

## IRAN (ISLAMIC REPUBLIC OF)

### CCPR A/33/40 (1978)

293. The Committee considered the initial and supplementary reports submitted by Iran at its 89<sup>th</sup>, 90<sup>th</sup> and 93<sup>rd</sup> meetings on 20 and 24 July 1978 (CCPR/C/SR.89, 90 and 93).

294. The reports were introduced by the representative of the State party who recalled that the initial report (CCPR/C/1/Add.16) had been submitted before the Committee's guidelines had been received and that, consequently, a supplementary report (CCPR/C/1/Add.26 and Corr.1), prepared in accordance with the guidelines, was now placed before the Committee. 8/

295. The representative reviewed briefly the Iranian legal system, stating that the Civil Code was based on Islamic law and that the provisions governing personal and family matters applied only to Shi'i Moslems. He pointed out that, under Iranian law, an individual had a remedy by way of damages if his person, property, reputation or other rights recognized by law had been violated. That law, he maintained, also applied to public and private organizations.

296. Members of the Committee welcomed the fact that the supplementary report of Iran indicated factors and difficulties affecting the implementation of the Covenant, and enabled the Committee to gain a better understanding of the situation in that country and of the special problems in implementing human rights faced by developing countries. They expressed the hope that the Committee will be kept informed of the future work of the Commission for Review of Iranian Laws in Relation to the Covenant. The Commission would do well, it was suggested, to review not only the laws but also the practices involved in their application.

297. It was noted that the Covenant was not considered directly binding under Iranian law and that, according to the supplementary report, there were cases of conflict between domestic law and the provisions of the Covenant and others in which domestic law was silent with regard to rights recognized in the Covenant. Clarification was therefore requested on the Government's intentions to remedy that situation in the light of the fact that no reservation to that effect had been made by the Iranian Government when it ratified the Covenant.

298. Referring to the constitutional system in Iran, members of the Committee asked how the executive, legislative and judicial powers were kept separate; what the exact status of the monarchy was with regard to legislative powers; to what extent the executive was answerable to the legislature; how a minister could be removed if he was responsible both to the monarch and to the two houses

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8/ The initial report of Iran was scheduled for consideration at the third session of the Committee. At its 72<sup>nd</sup> meeting on 2 February 1978, the Committee, having been informed that a supplementary report would be submitted shortly, decided to place both reports on the agenda of its fourth session.

of Parliament; how the judiciary was constituted; how the judges were appointed, particularly those of arbitrary councils and houses of equity; and whether the latter played a role in guaranteeing human rights or were merely law enforcement authorities. With reference to the military tribunals mentioned in the report, it was observed that such tribunals tended to be dominated by the executive and that the resulting insufficient separation of powers could lead to the infringement of the role of the judiciary and the rights of individuals. Questions were asked concerning the legal basis of such tribunals, and whether they were a permanent part of the judiciary.

299. Information was requested on the nature of customary law with respect to religion, the family and other areas, including political questions, and on the constitutional provision that “the laws must not be at variance with principles of Islam”, which seemed to suggest that customary law took precedence over ordinary laws. It was noted that customary law could be invoked in the military tribunals and one member wondered how customary law could be applied in courts of an exceptional nature.

300. Members of the Committee noted that the description given in the report of the available remedies for persons whose civil and political rights were violated was not sufficient to establish whether the provisions of article 2, paragraph 3, of the Covenant were being met, and that a law enacted in 1960 with a view to establishing a Council of State to hear complaints from individuals had not been implemented “due to lack of means”. Members therefore asked several questions as to the nature of the difficulties preventing the implementation of the abovementioned law: was the Imperial Inspectorate mentioned in the supplementary report actually functioning and, if so, what procedures were followed for hearing complaints addressed to it? Was the complainant allowed to have the assistance of legal counsel? What were the number, nature and outcome of complaints dealt with in the course of one year? Reference was made to the constitutional provision cited in the supplementary report that “the hearing of complaints regarding the violation of political and civil rights, in general and aside from exceptional cases, falls within the jurisdiction of the judicial courts”. Clarification was sought in respect of those “exceptional cases”.

301. In connection with article 3 of the Covenant, questions were asked regarding the extent to which women were able to exercise political rights to take up positions equal to those of men and to have equal access to education at all levels.

302. It was noted that, in terms of article 4 of the Covenant, no derogation from the obligations assumed under the Covenant was possible except in relation to situations of public emergency, and the representative was asked whether any emergency situation had led the Government to derogate from any of its obligations under the Covenant.

303. As regards measures adopted in Iran for protecting the right to life under article 6 of the Covenant, questions were asked concerning rules governing the use of arms by security forces in disturbances, particularly political riots. What offences, particularly political offences, if any, were punishable by the death sentence? How many executions had been carried out in recent years and had any consideration been given to the possibility of abolishing the death penalty? Information was sought on measures taken to reduce infant mortality and on trends in infant mortality in different parts of the country.

304. Regarding article 7 of the Covenant, it was noted that the report appeared to suggest that

torture and cruel punishment was prohibited only if used to extract confessions. It was felt that more was required under that article, including a system for regular control and monitoring to ensure that the prohibition of torture was respected by all responsible public agencies. The punishment for such acts as provided for in the Iranian law appeared to be lenient. Questions were asked as to what measures had been taken to ensure that treatment contrary to article 7 of the Covenant was not resorted to by the police or security agencies or other authorities; had there been any recent complaints of such treatment and had there been any recent instances of public officials being charged with such violations?

305. Referring to article 9 of the Covenant, members of the Committee wished to know for what kinds of non-violent political activities, if any, persons might be imprisoned in Iran; whether any persons were detained on political grounds without trial, and if there were, on what justification. It was stressed that, at the pre-trial stage of the proceedings, the accused should be subjected to a minimum of duress and be able to have access to legal assistance during detention or while a police investigation was carried out. How long could a person be legally detained pending trial? Could the detainee resort to a writ of habeas corpus or have the legality of his detention adjudicated upon promptly by a court of law with a view to securing his release? Was the question of granting bail still within the competence of the security and intelligence agencies? Additional information was requested concerning the Public Security Committee referred to in the report in connection with article 9 of the Covenant.

306. In respect of article 10 of the Covenant, information was requested concerning the treatment of prisoners; the frequency of family visits and freedom of correspondence; solitary confinement; the practices of the "courts of children" referred to in the initial report; and the existing measures to correct juvenile offenders and to reintegrate them into the community and whether those measures included a system of guardianship.

307. Commenting on article 14 of the Covenant, members of the Committee wondered why it was necessary for military tribunals in Iran to have jurisdiction over civilians in certain cases, since military judges normally lacked specialized training and were less independent than other judicial officers. It was noted that, according to the report, the file of the accused could be the basis for the military tribunal's decision, since it was possible for the tribunal to dispense with the hearing of witnesses or cross-examination. The representative of Iran was asked whether such tribunals observed the minimum guarantees of due process required under article 14 of the Covenant, including the right of the accused to choose his counsel freely and his right to appeal. A statistical breakdown was requested on the work of the military tribunals showing the number of cases which had come before them and the number of acquittals and convictions.

308. It was noted that the Iranian Government itself had expressed doubts as to whether national law was fully in conformity with the requirement that individuals accused of criminal offences were to be presumed innocent until proved guilty and the representative of Iran was asked what historical, cultural or other factors might have limited the realization of that principle. It was noted that the State Organization for Intelligence and Security referred to in the initial report not only gathered information required for national security but also performed the function of examining magistrates. Questions were asked concerning the function of that Organization; members wished to know whether its mandate was clearly defined and whether it was considered to be a judicial or a police

body. They also asked whether the military tribunals or any other courts were involved in the investigation stage of a case.

309. In relation to article 17 of the Covenant, information was requested concerning the laws governing the circumstances which might involve interference with privacy, family, home or correspondence of the individual and the rights, obligations and powers of the intelligence service in that respect.

310. With reference to article 19 of the Covenant, it was stated that no discussion whatsoever was apparently permitted concerning the Constitution, the Imperial monarchy and the Revolution of the Shah and the People, and that the Press Act had been used to punish severely anyone who ventured to express views on them. Members of the Committee wished to know to what extent, for example, people were free to express ideas that might be at variance with those of the régime, to criticize acts of the authorities or to advocate peaceful changes of the system; what degree of control, including censorship, was exercised over the mass media; what access the average citizen had to the information media; whether the press was directly or indirectly State-supported and, if it was, who made decisions as to the granting of such support; and to what extent the full enjoyment of the rights guaranteed under article 19 of the Covenant was subject to the jurisdiction of the military tribunals.

311. With reference to article 22 of the Covenant, members asked whether it was possible in Iran to establish a political association with aims or views which might be different from those of the Government and whether individuals who professed a religion, other than the official State religion, had to organize themselves within a legal structure recognized by the State. Further information was requested regarding the status of unions in making collective agreements and the conditions which a professional association had to fulfil in order to become a trade union.

312. In connection with articles 23 and 24 of the Covenant, members wished to know whether customary family law as applied by the religious courts was consistent with those articles of the Covenant; what legal rules and practices existed to ensure equality between spouses during marriage and at its dissolution; and what steps were being taken to improve economic and social conditions, especially with regard to the family and children. Members expressed concern over the reference in the supplementary report to “illegitimate children”, which seemed to constitute discrimination on the basis of birth, and asked what justification there was for the distinctions made and whether the Government had any intention of eliminating them.

313. With reference to the political rights enunciated in article 25 of the Covenant and to the fact that Iran had a single-party political system, members asked how the system worked; to what extent it was one of participation; how members of the National Consultative Assembly and the Senate were chosen; what were the “exceptional cases” in which the principle stated in the supplementary report that “the people have the right to participate in the administration of the country” did not apply; and what were the criteria for prohibiting access to civil service.

314. In connection with article 27 of the Covenant, clarification was needed as to whether the minorities referred to in the two reports were considered as such on religious, ethnic or other grounds. More details were requested on the protection of their rights.

315. Commenting on the statement in the supplementary report to the effect that certain cultural, economic, geographic and religious factors made it difficult for the Iranian Government to attain effective implementation of all the provisions of the Covenant, one member of the Committee observed that the absence of a provision in Iranian legislation relating to the prohibition of war propaganda, or the fact that certain judgements were not subject to appeal to a higher court, seemed to indicate that there were cases where the failure to implement certain provisions of the Covenant could not be attributed to those factors.

316. The representative of Iran commented on the observations and questions summarized in the preceding paragraphs. He quoted article 9 of the Civil Code of 1928 which provided that “treaty stipulations which have been concluded in accordance with the Constitution between the Government of Iran and other Governments shall have the force of law” and pointed out that, in the light of over 70 years of constitutional practice and the text of the Constitution, there was no doubt as to the precedence taken by the Constitution over all other laws in his country.

