

LEBANON

CCPR A/38/40 (1983)

336. The Committee considered the initial report (CCPR/C/1/Add.60) submitted by Lebanon at its 442nd, 443rd, 444th and 446th meetings, held on 14, 15 and 18 July 1983 (CCPR/C/SR.442, 443, 444 and 446).

337. The report was introduced by the representative of the State party, who expressed his Government's regret for the delay in submitting the report and for certain discrepancies in its text. He explained that that could be attributed to the difficulties created in Lebanon by the terrible events which had occurred since 1975, and which had led to the death of about 100,000 persons and the destruction of thousands of homes. The representative distinguished between three phases in the situation of civil and political rights in his country. The first phase had existed before 1975 and during which the basic legal texts had been adopted. The second phase had begun in 1975 and was characterized by the attempts to destabilize Lebanon through military interventions which resulted in the military occupation of the country and the violation of fundamental human rights. The third phase, the present one, was that of renewal, during which the Lebanese Government was trying to reaffirm its authority over the country, as was manifested in Greater Beirut, which had become an island of peace under the authority of the legitimate Government. He drew the Committee's attention to certain errors in the report and gave it some additional information, particularly with regard to the matters dealt with by several laws and decrees referred to in the report.

338. Members of the Committee commended the Government of Lebanon for submitting its report despite the tragic human situation which Lebanon had been undergoing since 1975, expressed their sympathy for the Lebanese people, recalled that Lebanon had been a haven for all who cherished democratic life and a meeting place for all defenders of human rights, and they expressed the hope that it would soon regain its full sovereignty, unity and territorial integrity. The hope was also expressed that this would not be to the detriment of the Palestinians who had lived in Lebanon since 1948 nor of any segment of the Lebanese population. They noted, however, that the report did not reflect the present state of affairs in the country nor did it indicate the factors and difficulties affecting the implementation of the Covenant as required under article 40 of the Covenant. Many members found it difficult to decide on an appropriate approach to the consideration of the report since the Committee's normal procedure rested on the presumption that a state was in control of all its territory, which was not so in the case of Lebanon. It, therefore, had to be recognized that the Lebanese Government could not at present assume responsibility in areas of its territory under alien control. It was important for the Committee, in order to carry out its tasks, to have had information on the real situation of human rights in the country and to know what extent the legal system described in the report was actually operating at the present time.

339. Noting that in the concluding remarks of its report, the Lebanese Government had admitted in good faith that human rights had been violated in its country and recalling that many of those violations had been caused by the Israeli military operations against it, which culminated in the invasion of Lebanon in 1982 and the occupation of its territory, but that violations had also occurred

during the internal communal war which erupted in 1975, with the “vendetta” both in spirit and in action playing an important role, some members asked what measures the re-established Lebanese authority had taken to punish those responsible for the violation of human rights and to ensure the enjoyment and protection thereof for all. One member recalled the principal stages of the Lebanese crisis since 1969 and the multiplicity of foreign military intervention. Another member pointed out that Israel was not waging war against terrorism, as it claimed, but was pursuing a policy of genocide. The whole international community condemned the Israeli aggression and held Israel responsible for the tragic situation in Lebanon, that at present the very existence of the Lebanese people was put at risk and that there were scarcely any rights to defend in Lebanon. Other members also spoke on the policy of genocide against the Palestinian and Lebanese people. One member pointed out, however, that although the responsibility of the Lebanese drama fell on all countries and religions and that no one could plea innocence or that he played no part in it, the task before the Committee was to assess what the Lebanese Government had done effectively to establish a national police force and army, to disarm private groups whose rivalry had led to bloodshed and to ensure human rights for all those residing under its authority.

340. Commenting on article 1 of the Covenant, one member noted that this article, which provided for the right of peoples to self-determination and to freely dispose of themselves, should be of great importance for a people which had been under occupation like the Lebanese people, and he wondered why the Lebanese Government did not deem it necessary to comment on it in the report, not only in relation to Lebanon itself, but also in relation to the Palestinian people towards whom Lebanon had never failed to meet its duty.

341. With reference to article 2 of the Covenant, it was noted that, according to the report, Lebanese positive law made special provision for the civil and political rights of Lebanese citizens, and it was stressed that each State party had undertaken to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. Questions were asked as to how far the jurisdiction of the Lebanese Government extended outside Greater Beirut; what effects any co-ordination that may exist between the Lebanese army and the Israeli forces of occupation had on the equal enjoyment of all individuals of their rights; and to what extent the Lebanese Government had succeeded in protecting and ensuring human rights for all individuals in greater Beirut. In that connection, one member raised the general question, earlier put by him to another State Party having forces in Lebanon, but so far unanswered, of the responsibility under the Covenant of States parties in regard to acts committed by their military forces while in control of foreign territories.

