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Human Rights Violations in Syria

NGO REPORT
TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE
84TH SESSION

INCLUDING THE COMMITTEE'S CONCLUDING OBSERVATIONS

A project presented by



COMMITTEES FOR THE DEFENCE
OF DEMOCRATIC LIBERTIES
AND HUMAN RIGHTS IN SYRIA - **CDF**

and coordinated by



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Contents

Foreword	7
Introduction: Political and Institutional Background	9
1. Legal Framework	13
2. Implementation of the ICCPR's Provisions by the Syrian Arab Republic	16
3. Recommendations	59
4. List of Issues: Syrian Arab Republic	61
5. Summary Record of the Dialogue between the Human Rights Committee and the Official Delegation of Syrian Arab Republic	69
6. Concluding Observations of the Human Rights Committee: Syrian Arab Republic	77

HUMAN RIGHTS VIOLATIONS IN SYRIA

Foreword

Writing alternative reports is one of the main activities of the World Organisation Against Torture (OMCT) and a vital source of information for the members of the Human Rights Committee. With these reports, it is possible to see the situation as objectively as possible and take a critical look at government action to eradicate torture and other cruel, inhuman or degrading treatment.

Under the aegis of the European Union and the Swiss Confederation, the “State Compliance” programme presented this report on state violence and torture in Syria at the 84th session of the Human Rights Committee.

OMCT and the Committees have jointly prepared this report for the Defence of Democratic Liberties and Human Rights in Syria (CDF), which is a member of the SOS-Torture Network.

CDF is one of the few independent NGOs active in the defence and promotion of Human Rights in Syria. Human rights activists are routinely victims of harassment and persecuted by the Syrian authorities. Such has been the case of Aktham Naisse, Chairman of the CDF, who was arrested on 13 April 2004, following the publication of CDF’s annual report denouncing flagrant violations of human rights in Syria. Aktham Naisse was released on bail on 16 August 2004, but remained accused of “opposing the objectives of the revolution” and “disseminating false information aiming at weakening the State”. On 26 June 2005, thanks to international pressure, the Supreme State Security Court (SSSC) dropped all the charges against this emblematic human rights defender.

Aktham Naisse’s international recognition and support culminated in his being granted the 2005 Martin Ennals Award for Human Rights Defenders, by a jury composed of ten major international NGOs.

Presentation of the CDF (Committees for the Defense of Democratic Liberties and Human Rights in Syria)

The Committees for the Defense of Democratic Liberties and Human Rights in Syria (CDF) were founded in 1989 with an aim to diffuse the human rights culture that was not sufficiently spread among Syrian civil society.

The CDF made the struggle against the state of emergency and courts resulting from it and against arbitrary detention a priority. Among its objectives, the CDF demand authorities to release political detainees, to allow Syrian expatriates to return to Syria, to give a nationality to Kurds, and to stop torture.

The first CDF demonstration was on 8 March 2004 outside the People's Council. This was a first step towards democracy.

The CDF monitor Human Rights violations through its popular journal "Voice of Democracy". CDF is the first Syrian civil institution that promotes citizenship, democracy and human rights. They are the defenders of values of equality, tolerance, and freedom of opinion. They engaged a peaceful struggle against violence on behalf of human dignity.

The fundamental role of CDF is to set up a link between democracy, human rights and sustainable development. The new challenge consists of establishing new values, which may give Syrian people the liberty to participate in new democratic organizations through which they can express their opinions freely.

According to CDF, Syria must be the homeland of all citizens without discrimination, and the government should represent the people's will. A fundamental element of democracy is the elaboration of institutions that can represent the people.

The CDF confirm the necessity to develop new governmental and non-governmental institutions, because of the incapacity of the current institutions to comply with the expectations of the new generation.

Introduction: political and institutional background

Syria was officially declared a republic under the Arab Socialist Ba'ath Party regime in 1963. Article 8 of the Constitution makes the Ba'ath the leading party of the government without a competitor:

“The leading party in the society and the state is the Socialist Arab Ba'ath Party. It leads a patriotic and progressive front seeking to unify the resources of the people's masses and place them at the service of the Arab nation's goals.”¹

Hafiz al-Assad held an authoritarian regime for 30 years. There was a strong desire for political reform when Bashar al-Assad succeeded his father in 2000, but people were disappointed.

According to the last Ba'ath party congress in May 2005, and despite many expectations to decrease the Ba'ath party role, article 8 has not been eliminated.

The three powers are guided by the views of the Ba'ath party with the aim to reinforce the regime and to justify the martial law. Syria is still under a state of emergency, declared in 1963, because of the war with Israel and the struggle against threats posed by terrorist groups.²

Facing disappointment due to lack of reform, opposition parties became more active. The Syrian Muslim Brotherhood published a National Charter in London in May 2001, calling for a modern democratic state.³ Nationalists and Marxists held debates on the rule of law, democratization and independence of judiciary.⁴

According to a recent study published by the University of Damascus, some 1900 decrees, laws and administrative orders with Bashar's signature have been issued since 2000. Very few of these orders have been implemented, due to bureaucratic inertia or outright opposition of high-ranking officials,

1 Syrian Constitution, adopted on: 13 March 1973, art. 8, p. 3.

2 Source: Background Note: Syria, on line, < <http://www.state.gov> > (consulted on 5 June 2005)

3 See *Al-Hayat*, 4 May, 2001

4 International Crisis Group, Syria under Bashar: Domestic Policy, 11 February 2004, p. 7.

HUMAN RIGHTS VIOLATIONS IN SYRIA

and because the measures were not underpinned by an overall, coherent reform vision.⁵

The human rights situation remains poor. The Government continues to restrict and deny fundamental rights. Serious abuses include the widespread use of torture and ill-treatment in detention, poor prison conditions, arbitrary arrests, prolonged detention without a trial, and unfair trials before exceptional jurisdictions.⁶ Even laws, such as the penal code, violate women's rights in many forms. The chance of these laws being amended is slight.

5 International Crisis Group, Syria under Bashar: Domestic Policy, 11 February 2004, p. 12.

6 Syrian human reports, Syria politics, 03 October 2001, p. 3, on line, < [http://:www.arabicnews.com](http://www.arabicnews.com)>, consulted on 23 June 2006.

A weak legislative power: the People's Council

The People's Council was established, with the aim to consolidate the control in the country after Hafiz al-Assad assumed the power. Since then, the People's Council became the legislative power of Syria. The Council is primarily composed of 195 members, elected to terms of about four years.

The Executive, which mostly consists of members from the Ba'ath party, manipulates the local system and all functions of the People's Council, which include the nomination of a presidential candidate, enactment of laws, discussion of government policy, approval of the general budget, and development plans, and ratification of treaties.⁷

Through biased elections, the members of the People's Council are in reality chosen by the Secret Services (SS), and they must be in majority representatives of the Ba'ath Party. In such a way, the Executive guarantees its absolute authority over the People's Council, with the aim to press it to execute its full orders. The author of any opposition against its decisions risks being detained and tortured. This was the case of two independent deputies, Mr. Mohammad Mamoun Al Homsy and Mr. Riyad Sayf.

The monopolization of discretion by the Executive of the People's Council is widely apparent:

Article 70 of the law establishing the People's Council has limited the number of committees to 12, making the foundation of a new Human Rights Committee impossible.

Articles 157 and 158 of the law establishing the People's Council authorize the People's Council to act on a motion of no confidence in the Council of Ministers as a whole or in an individual minister. The motion must be initiated by at least one fifth of the members. To become effective, the motion must be approved by the majority of the People's Council, Ba'ath Party representatives, which makes this operation unfair.

7 On line, <<http://reference.allrefr.com>> (consulted on 12 June 2005)

HUMAN RIGHTS VIOLATIONS IN SYRIA

Separation of powers – legislative, executive and judicial – in the Syrian Arab Republic is not respected. The authoritarian regime maintains reign through local institutions. According to a poll in 2003, 97% of Law students did not know about the existence of the Supreme Constitutional Court.

1. Legal framework

Dates of ratification and entry into force

The Republic of Syria has signed and ratified a large number of international human rights Conventions and protocols of the United Nations.

	Date of receipt of instrument by the UN	Date of entry into force
CERD ⁸	21/04/69	21/05/69
ICCPR ⁹	21/04/69	23/03/76
ICESCR ¹⁰	21/04/69	03/01/76
CEDAW ¹¹	28/03/03	27/04/03
CRC ¹²	15/07/93	14/08/93
CRC-OP-AC ¹³	17/10/03	17/11/03
CRC-OP-SC ¹⁴	15/05/03	15/06/03
CAT ¹⁵	19/08/04	18/09/04

8 International Convention on the Elimination of All Forms of Racial Discrimination.

9 International Covenant on Civil and Political Rights.

10 International Covenant on Economic, Social and Cultural Rights.

11 Convention on the Elimination of All Forms of Discrimination against Women.

12 Convention on the Rights of the Child.

13 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

14 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

15 International Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.

HUMAN RIGHTS VIOLATIONS IN SYRIA

CERD	Due report	Received	Examined	Overdue report
Initial report	21-May-70	26-Jan-71		
Second periodic report	21-May-72	08-Aug-72		
Third periodic report	21-May-74	20-May-74		
Fourth Periodic report ¹⁶	21-May-76	30-Jul-76		
Fifth periodic report	21-May-78	02-Jun-78		
Sixth periodic report	21-May-80	03-Jul-80		
Seventh periodic report ¹⁷	21-May-82	21-Jul-83		
Eighth periodic report	21-May-84	23-Jan-86		
Ninth, Tenth, Eleventh periodic report	21-May-86	29-May-91		
Twelfth, Thirteenth, Fourteenth, Fifteenth periodic report	21-May-92	05-Feb-98		
Sixteenth periodic report	21-May-00			1
Seventeenth periodic report	21-May-02			1
Eighteenth periodic report	21-May-04			1

CCPR	Due report	Received	Examined	Overdue report
Initial report	22-Mar-77	28-Jun-77	16-Aug-77	
Second periodic report	18-Aug-84	12-Jan-00	30-Mar-01	
Third periodic report	01-Apr-03	05-Jul-04		

16 The initial, second, third and fourth periodic reports were submitted together as one document.

17 In its concluding observations adopted on 20 August 2003, the Committee on the Elimination of Racial Discrimination recommended that the fifth, sixth and seventh periodic reports be submitted together in one document, by 10 June 2007.

HUMAN RIGHTS VIOLATIONS IN SYRIA

CESCR	Due report	Received	Examined	Overdue report
Initial report		18-Jan-79 21-Dec-79		
Second periodic report		10-May-79		
Third periodic report	30-Jun-94	22-Mar-99	15-Oct-01 16&28 Aug-01	
Fourth periodic report	30-Jun-06			

CEDAW	Due report	Received	Examined	Overdue report
Initial report		27-Apr-04		1

CRC	Due report	Received	Examined	Overdue report
Initial report	13-Aug-97	22-Sep-95	16&17 Jan-97	
Second periodic report	13-Aug-00	15-Aug-00	03-Jun-03	
Third periodic report	13-Feb-09			

Total number of overdue reports: 4

Concluding observations	
CERD	CERD/C/304/Add.70 (1999)
CCPR	CCPR/CO/71/SYR (2001)
CESCR	E/c.12/1/Add.63 (2001)
CRC	CRC/C/15/Add.212 (2003)

2. Implementation of the ICCPR's provisions by the Syrian Arab Republic

Article 3 :

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Despite the fact that Syria ratified the International Covenant and other conventions prohibiting discrimination between men and women, discrimination against women is deeply entrenched in Syrian legislation and some provisions of the Penal Code clearly violate international norms.

The State report submitted by state parties under article 40 of the Covenant, in October 2004, affirms that Syrian law protects women of all forms of violence, rape and abuse:

“57. In Syria there are no cases of systematic rape and sexual slavery or practices similar to slavery. Any cases of rape or abduction are individual cases and the perpetrator is punished under applicable laws and statutes”.¹⁸

“58. Syrian laws and legislation concerning women were modernized to fulfill the need to develop Syrian legislation so that it may cope with the evolution of the social system”.¹⁹

However, according to reports, there are no measures for the protection of women's rights undertaken by the Syrian Arab Republic.²⁰ In fact, Syrian women are still subject to sexual, verbal and physical violences. In addition, there have been numerous cases of kidnapping. Authorities have frequently protected the accused, especially when married.

18 Consideration of Reports submitted by States Parties under article 40 of the Covenant, third report, Syria, 19, October 2004, point 57, p. 17.

19 Consideration of Reports submitted by States Parties under article 40 of the Covenant, third report, Syria, 19, October 2004, point 58, p. 17.

20 Committees for the Defense of Democratic Liberties and Human Rights in Syria, annual report, 2004, p. 70.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The CDF note that in the following articles, the Syrian Penal Code may encourage violence against women and effectively condones marital rape :

- Article 489 of the Penal Code sentences up to 15 years in prison, who forces a woman other than his wife, through violence or menacing, to engage in sexual intercourse.”²¹
- Articles 192 and 242 protect men who commit acts of violence against women with the aim of protecting his honor.