317. The representative described at length the organization of the State constitutional system and its structure. As to the question of the control of the executive by the legislature, he pointed out that the affairs of the State were subject to scrutiny by the National Consultative Assembly and by the Senate whose powers were laid down in the Constitution and amendments thereto. Ministers were accountable to both houses and could not absolve themselves from their constitutional responsibilities by invoking orders of the Shah or royal decrees in justification of their actions. When either of the houses, by a vote of an absolute majority of members, declared its dissatisfaction with the cabinet or a minister, the cabinet or the minister was considered dismissed.

318. As regards the competence of courts, he stated that, in principle, the adjudication of all controversies fell within the competence of the ordinary courts. The competence of other bodies such as the houses of equity, the arbitration councils and the religious courts was limited to cases expressly specified by law. He pointed out that a House of Equity, elected by the inhabitants of a village, handled petty offences and minor civil litigation and that a court writ issued by a judge was needed for the implementation of its verdicts. Arbitration Councils were established in towns and had similar jurisdiction, but their verdicts had to be approved by a legal consultant assigned to the Council by the appropriate court. In practice, the majority of cases brought before those institutions were settled by compromise. As to the status of military tribunals, the representative stated that these tribunals were established, pursuant to the Supplementary Fundamental Laws, by legislation adopted in 1939, and that their judges were appointed from among individuals trained in the law.

319. Replying to questions concerning the role and nature of customary law in Iran, the representative stated that, under Iranian law, custom was invoked exclusively in civil cases and had no application whatsoever in criminal offences. It was in controversies of a civil nature where no law at all existed, or the existing laws were contradictory or unclear, that the judge was allowed to invoke custom.

320. In connection with the question of remedies under article 2 of the Covenant, the representative pointed out that the Imperial Inspectorate was part of the Executive and had no judicial prerogative. Individuals could submit complaints against Government agencies to the Inspectorate which had access to all Government records. The elimination of corruption constituted one of its functions;

and if its investigation revealed a crime, a report was submitted to the legal authorities concerned for prosecution. He also pointed out that the law enacted in 1960 relating to the Council of State, which was to consider complaints by civil servants of violation of their employment rights, had fallen into disuse. Its main functions were exercised by an administrative and civil service commission established under the Civil Service Act of 1966 and by the Imperial Inspectorate established in 1968.

321. In connection with questions put to him under article 3 of the Covenant, the representative stated that since 1963 women in Iran had had the right to vote and were eligible to hold public office and compete freely for any post in the Government. Under the Family Protection Law, men and women had the same right to refer family disputes to a court of law, to sue for divorce and to be granted the custody of children. He gave some statistics showing the progress made by women as a result of a decree on free and compulsory education for all children.

322. Referring to questions under article 4 of the Covenant, he pointed out that, according to a law enacted in 1950, in exceptional circumstances a state of emergency could be declared with the prior approval of the National Consultative Assembly and the Senate. If urgent circumstances arose, the Executive could declare the state of emergency and submit a report within one week explaining the reasons for the decision to each of the two houses. The latter could overrule the decision of the Government and thus bring the state of emergency to an end.

323. As regards article 6 of the Covenant, he stated that capital punishment was limited by law to specific crimes of exceptional seriousness and could be carried out only pursuant to a final judgement rendered by the competent tribunal. Over the past two years, he maintained, the number of death sentences handed down and executed had been decreasing continuously.

324. Replying to questions under article 9 of the Covenant, the representative stated that, in Iran, there was no exact equivalent of the common law concept of habeas corpus; that detained persons were allowed by law to petition courts concerning details of their case; and that officers in charge of investigations were required by law to submit the relevant charges to the appropriate court. Suspects had access to legal assistance in the pre-trial stage.

325. With regard to the prohibition of torture and the treatment of prisoners, provided for in articles 7 and 10 of the Covenant, he drew attention to the relevant law of 1975 which, he maintained, was in full conformity with the Standard Minimum Rules for the Treatment of Prisoners as approved by the Economic and Social Council. He stated that the total number of persons imprisoned for committing acts of terrorism, espionage or acts against the security of the State did not exceed 2,100. He stressed the fact that recent studies on the implementation of prison regulations failed to show a single case of torture or cruel, inhuman or degrading treatment.

326. Commenting on questions under article 14 of the Covenant, the representative pointed out that when a crime was committed, the relevant records were submitted to the office of the military prosecutor which would, through an investigator of its own, ascertain whether the case fell within the jurisdiction of a military tribunal. If it was found that the crime fell within the jurisdiction of the judiciary courts, the records would then be sent to the civilian public prosecutor. He maintained that the law guaranteed various individual rights of defence to those accused in cases brought before

military tribunals and noted that the number of cases brought before military tribunals had been decreasing in recent years owing to a restrictive interpretation of crimes against the State. As to the security organization which was established in 1957, he pointed out that it reported to the Prime Minister and was responsible for detecting crimes against the State, terrorist activities and espionage. It had the power to arrest, but a writ was required for the continuation of detention beyond 24 hours. It did not possess any judicial power.

327. Replying to questions concerning the “presumption of innocence”, he maintained that that principle was in theory as well as in practice a basic general rule in the Iranian legal system; although a few instances of conflict had been found, measures were being considered to remove the discrepancies. He also stated that the value of evidence in criminal cases was for the court to determine. In that connection, he stated that Iranian court procedure did not allow for cross-examination in the Anglo-American sense of the word and that the court relied mainly on statements by the defendant. The right of appeal was recognized by the Supplementary Fundamental Laws. However, cases which were not subject to appeal had been scrutinized and a bill to extend the right of appeal was under preparation.

328. Regarding article 22 of the Covenant, he stated that workers having the same occupation were allowed to form their own labour organizations, which normally engaged in collective bargaining.

329. In connection with questions raised under article 23 of the Covenant, he stated that relations between men and women before marriage were not a matter of concern to the law and that legal obligations and responsibilities began only after marriage. In cases of divorce or dissolution of marriage, the court handed down a decision on the respective obligations of each spouse.

330. Replying to questions under article 25 of the Covenant, he stated that the representatives in the Consultative Assembly were elected by secret ballot in a general election and the qualifications of the electors and of the candidates were laid down by a law which applied equally to men and women. Half of the members of the Senate were elected in a general election while the other half were appointed by the Shah under article 45 of the Constitution. To become law, all proposals had to be approved by both houses, except for financial matters which were the prerogative of the Assembly. He stated that the National Resurgence (Rastakiz) Party had been established in 1974 to promote mass participation and the expression of views and preferences. The Government’s firm commitment to decentralization, and the granting to the lower organs of increasing decision-making powers with respect to the allocation and administration of development resources, made the elective organs and councils, at the various levels of Government, viable institutions through which meaningful popular participation was made possible.

331. The representative of Iran assured the Committee that, as regards the questions which remained unanswered, further information would be submitted in writing at a later stage.

## CCPR A/37/40 (1982)

298. The Committee considered the report of Iran (CCPR/C/1/Add.58) at its 364<sup>th</sup>, 365<sup>th</sup>, 366<sup>th</sup> and 368<sup>th</sup> meetings held on 15, 16 and 19 July 1982 (CCPR/C/SR.364, 365, 366 and 368) .

299. The report was introduced by the representative of the State party who explained the ideological foundation of the Islamic Revolution in Iran. He stated that, in spite of the internal and external difficulties encountered in establishing the Islamic Republic of Iran, his Government had at no time suspended the freedoms and liberties enshrined in the Covenant and in the Iranian Constitution of 15 November 1979, and that no state of emergency had been imposed, nor had martial law been declared.

300. The representative stated that, although many of the articles of the Covenant corresponded to the teachings of Islam, in the case of differences between the two sets of laws, the tenets of Islam would prevail. He then referred to the text of the constitutional provisions relevant to the implementation in Iran of the various provisions of the Covenant and provided further information on other legislative provisions aimed at protecting the rights enshrined in it. He also explained that the laws and regulations of Iran were still divided into two categories: post-revolutionary laws and regulations approved by the Islamic Consultative Assembly and laws and regulations enacted before the revolution which were still in force. The Islamic Consultative Assembly was at present examining laws and regulations relating to criminal acts, including the Code of Criminal Procedure and the Military Penal Code. The judiciary in his country was independent in accordance with the Constitution and steps had been taken to incorporate military and revolutionary courts within the framework of the Ministry of Justice. The death penalty was imposed in Iran for very serious offences such as murder or armed operations against the Islamic Republic of Iran. The death penalty was carried out only after a final judgement rendered by a competent court. A more comprehensive report would be submitted to the Committee as soon as the present session of the Islamic Consultative Assembly had completed its task of approving the above-mentioned laws and regulations.

301. Members of the Committee welcomed the fact that the Iranian Government had submitted its report and expressed appreciation for the additional information provided by the representative of the reporting State concerning the revolutionary process which laid the foundation of a new society which had started in that country. While understanding the difficulties of an internal and an external nature that Iran had to face during its revolutionary process which might have affected the preparation of a report, members of the Committee regretted that the report under consideration was narrower in scope than article 40 of the Covenant envisaged, that it did not follow the general guidelines for the submission of reports established by the Committee, that the information provided had been limited to a description of laws and regulations and that no mention had been made of other measures to implement the various provisions of the Covenant as indicated in its article 2, paragraph 2, nor of remedies available to those who believed that their rights under the Covenant had been violated. Noting that every revolution had its own laws, members of the Committee needed more detailed information on the revolutionary process itself in order to ascertain how far it affected the human rights situation in the country and what its effects were in relation to the Covenant. Members of the Committee noted with satisfaction the intention of the Iranian



Government to submit shortly a more comprehensive report which would strengthen the dialogue that had just started between the Committee and that Government and wished to know when exactly the new report would be submitted.

302. With reference to article 1 of the Covenant, information was requested on any legislative or administrative measures that had been taken by the Iranian Government to achieve equitable distribution of wealth, to facilitate the participation of the masses in the productivity of the country and to eliminate the exploitation of man by man.

303. Clarification was also requested with regard to the meaning attributed by the Iranian Government to the right to self-determination, since the notion of exporting the Islamic revolution referred to in official declarations made by the leaders of the country seemed to be in contradiction with the principle of respect for the right to self-determination enshrined in article 1 of the Covenant. In this connection, it was asked what the Government's position was with regard to the right of self-determination of certain minorities in Iran, what legal means were available to them to achieve that right and what the Iranian Government had done in practice to promote the realization of the right of the Lebanese and Palestinian peoples to self-determination in view of the present invasion of the Lebanon by the Israeli army.