342. Questions were asked regarding the status of international agreements, particularly of the Covenant, in the Lebanese legal system; whether the Covenant had been incorporated in the constitutional or domestic law; whether it could be directly invoked before the courts and, if so, whether any cases could be mentioned in this respect; whether any steps had been taken to inform the public of the provisions of the Covenant and of Lebanon’s ratification thereof. Attention was drawn to statements in the report to the effect that Parliament had delegated to the Executive Power the authority to enact legislative decrees, that courts had no power to rule on the constitutionality of laws and the governmental acts were not subject to control, and clarification was requested on those points since such a situation would constitute a dictatorship institutionalized by law. With respect to the power of the Executive to legislate, through decrees, following authorization by the

Parliament, it was asked to what extent this power was limited, which authority supervised the acts of the Executive in that case, whether the validity of legislative decrees was limited to the time for which they were issued; how the constitutionality of laws was actually reviewed and whether the Council of State was entitled to so do; and what recourse procedures were available for persons whose constitutional rights had been violated.

343. Noting that, according to the report, the executive power could not in certain cases be held responsible for its acts, it was asked whether recourse to the courts for remedy was precluded by law with regard to any of the rights protected by the Covenant, and, if so, what instances there were and what justification there was for them; whether, apart from the courts, there was any other relevant institution, such as a mediator or Ombudsman; how often the right of petition was used in practice and how often it was used effectively; finally, whether there was any provision for individuals to have recourse against the unlawful use of their power by public officials.

344. Commenting on article 3 of the Covenant, members requested more information on the situation of women in Lebanon and, in particular, on the actual degree of equality enjoyed by them in view of the important role played by religion and religious communities in determining the personal and family status of Lebanese citizens; on their participation in parliament, in Government, the diplomatic corps, the judiciary and other professional groups. It was pointed out that the statement in the report that under Moslem law a man inherited a double portion to that of a woman should have been accompanied by an explanation of the reason of that apparent inequality.

345. With respect to article 4 of the Covenant, it was noted that Lebanon had never given notice of a state of emergency, although certain derogations from the Covenant seemed to have taken place. It was perfectly understandable that, in the present circumstances, notification might have been overlooked. However, one member suggested that it could be better to proclaim a state of emergency, which had a limited duration, in order to take certain measures, rather than to adopt restrictions in the absence of such declaration and thereby have them continue indefinitely. Had the state of emergency been declared in Lebanon, and, if so, was it still in force? Did the Lebanese Constitution provide for such an eventuality? And, if no state of emergency was in force, how could the law promulgated on 4 November 1982, delegating exceptional powers to the executive authority and making it unanswerable to parliament, be considered? While expressing concern at the wide powers given to the armed forces in a state of emergency, a member asked whether these powers could be used against civilians and, if so, what protection they had in the military court and what remedies were available to detainees under a state of emergency if they had been denied contact with their families and a lawyer.

346. As to the right to life provided for in article 6 of the Covenant, it was pointed out by several members that it had been the one most gravely violated since 1975 and, particularly, since the Israeli invasion which culminated in the horrifying massacres at the Palestinian refugee camps of Sabra and Shatila in Beirut. It was noted that the reference in the report to this article had related only to capital punishment which, under the circumstances, was by far less important than the killings, assassinations and kidnapping that had claimed the lives of thousands of innocent people. It was pointed out by several members that although Israel was legally responsible for the massacres at the Sabra and Shatila refugee camps, the fact that Lebanese nationals had participated in those massacres made it incumbent on the Lebanese Government to hold a public inquiry to find out the

responsible perpetrators and punish them. In that connection, one member pointed out that a public inquiry concerning these massacres had been held in Israel, and that the word “genocide” should be employed with parsimony and prudence. It was asked whether any inquiry had been held in Lebanon and, if so, what the conclusions were and whether anybody had been found guilty of those crimes and punished accordingly; how the Lebanese Government regarded those massacres in the light of paragraph 3 of this article and considering that Lebanon was a party to the Convention on the Prevention and Punishment of the Crime of Genocide; what measures the Lebanese Government had taken to protect the Palestinian population in Lebanon from similar violations of their basic right to life, particularly as may be perpetrated by armed groups and militias; what action had been taken to save the life of Lebanese and Palestinians who had disappeared or been kidnapped by certain militias and to stop recurrence of such crimes not only in Greater Beirut but also in the Lebanese territory occupied by Israel; and what limitations had been imposed on the use of firearms by the police and other security forces. As to the question of capital punishment, it was recalled that the tradition of the vendetta still existed in Lebanon, often involving murders for reason of family honour and it was asked how such crimes were judged in a penal court.

