



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

Distr.: General
6 September 2011
English
Original: Arabic
Arabic and English only

Committee against Torture

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

**Comments and follow-up responses of the Syrian Arab
Republic to the concluding observations of the Committee
against Torture (CAT/C/SYR/CO/1)*, ****

[24 August 2011]

* In accordance with information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

** Annexes can be consulted in the files of the Secretariat.

Reply to the recommendation in paragraph 5 of the concluding observations (CAT/C/SYR/CO/1)

Definition of torture

1. Although there is no law that provides a specific definition of torture, article 391 of the Criminal Code makes it clear beyond any shadow of a doubt that torture in its most basic form is a punishable offence. The article uses the phrase “anyone who subjects a person to a harsh beating”. In other words, it refers to the most basic form of torture and torture situations.

2. Moreover, it is a long established principle, recognized in the Constitution, by the judiciary practice and in the jurisprudence of the Syrian Arab Republic, that a treaty that has been duly ratified in line with constitutional procedures takes precedence over any other legislation in force and is considered part of domestic law. Where there is a conflict between a treaty and an existing provision of a law, the treaty will be considered as having amended the law and will take precedence over it.

3. As stated in article 25 of the Syrian Civil Code, any articles of law which conflict with an international treaty that is enforceable in the Syrian Arab Republic will be deemed null and void. Moreover, article 311 of the Syrian Code of Criminal Procedures provides: “Existing norms shall be applied without prejudice to treaties concluded or to be concluded between the Syrian Arab Republic and other States in this regard.”

4. The Permanent Syrian Constitution of 1973, in particular articles 71 and 104 thereof, places treaties that have been concluded and duly ratified in accordance with the Constitution on a par with domestic law. Thus, an international treaty that conflicts with a valid law has the same legal authority as a domestic law, provided that it has been duly signed and ratified and has entered into force.

5. The Syrian Court of Cassation has issued several rulings that support this principle. In a ruling issued in 1980 it made the following pronouncement: “Whenever the State enacts a law acceding to an international convention or an international treaty, the international instrument acquires the status of domestic law and must be applied by the courts because as it has become part of domestic law, not because the State has undertaken to implement it.” The Court went on to say: “Whenever an international instrument (that has been ratified) conflicts with a domestic law, it is the former that shall be applied.” In its deliberation on the merits of an appeal before it, the Court explained: “It remains for the domestic courts to apply the international treaty in preference to the domestic law, inasmuch as article 25 of the Civil Code, which was written following a discussion on disputes over the territorial jurisdiction of laws, stipulates that existing provisions apply unless otherwise stated in a special law or an international treaty in effect in the Syrian Arab Republic” (Syrian Court of Cassation, Second Civil Division, civil case 366, ruling 1905, 21 December 1980).

Reply to the recommendation in paragraph 6 of the concluding observations

Criminalization of torture

6. The penalty prescribed in article 391, paragraph 1, of the Criminal Code applies to torture in its simplest form, i.e. torture that does not leave the victim with any injuries. If the torture is accompanied by or results in an injury that causes a permanent disability or actual bodily harm, the penalty will be higher. The severity of the penalty will be

determined based on the nature of the act and the provision of law under which the act is punished.

Reply to the recommendation in paragraph 7 of the concluding observations

Widespread use of torture

7. The allegations concerning the routine use of torture by or at the instigation of law enforcement and investigative officials, especially in detention facilities, are mere hearsay and are unsupported by any legal or physical evidence. With the enactment of Decree No. 161 of 21 April 2011, ending the state of emergency, and Legislative Decree No. 55 of 21 April 2011, there can be no further talk about arbitrary or unlawful detention in any institution.

Reply to the recommendation in paragraph 8 of the concluding observations

8. The Kurds have the same rights and responsibilities as all other members of Syrian society. In Syrian identity cards, military service records, family cards and other official documents no reference whatsoever is made to the social origin, religion or faith denomination of the persons to whom these papers are issued. Moreover, the question contains something of a contradiction. How can a “stateless” person have been tortured during military service? Under Syrian law, only Syrian nationals can perform military service; a non-Syrian cannot be enlisted to do military service under any circumstances.

