



SYRIA

The Permanent State of Emergency – A Breeding Ground for Torture

Report submitted to the Committee Against Torture in the context of the review of the initial periodic report of the Syrian Arab Republic

9 April 2010

Alkarama recalls that it concentrates its work on four priority areas; arbitrary detention, enforced and involuntary disappearances, torture, and extrajudicial executions. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

Alkarama – 2bis Chemin des Vignes – 1209 Geneva – Switzerland

☎ +41 22 734 10 06 – F +41 22 734 10 34 - Email: geneva@alkarama.org – Url: www.alkarama.org

1. Table of contents

| | |
|---|-----------|
| 1. TABLE OF CONTENTS | 2 |
| 2. BACKGROUND | 3 |
| 2.1 SYRIA, AN IMPORTANT REGIONAL PLAYER | 3 |
| 2.2 SECURITY CO-OPERATION WITH THE UNITED STATES | 4 |
| 2.3 A CENTRALISED POLITICAL SYSTEM | 4 |
| 3. A PERMANENT STATE OF WAR | 5 |
| 3.1 THE LAW OF STATE OF EMERGENCY | 6 |
| 3.2 LIBERTICIDAL LAWS AND REGULATIONS | 7 |
| 4. AN SYSTEM OF JUDICIAL EXCEPTION | 8 |
| 4.1 THE SUPREME STATE SECURITY COURT | 8 |
| 4.2 THE MILITARY TRIBUNALS | 10 |
| 4.3 STATE OFFICIALS' IMPLIED IMPUNITY | 11 |
| 5. PROLIFERATION AND OPACITY OF SECURITY SERVICES | 12 |
| 5.1 PARALLEL SERVICES | 12 |
| 5.2 INTELLIGENCE SERVICES' CENTERS FOR ARBITRARY DETENTION AND TORTURE | 13 |
| 6. ARBITRARY ARRESTS AND INCOMMUNICADO DETENTION | 14 |
| 6.1 THE LAW PROHIBITS ABUSE | 14 |
| 6.2 SOME RECENT CASES ILLUSTRATING THE VARIOUS FORMS OF ARBITRARY AND INCOMMUNICADO DETENTION | 14 |
| 6.3 ARBITRARY MEASURES ARE COMMONPLACE | 16 |
| 6.4 FORCED RETURN TO COUNTRIES THAT PRACTICE TORTURE | 17 |
| 7. TORTURE | 18 |
| 7.1 THE LAW AND JUDICIARY DO NOT ADEQUATELY PROTECT AGAINST ABUSES | 18 |
| 7.2 TORTURE IN PLACES OF DETENTION | 19 |
| 7.3 DEATHS UNDER TORTURE | 20 |
| 8. EXTRAJUDICIAL EXECUTIONS | 21 |
| 8.1 THE USE OF EXCESSIVE FORCE | 21 |
| 8.2 MASSACRES | 21 |
| 9. ENFORCED DISAPPEARANCES | 22 |
| 9.1 MISSING MUSLIM BROTHERHOOD MEMBERS: A PROBLEM THAT HAS LASTED MORE THAN THREE DECADES | 24 |
| 9.2 LEBANESE MISSING IN SYRIA | 24 |
| 10. OTHER FORMS OF REPRESSION | 25 |
| 10.1 REPRESSIVE MEASURES AGAINST THE FAMILIES OF DISSIDENTS | 25 |
| 10.2 THE REFUSAL TO ISSUE PASSPORTS | 25 |
| 10.3 PROHIBITION TO LEAVE SYRIA | 26 |
| 11. CONCLUSION | 26 |
| 12. RECOMMENDATIONS | 26 |
| 2. | |

2. Background

2.1 Syria, an important regional player

The U.S. invasion of Iraq in March 2003 caused significant destabilization in the region, which had already been heavily tested by conflicts related to Israeli expansionist policy and the role played by the United States. Syria is central to these conflicts, given the loss of part of its territory after Israel's colonization of the Golan Heights in 1967. The country also continues to suffer the effects of those occupations: since 1948, a large community of Palestinian refugees (nearly half a million people) has lived in Syria, and since 2003 more than 1.5 million Iraqi nationals have fled the chaos and terror that followed the invasion of multinational forces.

Israel is a permanent threat to Syria - it regularly violates its airspace and launches military attacks against Syria, most recently on 6 September 2007 in the north of the country. The United States also does not hesitate to undertake military operations that violate the country's sovereignty: on 26 October 2008, U.S. helicopters launched a raid against a house 8 kilometres inside Syrian territory and killed eight people. Various countries' secret services operate in Syria and the assassinations of numerous Syrians, Palestinians and Lebanese have been attributed to the Israeli secret service, which is very active in the country: on 12 February 2008, the head of intelligence and co-founder of Hizb Allah 'Imad Mughniyeh was assassinated; on 25 April 2008, Hisham Faiz Abu Libda, personal adviser to Khaled Meshaal, Hamas's Palestinian representative in Syria, was shot several times; on 2 August 2008 it was the turn of Brigadier General Mohammed Suleiman of the Syrian army. Finally, Haj Jamil Salah, leader of Hizb Allah, was killed on 24 August 2008 in Tira, Lebanon.

It is accused of supporting the Iraqi resistance to American occupation, as well being part of the "Iran-Syria-Hizb Allah axis" (presented as the "axis of evil") which has been denounced as an obstacle to peace in the region. As punishment, the U.S. Congress adopted a law called the "Syria Accountability and Lebanese Sovereignty Restoration Act" on 12 December 2003, which brought a freeze on official Syrian assets and imposed economic boycotts.

The country has also been heavily involved in the crisis that has shaken Lebanon, particularly since the assassination of Lebanese Prime Minister Rafik Al-Hariri in February 2005. French diplomats, backed by the United States, pushed for Resolution 1559 Security Council UN, adopted on 2 September 2004, which called for the immediate withdrawal of Syrian military forces from Lebanon, in place in Lebanon since 1976. The precarious balance that marked the end of Lebanon's civil war 1990 was severely upset, and the resulting instability, which lasted for several years, raised the spectre of renewed civil war. The Syrian government was heavily suspected of having carried out the assassination of Rafik Al-Hariri, and the pressure was such that it withdrew its troops from Lebanon in late April 2005. The accusation that Syria ordered the killing increased. Five years after the murder, after an investigation conducted by an international commission of inquiry established by the UN (Resolution 1595 of 7 April 2005) as well as the installation of a controversial Special Court for Lebanon¹, the involvement of the Syrian government in the assassination of Mr. Al-Hariri has not been credibly proven.

According to various observers, the international community, led by certain western powers, has used Lebanon's plight as a lever to marginalize Syria, which had become a key player in the conflicts shaking the region, and push it to abandon its support for various Palestinian, Lebanese and Iraqi resistance movements. After a period of colder relations than usual, the United States and France have sought to improve their dialogue with Syria, this time in order to isolate Iran and impose an agreement between Syria and Israel without extracting any real concessions from the latter. Syria, however, has been at war with Israel since 1948 and has always demanded the return of its occupied territory before considering a peace agreement.

¹ Controversial Tribunal which none-the-less ordered the release, for lack of credible and admissible evidence, of 4 Lebanese Generals who had already been detained several years in April 2009. See Géraud De Geouffre de La Pradelle, Antoine Korkmaz, Rafaëlle Maison, *Douteuse instrumentalisation de la justice internationale au Liban* (Doubtful instrumentalisation of International Justice in Lebanon), *Le Monde diplomatique*, April 2007, http://www.monde-diplomatique.fr/2007/04/DE_LA_PRADELLE/14595 (accessed on 6 April 2010).

2.2 Security co-operation with the United States

Despite the edgy relations between the Syrian and the U.S. administrations, a certain level of cooperation has paradoxically existed between the two countries as part of the international fight against terrorism. According to official U.S. sources, Syrian intelligence services provided important U.S. security-related information after the attacks of 11 September 2001; though much of this evidence is known to have been extracted under torture.

Thanks to the testimony of three Canadian nationals of Syrian origin, it has been possible to confirm the nature of this cooperation. Ahmed Al-Maati (arrested on his arrival at Damascus airport on 12 November 2001), Abdullah Almalki (arrested on his arrival at Damascus airport on 3 May 2002) and Maher Arar (arrested in September 2002 in the United States, where he was detained without legal procedure for 15 days before being deported to Syria) were imprisoned in the largest detention centre controlled by the intelligence services, the Palestine Centre, due to suspected links with Al-Qaeda. They have never been prosecuted either in Canada, the United States nor Syria. They spent several months in underground cells and suffered the worst forms of torture. Maher Arar reports that many persons were transferred to this centre after rendition organized by the U.S. secret services. The on-site interviews were carried out not only by Syrian agents; direct involvement by foreign secret services was confirmed. Mohammed Zemmar, a German of Syrian origin, was arrested in early December at the airport in Casablanca (Morocco) as he waited to return to Germany. He was detained for several weeks in Morocco, where Moroccan and American officials questioned him, and at the end of the month he was flown by the CIA to Damascus. Tortured by Syrian officers, he claims he was also interrogated by German agents.²

2.3 A centralised political system

Syria was ruled with an iron hand by Hafedh Al-Assad, who died in 2000. His son Bashar took over. He inherited a political system which concentrated all fundamental powers in the hands of the President and making the parliament simply a rubber stamp.

The Constitution of 1973 represents a synthesis between, on one hand, the affirmation of the desire to protect fundamental rights and freedoms, and on the other, to protect the socialist Baathist regime.³ Section 8 refers to the Baath party as the leader of society and the State; sections 48 and 49 impose the duty to defend the socialist system on unions and social and professional organisations. Similarly, Article 149 gives the President the right to propose constitutional amendments. Thus, the Constitution was amended in 2000 to allow the current President to come to power by lowering the age limit for presidential eligibility.

The principle of separation of powers is provided for by the Syrian Constitution. However, the President of the Republic has prerogatives that contradict this principle. Thus, the basic law allows the President of the Executive to introduce legislation ; Article 132 provides that the President of the Republic is also the president of the highest judicial authority, the Supreme Judicial Council, which itself is intended to ensure the independence of the justice system.

The Constitution provides for the creation of a High Constitutional Court⁴ composed of five members⁵. The Chairman of this Court is appointed by the Head of State. The interference by the President of the Republic in the appointment of members of the constitutional body represents another violation of the principle of the separation of powers. In addition, the High Constitutional Court can only be convened at the request of the President of the Republic or a quarter of the members of the People's Assembly. This intrinsic handicap means that many laws are inconsistent with the Constitution. In a detailed study on the functioning of this Court, Bassam Al-'Ismi explains that it is also unable to provide

² Dick Marty, *Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states* (Report of the Committee on Legal Affairs and Human Rights, Parliamentary Assembly, Council of Europe), 7 June 2006, p. 42-44.

³ Article 1 of the Constitution states that "the Syrian Arab Republic is a democratic, popular, socialist, and sovereign state."

⁴ See article 139-148

⁵ The mandate of the members is four years long, and is renewable.

effective monitoring to ensure the protection of the Constitution and to prevent the enactment of certain laws and decrees contrary to its provisions.⁶

In several of its provisions, the Constitution establishes fundamental rights and freedoms, but indicates that these should be "within the limits of existing laws." These "limits" are set primarily by the emergency laws and the numerous martial laws. Section 113 of the Syrian Constitution relating to the proclamation of emergency rule already allows the suspension of certain rights and freedoms. Designed to handle an exceptional situation in Syria, this state of emergency is now permanent.

3. A permanent state of war

The state of emergency proclaimed on 22 December 1962, was amended by Decree-Law No. 1 of 9 March 1963 and supplemented by martial laws contained in military legislation No. 2, 9 March 1963.