304. Commenting on article 2 of the Covenant, members asked what the fundamental role of Islamic law really meant in the context of the Covenant, especially since the Iranian Constitution often referred to it, how the precepts of the Islamic faith were reflected in law, whether Islamic law was a body of rules appropriate to govern a modern State, whether customary law existed in the country and what its relation to human rights was, whether an individual could invoke the Covenant in a court of law and whether a judgement could be based directly on the provisions of the Covenant. Noting that, whereas in the context of international law, the Covenant should prevail over domestic law, it appeared from the information provided that, in Iran, in case of conflict between the Covenant and Islamic law, the latter would prevail. Moreover, members of the Committee wished to know how a legal system based on the precepts of a single religion could protect all human rights as enshrined in the Covenant and what the status of the Covenant itself was within the new constitutional framework. It was observed that the Covenant reflected what the international community, including many States with an Islamic tradition, considered to be a universally applicable minimum standard of human rights and it was therefore asked whether any official comparative study had been made between the Covenant and the laws in force in Iran and, if so, whether any provisions of the Covenant were found to be contrary to or inconsistent with Islamic laws or tenets. It was also noted that the Iranian Constitution provided for limitations or restrictions which seemed to be in contradiction with the provisions of the Covenant and more information was requested on specific legislation implementing the various constitutional provisions. Furthermore, certain fundamental political, economic, social and cultural rights as well as women's rights were guaranteed under articles 20 and 21 of the Constitution "with due observance of the Islamic precepts", and clarification was requested on this reservation. In this connection, reference was made to article 2, paragraph 1, of the Covenant and it was asked whether there were in Iran any legislative texts prohibiting discrimination for reasons other than those referred to in the Constitution. With reference to the effective remedies envisaged in article 2, paragraph 3, of the Covenant, information was requested on the jurisdiction in Iran of the State Inspectorate and the Administrative Court of Justice, their relation to other courts, their legal status, and their functions

and, in particular, on recourse procedures available to claimants before the Administrative Court of Justice. Information was also requested on the role and legal status of the revolutionary guards, and the revolutionary tribunals, their legal competence and jurisdiction, their relation to ordinary courts and ordinary police, and on whether government officials had been prosecuted for involvement in disorders and discords resulting from the revolution. Information was requested on efforts made by the Iranian Government to publicize the Covenant, whether it had been translated into the Parsi language, what the Government had done to make young people aware of their civil and political rights and whether it had undertaken a process of education in human rights involving all levels of Government, including the head of State himself.

305. In connection with article 3, in conjunction with articles 25 and 26 of the Covenant, some members of the Committee wished to know what progress had been made in Iran with regard to women's rights and whether women actively participated in the public life of the country, how many women were employed in the judiciary, in political organs, in the police and in medical services, whether legislative measures had been taken to guarantee equality of men and women in the enjoyment of all civil and political rights or whether some discrimination still existed in this field. It was asked, in particular, how many girls were participating in the different levels of education and whether it was true that universities in Iran were closed since 1979. It was also observed that equality between men and women was provided by article 20 of the Iranian Constitution "under the protection of the law", while article 26 of the Covenant stipulated also equality of men and women "before the law".

306. Members of the Committee sought explanations as to how, in view of the revolutionary process and of the state of war, Iran had not found it necessary to avail itself of the right of derogation envisaged under article 4 in case of public emergency. However, the report described the impact of the emergency on the operation of law and order and members requested that more information be provided by the Iranian Government, in the light of article 4 of the Covenant and of general comment 5/13 of the Committee 10/, on the nature of the emergency, on whether rights under the Covenant had been actually derogated from, to what extent and for what reasons.

307. In connection with article 5, reference was made to article 14 of the Constitution which provided for respect of the human rights of non-Moslems. It was stated in that article that its provisions were valid in the case of those who did not engage in any plotting whatsoever against Islam and the Islamic Republic of Iran and clarification was requested on this reservation also in the light of the principle of non-discrimination based on religion enshrined in the Covenant.

308. Several questions were raised by members of the Committee with regard to article 6 of the Covenant. It was asked, in particular, how many executions had been carried out in Iran after the revolution and what were the charges against those who had been executed. Noting that, according

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10/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII.

to the representative of Iran, the death penalty was only applicable in cases of murder and military operation, members requested clarification of the meaning of "military operation" and asked whether

a person carrying a weapon was considered to be contemplating a military operation and was chargeable with a capital offence. Information was also requested on the reported allegations on the death penalty being inflicted for other charges, such as “corruption on earth”, “war on God”, “war on God’s property” or for minor sexual violations and on the reported mass executions of persons, including children. In this connection, it was asked whether it was true that Islamic law did not allow the imposition of the death penalty for political offences and, if so, how the hundreds of executions which had been reported since the revolution started were justified, whether the death penalty was inflicted only for crimes violating the provisions of the Iranian Penal Code, whether the death penalty was ever used in the case of persons under the age of 18, or of pregnant women, whether the trials had been conducted with the necessary guarantees and safeguards, including the right of review or appeal envisaged by article 6, paragraph 4, and article 14, paragraph 5, of the Covenant respectively, and whether measures had been taken or envisaged for abolishing the death penalty or, at least, reducing the number of crimes punishable by that penalty.

309. Referring to article 7 of the Covenant, members of the Committee noted that the Constitution prohibited torture for obtaining confession or information but did not explicitly prohibit it as a matter of principle and they asked whether torture was practised in Iran during interrogations of terrorists or alleged terrorists, what measures the Government was taking in practice to ensure that detained persons were not tortured or ill-treated, whether it had ever investigated allegations of torture, whether execution by stoning or punishment by the cutting off of a hand were still practised in the country, and whether, in the light of the provisions of articles 10 and 23 of the Covenant, persons deprived of their liberty could freely contact their relatives and their counsel.

310. With regard to article 9 of the Covenant, it was asked whether there were in Iran any persons detained or in custody for political or security reasons without trial and, if so, how many there were, for how long they had been in custody, under what legal authority they were detained, whether persons arrested were informed, at the time of arrest, of the reasons for their detention, whether persons who were deprived of their liberty were entitled to take proceedings before the court to have the causes of their detention determined, as required by the Covenant, and whether release on bail and habeas corpus recourses were possible only in a trial by an ordinary court. It was also asked under what legislative authority the Revolutionary Guards could arrest citizens, whether they acted in accordance with the Covenant and the Iranian Constitution, and what moral, political or other criteria were required for recruitment in the police force.

311. In connection with article 10 of the Covenant, members of the Committee wished to know what regulations existed in Iran concerning the treatment of detained persons and how the enforcement of those regulations was supervised, whether there were any arrangements for prisons and other detention centres to be supervised or visited by persons who were independent of the prison authorities and who were empowered to receive complaints and have them investigated, what procedures were available for these purposes and how effective they were, whether arrangements had been made for prisons and detention centres to be visited by representatives of the International Committee of the Red Cross and whether the conditions of detention envisaged under the Covenant were fully respected in the country

312. In connection with article 12 of the Covenant, explanations were requested on the applicability of exile according to law envisaged by articles 33 and 39 of the Iranian Constitution which appeared

to be in contradiction with the provisions of the Covenant.

313. In connection with article 13 of the Covenant, reference was made to the law concerning the entry of aliens into Iran and it was asked whether it was a new law and how it was implemented.

314. In relation to article 14 of the Covenant, members of the Committee wished to know whether and how the Iranian Constitution, laws and regulations guaranteed an independent judiciary capable of ensuring that Iranians enjoyed fully their rights. More information was also requested on the judicial system existing in Iran, in particular on the Supreme Judicial Council mentioned in the Constitution and its effect on the independence of the judiciary, on the Administrative Court of Justice dealing with complaints of the public against government officials, on the degree of independence of military courts, and on the existence and jurisdiction of special tribunals. It was asked what injustices or oppressive acts had been committed by government employees or agents which had led to the establishment of the Administrative Court of Justice, what kind of other courts, such as civil and criminal courts, existed in Iran or had been in existence since the revolution, how judges had been appointed and what qualifications they were required to have, what laws regulated their dismissal, whether any members of the former judiciary had been appointed or kept in post or whether they had been replaced, whether it was possible for a Christian, a Jew or a Baha'i to become a judge, whether there had been any special courts to deal with the emergency situation created by the revolution and, in particular, to deal with political or security offences. Referring to the rules of due process of law designed to ensure that the individual was given a fair trial, members asked whether those rules and guarantees, provided for in article 14 of the Covenant, had been duly observed in the courts since the revolution. It was also asked how legal assistance was provided in Iran, whether the accused had the possibility to obtain the attendance and examination of witnesses on his behalf and what procedure existed for the revision of the sentence, especially in the case of serious crimes. With reference to article 171 of the Iranian Constitution, it was asked whether compensation was envisaged only in case of judicial error or the quashing of a conviction and, in that event, who tried the judge concerned, and what meaning was given to the expression "responsible for such failure according to Islamic practice" contained in that article. Information was also requested on the organization of the legal profession in Iran. It was asked, in particular, whether defence lawyers needed a special authorization by the Government, whether the Bar Association of Teheran had been suspended, whether there were sufficient lawyers in the capital and whether lawyers were reluctant to defend opponents of the Government.

315. In connection with article 15 of the Covenant, information was requested on the laws under which a person could be accused of acts committed at the time of the previous régime.

316. With regard to article 18 of the Covenant, members of the Committee observed that the Iranian Constitution contained guarantees of freedom of religion, but only in respect of Islamic, Zoroastrian, Jewish and Christian religions and did not cover other religions of minority groups existing in the country, such as the Baha'is. In this connection, reference was made to a resolution adopted by the Commission on Human Rights at its thirty-eighth session in 1982, which mentioned the perilous situation that the Baha'is were facing in Iran, as well as to reports on executions and disappearances in Iran of a number of leaders of the Baha'i faith, on the denial of validity of Baha'i marriages by the Iranian authorities and on the denial of birth certificates to children of Baha'is. Members of the Committee asked for clarification on the reported treatment of the Baha'is which, if true, appeared

to be contrary to the provisions of articles 18, 23, 25 and 27 of the Covenant. It was also asked whether it was possible for a Moslem to renounce his religion, to become an atheist or to convert to another religion or whether repressive measures were applied in such a case according to Islamic law.

317. In respect to article 19 of the Covenant, information was requested on the number of newspapers existing in Iran and, in particular, in Teheran and on the meaning of the sentence contained in article 24 of the Constitution which stated that “The press and publications shall be free in their writings unless such writings are detrimental to the foundations of Islam ...”. It was also asked whether it was possible for anyone to establish a newspaper in the country, whether views opposed to those of the Government could be expressed in it or whether an authorization was necessary and, if so, whether it was easily given.

