

Serious and Systematic Human Rights Violations in Syria

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Introduction

Since March 8th 1963, Syria has been ruled under a state of emergency imposed by a military order upon the basis of the Law of Emergency although the procedures dictated by this law have not been followed.¹ This law, in particular its articles 4 and 5, involves restrictions on a wide range of human rights which ought to be respected like freedom of individuals in assembly, residence and movement etc. It additionally violates the right to privacy and permits seizure of property.

The “quasi-permanent state of emergency, thereby jeopardizing the guarantees of article 4 of the [International Covenant on Civil and Political Rights]” and that the provisions of the law of emergency “are too vague and imprecise and do not appear compatible with the requirement of article 4 of the covenant” were concerns raised by the Human Rights Committee in 2001.²

The Law of Emergency also has serious implications on the independence of the judiciary. According to art.8 of the Law of Emergency, the Martial Governor named by the Prime Minister “*may take a conclusive decision regarding a dispute over specialization to draw a dividing line between civil and military judiciary.*” This article, among other dispositions, allows the frequent prosecution of civilians before military courts.

Indeed the widespread use of special courts and in particular the Supreme State Security Courts which do not respect most provisions of just procedures as articulated in art.14 of the ICCPR is of great concern.³ The court—which addresses cases related to national security—was established through presidential decisions – and not according to law. It therefore operates only under the power of the Baath party; it is not part of the judiciary authority. Its jurisdiction applies to military as well

¹ Military act No.2 (8/3/1963). Legislative Act No. 51 (22/12/1962).

² Concluding observations of the Human Rights Committee: Syrian Arab Republic. 24/4/2001. CCPR/CO/71/SYR. §6 and §7.

³ Human Rights Committee, Concluding Observations *op cit.* “16. In the Committee's view, the procedures of the State Security Court are incompatible with the provisions of article 14, paragraphs 1, 3 and 5. The public nature of proceedings before the State Security Court is not guaranteed. The Committee is also concerned about allegations, to which the delegation did not respond, that the Court has rejected complaints of torture, even in flagrant cases, and that some legal representatives have withdrawn in protest against the failure to respect the rights of the defense. Moreover, the Committee notes that the State Security Court's decisions are not subject to appeal.

as to civilian cases. According to art.1 and art.2 of the legislative decree No. 47 of 28/3/1968, the Supreme State Security Court may be formed by an order from the martial governor and is composed of two judges, one civilian and the other military. Its judgments are not subject to appeal (art.8) nor is it bound by the same procedures as the courts of regular jurisdiction (art.7). The President of the Republic must approve a verdict; he may also cancel it and ask for a retrial (art.8).

The Constitution of Syria of 1973 contains its own provisions on the state of emergency; art.114 gives the President of the Republic the power to "*form specialized organizations, councils, and committees.*" This provision along with art.3 of the Law of Emergency which states that "(a.) When a State of Emergency is declared, the Prime Minister should name a Military Governor and all internal and external security forces must be put at his disposal" frame the important role of the Syrian security services.

The use of torture is particularly widespread among the various security agencies in Syria, not only against political prisoners or security detainees, but against regular criminal prisoners as well. Extracting confessions under duress is the most common technique used during interrogations.

The security bodies have increasingly become associated with far reaching human rights violations and the intensity of violations in the context of the State of Emergency has been increasingly prevalent in Syria over the last decades: abductions and enforced disappearances; arbitrary arrests and detention; solitary confinement; torture and ill-treatment; deprivation from legal and medical assistance etc. Security services benefit from a wide range of powers. The most infamous security organizations are: General Intelligence, affiliated with the Ministry of the Interior; Political Security, a division of the Ministry of the Interior; and Military and Air Force Intelligence, both nominally under the Ministry of Defense. The Bureau of National Security of the Ba'ath Party Country Leadership oversees all of these agencies. Except for Air Force Intelligence, which has special tasks, all other security agencies conduct domestic surveillance at the local level.⁴ Headquartered in Damascus, they have branches in all provinces.

Notwithstanding the atmosphere of competition between these different security agencies, the power of particular security agencies has expanded at the expense of their own head offices. Many heads of security branches boasted strong relationships with the president, which caused their influence to outstrip that of the parent ministry. As a result, these branches had a decisive say in political, economic, and administrative decisions while being accountable only to the president. This situation led to a dangerous legal impunity.