All these texts are still in force today. The Syrian authorities state in their initial report that the emergency law "applies to those exceptional cases in which there is an internal or external threat to the survival of the nation."⁷ These actions are automatically renewed, however, since Article 153 of the Constitution states that "laws enacted prior to the declaration of the Constitution remain in force until they undergo amendments which conform to the Constitution."⁸ Thus, the state of emergency and martial laws enacted in its wake remain in force despite their unconstitutionality and the claims of the Syrian authorities in their third periodic report to the Committee on Human Rights: in this report, the importance and the scope of these laws are minimized by stating that "the law on the state of emergency is hardly used any more and only applies to the few cases which concern attempts on the state's security".⁹ In reality, this legislation allows for broad emergency powers – especially for the security forces - without being subject to control by a judicial authority.

It should be noted that the permanent nature of the state of emergency is inconsistent with Article 4 of the ICCPR which states that measures taken in this framework must be used only when "strictly required by the exigencies of the situation ". Similarly, these measures should not be inconsistent with their other obligations under international law, including the human rights mentioned in Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 of the ICCPR.

In addition, the same Article 4 requires that states which adopt such legislation "shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation."¹⁰ This requirement was not met by the State. In addition it does not comply with Article 4 of the Arab Human Rights Charter, which contains the same provisions as Article 4 of the ICCPR.

In a situation of war, Syria should of course remain on alert and able to defend itself. However, the emergency legislation it has adopted can not be justified by any external threat since it is mainly directed against domestic opposition, of all political persuasions.

The liberticidal laws not only severely constrain the exercise of civil and political rights but go so far as to guarantee impunity for state officials from prosecution for any serious human rights violations they commit while in office.

⁶ Bassam Al-Ismi, *نحو تفعيل الدور الرقابي للمحكمة الدستورية العليا* (Towards the reinforcement of the High Constitutional Court's control), Al-Thawara, 18 April 2005 (only available in Arabic), http://thawra.alwehda.gov.sy/_print_veiw.asp?FileName=22207948120050417210632 (accessed on 6 April 2010).

⁷ Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention (CAT/C/SYR/1), 16 July 2009, p. 20, para. 110

⁸ The Constitution and its Amendments, available on the website of the Comité de défense des libertés démocratiques et des droits de l'homme en Syrie (CFD – the Syrian Committee for the Protection of Civil Liberties and Human Rights), <http://www.cdf-sy.org/organic/us.htm> (in Arabic), (accessed on 6 April 2010).

⁹ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant of article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 21, para. 70.

¹⁰ *International Covenant on Civil and Political Rights* (ICCPR), adopted by General Assembly resolution 2200A (XXI) of 16 December 1966; entered into force 23 March 1976; art. 4, para. 3

Several categories of people are affected by these repressive measures. In particular, they are the subject of unfair trials before the Supreme State Security Court, a special court. Members of the Muslim Brotherhood, especially those who fled the country in the early 80s, are routinely arrested, detained and sentenced on their return. Despite promises made by the Syrian authorities to resolve the issue of the Muslim Brotherhood by repealing the decree of 1980 which had imposed the death penalty for Brotherhood members, the hunt continues to this day and also affects members' families. Furthermore, people suspected of belonging to the Salafist movement can also be arrested and convicted simply because of their beliefs.

Young men suspected of wanting to join the resistance against the occupying forces in Iraq are also subjected to arrests, incommunicado detention and torture and, when tried, are sentenced to long terms. Members of the Kurdish minority are also persecuted when they are thought to be pushing for the recognition of their cultural and political rights. Finally, human rights defenders, intellectuals, journalists, writers and those who sign declarations calling for reforms in the country have been particularly targeted in recent years. These different categories are not mutually exclusive; indeed there is significant crossover - some activists are both Kurdish and Islamic, or human rights defenders who have also signed a petition calling for reforms.

The issue of the disappeared is one of the most painful. There has been no sign of thousands of Syrians arrested in the 80s and 90s – also, many nationals from neighbouring Arab countries have been victims of secret detention or enforced disappearance. This practice has unfortunately not ceased.

3.1 The law of state of emergency

The law declaring a state of emergency, which was passed on 22 December 1962, under Article 3, allows the Prime Minister to appoint an Administrator of the martial law (*hakim al-'urfi*) who controls all internal and external security forces.¹¹ Section 4 assigns prerogatives to the Administrator, the Prime Minister and the Minister of the Interior (in his capacity as Deputy Administrator) which severely limit the rights of Syrian citizens and violate many provisions of the Constitution relating to civil liberties. Thus, Article 28, which enshrines the habeas corpus, the presumption of innocence in criminal matters and the prohibition of degrading treatment, Article 31, which establishes the inviolability of a dwelling, Article 32, which guarantees that correspondence will not be read or tampered with, and Article 38 which guarantees freedom of written and verbal expression, etc., are all undermined by the provisions of this Act.

The State party's periodic report cites a series of restrictions under Article 4 of the state of emergency Act: "The restriction of personal freedoms, censorship of correspondence, communications and means of information, and determining the hours of opening and closing of public places, withdrawal of permits to carry weapons and ammunition, the evacuation of certain areas or their isolation, the confiscation of items and real estate, the sequestration of companies and prescribing penalties for failure to comply with such orders, not exceeding three years imprisonment and a fine of 3 000 Syrian pounds at most."¹² It fails, however, to mention "preventive arrests of suspects or those who may threaten security and public order."¹³

The powers of the martial law administrator are extensive. When questioned about potential abuses, the Syrian authorities replied that administrative decisions can be appealed, leading to annulment before a tribunal: "In order to avoid any excesses under the state of emergency, the legislature has imposed restrictions on the operation of this Act. It allows the courts to annul the decisions of military governors."¹⁴ Even though some of the Administrator's martial law orders can be challenged, it is clear that it is particularly rare for anyone to go down this path – any appeal has to be lodged with a military authority, and the challenged order remains in force until the matter is resolved by the court, which can take years. In their report, the Syrian authorities cite several court rulings annulling the

¹¹ Other laws refer to the President of the Republic as the administrator of martial law.

¹² *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 19, para. 64.

¹³ Decree No. 51 of 22 December 1962 regarding the state of emergency, art. 4.

¹⁴ *Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention (CAT/C/SYR/1)*, 16 July 2009, p. 21, para. 114

orders of military governors, but there is no concrete example of an abuse or restriction being repealed.¹⁵

3.2 Liberticidal laws and regulations

Syria has officially been at war with Israel since 1948, although in the meantime several armistice agreements and cease-fires have been signed. This state of war seriously affects internal affairs and a series of martial laws and penal provisions enacted since then are heavily influenced by this state of permanent war. According to observers of trials which took place before the Supreme State Security Court, a majority of those tried were charged under Article 285 of the Criminal Code which refers explicitly to a "state of war." The threat of an "external enemy" with which the country is at war is projected onto opponents or other non-violent protesters. By being equated with external danger, they are criminalized regardless of their actions and any form of freedom of expression or any proposal for political reform are therefore prohibited.

The charges against the opponents are as vague as they are extensive: "breaches of State security" are invoked as well as the "spreading of false news" (Article 287 of the Criminal Code), the "contempt for the public administration", "weakening national sentiment or awakening racial or sectarian tensions while Syria is at war or on the point of going to war" (art. 285 of the Criminal Code), "disseminating false information that could affect the morale of the nation" (Article 286 of the Criminal Code), "taking initiatives or make written or oral statements that may put the state in danger of harming its relations with a foreign country or expose it to hostile action" (art. 278 of the Criminal Code). Added to that are sections 306 (ownership or membership of an organization created to change the economic or social situation of the state") and 307 ("any action, speech or writing inciting sectarianism or encouraging sectarian strife") which were applied to the signatories of the "Damascus Declaration" (see below). These individuals were tried by the State Supreme Court in October 2008 despite having referred to Article 38 of the Syrian Constitution, which guarantees the "right to express opinions freely and openly, in words, writing and other forms of expression."

An entire legal arsenal apparently intended to preserve national unity and religious and ethnic pluralism is in fact used to criminalize human rights activists and intellectuals when they non-violently criticize a State policy. Syria goes so far as to invoke Article 20 of the ICCPR, which rules against any incitement to hatred, to justify the violation of the right to freedom of expression.

Article 49.1 of the Constitution imposes a duty to defend the "system" on all social and professional trade unions. Article 307 of the Syrian Criminal Code provides that: "any act or any written or oral communication which aims to incite religious or racial bigotry or causes conflicts between different communities and the various components of the nation is punishable by imprisonment for six months to two years and a fine, and the prohibition from exercising the rights referred to in the second and fourth paragraphs of Article 64." Section 298 states: "whoever tries to provoke a civil war or clashes between religions by arming Syrians or bringing them to bear arms against each other or inciting killings or looting of local trades is punishable by hard labour for life or capital punishment if the attempt is successful." Article 308 of the Code also punishes membership of any association established for the purposes mentioned in Article 307. Such associations can be disbanded and their property confiscated under Articles 69 and 109 of the Syrian Criminal Code.

One of the most controversial laws is Law 49 of 7 August 1980, which imposes the death penalty for any person belonging to the Muslim Brotherhood organization.¹⁶ It is inconsistent with the presumption of innocence enshrined in Article 28 of the Constitution. The concept of "belonging" is so vague that the law can be applied to anyone who has had any association with the Muslim Brotherhood. It should be noted that this movement was very active in Syria not only politically but also in the social, educational, cultural and religious spheres of the country. Law 49, which is retroactive, in violation of the principle of non-retroactivity of criminal law and in contradiction with Article 30 of the Constitution, was applied to persons who, at the date of its enactment, were already related to the Muslim Brotherhood. The only way to avoid conviction was to declare that one had "distanced" oneself from the organisation within one month of the enactment of the law. This option

¹⁵ *Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention* (CAT/C/SYR/1), 16 July 2009, p.32, para. 191.

¹⁶ Law No. 49 of 7 August 1980, <http://www.cdf-sy.org/low/49.htm> (accessed on 6 April 2010)

was, however, not available to those who were already being held, had a warrant issued for their arrest or were awaiting trial.

In the context of the proposed enactment of this law, thousands of Muslim Brotherhood members had been arrested from 1979 onwards and nearly 17 000 are victims of enforced disappearances to date. Worse yet, in recent years this law has also been applied to the children of Muslim Brotherhood members. Some of these children were sentenced to death before having their sentences switched to 12 years imprisonment with hard labour, as well as the forfeiting of their civil rights.¹⁷

This was the case with **Omar al-Hayyan Razzouk**, born in Baghdad in 1986 where his father had taken refuge after the massacre of Hama in 1982. He had never been to Syria, but contacted the Syrian authorities before returning in 2005. They encouraged him to return home. Upon his arrival on 15 November 2005, he was arrested and sentenced to death on 13 December 2009. His sentence was then reduced to 12 years in prison.¹⁸

4. An system of judicial exception

4.1 The Supreme State Security Court

This court was established under Decree No. 47 of 1968 and is composed of 3 judges: two civilians and one Military officer. All 3 are members of the Baath party and are appointed by the Administrator of martial law. The composition of the Court constitutes in itself a violation of Article 150 of the Military Criminal Code which expressly prohibits judges from belonging to a political party.

The military judge ensures the observance of the Code of Military Justice and is always present even if the accused is a civilian. Article 3 of Decree No. 47 provides that judges of this court be appointed by decree, following the suggestions of the Administrator of martial law. The Supreme Court is under the authority of the Minister of Interior in his capacity as Deputy Administrator of martial law. The court therefore depends entirely on the executive branch and violates the principles of judicial independence and the separation of powers.

Article 6 of Decree 47 of 1968 provides that civilians and members of the military, whatever their rank or immunity, may appear before this Court, which can hear any cases considered in connection with the security of the state. These were previously dealt with by military tribunals (Article 6 of the Law on the state of emergency).