318. With reference to article 22 of the Covenant, it was asked whether it was possible for a person in Iran to join a political party or association whose aim was to voice dissent and advocate guiding principles for political action different from those held by the present Government.

319. As regards articles 23 and 24 of the Covenant, information was requested on how parental authority was exercised in Iran, especially in the case of dissolution of the marriage and on the law providing for the registration of the name of the child immediately after birth.

320. As to article 25 of the Covenant, it was asked how the right to hold public office contained in its provisions was guaranteed on the basis of equality in Iran where the President of the Republic had to belong to the official State religion.

321. With regard to article 27 of the Covenant, information was requested on the various ethnic, linguistic and religious minorities existing in Iran, such as the Kurds, the Turkomans, the Baluchis and the Arabs. It was asked in this regard whether and how the Government recognized the rights of these minorities, whether they had the right to express themselves freely, even if they were not Moslems, and whether they could have their own schools and use their own language.

322. Before replying to questions raised by members of the Committee, the representative of Iran referred to the duties of the Committee as set forth in article 40 of the Covenant. He wished to register a strong protest against what he considered to be a violation of the provisions of that article by some of the members of the Committee, whose statements were, in his view, outside the limits set for the performance of their functions and not in conformity with the impartiality and objectivity required for the performance of their duties. This, he said, was not conducive to establishing a constructive dialogue between the Committee and the reporting State.

323. Replying to questions raised under article 1, paragraph 3, the representative stated that if his Government had not been preoccupied for almost two years by the war launched against it by the Iraqi régime, its assistance to the Lebanese and Palestinian peoples in their efforts to achieve their right to self-determination would have been more effective.

324. With reference to article 2 of the Covenant, he stressed that the criteria for determining the validity of any law would be the values given by God and transmitted to earth, that since human

traits were considered to be in harmony with revealed values, values derived from human civilization and from reason were held to be close to Islamic values, and that whenever divine law conflicted with man-made law, divine law would prevail. He explained that the Koran contained guidance on a comprehensive range of matters involving morals, historical analysis, a criminal code and precepts regarding the distribution of wealth, teachings on community growth and spiritual values, and when a nation recognized and accepted the principles of Islam, as the basis for its existence, Islamic precepts would be followed in resolving problems. However, in Shiite canon law the basic requirements governing the continuity of community life could be viewed in historical terms, and the divine laws could be interpreted and implemented accordingly. Unfortunately, the conspiracies that had occurred in Iran since the revolution had prevented the Government from having sufficient time to develop new laws along those lines. Nevertheless, an attempt was being made to establish, at an early date, the three separate powers of the judiciary, the executive and the legislative in conformity with Islamic law. After the legislative power had been established, the relative conformity of each law with Islamic precepts would be determined. In this connection, he explained his Government's position on the incorporation of international instruments on human rights in Islamic law and stated that if the intention was that such instruments should complement and add to the Islamic laws with a view to harmonizing them in a single legal system, then his Government would have to respond negatively, since it considered that the Islamic laws were universal and Shiite canon law would take any new needs of society into account. If, however, it was intended that international instruments on human rights and Islamic laws should be taken together in an effort to achieve mutual understanding and to explore what they had in common, then such an endeavour would be accepted with pleasure. He pointed out that laws of non-religious inspiration were not necessarily contrary to the Moslem faith; however, any laws contrary to the tenets of Islam would not be acceptable.

325. The representative stated that the parliamentary committee established pursuant to article 90 of the Constitution, which consisted of a number of members of Parliament and some legal experts, could receive petitions from ministries, foundations and revolutionary units, while the Administrative Justice Tribunal dealt with complaints and protests against the actions of government officials, with allegations of unconstitutionality and with complaints against judicial decisions. Ministries, governmental entities and agencies and their subsidiary bodies, as well as revolutionary units, were under an obligation to comply with the Tribunal's ruling relating to them. Any person failing to do so would be removed from office and subjected to legal prosecution. Disputes regarding judicial jurisdiction would be settled by the Supreme Court. The Administrative Justice Tribunal must also refer any complaints relating to governmental rules and regulations to the Council of Custodians. If the Council determined that a given rule or regulation was illegal the Administrative Justice Tribunal would issue a ruling to that effect. Judicial police had been separated from military police by a law passed by Parliament in 1980 and amended in 1981. Their duties were to communicate legal and judicial documents, to give effect to penal and civil judgements, to prosecute accused persons and, inter alia, to deal with affairs relating to the coroner's office.

326. In connection with article 6 of the Covenant, the representative informed the Committee that, in the event of a death sentence being imposed, an appeal for clemency might be submitted, which would be examined by a Committee consisting of the President of the Association for the Protection of Prisoners, the Chief Prosecutor of Teheran, the head of the Bureau of Identification and a judge

appointed by the Supreme Court of Iran. Notification of the acceptance or rejection of appeals for clemency was made within 15 days.

327. With reference to article 9 of the Covenant, he stated that the Revolutionary Guards had no right to arrest any individual or to enter anyone's home or to seize any person's property without written authorization from the Revolutionary Prosecutor and that any violation would result in the guard's dismissal by order of the Prosecutor. Persons that might escape or persons recognized as being particularly dangerous could be arrested without the Prosecutor's authorization, but the arrest had to be reported at once to the Prosecutor.

328. As regards article 10 of the Covenant, he informed the Committee that an Act, passed in 1979, had brought the organization of all State prisons, including their attached agricultural and industrial establishments, under the control of the Ministry of Justice. A supplementary Act, passed in 1980, has set up a council consisting of a judge, a police officer and a political prisoner belonging to the previous régime, which was to be appointed by the Supreme Judicial Council and function under the authority of the State Prosecutor. Work was proceeding and in some cases had already been completed on the drafting of laws, the compilation of prison manuals and the preparation of prison regulations. An association for the protection of prisoners had in addition been formed to supervise and assist the families of prisoners and to deal with the rehabilitation, reformation and guidance of the prisoners. Furthermore, prison regulations contained provisions relating to the violation of prisoners' rights by guards, prisoners' labour, care of prisoners' families, the availability of religious ceremonies, as requested, and the organization of open prisons.

329. In connection with article 14 of the Covenant, the representative provided additional information on the judicial system of his country and stated that the Supreme Judicial Council, established under article 158 of the Constitution, consisted of five members: the State Prosecutor General, the President of the Supreme Court of Cassation and three well-qualified jurists. The council was responsible for creating appropriate justice organizations, drafting judicial bills and recruiting, appointing and dismissing judges. At present there were in Iran 44 provincial and criminal courts in 12 provinces, as well as 121 courts of first instance in 52 towns. There were also other independent and local courts in 60 towns. Special civil courts for the promotion of family life on the basis of Islamic laws and morality had been established under a law of 1979. In February 1979 an Islamic Revolutionary Tribunal had been established in Teheran to deal with offences committed against the Revolution. The representative also provided information on the composition and jurisdiction of the Islamic Revolutionary courts established in accordance with the relevant provisions of the rules of procedure of the Revolutionary Tribunal and stated that a law had been approved by Parliament in 1981 to integrate Revolutionary courts into the Ministry of Justice. Moreover, he stated that the bill establishing the conditions for the employment of judges, which had been recently approved by Parliament, provided that a judge had to be just, religious, faithful to the Islamic Republic, a person of good reputation and an authority on canon law, or else appointed by such an authority. Since the continuation of the Bar Association in its old form had no longer been feasible, a new bill had been approved in 1980 according to which the Bar Committee was composed of legal experts, provincial judges and Supreme court judges assigned by the High Judicial Council.

330. Replying to questions on the situation of the Baha'i community in Iran, the representative

pointed out that the allegations of executions concerned 60 to 70 members of that community out of 60,000 to 70,000 members still living in his country. He stated that those Baha'is were executed, not because of their religious faith, but for their participation in the Government of the previous régime, in its activities of oppression and in the crimes it had perpetrated and he provided detailed information on that participation.

331. The representative of Iran finally assured the Committee that a comprehensive and detailed report was in the course of preparation and would be submitted to the Committee when the constituent assembly had approved all laws and communicated its findings to the executive power.

332. The Chairman expressed the Committee's appreciation for the information given in part of the replies but felt bound at the same time to express his profound regret that the representative of Iran had found it necessary to resort to accusations against individual members of the Committee and individual Governments - possibly due to a misconception of the purpose, functions and motivations of the Committee. The Committee had been functioning for six years and had received praise from all sides for the work it had done. It was not accustomed to the treatment that had been meted out at the present meeting. He wished to make it amply clear that any accusations made against individual members touched the Committee as a whole.

333. The representative of Iran stated that it had not been his intention to attack individual members of the Committee but that his delegation had been confronted with rumours and accusations emanating from Iran's enemies that were immediately quoted by imperialist news media. He expressed the hope that members of the Committee would remain impartial and independent if they were not to lose the trust of the international community.

334. Noting the Iranian representative's statement that there had been no intention to attack members of the Committee, the Chairman hoped that suspicion and distrust had been dispelled and expressed the hope that the dialogue that had now been engaged with the Iranian Government would continue when the comprehensive report which the Iranian representative had promised to submit would next be considered by the Committee.

335. Some members of the Committee made brief comments on the replies of the representative of Iran.



## CCPR A/48/40 (1993)

190. The Committee considered the second periodic report of the Islamic Republic of Iran (CCPR/C/28/Add.15) at its 1193<sup>rd</sup> to 1196<sup>th</sup>, 1230<sup>th</sup> to 1231<sup>st</sup> and 1251<sup>st</sup> to 1253<sup>rd</sup> meetings, held on 29 and 30 October 1992, 7 April and 22 and 23 July 1993 (see CCPR/C/28/Add.15, paras. 180-212, 213-227 and 228-245, respectively) (CCPR/C/SR.1193-1196, 1230-1231 and 1251-1253). (For the composition of the delegation, see annex XI.)

191. The report was introduced by the representative of the State party, who said that the Covenant was considered by the authorities as a valuable instrument whose correct enforcement could help to preserve the inherent value and dignity of human beings. The Islamic Republic of Iran endeavoured to implement the principles of the Covenant and thereby to attain social justice. If any violations were committed by the authorities, efforts were made to put an end to them.

192. Based on the will of the people, the objective of the Government was to establish justice, equity, political and economic freedom, solidarity among nations and avoidance of tyranny. From its inception, the Islamic Republic of Iran had made every effort to set up the necessary institutions to that end and restore them after a cruel war which had devastating effects and caused irreparable damage. A number of parliamentary, presidential and other elections and referendums had been held, the judicial order had been reorganized and steady progress was being achieved in improving the performance of the legal system and the protection of people's rights. A number of human rights seminars had been convened in the country with the Government's participation and, following the cessation of hostilities, the Islamic Republic of Iran had entered into close cooperation with the United Nations on human rights matters. Furthermore, there was a human rights office within the Ministry of Foreign Affairs and a course on human rights was given in the Faculty of Law.