347. As regards articles 7, 8 and 10 of the Covenant, it was noted that, according to the report, the absence of specific legal provision forbidding torture and other inhuman treatment in Lebanon was due to the fact that individual liberty was guaranteed in the Constitution and it was pointed out that States parties were required to take affirmative action, including the establishment of supervision machinery and control to protect individuals from treatment. The Lebanese Government was requested to reassure the Committee that all measures will be taken to protect the Palestinian population from being subjected to inhuman treatment. Questions were asked as to whether there was any control of interrogating officials; what the procedures were for investigating ill-treatment and disciplining those found to be responsible; what protection had been provided against ill-treatment inside as well as outside prisons; whether there existed in Lebanon a system of supervision of prisons and other detention centres, including arrangements for independent persons to visit those establishments to ensure that the standards laid down were observed and that remedial measures were taken whenever necessary; whether any of the international organizations concerned had been allowed to visit detention centres in territories under the Lebanese authority; what the crimes were for which a life-time imprisonment with hard labour could be imposed; whether such punishment could not be considered cruel and inhuman and who decided if the strenuous work given to persons under sentence of hard labour was consistent with their sex and age.

348. As regards article 9 of the Covenant, it was asked whether there were any persons deprived of their liberty for political or security reasons and not for the purpose of bringing them to trial and, if so, how many such persons there were, under what authority they were held, and what procedures existed for reviewing their cases and assuring their release as soon as possible; what were the precise conditions in which a person could be held incommunicado and what was the maximum period for which that was allowed; and, if a person was detained incommunicado, whether his family was informed promptly that he was held in custody. How strictly were the time-limits for holding a person in preventive custody applied in the present circumstances? Was there a procedure comparable to habeas corpus which would allow a detainee himself to initiate the procedure for his liberation? What was the normal or average length of time for detention pending trial? Did any maximum time-limits exist and what controls were there? Information was also requested as to whether the police force was able effectively to prevent arrests of people by private groups; whether

there were “private” detention camps, how many people were held there and whether there had been any progress in that respect.

349. Regarding article 11 of the Covenant, it was pointed out that the possibility of imprisonment for debt, referred to in the report, could be contrary to the provisions of this article.

350. With regard to articles 12 and 13 of the Covenant, it was noted that freedom of movement had been limited for certain categories of persons and it was asked what those categories were and how that could be reconciled with provisions of the Covenant. In that connection, it was noted that Palestinians legally residing in Lebanon since 1948 had been refused renewal of their residence documents while abroad, or re-entry at the Lebanese borders, and it was asked whether the Lebanese Government intended to expel all Palestinians from the country and, if not, what justification there could be for that limitation on their right of movement; whether a Lebanese national who had his passport withdrawn by a Lebanese diplomatic mission abroad has any legal recourse at his disposal; whether the Palestinians residing in Lebanon had been considered as political refugees and, if not, what their status was; whether the principle of non-refoulement was applicable in the case of political refugees in Lebanon; what competence or discretion the General Director of Security had in his respect and whether foreigners expelled from that country had the right to appeal against the expulsion order.

351. Turning to article 14 of the Covenant, information was requested on the application of the principle of equality before the courts and on whether it also applied to foreigners, such as the Palestinians; on the laws guaranteeing the independence of the judiciary; on the rules governing the appointment and dismissal of judges at all levels; on whether the civil courts in the parts of the country under Lebanese control were actually functioning and to what extent the legal profession was operating normally in present circumstances. Which were the competent authorities to judge the acts committed by the foreign troops stationed in Lebanon? It was also asked whether the presumption of innocence was provided for in the Lebanese legal system. Information was requested regarding the requirements of due process of law in criminal cases as specified in this article and on whether a person was entitled to the right to compensation in a case of a judicial error in a judgement pronounced against him.

352. In connection with article 19 of the Covenant, and freedom of the press in particular, members expressed their concern over the fact that the silence of the Administration was sufficient for the rejection of a recourse taken against the suspension of a publication. In that connection, clarification was requested of the meaning of the offences of “false news” and “simple false news”, the definitions of which seemed important for the delimitation of the freedom of expression. More information was requested regarding the unusual powers exercised by the Minister of Information over freedom of information and expression, including control over theatrical plays. It was also asked whether there was any censorship in effect at present; whether the broadcasting system was a government agency and whether various political groups were represented on the executive board of such agency; and whether there was any governmental control over newspapers in Lebanon which were edited or financially supported from abroad.

353. Commenting on article 22 of the Covenant, members expressed their concern over the provisions which forbade civil servants to join professional organizations and to resort to strikes.

In that connection, it was asked whether the right to strike was generally subject to prior authorization. One member inquired whether Lebanese law recognized the political rights of trade unions and inquired whether courts dealt with labour disputes between employers and employees. Because the report did not mention political parties, information was requested on any laws governing their establishment and functioning.