This decree places any act deemed hostile to the goals of the socialist system or the revolution under the Supreme State Security Court's jurisdiction.¹⁹ Such acts, interpreted very broadly, can relate to the right to freedom of expression. The majority of those currently tried before this Court are Islamists labelled as "Salafists", alleged members of the Muslim Brotherhood or persons suspected of wanting to fight the foreign occupation forces in Iraq. However, many human rights activists, members of political parties (Communists and Kurds), and even minors, according to some NGOs, have been tried and convicted by this special court.

Under the powers conferred by law to emergency security services, the Supreme Court is generally called upon by a military order (Amr 'Urfi) signed by the Minister of Interior. In reality the minister's role is a mere formality: intelligence agencies and the Supreme Court are in direct contact.²⁰

The prosecutor of that court, established under Article 3 of Decree No. 47/68, has extensive powers: he may initiate proceedings, conduct the preliminary inquiry and contribute to the instruction of the procedure. This naturally leads to the violation of the principles of fair trial.²¹

¹⁷ Cairo Institute for Human Rights (CIHRS), *Report on the State of Human Rights in the Arab Region in 2008: From Exporting Terrorism to Exporting Repression*, December 2008, p. 137.

¹⁸ Syrian Human Rights Committee (SHRC), *Omar Hayyan al-Razzouk sentenced pursuant to Law 49/1980*, <http://www.shrc.org/data/asp/D19/4049.aspx> (accessed on 6 April 2010).

¹⁹ See also the law regarding resistance to revolutionary aims and setting up the special military tribunals (Law Decree No. 6 of 7 January 1965 modified by Law Decrees No. 33 of 9 February 1965, No. 108 of 10 June 1965 and No. 59 of 12 July 1966).

²⁰ See article 5 of Decree no. 47 of 1968 regarding the creation of the Supreme State Security Court.

The State party argues that "in accordance with Article 7 of Decree No. 47/68 establishing the Supreme State Security Court, the persons brought before this court have the same rights of defence as those enjoyed before an ordinary court."²²

However, it is clear that the safeguards available to this Court are even weaker than those available in the ordinary courts, in contradiction with the principle of equality of citizens before the law, which is guaranteed by the Constitution (art. 25.3). Indeed, Section 7 expressly states that this Court is not bound at any point in proceedings by the rules of procedure provided by the law. This exceptional provision repeals any guarantees established by the Constitution and ordinary legislation.

According to many lawyers, trials before this Court are expedient. The defence is only allowed to intervene in the proceedings if the Prosecutor General authorizes it. The latter can invoke Article 7 mentioned above to reject this request even if, for example, a defendant asks to be questioned in the presence of his lawyer.²³

During the substantive hearings, the defence lawyers only play a very limited role in the discussions. In fact, in most cases, lawyers are called upon by their clients on the day of trial without any real possibility of studying the criminal case or preparing their client's defence. Most defendants who appear before the Court are held in Sednaya military prison to which lawyers have no access.

The only evidence taken into account by the Court are the minutes of interrogations conducted by intelligence agencies. Many prisoners and their lawyers report that confessions obtained under torture by members of the intelligence services are systematically used during trials. Judges do not acknowledge or investigate any claims of torture.

Even though a public hearing is guaranteed by law, court hearings are held behind closed doors and even families are not allowed to attend trials.

The proceedings before this court can take several years. The Damascus Centre for Human Rights asserts that trials before this Court last on average two and a half years. The accused can wait months or even years after their first arrest before being brought before the court.²⁴ Some of them wait almost 4 years before being tried. At the hearing on 10 March 2008, **Ali Sa'ifan** and **Assam 'Ali Al-'Akacha**, both arrested on 16 September 2004, were sentenced to 11 and 10 years in prison respectively on charges of terrorist activities.²⁵

The court held hearings in secret for eight months, from July 2008 to March 2009, after the massacre at Sednaya prison (see below). During this period, no information came out of the prison, no visits were permitted and, to date, the public and the families do not know the extent of the casualties. Many families are kept completely in the dark about the fate of their relatives imprisoned in the Sednaya; the authorities refuse to give them any news.

The authorities do not allow any observers into trials that take place at the Special Court. **Muhannad al-Hasani**, lawyer and president of the Syrian Human Rights Society, "Sawasiy", who followed Court trials and published hearing reports, was arrested on 28 July 2009 despite having obtained permission for his activities from the President of that court. Indicted for "spreading false information", "weakening national sentiment" and other equally spurious charges, his case was first submitted by the authorities to the lawyers' Order, an institution which is close to the government. This body found that Mr. Al-Hasani chaired an unrecognized association and that he hindered the law by carrying out his activities as a defender of human rights. On 10 August 2009, he was debarred and since then, he

²¹ Razan Zeituna, *هل من عدالة في قضاء الاستثناء؟ محكمة أمن الدولة العليا نموذجا* (*What equality in Special Courts? The example of the Supreme State Security Court* - only available in Arabic), Report by the Damascus Centre for Human Rights Studies, May 2007, p. 13 (available on the Damascus Centre's website: <http://www.shril-sy.info> - accessed on 6 April 2010).

²² *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), para. 67.

²³ Razan Zeituna, *هل من عدالة في قضاء الاستثناء؟ محكمة أمن الدولة العليا نموذجا* (*What equality in Special Courts? The example of the Supreme State Security Court*) - only available in Arabic), Report by the Damascus Centre for Human Rights Studies, May 2007, p. 16 (available on the Damascus Centre's website: <http://www.shril-sy.info> - accessed on 6 April 2010).

²⁴ Razan Zeituna, *هل من عدالة في قضاء الاستثناء؟ محكمة أمن الدولة العليا نموذجا* (*What equality in Special Courts? The example of the Supreme State Security Court* - only available in Arabic), Report by the Damascus Centre for Human Rights Studies, May 2007, p. 18 (available on the Damascus Centre's website: <http://www.shril-sy.info> - accessed on 6 April 2010).

²⁵ Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 21.

has been held in Adra prison, pending his trial before the Supreme Court. His arrest has significantly slowed the important work of documenting and tracking the Supreme Court's decisions, and means the court's decisions are not as well publicised.

As for this court's decisions, they cannot be appealed, and only the President of the Republic may revoke or modify them under Article 8 of Decree No. 47/68. Similarly, the decisions must be approved by the Head of State. In practice, it is the Deputy Administrator of martial law (the current Minister of the Interior) who approves these decisions. This is also inconsistent with the principles of judicial independence and the separation of powers. The Syrian authorities justify this lack of recourse to "the sensitive nature of cases before the Supreme State Security Court."²⁶ This violation of the principle of levels of jurisdiction violates Article 9 para. 4 of the ICCPR and Article 340 of Syria's Code of Criminal Procedure.²⁷ It also violates the Constitution which states in Article 28-4 that "the right to have recourse to justice, to appeal and defend oneself in court is guaranteed by law".²⁸

Many people arrested in September and December 2005 were accused of belonging to a secret Islamist organization. At the end June 2008, they were sentenced to 6 years imprisonment with hard labour; they included **Khaled Al-'Aqla Ben Abderrahman, Ahmed Al-Khaled, Ahmed Al-Mar'i, Khaled Al-Khaled and Qasem Al-Khaled**. In its 2009 annual report the Syrian Committee for Human Rights listed dozens of cases of people labelled as extremists by the authorities. These individuals were summoned to court simply because of their views, and were subjected to unfair trials before the Special Court.

During 2008 and 2009 many human rights activists and signatories of the "Damascus Declaration for National Democratic change" were arrested and brought before this Court. The first campaign of arrests took place between December 2007 and January 2008 shortly after the Declaration's congress. Dozens of signatories were arrested by the various intelligence agencies. Some of them were released after several days, while others were prosecuted and sentenced to prison - 12 of them were accused of "spreading false news" (Article 287 of the Criminal Code), "weakening national sentiment", or belonging to a secret organization in order to change the political and economic rationale of the state or "awakening racial or sectarian tensions". (285-286-306 and section 307 of the Criminal Code). After several hearings on 16 July, 26 August and 24 September 2008, a sentence of two and a half years' imprisonment was handed down to **Fida al-Hurani, Riyadh Seif, Ahmed Al-Ta'ma Khadhar, Akram al-Bunni Ali Al Abdullah, Ach-Jabr Chufa Walid al-Bunni, Yasser al-'Iti, Mohammed Haji Darwish, Marwan Al-'Ush, Faiz Sarat and Talal Abu Dan**, all signatories of the "Damascus Declaration".²⁹

Any members of the Muslim Brotherhood who return to Syria after nearly 20 years of exile, as well as their children, who have no connection with the events of the 70s and 80s, are routinely arrested and presented before the Supreme Court. This court handed down several sentences of capital punishment on the basis of Article 49/1980 which were later commuted to 12 years of hard labour in prison, accompanied by forfeiture of their civil rights. The Syrian Committee for Human Rights has documented several instances during 2009 : **Dr. Fadel Faruq Isa**, born in 1978, was sentenced on 15 March 2009; **Muhammad Fawzi Yusud**, a German national, was sentenced on 29 March 2009; **Khaled Ahmed Ben Mohamed**, born in 1975, was sentenced on 21 April 2009; **Saffuh Al-Asad Al-Bakri**, sentenced on 14 May 2009, etc.³⁰

4.2 The military tribunals

Military courts are also used to try civilians, many of whom are human rights activists for human rights and members of opposition political parties.

²⁶ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), para. 67.

²⁷ *Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention* (CAT/C/SYR/1), 16 July 2009, p. 25, para. 153

²⁸ *Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention* (CAT/C/SYR/1), 16 July 2009, p. 11, para. 49

²⁹ Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 10

³⁰ Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 13-14

Under Article 6 of the Law on the state of emergency (Decree No. 51 of 22.12.1962), the military court has the jurisdiction to try offenses committed in violation of certain articles of the Criminal Code. This provision states that offenses involving violations of state security, public safety, crimes constituting a "general danger" or committed against the public authority and public trust can be tried by the military justice system.³¹ The same Article 6 paragraph "a" confers jurisdiction on military courts to try cases of violation of orders issued by the Administrator of martial law. The scope of the provisions of this section is extensive and allows military courts to prosecute a large number of cases against those exercising their legitimate right of expression. Political opponents, non-violent advocates of human rights, journalists and bloggers regularly appear before military tribunals and are convicted for acts that state of emergency laws qualify as crimes. Sections 7 and 8 of Decree allow the Administrator of martial law the possibility of excluding certain offenses from the jurisdiction of military justice (Article 7).³² The former can intervene to resolve any conflict of jurisdiction between military justice and ordinary justice (art. 8).

The Code of Military Procedure does not provide safeguards similar to those granted by the Code of Criminal Procedure. The accused is virtually deprived of any right to a fair trial, which not only violates international law but also the Constitution and the Code of Criminal Procedure. The Code of Military Procedure refers to the right to defence in sections 70 and 72 which provide that "every accused person brought before a military tribunal because of a criminal offense shall be represented by a lawyer" (art. 70). Section 71 provides that "no one has the right to conduct the defence when the accused is absent" and Article 72 provides that the defence of the accused is guaranteed by an officer. These provisions demonstrate that there is no guarantee of a fair trial in military courts.

Cases are referred to military courts by the military prosecutor, which also has a wide jurisdiction, much like that of the Supreme State Security Court (see above). On 1 April 2008, human rights defender **Ahmed Al Haji** was brought before the al-Reka military tribunal after publishing an article on the internet in which he criticized the shortcomings of the Syrian education system. The military police interrogated him then brought him before the military court of Al-Reka, without respecting any of his fundamental rights.³³ **Walid Muhammad Ali Hassan**, a student born in 1986, was arbitrarily arrested without a warrant or notification of the charges against him on 7 April 2008 in the province of Al-Hasakah by members of the security police. He was presented before the military investigating judge of Aleppo on 11 April 2009, on charges of "slander and defamation of government" and "insulting the Head of State". The judge filed the case, yet Mr Hassan has not been released and was to be tried on 22 February 2010 by the military tribunal of al-Qamishli, but the trial was postponed to 23 March 2010.³⁴ This example illustrates the lack of independence of a judiciary which must obey the injunctions of the executive.