### Constitutional and legal framework within which the Covenant is implemented, state of emergency, non-discrimination and equality of the sexes

193. With regard to those issues, the Committee wished to know what the status of the Covenant was within the Iranian legal system; whether individuals could invoke its provisions directly before the courts; how a conflict arising between the provisions of the Covenant and Islamic law was resolved; whether, in view of the statement made by the representative of the Islamic Republic of Iran during the consideration of the initial report, any general review of compatibility of the provisions of the Covenant with Islamic law had been undertaken; whether the Guardian Council, provided for under article 91 of the Constitution, had the opportunity to pronounce itself on the compatibility of legislation with Islam; whether provisions in articles 3 and 20 of the Constitution providing for the equal protection under the law of all citizens of the country, in conformity with Islamic criteria, were compatible with articles 2, paragraph 1, and 26 of the Covenant; and in which respect, other than the exercise of political rights were, the rights of aliens restricted as compared with those of citizens. Members also wished to receive further information on the participation of women in the political and economic life of the country; on the application in practice of legal provisions concerning the dowry system; on the impact of article 2 (1) of the Constitution upon the provisions of article 26 of the Covenant, in respect of all the citizens of the Islamic Republic of Iran; and on the law and practice relating to the employment of minors.

194. In addition, members wished to receive information on the extent to which limitations to the enjoyment of human rights and freedoms imposed during the war were still being retained; on activities relating to the promotion of greater public awareness of the provisions of the Covenant; on the functions and activities of the Administrative Justice Tribunal; on the role of the clergy in the judiciary; on the extent of liability of civil servants for damage caused in the discharge of their duties; and on the jurisdiction of the military courts and on means of appeal from their decisions. It was also asked whether persons born out of wedlock were excluded from the judiciary; what safeguards and remedies were available to an individual during a state of emergency; and whether any notification under article 4, paragraph 3, of the Covenant had ever been made by the Islamic Republic of Iran to the Secretary-General. In that connection it was asked why martial law had not been declared during the war.

195. Many clarifications were requested regarding the implementation of article 3 of the Covenant, with particular reference to the dress code for women and the measures allegedly taken against women not complying with the code; the extremely high level of female illiteracy; discriminatory provisions regarding marriage, divorce and the right to work; and the differing legal provisions and penalties applicable to men and women in the case of adultery, inheritance, transmission of nationality and freedom of movement. Clarifications were also requested as to allegations that Iranian women demonstrating against practices relating to the Islamic dress code for women in June 1991 had been killed by revolutionary guards and as to the distinction between permanent and temporary marriages. It was also asked whether the Act of 14 May 1982 which stipulated that judges were to be chosen from among men was compatible with article 3 of the Covenant and whether women could travel abroad without the consent of their spouses.

196. Members wished to know whether there was any statutory prohibition of discrimination on grounds of political opinion or national origin; whether adherents of religions not enumerated in the report were accorded the same treatment as the listed religions; and what the situation was of linguistic or national minorities. In that connection, clarifications were requested regarding members of the Baha'i community and the many difficulties they were reported to face, including prohibition of the practice of their religion, dismissal from public employment, exclusion from university education, bans on the setting up of businesses, restrictions on freedom of movement and the demolition of some of their places of worship. More generally, clarifications were requested regarding the legal provisions relating to the rights of individuals acting contrary to the precepts of Islam or plotting against the State.

197. In his reply, the representative of the State party said that, in accordance with articles 77 and 125 of the Constitution, the Covenant was an integral part of Iranian law. Many of the general principles set out in the Covenant had, in fact, already been reflected in domestic legislation. It was thus unlikely that a conflict would arise between it and other provisions of domestic law. If one did, the conflict would be resolved in accordance with domestic legislation. In making decisions, judges could invoke articles of the Covenant, but there had never been an instance in which a provision of domestic law had been found to be in conflict with the principles set out in the Covenant. The Legal Department of the Judiciary, which elucidated matters that might be unclear, had given an advisory opinion to the effect that there would be no difficulty involved in invoking the Covenant before the courts.

198. Many nations had misgivings about the mechanical application of international human rights instruments and believed that the traditions, culture and religious context of a country should be taken into account in evaluating the human rights situation there. Study of the Islamic Declaration of Human Rights would bring out what was, in the Islamic countries' view, lacking in the Universal Declaration of Human Rights and the Covenant. Some differences of interpretation were possible and the provisions of the Covenant might not be fully consistent with Islamic law. The fact remained that the Iranian Constitution embodied the basic principle of respect for justice set out in the Covenant. It was wrong to overstate the differences between domestic legislation and the Covenant and to take a rigid stand that would do no one any good. Now that the country was no longer on a war footing, steps had been taken to improve the Iranian people's awareness of the rights set out in the Covenant, for example by organizing courses on human rights for civil servants and lawyers.

199. The duties of the Guardian's Council were to scrutinize all the laws passed by Majlis to ensure that they did not infringe the principles of the Constitution. Although it had not yet handed down any decision dealing specifically with human rights, all its decisions reflected a regard for the freedom and equality of the individual before the law. The functions of the Administrative Justice Tribunal were to investigate complaints, grievances and objections with respect to government officials, organs and statutes. Anyone had the right to apply to it for the annulment of any statute or regulation that was in conflict with the laws or the norms of Islam, or of measures falling outside the competence of the executive power. Judges were appointed having regard to their qualifications and experience to serve within a legal system that was based on the principles of Islam. Since the Revolution, members of the clergy had been able to act as judges if they were qualified and had received professional training.

200. Referring to questions raised relating to non-discrimination and equality of the sexes, the representative of the State party explained that there was no conflict between the Covenant and articles 3 and 20 of the Constitution. Article 21 of the Constitution required the Government to ensure the rights of women in all respects. Some distinctions had, however, to be made between men and women since they differed by nature. Only women could bear children, for instance, and the law had to make some special provisions for them. Under Iranian law, they were given longer holidays than men and the kind of work they performed had to take account of their welfare. The Labour Code specified that women had to receive the same pay as men for work of equal value and established many rules aimed at improving the welfare and status of women. Other measures to ensure protection for women included a law recently passed by Parliament that incorporated social security rights for widows and divorced women.

201. The scope of women's activities in social, political and economic affairs had expanded notably. A number of bodies were actively engaged in efforts to improve the status of women. A Women's Cultural and Social Council had prepared a draft charter of women's rights, family committees met once a week to review legislation and make proposals, and a Presidential Adviser on Women's Issues had been appointed. In the most recent parliamentary elections, 90 women candidates had stood for office and 9 of them had been elected. A total of 443,840 women were employed in the various ministries, government offices and departments and, of that number, 45 per cent were directors of offices or departments. Twenty-five per cent of all attorneys were women and there were many women doctors and graduates of higher educational institutions. The claim that 89 per cent

of Iranian women were illiterate and that girls' schools in rural areas had been closed down for lack of women teachers was entirely erroneous. Some 300,000 women and girls had been members of various sports committees.

202. The dowry system existed in all Islamic countries and represented a form of protection and security for women and a way of establishing financial equality between men and women. Throughout the marriage, the man bore all the household expenses and the expenses of the wife and children. In view of all those considerations, the fact that the woman's share of the inheritance was only half that of the man could not be regarded as discriminatory. On the question of divorce, there was now a special civil court in which a divorce petition could be brought either by the husband or by the wife. Islamic theologians had declared women ineligible for investigating cases or rendering judgements; that rule was applied throughout the Islamic world. The need to employ more women in various positions in the judicial branch had, however, been recognized by the President of the Judiciary and by the Faculty of Law. It was anticipated that an announcement would be made early in 1993 inviting women to apply for posts in that branch.

203. Most Muslim women preferred to wear traditional garments outside the home. The choice was a moral and religious one taken to respect Islamic law, and their wish should be respected. On occasion the Government had had to intervene in order to maintain public order in situations where excesses might have occurred, but the clashes had been due to differences in interpretation of cultural and religious criteria. Experts were studying possible changes. The philosophy underlying the institution of the temporary marriage contract was that since a permanent contract required the commitment of resources that were perhaps beyond the means of young people, a temporary contract would enable such individuals to legitimise their situation even before they had acquired the necessary means. In such marriages, the husband had to pay a dowry but was not obliged to meet all the living expenses of the wife.

204. Responding to other questions, the representative explained that, even when an individual had committed an offence under article 14 of the Constitution, such as conspiracy against the Islamic Republic of Iran, his human rights were preserved. The monotheism practised in the Islamic Republic of Iran was in no way in conflict with the principles of human rights. In the Islamic Republic of Iran, society and the social order were governed by Islamic principles. The rules and laws were not immutable and could be amended in the light of changing circumstances. Theologians and qualified experts were given the task of adapting Islamic precepts to the conditions of modern society and could recommend the amendment of legislation. The fact of belonging to a particular religion, race or ethnic group did not bestow any privilege. The Constitution stipulated that there had to be one Jewish, one Zoroastrian and three Christian representatives in Parliament. The Baha'i had not been accorded the same advantages as practitioners of other religions since it would be impractical to extend such advantages indiscriminately. The emergence of the Baha'i faith nearly 150 years ago had been accompanied by serious social conflicts, violence and death. That historical background and the fact that the Baha'i presented their faith as the exclusive gateway to God, accounted for the intensity of the reaction among the country's Muslim population to the proselytising efforts. Nevertheless, the Government and the judiciary always endeavoured to defuse confrontation and preserve the rights of the Baha'i.

205. Under domestic legislation, certain restrictions had been placed on foreigners in such areas as

ownership rights and the right to form companies dealing with commerce, industry, agriculture or mining. The employment of minors under the age of 15 was forbidden under the labour legislation. Minors over the age of 15 could be employed provided certain regulations designed to protect the right of such minors were observed.

#### Right to life, treatment of prisoners and other detainees and liberty and security of person

206. With reference to that issue, the Committee wished to know how often and for what crimes the death penalty had been imposed and carried out since the consideration of the initial report; which offences, if any, other than those mentioned in paragraph 59 of the report, were punishable by the death penalty; whether Iranian law was in conformity with article 6, paragraph 2, of the Covenant which provided that the death penalty should be imposed only for the most serious crimes; whether any revisions of the law, with a view to curtailing the number of offences currently punishable by the death penalty, were being contemplated; how articles 18, 205, 219 and 257 of the Islamic Punishment Law were applied in practice; whether there had been any public executions in the Islamic Republic of Iran and, if so, whether that procedure was compatible with articles 6 and 7 of the Covenant; whether there had been any complaints during the period under review of alleged disappearances and extrajudicial executions and, if so, whether such allegations had been investigated and with what results; and what measures had been taken to prevent the recurrence of such practices. Members also wished to know what were the rules and regulations governing the use of firearms by the police and security forces; whether there had been any violations of such rules and regulations and, if so, what measures had been taken to prevent their recurrence; what concrete measures had been taken by the authorities to ensure the strictest observance of article 7 of the Covenant; whether confessions or testimony obtained under torture could be used in court proceedings; what the arrangements were for the supervision of places of detention and for receiving and investigating complaints; what the maximum time-limits were for remand in custody and pre-trial detention; how quickly after arrest a person's family was informed and how quickly after arrest a person could contact a lawyer; and whether the provisions relating to incommunicado detention were compatible with articles 7 and 10 of the Covenant.