Reply to recommendation in paragraph 9 of the concluding observations

Fundamental legal safeguards from the outset of detention

9. Liberty is a sacred right that is protected by the Constitution and the law. No person may be detained without being charged in accordance with the procedures laid down by law, otherwise the detention will be unlawful and punishable by law. Article 357 of the Criminal Code states: “Anyone who arrests or detains a person other than under the conditions provided for by law shall be liable to a penalty of a fixed term of hard labour.” Article 358 provides that any governor, guard, or designated official in a prison, a correctional facility or a reform institution who admits a prisoner without a court warrant or order or holds a prisoner for longer than the term imposed in the sentence will face a penalty of from 1 to 3 years’ imprisonment. All those who are arrested in accordance with Syrian law are informed of the reasons for their arrest, the offence of which they are accused, the classification of the offence, and the article under which the act is punishable by law. Accused persons are served with a summons, a warrant or a detention order and are given a copy of the document. In cases involving a serious crime or a major offence, an investigating judge may simply issue a writ of summons and substitute it with a detention order, if necessary for the exigencies of the investigation, after interviewing the accused.

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

11. Whenever accused persons are brought before an investigating judge the latter must verify their identity, inform them of the charges, ask them to respond, and caution them that they have the right not to respond without having their lawyer present. A note to the effect that this caution has been given must be made in the interview record. If the accused does not designate a lawyer or have a lawyer brought within 24 hours, the interview will proceed without one. If a person accused of a serious crime cannot afford a lawyer, the Bar Association or the court will appoint one for him or her.

12. The Syrian legislature has introduced measures to ensure that cases are heard promptly in the interests of defendants. Article 104 of the Code of Criminal Procedures states that accused persons brought in on a writ of summons must be examined by an investigating judge without delay; those brought in on a warrant must be examined within 24 hours of being taken into custody. Once the 24-hour time limit expires, the custody officer (at the police station), acting on his own initiative, must bring the accused to the Office of the Public Prosecutor. The latter must ask the investigating judge to interview the person. If the investigating judge refuses to question the person or is absent, the Office may ask another investigating judge, the president of a first instance court or a justice of the peace to conduct the interview. If the accused cannot be interviewed, the public prosecutor must order his/her immediate release.

13. Article 115 of the Code of Criminal Procedures states: "Every person who is arrested on a warrant shall be taken without delay to the office of the public prosecutor in the jurisdiction of the investigating judge who issued the warrant. The arresting officer shall be provided with a receipt of surrender of the accused, the latter shall be remanded in custody, and the investigating judge shall be duly notified."

14. According to article 116 of the Code, a fine must be imposed on a clerk and a caution must be issued to a public prosecutor and investigator for failing to comply with the procedures described above for the issuance of warrants, summonses and detention orders. Article 117 of the Code states that a person arrested for committing an offence that carries a penalty of up to 1 year's imprisonment must be released within five days of being arrested, if he or she has a fixed abode in the Syrian Arab Republic and is not a repeat offender.

15. Article 122 of the Code sets a time limit of 24 hours for appealing release orders. Article 131 provides that the Office of the Public Prosecutor has three days from the date of receiving the case documents to submit requests to the investigating judge.

16. Article 136 of the Code states that if a public prosecutor's office suspects a person of committing a major or a petty offence, it has two days from the date on which it files a case to send the documents and the bill of indictment to the clerk of the court to which the office is attached.

17. Moreover, an investigating judge who concludes that an accused person has committed a serious crime must transmit the investigation file to the Office of the Public Prosecutor without delay so that the latter can initiate the proceedings specified in the section on laying charges. According to article 140 of the Code, any appeal against a decision by an investigating judge must be lodged within 24 hours, and notification must be given within 24 hours.

18. According to article 144 of the Code, the Office of the Public Prosecutor has five days from the date on which it receives the case documents to prepare the case, and a further five days, at most, to write its report. The urgent applications court must decide on motions immediately or within three days at most (art. 145).

19. As stated in article 158 of the Code, the Office of the Public Prosecutor has five days from the date on which it receives the case documents from the urgent applications court to

write a report. The accused must be sent to the custodial facility of the criminal court within 24 hours of being informed of the indictment.

20. According to article 220 of the Code, courts presided over by a justice of the peace must render their verdict on the same day of the sitting or by the next sitting at the latest. As for major offences committed in the presence of a witness, the court must convene immediately or, at the latest, on the following day. Article 233 states that the public prosecutor may issue witnesses with a verbal summons, while article 234 allows for a stay of proceedings of not more than three days.

21. Article 235 of the Code provides that the court may postpone the hearing until the first feasible date, if it concludes that the case is not ready to go to trial. Article 253 states that a court of first instance whose decision is appealed has three days to transmit the case documents to the appeal court.

22. Article 263 provides that the president of a criminal court must question the accused when he or she arrives. Article 273 states that the questioning must take place within 24 hours of the accused arriving at the custody facility.