4.3 State Officials' implied impunity

Texts not published in the Official Gazette helps to ensure that security force members can not be punished for any human rights violations they commit. Article 16 of Decree No. 14 of 25 January 1969 states that the prosecution of government employees for crimes committed during the execution of specific tasks entrusted to them is not allowed, unless ordered by the Director. Article 74 of Decree No. 549 of 25 May 1969 outlines measures along similar lines, incorporating the same provisions of

³¹ See the text of the Criminal Code (in Arabic): <http://www.thara-sy.com/thara/modules/news/article.php?storyid=606> accessed on 6 April 2010)

³² In this context, jurisdiction was given to the normal court system to judge certain human rights defenders and prisoners of conscience. While it is true that the trials before the normal courts guarantee greater respect of the defendants' rights due to the application of the Criminal Procedure Code, experience has shown that trials concerning human rights defenders and prisoners of conscience remain politicised and sentences severe.

³³ Press release of the Comité de défense des libertés démocratiques et des droits de l'homme en Syrie (CFD – the Syrian Committee for the Defence of Civil Liberties and Human Rights), *بيان جلسة محاكمة الناشط الحقوقي أحمد الحجي أمام المحكمة العسكرية الاستثنائية* (Trial of activist Ahmed Al Haji before the Special Military Court - only available in Arabic), 4 April 2008, <http://www.yek-dem.com/daxuyan-arabi=12-11-4-2008.htm> (accessed on 6 April 2010).

³⁴ Press release of the Comité de défense des libertés démocratiques et des droits de l'homme en Syrie (CFD – the Syrian Committee for the Defence of Civil Liberties and Human Rights), *استمرار محاكمة الطالب الجامعي وليد محمد علي حسين أمام القضاء العسكري بالقامشلي* (The student Walid Muhammed 'Ali Hassan presented to the Military Judge of Al-Qamishli - only available in Arabic), 22 February 2010, <http://www.anhri.net/syria/cdf/2010/pr0222-3.shtml> (accessed on 6 April 2010)

Article 16. The two decrees mentioned are to come into effect without publication.³⁵ The Prosecutor General is also unable to bring a case before a court, even if asked to by the victim, if the defendants are security agents.³⁶ Impunity for torturers has been further enshrined by a new decree, No. 69 of 30 September 2008 which extends immunity to military security agents, police officers and customs officials. The decree specifically states that these officers will not be prosecuted for crimes committed while performing their duties, unless a contrary decision is taken by the General Command of the army and military forces. However, these forces are subject to the authority of the Ministry of Interior, not to military command. The immunity granted by law to certain Syrian state agents violates the principle of equality between citizens and implies that the perpetrators of torture will not be punished or prosecuted. This climate of impunity does not promote the fight against torture in a country where state officials practice it regularly.

5. Proliferation and opacity of security services

5.1 Parallel Services

Several intelligence services coexist in Syria which are responsible for arrests, arbitrary and incommunicado detention and torture, particularly of political opponents. The Syrian Human Rights Committee lists nine services and indicates that there may be even more.³⁷ The four most important services are:

1. The Military Intelligence service (al-Mukhabarat al-'askariya) includes four sections in Damascus: The Palestine Centre (Fara 'Palestine), also known as "Centre 235", the military investigations centre, named "Centre 248"; the surveillance section (فرع الدوريات) and the regional section (فرع المنطقة).
2. The Political Security Directorate (Al Amn Asiyassi), which has an office in all civilian prisons and controls a whole wing of Adra prison in Damascus.
3. The Directorate General of Intelligence Services (formerly State Security, Amn ad-Dawla); its agents are the only ones which, since 2007, wear uniforms (gray-blue).
4. The Directorate of Air Force Intelligence Services.

The central headquarters of these services are all located in Damascus and they all have branches in each province (muhafadha) of the country.

These services are theoretically under the authority of the Ministry of Interior, which should ensure civilian control. In reality, they are only accountable to their own hierarchical superiors. Law 24/2008 cited above confirms the lack of civilian control: in cases of violations of the law by security service agents, they are protected from legal action.

These services have offices and detention centres in all cities and many villages. Their actions are characterised by a lack of coordination between their branches – it could in fact be said that they are in a competitive relationship. This inevitably has repercussions on wanted persons, who can be apprehended by different departments that do not communicate with each other. Indeed, if the charges differ or are punishable by a different sentence, the individuals concerned can be convicted and imprisoned several times.

These services work closely with the Supreme State Security Court and military courts. All of them issue warrants for arrest which are often transmitted orally, without a central authority coordinating the orders.

³⁵ See article 30 of Decree No. 14 and article 101 of Decree No. 549.

³⁶ This is expressly mentioned in these two Decrees, as set out by the Ligue de défense des libertés démocratiques et des droits de l'homme en Syrie (League for the Defense of Democratic Freedoms and Human Rights in Syria), *بمناسبة اليوم العالمي لمناهضة التعذيب لنعمل يدا بيد ضد التعذيب كجريمة في حق الإنسانية* (On the International Day in Support of Torture Victims -only available in Arabic), 26 June 2007, <http://www.anhri.net/syria/cdf/2007/pr0626.shtml> (accessed on 6 April 2010).

³⁷ Syrian Human Rights Committee (SHRC), *Special Report - Repressive laws in Syria*, 19 February 2001, <http://www.shrc.org/data/asp/d4/254.aspx> (accessed on 6 April 2010)

5.2 Intelligence services' centres for arbitrary detention and torture

There are numerous places of detention under the command of the various intelligence services that are not subject to review by the prosecution or other civilian courts. Some are found inside penal institutions such as Adra and Sednaya prisons. That is why it is difficult to distinguish between the secret detention centres and the regular prisons. We mention some of the most important in this chapter.

- The "Palestine" detention centre which is the main centre for military intelligence and the most important of the secret detention centres. The detention centre contains "tomb cells" underground cells with no light. These measure two meters long by one meter wide and two meters high and are infested with cockroaches and rats. Detention in these cells may last for years, sometimes incommunicado, without contact with the outside world. The Palestine Centre is deemed to be the most inhumane torture centre in the country.
- The detention centre run by political security in the Fayha district of Damascus.
- The local offices of political security services in Al-Qaboun, Damascus.
- The detention centre located in the district of Mezze in Damascus, headed by the central management of political security.
- The central prison of Damascus in Adra, located about 20 km from the capital on a huge piece of land. It is made up of many buildings including those of the Administration, the prison itself and the workshops. Prisoners are not segregated according to the nature of the sentences (tort, criminal, political) and persons in preventive detention are placed alongside convicted prisoners. Political prisoners are deliberately placed with common criminals in the same overcrowded and extremely dirty cells, the food is insufficient and of poor quality. Bribes are required to have access to basic necessities. Visits from family or lawyers are supervised by a jailer. Communication is compulsorily in Arabic which poses a problem for some Kurdish and foreign detainees. Medical care is rudimentary and prisoners have to pay for most of their drugs themselves. Emergency cases are not dealt with in time. The prison has a huge library but political prisoners are not allowed to use it - they are only given government-controlled newspapers. There is no television in the prison. Abuse and beatings are common.³⁸
- The Department of Immigration and Nationality detention centre in Damascus.
- Sednaya prison was built to hold 5 000 inmates but has been known to contain up to 10,000. It was inaugurated in 1987 for the detention of common criminals, but from the beginning, political prisoners were transferred there following their interrogation in different sections located in Damascus or from other districts where they were held for months or sometimes years in solitary confinement and subjected to torture. Inmates may at any time be transferred back to one of the centres of the security services to undergo further questioning. Sednaya prison also has a centre for torture. In 2004, the Syrian Committee for Human Rights listed the names of 580 political prisoners, of whom 356 were Muslim Brotherhood members detained since the late 70s and early 80s, so for roughly 30 years. Many are in shocking physical and psychological condition, and some have lost their minds due to the torture suffered during the early years of their detention. Others have served their sentence but have not been released. Abdelkader Mohammed Sheikh Ahmed is a perfect example of this: he should have been released in 1979, but in 2004 he was still in prison. 175

³⁸ Alkarama press release, *Syria: Ziad Ramadan, arbitrarily detained since July 2005*, 14 September 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=310:syria-ziad-ramadan-arbitrarily-detained-since-july-2005&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010); and Alkarama press release, *Syria: Update - Ziad Ramadan is allowed first family visit in two years - reports indicate severe health problems*, 16 December 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=378:syria-update-ziad-ramadan-is-allowed-first-family-visit-in-two-years-reports-indicate-severe-health-problems&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

inmates are of various political stripes: Nasserites, Palestinians from Fatah or the Popular Front, Iraqi Baathists, Salafi Islamists or army officers. Finally, 49 members of Hizb At-Tahrir have been detained since 1999. One of the longest serving prisoners is 'Imad Shiha who has been imprisoned since 1974, thus a total of 36 years.³⁹

6. Arbitrary arrests and incommunicado detention

6.1 The law prohibits abuse

Syrian law stipulates that "any person in custody (...) must be given the reasons for their detention and the nature of the offense with which they are charged, and the provisions under which the offense is punishable (Article 108 of the Code Criminal Procedure). They must also receive a copy of their summons, or of the warrant for their arrest (art. 109)."⁴⁰ But in reality this procedure is not respected and those held are not informed of the reasons for their arrest.

"If the accused is arrested under a warrant and is detained for over 24 hours without being questioned or brought to the Prosecutor General, his detention is considered arbitrary and the person who is responsible is liable for prosecution under section 105 for unlawful deprivation of personal liberty under Article 358 of the Criminal Code."⁴¹

Many persons considered by the Syrian authorities to be political opponents are arrested by one of the intelligence services, usually the military intelligence services. These arrests are often made without presenting them with an arrest warrant or notifying them of the reasons for the arrest. The arrest orders are usually given orally. But some people have been summoned to the headquarters of an intelligence service, where they are arrested without charge. Very often they disappear in the centres for periods which can exceed a year, without contact with the outside world and without their families knowing where they are being held. Arbitrary detention also takes place where persons are not released despite the fact that they have served their legal sentence legal. Members of the Muslim Brotherhood and their families are particularly harshly affected by this practice.

6.2 Some recent cases illustrating the various forms of arbitrary and incommunicado detention

On 14 September 2009, Alkarama sent a communication to the Working Group on Arbitrary Detention concerning **Mr. Wasef Ziad Ramadan**, aged 33 years. The latter decided to return to Syria because he feared being tortured by Lebanese military intelligence who wanted to question him because of his alleged links with a person suspected of being involved in the assassination of Rafiq Al-Hariri, former Prime Minister of Lebanon, in February 2005. Upon his arrival in Syria, he was summoned on 20 July 2005 for questioning at the headquarters of Military Intelligence in Damascus where he presented himself voluntarily, accompanied by his lawyer. He was detained without a warrant and was not informed of the reasons for his arrest. It appears that his detention was ordered by the chief of the military, Mr. Asef Shawkat, so that he could be interviewed as part of the investigation into the assassination of Al-Hariri.

After his arrest, his family did not hear from him for six months. It was not until January 2006 that they learned he had been transferred to the main prison in the city of Homs and had been detained in the "Palestine centre" of Damascus prison. During his stay in prison at Homs, he was allowed to receive family visits. However, in September 2007 he was again transferred to Damascus' "Palestine centre" where his family was allowed to see him one last time on 22 September 2007. They subsequently remained without news of him for nearly two years before being allowed to see him the "Palestine Centre" on 23 August 2009. His health had seriously deteriorated due to his detention in

³⁹ Syrian Human Rights Committee (SHRC), *Sednaya Prison: the Continual Human Tragedy*, 1 June 2004, <http://www.shrc.org/data/asp/D9/1749.aspx> (accessed on 6 April 2010).