207. In addition, clarification was requested of the rule that an individual would not be liable to the death penalty if convicted of murdering a mentally-ill person; the provisions of article 19 of the Penal Code under which persons convicted of adultery were liable to death by stoning; the consistency with article 6, paragraph 2, of the Covenant of death sentences for apostasy, corruption, opposition to Islam and fraud; cases in which a death sentence could be imposed on the basis of Islamic sources and religious orders; and the many death sentences reported to have been imposed on political grounds in 1988-1989. Members also asked whether appeals could be made against death sentences; under what legislation Baha'is had been sentenced to death; and whether the fatwa authorizing the execution of prisoners who did not perform their religious duties in prison was still in force.

208. Clarifications were also requested regarding the death sentence on the writer Salman Rushdie and the consistency of the sentence with article 6, paragraph 2, and articles 18 and 19 of the Covenant. In particular, it was asked what competent court, within the meaning of article 6 of the Covenant had imposed the sentence; and whether writing an offensive work could be regarded as a most serious crime within the meaning of article 6 of the Covenant.

209. Clarifications were also sought regarding the consistency with articles 7 and 10 of the Covenant of "legal sanctions", such as flogging, stoning or amputation of fingers for theft. It was also asked whether there had been any investigation of the extremely high number of cases of extrajudicial executions, disappearances, torture and ill-treatment that had been brought to the attention of the Islamic Republic of Iran, particularly by the Special Representative of the Commission on Human Rights; how certain dramatically staged executions in which offenders were crucified or thrown from a high place could be reconciled with the Covenant; whether a political detainee who had served his sentence had to sign a declaration of repentance before he could be released; and what action had been taken to implement the November 1991 agreement authorizing the International Committee of the Red Cross to make regular visits to prisons.

210. In response to the Committee's questions, the representative of the State party said that the death sentence could be imposed for the most serious crimes such as homicide, premeditated murder, armed robbery, drug trafficking, armed rebellion and complicity in murder, kidnapping or rape. Depending on the circumstances, offenders might be sentenced to imprisonment, capital punishment being reserved for the most serious crimes in accordance with article 6, paragraph 2, of the Covenant. The Iranian authorities had instituted safeguards to limit as far as possible the imposition of death sentences. A newly established unit in the Office of the Public Prosecutor was looking into the best ways of combating crime. The Government regretted the number of executions, shortly after the Revolution, of supporters of the old régime who had helped to destroy the country's basic institutions, as well as the executions of collaborators with the enemy after the war that had been waged against the Islamic Republic of Iran. Both situations had been exceptional.

211. Under articles 219 and 257 of the Islamic Law on the prevention of crime, the death sentence could be carried out only with the consent of the victim's next of kin. The latter could agree to commutation of the sentence. It had been believed that public executions would have a deterrent effect. In view, however, of their possible undesirable psychological effects on the population, executions were now as a rule carried out inside penal establishments. No complaints alleging disappearances or extrajudicial executions had been lodged in the Islamic Republic of Iran. The cases mentioned in the report of the Special Representative of the Commission on Human Rights had been investigated and the results had been made public, but most were still under investigation. In the early days of the revolution, there were cases in which members of the old régime were attacked or killed. When the facts were clear, the Government had taken steps to prosecute those responsible.

212. Iranian law established the principle that any penalty imposed must be provided for by law and could only be applied in accordance with the decision of a court of law. Officials denying a hearing to a person imprisoned in violation of the law were dismissed or barred from civil service employment. Anyone responsible for acts of torture or death threats must submit himself to the law on compensation or be imprisoned. A law enacted under the old régime specified that members of the armed forces could use their firearms when they had to defend themselves against armed attack; when they were attacked and a firearm was their sole means of defence; to protect the life of a person or persons in danger; against a fugitive prisoner if the latter was armed and dangerous; and to defend property and installations placed under the care of the military authorities. A law had recently been promulgated which provided that any member of the armed forces who violated those regulations committed an offence for which he was accountable.

213. Article 38 of the Constitution prohibited all forms of torture used to extract confessions or obtain information. It was forbidden to force anyone to testify, confess or swear an oath against his will. Offenders were punished in accordance with the law. If a prisoner was treated in an unlawful way he could lodge a complaint, and the prison governor was obliged to transmit his complaint to the competent authorities.

214. In case of arrest, the detainee had to be brought before the State Prosecutor within 24 hours for questioning. In straightforward cases he was charged and brought before a Court. In more difficult cases, the suspect could be remanded in custody for up to four months. The accused always had the right to communicate with his lawyer and his family. Under article 130 of the Code of Penal Procedure, the accused could not communicate with his family or friends if contacts with other persons could lead to destruction of evidence or collusion with witnesses.

215. In reply to additional questions raised in connection with articles 6 and 7 of the Covenant, the representative of the State party explained that a death sentence could be appealed in accordance with the Law pertaining to Revision of Court Judgements and the Manner of their Investigation adopted in 1988. In 1992, 920 cases decided by the Revolutionary Courts had actually been reviewed by the Supreme Court and 190 decisions had been nullified for various reasons, including improper legal procedures during the trial stage. With regard to the punishment of drug trafficking by death, he explained that narcotics trade had developed at an alarmingly high rate through the country's unguarded eastern border, while the Government had been occupied in defending its western border during the nine-year war with Iraq. That situation had currently reached critical proportions which required a very tough approach if it was to be controlled.

216. Under Iranian law, no one could be executed for political reasons alone. Allegations that 2,500 persons had been executed for political reasons during the six-month period between mid-1988 and the beginning of 1989 were not true. Referring to a question raised on the alleged execution of an assistant professor at the University of Tabriz for having criticized the Government's economic and social policy the representative said that he had actually been sentenced to four months in prison and was still teaching at the University of Tabriz.

217. Referring to the death sentence passed on Mr. Salman Rushdie, the representative emphasized that Mr. Rushdie's book was a severe insult to Islam and to the prophet. Although article 19, paragraph 2, of the Covenant guaranteed the right to freedom of expression, its paragraph 3 stated that the exercise of that right carried with it special duties and responsibilities and might be subject to certain limitations. An individual who had disregarded those limitations should be punished. However, the Imam Khomeini, as a religious leader and not as a representative of the Government, had issued a religious decree. Any action taken in response to that fatwa would be based on an individual's religious belief.

218. According to article 23 of the Constitution, no one could be punished or prosecuted for his beliefs. No court had ever prosecuted any individual for his beliefs but even if it had, the Supreme Court would have prevented the sentence from being carried out. If persons belonging to non-Islamic religious denominations had been executed, it was because of crimes they had committed and not because of their beliefs. Two Baha'is said to have been executed had indeed been sentenced to death by a lower court on other charges, including treason, and the sentence had

subsequently been set aside on appeal to the Supreme Court because the degree of treason had not warranted capital punishment and because the court had failed to appoint a lawyer even though the accused had refused legal representation.

219. Article 39 of the Constitution ensured that detained persons would be treated with respect and articles 58 and 59 of the Islamic Punishment Law provided for a penalty of up to one year imprisonment for the torture of an accused person. Iranian criminal law provided for certain forms of corporal punishment, including flogging and lapidation. If a court decided that a person who had been found guilty should be flogged, the flogging was not considered to be a form of torture, since that form of punishment existed under Islamic law. The availability of inflicting such forms of corporal punishment was currently being discussed at the highest levels of government, and for certain crimes the sentence of flogging had been abolished and commuted to imprisonment or the payment of a fine.

#### Right to a fair trial

220. With reference to that issue, the Committee wished to receive further information on provisions governing the tenure, dismissal and disciplining of members of the judiciary; on how the independence of the judiciary was ensured; on the jurisdiction and activities of the National General Inspectorate, the Administrative Justice Tribunal and the Revolutionary Courts; on the legal status of the revolutionary guards and the revolutionary prosecutors and on their relationship with ordinary courts; and on the organization and functioning of the Bar. They also requested clarification of the statement in the report that prosecution, trial, issuance and enforcement of a retribution verdict depended on the request of the next of kin.

221. Moreover, members of the Committee requested further information on proceedings before the Revolutionary Courts and it was asked, in particular, whether their decisions could be appealed against; what the permitted grounds for appeal were; whether defendants before those courts had unlimited access to lawyers, adequate time and facilities for the preparation of their defence and the possibility of calling witnesses on their behalf; and whether trials before such courts were always held in camera. Clarification was requested as to the role of repentance in release of a sentenced person who had served his term; a statement in the report that courts of justice were to be formed in accordance with the criteria of Islam; the jurisdiction of the special clerical courts referred to in the report; the independence of the Bar Association and whether the Government was enabled to dismiss its members; and regarding reports that a woman was not considered a competent witness in connection with a serious criminal charge. It was also inquired whether a law had been adopted, pursuant to article 168 of the Constitution, regarding the definition of political offenses; whether those who had been sentenced as political prisoners were subject to recall; whether authoritative Islamic sources and authentic fatwa could be considered part of national law; and what remedies were available in the case of a discrepancy between fatwa and the applicable law.

222. In his reply, the representative of the State party said that the independence of the judiciary was guaranteed by the Constitution and that judges were elected on the basis of their professional qualifications and high moral character. If a judge was alleged to have committed an error, his actions were reviewed by a special disciplinary office, which took appropriate administrative measures. Furthermore, under article 164 of the Constitution, a judge could not be removed without



proof that he had committed violations of the law. There were three law schools in Tehran which were open to both male and female students and there were plans to begin admitting women to the judicial colleges in 1994.

223. The National General Inspectorate monitored the administration of government and the implementation of the laws. He reviewed complaints brought by individuals and submitted reports to the parliamentary commission or to the relevant ministry for investigation. The Administrative Justice Tribunal reviewed complaints brought by individuals against government agencies. The powers and functions of the Revolutionary Courts, which had been established at the beginning of the Islamic Revolution, were stipulated in article 150 of the Constitution. The revolutionary guards were members of the armed forces and played a role in enforcing discipline.

