourse to coercion to obtain statements by illegal means during the inquiry or investigation constituted an offence involving criminal liability. Consequently, on the question of whether the accused could refuse to testify against himself, Ukrainian legislation complied with the provisions of the Covenant. As for the presumption of innocence, it was enshrined in article 158 of the Constitution of the Ukrainian SSR, which laid down that "no-one may be adjudged guilty of a crime and subjected to punishment as a criminal except by the sentence of a court and in conformity with the law". The Code of Criminal Procedure established the corresponding rules.

11. The Code of Criminal Procedure also provided for the right of the accused to call witnesses. Article 263 provided that the accused could ask them questions and participate in the debate, even in the absence of his defence counsel. Thus the answer to that question, too, was positive. There was no provision in the law to the effect that the close relatives of the accused were entitled to refuse to testify against him.

12. Other questions asked on the subject of the report of the Ukrainian SSR concerned article 25 of the Covenant. The members of the Committee, in particular Sir Vincent Evans, Mr. Tarnopolsky, Mr. Hanga and Mr. Opsahl, had asked for particulars of the rules for elections to the Soviets. The law did not impose any restriction or discrimination on the possibility of anyone standing for election as a deputy. Under the Constitution, organizations of the Communist Party of the Soviet Union, trade unions, co-operatives and other social organizations, workers' collectives and meetings of servicemen in their military units were entitled to nominate candidates to the Soviets. Since a candidature could be considered in an assembly of electors, anyone could propose or object to a candidate, explaining the reasons for his position.

13. The right to vote and to stand for election was currently recognized in the Ukrainian SSR for all citizens, without exception, who had reached the age of 18. Under the former Constitution of the Republic, the qualifying age was 21 years for participation in elections to the Supreme Soviet and 18 for elections to local Soviets.

14. He went on to give some figures on the composition of the Soviets: at the present time, of the 570 deputies who formed the Supreme Soviet of the Ukrainian SSR, 394 belonged to the Communist Party - either as members or applicants for membership - in other words, 69.1 per cent. There were 176 non-party deputies, or 30.9 per cent. In the local Soviets, there were 235,000 members of the CPSU (45.2 per cent of the total number of deputies) and 286,000 non-party deputies, or 54.8 per cent, i.e., a majority. At its last session, which had taken place in June, the Supreme Soviet had amended the law on the procedure for the recall of deputies in accordance with the new Constitution. A deputy to the Supreme Soviet or to a local Soviet could be recalled at any time if he had failed to justify the confidence of his constituents or if, by his acts, he had brought the noble office of deputy into disrepute. His recall could be demanded by the organizations which had put forward his candidature. Unlike elections, which took place by secret ballot, the recall of a deputy was decided by public vote. If his recall was demanded by more than 50 per cent of the electors, it took effect. The procedure was the same for deputies to the Supreme Soviet and deputies to the local Soviets. More than 60 deputies to the local Soviets had been removed during the last legislative period. In practice, a deputy to the Supreme Soviet could be recalled in exceptional circumstances only.

15. In reply to a question by Sir Vincent Evans on a wife's right of succession on the death of her husband, he explained that there were two types of inheritance recognized by Soviet civil law - ab intestat and testamentary inheritance. The persons with a prior claim to inherit were the spouse, the children, the ascendants and dependants, or, if there were no heirs in that category, the brother and sister of the deceased. The surviving spouse was the legal heir. As husband and wife had the same rights of inheritance in the Soviet Union, the widow inherited half the couple's assets. If no will had been made, the right of inheriting the other half accrued to the next-of-kin, namely, the widow and children. If there was a will, but the widow was unfit to work and the will had not been made in her favour, her share of the inheritance was at least two thirds of the share she would have received as the lawful legatee.

16. Another of the questions asked concerned the right of pardon and probably related to article 6 of the Covenant. In the Soviet Union, the right of pardon appertained to the Supreme Soviet, namely, the permanent body of the highest organ of State. The right of pardon was mainly exercised for humanitarian reasons in the case of prisoners sentenced to death. An explanation had also been requested about a problem that was not directly connected with the Covenant - the death sentences which had been pronounced, according to the Herald Tribune, on four persons found guilty of grand larceny. The affair had been widely discussed in the Soviet Union because it concerned a number of republics. Although the offences had been mainly committed in the Ukraine, the persons implicated lived in Georgia and Azerbaijan. The Supreme Court had upheld the conviction, which was in conformity with the law, although for the last 15 years the role of the legislative provision invoked had mainly been that of a deterrent. The four condemned persons were entitled to seek pardon.