23. All persons deprived of their liberty by virtue of being arrested or detained are entitled to apply to a court for a prompt decision on the lawfulness of their detention. The courts must order their release, if the detention is found to be unlawful. Accused persons can exercise this right under Syrian law from the very outset of detention. If, during the investigation, they submit a motion contesting the court's jurisdiction, calling for the proceedings to be dropped or claiming that the act at issue is not punishable by law, the investigating judge must hear the plaintiff and decide on the merits within one week. The fact that there is a one-week time limit does not imply that the accused should be held in custody during this time.

24. A decision by an investigating judge to dismiss a motion submitted by an accused person can be reviewed under the relevant appeal procedures without the investigation being interrupted (art. 73, para. 2). If the investigating judge concludes that the act in question does not constitute an offence or that there is no evidence to show that the accused committed the offence, he or she may drop the case and order that the accused be released, unless the person is being held in connection with a different case.

25. The decision of the investigating judge may be appealed before an urgent applications court, which will hear the appeal as a matter of urgency. If the urgent applications court concludes that the act done by the defendant does not constitute an offence and that the evidence is insufficient to bring charges, it may decide to drop the case and release the accused, unless he or she is being held in connection with a different case (art. 149, para. 1).

26. Syrian law safeguards the right of accused persons to have contact with their family throughout every stage of an investigation. Accused persons are informed of the allegations while at their place of residence or work. This gives them the chance to inform their family of the situation.

27. In article 70 of the Code, the legislature specifies which persons may be present during the investigation. In paragraph 3 of the same article, it grants the investigating judge the power to conduct an investigation without these persons being present. However, the legislature stipulates, in the same paragraph, that the investigating judge must brief the parties once an investigation conducted in such circumstances has been completed.

28. According to article 72, paragraph 2, of the Code, a lawyer may not be prevented from having contact with his or her client. Indeed a lawyer can talk to a client at any time without being subject to any supervision.

29. Law enforcement agencies in the administration of any State, including the Syrian Arab Republic, are responsible for maintaining public order in the wider sense of the term (public security, public health, public peace, public morals). As law enforcement agencies use administrative methods that tend to place restrictions on individual rights and freedoms, efforts must be made to reconcile, to the extent possible, the exercise of their powers with the imperative of safeguarding individual rights and freedoms – thus ensuring that these agencies do not use their powers to crush and eliminate freedoms.

Reply to recommendation in paragraph 10 of the concluding observations

State of emergency

30. The state of emergency that was in effect in the country was lifted pursuant to Presidential Decree No. 161 of 21 April 2011.

Reply to recommendation in paragraph 11 of the concluding observations

Supreme State Security Court

31. The Supreme State Security Court was abolished by Legislative Decree No. 53 of 21 April 2011. The decree provided for all cases pending before the Court or with the public prosecutor's office at the Court, to be transferred in their current state to the appropriate competent courts in accordance with the rules and procedures laid down in the Syrian Code of Criminal Procedures.

Reply to recommendation in paragraph 12 of the concluding observations

Independence of courts and tribunals

32. The judiciary in the Syrian Arab Republic exists as an independent power alongside the legislature and the executive. It is an entity in its own right and has its own structures and safeguards. It is evident that it is tasked with dispensing justice, giving effect to rights and safeguarding freedoms and with using the law as a means to achieve these ends.

33. This point is made in article 131 of the Permanent Syrian Constitution of 1973, as follows: "The judiciary is independent, and the President of the Republic guarantees this independence with cooperation from the Higher Council of the Judiciary." Article 133, paragraph 1, of the Constitution furthermore states: "Judges are independent and make their decisions subject to no authority other than the law. The honour, conscience and impartiality of judges constitute a guarantee of rights and freedoms."

34. Article 132 of the Permanent Syrian Constitution of 1973 states: "The President of the Republic shall preside over the Higher Council of the Judiciary and the law shall specify how the Council is to be constituted, what functions it shall perform and how it shall conduct its work."

35. The Higher Council of the Judiciary holds sessions in camera and takes decisions by a majority vote. However, decisions on judicial appointments, promotions, transfers, discipline, dismissals, retirements, provisional retirements and resignations are all taken by presidential decree.

36. Judges are immune from dismissal and transfer under the regulations set out in part III of the Judicial Authority Act (which bears the title “Immunity of judges”).

The courts

37. The courts of different kinds and levels hear all cases and proceedings that are laid before them and for which they have competence, except for those matters that are covered under a special provision of law. Personal status cases involving non-nationals who are subject under the laws of the home country to the Civil Code are heard by the civil courts alone. If a case on the same subject is laid before an ordinary court and an administrative court and neither court relinquishes the case or they both do, a petition to designate the competent body will be submitted to the court that deals with conflicts over jurisdiction. The latter court also hears disputes regarding the enforcement of conflicting final judgements issued respectively by the ordinary courts and the administrative or special courts.