224. The independence of the Bar was guaranteed by law and lawyers were free to accept any clients they wished. In all courts, including military courts, all defendants had the right to a lawyer. Inevitably, there were situations in which violations of that right occurred, but they were dealt with in an appropriate manner and many efforts had been made to improve the situation in recent years. In the case of accusations that were liable to capital punishment or to life imprisonment, it was compulsory to appoint a lawyer. Furthermore, defendants could have lawyers assigned to them free of charge if they were unable to pay.

225. All decisions of all courts were subject to appeal and, even in the case of murder convictions, they were not executed until all appeals had been exhausted or requests for clemency considered. Furthermore, the Constitution provided for a waiting period between the rendering of a final decision and the execution of sentence. During that period, sentences could be appealed to the Supreme Court.

226. Responding to other questions, the representative of the State party explained that there was currently no definition of political offences and no law had been passed to implement or explain article 168 of the Constitution; the question was currently under review. Judges could only issue judgments on the basis of fatwa when the case in question was not covered by codified law. In the event of conflict between a fatwa and the civil law, the civil law always took precedence. Under article 165 of the Constitution, all trials had to be held openly, unless the court determined that an open trial would be detrimental to the morals of public order. He added that, although violations of proper procedures did inevitably occur, many of the reports concerning those cases were not properly documented and relied on unsubstantiated allegations.

#### Freedom of movement and expulsion of aliens

227. With regard to those issues, the Committee wished to receive information on the cases in which an individual might be banished from his place of residence, prevented from residing in the place of his choice, or compelled to reside in a given locality; the compatibility of those provisions with article 12 of the Covenant; the enjoyment of the right of everyone to leave any country, including their own; and the conditions and procedures relating to the issuance of exit visas for foreigners whose duration of stay exceeded 90 days.

228. In his reply, the representative of the State party stated that, under article 90 of the Islamic

Punishment Law, an individual who had committed certain crimes could receive banishment in addition to the punishment determined by the court. In the view of Iranian courts, that provision did not contradict article 12 of the Covenant.

229. Foreigners were granted visas according to them the right to stay in the country for 90 days. If such foreigners could not renew their visas, and if they had no other legal status enabling them to remain in the country, they were compelled to leave. No governmental authority without a judicial decree could prevent an individual from leaving the country. Certain restrictions did however apply in the case of individuals who were being prosecuted, convicted criminals and in other limited legal circumstances.

230. In reply to additional questions raised in connection with articles 7 and 10 of the Covenant, the representative of the State party said that prisoners were released after completion of their sentence, unless they had committed a further offence in the meantime. Their repentance during the prison term was one of the factors that would be taken into account when considering the possibility of granting a pardon. He added that a parliamentary commission had recently been set up to investigate allegations of human rights violations. Its duties included making visits to prisons in order to deal with individual complaints and suggesting improvements where appropriate.

231. With reference to article 14 of the Covenant, the representative of the State party explained that any failure to ensure that legal proceedings before Revolutionary courts were held in public and in the presence of counsel constituted grounds for annulling those proceedings and revoking any sentences handed down. He added that, under article 167 of the Constitution, judgements were to be delivered, in the absence of a codified law, on the basis of authoritative Islamic sources and authentic fatwa. The Bar Association did not currently enjoy the right to elect its Board independently, but measures were being taken to give it fully independent status at an early date.

#### Freedom of religion and expression

232. With regard to that issue, the Committee wished to know whether, under article 18 of the Covenant, the rights of non-believers or followers of non-revealed religions were affected by the principle set out in article 2, paragraph 1, of the Constitution; what was the position of religious minorities that were not recognized by articles 12 and 13 of the Constitution, including the Baha'is; what was the meaning of the term conspiracy or activities against Islam and the Islamic Republic of Iran in the context of article 14 of the Constitution; what was the meaning of the statement in article 24 of the Constitution that the press was free, provided the matter written was not detrimental to the principle of Islam; how many newspapers there were in the country; and whether foreign publications were readily available.

233. The members of the Committee also asked for further details regarding the restrictions imposed on persons professing recognized religions and on the particular situation of those who professed religions that were not recognized, such as the Baha'is, who seemed to be subject to very severe restrictions. They referred in that connection to the report of the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1993/41), which drew attention to numerous cases of torture and ill-treatment inflicted on the members of that community as well as the destruction of holy places and cemeteries.

234. Further details were requested regarding the many restrictions placed on the exercise of freedom of speech and opinion, in particular in connection with freedom of the press, on grounds of protecting the interests of the country or the precepts of Islam, and the need for a permit for the possession of typewriters, photocopiers, fax machines or radios. Explanations were again asked for in connection with the sentencing to death of an author, Mr. Salman Rushdie, for his writings, and the compatibility of that sentence with the provisions of article 18 of the Covenant.

235. In his reply, the representative of the State party said that judicial rules and regulations applied to all citizens and that the rights of all individuals were ensured provided that they did not conspire against the system or commit crimes against it. The Constitution recognized three religions apart from Islam, namely the Jewish, Christian and Zoroastrian religions. Members of those religious minorities were free to practise their own rites and follow their own social customs in their personal life. The right of all individuals to pray and profess the religion of their choice was respected. No distinction was made in the Islamic Republic of Iran between recognized religions and others. The consequences of recognition were that, in matters of personal status and inheritance, marriage or divorce, the social rules of the religion professed by the person concerned were applicable. Choice of religion was a matter of individual free will and nobody could be punished on account of his religion. The Baha'is could, in their own communities, practise their rites in complete freedom. In addition, in response to the allegation that Baha'is' cemeteries had been destroyed, he explained that, according to the municipal authorities of Tehran, there had been no question of destroying tombs but rather of creating open spaces.

236. The term "conspiracy or activities against Islam and the Islamic Republic of Iran" had clearly been defined in the relevant rules and regulations as the action of individuals who endangered the security or independence of the country or of the Islamic system. Article 24 of the Constitution provided for freedom of the press within the limits of Islamic principles. If a publication deliberately set out to contravene and insult the beliefs of Islam, it would be banned. On the other hand, where individuals wished to engage in rational academic discussion, they were free to do so even if they adopted an attitude hostile to Islam. Four hundred and fifty-seven licensed publications and most foreign newspapers were available in the Islamic Republic of Iran. The group responsible for examining applications for licences for publications consisted of a justice of the Supreme Court, a representative of the Ministry of Culture, a representative of Parliament, a university professor and a director of an organ of the press chosen by his peers. In general, the Islamic Republic of Iran complied strictly with the provisions of article 19, paragraph 3, and article 20 of the Covenant. The Committee should confine itself to considering the reports of States parties; matters such as the affair of Mr. Salman Rushdie and the Islamic Decree of which he was the object were entirely outside its terms of reference.

#### Freedom of assembly and association and right to participate in the conduct of public affairs

237. In connection with those issues, the Committee wished to receive further information concerning the number of trade unions and political parties in the Islamic Republic of Iran and how they were organized; and on the implementation in practice of the limitations to freedom of assembly and association provided for in articles 6 and 16 of the Law pertaining to Activities of Parties, Societies, Political and Professional Associations.

238. The members of the Committee also asked for explanations regarding the exact criteria limiting freedom of association; the possibility for Baha'is to join trade unions, establish associations or be employed in the public service; the small number of political groups authorized to take part in national political life; and the restrictions imposed on political activity, particularly in respect of contacts with foreign embassies and statements regarded as defamatory of the State.

239. In his reply, the representative of the State party explained that a very active labour organization existed for the benefit of all workers and covered 1,450 manufacturing units throughout the country. The political and social structure of the country consisted of 16 groups which were authorized to engage in political activities and a further 57 groups which engaged in social and political activities within the limits laid down in the Constitution. The members of the Islamic Consultative Assembly were elected directly by the Iranian people without the mediation of any of those groups. Article 16 of the Act pertaining to the Activities of Parties, Societies, Political and Professional Associations prohibited activities which might violate the independence of the country, attempts to exchange information with foreign powers, violations of the territorial integrity of the country, activities infringing the freedoms and right of others and any attempts to undermine the solidarity of the Iranian people. The restrictions imposed in Iranian law on freedom of association, assembly and peaceful demonstration were altogether analogous to those provided for in article 21 of the Covenant.

#### Rights of persons belonging to minorities

240. With reference to that issue, the Committee wished to know whether persons belonging to minorities, as defined under article 27 of the Covenant, were represented in the Islamic Consultative Assembly; and what arrangements had been made to secure the rights of persons of Kurdish origin, in particular in Kurdistan.

241. In addition, the members of the Committee asked for information on minorities other than religious minorities, on which the report gave no details, and the steps taken to protect their rights under article 27 of the Covenant; and on the position of the authorities in response to allegations that Iranian Kurdish villages had recently been bombed.

242. In his reply, the representative of the State party stated that the religious minority groups recognized by the Constitution were represented in the Islamic Consultative Assembly by five members who were elected by the minority groups themselves. Representatives of those groups enjoyed the same rights as other members of the Assembly. There were no racial problems in the country and all groups, whether of Kurdish, Farsi, Baluchi or other origin, enjoyed equal rights and could engage in political activities or perform judicial functions on an equal basis. Anyone engaging in activities endangering the independence of the Islamic Republic of Iran, for example by promoting Kurdish ethnicity, would be liable to punishment. The members of minority groups such as Turks or Kurds were entirely free to speak their own language and to publish their own newspapers. The acts of violence against certain Kurdish villages which had been referred to were probably the result of hostilities being waged by neighbouring countries of the Islamic Republic of Iran.

#### Concluding observations by individual members

243. Members of the Committee thanked the delegation of the Islamic Republic of Iran for its appearance before the Committee to respond to numerous questions over the course of three consecutive sessions, as well as for its report which had largely followed the Committee's guidelines. The report, however, contained little reference to the implementation of the Covenant in practice and provided virtually no information about factors and difficulties impeding the application of the Covenant in the Islamic Republic of Iran. Members noted with interest that a Human Rights Office has been established within the Ministry for Foreign Affairs and welcomed the measures under consideration in the Islamic Republic of Iran to improve the status of women and to replace flogging by other forms of punishment. They also noted the efforts being undertaken to develop an awareness of human rights on the part of senior officials of ministries and administrations and that, at the time of the Gulf war, more than 1.5 million refugees had been sheltered by the Islamic Republic of Iran.

244. At the same time, members expressed concern at the extremely high number of death sentences that had been pronounced and carried out in the Islamic Republic of Iran during the period under review; the number of executions that had taken place in public as a result of trials in which the guarantees of due process of law had not been properly applied; about the death sentence that had been pronounced, without trial, in respect of a foreign writer, Mr. Salman Rushdie, for having produced a literary work; and at the many cases of extrajudicial executions, disappearances, torture and ill-treatment that had been brought to the Committee's attention and which were described, *inter alia*, in the last report of the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1993/41). The application of disciplinary measures of extreme severity, such as flogging, lapidation and amputation, was not considered to be compatible with the provisions of article 7 of the Covenant, and serious questions were raised about requiring repentance from detainees as a condition of their release from custody.