Enforced disappearances in Syria

Enforced disappearances have been a pillar of Syrian authoritarianism since "The Events" of the early 1980s. Armed confrontations between the Muslim Brotherhood and the Syrian regime led to the disappearance of many citizens. Nearly 17,000 people went missing in prisons and interrogation centers since 1979. Some sources

⁴ For more details, see James A. Paul, *Syria Unmasked: The Suppression of Human Rights by the Asad Regime*, edited by Middle East Watch (New Haven: Yale University Press, 1991).

claim the number is 25,000. Many experts confirm that these numbers are just estimates that may hide frightening numbers of missing persons. Both political arrests and forced disappearances are at the forefront of the Syrian regime's violations of human rights. Indeed, political arrests by the security branches were, in most cases, a prelude to enforced disappearances which Syrian citizens suffered.

Syrian citizens are usually arrested at their homes, workplaces or upon arrival at the airport after returning from abroad. In such cases, they are not given the opportunity to object, to seek legal counsel, or to contact their families. The security agency conducting the arrest often does not identify itself and does not clarify the reason of arrest to the arrested person or his/her family. Sometimes, the wanted person is summoned to a security branch office, from which he will never return. When a family inquires to the branch which summoned their son, they receive either inconclusive answers as to the whereabouts of their loved one or a total denial of his detention. Such arrests themselves constitute inhuman treatment that lead to significant deleterious effects on the detainee and his family. The effects of what happens after the initial detention are more severe. Lack of control over the security services and the exclusion of the rule of law and judiciary in such cases unleash their hands to practice brutality. Torture by various means is a common tool to extract confessions.⁵

Political detainees, those forcibly disappeared and missing persons belong to a variety of political trends.⁶ Most such cases occurred before 2000, and many detainees have been released during the past few years. The fate of missing persons remains unknown. The largest number of missing persons and the forcibly disappeared belonged to the Muslim Brotherhood. Members of communist and other leftist parties, different Palestinian groups, and Lebanese citizens from different political groups were also targeted. Some detainees belonged to the Iraqi Ba'ath Party, Nasserist parties, or the Islamic Liberation Party. Others were taken hostage instead of their wanted relatives.⁷

Although decades have passed since the peak of enforced disappearances in Syria, the subject is still cause for official indifference and silence. Speaking in public about the details of this tragedy is not permitted. Syrian authorities adopted a policy of hiding the truth instead of offering reparations and justice to the victims. The security services attempt to control Syrians' collective memory and prevent the public from learning of the human rights violations. No official initiative has been taken towards a just resolution of the issue. Similarly, any civil society initiative addressing the topic is forbidden. In this climate, official repression and various human rights violations continue. A Syrian human rights activist, who asked not to be named, said, "Raising the issue of enforced disappearances, as with other violations of human rights, requires the cooperation of the victim or his/her relatives. Relatives of victims of enforced disappearances in Syria are wary to raise their cases publicly,

⁵ See 'Abd al-Hay al-Sayyid, "Accountability of Security Services in Syria within Syrian Law," *al-Nahar*, July 16, 2005.

⁶ It should be noted that the term "missing" refers usually to anyone who cannot prove a link between his disappearance and official authorities or State organs, but we use the term here as identical to enforced disappearance, since it is the term most commonly used in the literature regarding: legal file of enforced disappearance in Syria.

⁷ Post-jail pathways: Conditions of released political and conscience prisoners in Syria. (Damascus Center for Human Rights Studies May 2006).

first because most cases of enforced disappearances are related to events with political, social, and sectarian dimensions still sensitive today with the current regime. Secondly, talking about this subject is considered a red line by the authorities, as they have not resolved this issue and still follow the same oppressive and exclusionary approach today.”⁸

Political arrests and forced disappearances became systematic and continuous during the late 1970s and early 1980s, coinciding with the outbreak of violent conflict between the Muslim Brotherhood and the Syrian regime. The regime started to use unmitigated violence not only against the armed Islamist organizations but also against the entire spectrum of opposition parties and their supporters in the Syrian society. This culminated in a number of massacres that killed thousands of civilians, most notably the massacre of Hama in February 1982. The massacre of Palmyra on June 27, 1980 followed an assassination attempt on President Hafez al-Asad. Hundreds of detainees were shot at the notorious military prison. Human rights groups estimate that about 1,000 victims were buried in unknown mass graves. Their families were not informed of their fates.