38. As stated in article 32 of the Judicial Authority Act, the courts consist of the personal status courts; the juvenile courts; justice of the peace courts; first instance courts; appeal courts; and the Court of Cassation. The personal status courts comprise the sharia courts, the courts of the Druze community and the “spiritual” courts [courts for non-Muslims].

The Office of the Public Prosecutor

39. Article 138 of the Permanent Syrian Constitution of 1973 states: “The Office of the Public Prosecutor is a single judicial institution headed by the Minister of Justice. Its responsibilities and functions are regulated by law.”

40. The Judicial Authority Act states that the functions of the Office of the Public Prosecutor are carried out by judges performing the duties assigned to them by law. These judges must abide by the chain of command principle and the Minister of Justice is their chief. The law states that prosecuting judges must comply with written orders from their superiors when conducting their business and making requests in writing.

41. The Office of the Public Prosecutor carries out its legal functions and, unless otherwise specified in law, has the exclusive right to initiate and pursue criminal proceedings.

42. The law states that prosecuting judges must attend hearings conducted in penal and criminal appeal courts. They may also appear before first instance courts or may simply consult the judgements that these courts issue with a view to challenging them if necessary.

The Supreme Constitutional Court

43. The Supreme Constitutional Court is composed of five judges — one of whom is the president — who are appointed by decree for a renewable four-year term. Its main tasks are to:

- Rule on the constitutionality of bills challenged by the President of the Republic or by one quarter of the members of the People’s Assembly
- Issue opinions, at the request of the President of the Republic, on the constitutionality of bills and legislative decrees and on the legality of draft decrees
- Hear challenges regarding the validity of elections for the People’s Assembly

The State Council

44. The State Council is an independent entity which is attached to the Office of the Prime Minister. It consists of a judicial section and an advisory section that deals with legal opinions (*fatwas*) and law-making. It is made up of a president and a number of vice presidents, assistant justices, assistant magistrates and deputies. The deputies attached to the Council are subject to the rules established on their role.

45. The judicial section comprises the Supreme Administrative Court, the Court of Administrative Justice, the administrative courts, and the State Commissioner's Office. In accordance with the State Council Act No. 55 of 1959, the Council of State hears administrative disputes.

Reply to recommendation in paragraph 13 of the concluding observations

Immunity from prosecution

46. Decree No. 61 of 1950 concerns the conduct of proceedings before military courts. It defines: the powers of military judges; the procedures for notifying convicted persons; the mechanisms for challenging the courts' verdicts; the procedures for constituting military courts and challenging those procedures; the powers of the public prosecutor, the investigating judge and law officers; and the mechanisms for enforcing sentences. The decree does not contain any provisions that grant immunity from prosecution to an offender on the ground that he or she is a member of the intelligence services, the army or the air force (a copy of Legislative Decree No. 61 of 1950 is attached).

47. Under Legislative Decree No. 64 of 2008 the powers of the military courts under article 47 of the Criminal Code and the provisions on military proceedings set out in Decree No. 61 of 1950 were broadened to include offences committed on duty by Internal Security Forces officers, non-commissioned officers and men and by members of the political security and customs services. This represents a hardening of the position of the legislature on punishment of these offences, since jurisdiction was shifted from the ordinary courts to the military courts. Moreover, the issue is connected to the tasks that these services perform while carrying out their duties. The decree makes no mention of immunity for these officials (a copy of Legislative Decree No. 64 of 2008 is attached).

Reply to recommendation in paragraph 14 of the concluding observations

Monitoring and inspection of places of deprivation of liberty

48. The Ministry of Justice and the Ministry of the Interior oversee a process of effective, constant, systematic and continuous monitoring of prisons and prison inspections.

Reply to recommendation in paragraph 15 of the concluding observations

Secret detention centres

49. Although the information provided on this subject is untrue and is based solely on unofficial reports, we should like to provide some background in order to settle this question. Article 1 of Legislative Decree No. 55 of 21 April 2011 clearly and explicitly states that law enforcement officers and those deputized to carry out their tasks are required

to: investigate the offences listed in articles 260–339 and 221, 388, 392 and 393 of the Criminal Code (offences against State security and public safety); gather evidence; and question suspects. Suspects may not be held for more than seven days, which period may be extended by the Office of the Public Prosecutor depending on the information in the case file. In any event, suspects may not be held for more than 60 days.

Reply to recommendation in paragraph 16 of the concluding observations

Complaint mechanism

50. It is inaccurate to say that there are many allegations of torture but there is no mechanism for conducting impartial investigations. We provide by way of example the following table, which contains information on the number of cases involving allegations of torture that are currently before the courts.