354. As regards articles 23 and 24 of the Covenant, it was pointed out that married men and women were not treated equally in certain areas, such as the punishment for adultery or the right to inherit. It was asked whether civil marriage existed in Lebanon and whether Lebanese nationality was given to children of a Lebanese mother married to a foreigner. How was equality actually implemented within the family? Was there any implicit discrimination against women in divorce? Did the right to divorce exist for Lebanese of all religions? Clarification was requested at the age classification applicable to minor delinquents and the criteria used for such classification. It was asked whether only the church issued birth certificates or whether there was also a State registry to that effect, and whether there were supplementary provisions for the protection of minors in employment.

355. As to article 25 of the Covenant, clarification was requested of the criteria applied for the confessional distribution of seats in Parliament, when the proportional distribution of seats had been established, and whether that proportion was changed after each population census. It was also asked whether it was true that atheists or persons not belonging to any monotheistic religion could not be nominated or elected to Parliament and, if so, whether that conformed with the provisions of the Covenant.

356. In connection with article 26 of the Covenant, reference was made to statements in the report that a foreigner may inherit Lebanese property on condition of reciprocity, and that the existence of privileges for individuals or groups of individuals were prohibited "as a matter of principle" and clarification was requested of those statements in the light of the provisions of this article.

357. With regard to article 27 of the Covenant, one member asked what the position of the Government was regarding ethnic and linguistic minorities and whether there had been any demographic changes affecting the situation since 1975.

358. Responding to comments made under article 1 of the Covenant, the representative stated that the main concern for his Government now was to ensure the respect of civil and political rights on its territory, to guarantee the life and liberty of the Lebanese people by way of protecting the existence of Lebanon itself and by first exercising its right to self-determination. To that end his Government first called on the United Nations Interim Force in Lebanon (UNIFIL) and the multinational forces; introduced military service and embarked on the reorganization and rearming of its military forces and negotiated with Israel and the other Powers concerned with a view to achieving the evacuation of all foreign forces from its territory. His Government's priority was to ensure the evacuation of the Israeli army and, for that end, to make certain minimal concessions so as not to give Israel a chance to apply its usual policy of occupation, which would be followed by the establishment of colonies and annexation. As to Lebanon's position concerning the right of the Palestinian people to self-determination, he recalled the role played by his country since the arrival of the Palestinian refugees in 1948, asserted that Lebanese leaders had been advocates of the Palestinian cause, a fact well known to international bodies and Palestinian leaders, and drew

attention to the sacrifices made by Lebanon in support of the armed struggle of the Palestinian people against Israel, pursuant to the agreements of Cairo and Mecca.

359. Replying to questions raised under article 2 of the Covenant, the representative stated that it was impossible, under the circumstances, to define the territory over which his Government was now exercising its authority, that although the Lebanese Administration had diminished in certain areas of the country, regional offices of various ministries still existed and that only in Beirut could he indicate for sure that almost all governmental functions were performed normally. He also explained that the Covenant was ratified by law adopted by parliament and published in both Arabic and French in the Official Gazette; that, upon ratification, it entered into force without the need for further legislation; that precise provisions of the Covenant could be invoked before and directly applied by the courts; and that, in case of contradiction between the general principles of the Covenant and an internal law, it was up to the judge to interpret and reconcile the two texts, in the light of an assumption that the legislation had never been deliberately aimed at infringing human rights. A commission was currently carrying out studies with a view to amending outdated laws. He pointed out that, according to the Constitution, the Government could be delegated the power to legislate by one of two means. It could either submit "urgent bills" to Parliament and, unless Parliament decided otherwise within 40 days, put them into force by means of decrees, the silence of Parliament being interpreted as implicit approval; or it could, through enabling laws which had specified the duration of the delegated power and its objectives, issue decree laws, which remained valid after the expiry of the time specified in the enabling law, subject to the control of the Council of State and Parliament for eventual annulment or amendment. He indicated further that the courts had no power to consider the constitutionality of laws, but that Government acts were, with few exceptions, such as conduct of foreign affairs, subject to the control of the Council of State. The representative also pointed out that everyone had the right of recourse for abuse of power; that such recourse had been excluded in a few cases involving dismissal of civil servants for various reasons including administrative incompetence, but never on political grounds; that all questions of abuse of power relating to personal statutes, individual liberties or right to private property fell within the competence of the judiciary, which could annul illegal administrative decisions and order compensation.

360. Replying to questions raised under article 3 of the Covenant, the representative indicated that equality of rights between men and women including access to the civil service was assured by law; that although Lebanon was not a pioneer in this field of women's rights, women occupied posts at universities, the diplomatic corps, the courts and other areas.