Furthermore, article 45 of Syrian Constitution states:

“The State shall guarantee for women all opportunities enabling them to fully and effectively participate in the political, social, cultural and economic life. The State must remove the restrictions that prevent women’s development and participation in building the socialist Arab society.”²

- Articles 473 and 474, are discriminatory against women concerning the offense of adultery. If women commit adultery it is considered more serious and the sentencing is longer than for men.

In addition, several articles of the Marital Law violate women’s rights:

- Polygamy is permitted and regulated by Article 17. The article considers that a woman is half of a human being and must therefore share her husband with other women. Also, Article 27 declares that a woman’s conscience and personality is incomplete.
- Article 18 allows teenagers to marry.
- Articles 20, 21, 22, 23, 24 and 25 give males the guardianship of female family members from their birth until their death. The marriage of females depends only on the males’ will.

21 ADI, Walid, Penal Code, 22 June 1949, Syria, p. 189.

HUMAN RIGHTS VIOLATIONS IN SYRIA

- Articles 85 and 94, declare that divorce is a right provided only to men.
- Articles 138, 142, 143, 144, 146, 148, 149 and 151, provide that in a divorce the man gets custody of the children
- Articles 269, 270, 271, 272, and 273 restrict the rights of women to inherit.

Although Syria ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)²² reservations have been made concerning Articles 2 P.9 ; 15 ; 16 : 29.)

Article 4 :

1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation 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.

²² The Annual report of the Committees for the defense of Democratic Liberties and Human Rights in Syria, 2004.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The Decree No. 51 of the Emergency Law - Legislative Decree No. 51, dated the 22 December 1962, determines the modality of the proclamation of the State of Emergency. According to Article 2 (a), the State of Emergency has to be declared :

“through a Decree issued by the Council of Ministers held under the chairmanship of the President of the Republic and with 2/3 majority of the members, provided that the Decree will be submitted to the People’s Council at its first meeting”

However, the State of Emergency in Syria was proclaimed by military order No. 2, on March 8 1963. The Command’s Council of the Revolution issued this order.

This order has not been controlled by the People’s Council as Decree No. 51 provides. As a consequence, an incompetent authority declared the State of Emergency and therefore its proclamation should be considered illegal.

Subsequently, the Constitution which was adopted in 1973 dealt with the State of Emergency in two articles: articles 101 and 113.

Article 101 reads:

“The President of the Republic can declare and terminate a state of emergency in the manner stated in the law”.

Article 113 reads:

“In case of a grave danger or situation threatening national unity for the safety and independence of the homeland or obstructing state institutions from carrying out their constitutional responsibilities, the President of the Republic can take immediate measures necessitated by these circumstances”.

In this context, Decree No. 51 of the Emergency Law - Legislative Decree No. 51, dated 22 December 1962, is still valid although not consistent with some constitutional provisions such as Articles 25-33 related to public freedoms.

However article 153 of the Constitution also provides that:

“Legislation in effect and issued before the proclamation of this Constitution remains in effect until it is amended so as to be compatible with its provisions”.

HUMAN RIGHTS VIOLATIONS IN SYRIA

With regard to Decree No. 51 of the Emergency Law, and as mentioned above, the Decree has never been endorsed by the Parliament. In this context, this Decree has no legal basis and moreover may be seen as non-constitutional.

Secondly, according to Decree No. 51, 1962, the state of emergency is proclaimed in the state of war, disaster, or interior troubles. But in Syria, the state of war with Israel is limited to the Golan area - the CDF claim that the state of emergency will be limited as well. Furthermore, the army code defines the state of emergency as general mobilisation. However, for 30 years, the general mobilisation was not declared. As a consequence, the proclamation of the state of emergency has no justification. Furthermore, according to the Decree No. 51, the party that proclaimed the state of emergency must undertake to declare the reasons, the period and the place of this proclamation. In this case, however, the state of emergency was proclaimed without any of these declarations.

The State report defined the State of Emergency as an act, which was promulgated by Legislative Decree No. 51 of 22 December 1962, as amended by Legislative Decree No. 1, of 9 March 1963. This Decree, that remains in force in the Syrian Arab Republic, is based on the concept of an imminent threat to the country's integrity. Should that threat arise, the competent authorities are empowered to take all the measures provided by law to protect the territory, territorial waters and air space of the State, in whole or in part, from the dangers arising from external armed aggression by transferring some of the powers of the civil authorities to the military authorities. Article 101 of the Constitution states that the President of the Republic can declare and terminate a state of emergency in the manner stated by the law. Article 1 of this Act specifies the reasons justifying its promulgation by stipulating that a state of emergency can be proclaimed in the event of war, a situation entailing the threat of war or a situation in which security or public order in the territory of the Republic, or any part thereof, is jeopardized by internal disturbances or the occurrence of general disasters.²³

The Syrian Republic considers that the continuing occupation of a part of Syrian territories by Israel still necessitates the promulgation of the state of emergency act. Therefore, certain measures are still in force, such as the

23 See Third State party report, 19 Oct. 2004, p.18 UN Doc. CCPR /C/SYR/2004/3.

HUMAN RIGHTS VIOLATIONS IN SYRIA

restriction of the liberty of persons. For instance, censorship of correspondence, communications and the information media, specification of the opening and closing times of public establishments, withdrawal of firearms and ammunition licenses, evacuation or isolation of certain areas, appropriation of movable or immovable property, placement of companies under State control and prescription of penalties, up to a maximum of three years' imprisonment and a fine of LS 3.000, for any violation of those orders.²⁴

Article 6 :

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

²⁴ See Third State party report, 19 Oct. 2004, p.19 UN Doc. CCPR /C/SYR/2004/3.

HUMAN RIGHTS VIOLATIONS IN SYRIA

“Crimes of Revenge” are ritual crimes based on old cultures and beliefs in Syria. Despite Syrian Penal Code articles 533-535, which impose 15 years in prison to the death penalty for a willful killing, revenge killings are still prevalent in some rural areas, such as Rif Arrika, Dayr el Zour, Rif Alboukmaale, Rif Dara’a, and Al Hassaka. The role of State regarding this type of crime is absent. The majority of criminals are under eighteen, because there is no law which condemns teenagers.

Article 7 :

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 391 of the Penal Code penalizes the act of violence against persons but does not explicitly prohibits torture:

“1. Anyone who subjects a person to illegal acts of violence with a view to obtaining from him a confession to an offence or information pertaining there to shall be liable to a penalty of detention for a term of three months to three years.

2. If such acts of violence cause sickness or wounds, the minimum penalty shall be one year’s detention.”²⁵

The Syrian Constitution provides under article 28, paragraph 3 that:

“No one may be tortured physically or mentally or be treated in a humiliating manner.

The law defines the punishment of whoever commits such an act”.²⁶

25 ADI, Walid, Penal Code, 22 June 1949, Syria Ibid., p. 156.

26 Syrian Constitution, adopted on: 13 March 1973, art. 28, p. 5.

HUMAN RIGHTS VIOLATIONS IN SYRIA

However, authorities are still allowing torture and degrading treatment in jails. The most common physical and mental methods of torture used in Syrian prisons today are:²⁷

- German Chair: A chair made of iron bars. A bar is placed behind the victim, under his arms. Then his hands are tightly bound behind him. The victim's legs are bound with a thick rope up behind him until his body takes the shape of an inverted arc. The victim is then beaten with cables on his legs and feet. At repeated intervals the rope is tightened, stretching the back more. Besides the excruciating pain, the victim becomes paralyzed in the upper half of his body and this paralysis may last for weeks, months, or even his lifetime depending on the extent of torture suffered.
- Beating the victim with copper wire cables, especially on hands and feet, which causes the victim's flesh to tear.
- The victim is placed in the frame of a wheel that prevents him from moving. He is then beaten all over his body.
- Electric shock treatment: Electric cables are placed on sensitive parts of the victim's body.
- Flying Carpet: The victim has his arms and legs spread out in four directions and tied down.

The victim is then beaten and the rope is shortened at regular intervals to stretch the body.

Additionally, victims are often burnt with cigarettes on different parts of their body.

- Water Torture: the victim's head is immersed in water.
- Kicking and slapping the victim.
- Beating the victim with sticks on his feet.

27 Committees for the Defense of Democratic Liberties and Human Rights in Syria, annual report, 2004, p. 70.

HUMAN RIGHTS VIOLATIONS IN SYRIA

NGOs and especially the CDF recently observed the increase of torture which has caused several deaths. Also national forces have killed twenty-seven Kurds and two Arabic citizens during a competition (al Jihad-al Fatwa) in Qamichli province on 12 and 13 March 2004.

Many Syrian Kurds died from injuries after they were tortured:

1. Hussein Hamo Nasso, aged 23, died on 6 April 2004, after a short period of torture. He was diabetic and he was denied access to medical treatment.
2. Farhad Mohammad Ali, aged 19, was tortured and died on 18 April 2004.
3. Ahmad Hussein Hassan, married and has four children. He was arrested and detained by the Military Security on 13 July 2004. His relatives ignored the circumstances of his detention until his death on the 1st of August in the Military Secret Service office. His family was obliged to bury him secretly.
4. Ahmad Mamo Kanjo, aged 37, died on 3 August. He was tortured during an arbitrary detention on 12 March 2004. One of the raid's members of Military Office beat Kanjo on his head with the butt of a rifle and made a 10cm long fissure. He was transferred to the hospital where it was noted that he was beaten all over his body. According to the doctor's affidavit, the reason of death was an internal cerebral bleeding caused by torture.
5. Hanan Bakr Diko, aged 53, died on 28 September 2004. He was arrested on 16 September 2004, for no motive. He was tortured for four days and died immediately afterwards. Many contusions appeared on his head, hands and feet.

Six Kurdish recruits were killed in ambiguous circumstances after the events of 12 March in 2004. The victims are the following:

1. Khayri Barjes Jindo, aged 21, was recruited on 7 March in El Koutayfi casern. On 22 March, his father visited him and found him in a miserable situation. An officer beat him with a stick all over his body for several hours, after which he was unable to walk. A few days later, he died of his lesions. Some soldiers buried him near his village, Saradak without

HUMAN RIGHTS VIOLATIONS IN SYRIA

autopsy. Four other Syrian Kurdish colleagues were beaten at the same time because of their nationality.

2. Hussein Khalil Hassan (Kurd) died on 6 May 2004 in obscure circumstances while he served in an air defense battalion.
3. The recruit, Diya El Din Nouri Nasser El Din was killed, on 15 May with two bullets to the head.
4. On 24 October 2004, Mohammad Cheik Mohammad was shot in the back, in the camps of Katifa.

The authorities didn't allow any of the victims' relatives to have an autopsy performed. Victims' relatives required the authorities to investigate the circumstances of death, but their requests were refused.

Child concerns: torture and other forms of violence by police officers during times of arrest and detention

Violence is deeply rooted in the penitentiary system in Syria and children could be subject to torture or other cruel, inhuman or degrading treatment or punishment. On March 2004, twenty Kurdish children (14 to 17 years old) were detained in Qamichli and in the other side of northern Syria. They were held in incommunicado and tortured as follows for over three months:

- Applying electric shocks on hands and feet and sensitive parts of the body;
- Extraction of toe nails;
- Holding the heads of children and banging them violently against each other causing injuries and bleeding from the nose. One of the children continues to suffer nose bleeds after being released;
- Beating with electric cables and rifle butts;
- Ordering the children to strip almost naked while counting from one to three, then beating them if they do not complete the stripping while counting.

HUMAN RIGHTS VIOLATIONS IN SYRIA

On 6 April 2004, following a dispute between Kurdish children and Arab students at a school in Qamishli, Political Security officers arrested four Kurdish school children – Nijirfan Saleh Mahmoud, Ahmad Shikhmous ‘Abdallah, Walat Muhammad Sa’id and Serbest Shikhou – all aged 12 or 13. At year’s end, the children were reportedly still detained. They were reportedly tortured in the minors’ section of Qamishli Prison. They were reportedly beaten with electric cables, had their heads banged together, were ordered to strip almost naked while counting from one to three and were beaten if they did not complete the stripping in time.

While a law had been adopted to protect children from domestic violence, there was no specific legislation, nor a Decree, prohibiting corporal punishment in schools. The guidelines of the Ministry of Education “instruct the teachers to use only educational means of discipline and to refrain from using physical or moral punishment with the children”.²⁸

Children abused at school can lodge a complaint with the school administration. Youth organizations such as the Tala’i al-Ba’ath (Baath Vanguard) Organization, to which all persons up to the age of 23 automatically belong, can also file a complaint on a child’s behalf. Parents’ associations in the Syrian Arab Republic have no authority to prosecute teachers accused of child abuse. Only parent’s councils are able to file complaints.²⁹

Article 9 :

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

28 See Third State party report, 19 Oct. 2004, p.96, UN Doc. CCPR /C/SYR/2004/3.

29 Summary record, 884th meeting, UN Doc. CRC/C/SR.884, §6, 8-9.

HUMAN RIGHTS VIOLATIONS IN SYRIA

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

As indicated in the State report, freedom is a right guaranteed by the Constitution (Articles 25, 27 and 35) and the law (Articles 424 and 425 of the Code of Criminal Procedure). The State report confirmed also that no one could be detained without charge, as this would constitute a punishable act of unlawful restriction of liberty. Anyone detained on a criminal charge must be brought before the Department of Public Prosecutions within a period of 24 hours, which may be extended to a maximum of 48 hours. The Department of Public Prosecutions must then refer him directly to the competent magistrate within a maximum of 24 hours. Furthermore, if a defendant is arrested under a warrant and stays in custody for more than 24 hours without being referred to the Public Prosecutor, his detention is to be considered an arbitrary act and the official responsible for this act may be prosecuted for illegal deprivation of personal liberty as provided for in Article 358 of the Penal Code.³⁰

However, since 2004, we have observed an increase of arbitrary detentions in Syria, especially against Syrian Kurds, such as some students of university of Aleppo and Damascus as well as the detentions of citizens on religious grounds.