17. Mr. KOCHUBEI (Ukrainian Soviet Socialist Republic) thanked the members of the Committee for their interest and assured them that the conclusions reached in the debate would be communicated to the competent bodies in his country.

18. Mr. BOUZIRI said that he realized that the task of replying to the numerous questions put by the members of the Committee had given the Ukrainian delegation a great deal of work. That was possibly why the question he had asked on the subject of the Tartars had not yet been answered, unless it was because he had expressed it badly. He would therefore try to frame the question more clearly, for he attached great importance to it because it concerned the rights of hundreds of thousands of people.

19. On 26 June 1946, the newspaper Izvestia had reported the promulgation of a decree the previous day whereby it had been decided that because the inhabitants of the Crimea had collaborated with the Germans, the Republic of the Crimea was henceforth dissolved and its inhabitants would be resettled in other regions of the USSR, where they would be given land and government aid. On 19 February 1954, the Crimea had been ceded to the Ukrainian SSR.

20. Petitions had been addressed to the Soviet Government. The President of the Presidium, in August 1965, and the Secretary of the Presidium, in March 1966, had received delegations of Tartars.

21. The newspaper Vostok, in its issue of 9 September 1977, had reported on a decree in which it was stated that after the liberation of the Crimea all the Tartar inhabitants of the region had been unjustly accused of collaboration, whereas that had been true of some of them only, and the wholesale accusations made were to be withdrawn.

22. He warmly commended the decision of the Soviet Government to absolve the Tartars of the unjust accusation made against them.

23. In the circumstances, he would like to know why it had not been possible for the Tartars, who numbered 300,000 to 500,000 and had been scattered throughout the Soviet Union, to return to the Crimea, where they had lived for centuries, in keeping with the wishes they had so often expressed in petitions. Would that have given rise to insurmountable problems?

24. Mr. KOCHUBEI (Ukrainian Soviet Socialist Republic) pointed out that there was nothing in Ukrainian law to prevent a person from living wherever he wished, provided he could find accommodation and work. The Crimea was an area of coastal resorts and accommodation was not easily found. The situation was the same for the Tartars as for other Soviet citizens. There were, however, descendants of the Tartars living in the Crimea, notably at Aloupka, and they enjoyed exactly the same rights as the other inhabitants of the region.

25. Sir Vincent EVANS asked for the very extensive and interesting information provided by the Ukrainian delegation to be reproduced as fully as possible in the record of the meeting.

26. The CHAIRMAN expressed his satisfaction that the Ukrainian Government had sent a high-level delegation which had been most co-operative. He asked the delegation to convey the Committee's thanks to the Ukrainian Government.

27. Mr. GRAEFRATH said that the members of the Committee, in examining the report, should rely solely on official documents not on press reports.

28. Mr. BOUZIRI said that, in his opinion, examining a report did not mean taking into account only what was stated in the report but also, and more especially, what it did not say. So long as the members of the Committee were committed to the protection of human rights, they were fully entitled to speak of matters that were not dealt with in a report.

29. In any case, in asking a question about the Tartars, he had not based himself on press cuttings but had referred to Soviet Government decrees which had been published in the Soviet press.

30. He would continue to believe that it was his duty to speak of human rights in accordance with the dictates of his conscience.

31. Mr. MOVCHAN said that the mandate of the members of the Committee was clearly defined by the Covenant, the rules of procedure and the decisions of the Committee itself. There could be no departure from them except as a result of a revision carried out in proper form.

32. After an exchange of views in which Sir Vincent Evans and Mr. Opsahl took part, the CHAIRMAN suggested that the Committee could revert to the matter under discussion when various other questions were taken up and could now proceed to consider communications in a closed meeting.

33. It was so decided.

The public meeting was suspended at 4.25 p.m. and resumed at 5.5 p.m.

Report by the Syrian Arab Republic (CCPR/C/1/Add.31) (continued)

34. Mr. Koulishov took the Chair.

35. The CHAIRMAN said that there were still two problems to be considered in relation to the supplementary report submitted by the Syrian Arab Republic: that of the organization of the judiciary and the independence of the judiciary and magistrature in Syria, and that of the state of emergency and the derogations to which it gave rise.

36. Mr. LALLAH proposed that the Committee should begin by considering the second question, since the first could be included in it.

37. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to follow that procedure.

38. It was so decided.

39. Mr. LALLAH said that it would be useful for the Committee to have more detailed information on the rights from which there could be derogations, the scope of the derogations and the reasons for them. It was not necessary for the representative of the Syrian Government to answer that question then and there. It would in fact be more useful if he were to do so in a further report, and to explain in detail the laws and regulations applicable in such cases.