361. As to article 4 of the Covenant, the representative stated that a state of emergency had not been declared in Lebanon; that the army maintained order and security in areas under its control according to decree law No 10 of 14 February 1983 and subject to the conditions laid therein; that that control covered, inter alia, the ports, the territorial waters, the entry and departure of foreigners and meetings organized against the security of the State; and that civilian administration continued to operate in a satisfactory manner in the areas under governmental control.

362. Commenting on questions raised under article 6 of the Covenant, the representative stated that his Government was trying by all means to protect the right to life and had relative success in that respect in the areas under its control and that, in certain cases, such as kidnapping, the Government

tried to prevent violation of human rights through high-level political contacts with all concerned. As to the massacres at the Sabra and Shatila refugee camps, he stressed that they constituted one of the most serious violations of human rights; that although Israel would obviously wish to see less Palestinians in the world, he was not sure whether the term “genocide” could be applied to these massacres, considering the number of victims and that the massacres had been preceded by other killings involving Lebanese and foreigners since 1975; that the problem was one of finding the perpetrators and of bringing them to justice, of making the distinction between acts of war and of common law; that the massacres had not taken place in areas under Government authority; that, although his Government had spared no effort to save human life when the Israeli army was at the gates of Beirut, it had no power to prevent destruction nor the loss of human life; that Israel was responsible for the arrests in southern Lebanon; that no disappearances, summary executions or kidnapping were taking place in areas under his Government’s authority and that his Government took responsibility for respect of the provisions of this article in areas under its control.

363. With respect to questions raised under articles 7, 8 and 10 of the Covenant, the representative stated that the provisions of those articles were respected, at least in the areas controlled by his Government; that the Lebanese Penal Law prohibited torture by protecting the physical integrity of individuals, even when in prison; that punishment to forced labour for life was imposed for every serious crimes, including crimes against the security of the State and manslaughter against a person under the age of 15, but that hard labour meant in effect working in industrial or artisanal activities and not anymore in road building; that the law allowed for a considerable number of visits to penitentiary establishments by medical inspectors, the Public Prosecutor, the Presidents of the Courts, representatives of the World Health Organization (WHO) and the International Red Cross and by women’s associations; that family visits were also allowed regularly and that there were no limits to visits made by the lawyers concerned.

364. Replying to questions under article 9 of the Covenant, the representative pointed out that no one, including Palestinian refugees and other foreigners, was imprisoned for his political or other opinion in territories under his Government’s control; that while the police could not prevent arbitrary arrests by other groups, contacts of a political nature took place to solve such problems and that persons detained for crimes against the security of the State had to be brought before a judge within five days; that, according to the military legal code, legal assistance was allowed before the military procurer general, but required before the military judge and that, if need be, legal assistance was provided by law.

365. In connection with questions posed under articles 12 and 13 of the Covenant, the representative explained that Palestinians who had taken refuge in Lebanon in 1948 enjoyed the right of non-refoulement, but not to definite integration in Lebanese society, since official overall Arab policy had rightly been based on their right to return one day to their home country; that Palestinians arriving in Lebanon from other Arab countries, where they had first taken refuge, were given one month’s renewable stay, but that they had to return to their first country of refuge; that armed Palestinians who had pledged to leave Beirut were considered as belligerents and thus were not allowed back in Lebanon and that that explained the verification of identity of Palestinians trying to reenter Lebanon and the measures of refoulement to which they were subjected.

366. Replying to questions raised under article 14 of the Covenant, he explained that the

independence of judges was ensured by the High Judicial Council; that judges could not be transferred or dismissed without their consent or without a decision of that Council; that the Courts in areas under his Government's authority were functioning normally; that all the requirements of due process of law existed in Lebanon as provided for in the Covenant; and that bilateral accords had been made with the United Kingdom and France concerning the status of British and French soldiers stationed in Lebanon, which was similar to that of administrative personnel at consular and diplomatic missions.

367. In reply to questions raised under article 19 of the Covenant, the representative pointed out that Lebanese jurisprudence made a distinction between words necessary to express an opinion and words intended to offend; that any publication containing articles considered to be offensive towards one of the religious communities or likely to provide communal conflicts could be suspended; that there was at present no censorship in Lebanon and that freedom of information was total; that the Minister of Information did not possess discretionary powers, since the possibility of recourse had always existed, particularly for abuse of power; that silence of the administration was interpreted as implicit rejection of the recourse, which would justify submission of the case to the Council of State; that civil servants were expected to show a certain amount of discretion and neutrality and to keep professional secrecy, and that although they were free to declare their opinions, they were required to obtain prior authorization before publishing any articles or making any speeches.