⁴⁰ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 32, para. 129

⁴¹ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 32, para. 131.

solitary confinement since September 2007. No charges were brought against him and to date he has not been tried.⁴²

Some people held by the intelligence services reappear after varying periods of incommunicado detention, to be presented before the Supreme State Security Court or a military court. **Mr Haitham Al-Maleh**, a prominent lawyer and human rights defender, aged 78, was abducted on 14 October 2009 on his way home by three men who pushed him into their car and took him to the headquarters of the General Intelligence Directorate. He was taken to the offices of the General Security. He was questioned about a telephone interview conducted on 12 October 2009 on the televised show of Syrian opposition's station, and his latest articles. He was then locked in a room that appeared to be a torture chamber until October 19, when he was scheduled to be brought before a military judge. Mr. Al-Maleh's case was not heard and he was transferred to the prison of the Al-Qaboun's military police. The next day, a week after his abduction, he was finally brought before the military court where he was notified of a warrant for his detention. He has not had access to his medication during this period of incommunicado detention. He was then transferred to Adra prison, where he was imprisoned with common criminals.⁴³ On 8 April 2010, he was again brought before the 2nd chamber of the Military Criminal Court to be heard regarding the charges held against him. During the hearing, he declared that he had not had access to his file and that he was not authorised by the prison authorities to meet with his lawyers without any guards been present, in violation of the right to a defence. The hearing was postponed to 22 April 2010.

Many people who signed political calls to action were arrested. **Michel Kilo**, one of the signatories of the "Damascus-Beirut Declaration" that called for normalization of relations between Syria and Lebanon, was released on 19 May 2009 after serving a prison sentence of three years. **Mahmud Issa**, sentenced in May 2007 to 3 years in prison for "weakening national sentiment" was released on 16 June 2009. **Anwar al-Bunni**, a lawyer and human rights defender, was sentenced on 24 April 2007 to 5 years in prison for "spreading false information that is damaging to the state." He has been mistreated in custody.

The signatories of the 2005 "Damascus Declaration for Democratic National Change" which called for a peaceful political transition including the lifting of emergency rule and the introduction of multiparty politics and freedom of expression have also been the subject of numerous reprisals. Nearly 160 people of various political backgrounds gathered on 1 December 2007 to elect the National Council of the movement. Between December 2007 and January 2008, forty signatories were arrested including the Chairman of the National movement, Ms. **Fidaa Horani**, 51, director of a hospital in Hama. She was arrested on 16 December 2007 by members of the general intelligence service (mukhabarat amn ad-Dawla) after being summoned to their headquarters in Hama. Transferred to Damascus, she was detained in the premises of these services over a month. She was then brought before an investigating judge on 28 January 2008 at the request of the prosecution, on charges of "membership in a secret organization designed to change the political and economic status of the nation", "inciting sectarian strife" and "spreading false information". Her trial on 30 July 2008 with 12 others ended in convictions resulting in 2 ½ years in prison.⁴⁴

People are arrested for a variety of different reasons: **Faisal Ahmed Al-Kurdi** was arrested on 2 February 2008 at Damascus airport when he arrived from Germany. **Shikhu Hamid** was arrested on 19 March 2008 for organizing a music festival without authorization; **Yasser Al-'Abed** was arrested at his home in January 2008 in the presence of his family because he hosted a banned website, on 4

⁴² Alkarama press release, *Syria: Ziad Ramadan, arbitrarily detained since July 2005*, 14 September 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=310:syria-ziad-ramadan-arbitrarily-detained-since-july-2005&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010); and Alkarama press release, *Syria: Update - Ziad Ramadan is allowed first family visit in two years - reports indicate severe health problems*, 16 December 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=378:syria-update-ziad-ramadan-is-allowed-first-family-visit-in-two-years-reports-indicate-severe-health-problems&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁴³ See in particular Alkarama press release, *Syria: Haitham al-Maleh's case sent to the Working Group on Arbitrary Detention*, 27 October 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=332:syria-haitham-al-malehs-case-sent-to-the-working-group-on-arbitrary-detention&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁴⁴ For details of the arrests of the signatories of the Damascus Declaration, *معتقلي المجلس الوطني لإعلان دمشق - تقرير* (The Prisoners National Council of the Damascus Appeal - only available in Arabic), Damascus Centre for Theoretical and Civil Rights Studies, 12 June 2008, <http://www.dctcrs.org/s4330.htm> (accessed on 2 March 2010).

September 2009 several people were arrested by security services in the village of Hatle (District Deir Ezzor) because of their participation in a conference, etc.⁴⁵

These arrests can be accompanied by other arbitrary measures intended to intimidate or terrorise the victims. On 21 January 2001 in Aleppo, security service agents destroyed works by the artist **Talal Abu Dan**, as well as his tools. **Mohammed Haji Darwish's** pharmaceutical plant and his company vehicles were vandalized. Both are signatories of the "Damascus Declaration" and were arrested in early January 2008.⁴⁶

Since 2008, arrests of Kurdish activists and militants have increased, sometimes under the pretext that they are participating in a cultural event or wearing traditional Kurdish dress. Those attending a rally, demonstration or a protest meeting are severely punished. As for the organizers, they are often given heavy sentences for "belonging to a secret organization working for the secession of a part of Syria."

On 14 May 2009, Alkarama submitted to the Working Group on Enforced or Involuntary Disappearances the case of eight persons from the Al-Qamishli region in the north of the country who were arrested between late August and late November 2008 and have since disappeared. **Oscan Kawa, Rasho Lokman, Rasho Bengin, Rasho Ali Kadar, Oscan Riad Abdel Baki Khalaf, Oscan Nidal** and **Oscan Munzer** reappeared after more than a year of secret detention only to appear before the Supreme State Security Court in Damascus on 13 September 2009. After their hearing, they were transferred to the political prisoners' wing of Adra prison.⁴⁷

Many political activists from non-recognized parties or associations have been arrested: on 10 February 2009, **Mustafa Jum'a Bakr**, one of the Azadi party leaders, was transferred to the Palestine Centre in Damascus to be questioned. Three members of the Kurdish Democratic Party were arrested on 9 March 2009 after celebrating International Women's Day. They were sentenced to three months in prison by a military court in Al-Qamishli for belonging to a secret association.⁴⁸

Throughout 2009, dozens of Kurds were arrested for calling for more cultural and political rights. To date, tens of thousands of Kurds remain stateless, and are barred from public service, from university, from receiving passports, which denies them their right to travel, and are subjected to bureaucratic difficulties when attempting to register marriages or births. State forces regularly make arrests during Newruz (Kurdish New Year), including juveniles: on 22 January 2009, five children were arrested: **Khalid Jum'ah** (12) **Shahin Ibrahim Abi** (13) **Aziz Jamil Abi** (13), **Dilkhaz Muhammad** (15) and **Sardar Abdul-Rahim** (14).⁴⁹

On 28 February 2009, 21 activists were arrested in various places for holding an hour of silence in protest against the decree 49/2008 banning Kurds from owning land in their own region.

6.3 Arbitrary measures are commonplace

On 10 December 2009, Alkarama informed the Working Group on Arbitrary Detention of the case of **Ma'an Aqil**, investigative journalist, who was arrested on 22 November 2009 by members of intelligence services at the Al-Thawra newspaper in Damascus where he worked. He had previously been arrested in 1987 for his political opinions, and spent nine years in prison. Ma'an Aqil is a well-known journalist in Syria, famous for his investigations into corruption in the government and private pharmaceutical companies, Colonel Hafez Makhlof, Chief of General Intelligence in Damascus, reportedly asked Ma'an Aqil about his investigations. He reappeared at his home on 25 November 2009 in the custody of intelligence service officers who carried out a search and seized various

⁴⁵ Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 27

⁴⁶ Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 8

⁴⁷ Alkarama press release, *Syria: Reappearance of 8 Kurds from Qamishli*, 15 January 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=405:syria-reappearance-of-8-kurds-from-qamishli&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁴⁸ Kurdish Organisation for the Defence of Human Rights and Public Freedoms in Syria (DAD-KURD), *تصريح محاكمات واعتقال* (Press release, arrest and detention - only available in Arabic), 9 August 2009, <http://www.anhri.net/syria/makal/2009/pr0809.shtml> (accessed on 2 March 2010).

⁴⁹ Syrian Human Rights Committee (SHRC), *SHRC Ninth Annual Report on Human Rights Status in Syria*, January 2010, p. 16.

documents.⁵⁰ He was released on 23 February 2010 without having any legal procedure brought against him.

In a statement released on 18 December 2009, Alkarama expressed its surprise about the Syrian authorities' response to the Working Group on Arbitrary Detention concerning the situation of **Nizar Rastanawi**, aged 49 years, defender of human rights and a member the Arab Organization for Human Rights in Syria. He was arrested on 18 April 2005 in the village of Moriki near Hama by members of the military security service. The Syrian government told the Working Group that Mr Rastanawi had been released. Not only had he not been released, but he had been convicted by the Supreme State Security Court to 4 years in prison for spreading false information. At the end of his sentence on 18 April 2009, he was detained. His family, who have not been allowed to visit him since, know nothing about his fate. Given that the authorities refuse to acknowledge his detention, Mr. Rastanawi must be regarded as a victim of enforced disappearance.⁵¹

Taking relatives of wanted persons hostage is a common practice in Syria. **Zaid Al-'Issami**, a non-politically active 42-year-old doctor, was arrested on 9 January 2008 to compel his uncle, **Al-'Issami Shabla**, a known opposition leader, to surrender to the authorities. Doctor Sofian Bakur was also arrested on 13 January 2007 to compel his father, Mohammad, to give himself up.⁵²

On 13 January 2010, Alkarama submitted the case of **Abdul Rahman Koki**, an important Syrian religious figure, aged 40, with the Working Group on Arbitrary Detention. Mr Koki was arrested on 22 October 2009 by political security services for expressing his religious and political opinions during a live broadcast on the Al-Jazeera television channel. He was held incommunicado for over a month, and it was only at the end of November 2009 that he was transferred to Adra prison in Damascus. On 10 February 2010, he was sentenced to one year in prison for "offending the authority of the state and insulting the President of the Republic". He was granted a presidential pardon on 16 February 2010 and released.⁵³

One of the most dramatic cases concerns the detention of 'Uthman Basamsi, who is close to 70 years of age and had been in exile since 1968. He was arrested on 21 February 2010 upon his return to Syria, despite obtaining guarantees from the Syrian embassy in Baghdad and the Syrian intelligence services that he would not be worried if he returned to his country.⁵⁴

6.4 Forced return to countries that practice torture

Syria regularly sends members of political opposition movements back to their countries of origin, regardless of whether they may face torture. In the 1990s and 2000s, many Algerians who had managed to flee the prosecution in their country and sought refuge in Syria were arrested and jailed before being deported to Algeria. Some of them were tortured in Syrian detention centres before being returned to Algeria. Among these were refugees recognized by the UNHCR. These practices continue to this day. The persons to be deported are often held at the Department of Immigration and Nationality, which houses a detention centre.