40. He associated himself with the questions put by Mr. Bouziri concerning various aspects of the judiciary, the competence of the courts, the method of appointing magistrates, the offences they were entitled to judge, etc. All that might be covered in a supplementary report by the Syrian Arab Republic.

41. Mr. OPSAHL said that the report of the Syrian Arab Republic had been the first to be examined by the Human Rights Committee. Since then the Committee had gained experience, which explained why the questions raised were many and various. The supplementary report from Syria (CCPR/C/1/Add.31) was a little too brief and did not provide the Committee with all the information it needed. He welcomed the information concerning the measures taken to reduce infant mortality and to improve the life expectancy of the population. Such information was of interest to the Committee, for although it was dealing with civil and political rights it was also concerned with respect for economic and social rights, including the right to life; they were all linked. He asked the Syrian Government to provide as detailed information as possible on other questions as well.

42. For example, there were only a few words in the supplementary report about the state of emergency. The questions that had been asked concerning the relevant legislation and the actual facts were largely unanswered. There could be no doubt that the States parties to the Covenant had an obligation under article 40 to report on the factors and difficulties affecting the implementation of the provisions of the Covenant. At the 158th meeting the Syrian representative had given some information which was interesting but was not sufficient to give a complete and detailed picture of the state of emergency. It could not be assumed that the Committee knew all about the emergency. It needed to know more about the effects of the state of emergency on the legal system and on the protection of human rights.

43. Article 4 of the Covenant provided that any State party availing itself of the right of derogation should immediately inform the other States parties of the provisions from which it had derogated and the reasons for such derogation. The Committee had not been notified of any derogation, although the procedure was laid down in article 4. If the other States parties to the Covenant had been informed through the Secretary-General of the United Nations, presumably the Committee, too, would have been notified. In any case, that information should also be reported under article 40 of the Covenant. All those provisions would, of course, apply only if the state of emergency had legal implications which were incompatible with the Covenant.

44. He wished to raise another important point. Article 2 of the Covenant provided that it was the duty of States parties to respect and ensure to all individuals within their territory and subject to their jurisdiction the rights recognized in the Covenant. It was hardly credible that that article was intended to exclude the responsibility of a State for its acts or operations outside its territory, in particular by its armed forces when a state of emergency has been proclaimed in its own territory. It was common knowledge that Syrian armed forces stationed outside the country had recently carried out operations outside Syrian territory. He would like to know whether the Government of the Syrian Arab Republic recognized the principles set forth in the Covenant as binding in such a situation, what had been its experience in the matter and what instructions, if any, had been given to the army. He was not expressing any opinion on the effect of the Covenant or the action of the armed forces, but it seemed to him that there was an obvious need for further information and clarification on the two points. There was an important point of principle involved, namely, that of responsibility under the Covenant for acts of armed forces irrespective of what the armed forces had done or why.

45. It would be important to have the facts about the state of emergency and its legal implications before taking up certain further questions, such as whether the emergency legislation had affected the political opposition and their human rights, whether it had led to prolonged imprisonment without trial, whether political prisoners had been tried in camera by special political courts and whether the death sentence had been imposed for political offences.

46. Mr. HANGA asked whether, apart from the civil and criminal courts in Syria, there were special courts, for example to deal with labour disputes. If so, what was their legal status? Was there a labour code? Were labour contracts governed by the labour code or did they come under the civil code or the ordinary laws? What safeguards were provided by the Constitution and the ordinary legislation to ensure the separation of powers within the State and the independence of the judiciary? What was the law on the state of emergency referred to in the report (CCPR/C/1/Add.31)? Did it conform to the letter and spirit of article 4 of the Covenant?

47. He stressed the importance of the measures taken by the Government of the Syrian Arab Republic to reduce child mortality and increase the life expectancy of the population.

48. Mr. TARNOPOLSKY said that he too thought that further information was essential. It was difficult, for example, to consider the legal situation when many important functions of the judicial organs had long been suppressed under the state of emergency and there was no knowing when the state of emergency would end.

49. Sir Vincent EVANS supported Mr. Lallah's request for further information.

50. He would like in particular to be better informed about the security courts set up under the state of emergency. Article 14 of the Covenant provided important safeguards for the accused: the right to a defence counsel, to adequate time and facilities for the preparation of his defence and to have his conviction and sentence reviewed by a higher tribunal.

51. It was true that the provisions of article 14 were not among the provisions from which no derogation could be made (article 4, paragraph 2), but article 4, paragraph 1, laid down that States should use the right of derogation "to the extent strictly required by the exigencies of the situation". It was difficult to see what could justify derogations from the safeguards mentioned.