<i>Court hearing the case</i>	<i>Number of cases</i>
Damascus Court of Justice	1
Damascus Countryside Court of Justice	5
Aleppo Court of Justice	1
Latakia Court of Justice	1
Dayr al-Zawr Court of Justice	2
Hamah Court of Justice	1
Idlib Court of Justice	None
Raqqah Court of Justice	None
Hasakah Court of Justice	None
Homs Court of Justice	None
Tartus Court of Justice	None
Dar`a Court of Justice	None
Suwayda' Court of Justice	None
Total	12

51. This table shows that there is a total of not more than 12 cases. The judicial authorities are the mechanisms responsible for conducting investigations into torture cases laid before them or defence arguments suggesting that a defendant in a case has been tortured. Usually, when a defendant appears in court, and argues that he or she confessed under torture, his or her objective is to find an excuse that will allow him or her to evade punishment and to have the interview ruled out of evidence, because a confession extracted under torture is considered unsafe by the courts. However, a confession is not sufficient in and of itself to convict a defendant. This point has been made in numerous rulings handed down by the Court of Cassation, as will be explained later in this report.

Reply to recommendation in paragraph 17 of the concluding observations

Refugees and asylum-seekers

Legal status of refugees in the Syrian Arab Republic

52. The Syrian Arab Republic deals with political asylum in accordance with recognized international principles and standards and with the relevant international treaties and conventions to which it is a party.

53. A special legal committee was set up to draft a comprehensive law on refugees in the Syrian Arab Republic, even though there are already a number of laws and regulations which protect the rights of these persons. The laws in question include the Basic Employment Act No. 50 of 2004, concerning the legal conditions for employment in the State. Article 7 of the Act states that applicants must have been Syrian nationals for at least five years. However, paragraph (b) of the article states that this condition does not apply to Palestine Arabs covered by Act No. 260 of 1956. These persons have the right to be employed while retaining their original nationality.

54. The laws of all States on public employment normally require candidates for public sector posts to be nationals of those States. Non-nationals are only allowed to work in the public sector in specific circumstances, as in the case of refugees who have no opportunities for employment in their home country. On humanitarian grounds, the Syrian Government has always allowed refugees to work in the Syrian public sector under the terms of specially drawn-up contracts. This is made clear in articles 147–149 of the Basic Employment Act No. 50 of 2004.

55. Generally speaking, refugees in the Syrian Arab Republic are afforded all the rights accorded to Syrians without distinction, except in certain areas where their refugee status comes into play, in particular residence issues and ownership of property. These matters are discussed here below.

56. The duration of residence permits varies from case to case, depending on the individual circumstances. Generally speaking, the right to reside in the Syrian Arab Republic is granted for up to five years. An extension may be granted provided that the original conditions for granting residence still obtain. This arrangement does not apply to Palestine refugees, who, because of the Israeli occupation of their territory, will continue to reside in the country until they return to their homeland. Refugees in the Syrian Arab Republic have complete freedom of movement in the country and abroad.

57. As for ownership of property, article 1 of Act No. 11 of 10 April 2011 gives families the opportunity to purchase their own home, which is to be a single piece of property, measuring not less than 140 m². The details of the property must be given in a planning permit issued by the Construction Commission (a complete housing unit). Article 4 of the Act states that, in case of necessity, a non-Syrian can acquire property without being bound by article 1 of the Act. Permission in such cases is given by means of a decree issued on the recommendation of the Council of Ministers.

58. Foreigners in general and refugees in particular have the right to purchase vehicles, to open accounts in Syrian public and private banks and to acquire any assets that Syrians can also legally acquire.

59. Lastly, we should like to draw attention to the major burden that the Syrian Arab Republic shoulders as host to millions of Palestine and Iraqi refugees. The countries of these persons are under occupation, with the result that millions have been forced from their home towns and off their land. The same thing happened during the Israeli assault on

Lebanon in 2006. The refugees have been provided with every facility, in keeping with the principles of good neighbourliness, humanitarianism, offering help and assistance to those in need and the idea that the presence of refugees in any country is a temporary phenomenon that is linked to special circumstances. Refugees are normally expected to return to their home country as soon as circumstances permit.

Reply to recommendation in paragraph 18 of the concluding observations

Non-refoulement

60. All the conventions and treaties that the Syrian Arab Republic has concluded on cooperation with Arab and foreign States prohibit the extradition of political refugees. It is regrettable that the Office of the United Nations High Commissioner for Refugees (UNHCR) has failed to provide even one name of a political refugee who has been subject to refoulement. As for the rendition of terrorists — even assuming that the claims are true — this has nothing to do with the situation of political refugees who must be protected from refoulement. The term “political refugee” has a different meaning under international and domestic law from the term “terrorist”.