On 19 November 2008, Alkarama sent a communication to the Working Group on Arbitrary Detention to inform it of the case of **14 Yemeni students** who were expelled from Syria after being detained

⁵⁰ Alkarama press release, Syria : Arbitrary detention of Ma'an Aqil, 10 December 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=373:syria-arbitrary-detention-of-maan-aqil&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁵¹ Alkarama press release, *Syria: Alkarama requests special procedures' intervention for Nizar Rastanawi, Syrian human rights defender*, 18 December 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=386:syria-alkarama-requests-special-procedures-intervention-for-nizar-rastanawi-syrian-human-rights-defender&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁵² Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 40

⁵³ Alkarama press release, *Syria: Unjustified judgment against Sheikh Koki after 112 days of secret detention*, 10 February 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=422:syria-unjustified-judgment-against-sheikh-koki-after-112-days-of-secret-detention&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010); see also Alkarama press release, *Syria: FREED - Abdul Rahman Koki released*, 17 February 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=426:syria-freed-abdul-rahman-koki-released-after-presidential-pardon&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁵⁴ Syrian Human Rights Committee (SHRC), *اعتقال عثمان بسامسي / تصريح إعلامي (Arrest of Uthman Basamsi - only in Arabic)*, 3 March 2010, <http://www.shrc.org/data/asp/d17/4087.aspx> (accessed on 6 April 2010).

without legal procedure. They had been arrested by Syrian intelligence services in the course of the months of February and March 2008 and were held incommunicado for several weeks. They were all subjected to torture and ill treatment during detention. Having learned that the Syrian authorities planned to deport them to their countries of origin, they protested saying they had committed no crime in Syria or in their own country, and that eviction would lead Yemeni authorities to suspect them without reason, to detain them without cause and subject them to torture and ill-treatment. The Syrian authorities gave them no legal means to challenge the deportation order. On 15 March 2008, the group deportation went ahead. The students' fears have unfortunately proved well-founded because they were all arrested by Yemeni intelligence services upon arrival in Sana'a. They were taken to the Al Moukalla detention centre where they were held incommunicado for an indefinite period before being allowed to contact their families.⁵⁵

7. Torture

7.1 The law and judiciary do not adequately protect against abuses

Paragraph 3 of Article 28 of the Constitution provides that: "No one shall be subjected to physical or mental torture or degrading treatment. Perpetrators of such acts shall be punished in accordance with the law."⁵⁶ However, there is no legal definition of torture in domestic law, so it is up to the Court to decide whether torture has occurred.

This lack of a clear definition including the elements laid out in Article I of the Convention against Torture is contrary to Syria's commitment resulting from its ratification of the Convention. In its report submitted to the Committee against Torture, the State party explains that: "Syrian law does not contain a definition of torture, but it contains legal provisions criminalizing and punishing with severe penalties those who, while applying the law, infringe on others' freedoms, mistreat people whom they are investigating or use force and violence. This is in accordance with the guarantees laid down by the Constitution of the Syrian Arab Republic and the different laws in Syria."⁵⁷

Article 391 of the Criminal Code reads: "1. Anyone who unlawfully submits a person to violence to obtain confessions for a crime, or information relating thereto, shall be punished by imprisonment between three months and three years. 2. If such acts of violence cause illness or injury, the minimum penalty is one year's imprisonment."⁵⁸

In their initial report, the authorities also refer to an old law from the Court of Appeal, to affirm that a confession extracted by force is incompatible with the law.⁵⁹

In practice, torture in its various forms is commonly used by various state security agencies to extract confessions which are then used against the defendants at their trial.

Amnesty International has followed the case of a Somali national, **Mustafa Omar Abdi Malik**, who during his detention, "was forced to file fingerprints (as a signature) on three documents attesting to his "confession". Two of the documents were blank and the third contained a typewritten statement which he was not allowed to read". After almost nine months in various detention centres, he was finally released on 31 May 2006, without being charged.⁶⁰

⁵⁵ Alkarama press release, *Yémen : Détention sans procédure légale depuis le 15 mars 2008 de 14 étudiants expulsés de Syrie* (Yemen: detention without legal proceedings since 15 March 2008 for 14 students expelled from Syria – only available in French) , 22 November 2008, http://fr.alkarama.org/index.php?option=com_content&view=article&id=370 (accessed on 6 April 2010).

⁵⁶ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 29, para. 101

⁵⁷ *Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention (CAT/C/SYR/1)*, 16 July 2009, p. 17, para. 84

⁵⁸ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 29, para. 102

⁵⁹ *Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention (CAT/C/SYR/1)*, 16 July 2009, p. 32, para. 191

⁶⁰ Amnesty International, *Urgent Action*, (AI Index: MDE 24/042/2006), 16 June 2006, <http://www2.amnesty.se/uaonnet.nsf/7e65f5b0a8b73763c1256672003ecdef/152597e9ddc78466c1257192002c83a0?OpenD> odocument (accessed on 6 April 2010).

Torture is usually carried out in centres run by the different intelligence services as well as in prisons. Some prison quarters are under the control agents of various intelligence services, who can act with total impunity. Political prisoners are often mistreated as soon as they are arrested, then beaten, abused and locked in a cell in isolation, often located underground, before undergoing the first interrogations. These long spells of secret detention under extremely harsh conditions without any contact with the outside world constitute torture in themselves.

The interrogation of persons arrested for political reasons and/or accused of sympathizing with Islamic movements are conducted by agents of the intelligence services who systematically employ torture. The objective is to humiliate the victim and break any resistance or determination, to extract confessions to the allegations levelled against them.

On 20 October 2006, **Daud Al-Basri**, an Iraqi writer, published an article on several websites relating to the conditions of detention he had suffered for one month at the Palestine centre after being arrested when he tried to leave Syria for Turkey. He reports:

"One night I was awakened by screams and a bustle in the neighbouring cell, which turned out to be a torture session. An Egyptian prisoner suspected of spying for Israel was being dealt particularly violent blows - the torturers then worriedly discussed the fact that he had died before being handed over to general investigation services for further questioning. They were accusing each other of responsibility for the prisoner's death."⁶¹

7.2 Torture in places of detention

But the torment does not end after criminal conviction. In prisons, torture and other ill-treatment continues especially for political prisoners. The organization Solida recorded testimonies from Lebanese prisoners who were held in Tadmor Prison. The methods they describe are also practiced in other prisons. We describe a few below:

"The 'Dullab' torture (tire) is used during interrogations: the victim is tied to a suspended tire and beaten. Also, prisoners are beaten repeatedly on the same part of the body: this causes severe and painful muscle tears. The torturers take a detainee and cut him with a knife, before sewing up the wounds themselves. After making inmates drink lots of water, the guards attach a rubber band to the end of the penis which stops them urinating - this causes severe urinary infections. Detainees said they then urinated blood for several weeks. The guards put a detainee in charge of "security". He is then told to hit others (especially those from his own party) very violently. If a prisoner "in charge of security" refuses to strike his fellow inmates, the guards take a hose and whip him until he bleeds. Guards enter cells at any time to hit prisoners and trample their faces. Inmates must remain for several hours at a time in the same position (kneeling or on their stomach holding their feet in the air) and are not allowed to change position. Inmates are made to clean the yard with buckets of water. The inmate must cover 400 m while pouring out water. If a gallon is empty on arrival, the inmate is beaten 500 times with a belt. Prisoners are forced to eat eggs with their shells, live rats, and sometimes large quantities of unidentified drugs. Some detainees were forced to come and look at the corpses of other prisoners who had been summarily executed, including those who had been hanged. At night, inmates are prohibited from using the toilet. If they go, they are punished with 500 to 1000 blows with a belt. Similarly, they are forbidden from making any movement during sleep, under pain of being severely beaten. Guards are changed every 2 hours to ensure that this is enforced."⁶²

Prison conditions in themselves amount to torture: the places are dirty, prisoners are forced to sleep on the floor, they are poorly fed and receive almost no care. Every trip to the toilet is accompanied by beatings. Political prisoners are often placed deliberately in cells where there are common criminals, who abuse them.

The authorities claim that "the Attorney General oversees the administration of justice, the functioning of the judiciary, and the prisons and detention centres."⁶³ However, the Attorney General has no real

⁶¹ Information provided by Alkarama's Beirut office.

⁶² Centre Libanais des droits humains (SOLIDA – the Lebanese Centre for Human Rights), *Detenus libanais en Syrie, le silence meurtrier* (in French only – Lebanese Detainees in Syria, the Deadly Silence), 15 June 2001, p. 4-5

⁶³ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 30, para. 112

power. As we mentioned above, Decree No. 69 of 30 September 2008 guarantees total impunity for the armed forces and police, who are answerable to no-one but their own superiors.

The Supreme State Security Court and the military courts never take allegations of torture into account, which is why neither the victims nor their lawyers dare to openly make them during hearings.

As for the Complaints Bureau under the President of the Republic, to which the Syrian authorities refer in their periodic reports, it almost never receives allegations of torture from lawyers or victims, for the same reasons. Its existence appears to be a mere formality.⁶⁴

In their report submitted to the CAT, the authorities argue that criminal proceedings against perpetrators of torture have been ordered and cite several cases where officers have been punished. Of the 6 cases described, 4 concern police officers who intervened in civilian matters. The criminal offenses are defined very vaguely, and the exact sentence is not correctly described. Specifically, they mention "punishment including temporary hard labour to compensate the relatives of the victim" for cases of "torture leading to death." In the case of the two officers who appeared before a military tribunal, the following is noted without explanation: "the officer who carried out physical torture was convicted and brought before the Board of Discipline, which imposed disciplinary sanctions."⁶⁵

Given the hundreds of testimonies from torture victims, particularly those perceived to be government opponents, who are almost systematically tortured by intelligence officers, these explanations from the Syrian authorities seem unconvincing.

7.3 Deaths under torture

Many prisoners die under torture. Despite constant demands by human rights organizations that the authorities conduct investigations into the cause of death and punish those guilty, a veil of silence is drawn over the issue. In one case, the intelligence service responsible for the torture and death of a victim tried everything to hide any evidence of the case. **Shaykh Muhammad Ma'shuq al-Khaznawi** (شيخ محمد معشوق الخزنوي), who was well-known and respected especially in the Kurdish media for peacefully seeking a national dialogue, was abducted on 10 May 2005 by agents of one of the intelligence services and died of torture on 31 May 2005. The official story was that a group of five people had abducted him, then killed and buried him near Aleppo. According to this story, his body was then dug up by the agents of the intelligence services and had in the meantime arrested two members of this group. When the family received his body, they reported that traces of torture were visible on the whole body. No investigation was undertaken to reveal the causes of death and the real culprits.⁶⁶

Mohammad Mastu Rashid (محمد مصطفى رشيد) of Aleppo, was arrested in September 2009 and detained at the Aleppo central prison. He was so severely tortured that he had to be hospitalized. After four days, he was again transferred to the same prison. His death was announced on 19 January 2010.⁶⁷

Yusuf Jabuli (يوسف جبولي), an official in the province of Aleppo born in 1974, was arrested on 27 December 2008 by a branch of the intelligence services of Aleppo. A week later his body was returned to the family. They were formally banned from opening the coffin and beginning the prayer of the dead. Officials of these services were present throughout the funeral, which took place in Al-Bab in the province of Aleppo.⁶⁸

⁶⁴ *Third periodic report of the Syrian Arab Republic presented to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, 5 July 2004 (CCPR/C/SYR/2004/3), p. 29, para.108

⁶⁵ *Initial report presented by the Syria Arab Republic to the Committee Against Torture under article 19 of the Convention (CAT/C/SYR/1)*, 16 July 2009, p. 16, paras. 82-83

⁶⁶ Syrian Human Rights Committee (SHRC), *Death of Sheikh Muhammad Ma'shuq al-Khaznawi*, 2 June 2005, <http://www.shrc.org/data/asp/D9/2229.aspx> (accessed on 6 April 2010).