52. He understood that there were still people detained without trial in Syria - some of them for a long time - for political reasons. Was that so? If so, how many persons were under detention and since when?

53. Regarding the death sentence, States tended to resort to capital punishment more readily in a state of emergency. He would therefore like to have some particulars about the use of the death penalty in Syria.

54. Mr. JANČA said that he fully understood the special situation of Syria, where the violation of national and territorial integrity made it difficult for that country to fulfil its obligations under the Covenant.

55. The Covenant, however, embodied many provisions that States parties undertook to respect even under a state of emergency threatening the nation's existence. Some of them were mentioned explicitly in article 2, paragraph 2, whereas others were implicit, as in articles 2 and 3; that was the case with the right of all persons to have recourse to the judicial, administrative, legislative or any other competent authority. He would therefore like to have information on the structure of the legal authorities in Syria and on the principles and rules that governed them. In particular, he would like to know whether judges were elected or appointed, and, in the former case, who elected them and what were the conditions for candidature. Could judges be dismissed before the end of their term? If so, who was empowered to institute the dismissal procedure? Were conditions for dismissal specified in the law and what could be grounds for dismissal? Could women be judges in Syria and, if so, were there any statistics on the number of women judges?

56. Mr. EL-FATTAL (Syrian Arab Republic) reminded the Committee that the state of emergency in the Syrian Arab Republic had existed long before the Covenant had been conceived, because Syria, one year after its accession to independence, had been subjected to Zionist aggression supported by the United States and certain European countries. Article 4 of the Covenant was as important as article 14 cited by Sir Vincent Evans. A decree of 22 December 1962 set forth the circumstances in which a state of emergency could be proclaimed. According to that decree a state of emergency could be proclaimed in the case of war or of the existence of situations liable to unleash a war, or in the event of security and public order being threatened in the territory of the Republic or of one of its regions, and in cases of internal unrest or of disaster. That was the legal basis of the proclamation of a state of emergency. A state of emergency could be proclaimed only by the Council of Ministers meeting under the chairmanship of the President of the Republic and taking a decision by a two-thirds majority. It could be proclaimed for the whole territory of the Republic or for only a part of it.

57. A state of emergency restricted personal freedom with regard to meetings, temporary residence, journeys and movement in certain places or at certain times. It authorized the preventive arrest of suspects or of persons posing a threat to security or public order.

58. Articles 260 to 311 of the Penal Code set forth the crimes or situations which could warrant consideration of the proclamation of a state of emergency and authorization of the withdrawal of the enjoyment of certain rights. The crimes in question were: (a) crimes against the external security of the State - espionage, treason, crimes under international law and acts prejudicial to the public international dignity of the State, illicit relations with an enemy; (b) crimes which threatened or violated internal State security - crimes against the Constitution, usurping of power, internal sedition, incitement to racial, religious or ethnic hatred, terrorism, crimes which threatened national unity - and instigated sedition, acts prejudicial to the country's economic and financial situation; (c) crimes against public safety - carrying of weapons, purchase of weapons without authorization; (d) certain acts such as arson in public buildings or destruction of public property. Any person who committed one of those crimes was brought before the Supreme Court for State Security. Pursuant to the decree of 1962, the Military Governor or Vice-Governor could institute, in writing, the measures provided for and hand the offender over to the military tribunal. It should be noted, however, that the military tribunals had been abolished and that there remained only the Supreme Court for State Security. As stated in another decree, the State security courts, without prejudice to the rights of defence provided for under the existing laws, were not bound to conform to the procedure set forth in the legislation in force in all phases of the investigation and trial.

59. The decisions of the State security courts were not put into affect until they had been approved by the Head of State, who had the right to quash them or order a retrial, to have the case closed, or to reduce or commute the sentence. Only the categories of crimes outlined above could be dealt with by a procedure different from the usual one.

60. A state of emergency was proclaimed by means of an act published in the Official Gazette. Contrary to the various political régimes prior to 1963, which had been under the constant threat of a coup d'état, the present Government, because of its popular basis and fresh organization, felt itself secure enough to have no need to proclaim a state of emergency.

61. Mr. Opsahl had distinguished between law and practice. But no self-respecting State could consider that the law applied in one place and practice in another. In the Syrian Arab Republic, anyone who behaved contrary to the law was liable to be punished. If he was a civil servant, he could be dismissed and imprisoned.