Reply to recommendation in paragraph 19 of the concluding observations

61. We have already made it clear that administrative detention measures are time bound under Syrian law. Syrian law prohibits the extradition of political refugees. A distinction must be made, in line with recognized international norms, between political asylum and the commission of offences that are punishable under Syrian law or the law of a requesting State.

Reply to recommendation in paragraph 20 of the concluding observations

Training

62. A syllabus on human rights and public freedoms is taught at the Judicial [Training] Institute. Many course for judges on combating money-laundering and the financing of terrorism have been run in cooperation with the World Bank and the Commission for Combating Money-Laundering and Financing of Terrorism in the Syrian Arab Republic. Judges furthermore take part in all the courses that are held in the country and in several courses held abroad on human rights and public freedoms. At present, the Ministry of the Interior is running workshops jointly with the International Organization for Migration (IOM) and the Austrian Government on tackling human trafficking. A human-rights syllabus is taught to first-year students in university law faculties. It is also taught to students taking higher studies in English and French. It is taught in political science faculties and various other faculties and educational institutions.

Reply to recommendation in paragraph 21 of the concluding observations

Enforced disappearances

63. The Committee against Torture has no remit to consider the subject of enforced disappearance. Moreover, the Committee is discussing issues related to events that occurred before the Convention against Torture was adopted and before the Syrian Arab Republic signed it and acceded thereto. This is clearly at variance with the principle established in international law of the non-retroactive application of international treaties and conventions.

Reply to recommendation in paragraph 22 of the concluding observations

Investigations

64. A joint Syrian-Lebanese committee continues to monitor this situation.

65. On 5 July 2008, at Sednaya Prison, a number of inmates with links to terrorist groups that espouse *takfiri* ideology (Al-Qaida, Jund al-Sha'm, Fatah al-Islam, etc.) carried out a plan that had been prepared in advance, and responding to a secret code word that they had agreed upon and exploiting the decent treatment afforded to them by the prison administration. They damaged doors and walls, ripped up bedding, broke down doors and escaped from their cells. They took several guards hostage and assaulted them using weapons that they had made using tools and equipment that the prison administration had allowed them to purchase in order to encourage them to learn a manual trade. The prisoners killed several inmates and a number of police officers. They wrecked the prison, set fire to the building and stole safes, money boxes and property that was being stored for prisoners. The judicial authorities conducted and directly oversaw the investigations into these incidents.

Reply to recommendation in paragraph 23 of the concluding observations

- Ahmed Al-Maati was arrested by customs and held for 8 days in 2008 for smuggling.
- Abdullah Al-Malki lives abroad and has no criminal record. We have heard reports that he has links with Al-Qaida.
- Maher Arar has been living in Canada for more than 20 years. He was arrested in the United States having been accused of belonging to Al-Qaida. He was then handed over to the Syrian authorities, which released him about one year after his arrest. He filed a suit against United States officials claiming that he had been tortured in the Syrian Arab Republic. There is no truth to this claim, which is completely unfounded.

Reply to recommendation in paragraph 25 of the concluding observations

Lack of legal protection of women and impunity for crimes committed in the name of “honour”

66. Women in the Syrian Arab Republic exercise the same rights as men. There is no discrimination between the sexes. This is clear from the Constitution, which refers to the need to protect women’s rights. The Constitution grants every citizen the right to contribute to political, economic, social and cultural life without any discrimination between women and men (Permanent Syrian Constitution of 1973, art. 26).

67. The State offers women every opportunity to contribute actively and fully to political, social, cultural and economic life and seeks to remove the restrictions on women’s advancement and participation in the development of society (Permanent Syrian Constitution of 1973, art. 45).

68. Committees have been formed to study all the laws that have been in effect in the Syrian Arab Republic for a long time. They have been given a deadline for the completion of their work. The laws to be studied include those mentioned in the paragraph.

Reply to recommendation in paragraph 26 of the concluding observations

69. The law does not allow rapists to evade punishment by simply marrying their victim. The complainant has the right to drop the complaint and cannot be denied this right. In any event, article 508 of the Criminal Code was amended by Legislative Decree No. 1 of 3 January 2011 to provide as follows:

“1. If a valid marriage is contracted between the perpetrator of one of the serious offences enumerated in this article and the victim, the perpetrator shall benefit from consideration of the mitigating factors provided for in article 241 only if the penalty is not less than 2 years’ imprisonment.

“The perpetrator shall be sent back for trial if the marriage ends with the unjustified repudiation of the wife or with the husband being divorced in the interests of the victim less than five years from the date of the marriage; the time already served shall be taken into account.