368. As regards article 22 of the Covenant, the representative informed the Committee that political parties of all tendencies existed in Lebanon and enjoyed full freedom as well as protection of the law; that trade unions in Lebanon enjoyed the right to strike once the mediation procedure conducted under the aegis of the Ministry of Labour had failed; that civil servants were not allowed to strike but that this prohibition did not affect those working in municipalities.

369. In respect of articles 23 and 24, the representative informed the Committee that no procedure for civil marriage had existed in Lebanon but that Lebanon's private international law recognized marriages so concluded abroad; that the difference between men and women as to inheritance rights had to be viewed, not in isolation, but within the general framework of Muslim Law which constituted a balanced whole in that, in this case, men would be responsible for meeting the needs of women who, consequently, should not be entitled to the same share of inheritance as men, but who nevertheless enjoyed financial independence within the Muslim régime of separation of property rights, thus resulting in cohesion within the Muslim family. As to the registration of births, church certificates of births were not valid before the administrative authorities, which required that all births should be declared in the State registry. The representative explained that the distinctions established in the Penal Code between the different categories of minors had been based to a great extent on human evolution from childhood to adulthood and that they were designed to reduce the risk of injustice.

370. In connection with questions posed under article 25 of the Covenant, the representative explained that an atheist could not take part in the conduct of public affairs, including membership of Parliament, unless he made a declaration of affiliation to one of the religious communities recognized in Lebanon.

371. With reference to questions raised under 26 of the Covenant, he referred to the condition of

reciprocity attached to the right of foreigners to inherit in Lebanon and explained, that for that condition to be met, it was sufficient that the national legislation of the foreigner did not prohibit foreigners, including Lebanese, to inherit from citizens of that State. Explaining the statement in the report that equality before the law prohibited, in principle, the existence of privileges, he indicated that the expression “in principle” had been used to cover certain marginal cases, such as that of the employees of the Electricity Service who benefited from preferential tariffs.

372. Some members pointed out that the interpretation of genocide, referred to in article 6 of the Covenant and mentioned by them in connection with the massacre perpetrated at the Sabra and Shatila refugee camps in Beirut, did not correspond with the definition given in the Genocide Convention under which it was necessary that, for the crime of genocide to be committed, there should exist an intent to destroy a whole people but that the crime would be committed even if the intent existed to destroy part of a national group, as happened at those camps, and that it was the duty of the Lebanese Government to punish those who were responsible for it wherever they were to be found under its authority.

373. The representative stated that his interpretation of “genocide” was dictated by consideration of terminology and did nothing to remove the horror of the Sabra and Shatila massacres.

CCPR A/52/40 (1997)

331. The Committee examined the second periodic report of Lebanon (CCPR/C/42/Add.14) at its 1578th and 1579th meetings (fifty-ninth session), held on 7 April 1997, and at its 1585th meeting, on 10 April 1997, adopted the following comments.

1. Introduction

332. The Committee welcomes the second periodic report submitted by the State party, although after a long delay, and appreciates the delegation's readiness to resume its dialogue with the Committee. The Committee regrets, however, that while the report provided some useful information on the general legislative framework of Lebanon, it did not deal consistently with the actual state of implementation of the Covenant and only to a limited extent with the difficulties encountered in the course of its implementation. The Committee also considers that the report is too brief to provide a comprehensive overview of the implementation of Covenant guarantees by the State party. The Committee appreciated the presence of the delegation, which provided some helpful clarifications in responding to several of the Committee's questions.

333. The Committee hopes that the present comments will assist the State party in the preparation of the third periodic report, which should include substantive and thorough information on the issues identified as being of concern to the Committee in the following paragraphs.

2. Factors and difficulties affecting the implementation of the Covenant

334. The Committee notes that the conflict in Lebanon from 1975 to 1990 destroyed much of the country's infrastructure and caused considerable human suffering, as well as severe economic disruption and difficulties, which continue to restrict resources allocated to human rights. The Committee appreciates that the State party is not in a position to ensure that the provisions of the Covenant are effectively applied and respected throughout the territory, since the authorities have no access to the southern part of the country, which remains under Israeli occupation.

335. The Committee also notes that the process of national reconstruction remains handicapped by a number of factors, inter alia, by the fact that non-Lebanese military forces control parts of the State party's territory, which contributes to undermining the control of the central Government and may prevent the application of the State party's laws and the Covenant in the areas not under the Government's control.

3. Positive aspects

336. The Committee welcomes the State party's recent adoption of legislation designed to a certain extent to bring its legal system into line with Lebanon's obligations under international human rights instruments, in particular legislation designed to ensure the equality of rights and obligations between men and women.

337. The Committee appreciates the Government's readiness to reform the country's prison system,

which, the delegation conceded, has serious shortcomings, and it welcomes the budgetary appropriations decided upon by the Government to that effect. It expresses the hope that the prison reform and renovation programme will be effected as expeditiously as possible, so as to enable the State party to comply with articles 7 and 10 of the Covenant.