There are no official statistics about the numbers of missing persons for that period.⁹ Detainees were held in one of the security service branches throughout the investigation before being transferred to one of the notorious prisons assigned for political prisoners, like Palmyra and al-Mezza Military Prisons. “In some cases, detainees died from severe torture in the security branch. More commonly, he was killed while in prison, either as a result of daily torture and inhuman living conditions, or as a result of military executions, especially with the enactment of Law 49 of 1980,” said one political prisoner detained for 18 years due to suspected membership in a leftist party.¹⁰ Long-time Syrian Minister of Defense General Mustafa Tlas told Germany’s *Der Spiegel* that he approved 150–200 execution decisions issued by field military courts against political prisoners every week for two decades. Tlas later denied this statement.¹¹

However, the testimonies of scores, if not hundreds of former detainees prove that thousands of lives were taken without legal documentation, leaving their fate unknown to their families and communities. A former political prisoner described the situation in Palmyra Military Prison: “They called on groups of brothers every Monday and Thursday, and executed them by hanging in the courts of Palmyra Prison ... It became known to us that those summoned on those two days would be executed. They would pray for martyrdom and leave their clothes with the brothers, only going in sporting trousers.”¹²

Hundreds, if not thousands, are subjected to similar horrors today due to the absence of laws deterring such practices or accountability measures. Detainees were subjected to enforced disappearance for months that might extend to years. They

⁸ Interview with Syrian rights activist who asked not to be named, October 2009.

⁹ See: Statement by the Syrian Committee for Human Rights, on March 4, 2006, which included the names of about 4,000 people allegedly enforced disappeared in Syria.

¹⁰ Interview made on August 2009 with a former political prisoner detained from 1980 to 1998.

¹² Mohamed Salim Hamad , a Jordanian prisoner who was detained for 11 years in Palmyra military prison, witness and witnessed,

were often transferred to more than one security branch, which all denied his presence, making his location and fate completely unknown to his family. Now, the family is allowed to visit the detainee after several years of detention. However, this does not mitigate the impact on parents and children throughout the period of the disappearance.

The Current Situation

The situation of human rights deteriorated in 2009. During that year the Syrian authorities and in particular members of the security forces committed numerous serious human rights abuses. In a climate of impunity, there were instances of arbitrary or unlawful deprivation of life. Members of the security forces tortured and physically abused prisoners and detainees. Security forces arrested and detained individuals—including activists, organizers, and other regime critics—without due process. Lengthy pre-trial and incommunicado detention remained a serious problem. During that year the government sentenced to prison several high-profile members of the human rights defenders. The government also imposed significant restrictions on freedoms of speech, press, assembly, association, and travel.

Human rights defenders and opposition activists, regardless of their political affiliation, face repression by the Syrian regime. Recourse to the courts, whose independence is rarely guaranteed, most often results in sanctions. Defenders are generally prosecuted and often convicted for peacefully exercising their rights of freedom of expression, peaceful assembly and freedom of association and/or activities for the defense of human rights. Violations of the right to a fair trial are routinely observed at all stages of judicial proceedings and acts of mistreatment and torture have also been very regularly denounced during arrests by the State security services or during detention.

The recent arrests and detention of key lawyers and Human Rights Defenders Muhannad Al Hassani and Haitham Al Maleh, the closure of the Syrian Centre for Media and Freedom of Expression are concrete and recent illustrations of the systematic violations of freedom of association and expression and crackdown on independent HRDs.

The situation of Mr. Al Hassani is only the latest illustration of repression against human rights defenders which takes many forms and tends to prevent defenders from continuing their activities. Some have been sentenced in recent years to heavy prison sentences. Kamel Al Labwani was sentenced to 12 years in prison in May 2007, for “communicating with a foreign country and inciting it to initiate aggression against Syria.”

The Syrian regime continues to stifle all democratic breakthroughs. The relative calm that followed the wave of repression against members of the Spring of Damascus in 2001 ended in particular with the publication of new texts calling for democratic reforms. Today, several opposition activists and human rights defenders are still detained for having signed the Damascus Declaration in 2006 and having organized the implementation of the Damascus Declaration for Democratic National Change (DDDNC).

Vague legal provisions, such as Articles 285 and 286 of the Penal Code, facilitate the use of the courts for political purposes. The lack of judicial independence and arbitrary procedures also lead to violations of the right to a fair trial. Military courts and Supreme State Security courts are frequently used to pursue prisoners of opinion.

The arbitrary nature of these arrests and convictions has been widely recognized, whether by the European Union or by the UN Working Group on Arbitrary Detentions.