⁶⁷ Syrian Human Rights Committee (SHRC), *Death of Syrian Kurdish Citizen Under Torture*, 13 February 2010, <http://www.shrc.org/data/asp/D10/4070.aspx> (accessed on 6 April 2010)

⁶⁸ Syrian Human Rights Committee (SHRC), *Yusuf Jabbouli Killed under Interrogation*, 12 January 2009, <http://www.shrc.org/data/asp/d7/3777.aspx> (accessed on 6 April 2010)

Muhammad Amin Ash-Shua (محمد أمين الشوا), a maths teacher from Deir Ezzor, died following torture in an intelligence centre. His body was returned to the family on 10 January 2009. He was one of a dozen people who were arrested in August 2008 and disappeared.⁶⁹

Various NGOs announced the death of Shafi Dhiban 'Al-Hariri (شافع ذيبان الحريري), aged 25 years. He lived in the United Arab Emirates, where he was working. Having received official assurances that the authorities would not care if he returned to his country, he travelled to Syria in April 2009. At the border with Jordan, he was arrested and tortured for a month. After being released in shocking physical condition, he died on 25 February 2010, as a result of injuries sustained during his detention.⁷⁰

8. Extrajudicial executions

8.1 The use of excessive force

On several occasions, security forces have been known to use firearms to disperse rallies or arrest suspects. When this happens, it is not uncommon for protesters to be killed. The officials are never arrested or punished and the families do not get compensation. In Al-Qamishli, a city in the Kurdish region of northern Syria, supporters clashed violently during a football match on 12 March 2004 that pitted the home team against Deir Ezzor. When security forces intervened, they fired live ammunition into the crowd, killing seven people. At the funeral the next day, they fired again, this time at the funeral procession. This triggered a revolt in the region - protesters torched government buildings and threw stones at vehicles and police. The crackdown was extremely brutal - it left 36 dead and 160 wounded. Many people were arrested, and it took a week for calm to be restored. Nearly 2,000 people were arrested, only to be released in December 2004 with the exception of 200 individuals. Those arrested, including minors, were tortured and abused.⁷¹

8.2 Massacres

In Syria, many massacres have been committed in the prisons, away from prying eyes. During the 80s and 90s, thousands of prisoners were executed, especially in Tadmor Prison. The authorities do not allow access to parents and lawyers of the victims to prisons where inmates have been killed. This means that the public and families are not aware of the tragedies that take place, and are never given the names of the victims.

The last known massacre was carried out in **Sednaya prison** following protests that began on 4 July 2008. That prison's population includes prisoners awaiting trial before the State Supreme Court. About 1,500 political prisoners are held there, a majority of them Islamists. On the night of 4 to 5 July 2008, agents of the Military Police changed the locks. The next day, a brutal search operation was carried out during which copies of the Koran were thrown down and trampled. Faced with protests from detainees, officers opened fire and nine people were killed instantly. The revolt amplified, and more shots followed. Information filtered to the outside world during three days, followed by complete silence. According to the Syrian Committee for Human Rights, 25 inmates were killed during the operation. Only the identities of the first nine who were killed are known.⁷² The wounded were evacuated to Tishrin military hospital where a wing was isolated from the rest of the building to avoid contact with outsiders. Then tanks and other vehicles were placed around the prison and barriers were built to prevent families from coming forward to get information about the prisoners. Visits from family or lawyers have been completely banned. It was only in July 2009, one year after the massacre, that the authorities allowed a mere 70 families to see their loved ones in prison.⁷³ The fate

⁶⁹ Syrian Human Rights Committee (SHRC), *Mohammad Ameen al-Shawa Killed under Torture*, 12 January 2009, <http://www.shrc.org/data/asp/D5/3775.aspx> (accessed on 6 April 2010)

⁷⁰ Syrian Observatory for Human Rights, *منظمة حقوقية سورية: وفاة مواطن سوري بعد 10 أشهر من تعرضه للتعذيب* (NGO: Death of a Syrian National after 10 Months of Torture – only available in Arabic), 1 March 2010, <http://www.syriahr.com/2-3-2010-syrian%20observatory11.htm> (accessed on 6 April 2010).

⁷¹ Amnesty International, *Kurds in the Syrian Arab Republic one year after the March 2004 events*, (AI Index MDE 24/002/2005), 10 March 2005, p. 15

⁷² Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 6

⁷³ Cairo Institute for Human Rights (CIHRS), *2009 Report on Human Rights in the Arab World: Bastion of Impunity, Mirage of Reform*, December 2009, p. 168

of the others remains unknown. This is particularly worrying considering that some prisoners have served their sentences but have not been released, including **Nizar Rastanawi**, whose case was mentioned above and who should have been released in April 2009.

Messrs **Mustapha Kamel Houriya**, 52, **Ahmed Abdelkader Kerroum** and **Youcef Amar Dehnine**, both 41, from Idlib in the north, were arrested on 14 July 2007 in Damascus, where they had gone after being summoned by the military and intelligence services. They were held without charge in Sednaya. Mr. Houriya is a well-known theologian in the region. The other two, who are politically inactive, were among those who occasionally attended classes given by Mr. Houriya. Over the previous fifteen years, Mr Houriya had regularly been summoned by Idlib's military intelligence services; his home was regularly searched. Since the massacre of 4 July 2008, the families of Messrs Houriya, Kerroum and Dehnine have not heard from them; they do not know if their relatives were among the victims of the tragedy that took place in Sednaya prison, because visits have been prohibited since that date and the authorities refuse give them any information. On 22 October 2008, Alkarama informed the Working Group on Arbitrary Detention of these cases.⁷⁴

After an assassination attempt on former president Hafedh Al-Asad on 26 June 1980, security forces committed one of the largest massacres of the country in **Tadmor prison (Palmyra)**, located in the desert. It held many political prisoners, including members of the Muslim Brotherhood. There were apparently between 500 and 1,000 victims. Members of the "Defence Brigades" supposedly committed these crimes, in the cells and dormitories of the prison.

Alkarama received testimony from the family of a victim who are afraid of disclosing their identity. They said that due to the increase in arrests of militants and sympathizers of the Muslim Brotherhood, a demonstration was planned outside the mosque in Aleppo Ar-Rawdha in November 1979 to protest against these arbitrary measures. Military security agents surrounded the mosque and when the demonstrators started to march, they were beaten and arrested; some were killed. The family of the victim had been able to visit him every two months in Tadmor prison until the massacre took place. They have not heard from him since. In 2003, his name appeared on a list of victims published on the internet. The authorities have never confirmed or denied the death; nor did they provide an explanation of what took place in the prison of Tadmor.

Human rights defenders are concerned that other massacres may have taken place there. Given the long list of missing that date from this period, it is believed that thousands of prisoners were either summarily killed, or died because of the deplorable conditions of detention: torture, lack of care, etc.

In August 2000, about six hundred prisoners of conscience were released from Tadmor prison, some of whom had been detained for many years after serving their full sentence. The NGO Solida (support for Lebanese who are arbitrarily detained) assumed that many Lebanese detainees had been held in this prison, many of whose names figured on the missing lists.⁷⁵ In August 2001, the authorities finally closed the part of the prison where political prisoners and prisoners of conscience were held. Nearly a thousand political prisoners have been transferred to other prisons.⁷⁶

9. Enforced disappearances

Many people who are arrested arbitrarily disappear into one of the many detention centres and are considered missing. Families do not know where they are or what fate awaits them, despite repeated enquiries with the authorities. Those held cannot consult a lawyer nor make contact with the outside world. They may reappear, months or years later. Due to torture and inhumane prison conditions, as seen above, the number of deaths is high.

⁷⁴ Alkarama press release, *Syria: Arbitrary detentions and killings in Sednaya prison*, 22 October 2008, http://en.alkarama.org/index.php?option=com_content&view=article&id=152:syria-arbitrary-detentions-and-killings-in-sednaya-prison&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁷⁵ Centre Libanais des droits humains (SOLIDA – the Lebanese Centre for Human Rights), *Detenus libanais en Syrie, le silence meurtrier* (Lebanese Detainees in Syria – the deathly silence – available in French), 15 June 2001, p. 4-5

⁷⁶ For more information about this prison and the massacres which were perpetuated there, see the reports of the Syrian Human Rights Committee (SHRC), <http://www.shrc.org/data.aspx/10NEWSEN.aspx> (accessed on 6 April 2010).

Mohammad Radwan Hassun, accused of being a member of the Muslim Brotherhood, was arrested in mid-December 2008 at the Syrian-Jordanian border as he returned from Jordan, where he had been exiled since the early 80s. He has since disappeared.⁷⁷

On 19 January 2010, Alkarama informed the Working Group on Enforced Disappearances of the case of **Mustafa Ahmed Ben Mohamed**, a writer. He is a member of the Central Committee of the Kurdistan Democratic Party (KDP), of the National Council of the Damascus Declaration (CNDD) and of the Kurdish Committee for Human Rights. He is better known by his pen name, Pir Rostom. He was kidnapped in Aleppo by Political Security officers on 5 November 2009, and has since disappeared.⁷⁸

The Syrian activist **Raghda Said Al-Hassan**, member of the Labour Party, held in prison from 1993 to 1995, was arrested without a warrant on 10 February 2010. Members of the security services of Tartous stopped her at the border, as she was crossing into Lebanon. Her home was raided, and her computer and writings were seized. She is missing to this day.⁷⁹

Mohammed Shusha, born in 1970, of Aleppo, was arrested by the political police in 2005 and disappeared for a year. The family later found out that he had spent 20 days at the military hospital before being transferred to the premises of the political police of Aleppo where he was held incommunicado for eight months. He was then held in Adra prison in Damascus. In May 2006, Mr. Shusha was transferred back to the political police centre of Fayhaa, in Damascus, where his family was finally allowed to visit him. In October 2006 he was again taken to the Adra prison, where his family visited regularly. At the time of the first visit in May 2006, in Fayhaa, Mr. Shusha was wearing numerous bandages on various parts of his body. He managed to tell his family that he had been tortured with electric shocks and beaten while hanging from a tire (method called "dullab). He has never been tried. His mother last saw him on 27 February 2009. She learned later that he may have been transferred to the Palestine Centre or to the intelligence services centre of the Damascus military prison. Since then, the authorities claim that he is no longer in Adra prison, without giving any information about his current place of detention or indeed even acknowledging his existence. Alkarama informed the Working Group on Enforced Disappearances of this case.⁸⁰

Nabil Khlioui, born in 1958, lives with his family in the district of Deir ez-Zor in the north-east of the capital. He is employed as an electrician in a telecommunications company. Mr. Khlioui's family reported that on the night of 14 August 2008, several uniformed military intelligence officers, armed with assault rifles, broke into the house and arrested Mr. Khlioui in his sleep. They confiscated his mobile phone. After his arrest, Mr. Khlioui's family received no further information about his fate and was not allowed to press charges. Authorities did not indicate where he was detained or give the reasons for his arrest. The family eventually learned from unofficial sources that Mr. Khlioui was held for the first two weeks in Deir ez-Zor prison before being transferred to the central prison of Palestine in Damascus. In April 2009, the family learned that Mr. Khlioui was held there from October 2008 to January 2009. He is apparently partially paralyzed and suffering from intense pain as a result of torture. Other sources told the family that he was transferred to another detention centre. This case was also brought to the attention of the Working Group on Enforced Disappearances by our organization.⁸¹

⁷⁷ Syrian Human Rights Committee (SHRC), *SHRC Ninth Annual Report on Human Rights Status in Syria*, January 2010, p. 11

⁷⁸ Alkarama press release, Syria: Further disappearances following arrests by security forces , 19 January 2010, http://en.alkarama.org/index.php?option=com_content&view=article&id=418:syria-further-disappearances-following-arrests-by-security-forces&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

⁷⁹ Syrian Observatory for Human Rights, *جهاز امني سوري يعتقل السجينة السياسية السابقة رغبة الحسن* (*Syrian security apparatus arrests Hassan Raghda, former political prisoner* - only available in Arabic), 16 February 2008, <http://www.anhri.net/syria/shro/2010/pr0216.shtml> (accessed on 6 April 2010).

⁸⁰ Alkarama press release, *Syria: Disappearance of Mr Shusha after more than 3 years detention under the political police*, 31 July 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=272:syria-disappearance-of-mr-shusha-after-more-than-3-years-detention-under-the-political-police&catid=36:communiqu&Itemid=198, (accessed on 6 April 2010).