245. Members also deplored the lack of respect for due process of law, particularly before the Revolutionary courts as well as the lack of an independent Bar Association which had an adverse effect on the administration of justice. Concern was also expressed at the lack of transparency and predictability in the application of Iranian domestic law; at the numerous, explicit or implicit, limitations or restrictions associated with the protection of Islamic values; at the persistence and extent of discrimination against women; about legal provisions allowing for the possibility of banishing individuals, preventing them from residing in the place of their choice, or compelling them to reside in a given locality, which were not compatible with article 12 of the Covenant; at the extent of limitations to the freedom of expression, assembly and association; and at the extent of the limitations and restrictions on the freedom of religion. They noted, in the latter regard, that conversions from Islam were prohibited and that followers of the three recognized religions (Christians, Jews and Zoroastrians) were facing serious difficulties in the enjoyment of their rights under article 18 of the Covenant. Moreover, concern was expressed about the extent of discrimination against followers of non-recognized religions, notably the Baha'is, whose rights under the Covenant were subject to extremely severe restrictions, some amounting to open violations of basic rights and liberties.

246. The representative of the State party thanked the members of the Committee for their demonstration of understanding and goodwill and for the various expressions of encouragement that had been voiced. He expressed the hope that, notwithstanding the note of scepticism that had also

been sounded, the dialogue would be pursued. The dialogue with the Committee could only be useful if it provided some constructive criticism and an objective analysis of such inconsistencies with the Covenant as might still exist as well as suggestions for possible ways of resolving those problems. His delegation had benefited greatly from guidance offered by the Committee, which he would willingly convey to the competent authorities in his country with a view to improving the current situation. He reiterated the determination of the authorities to promote, inter alia, the entry of women into the magistrature as well as other professions.

247. In concluding the consideration of the second periodic report of the Islamic Republic of Iran, the Chairman thanked the delegation for its cooperation and emphasized that he had been encouraged by the assurance that the views of members of the Committee would be conveyed to the Iranian authorities for careful scrutiny.

### Comments of the Committee

248. At its 1260<sup>th</sup> meeting (forty-eighth session), held on 29 July 1993, the Committee adopted the following comments.

#### Introduction

249. The Committee expresses appreciation to the State party for its report, which largely followed the Committee's guidelines regarding the form and contents of reports (CCPR/C/20/Rev.1) and which contained detailed information on some laws and regulations relating to the implementation of the provisions of the Covenant. However, the Committee notes that the report contained little reference to the implementation of the Covenant in practice and provided virtually no information about factors and difficulties impeding the application of the Covenant in the Islamic Republic of Iran.

250. The Committee regrets that, despite the delegation's efforts to respond to the numerous queries raised by members, the responses were not complete and the concerns of the Committee have not been adequately answered.

#### Positive aspects

251. The Committee takes satisfaction in the resumption of its dialogue with the Islamic Republic of Iran after a period of nearly 10 years. However, difficulties in the dialogue made it necessary for the Committee to invite the Islamic Republic of Iran to three consecutive sessions and the Committee appreciates the readiness of the State party to do so. It regards the request for the Committee's assistance in the State party's endeavour to bring its domestic law and practice more into line with the provisions of the Covenant as a particularly important feature of the State party representative's concluding remarks.

252. The Committee notes with interest the establishment of a Human Rights Office within the Ministry for Foreign Affairs, the measures under consideration in the Islamic Republic of Iran to improve the status of women and the promise to reconsider the question of corporal punishments.

It also notes that efforts have been undertaken to develop an awareness of human rights on the part of senior officials of ministries and administrations, including the promise that the comments of the Committee would be brought to their attention. The Committee also appreciates the fact that, at the time of the Gulf war, more than 1.5 million refugees were sheltered by the Islamic Republic of Iran.

#### Factors and difficulties impeding the application of the Covenant

253. In view of the lack of transparency and predictability in the application of Iranian domestic law, the Committee has found it somewhat difficult to determine the extent to which the latter was compatible with the provisions of the Covenant. It also notes that numerous, explicit or implicit, limitations or restrictions associated with the protection of religious values, as interpreted by Iranian authorities, have also seriously impeded the enjoyment of some human rights protected under the Covenant.

254. Furthermore, the Committee observes that the emergency measures adopted by the authorities during the war with a neighbouring country, and the parallel destruction of the country's economy, have undoubtedly had negative effects on the enjoyment of the rights and freedoms provided for under the Covenant.

#### Principal subjects of concern

255. The Committee deplores the extremely high number of death sentences that were pronounced and carried out in the Islamic Republic of Iran during the period under review, many of which resulting from trials in which the guarantees of due process of law had not been properly applied. In the light of the provision of article 6 of the Covenant, requiring States parties that have not abolished the death penalty to limit it to the most serious crimes, the Committee considers the imposition of that penalty for crimes of an economic nature, for corruption and for adultery, or for crimes that do not result in loss of life, as being contrary to the Covenant. The Committee also deplores that a number of executions have taken place in public.

256. The Committee also condemns the fact that a death sentence has been pronounced, without trial, in respect of a foreign writer, Mr. Salman Rushdie, for having produced a literary work and that general appeals have been made or condoned for its execution, even outside the territory of the Islamic Republic of Iran. The fact that the sentence was the result of a fatwa issued by a religious authority does not exempt the State party from its obligation to ensure to all individuals the rights provided for under the Covenant, in particular articles 6, 9, 14 and 19.

257. In addition, the Committee is concerned about the many cases of extrajudicial executions, disappearances, torture and ill-treatment of persons deprived of their liberty that have been brought to its attention and which are described, inter alia, in the last report of the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1993/41).

258. Furthermore, the Committee considers that the application of measures of punishment of extreme severity, such as flogging, lapidation and amputation, is not compatible with the provisions of article 7 of the Covenant. It also has serious questions about requiring repentance from detainees

as a condition of their release from custody.

259. The Committee also deplores the lack of respect for due process of law, particularly before the Revolutionary courts, where trials in camera tend to be the rule and where apparently no real possibility is provided to the accused to prepare a defence. The lack of an independent Bar Association also has an adverse effect on the administration of justice, in the view of the Committee.

260. The Committee observes that the persistence and extent of discrimination against women is incompatible with the provisions of article 3 of the Covenant and refers, in particular, to the punishment and harassment of women who do not conform with a strict dress code; the need for women to obtain their husband's permission to leave home; their exclusion from the magistracy; discriminatory treatment in respect of the payment of compensation to the families of murder victims, depending on the victim's gender and in respect of the inheritance rights of women; prohibition against the practice of sports in public; and segregation from men in public transportation.

261. The Committee considers that legal provisions allowing for the possibility of banishing individuals, preventing them from residing in the place of their choice, or compelling them to reside in a given locality, are not compatible with article 12 of the Covenant.

262. Furthermore, the Committee is concerned at the extent of limitations to the freedom of expression, assembly and association, exemplified by articles 6 and 24 of the Constitution and article 16 of the Law Pertaining to Activities of Parties, Societies and Political and Professional Associations, noting in this connection that, contrary to the provisions of articles 18 and 19 of the Covenant, members of certain political parties who did not agree with what the authorities believe to be Islamic thinking or who expressed opinions in opposition to official positions have been discriminated against. Self-censorship also seems to be widespread in the media and severe limitations appear to have been placed upon the exercise of freedom of assembly and of association.

263. Finally, the Committee wishes to express its concern at the extent of the limitations and restrictions on the freedom of religion and belief, noting that conversion from Islam is punishable and that even followers of the three recognized religions are facing serious difficulties in the enjoyment of their rights under article 18 of the Covenant. The Committee is particularly disturbed about the extent of discrimination against followers of non-recognized religions, notably the Baha'is, whose rights under the Covenant are subject to extremely severe restrictions. In the foregoing connection, the Committee received no satisfactory answer regarding the destruction of places of worship or cemeteries and the systematic persecution, harassment and discrimination of the Baha'is, which is in clear contradiction with the provisions of the Covenant.

#### Suggestions and recommendations

264. The Committee recommends that the comments it has made in connection with the consideration of the second periodic report of the Islamic Republic of Iran should be studied by the authorities with a view to adopting necessary legal and practical measures to ensure the effective implementation of all the provisions of the Covenant. The Committee wishes, in particular, to emphasize the following suggestions and recommendations.



265. The Committee recommends that domestic laws should be revised with a view to curtailing the number of offences currently punishable by the death penalty and to reducing the number of executions. Public executions should be avoided and the accused should, in all cases, be provided with all necessary guarantees, including the right to a fair trial as provided for under article 14 of the Covenant.

266. Effective measures should be adopted to ensure the strictest observance of articles 7 and 10 of the Covenant. All complaints of extrajudicial executions, disappearances, torture and ill-treatment should be duly investigated, the culprits should be punished and measures should be taken to prevent any recurrence of such acts. Severe forms of punishment incompatible with the Covenant should be removed from law and practice and the conditions of detention of persons deprived of their liberty should be improved. The Committee also recommends that training courses should be organized for members of the police, the armed forces and the security forces as well as for other law enforcement officials, so as to better acquaint them with basic human rights principles and norms.

267. The Committee recommends that Iranian legislation and practice be brought into line with the provisions of articles 9 and 14 of the Covenant, which provide that all persons should have the right to a fair trial, including the assistance of counsel, the right to be brought promptly before a judge and the right to be tried in public. Urgent consideration should also be given to the abolition of the Revolutionary courts.

268. The Committee recommends that active measures should be taken to enhance the status of women in the Islamic Republic of Iran in accordance with articles 2, 3 and 23 of the Covenant and to guarantee their equal enjoyment of rights and freedoms.

269. The Committee recommends that its recently adopted general comment No. 22 (48) be studied by the authorities to bring its legislation and practice into line with the requirements of article 18 of the Covenant. In that regard, the Committee wishes to emphasize that recognition of a religion as a State religion should not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers, since the right to freedom of religion and belief and the prohibition of discrimination cannot be abrogated by the recognition of an official religion or belief. Measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to such persons, or imposing special restrictions on the practice of other faiths, are incompatible with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26 of the Covenant.

270. The Committee also wishes to invite the Government of the Islamic Republic of Iran to undertake necessary steps to ensure that the rights enunciated in articles 17, 19, 21, 22 and 25 of the Covenant can be exercised without any limitations or restrictions other than those provided for in the Covenant.