Allegations of torture and mistreatment, especially against prisoners of conscience, are recurring in Syria. Detainees also suffer regularly from lack of proper care. The imprisonment of prisoners of conscience and human rights defenders with common law prisoners, encouraging them to monitor, threaten or attack their fellow inmates is a practice used regularly. The authorities also ensure that prisoners of conscience are separated from each other to prevent them from communicating.

Kurdish opposition activists and human rights defenders are not immune to the general repression of political activists and defenders in Syria; they are usually even more affected by the crackdowns. Arrests, secret detention, unfair trials, torture and/or abuse are regularly reported, and citizens are also arrested for other various reasons, especially for participation in commemorative or other cultural and/or political events.

The Syrian regime refuses to tolerate any political party other than the ruling Baath party. All other political parties and movements are treated as illegal organizations and their members are therefore liable to prosecution under Article 288 of the Criminal Code. Leaders and members of the Kurdish parties are particularly targeted.

Many people who are considered likely to harm the image of Syria abroad are regularly prevented from leaving the country. A means of pressure and repression against those who dare to criticize the regime, this practice has in recent years targeted a growing number of political and human rights activists and some of their relatives. The exact list of persons subject to such a ban is difficult to establish, partly because the security services that made the decision refuse to recognize the practice and secondly, because the list changes. No justification is usually given for the ban and no prior information is transmitted to the passenger. Long reserved for political opponents and human rights activists, this repressive measure tends to spread to their relatives and other sectors of the Syrian civil society. Representatives of cultural and academic communities were affected by the ban in recent years.

In the context of widespread repression, members of the Kurdish minority face additional discrimination in many forms on a daily basis. Such discrimination has been consistently criticized by UN agencies in recent years.

Since 1962, Syrian authorities created a distinction between Syrian Kurds (those having Syrian nationality), and foreign Kurds (stripped of their nationality, but registered as foreigners), around 200,000 people, and Kurds who were “unregistered” (deprived of their nationality and absent from any official register), approximately 80,000 people. Without identity cards, travel documents, or birth

certificates, Kurds who are not recognized as Syrians cannot access public hospitals, public employment or any profession requiring membership in a professional organization (lawyers, journalists, engineers, doctors, etc.). They can no longer assert the right to property or to vote and are prevented from leaving the country. The practice of the Kurdish language is strictly limited; it is prohibited in schools and the workplace.

Over the past few years, several organizations have reported deaths of citizens of Kurdish origin during their compulsory military service. Since the beginning of 2009, the number of dead Kurdish soldiers deceased in dubious circumstances stands at 26 at the last two years and no investigation into the circumstances of their deaths has been undertaken.

The security forces used to use the violence against any Kurdish protests or even gatherings or celebrations. On March 21, 2010, security forces left at least one person dead and others wounded at a Kurdish New Year celebration in Northern Syria.

Lastly, the Syrian Arab Republic is recognized as one of the world's worst web and press oppressors. The Press Law adopted in Decree no. 50 of 2001 provides for unjustifiably sweeping regulatory powers from control of newspapers, magazines, and other periodicals, as well as virtually anything else printed in Syria, such as books, pamphlets and posters.

The decree also prohibits the publication of information on a wide range of topics. Article 29.5, of the Press Law bans the publishing of articles "infringing on national security and society's unity," and articles 50 and 51 impose harsh sanctions (prison terms of up to three years and fines of 500,000 to 1 million Syrian pounds) on anyone who opposes "public morality" or "creates unrest."

The exceedingly vague concept of "national unity" is instrumentalized and applied to virtually any subject of domestic political concern. Similarly, the ambivalence of a phrase like "national security" requires journalists and others to exercise extreme caution on all subjects especially those related to foreign policy and the Syrian military.

The government has extended its iron grip on expression such as to include wide internet censorship. In fact, it is no longer only journalists who are targeted, but anyone expressing their views online. In 2009, the Committee to Protect Journalists ranked Syria third place in a list of the ten worst countries where to be a blogger, based on the extent of arrests, harassment and restrictions which online writers in Syria face.

An increasing number of Syrians have faced trials or have been jailed for their online writings, and the Syrian authorities continue judicial persecution of cyber-dissidents.

The situation risks to further deteriorate: On 10 May 2009, an informal government meeting called for the establishment of a committee in charge of drafting a new press law. While the press law would continue to be subjected to the Criminal Code, the proposed changes would extend its penalties to internet users.