⁸¹ Alkarama press release, *Syria: Nearly a year since the disappearance of Nabil Khlioui*, 28 July 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=270:syria-nearly-a-year-since-the-disappearance-of-nabil-khlioui&catid=36:communiqu&Itemid=198 (accessed on 6 April 2010).

9.1 Missing Muslim Brotherhood members: a problem that has lasted more than three decades

One of the most painful chapters in Syria's recent history is that of the forced disappearance of political opponents. At the start of 1970s many individuals were arrested and subsequently disappeared. Some families know that their relatives died during detention or torture, but the fate of thousands of others remains unknown. They keep hoping to see them again one day, because it has been confirmed that certain detainees from that period are alive and have been in prison for nearly 30 years.

During the crackdown on the Muslim Brotherhood movement from the late 1970s, tens of thousands of people were arrested and held incommunicado. To date, nearly 17 000 are still missing. The authorities refuse to give any information about them, and any research or activity undertaken in order to shed light on this painful chapter is criminalized. The cases are difficult to document because the families and relatives fear reprisals. Human rights organisations consider that they either died under torture or due to their conditions of detention, not to mention the possibility of extrajudicial killings in prisons, like the massacre that shook Tadmor. This kind of collective execution was carried out many times over the years until the death of President Hafez Al-Asad in 2000.⁸²

9.2 Lebanese missing in Syria

Human rights organisations say that to date, Lebanese citizens are still held in Syrian prisons without having contact with the outside world. In 2007, there was talk of 640 Lebanese who are still believed to languish in the country's prisons, some of whom have been held for over 20 years. They are considered victims of enforced disappearance.⁸³ They may include some people arrested during the Lebanese civil war that began in 1975. These detainees were either arrested by local militia who handed them over to the Syrians, or directly by the Syrian army which was in Lebanon at the time. Many of them have never been tried and are held incommunicado.

Some Lebanese families know that their relatives are being held in Syria, because have been allowed to visit them in Syrian prisons for years. Others have received information on their relatives' fate through prisoners who have been released. According to them, Lebanese citizens were summarily executed in Tadmor prison and were buried in two mass graves, one near the prison and one near the Mezza prison in Damascus.⁸⁴

The Syrian authorities have never explicitly acknowledged the incommunicado detention and enforced disappearance of Lebanese citizens in Syria. Yet in 1998, 121 "disappeared" Lebanese were released. They had been held incommunicado for many years. An initial Lebanese inquiry into the disappearances, established by the Government in January 2000 and solely made up of officers from various security and intelligence services, concluded that all missing Lebanese nationals held in Syrian prisons had died. But among them were 48 Lebanese who were subsequently released by Syrian authorities in December of that year.

The Human Rights Committee expressed its concern about this incident during its examination of Syria's second periodic report in 2001. In its concluding remarks, it mentioned that it was: "deeply concerned about allegations of extrajudicial executions and disappearances, on which the delegation failed to give sufficient and precise explanations and information. These allegations concern the disappearance of many Syrian nationals and of Lebanese nationals arrested in Lebanon by Syrian forces, then transferred to the Syrian Arab Republic. The Committee urges the State party to establish an independent commission of inquiry on the above-mentioned disappearances. This commission

⁸² The Syrian Human Rights Committee (SHRC) is referring here to statements by Mustapha Talas, a former Minister of Defence made during an interview with a Western weekly magazine in 2004. See SHRC *SHRC Ninth Annual Report on Human Rights Status in Syria*, January 2010, p. 14

⁸³ AFP, *Disparus libanais en Syrie: des ONG veulent une enquête internationale* (Lebanese disappeared in Syria – NGOs seek international investigation - only available in French), 3 October 2007, <http://www.iloubnan.info/tourisme/actualite/id/748/theme/112/titre/Disparus-libanais-en-Syrie:-des-ONG-veulent-une-enqu%C3%AAtte-internationale> (accessed on 20 February 2010)

⁸⁴ Centre libanais des droits humains (SOLIDA – Lebanese Centre for Human Rights), *Liban: Disparitions forcées et détentions au secret* (only available in French – Lebanon: Enforced Disappearances and Secret Detention), 21 February 2008, http://www.solida.org/rapports/CLDH_DF_2008.pdf (accessed on 6 April 2010), p. 18-19.

should publish the results of its investigations within an appropriate time frame, and the State party should ensure that its conclusions are acted upon, including, where applicable, through the indictment of law enforcement personnel identified in the results of such an investigation."⁸⁵

Finally, at the highest level, a Lebanese-Syrian official commission on the issue of disappeared Syrians in Lebanon and disappeared Lebanese in Syria was established on 31 July 2005. It is composed mainly of members of various security services and the army. Despite official recognition of this issue and the submission of 640 known cases to this Commission by the Committee of Relatives, the Syrian authorities continue to deny the existence of Lebanese prisoners captured during Syria's presence in Lebanon - this despite the successive releases of prisoners they have made in recent years. Because of this, the commission has so far failed to provide any concrete information on the fate of Lebanese nationals who have been victims of enforced disappearance in Syria.

Mr. **Wadih Al-Asmar**, Secretary General of the Lebanese Centre for Human Rights and member of the Executive Committee of the Euro-Mediterranean Network for Human Rights, has been researching this issue for several years. He was denied entry into Syria on 21 February 2010, despite having regularly entered Syria without any problems.⁸⁶

10. Other forms of repression

Once someone has been placed under the supervision of intelligence services for alleged opposition to the State, or for expressing a critical opinion, claiming cultural rights, expressing an opinion, having been detained in the past, having gone into exile for political reasons or simply having family ties with opponents, their woes do not stop. Assurances given to some refugees by Syrian authorities in the country's embassies are not always respected. On their return to Syria, they can be immediately arrested, as we have shown above.

10.1 Repressive measures against the families of dissidents

The Syrian authorities have extended their crackdown to the wives of exiled opponents who regularly travel to Syria. During the summer of 2008, some of these women and their children were summoned to local intelligence centres and were interrogated. They were also forced to obtain permission to leave the country from the intelligence service headquarters in Damascus. Some have been awaiting this authorization for months.⁸⁷

10.2 The refusal to issue passports

Many Syrian embassies abroad do not issue identity documents to their nationals, particularly the embassies in Sudan, Yemen, Iraq and Jordan, countries which hold the largest number of Syrian refugees. Without passports, they face insurmountable administrative difficulties.

The problem also affects children born abroad. Once they reach 14 years of age, they can not obtain a passport from their embassy if they are not registered in the Syrian registry office. They are therefore forced to enter Syria. Children of some Muslim Brotherhood members are then arrested at the office and prosecuted on the basis of Article 49/1980 in order to put pressure on their fathers.⁸⁸

Many Syrians residing within the country do not get a passport. The first requirement is to have obtained the permission of the local administrative authority. The security services must also give their approval. Reasons for refusal are not always advised. Former inmates have to wait for years to receive this authorization - many activists do not get it; they can be deprived of their passports or have extensions refused.

⁸⁵ Human Rights Committee, 71st Session, *Concluding observations of the Human Rights Committee on the second periodic report of the Syrian Arab Republic (CCPR/CO/71/SYR)*, 24 April 2001, para. 10

⁸⁶ Euro-Mediterranean Federation against Enforced Disappearances, *The Secretary General of the Lebanese Centre for Human Rights is Denied Entry into Syria*, 22 February 2010, <http://federation-euromed.blogspot.com/> (accessed on 25 February 2010).

⁸⁷ Syrian Human Rights Committee (SHRC), *SHRC Eight Annual Report on Human Rights Status in Syria*, January 2009, p. 17

⁸⁸ Syrian Human Rights Committee (SHRC), *SHRC Ninth Annual Report on Human Rights Status in Syria*, January 2010, p. 13

10.3 Prohibition to leave Syria

The list of Syrian nationals banned from travel grows every year. This ban is extended to opponents, former political prisoners, activists of human rights, etc. During 2009, the leaders of many of human rights organizations have been restricted from travelling. Among them figures **Abdelkader Al-Rihaoui**, the president of the Syrian League for the Defence of Human Rights. He was banned from leaving the country on 18 February 2009 on the basis of notification by the security services. On 20 February 2009, **Aktham Na'issa**, lawyer and chairman of the Committee for the Defence of Democratic Freedoms, was prevented from going to a conference in Doha on the situation of Palestinians in Gaza.

On 3 July 2009, one of the leaders of the Social Democratic Union Party, **Mohammad Marwan Ghazi**, was ejected from Damascus airport when he tried to leave to perform a pilgrimage (Umra) to Mecca. While preparing to perform the pilgrimage to Mecca (which is a religious obligation and a pillar of Islam), **Ms. Nada Al-Atassi Lu'i**, member of the Arab Organization for Human Rights, also found out that a note from the security services prevented her from leaving the country.

Similarly, **Mr. Tayseer Ibrahim Al-Musalamat**, member of the Arab Organization for Human Rights, found out that he could not leave the country on 11 July 2009 as he tried to leave for Jordan to attend the wedding of one of his relatives.⁸⁹

11. Conclusion

A state of emergency declared in the country for nearly half a century has enabled the establishment of an arsenal of emergency laws which allow serious human rights abuses.

Despite numerous reports of serious human rights violations in Syria, repeated statements and calls by Syrian human rights defenders and testimonies from victims, the authorities have done nothing to improve the situation. The justice continues to be subordinated to the executive branch, which does nothing to establish control mechanisms to allow the investigation of cases of torture and other mistreatment, enforced disappearances, extrajudicial executions and deaths in custody.

12. Recommendations

The State party should:

1. Lift the state of emergency in the country, abolish all laws that resulted from it, abolish special courts and in particular discontinue the practice of trying civilians in military courts.
2. Prohibit by law and in practice all forms of torture and cruel, inhuman or degrading treatment by officers and members of all departments of state security. Ensure that impartial investigations are conducted by an independent authority into all allegations of torture and ill-treatment and punish those responsible. Provide effective remedies to victims and compensate them.
3. Incorporate the crime of torture into domestic law as defined by Article 1 of the CAT and impose appropriate penalties to punish the offenders.
4. Fight against impunity for perpetrators of torture by repealing all laws which provide immunity for those who carry out acts of torture or ill-treatment, especially decrees No. 549 of 25 May 1969 and No. 69 of 30 September 2008.
5. End the practice of incommunicado detention and place all detention centres, without exception, under the effective control of a judicial authority; apply all international standards on the treatment of prisoners and prison conditions set forth in particular in the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; introduce a complete separation between the authorities responsible for preliminary investigations and those responsible for prison management.
6. End the practice of enforced disappearances and release all arrested persons whose relatives are without news of them, or at the very least put them under the protection of the law without delay. A detailed list of all persons reported missing should be provided. A credible, independent commission

⁸⁹ Syrian Human Rights Committee (SHRC), *SHRC Ninth Annual Report on Human Rights Status in Syria*, January 2010, p. 33

with a mandate to investigate all cases of enforced disappearances, of missing detainees in Tadmor and Sednaya prisons and other places detention, and of Lebanese nationals transferred to Syria must be instituted.

7. Establish an independent commission to investigate all deaths in custody, inform the families of the survey results, return the bodies of deceased detainees to their families and make the results public. It should also bring those responsible for these deaths to justice and compensate the victims' next-of-kin.

8. Immediately release all those arrested and imprisoned for their peaceful political activities, the expression of their political views or activities in the field of human rights, and put an end to any reprisal or harassment against these people.

Alkarama hopes that the information provided in this submission will be useful in the Committee's review of Syria's initial periodic report. We remain available should the Committee request or require any further information relating to matters raised in this submission, or for any other matter.

Alkarama will continue to monitor the Syrian Government's compliance with its obligations under the Convention against Torture, including implementation of the Committee's concluding observations, as they relate to our areas of work.