“2. If a valid marriage is contracted between the perpetrator of one of the lesser offences enumerated in this article and the victim, the prosecution proceedings shall be suspended. If a sentence has already been handed down, its enforcement shall be suspended.

“The prosecution shall be resumed or the sentence shall be enforced, if the marriage ends with the unjustified repudiation of the wife or with the husband being divorced in the interests of the victim less than three years from the date of the marriage; the time already served shall be taken into account.”

Reply to recommendation in paragraph 27 of the concluding observations

Domestic violence

70. The Syrian Criminal Code punishes all forms of violence, whether domestic violence or any other kind. With regard to rape, an explanation of the regulations that apply under Syrian law is found in the previous paragraph.

Reply to recommendation in paragraph 28 of the concluding observations

Trafficking in persons

71. Legislative Decree No. 3 of 7 January 2010 deals with the issue of combating human trafficking. In keeping with established international standards, it includes all human rights principles and norms and leaves scope for lessons to be drawn from the experiences of other States in this domain.

Principles underpinning Legislative Decree No. 3 of 2010

72. In this decree, the Syrian legislature has made sure to include a range of the fundamental principles that underpin a rights-based approach to combating human trafficking. These principles include the following:

- Special attention must be paid to children and women who are victims of human trafficking and to victims with special needs, such as persons with disabilities and persons with similar impairments, with a view to providing for their social rehabilitation.
- Protection and appropriate care must be offered to the victims of human trafficking, whose human rights must be fully respected.
- Measures must be taken to afford appropriate protection to the victims of human trafficking and to provide them with the physical, psychological and social assistance that they need, if necessary in cooperation with governmental institutions, grass-roots organizations, trade unions and relevant associations.
- Female staff must be deployed to conduct investigations into cases of trafficking of women.
- Victims must not be placed in facilities that are unsuitable for them given their status as victims.
- Confidentiality must be assured; victims' names and whereabouts must not be disclosed, and no information is to be released that would identify victims or their family members.
- Advice and information must be dispensed to victims of human trafficking, particularly on their legal rights. This information must be offered in a language that the victim understands.
- Protection must be afforded to those who report human trafficking offences, as well as witnesses and experts and their family members.
- Action must be taken to strengthen international cooperation in order to deal with the perpetrators of human trafficking offences.

- A legislative framework must be established to provide for the development of a societal culture that will help to prevent human trafficking and to deal with the consequences of trafficking more effectively.

Concept of human trafficking

73. Article 1 of Legislative Decree No. 3 of 2010 states that human trafficking is an offence under the conditions and provisions set out therein. Article 4 of the decree defines human trafficking as the recruitment, transportation, abduction, removal, harbouring or receipt of persons for the purpose of their employment in work or illegal activities in exchange for material or in-kind payments or a promise thereof or a benefit or for the achievement of any gain of this kind or any other purpose.

74. These acts are classified as offences, regardless of whether or not they were committed by means of the use or threat of force, the use of violence or coercion or the exploitation of the victim's ignorance or vulnerability, or by means of fraud, deception or the abuse of power or with the collusion or the assistance of a person having control over the victim. Moreover, under no circumstances, can the victim be deemed to have given consent.

75. Human trafficking is deemed to include any act involving any form of sexual exploitation of children, the photographing of children's genitals and the use of children in pornography in exchange for direct or indirect remuneration. The penalty for these offences is set out in article 7 of the Legislative Decree and provision is made for higher penalties in article 8.

Aggravating circumstances

76. While the legislature takes up many humanitarian issues in Legislative Decree No. 3 of 2010 in order to benefit the victims of human trafficking, particularly women and children, it also takes a tough line on dealing with the perpetrators of these offences. This is apparent in the way that many different subjects are addressed, including, for example, the following:

- The legislature explicitly provides that the application of the decree does not preclude the imposition of a higher penalty under the laws in force.
- The legislature prescribes a term of not less than 7 years' imprisonment and a fine of from 1 million to 3 million Syrian pounds for committing a human trafficking offence. The definition found in article 4 of the decree applies to all persons who establish, organize or run a crime ring that carries out, participates in, or promotes human trafficking.
- The decree provides that the proceeds from offences classified as such under the decree and the property, equipment or tools used or prepared for use in the commission of these offences will be confiscated (a copy of the text of Legislative Decree No. 3 of 2010 is attached).

Reply to recommendation in paragraph 29 of the concluding observations

Redress and compensation for victims of torture, including rehabilitation

77. Article 164 of the Civil Code states: "Anyone who commits a wrongful act that causes injury to others shall be liable to make reparation for the act." Article 165 provides: "A person shall be liable for his unlawful actions, if he did them while capable of

exercising discretion.” The State provides free psychological and medical treatment to all citizens who are victims of torture.