30 See Third State party report, 19 Oct. 2004, p. 32-59 UN Doc. CCPR/C/SYR/2004/3.

HUMAN RIGHTS VIOLATIONS IN SYRIA

Some political detainees have been arrested 25 years ago. The period of their sentences has expired now, but detainees are still in custody.

Since 2000, the Exceptional Courts have handed down sentences against activists of civil society. Economics expert, Aref Dalila (65 years old) who suffers from heart problems, and Habib Issa, a lawyer who (63 Years old) has a chronic backache, are still in detention.

Although the article 108 of the Code of Criminal Procedure states that:

“Any person detained under provisions of Syrian law is to be informed of the reasons for his detention and the nature of offence that caused his detention as well as the legal provision under which it is punishable”.³¹

Here are examples of cases of arbitrary detention:

- Dawoud Zakariya El Cheikh (1971) was arrested in January. His brother Ahamad Issa Zakariya El Cheikh (1972) was arrested in March 2004. They come from Sarja, province of Edleb. Their father was arrested on 1 January 2004, and is still missing.
- Saleh Mohammad Bin Mouslem arrested on 7 July 2004 without warrant arrest or charges. His counsel and parents were not allowed to meet him.
- Mohammad Ahmad Hamada was arrested without warrant arrest or charges on 25 July 2004 and Mohammad Abdallah Al Falestini was arrested without warrant arrest or charges on 2 August 2004. They are all still in detention.
- On 7 July 2004, the authorities detained in Aîn el Arab town, Samir Rahal, Saleh Mouslem Mohammad, Abdel Nasser al Hamidi, Ahmad Talal Assoultane, Fayez Ousmane, without warrant arrest or charges.
- On 11 August 2004, two Kurdish women, Ghazala Khalil Mohammad (1980) and Barwin Jamal Sarik (1985) were going from Aleppo province to Kamichli when some members of the Security Service went aboard a bus and arrested both of them. Afterwards, they both disappeared.

31 See Third State party report, 19 Oct. 2004, p. 31, UN Doc. CCPR /C/SYR/2004/3.

HUMAN RIGHTS VIOLATIONS IN SYRIA

- In August 2004, Adnan Ali Afouf and Abdel Latif Chaker from Hresta Village were arrested.
- In August 2004, twenty-seven citizens were arrested, only seven were released.
- On 23 August 2004, the former judge Amer Al Kathib was arrested in Damascus.
- On 27 August 2004, Mr. Abdel Assalam Assaka (Homs-1959) was arrested. According to sources he didn't participate in any political or religious organization. Mr. Assaka and his family have been deprived of their passports and civil rights.
- On 9 September 2004, Mr. Samir Adam Rahal, an Iraqi citizen, was arrested without warrant arrest or charges, when he asked for a passport. Mr. Rahal was pursued by the Security Service for twenty years because of his participation in the communist party when he was a student.
- On 14 September 2004, Mr. Turki Al Hmaydan, an Iraqi citizen, was arrested with three Saudis in Damascus. One of them, called Ahmad Bin Saudi El Mitayr was arrested on 23 September 2004.
- On 15 September 2004, the Political Security Branch in Ain Al Arab City in the province of Aleppo arrested four Syrian Kurds after the events of March 2004.

The detainees are:

1. Amad Mohammad Bin Saleh (Mohammad Saleh Bin Mouslem's son, detained since 7 July 2004).
 2. Ismail Ez Eddine.
 3. Mohammad Moustapha Keno.
 4. Dalil Aybach Bin Nano.
- On 29 September 2004, Ahmad Haj Kassem and Ez Eddine were arrested. They were charged with having edited cassettes from the Arabic Broadcasting Channel, Al Jazira.
 - On 22 May 2005 the political security branch of Lattikya detained lawyer Mohammad Ra'adoun, the president of the Arabic Organisation of Human Rights in Syria. He was introduced before the Supreme State

HUMAN RIGHTS VIOLATIONS IN SYRIA

Security Court and charged with the offence of participation in an international organization and divulging false information.

- On 24 May 2005, many members of Jamal Al Ataasi forum were detained because one of its members, Ali Al Abdallah had made a speech during a conference concerning the Muslim Brotherhood. The detainees are: Sohair Al Atassi, Nahed Badawiya, Jihad Massouti, Hazem Nahar, Mohammad Mahfoud, Hussein Al Aoudat, Youssef Al Jahmani, Abdel Nasser Kahlous, and Ali Al Abdallah. They were all released on 30 May 2005, except for Mr. Ali Al Abdallah.
- On 26 May 2005, Hassan Dib was arrested without an arrest warrant or charges.
- On 29 May 2005, the security service detained Habib Saleh in his office in Tartous. He was a former detainee of Damascus Spring; the reason of detention is still unknown.
- On 4 June 2005, Sheikh Riyadh Drar was detained in Dayr El Zour after he made speech at the funeral of Sheikh Mohammad Ma'achouk al Khaznaoui in Qamichli. Drar is an activist for the Committee of the Renew of Civil Society and he is a member of the National Democratic Committee in Dayr El Zour.

Bail was generally not allowed to the detainees mentioned above and to those charged with state security offenses. Lawyers were also not allowed to communicate with their clients before the trial.

Many persons who have disappeared in past years were believed to be in long-term detention without charge or possibly to have died in detention. Many detainees brought to trial have been held incommunicado for years, and their trials often were unfair. Many criminal suspects were held in pre-trial detention for months and may have had their trials extended for additional months. Lengthy pretrial detention and protracted court proceedings were caused by a shortage of available courts and the absence of legal provisions for a speedy trial or plea-bargaining.

The Government continued threatening or detaining the relatives of detainees or of fugitives to obtain confessions, to minimize outside interference, or to prompt the fugitive's surrender. There were reports that security personnel forced prisoners to watch relatives being tortured in order to extract confessions.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The Government, through its security services, also threatened families or friends of detainees to ensure their silence, to force them to publicly disavow their relatives, or to force detainees into compliance. For example, the family of a human rights activist received numerous calls from security service personnel alleging misconduct and inappropriate social behavior by the activist. These calls continued during the year and became increasingly threatening.

The number of remaining political detainees is still unknown. About 800 political detainees are supposed to be held in Saydnaya prison, and hundreds of others are supposed to be held in other prisons. Estimates of detainees are difficult to confirm because the branches of the security services, which maintain their own prison facilities, hold a large number of prisoners, and because the Government did not verify publicly the number of detentions without charge. These prisoners are frequently held for extended periods of time without trial and without information given to their families.

Former prisoners are subject to a so-called “rights ban,” which, in the case of felony convictions, begins from the day of sentencing and lasts for 7 years after the expiration of the sentence. Persons subjected to this ban are not allowed to vote, run for office, or work in the public sector; they were also often denied passports. In practice, restrictions may continue beyond that period.

According to a source, there is no credible motive to arrest or to detain citizens such as those mentioned above. But the Secret Service had been putting pressure on the Sarja inhabitants for several reasons. They are sometimes detained because of a relationship with a detainee who has disappeared; because of opposition to the government; because of their beliefs; and because the authorities would like to force them to cooperate with the Secret Services against their relatives and fellow citizens.

Article 10 :

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate

HUMAN RIGHTS VIOLATIONS IN SYRIA

treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

In addition, many detainees are held in solitary confinement for long periods of time, which inflicts severe psychological suffering on the detainee due to sensory deprivation. Those held in solitary confinement have no contact with the outside world and no legal representation. Prisoners may be held for months or even years without their families being informed of their whereabouts. Conditions of detention are poor and do not meet international standards because of the lack of ventilation and natural light in cells. The food is of poor quality and detainees often suffer from health problems as a result of the conditions in which they are held.

Many detainees are held in cells where they can hear the screams of other detainees who are being tortured. Detainees are verbally degraded and insulted by prison guards and threatened with physical torture. Male detainees are often told that their wives, daughters or sisters will be arrested, tortured and raped.

The period in which the detainee is undergoing investigation is usually the most threatening and frightening period, when torture is often used and causes long-term psychological damage. However, solitary confinement may continue long after the ending of an investigation when the detainee is transferred to prison.

Prisoners arrested by security branches are held either in cells or in halls. The cells are often 1m-2m in size. Many cells are underground and therefore natural light and air are absent. Some cells do not even have artificial light. Cells are usually dirty.

In the halls, large numbers of prisoners are grouped together. Sometimes 175-210 detainees are held in a space no bigger than 42m² in size. Due to the lack of room, prisoners are forced to sleep in stages. Detainees sleep on

HUMAN RIGHTS VIOLATIONS IN SYRIA

their sides to use the least space possible. Others sleep standing up, waiting for their turn to sleep on their sides.

Due to the poor quality of food, detainees held in security branches often bribe officials to get extra nutritional supplements. Corruption is common among the security agencies.

Child concerns: Juvenile offenders' placement and deprivation of liberty

The use of alternatives to custodial sentences is rare and the conditions in detention centres for juveniles are often harsh.³²

According to the Syrian law, juveniles accused of having infringed upon the penal law could be detained before trial. If so, the pre-trial period should not exceed one month. During this period, juveniles should be held separately from adults. Nevertheless, strict limitations to pre-trial detention do not seem to be observed in practice and pre-trial detention of children can exceed several months in some cases.

Moreover, the Criminal Investigation Department and Security Services do not offer facilities for children. Juveniles between 15 and 18 years of age who committed felonies punishable by a term of more than three years' imprisonment were reportedly systematically held in adult prisons³³; several cases have been reported in 2004.

Juveniles subjected to the reform measures set forth in the Juvenile Delinquents Act should be placed in juvenile reform institutions. The duration of a juvenile's placement in a reform institution is set at a minimum of six months. In these institutions, juveniles should be supervised by social workers and receive training for a certain profession by trainers.

32 Concluding observations – 10.07.2003, UN Doc. CRC/C/15/Add.212, § 52.

33 Committees of the Defence of Democratic Liberties and Human Rights in Syria (CDF) reported the case of a 16-year-old juvenile sentenced to three years in prison in the North of Syria, who was held in an adult prison. It further stated that such practices are common. Three cases were reported by the U.S. Department of State in 2004: <http://www.state.gov/g/drl/rls/hrrpt/2004/41732.htm>

HUMAN RIGHTS VIOLATIONS IN SYRIA

Those who did not accomplish the primary stage of education are able to pursue their studies at schools established by the Ministry of Education in 1998. Older teenagers who have gone beyond the primary stage of education can attend local schools, if the terms of the legal judgement that has been handed down regarding them so permit. Otherwise, teachers or the institution's qualified staff members teach them in the institution.³⁴ However, because of the shortage of social workers, teachers and trainers, such training is not ensured for every juvenile.³⁵ Moreover, the staff working in reform institutions is insufficiently trained to take care of juveniles. Lastly, the issue of child labour in prisons remains a subject of concern. The practice of forced labour in prisons by minors seems to exist even if there is no documentation available to substantiate this claim.³⁶ Children were reportedly forced to take part in production activities, far from the formation activities in which they are supposed to be involved.

Juveniles between 15 and 18 years who committed felonies punishable by a term of more than 3 years imprisonment are placed in detention with adults and do not benefit from juvenile reform institutions.

Article 12 :

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

34 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §205-207.

35 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §208.

36 Concluding observations, 24.09.2001 UN Doc. E/C.12/1/Add.63, §18, Summary record, 884th meeting UN Doc. CRC/C/SR.884, §40 and according to CDF statements.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The Syrian Government forbids many of its citizens to leave the country. This violation of the right to liberty of movement is not based on legal text or judicial decision and it is communicated verbally.

This violation takes many forms, such as alerting the border police or dispatching the names of the people forbidden to leave the country.

The list of categories of people whose liberty to move depends on the authorities follows:

- Former political detainees;
- Defenders of Human Rights;
- Citizens that have no public activity;

CDF have established a list of the people forbidden to leave the country. Below are some of the people forbidden to leave the country:

- Mr. Haïtham Al Maleh, President of the Syrian Human Rights Committee.
- Mr. Mohammad Raadoun, President of Arabic Organization-Syrian Sector.
- Mr. Mahmoud Al Aryan member of general assembly of Human Rights Organization.
- Mr. Fateh Jamous, former political detainee.
- Mr. Abdel Karim Daoun and Mr. Daniel Saoud, members of CDF.