338. The Committee notes with appreciation the establishment of the Commission on Rules of Procedure and Human Rights (Commission du règlement intérieur et des droits de l'homme), which examines certain legislative proposals in the light of their human rights implications and for their compatibility with human rights standards. The Committee also welcomes the establishment of a Constitutional Court (art. 19 of the Constitution).

4. Subjects of concern and the Committee's recommendations

339. The Committee considers that some aspects of the State party's legal system do not conform with the provisions of the Covenant. It points in particular to the fact that decisions passed by the Justice Council are not subject to appeal, which is contrary to article 14, paragraph 5, of the Covenant. The Committee recommends that a comprehensive review be undertaken of the legal framework for the protection of human rights in the State party to ensure compliance with all of the provisions of the Covenant. It further encourages the State party to consider the creation of a national ombudsman or an independent national human rights commission, which would have authority to investigate human rights violations and make recommendations on remedial action to the Government.

340. In respect of Decree-Law No. 102 of 16 September 1983 and Decree No. 7988 of 27 February 1996, the Committee notes with concern that the circumstances under which a state of emergency may be proclaimed and enforced in Lebanon are excessively broad and may be used to restrict the exercise of basic rights in an unjustifiable manner. The Committee also deplores the fact that the State party has failed to observe its duties under article 4, paragraph 3, of the Covenant to notify the Secretary-General and through him other States parties to the Covenant of the proclamation of a state of emergency.

341. The Committee accordingly urges the State party to suspend the application of Decree-Law No. 102 and its implementation Decree, or to replace it by legislation which meets the requirements of article 4 of the Covenant. The Committee also recommends that all future proclamations of states of emergency be strictly limited in time and notified in scrupulous accordance with the requirements of article 4, paragraph 3, of the Covenant.

342. The Committee notes with concern the amnesty granted to civilian and military personnel for human rights violations they may have committed against civilians during the civil war. Such a sweeping amnesty may prevent the appropriate investigation and punishment of the perpetrators of past human rights violations, undermine efforts to establish respect for human rights and constitute an impediment to efforts undertaken to consolidate democracy.

343. The Committee notes with concern that the role and respective competencies of the Lebanese internal security forces and the military, with respect to arrest, detention and interrogation of individuals, were not properly clarified by the delegation. The Committee regrets that the delegation

did not provide information on the role and extent of the exercise of power regarding the arrest, detention and interrogation, as well as the possible transfer to Syria, of Lebanese citizens, by the Syrian security services which continue to operate within the State party's territory with the consent of the Government.

344. The Committee expresses concern about the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians. It is also concerned about the procedures followed by those military courts, as well as the lack of supervision of the military courts' procedures and verdicts by the ordinary courts. The State party should review the jurisdiction of the military courts and transfer the competence of military courts, in all trials concerning civilians and in all cases concerning the violation of human rights by members of the military, to the ordinary courts.

345. More generally, the Committee expresses concern about the independence and impartiality of the State party's judiciary, and notes that the delegation itself conceded that the procedures governing the appointment of judges, and in particular members of the Conseil supérieur de la magistrature, were far from satisfactory. The Committee is also concerned that the State party does not, in many instances, provide citizens with effective remedies and appeal procedures for their grievances. The Committee therefore recommends that the State party review, as a matter of urgency, the procedures governing the appointment of members of the judiciary, which a view to ensuring their full independence.

346. The Committee expresses concern over well-substantiated allegations of acts of torture and cruel, inhuman and degrading treatment committed by the State party's police, the Lebanese security forces and non-Lebanese security forces operating within the State party's territory, the occurrence of arbitrary arrest and detention, searches operated without warrants, abusive treatment of individuals deprived of their liberty, and violations of the right to a fair trial. It has noted the delegation's statement that no such acts of torture and ill-treatment are committed by the Lebanese police and security forces; notwithstanding that statement, it urges the State party to investigate the credible allegations of instances of ill-treatment and torture that have been brought to the Committee's attention.

347. While welcoming the State party's intention to reform and modernize the prison system (see para. 337), credible and well-substantiated reports of ill-treatment of prisoners and serious overcrowding of prisons, as well as the lack of clear segregation of minors and adults and of convicted detainees and those awaiting trial, continue to be a matter of concern to the Committee. The Committee regrets that the delegation was unable to provide further clarification on the situation of female juvenile delinquents detained in Zahle prison.