Reply to recommendation in paragraph 30 of the concluding observations

Conditions of detention

78. Prison food must meet specific quality standards which are verified by experts and specialists. Cleaning duties are performed by private cleaning companies. Health care is available around the clock, and young persons and adults are held in completely separate quarters. There is no overcrowding in prisons.

Reply to recommendation in paragraph 31 of the concluding observations

Children in detention

79. Under no circumstances may a young person under the age of 18 years be sentenced to death or life imprisonment in the Syrian Arab Republic (Juvenile Offenders Act, art. 29).

Reply to recommendation in paragraph 32 of the concluding observations

Deaths in custody

80. This is a matter of hearsay and is unsupported by any evidence. Forensic tests are carried out in prisons or hospitals without any major problems.

Reply to recommendation in paragraph 33 of the concluding observations

Coerced confessions

81. No reliance may be placed in a confession extracted under force. Coerced confessions are worthless if there is no evidence to support them. The Court of Cassation has ruled that confessions made to a police officer will only be considered as valid if supported by other evidence (Court of Cassation ruling No. 293, case No. 538 of 2005). The Court of Cassation is the highest court in the land and all other courts must abide by its rulings, which have the status of legal norms. Any person who takes decisions that are at variance with the Court’s rulings will be considered to have committed a major professional error. A confession made to a law officer may be retracted and a conviction will not be considered valid if it is unsupported by evidence (ruling No. 400 in case No. 97 of 2005). A confession made to a security officer is not sufficient in and of itself for the issuance of a verdict. If a judge ignores and refuses to discuss substantive defence arguments and case evidence, he or she will be deemed to have committed a grave professional error (ruling No. 52 in case No. 259 of 2006). The Court of Cassation has ruled that coerced confessions made to security officers in connection with a serious crime cannot be used as the only evidence in handing down a conviction, unless there is other supporting evidence. Information provided by the police and spontaneous statements are basic information for the conduct of an investigation and the establishment of the facts. A failure to take account

of these statements and other evidence does not constitute a grave professional error (ruling No. 22 in case No. 1097 of 2006).

Reply to recommendation in paragraph 34 of the concluding observations

Human rights defenders

82. Human rights defenders carry out their work in full freedom and without any restrictions other than those imposed under laws that apply to all. No one has the right to commit a legally punishable offence and then to invoke human rights as a defence in order to escape punishment.

Reply to recommendation in paragraph 36 of the concluding observations

National human rights institution

83. The Government is taking steps to establish human rights institutions. There are several governmental bodies and civil society institutions that are active in this area at present.

Reply to recommendation in paragraph 37 of the concluding observations

Data collection

84. There is a statistics department at the Ministry of Justice and in every judicial division. In this report, we have cited some relevant statistics.

Reply to recommendation in paragraph 38 of the concluding observations

Cooperation with United Nations human rights mechanisms

85. As the United Nations is well aware, the Syrian Arab Republic is one of the countries that has extended the most cooperation to it and its specialized agencies. There are no restrictions on visits by special rapporteurs, other than those provided for under diplomatic rules and practice with respect to the operation of mechanisms and procedures. Experts and specialists from international organizations have been visiting the Syrian Arab Republic for many years.

Reply to recommendation in paragraph 39 of the concluding observations

86. The question of whether to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a matter that the State will decide at its own discretion, depending on the circumstances and on factors that have to do with national sovereignty.

Reply to recommendation in paragraph 40 of the concluding observations

87. The above information also applies to the question concerning the reservation to article 20 of the Convention.

Reply to recommendation in paragraph 41 of the concluding observations

88. The relevant authorities will consider this recommendation.

Reply to recommendation in paragraph 42 of the concluding observations

89. This matter is outside the Committee's purview.

Reply to recommendation in paragraph 43 of the concluding observations

90. The Syrian Arab Republic is one of the few States to have ratified most of the international human rights treaties, including, by way of example, the following:

- The United Nations Convention against Transnational Organized Crime of 2000; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both supplementing the United Nations Convention against Transnational Organized Crime of 2000 (ratified by Act No. 14 of 2008)
- The Slavery Convention of 1926 and the Protocol of 1953 amending the Slavery Convention (accession on 17 September 1954)
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (accession on 4 August 1958)
- The Abolition of Forced Labour Convention, 1957 (No. 105)
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (accession on 12 June 1959)
- The Convention on the Elimination of All Forms of Discrimination against Women of 1979 (accession on 25 September 2002)
- The Convention on the Rights of the Child of 30 November 1989 (accession on 15 July 1993)
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

91. Lastly, by Legislative Decree No. 61 of 21 May 2011 a general amnesty was declared for all offences committed before 31 May 2011.