Moreover, after the fall of Baghdad, numerous Syrian residents in Iraq were detained with no justification and afterwards they disappeared:

1. Abdel El Hay Abou Khachaba, Omar Darwich, and Radwane Darwich, who lived in Iraq for 25 years.
2. Dr. Ahmad Mousalma, Akram Moussalma, Dr. Ahmad Abdo.
3. Thaër Hussein Al Cheikh Hassan (1981) and Mohammad Zaher Adibane, who had participated as volunteers in the Iraqi war.
4. Moussab al Hariri, and Yehya Arai who were accused of being members of the Muslim Brotherhood. Arai's wife was arrested on the 1 February 2004, when she returned after twenty years of exile in Iraq.

Article 14 :

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

HUMAN RIGHTS VIOLATIONS IN SYRIA

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

The jurisdiction of exception

The Constitution guarantees the independence of the judicial authorities (Article 131) and of the judges (Article 133), who are only bound by the law (Article 133). These provisions, amongst others may be seen as consistent with international human rights standards, however, these principles have a very limited impact as the above mentioned Article 153 of the Constitution states that laws entered into force prior to the Constitution remain valid until they have been amended to be compatible with the provisions of the Constitution.

HUMAN RIGHTS VIOLATIONS IN SYRIA

Amongst others, the laws still valid are those proclaiming:

- the State of Emergency (Military statement No. 2 of 8 March 1963), and establishing the jurisdictions of exception:
- Supreme State Security Court – SSSC (Decree No. 47 of 28 March 1968)
- Martial Field Courts (Decree No. 109 of 7 August 1968)

1. The Supreme State Security Court - SSSC

The Supreme State Security Court - SSSC was created by Decree No. 47 on 28 March 1968, in conformity with the Emergency Law, and amended by the Legislative Decree No. 79, October 2, 1972, and by the Legislative Decree No. 57, October 1, 1979, in accordance with the Decision No. 2 of February 25, 1966, of the temporary provincial leadership of the Ba'ath Party and with the Executive decision No. 47, March 20, 1968.

As mentioned above, the state of emergency is considered to be inconsistent with the Constitution.

Political detainees were charged, according to Decree No.6, 1965, Article 3, paragraph 11, on the offence of opposition to the objectives of the Revolution and organization of gatherings with the aim to spread disorder and destabilize the State security. This Decree is not valid because it was neither published nor adopted by the People's Council as is obligatory, and the people did not elect the party that promulgated it.

The Syrian Authorities are still adopting the principle of the State of Emergency. The SSSC looks into all cases transferred by the customary judge. It is exempted from the judicial proceeding rules; and the procedures of the SSSC fall short of international fair trial standards. Decisions taken by the Court are final and are not subject to appeal. Moreover defendants have no access to legal counsels or lawyers to assist them during the hearings which are usually held in private. Worst of all, SSSC refuses to address the question of torture alleged by detainees.

The SSSC is founded on the order of the Customary Judge on decision of the President of the Republic. SSSC's judges can be civilians or militaries.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The Supreme State Security Court is allowed to judge every citizen including parliament members and teenagers. It is also allowed to execute law No. 49 of 7 July 1980 that stipulates the death penalty for civilians involved in activities related to the Muslim Brotherhood. SSSC is competent to punish the following crimes:

- Crimes committed against State security.
- All acts considered as incompatible with the communist regime, by act, by writing or by any other instruments of expression.
- Crimes committed against legislative Decrees that are related to the communist reform.
- Infractions committed against the customary judge orders.
- Opposition to Arabic Countries' Unity or obstructing the targets of the Revolution through demonstrations with intention to make trouble and to incite disorder, or to divulgate wrong information on the Revolution goals.
- Giving or collecting money from a foreign State, in order to disturb the Revolution goals.
- Attack or violation of sacred places, military, governmental and commercial institutions, or public and private residences.
- The encouragement of confessional feuds, and the use of demonstrations to make trouble.

The President of the Republic may ratify, nullify, or alter the legal decisions of the Supreme Security Court.

The CDF have required the authorities to inform the relatives of the disappeared relatives about their situation. According to a source, the oldest political detainee still alive in the world is the Syrian officer Mr. Youssef al Zo'bi who has been reported missing in a secret Syrian jail for 34 years.

Below are the cases of some of the detainees introduced before the Supreme State Court in Syria in 2004:

- On 27 June 2004, the Supreme State Security Court in Damascus pronounced sentences against demonstrators of the Universal Day of the

HUMAN RIGHTS VIOLATIONS IN SYRIA

Child on 6 June, 2003, outside the UNICEF in Damascus. The arrested people are:

- Mr. Khaled Mohammad Ali (member of CDF), Mr. Mohammad Sharif, Mr. Mohammad Mustapha (lawyer), Mr. Hussein Ramadan, Mr. Huzane Mohammad Amine, Mr. Amer Murad, Mr. Salar Saleh, Mr. Massoud Ahmad Hamed, Mr. Farhat Ali and Mr. Mohammad Annassan.

They were charged with participation in a secret association which gives part of the Syrian territory to foreign States. They were condemned to up to 3 years of imprisonment.

- Mr. Kawa Mohammad Hanan (Kurd) was condemned for 4 years. The reason of his condemnation is still unknown.
- Mr. Ismail Oussi (Kurdish Democratic Union Party) is still held without charge.
- On 8 August, 2004, the young Mossab Al Hariri (12 years old) was brought before the Exceptional Jurisdiction. But his proceedings were postponed until October 2004. The Syrian authorities had been detaining Al Hariri and his mother for two years and a half, since they came back from Saudi Arabia where they had been living for twenty years. Al Hariri has never acted against Syrian authorities but his father is an opponent of the Syrian regime.
- On 16 August, 2004, The Exceptional Court released Mr. Aktham Naissa (president of CDF) on bail of L.S. 10.000. Mr. Naissa was charged with opposing the Revolution's goals, founding an international secret association and divulging wrong information.
- On 18 August, 2004, and on the base of the Kamahi's events (March 2004), the Court of Minor (related to Exceptional Jurisdiction?) in Aleppo has charged Issam Said Ghazal, Chiar Bayram, Roukouch Bello, Aref Chaïkho, Adham Mustapha, and Kawa Ahmad with offending the national flag and also offending the President of the Republic, participating in associations in order to divide Syrian people, making trouble and obstructing authorities to exercise their functions. During the trial, the judge eliminated the first four accusations and kept the last one. The young men were sentenced with seven years of

HUMAN RIGHTS VIOLATIONS IN SYRIA

detention according to art. 296, paragraph (a) of the Penal Code, which reads:

“The following are condemned to seven years of prison: a- anyone who violates political or civil authority or military leadership”

The young men denied the accusations and alleged that they were forced to confess by violence, under torture and degrading treatment.

- On 26 September, 2004, the Exceptional Jurisdiction charged Mr. Mohannad Addebs and Mr. Mohammad Arab on the grounds of being opposed to the Revolution's Goals and divulging wrong information with the aim of disturbance after their sit-in on the campus. In fact, the students were both opposed to Decree No. 6 issued in 2004, which ordains to stop the engagement of the government from recruiting new engineers according to article 2 of the Law No. 49, 1974, and to article 1 of the legislative Decree No. 1, 1965.

The students rejected both the accusations and stated that the purpose of their act was to reinforce the role of the National Union for Syrian Students so as to defend the student's interests. Most of the students were expelled from the university because they were opposed to this Decree. The Exceptional Jurisdiction postponed the trial until October 31st, 2004.

- Mr. Mahmoud Annabhan has been detained for one year because he is a member of the Muslim Brotherhood. He was condemned to death with reduction of the sentence to 12 years in prison.
- Mr. Ibrahim Hamidi (reporter for *Al Hayat newspaper* in Damascus) is still waiting for a trial. He was accused for divulging wrong information.
- On 12 December 2004, the SSSC condemned Mr. Abd El Hay Aboud, Mohammad Aboud, Maged Eddine Aboud, and Said El Aboud, to prison for 4 to 14 years because their brother was still running from Syrian authorities in Afghanistan. Syrian Secret Services considered them to be hostages. Furthermore, Mr. Mohamed al Omar and Kotayba Hammoud were detained because their colleague is a fugitive that authorities are looking for.

2. Military Courts

Created by Law No. 109 of 1968, the Court-Martial examines the cases related to members of the military. It tries the cases of deserters and soldiers who disobey orders. The judges in the Court-Martial are military officers. According to the Emergency Law, the customary judge has expended its competences to looking into the civil proceedings. The Court-Martial became famous in the 1980's when it executed the death penalty on thousands of members of the Muslim Brotherhood. Some activists were detained and introduced before the Martial Court following a peaceful demonstration against American targeting of Iraq. The fate of several detainees is still uncertain, amongst them: Abdel Akram Assaka, Yehya Al Charabji, Tarek Al Charabji, Ahmad Kraytem, Haïtham Al Hamaoui, Hassan Al Kurdi, Bachr Maadamani, Moutaz Murad, Mohammad Chehada, Mohammad Ali Mouhafez, and Mustapha Abou Zeid.

Here are cases that the judge has transferred to the Military Court:

- The trial of the lawyer Haytham El Maleh for printing a political newspaper "*Attayarat magazin*".
- The trial of 14 activists after their participation in a conference in Aleppo.
- The trial of Mr. Marwan and Mr.Hassan Saleh for participating in a demonstration outside the People's Council.
- On 1 June 2004 the two writers, Mr. Abdel Razzak Eid and Mr. Baker Soudki were introduced before the Military Judge. According to the CDF, both writers were arrested because they testified in favor of 14 detainees during a trial before the Military Court in Aleppo.

Child concerns: description of the juvenile justice system in Syria

Criminal responsibility of juveniles

According to the Juveniles Act, the minimum age for criminal responsibility is 15 (art. 29).³⁷ The Juvenile Delinquents Act No. 18 of 20 March 1974 divides juveniles into the following distinct categories:

The first category refers to children who are incapable of discernment, meaning children who have not attained the age of 7 years and whom the law regards as being entirely absolved of responsibility for any act or offence, which they commit. Children under this age cannot be tried, prosecuted, arrested or interrogated, nor can general proceedings be taken against them.

The second category refers to minors from 7 to 15 years of age. According to the Juvenile Act, they cannot be sentenced to penalties for acts committed, but may be subject to special reform measures, the purpose of which is to provide for the welfare and reform of the child and ensure that he or she is safely reintegrated into society upon release. However, in practice, children between 7 and 15 years who commit an offence may be subject to harsh sentences, although not necessarily to imprisonment. Moreover, some behaviour of children such as begging is criminalized as a status offence.

The third category refers to adolescents who are between 15 and 18 years. Penalties are applied to these juveniles only in one case, namely where they perpetrate a legally designated criminal offence. The penalties are lighter than those imposed on adults who commit the same offence. For example, where the crime committed by the juvenile would attract a penalty of death if committed by an adult, that penalty is replaced by a term of six years of imprisonment. This penalty cannot be increased to more than 12 years, even if there are aggravating circumstances (article 29 of the Juvenile Delinquents Act No. 18 of 1974). Thus, in law, a person who committed a crime before the age of 18 cannot be sentenced to death

37 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, § 199.

nor life imprisonment. If a juvenile over the age of 15 years commits a contravention or a misdemeanour, he or she is not liable to penalties, but only to reform measures.³⁸

Juvenile courts

Under Syrian law, juveniles over 7 but under 18 years of age can be prosecuted for any felonies, misdemeanours or contraventions that they commit. They are tried solely before special courts known as “juvenile courts”, which are vested with independent and absolute jurisdiction in this regard.

Article 31 of the Juvenile Delinquents Act No. 18 of 1974 stipulates that “juvenile courts” shall take the following forms:

- “(i) Full-time and part-time district courts competent to hear cases involving felonies or misdemeanours punishable by a term of more than one year’s imprisonment.
- (ii) Summary courts, presided over by a justice of the peace, competent to adjudicate, in their capacity as juvenile courts, in cases involving other types of misdemeanours and contraventions.”

Article 32 of the Juvenile Delinquents Act No. 18 of 1974 stipulates that:

“(a) The full-time and part-time district juvenile courts shall consist of a presiding judge, two members holding the higher diploma who shall be selected by the Minister of Justice and two alternate members who shall be civil servants nominated by the Ministry of Higher Education, the Ministry of Social Affairs and Labour and the Women’s Federation and who shall be appointed under the terms of a Decree based on a proposal by the Minister of Justice.

(b) The regular and alternate members of the juvenile courts shall be appointed for a renewable two-year term of office, on the expiration of which they shall continue to exercise their functions until a further Decree is promulgated.

38 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, § 200.

HUMAN RIGHTS VIOLATIONS IN SYRIA

(c) Hearings of the district juvenile court shall be attended by a representative of the Department of Public Prosecutions.”

Article 33 of the Juvenile Delinquents Act No. 18 of 1974 reads as follows:

“A special division of the Court of Cassation shall be established to hear juvenile cases.

According to article 34:

“Judges appointed to the juvenile courts shall be selected on the basis of their experience of juvenile affairs, regardless of their rank or grade in the judicial hierarchy.”