62. The question relating to Lebanon was entirely out of order, since the soldiers of Syrian nationality present in Lebanon were part of the Arab Peace-keeping Force set up by the Arab League. Like the United Nations forces, they were in Lebanon to maintain order and were under the direct command of the President of the Lebanese Republic. In assisting Lebanon, Syria was making a great sacrifice. To ask such a question was to accuse Syria of violating the sovereignty of another State, whereas it was Syrian sovereignty which was being violated by those who occupied the Golan Heights. If the Committee had questions to ask on that matter, it was to the President of the Lebanese Republic that they should normally be addressed.

63. With regard to the independence of the judiciary, the Syrian Constitution laid down explicitly that the judiciary was entirely independent of the executive. Judges were not elected but appointed by the President of the Syrian Arab Republic, but, once appointed, they enjoyed immunity, which meant that they could not be dismissed unless they themselves broke the law. In such a case, they were handed over to the Supreme Judiciary Council, which consisted of the President of the

Republic, as its presiding officer, the Minister of Justice and the President of the Court of Cassation, who were its vice-presidents, and the presidents or members of the other courts. A judge who submitted himself to the orders of other authorities could be arraigned before the Supreme Judiciary Council, which had a committee to examine cases of judges who had failed in their duty. Although a judge could not be dismissed if he had not broken the law, he could be transferred under the regulations in force.

64. The CHAIRMAN said that, because of the late hour, it would help if the representative of the Syrian Arab Republic could conclude his statement without undue delay.

65. Mr. EL-FATTAL (Syrian Arab Republic) added that the Syrian Penal Code provided for the death penalty, particularly for wilful murder and crimes against State security. Its application and execution were relatively rare. The condemned man could appeal or seek pardon.

66. Sir Vincent EVANS said that the representative of the Syrian Arab Republic had made a considerable effort to reply to the questions asked. In view of the late hour, however, he should be asked whether he and the Syrian Government could not complete the statements by submitting a document in writing in respect of the various questions raised, which had been recorded in the summary records. There was no other way to proceed, since the Committee clearly had not enough time at its disposal.

67. The CHAIRMAN said that he too thought that the best procedure.

68. Mr. EL-FATTAL (Syrian Arab Republic) said that he would reply to the question whether women could occupy a post in the judiciary. They could, and in fact there were women judges in the juvenile delinquency sector.

69. He asked that the summary record should reflect the fact that the President of the Syrian Arab Republic had declared before the People's Council that there was no martial law and no emergency measures in Syria except for reasons of State security. He would like to hear Mr. Opsahl's observations on the question of Lebanon.

70. Mr. OPSAHL said that he regretted that the representative of the Syrian Arab Republic had taken offence at his question. There were soldiers of Norwegian nationality, too, in Lebanon and he had put the same question to the Government of the Kingdom of Norway, of which he was a national. The question had been to determine whether, in respect of the Covenant, the Norwegian Government was not responsible for the way in which its soldiers behaved in the place where they were. The point had a general bearing on the interpretation of the Covenant and that was why he had asked his question. He would be pleased if he could dispel any misunderstanding and discuss the matter with the representative of the Syrian Arab Republic at a later date.

71. Mr. MOVCHAN said that he thought that the time had come to express the Committee's gratitude to the representative of the Syrian Arab Republic for his spirit of co-operation. That representative had endeavoured to reply immediately to the questions raised. If he had further information or documents to communicate, he could perhaps get in touch with the bureau of the Committee. In view of the late hour, it was more than time for the meeting to rise.

72. The CHAIRMAN asked the representative of the Syrian Arab Republic to transmit to the Syrian Government the Committee's thanks for the report and the additional information provided. He hoped that the Committee's wishes and questions would be transmitted to the Syrian Government and that the dialogue that had started would be continued.

73. Mr. EL-FATTAL (Syrian Arab Republic) said that the dialogue would be continued, since it was a matter of an international obligation. One question had been raised, however, which was contrary to the spirit and letter of the Covenant. No one had the right to ask about the behaviour abroad of nationals of a country other than his own. There was no analogy between the Arab Peace-keeping Force and the Norwegian soldiers in Lebanon, since their respective mandates were entirely different. Mr. Opsahl had no right to raise the question he had asked, which was entirely beyond the sphere of application of the Covenant.

74. The CHAIRMAN said that there had been a misunderstanding and that the representative of the Syrian Arab Republic had no reason to interpret the question as he had. However that might be, the incident was closed. It was to be hoped that the dialogue would continue as a result of the information which the representative of the Syrian Arab Republic would provide to the Committee.

75. Mr. EL-FATTAL (Syrian Arab Republic) said that he would transmit to the Syrian Government the requests for clarification made by the Committee.

76. The CHAIRMAN said that the Committee took note of that.

The meeting rose at 6.30 p.m.