348. While welcoming recent legislative amendments which eliminate some forms of discrimination against women, the Committee notes that both legal and de facto discrimination continues to be a matter of concern. It refers in this context to articles 487 to 489 of the Criminal Code, which impose harsher sentences for conviction of adultery on women than on men, to nationality laws and the law which may restrict the right to leave the country for spouses in the absence of the consent of the husband (see CCPR/C/42/Add.14, para. 9). The Committee considers that those provisions, and others referred to in the report, are incompatible with articles 3 and 23 of the Covenant. The

Committee is equally concerned about the compatibility of laws and regulations which do not allow Lebanese citizens to contract marriage other than in accordance with the laws and procedures of one of the recognized religious communities, and that those laws and procedures do not afford equality of rights to women.

349. Accordingly, the Committee recommends that the State party review its laws, especially those governing the status of women, women's rights and obligations in marriage, and civil obligations, make appropriate amendments to them and take appropriate action to ensure full legal and de facto equality for women in all aspects of society. Accessible and effective remedies should be available in respect of all forms of discrimination. The Committee recommends that in addition to the existing laws and procedures governing marriage, civil laws on marriage and divorce available to everyone should be introduced in Lebanon.

350. The Committee is deeply concerned at the Government's extension of the number of crimes carrying the death penalty, which, bearing in mind that article 6 of the Covenant limits the circumstances under which capital punishment may be imposed - suggesting that they be submitted to continuing review with a view to the abolition of capital punishment - is not compatible with that article.

351. The Committee therefore urges the State party to review its policy vis-à-vis capital punishment with a view, first, to its limitation and, ultimately, its abolition. It recommends that the State party include in its next periodic report a detailed list of all crimes for which the death sentence may be imposed, as well as a list of all cases in which the death sentence was pronounced and/or carried out.

352. The Committee has noted with concern the difficulties faced by many foreign workers in Lebanon whose passports were confiscated by their employers. That practice, which the Government has conceded must be addressed more satisfactorily, is not compatible with article 12 of the Covenant. The Committee recommends that the State party take effective measures to protect the rights of those foreign workers by preventing such confiscation and by providing an accessible and effective means for the recovery of passports.

353. The Committee notes with concern that every Lebanese citizen must belong to one of the religious denominations officially recognized by the Government and that is a requirement in order to be eligible to run for public office. That practice does not, in the Committee's opinion, comply with the requirements of article 25 of the Covenant.

354. The Committee notes with concern that a number of provisions of the Media Law No. 382 of November 1994 and Decree No. 7997 of February 1996, on the basis of which the licensing of television and radio stations has been restricted to 3 and 11 stations, respectively, do not appear to be consistent with the guarantees enshrined in article 19 of the Covenant, as there are no reasonable and objective criteria for the award of licences. The licensing process has had the effect of restricting media pluralism and freedom of expression. The Committee also observes that the limitations placed on two different categories of radio and television stations - those that can broadcast news and political programmes and those that cannot - is unjustifiable under article 19.

355. The Committee therefore recommends that the State party review and amend the Media Law

of November 1994, as well as its implementing decree, with a view to bringing it into conformity with article 19 of the Covenant. It recommends that the State party establish an independent broadcasting licensing authority, with the power to examine broadcasting applications and to grant licences in accordance with reasonable and objective criteria.

356. The Committee is concerned about the maintenance of the total ban on public demonstrations, which continues to be justified by the Government on grounds of public safety and national security. That wholesale ban on demonstrations is not, in the Committee's opinion, compatible with the right to freedom of assembly under article 21 of the Covenant and should be lifted as soon as possible.

357. The Committee has noted that while legislation governing the incorporation and status of associations is on its face compatible with article 22 of the Covenant, de facto State party practice has restricted the right to freedom of association through a process of prior licensing and control. The delegation itself conceded that the practice of denying that registration took place is unlawful. The Committee also regrets that civil servants continue to be denied the right to form associations and to bargain collectively, in violation of article 22 of the Covenant.

358. The Committee therefore recommends that the State party ensure that the competent authorities adhere scrupulously to the provisions of the Statute on Incorporation of Associations. It further suggests that the Government review and ultimately lift its ban on the establishment of associations by civil servants.

359. The Committee recommends that the State party give serious and urgent consideration to ratifying, or acceding to, the first Optional Protocol to the Covenant, as a means of strengthening the system of guarantees for the protection of human rights.

360. The Committee recommends that more detailed information about specific laws and more concrete and factual information about the enjoyment of civil and political rights be provided by the Government of Lebanon in its next periodic report. In particular, it would appreciate information on whether domestic courts have given effect to the Covenant's guarantees in their decisions and on how potential conflicts between domestic statutes and Covenant guarantees have been resolved. That would enable the Committee to assess more accurately any progress made by the State party in the implementation of the Covenant.

361. The Committee recommends that information about the Covenant, and the Committee's present observations, be disseminated as widely as possible by the Lebanese authorities and that the State party's next periodic report be widely publicized.