Article 37 of the Juvenile Delinquents Act No. 18 of 1974 stipulates as follows:

“Within its territorial jurisdiction, the juvenile court shall hear:

- (a) Offences committed by juveniles.
- (b) The cases referred to in article 27 of this Act if it is established, at the request of the Department of Public Prosecutions, the Ministry of Social Affairs and Labour or a probation officer, that the juvenile has no one to care for him or that he was neglected by the persons legally responsible for him.
- (c) Offences involving the abandonment or neglect of children.”³⁹

The judgements handed down by the juvenile courts are final and the court may pass summary judgements if they are in the best interests of the juvenile. Its judgments are subject to appeal by the guardian or tutor of the juvenile or by the person in whose custody the juvenile is placed. Appeals against judgements handed down by district juvenile courts are lodged with the Court of Cassation, while those handed down by a single juvenile judge are lodged with a Court of Appeal (art. 50 of the Juvenile Delinquents Act).⁴⁰

Judgements handed down against juveniles are not entered in the judicial register and, consequently, juveniles cannot be sentenced on the basis of

39 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §225-229.

40 State Party report – 18.10.2002, UN Doc. CRC/C/93/ Add.2, §252.

their past record (repeated offenders), nor are they liable to ancillary or additional penalties (art. 58 of the Juvenile Delinquents Act).⁴¹

The presence of an advocate is obligatory only in legal proceedings against minors over the age of 15 years accused of committing a felony. If the juvenile is poor or the guardian or tutor has failed to appoint a lawyer for him or her, the court defers the hearing of the juvenile until a defence counsel has been appointed to him or her in cooperation with the Bar Association⁴². In other cases, the presence of an advocate is not required and usually advocates do not assist children during the legal proceeding.

Children subjected to torture or to other cruel, inhuman or degrading treatment or punishment, have the right to file a complaint on their own behalf with the magistrate in every governorate designated to monitor the implementation of the CRC (as appointed by the Ministry of Justice) or directly with the Department of Public Prosecutions, where he or she is wrongly subjected to a criminal penalty. In cases where compensation for damages is sought, the child's legal guardian or tutor must bring a case.⁴³

Sentencing of juveniles

As previously mentioned (section 2.1.1. of Part III), according to the Syrian law, juveniles are not subject to the same penalties if they are under or over 15 years of age. Before the age of 15 they cannot be sentenced to any penalty, being liable only to a penalty of confinement in a juvenile reform institution (article 30 of the Juveniles Act No. 18 of 1974, as amended most recently by Legislative Decree No. 52 of 1 September 2003)⁴⁴. The same applies to misdemeanors committed by juveniles between 15 and 18 years of age.⁴⁵

According to the Juvenile Delinquents Act, juveniles over 15 years of age who commit felonies punishable by a term of more than 3 years

41 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §253.

42 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §203.

43 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §202.

44 State Party report – 19/10/2004, UN Doc. CCPR/C/SYR/2004/3, §126.

45 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §249.

HUMAN RIGHTS VIOLATIONS IN SYRIA

imprisonment are subject to the following penalties (art. 29 of the Act): a term of imprisonment with compulsory labour for 6 to 12 years if the offence constitutes a felony punishable by death; a term of imprisonment with compulsory labour for 5 to 10 years if the offence constitutes a felony punishable by hard labour for life or life imprisonment; a term of imprisonment with compulsory labour for 1 to 5 years if the offence constitutes a felony punishable by a term of hard labour or imprisonment.⁴⁶

Article 19 :

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

According to the State report, laws and regulations on education in Syria guarantee the freedom of expression at schools and universities. This right is enjoyed by both students and teachers who have the freedom to seek, receive and impart information and ideas of all kinds. The exercise of this freedom is subject only to those restrictions provided for in the law and which are necessary for respect of the rights or reputations of others; or for the protection of National security, of public order or of public health or morals.⁴⁷

46 State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2, §250.

47 See Third State party report, 19 Oct. 2004, p. 72, UN Doc. CCPR/C/SYR/2004/3.

HUMAN RIGHTS VIOLATIONS IN SYRIA

In reality however, there are approximately one million Syrians in exile because of their opinion. Moreover, we estimate that there are about 350 political detainees in Syrian compounds, of which two hundred and four are Kurds detained in Adra and Saydnaya compounds. For example, Dr. Abed El Aziz Al Khayr who is a communist, has been sentenced to twenty-two years in jail.

On 1 February 2004, The CDF organized a petition requiring Syrian authority to cancel the State of Emergency and to release all political detainees and prisoners of conscience. It also called authorities to give the nationality to Syrian Kurds. But on 8 March 2004, following a peaceful demonstration carried out by the CDF, outside the People's Council, the CDF's members were arrested and beaten. Then, on 15 March, the Military Judge detained both members of CDF, Mr. Ahmad Khazem and Mr. Hassan Warfa. Their detention lasted 55 days with ill-treatment.

On 14 March 2004, Mr. Aktham Naissa (CDF President) was arrested for several hours.

On 15 April, Mr. Akhtam Naisse was kidnapped and detained in the military branch of the Lazikya province. He was accused of diffusing press releases and leaflets against the State Security. In fact, the cause of his detention was that Mr. Akhtam Naisse led the demonstration outside the People's Council. Another member, Mr. Abdel Karim Da'oun was detained in Hama for two months where he was accused of falsification. After his liberation he was dismissed from his job. The lawyer Mustapha Suleiman was transferred to a Behavioral Court in Aleppo because the CDF organized a meeting in his office. The judicial proceeding is still ongoing.

On 17 May 2004, the Secret Service in Aleppo arrested Mr. Fares Temmo, a Law student. They did not allow him to inform his parents. According to CDF, he was charged with offences related to his use of the Internet where he drew caricatures.

On 13 September 2004, some members from Political Security Branch (PSB) attacked Hassan Abdel Halim Assafadi's residence and violently inspected it. They pretended that Assafadi possessed arms, and they detained him. In fact, the PSB summoned Assafadi because of his articles that criticized the current regime and that were published in many Syrian newspapers (*Annour, Al Ourouba, Koulouna chouraka*) and also on the Internet. Assafadi had considered that he had the right to refuse the order of the SS because he considered it to be illegal.

HUMAN RIGHTS VIOLATIONS IN SYRIA

On 30 September 2004, Mr. Nabil Fayad was arrested in his pharmacy. He was accused of founding the liberal assembly that invited to create a new constitution that would establish justice for all citizens without discrimination. Under the pressure of the authorities, the assembly was dissolved on 7 October 2004.

Mr. Nidale Darwich was arrested because of his participation in a CDF organized cultural meeting, in December 2004.

The State of Emergency and the customary rules declared on 8 March 1963 and still in force today, systematically violate the right to association. The foundation of forums, clubs or saloons is submitted to difficult conditions. All the clubs founded after Bachar Al Assad's election were closed. Every peaceful gathering assembly, even a marriage party in public places, must obtain the agreement of authorities beforehand.

Regarding the right of demonstration, many peaceful gatherings that were not authorized in 2004 are mentioned below:

- On 28 January 2004, students of University of Aleppo were arrested while they demonstrated against the arrests of several students because they claimed to reinforce the role of National Union of Syrian Students and to consider it to be an independent organization not linked to the Government.
- During the celebration of the International Women's Day, Security Forces (SF) attacked a Syrian Kurdish party and beat a Kurdish young girl, after which Kurdish men entered into a conflict with the SF. Many people were arrested and tortured.
- On 12 June 2004, the SF dispersed a manifestation on the Political Detainee day and arrested some participants.
- On 9 December 2004, the Security Authorities forbade a peaceful demonstration on the Human Rights Day. Some of the demonstrators were arrested.

The following are examples of violations of freedom of expression which took place during 2004:

- Journalists Mr. Yassine Haj Saleh, Mr. Radwan Jawdat Ziyada and Mr. Shabane Aboud (reporter in Syria for the Lebanese newspaper

HUMAN RIGHTS VIOLATIONS IN SYRIA

Annahar) were arrested because they published articles in foreign newspapers.

- On 25 July 2004, three young men, Mr. Haitham Kutaych, Mr. Mohannad Koutaych, and Mr. Yehya Al Aous, were condemned for using the Internet; they were sentenced to prison from 2 to 4 years.
- On 30 September 2004, the writer Mr. Nabil Fayad was detained for 33 days without warrant of arrest or charges.
- On 2 October the Security Service (S.S.) arrested the writer, Mr. Jihad Nassra. Four days later the S.S. released him after checking his writings.
- Mr. Masoud Hamid (a Kurd) is still detained incommunicado in “Adra” prison. He was tortured and / or ill-treated and sentenced to five years’ imprisonment because he published on the website (www.amude.com) photos of Human Rights demonstrations in Syria.
- The Department of Education in Syria sent an alert letter threatening to punish Doctor Ahmad Kadouri because he declared to the Governmental Ba’ath Newspaper that the situation of the dispensary of Boukamal School was very bad and that vaccines and medicines were missing.

Article 21 :

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

The State Report affirmed that Syrian law does not restrict the exercise of the right to peaceful assembly, except where necessary in order to protect public safety, national security, public order, the rights of others, public health or public morals. In Syria, the right of peaceful assembly is denied if the demonstration in question is likely to become riotous and disturb public peace. The law imposes punishments for this type of demonstration and assembly.

HUMAN RIGHTS VIOLATIONS IN SYRIA

Article 335 of the Syrian Penal Code prescribes the following penalty for participation in a riotous demonstration:

“Anyone who, while participating in an assemblage which is not of a private nature given its aim or purpose, the number of persons invited thereto or participating therein, the location at which it is held or the fact that it is held in a public place or at a location which is open to the public or exposed to public view, shouts or chants riotous slogans, displays an emblem likely to disrupt security or engages in any other form of disorderly conduct shall be liable to a penalty of detention for a term of six months to one year and a fine of LS 100”.

On 13 and 14 March 2004, fifteen students demonstrated against the police attitude during the last Qamchli events. Immediately afterwards, these students were expelled from university, others were detained, tortured and caused to suffer because of ill-treatment. Most of them were released a few days later.

On 14 March 2004, Mr. Ahmad Khazem (CDF member) was arrested in his work office because of his participation in the demonstration on 8 March 2004. In the evening of the same day, Mr. Hasan Watfa (CDF member) was arrested in his home. They both disappeared for 55 days. They were detained in Damascus, in a Military Security-Palestine Division.

Article 22 :

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

HUMAN RIGHTS VIOLATIONS IN SYRIA

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Most of the political detainees are still in detention because of their beliefs and religion.

- On 23 April 2004, twenty-seven members of Al Salafi movement in Altayba city in Damascus were also arrested.
- On 11 May 2004, Mr. Fayek El Mir (leader of the communist party) was arrested in the Political Security Branch in Lattikiya because they found with him the political newspaper “Al Ray”. He was released two days later. Immediately afterwards, Mr. Mohammad Jouma Koubane ,who was detained for fifteen years because he was a member of the Democratic Ba’ath Party, was detained for the second time for one month, for having he called Mr. El Mir.
- On 2 July 2004, Syrian authorities surrounded the region of Katna and arrested many citizens: Sari Mouhyi Eddine, Ayham Ahmad Oumran, Fadi Mouhammad Abd al Ghani, Oussama Ahmad Attiya, Hassan Dib Ezzeyn, Rami Ahmad Arafa, Edgar Boundagji, Archid Achaykh, Yehya Boundagji, Tarek Naddim Chehada, Anwar Badr Eddine, Ibrahim Sabboura, Kassem Boundagji, Ahmad Echaykh, Oumar Nader, and Sari Nader.
- Mr. Mohammad Ahamd Al Raii from Chayzar town was detained on 8 July 2004, because of his religion (salafi). The day after his detention, the security forces expropriated some of his properties.
- On 19 September 2004, Mr. Abdel Nasser Al Hamidi, a mathematics teacher in Akhtarine school in Aleppo was arrested at his residence in Mazrat al Mala village. According to a source, the motive for the arrest was his participation in a radical Islamic movement, and because he possessed important files.
- On 13 September 2004, six girls, members of the Union Democratic Party, were arrested in their residence. They were :

HUMAN RIGHTS VIOLATIONS IN SYRIA

- 1-Hasna Abdi Mahmoud, 1974, from Dayrik (nickname Amal)
- 2-Lamaa Hassan, from Karih Rich (nickname Jiane Dayrik)
- 3-Amina Ibarahim Ibrahim, 1970, from Kamichkli (nickname Haboun)
- 4-Nanada Jamil, from Kamichli (nickname Mazkine)
- 5-Nourouz Magid Ali Bard, 1974 from Hasaka
- 6- Noufous Jarkas (Nickname -Dilane)

Article 24 :

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Child concerns: child labour

Syria ratified ILO Convention No. 138 concerning minimum age for admission to employment as well as ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour.⁴⁸ Syria amended in December 2000 the 1959 Labour Code to increase the minimum age for admission to employment from 12 to 15 years for non-agricultural labour, and from 16 to 18 years for heavy work. In all cases, parental permission is required for children under the age of 16. The law prohibits children from working at night. The Minister of Social Affairs and Labour has the power to prevent young persons under the age of 16 years from being employed in certain industries specified under the terms of a decision issued by him and also to

48 Syria ratified Convention No. 138 on September 18, 2001 and Convention 182 on 22 May 2003.

prohibit the employment of minors who have not yet reached the age of 18 years in other industries.

However, all these laws apply only to children who work for a salary. They do not extend protection, including effective inspections, to children engaged in work in the informal sector (i.e. family-owned enterprises, agriculture), precisely where much child work is concentrated and which in many cases involves hazardous conditions. The amendments to the 1958 Agricultural Relations Act, proposed in 2002, do not adequately address these concerns.⁴⁹ Moreover, numerous children work daily, without security, in the building industry and highway infrastructure, in the private as well as the public sector. Overall, the economical crisis and the high ratio of children and young people in the total population of Syria constitute a major challenge to the elimination of child labour⁵⁰.

Independent information and audits regarding government enforcement are not available. Moreover, even if the Labour Inspection Department performs unannounced spot checks of employers on a daily basis to enforce the law, the scope of these checks is unknown.⁵¹ In a 2002 study, UNICEF found that 18 percent of children under the age of 18 participated in the labour force.

Discrimination regarding the acquisition of the Syrian nationality

Syria stated in its Initial State Report to the CRC that “the law protects Syrian and all other children residing in the territory of the State, regardless of race, origin, religion or nationality and without any discrimination

49 According to the State Party Report submitted by Syria in 2002, a Bill has been submitted to amend the provisions of articles 38, 47, 48, 49, 50 and 56 of the Agricultural Relations Act No. 134 of 1958. Following these amendments, a seasonal agricultural worker must be at least 18 years old, unless he or she is employed as a shepherd or performs light work. In this case the child can be between 13 and 15 years of age. The amendment does not make it illegal to employ a child under the age of 13 years in agricultural work on a family holding which does not employ labourers from outside the family. This Bill was not yet enacted.

Cf. State Party report – 18.10.2002, UN Doc. CRC/C/93/Add.2.

50 8 million of the 17.4 million population is under 18.

51 <http://www.state.gov/g/drl/rls/hrrpt/2001/nea/8298.htm>

HUMAN RIGHTS VIOLATIONS IN SYRIA

between them”⁵². However, serious discrimination exists concerning the right of children to the Syrian citizenship in violation of article 24. 2 and 3 ICCPR and articles 2 and 7 of the CRC, requiring that all children within the State party’s jurisdiction have the right to be registered and acquire a nationality, irrespective of the child’s or his or her parents’ or legal guardians’ sex, race, religion or ethnic origin.

Article 3 of the Syrian Nationality Act No. 276 of 1969 does not automatically grant citizenship to children of Syrian women married to non-nationals as it does where the father is Syrian.⁵³ Moreover citizenship is not granted to children belonging to the Kurdish minority.

Article 26 :

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Child concern:

Girls: education and marriage

Although Syria has made some progress concerning gender parity, especially towards achieving gender parity in primary and secondary education, discrimination against female children still exists throughout the Syrian society. Numerous female children do not have access to education.⁵⁴ Even though the problem of girl dropouts is now recognized as a priority concern by the Syrian State, no large-scale decision was made

⁵² State Party Report – 14/02/96 UN Doc. CRC/C/28/Add.2, § 275.

⁵³ Concluding Observations – 23.10.2003 UN Doc. CRC/C/132, §558.

⁵⁴ Unicef, Info by country, Syrian Arab Republic, Statistics, online, http://www.unicef.org/infobycountry/syria_statistics.html

HUMAN RIGHTS VIOLATIONS IN SYRIA

in this field.⁵⁵ The Bill that should provide for the infliction of higher penalties on any person who infringes the provisions of the Compulsory Education Act, announced in the 2002 State Party Report, was reportedly not enacted⁵⁶. In addition, the minimum age of marriage for girls is 17, whereas that of boys is 18, a difference that is discriminatory and contrary to article 2 of the Convention on the Rights of the Child. Moreover, numerous cases of early marriage exist.⁵⁷

Article 27 :

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

There are five nationalities in Syria: Arabic, Kurdish, Assyrian, Armenian, and Turkish. Kurds are still persecuted and they are deprived of the Syrian nationality.

- **The first category** is recorded in the official registers as foreign people. Kurdish Citizens possess a red identity card that does not allow them to obtain a passport, and to leave the country.
- **The second category** is not recorded in official registers because the mother is Syrian and the father is Kurdish: they are considered unknowns. They possess a yellow identity card that doesn't allow them to have rights as citizens.

55 Unicef, Info by country, Syrian Arab Republic, online, <http://www.unicef.org/infobycountry/syria.html>.

"In spite of the efforts made to enforce the provisions of the Compulsory Education Act, a number of children of compulsory school age, particularly female children, are still not being enrolled in, or drop out of school, for social, economic or cultural reasons", State Party report – 18.10.2002 CRC/C/93/Add.2, §31

56 State Party report – 18.10.2002 UN Doc. CRC/C/93/Add.2, §31.

57 Concluding Observations – 23.10.2003 UN Doc. CRC/C/132, §549. Legal age for marriage is 18 unless parents consent to marriage for children under 18.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The violation of these rights has harsh consequences on the Kurd's health since they are not allowed to be hospitalized in the military and public hospitals. Furthermore, the Kurds of the first category can study, but they are not allowed to practice their profession. The Kurds of the second category are not allowed to continue studying after the age of 15. Kurds are not allowed to possess real estates or properties.

Child concerns: discrimination against Kurdish children

The treatment of children of Syria-born Kurds, the largest non-Arab ethnic minority in Syria, is discriminatory concerning the right to a nationality.⁵⁸ Children of Syrian-born Kurds remain stateless, which is contrary to the articles 24 of the ICCPR, 2 and 7 of the CRC.⁵⁹

Children of Syrian-born Kurds do not have birth certificates and, as a result, are unable to obtain passports, or even identification cards. Syrian-born Kurds' parents encounter difficulties in enrolling their children in school. This stateless status threatens the future of these children. Without the Syrian nationality, they are unable to own land and are not permitted to practice as doctors or engineers or be employed by the Government. They are, also, ineligible for admission to public hospitals, have no right to vote, and cannot travel to and from the country.⁶⁰

58 It comprises about 8.5 to 10 percent of the population.

59 List of issues – 07.02.2003 UN Doc. CRC/C/Q/SYR/2.

60 <http://web.amnesty.org/library/index/engmde240022005>

Recommendations

CDF and OMCT recommend that:

1. The State authorities should ensure the implementation of the recommendations already adopted by international and regional human rights treaty bodies.
2. The government should ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, with the aim of abolishing the death penalty.
3. The State authorities should formally lift as soon as possible the state of emergency and related laws and Decrees.
4. The State authorities should ensure that administrative inquiries and legal actions with regard to the disappearance of political detainees are carried out.
5. The State authorities should amend its legislation and especially Article 391 of the Criminal Code in order to be fully consistent with Article 1 of the CAT.
6. The State authorities should ensure prompt, impartial and full investigations into all allegations of torture and ill-treatment, and establish an independent body with the authority to receive and investigate all complaints of torture and other ill-treatment by officials.
7. The government should take all necessary measures to eliminate impunity for public officials responsible for torture and cruel, inhuman or degrading treatment.
8. The government should take measures to ensure the right of victims of torture to fair and adequate compensation, and establish programmes for their physical and mental rehabilitation.
9. Incommunicado and arbitrary detentions remain a current practice in Syria which should be immediately stopped and all political detainees should be released.
10. The Criminal Procedure Code should be reviewed to bring it into line with international norms and standards. The right of detainees to be

HUMAN RIGHTS VIOLATIONS IN SYRIA

examined by a doctor of their choice and to demand certification by a qualified forensic practitioner of their own preference if they suffer injuries should be legislatively secured.

11. The procedures of the Supreme State Security Court - SSSC should formally be consistent with the ICCPR and especially Art 9 and 14. The right to defense and particularly the right to appeal and the assistance of a legal counsel should be ensured.
12. The State authorities should ensure that the minorities and especially the Kurdish minorities are not subject to racial discrimination. The Syrian nationality should be given to all Syrian citizens including members of the Kurdish minorities.
13. The State authorities should allow all Syrian citizens in exile to return to Syria without conditions, such as a visa requirement.
14. The State authorities should ensure that the right to freedom of association is fully consistent with the ICCPR, especially with regard to civil associations, trade unions and political parties.
15. The State authorities should be devoted to improving law enforcement training, and standards of professional ethics expected to be followed by the police should be set up. Professional training in theory and practice should include the heightening of awareness of human rights as well as courses specifically on human rights. Such training should be offered to both police and other law enforcement officers.

HUMAN RIGHTS VIOLATIONS IN SYRIA

HUMAN RIGHTS COMMITTEE

EIGHTY-FOURTH SESSION

11-29 JULY 2005

**CONSIDERATION OF REPORTS SUBMITTED
BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH
THE CONSIDERATION OF THE THIRD PERIODIC REPORT
OF SYRIAN ARAB REPUBLIC
(CCPR/C/SYR/2004/3)**

HUMAN RIGHTS VIOLATIONS IN SYRIA

1. Please provide precise and detailed examples of cases, if any, in which provisions of the Covenant were directly invoked before the courts, and with what results.
2. Please elaborate on the implementation in practice of the right to an effective remedy. What steps have been taken to ensure that victims have access to effective and enforceable remedies?
3. Please provide details of the cases in which administrative tribunals have revoked decisions by the martial law administrator after appeals from the affected citizens (paragraph 69 (6) of the report and CCPR/CO/71/SYR/ Add.1, para. 7).
4. Please elaborate on the activities, existing and proposed, of the newly established National Committee for International Humanitarian Law established pursuant to decision No. 2989 of 2 June 2004, as well as on its composition, human rights law-related functions and its budget. Is there an independent body responsible for ensuring respect for human rights?

Counter-terrorism measures and respect of Covenant guarantees

5. Please address the compatibility with the Covenant of counter-terrorism measures taken by the State party, including those reported pursuant to Security Council resolution 1373 (2001) (see S/2001/1204, S/2002/1046 and S/2003/725).

State of emergency (art. 4)

6. Please provide detailed and precise information on the conditions for proclaiming a state of emergency. With reference to paragraph 68 of the report, please clarify whether there has been any derogation of Covenant rights and if so, please indicate which rights and the scope of the derogation. Has the State party notified other States parties, through the intermediary of the Secretary-General of the United Nations, of this/these derogation(s), in accordance with article 4 (3) of the Covenant; if so, when? How is compliance with article 4 of the Covenant, read in the light of the Committee's general comment No. 29, secured? Please

HUMAN RIGHTS VIOLATIONS IN SYRIA

provide details of the cases in which the Emergency Act has been applied (para. 67).

Non-discrimination and equality between sexes (arts. 2 (1), 3, 24 and 26)

7. What measures have been taken or are foreseen to enhance the participation of women in public life, particularly in the political area and public service? Please provide further information and statistical data on the status of women in the economic sector, especially in senior positions.
8. What measures has the State party adopted to guarantee equal treatment of men and women and to provide legal remedies in cases of discrimination against women? What steps have been taken by the State party to bring its legislation into line with articles 2, paragraph 1, 3 and 26 of the Covenant, in particular regarding certain provisions of the Personal Status Act about the rights of spouses in relation to marriage, divorce and custody of children? Please explain how the State party's legislation, which provides for reduced sentences in "honour crimes", complies with the provisions of the Covenant.
9. Please describe the measures, existing and proposed, to combat and eliminate violence against women, including domestic violence, by appropriate legislation. What measures have been taken to increase public awareness of these issues and of the assistance available to victims?
10. Please indicate the current status of the proposed amendment to the Nationality Code, which would grant Syrian nationality to the children of a Syrian woman who is married to a non-Syrian man (paragraph 367 of the report). What measures, if any, have been taken to address the issue of the statelessness of numerous Kurds in Syria and to allow Kurdish children born in Syria to acquire Syrian nationality (concluding observations of March 2001, paragraph 27).

HUMAN RIGHTS VIOLATIONS IN SYRIA**Right to life; prohibition of torture; right to liberty and security of the person; treatment of detainees (arts. 6, 7, 9 and 10)**

11. With reference to the death penalty referred to in paragraphs 92 and 93 of the report, please provide detailed statistics on the number of death sentences pronounced in the past five years, the number and identity of the persons sentenced to death, the grounds for their sentences, the number of persons whose sentences have been commuted, the number of persons awaiting execution, and the number and identity of the persons executed and the dates of execution. Has the State party taken any steps to reduce the number of offences punishable by death and to bring its legislation into line with article 6 (2) of the Covenant?
12. Please provide information on the measures that the State party has taken to implement the conclusions and recommendations of the Human Rights Committee of March 2001 with regard to allegations of extrajudicial executions, disappearances, torture, acts of cruel, inhuman or degrading treatment or punishment by law enforcement personnel and arbitrary detention.
13. Please provide information on steps taken to establish an independent commission of inquiry on the alleged disappearances of Syrian nationals and Lebanese nationals arrested in Lebanon by Syrian forces, then transferred to Syria (concluding observations of March 2001, paragraph 10).
14. Have prompt, impartial and full investigations been conducted into allegations of article 7 by law enforcement personnel and, in the affirmative, have the perpetrators been prosecuted and punished? Has compensation been awarded to victims or their families? Please provide precise examples.
15. Are procedures in place to pursue complaints of criminal conduct against members of the police and prison guards and to obtain compensation when such claims are upheld? Please provide statistics on the number of such cases that have been brought, details of any such cases and their results (para. 104). Has the State party established an independent mechanism for the investigation of complaints?
16. Please provide information on the number of claims received from accused persons to the effect that their confessions were made under duress, the number of investigations carried out into such claims and the results of such investigations (para. 105).

HUMAN RIGHTS VIOLATIONS IN SYRIA

17. What measures have been taken to improve prison conditions and to investigate deaths in custody? Please provide information on any investigations carried out into those deaths. Please provide statistics on the number of prisoners, disaggregated by age, sex, and type of offence committed.
18. Please provide detailed information on the practice of police custody and pre-trial detention, and explain what measures have been taken to ensure that the rights recognized in article 9 are guaranteed in practice. Detailed statistics on the number of people held in pre-trial detention and on the duration of and reasons for such detention should be provided.

Freedom of movement (art. 12)

19. Please specify in what circumstances restrictions may be imposed on the right to leave the country. Please comment on allegations that individuals have been prevented from leaving the country. Also please describe any measures taken to address the Committee's concern expressed in paragraph 21 of the concluding observations of March 2001.
20. What procedures are in place to ensure that aliens, before their expulsion, enjoy the safeguards and an effective remedy, in conformity with article 13 of the Covenant?

Right to a fair trial (art. 14)

21. What measures are in place to ensure the independence and impartiality of the judiciary and security of tenure of judges?
22. Please explain the operation of the Field Military Courts and the Supreme State Security Court, the compatibility of their procedures with article 14, and the fact that their verdicts are not subject to appeal to a higher tribunal.

HUMAN RIGHTS VIOLATIONS IN SYRIA

Rights to freedom of opinion, expression, assembly and association (arts. 19, 21 and 22)

23. Please provide additional information on the legal framework enabling human rights NGOs and human rights defenders to be recognized and to operate freely. What measures have been taken to ensure the protection of human rights defenders and journalists against any restrictions on their activities? Please comment specifically on the trial of human rights defender Aktham Naisse and the charges against him.
24. Please provide additional information on Legislative Decree No. 50 of 2001, particularly with regard to publishing offences and penalties (para. 296).
25. What steps has the State party taken to review its legislation on limitations on the expression of opinions, as recommended by the Committee in paragraph 24 of its previous concluding observations of March 2001?
26. Please comment on the extent to which the restrictions on or prohibition of publications mentioned in paragraph 298 of the report are considered compatible with article 19 of the Covenant.
27. Please provide additional information on the conditions that govern the approval or authorization of public assemblies and, in particular, indicate whether and under what conditions the denial of an authorization can be appealed. In how many cases have denials of authorization been appealed, and in how many cases have such appeals been rejected, and on what grounds?

Non-discrimination and rights of persons belonging to minorities; rights of the child (arts. 26 and 27)

28. Please elaborate on the measures taken by the State party to protect the rights of the Kurdish minority, including on the statement in paragraph 412 of the report that “all citizens of Kurdish origin enjoy Syrian nationality under our new laws or statutes that are specific to Kurds”. Please provide copies of the relevant laws/statutes. In addition, please provide further information on and copies of the “directives that have been issued recently to resolve the situation of those who do not carry Syrian nationality” (paragraph 413 of the report).

HUMAN RIGHTS VIOLATIONS IN SYRIA**Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

29. Please indicate the steps taken to disseminate information on the submission of the third periodic report.
30. Please provide information on training and education on the Covenant provided to public officials, in particular the judiciary, law enforcement and prison officials, and schoolteachers. Please elaborate on steps taken to increase the awareness and understanding of the Covenant and the reporting procedure amongst the general public, including ethnic and linguistic minorities.

**Summary Record of the dialogue
between the Human Rights Committee and the
Official Delegation of Syrian Arab Republic
(Geneva, 18 July 2005)**

This summary record is not a United Nations official document. For further details and official summary records, see Summary Record of the 2291st (UN Doc. CCPR/C/SR.2291) and 2292nd session (UN Doc. CCPR/C/SR.2292).

The Human Rights Committee (HRC) has considered the third periodic report of Syria on how that State party implements the provisions of the International Covenant on Civil and Political Rights (ICCPR).

Based on the State Report and the list of issues⁶¹, a dialogue between the HRC and the State party's delegation took place on 18 July 2005, during which concerns were raised by the HRC on the implementation of the ICCPR.

Introducing the State party's report by Mr. Bashar Ja'afari, Ambassador and Permanent Representative of Syria to the United Nations Office in Geneva, explained that Syria has achieved some progress with regards to the respect of human rights and that it is still making efforts to continue such improvements.

He also explained that Syria has been faced with the constant threat of Israeli aggression, the most recent act being an air attack in 2003 on a Syrian village. Therefore, the state of emergency has been prolonged at a minimal level and is only applied with regards to crimes dealing with state security.

The Committee thanked the delegation for its timely submitted report. They made clear their disappointment that the report was available only in Arabic and also that several paragraphs were identical to those found in the second periodic report (366 out of 413). The Committee also questioned the lack of specific information in this third report. The delegation explained that some paragraphs were identical because the Syrian Constitution had not changed since.

61 See the «List of Issues», UN Doc. CCPR/C/84/L/SYR.

HUMAN RIGHTS VIOLATIONS IN SYRIA

Constitution and Legal Framework within which the Covenant is implemented (Article 2) – questions 1 - 4

Concerning the status of the ICCPR in the domestic jurisdiction, the delegation was brief and vague and only said that the Syrian law guarantees all citizens the right to lodge a complaint and that the decisions can be revoked.

It also said that a National Committee for International Humanitarian Law was established in Syria and that it is composed of individuals from a wide range of backgrounds such as the President of the Red Crescent, representatives of the Ministries of Foreign Affairs, Justice and Internal Affairs as well as university professors. Its mandate is to raise awareness of civil society with regards to international law and humanitarian law.

Counter-terrorism measures and respect of Covenant guarantees – question 5

The delegation said that Syria cooperated fully with the international community to combat terrorism. It was added that Syria collaborates with the Security Council on the issue of terrorism. A legislative Decree had been adopted in 2003 regarding illegal money laundering, in addition to a Decree adopted in 2005 according to which money laundering in the context of terrorism was combated. Moreover Syria was cooperating with the international community to extradite criminals, and has examples of this cooperation.

State of emergency (Article 4) – question 6

The state of emergency was declared in 1963 to protect Syria against threats to its territory. The delegation stated that the risk of war with Israel was real; therefore the state of emergency was necessary. Having said that, the delegation also explained that during its Tenth Congress held in June 2005, the Ba'ath Party adopted a resolution asking for the revision of the law establishing the state of emergency and the abrogation of related legislative laws, which were no longer pertinent.

In addition, the Committee asked why the Syrian Government did not notify the United Nations General Secretary of the reasons for the

HUMAN RIGHTS VIOLATIONS IN SYRIA

establishment of the state of emergency. The delegation replied that in 1962, Syria had not yet acceded to the Covenant and had thus been under no obligation to communicate that information. The situation since the introduction of the Act had changed significantly and at present there was rarely any need to invoke its provisions.

The Committee said that it was difficult to understand why, when it had acceded to the Covenant, the reporting State had not informed the other States parties that it had declared a state of emergency. All the information required by article 4 of the Covenant could have been provided at that stage. The reporting State should now consider notifying the Secretary-General, and through him, the other States parties that it no longer derogates from any provisions of the Covenant, and that normal law is again applicable.

Non-discrimination and equality between sexes (Articles 2, 3, 24 and 26) – questions 7 - 10

The delegation denied the information given by the Committee that women are not allowed to participate in public life. It stated that Syrian law promotes equality between men and women. The delegation ensured that women in Syria do not have a disadvantaged situation as far as responsibilities are concerned. They are well represented at all administrative and political levels (Parliament, Government and Supreme Court).

With regards to honour crimes, these were referred to in the criminal code. Men could get alleviation of their sentence, but honour crimes were very rare because of an awareness campaign.

About violence against women, the delegation said that this problem was similar in Syria to that of any other country. Men did not get clemency when they committed this type of offence and women were able to file a complaint.

Right to life; prohibition of torture; right to liberty and security of the person; treatment of detainees (Articles 6, 7, 9 and 10) – questions 11 - 18

The delegation said that capital punishment is only used in extreme cases. Capital punishment was only implemented when referred to the Special

HUMAN RIGHTS VIOLATIONS IN SYRIA

Amnesty Committee established by Presidential Decree and composed of five judges who gave their view to the President, who could then either Decree the execution, or turn it down. There were no extra-judiciary executions in Syria. The Constitution provided that there was no crime without legal text.

With regard to the article 7, the delegation explained that every allegation of torture or ill-treatment is investigated and possibly sanctioned. The Criminal Code incriminates any kind of violence committed to obtain a confession (Art. 391) and this could result in the jailing (up to three years) of the perpetrator.

The Committee requested additional information with regard to Ms. Amina Allouch, whose testimony had been obtained under torture or ill-treatment and the outcome of this case. The delegation said that it was clear that Committee members sometimes received inaccurate information and informed that the mentioned case involved a woman who had been arrested after her granddaughter's body had been discovered in her home. She had confessed to killing her granddaughter, but had later sworn in court that the confession had been extracted from her under torture. The judge had ordered that the case should be re-heard, and the allegation of torture fully investigated. The delegation did not provide any information as to whether the person responsible for torturing Ms. Amina Allouch had been brought to justice.

Some concerns have also been raised by the Committee with regard to the arrests and allegations of torture or ill-treatment of demonstrators who have been arrested in front of the UNICEF office on March 25th 2005. The delegation replied to the Committee that the demonstration was not authorised, hence the arrest of the demonstrators. They were currently being held in Adra prison, where their lawyers and families had visited them, and their cases would soon be heard. The Committee complained that they have wished to receive information about the fate of the seven persons who had allegedly been imprisoned and tortured.

Regarding the conditions of detention, the delegation recalled that the Ministry of the Interior built new detention facilities with modern equipment. Following the request of statistics, the delegation said that in 2004, 12'000 persons were detained in Syria, among them 5'000 were tried and sentenced.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The Committee asked about the disappearance of Lebanese citizens and said that a credible and independent commission would be necessary to investigate these cases. The delegation replied that a large number of people put on the list of disappeared people were released when Syria withdrew its troops from the Lebanese territory.

Freedom of movement (Article 12) – questions 19 - 20

The delegation said that the Ministry of the Interior had issued a law in 2002 which referred to relieving all citizens from the need for exit visas, with the exception of those under the age of the legal majority.

Additionally, the Committee asked why some human rights activists have been prohibited from leaving the country. The delegation explained that there is a list of people who are banned but these people have legal problems or have been prosecuted. They asserted that this list is not a discriminatory list, but based on judicial decisions.

Right to a fair trial (Article 14) – questions 21 - 22

The delegation said that independence of judges is guaranteed by the Constitution and the law on judicial authority (art. 131 and art. 133), which guarantees the independence of the judiciary.

With regards to the Supreme State Security Court (SSSC), the delegation explained this court was set up in 1967 because of exceptional circumstances. However, the delegation admitted that the law ruling this Court was no longer relevant and was under review.

The Committee wanted to know if the decisions of the SSSC were subjected to appeal and if a legal counsel was granted for individuals who may not afford it.

The delegation replied that a committee had been set up to revise the law in order to ensure the right to appeal decisions of the SSSC. The delegation added that the decisions of the SSSC are implemented only once the President of the Syrian Republic had endorsed them.

HUMAN RIGHTS VIOLATIONS IN SYRIA

Right to freedom of opinion, expression, assembly and association (Art. 19, 21 and 22) – questions 23 – 27

The delegation explained that legislative steps had been taken to encourage the multi-party political system and that the current laws are in the process of revision, including the Legislative Decree No. 50 of 2001 with a view to protecting freedom of expression.

With regard to the authorization of public assemblies, the delegation recalled that article 38 of the Constitution guaranteed all citizens the right to express their views and engage in constructive criticism of the State so long as national security was not jeopardized. Article 39 of the Constitution guaranteed the right to meet and demonstrate; if for any reason a demonstration was not authorized, the organizers had the right to appeal that decision to the administrative courts.

The Committee was seriously concerned by the allegations of harassment of human rights activists and by provisions of the Penal Code which made participation in international organizations illegal, which may render it difficult for human rights organizations to coordinate with the international network of human rights defenders.

The Committee welcomed the acquittal of Mr. Aktham Naisse but wondered on what grounds he had been prosecuted in the first place and whether he had been granted any compensation or other form of redress in accordance with article 2 of the Covenant. Moreover the Committee requested information on the situations of several human rights activists (amongst them Nizar al Ristawani, held incommunicado since April 2004; Mohamed Raadoun, abducted in May 2005 by the political security police and still not charged or brought before a legal authority; and a group of eight human rights activists, including Arif Dalila, Habib Salih and Habib Issan, sentenced in 2002 to 10 years' imprisonment and still in solitary confinement at the end of 2004).

The delegation replied that Mr. Mohammed Raadoun had been prosecuted in May 2005 for having published false information about the death of a prisoner in the media. The prisoner concerned had not died as a result of ill-treatment in detention, but during open-heart surgery. Responding to the Committee's question on the case of Nizar al Ristanawi, the delegation said that that person had been detained for publishing information about State security on the Internet. Such information was confidential and he had

HUMAN RIGHTS VIOLATIONS IN SYRIA

therefore been in breach of the law. Internet use was regulated by the President of the Republic, and the use of the Internet and other communication technologies was encouraged in Syria.

The Committee requested for additional information on how many public assemblies had been refused authorization and on the results of any appeals against those decisions. It also asked clarification about a demonstration by human rights and civil-society groups against the holding of political prisoners, in June 2004, which had been violently repressed, with some participants having been briefly detained. In addition, in May 2003 several young men had allegedly been arrested and sentenced to three to four years' imprisonment for participating in silent protests against Israeli and United States policies, and other offences such as establishing a free library, showing videos and distributing anti-smoking and anti-bribery materials. They remained in prison and had allegedly been subjected to torture and other ill-treatment.

Non-discrimination and rights of persons belonging to minorities; rights of the child (Articles 26 and 27) – question 28

All citizens had equal rights and responsibilities under the law and no distinction was made between groups on the basis of whether or not they might be members of the majority or a minority.

The Committee requested additional information on the specific situation of the Kurds, and especially to what extent they were represented in the Syrian administration and civil society in general.

Dissemination of information relating to the Covenant and the Optional Protocol (Article 2) – questions 29 - 30

The delegation said that the State party report and the dialogue with the Committee would be published in all media and forwarded to all relevant ministries. Due to the lack of time, the delegation was not in position to respond to all the additional questions raised but ensured that the Syrian government wanted to submit written replies to the Committee.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The Chairperson of the Committee said that the Committee would take account of the progress made by Syria during the reporting period and since the submission of the report, and requested that written replies to the remaining questions be submitted as soon as possible.

HUMAN RIGHTS VIOLATIONS IN SYRIA

HUMAN RIGHTS COMMITTEE

EIGHTY-FOURTH SESSION

11-29 JULY 2005

**CONSIDERATION OF REPORTS SUBMITTED
BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

**CONCLUDING OBSERVATIONS
OF THE HUMAN RIGHTS COMMITTEE:**

SYRIAN ARAB REPUBLIC

HUMAN RIGHTS VIOLATIONS IN SYRIA

1. The Committee considered the third periodic report of the Syrian Arab Republic (CCPR/C/SYR/2004/3) at its 2291st and 2292nd meetings (CCPR/C/SR.2291 and 2292), held on 18 July 2005, and adopted the following concluding observations at its 2308th meeting (CCPR/C/SR.2308), held on 28 July 2005.

A. Introduction

2. The Committee welcomes the timely submission of the third periodic report by the Syrian Arab Republic, which contains detailed information on Syrian legislation in the area of civil and political rights. The Committee encourages the State party to increase its efforts to include in its reports more detailed information, including statistical data, on the implementation of the Covenant in practice.

B. Positive aspects

3. The Committee welcomes the accession by the State party to other international human rights instruments in the reporting period, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the two Optional Protocols to the Convention on the Rights of the Child.

C. Principal subjects of concern and recommendations

4. The Committee notes with concern that the recommendations it has addressed to the Syrian Arab Republic in 2001 have not been fully taken into consideration and regrets that most subjects of concern remain. The Committee regrets that the information provided was not sufficiently precise.

HUMAN RIGHTS VIOLATIONS IN SYRIA

The State party should examine all recommendations addressed to it by the Committee and take all necessary steps to ensure that national legislation and its implementation ensure the effective enjoyment of all Covenant rights in the State party.

5. While welcoming the establishment of the National Committee for International Humanitarian Law, the Committee notes that it is not fully independent. Noting the delegation's statement about current plans to establish an independent national human rights institution, the Committee wishes to stress the complementary role of such an institution with respect to governmental institutions and non-governmental organizations dealing with human rights (article 2 of the Covenant).

The State party is encouraged to establish a national human rights institution that complies with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

6. The Committee notes with concern that the state of emergency declared some 40 years ago is still in force and provides for many derogations in law or practice from the rights guaranteed under articles 9, 14, 19 and 22, among others, of the Covenant, without any convincing explanations being given as to the relevance of these derogations to the conflict with Israel and the necessity for these derogations to meet the exigencies of the situation claimed to have been created by the conflict. The Committee has further noted that the State party has not fulfilled its obligation to notify other States parties of the derogations it has made and of the reasons for these derogations, as required by article 4 (3) of the Covenant. In this regard, the Committee has noted the statement of the delegation that the Baath Party Congress in June 2005 had resolved that emergency provisions would be limited to activities which threaten State security. The Committee, however, remains concerned at the absence of any indication that the resolution has become law (art. 4).

The State party, guided by the Committee's general comment No. 29 (2001) on derogations during a state of emergency (article 4 of the Covenant), should ensure firstly that the measures it has taken, in law and practice, to derogate from Covenant rights are strictly required by the exigencies of the situation; secondly, that the rights provided for in article 4 (2) of the Covenant are made non-derogable in law and

HUMAN RIGHTS VIOLATIONS IN SYRIA

practice; and thirdly, that States parties are duly informed, as required by article 4 (3) of the Covenant, of the provisions from which it has derogated and the reasons therefore, and of the termination of any particular derogation.

7. The Committee remains concerned that the nature and number of the offences carrying the death penalty in the State party are not consistent with the requirement of the Covenant that this form of punishment must be limited to the most serious crimes. The Committee is deeply concerned at the de facto reinstitution of death sentences and executions in 2002. The Committee has noted the written replies given by the delegation and notes the insufficient information relating to the number of persons whose death sentences have been commuted, and the number of persons awaiting execution (art. 6).

The State party should limit the cases in which the death penalty can be imposed, in line with the Committee's previous recommendation that the State party should bring its legislation into conformity with article 6 (2) of the Covenant, which provides that a sentence of death may be imposed only for the most serious crimes, and should give precise information to explain the particular reasons for the death sentences imposed and executed.

8. The Committee welcomes the information provided by the delegation on the agreement of 5 May 2005 between the Prime Minister of Lebanon and the President of Syria to establish a committee that would meet periodically to further investigate the facts concerning disappearances of Syrian and Lebanese nationals in the two countries. The Committee remains concerned, however, that sufficient information was not provided about concrete steps taken to establish such a committee in Syria, as well as about its envisaged composition and measures to ensure its independence (arts. 2, 6, 7, 9).

The State party should give a particularized account of Lebanese nationals and Syrian nationals, as well as other persons, who were taken into custody or transferred into custody in Syria and who have not heretofore been accounted for. The State party should also take immediate steps to establish an independent and credible commission of inquiry into all disappearances, in line with the recommendations the Committee made in 2001.

HUMAN RIGHTS VIOLATIONS IN SYRIA

9. While noting the information provided by the State party on measures taken against some law enforcement personnel for acts of ill-treatment of prisoners, the Committee remains deeply concerned at continuing reports of torture and cruel, inhuman or degrading treatment or punishment. The Committee is also concerned that these practices are facilitated by resort to prolonged incommunicado detention, especially in cases of concern to the Supreme State Security Court, and by the security or intelligence services. (arts. 2, 7, 9 and 10).

The State party should take firm measures to stop the use of incommunicado detention and eradicate all forms of torture and cruel, inhuman or degrading treatment or punishment by law enforcement officials, and ensure prompt, thorough, and impartial investigations by an independent mechanism into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies and rehabilitation to the victims.

10. The Committee notes the statement by the delegation regarding the establishment of a committee to revise legislation governing the Supreme State Security Court. The Committee reiterates its previous concern that the procedures of this court are incompatible with article 14 of the Covenant (art. 14).

The State party should take urgent measures to ensure that all rights and guarantees provided under article 14 of the Covenant are respected in the composition, functions and procedures of the Supreme State Security Court and in particular that accused persons are granted the right to appeal against decisions of the Court.

11. The Committee takes note of the information provided by the delegation whereby Syria does not recognize the right to conscientious objection to military service, but that it permits some of those who do not wish to perform such service to pay a certain sum in order not to do so (art. 18).

The State party should respect the right to conscientious objection to military service and establish, if it so wishes, an alternative civil service of a non-punitive nature.

12. The Committee is concerned at the obstacles imposed on the registration and free operation of non-governmental human rights organizations in the State party and the intimidation, harassment and arrest of

HUMAN RIGHTS VIOLATIONS IN SYRIA

human rights defenders. It also continues to be deeply concerned about the continuing detention of several human rights defenders and the refusal to register certain human rights organizations (arts. 9, 14, 19, 21 and 22).

The State party should immediately release all persons detained because of their activities in the field of human rights and end all harassment and intimidation of human rights defenders. Furthermore, the State party should take urgent steps to amend all legislation that restricts the activities of these organizations, in particular state of emergency legislation which must not be used as an excuse to suppress activities aimed at the promotion and protection of human rights. The State party should ensure that its law and practice allow these organizations to operate freely.

13. The Committee is concerned at the extensive limitations on the right to freedom of opinion and expression in practice, which go beyond the limitations permissible under article 19 (3). Furthermore, the Committee is concerned at allegations that the Government has blocked access to some Internet sites used by human rights defenders or political activists (art. 19).

The State party should revise its legislation to ensure that any limitations on the right to freedom of opinion and expression are in strict compliance with article 19 of the Covenant.

14. While welcoming the statement by the delegation that the Publications Act of 2001 is in the process of being appropriately revised, the Committee is concerned at its nature and application. The Committee has also noted in this regard the information provided by the delegation that a new law for audio-visual media is being prepared (art. 19).

The State party should ensure that all legislation governing audio-visual and print media and the licensing regime are in full compliance with the requirements of article 19, and that any limitations on the content of publications and media broadcasts fall within the strict limits permissible under article 19 (3).

15. The Committee regrets that no statistical information was provided on the exercise in practice of the right to freedom of assembly. While noting the view held by the delegation that protests such as the peaceful

HUMAN RIGHTS VIOLATIONS IN SYRIA

demonstration on 25 June 2003 outside UNICEF headquarters in Damascus had not obtained the required permit, the Committee is concerned that the laws and regulations and their application prevent the exercise of the right to peaceful assembly (art. 21).

The State party should take all necessary measures to guarantee the exercise in practice of the right to peaceful assembly and should provide statistical information on the number of and grounds for denials of applications, the number of cases where denials have been appealed, the number of rejected appeals and on what grounds.

16. The Committee reiterates its previous concern that, despite article 25 of the Constitution, discrimination against women continues to exist in law and practice in matters related to marriage, divorce and inheritance, and that the Penal Code contains provisions discriminating against women, including providing lesser penalties for crimes committed by men in the name of honour. It notes the statement by the delegation that a commission is currently considering amendments to the personal status laws and that the provisions of the Penal Code with regard to honour crimes are currently being revised (arts. 3, 6 and 26).

The State party should review its laws in order to ensure equality between men and women in matters of personal status, and to eliminate any discrimination against women in the Penal Code.

17. While noting the statement by the delegation that a national strategy for women has been initiated, the Committee notes that the participation of women in public life remains low (art. 3).

The State party should take appropriate steps towards achieving balanced representation of women in public life.

18. The Committee notes the information provided by the State party and the delegation's statement as to the absence of any discrimination on grounds of race, colour, descent, or national or ethnic origin in the State party. However, the Committee remains concerned at discrimination against Kurds and that the practical enjoyment by the Kurdish population of their Covenant rights is not fully guaranteed (arts. 26 and 27).

The State party should ensure that all members of the Kurdish minority enjoy effective protection against discrimination and are able to

HUMAN RIGHTS VIOLATIONS IN SYRIA

enjoy their own culture and use their own language, in accordance with article 27 of the Covenant.

19. The Committee has noted the information provided by the State party with regard to the stateless Kurds. The Committee remains concerned at the situation of the large number of Kurds treated as aliens or unregistered persons and the discrimination experienced by them. The Committee reminds the State party that the Covenant is applicable to all individuals subject to its jurisdiction (arts. 2 (1), 24, 26 and 27).

The State party should take urgent steps to remedy the situation of statelessness of Kurds in Syria and to protect and promote the rights of non-citizen Kurds. The Committee further urges the State party to allow Kurdish children born in Syria to acquire Syrian nationality.

D. Dissemination of information about the Covenant

20. The State party should publish and widely disseminate its third periodic report by the Committee and the present concluding observations thereon to the general public as well as the judicial, legislative and administrative authorities, and it should circulate the fourth periodic report among the non-governmental organizations operating in the country.
21. The Committee suggests that the State party seek technical assistance from OHCHR and other United Nations entities or agencies dealing with human rights.
22. In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 6, 8, 9 and 12 above. The Committee requests the State party to include in its next periodic report information concerning the remainder of its recommendations, to be presented by 1 August 2009.

