



Syria

Amnesty International submission to the UN Universal Periodic Review 12th session of the UPR Working Group, October 2011

B. Normative and institutional framework of the State

State of emergency and related legislation

A state of emergency has been enforced in Syria since 8 March 1963, when a military *coup* brought the Ba'ath Party and others to power. It was declared through a military order on the basis of Legislative Decree No. 51 of 1962, which set out the framework for a state of emergency, including allowing the establishment of special courts and censorship of communications and media. The validity of the state of emergency, however, is questionable on grounds of both international and Syrian law. Under Article 4(3) of the International Covenant on Civil and Political Rights (ICCPR), to which Syria is a party, a state is obliged to provide immediate international notification of any measures taken during the state of emergency which derogate from the provisions of the ICCPR, the reasons for the derogation and the date on which such derogation will be terminated. According to Amnesty International's information, the Syrian authorities have never formally notified the UN Secretary-General of the state of emergency, nor informed him of their intent to derogate from the ICCPR. The entrenched and blanket character of the state of emergency also fails to respect the established requirements that any derogation of rights must be of a temporary and exceptional nature and must be strictly necessary to meet the exigencies of the situation. The current state of emergency may also violate national legislation since it has never been submitted to the People's Assembly.

A number of laws passed in subsequent years have served to further entrench the state of emergency. The Law for Protecting the Revolution issued through Legislative Decree No. 6 of 1965 imposed extensive restrictions on the right to freedom of expression, including by criminalizing any expression of opposition to "the aims of the revolution". Legislative Decrees No. 14 and No. 549 of 1969 established the State Security apparatus, granting it sweeping powers of arrest and detention, as well as effective impunity for human rights abuses. Article 16 of Legislative Decree No. 14 states that State Security employees shall not be prosecuted for offences committed while carrying out their duties. Other security services, including Political Security, Military Security and Air Force Security, were later set up with similar powers and lack of accountability. On 30 September 2008, the government issued Legislative Decree No. 69 which confers immunity against prosecution to Political Security, police and customs officials for crimes committed while on duty. A system of special courts was established in the 1960s. Exceptional Military Courts were established in 1963 under Article 6 of Legislative Decree No. 51 of 1962 to try "crimes of violation of the orders issued by the Military Governor", "crimes committed against the state security and public order", "crimes committed against public authorities", "crimes violating public trust" and "crimes which constitute an overall hazard". Field Military Courts were set up pursuant to Legislative Decree No. 109 of 1967 to try "crimes included in the Military Courts' specialization and which are committed during wartime or military operations". The Supreme

State Security Court (SSSC) was created through Legislative Decree No. 39 of 1968 to try those accused of political or state security offences. The proceedings of these special court systems fall far short of international fair trial standards.¹

Legislation regarding women and sexual orientation

In recent years, a number of legislative reforms have improved respect for women's rights – notably with regard to maternity leave and maternal custody of children.² However, despite these reforms discrimination against women remains entrenched in national legislation. The Personal Status Law governing the majority Muslim population discriminates against women in relation to marriage and its dissolution, inheritance and other matters. Similar concerns relate to laws governing the family affairs of religious minorities, such as the Druze and a number of Christian denominations.

The lesser status of women and girls in both legal and social terms is one of the main contributing factors to violence against them both within the family and in society, and the abuses they suffer are exacerbated by their inadequate protection in law. The Penal Code prescribes lower penalties for murder and other violent crimes against women when defence of “family honour” is considered a mitigating factor; however, in the past two years steps have been taken to partially address these discriminatory provisions. Legislative Decree No. 37 of 2009, issued on 1 July 2009, amended Article 548 of the Penal Code, which had exempted perpetrators of “honour” crimes from any penalty, and instituted a penalty of at least two years' imprisonment. On 3 January 2011, Legislative Decree No. 1 of 2011 further increased the punishment set out in Article 548 to up to seven years' imprisonment for such killings. Article 508 of the Penal Code, which had exempted men convicted of rape from punishment if they married the victim, was also amended by this decree to stipulate that the rapist should be sentenced to at least two years in prison.

In another welcome legislative change Legislative Decree No. 3 of 2010, introduced on 10 January 2010, prohibits trafficking in persons, criminalizes its perpetrators, and establishes a system of care for those subjected to trafficking. Victims of trafficking include, according to Amnesty International's information, migrant domestic workers and Iraqi girls and women forced into sex work.

National legislation also contains provisions which discriminate on the grounds of sexual orientation. Article 520 of the Syrian Penal Code provides a punishment of up to three years' imprisonment for “unnatural sexual union”.

Legislation regarding the Kurdish minority

Kurds, who comprise up to 10 per cent of the population, experience identity-based discrimination, including restrictions on the use of Kurdish language and culture. The Kurdish language is not recognized as an official language in Syria and is not taught in schools. Since 1958, it has been forbidden to publish materials in Kurdish. In 1987, the then Minister for Culture reportedly extended the ban to the playing and circulation of Kurdish music cassettes and videos. According to some sources, the ban on Kurdish language being taught in schools and universities was re-issued by a secret decree in 1989, which also banned the use of Kurdish language in all official establishments. Amnesty

¹ For analysis of the SSSC, see Amnesty International, [Memorandum on the Supreme State Security Court: A Summary of Amnesty International's concerns](#) (Index: MDE 24/039/2007).

² In 2002, Legislative Decree No. 35, amending the Labour Law of 1959, extended paid maternity leave and Law No. 32 extended mandatory and free education to grade nine. In 2003, amendments to the Personal Status Law governing the majority Muslim population of Syria (promulgated by Legislative Decree No. 59 of 1953) allowed the mother to keep custody of her children until the age of 13 for boys (previously until the age of nine) and until the age of 15 for girls (previously until the age of 11).

International received reports that by the summer of 2002 the authorities had raised the maximum sentence for printing materials in Kurdish, as well as for teaching Kurdish language, to five years' imprisonment. Kurdish language is also reportedly banned at private celebrations and in the workplace. In the largely Kurdish al-Hassaka province, businesses are banned from having Kurdish names, although there appears to be no legal restrictions on the use of Armenian, Arabic or Russian names or materials. In 1992, the Minister of the Interior banned the registration of children with "non-Arab" names in the al-Hassaka province. The Kurds are not permitted to run private schools, while other minorities in Syria, notably Armenians, Circassians, Assyrians and Jews, are. The ban on the use of Kurdish language and materials is, however, not always strictly enforced by the authorities.³

Although no reliable official records are available, it is estimated that between 200,000 and 360,000 of Kurds in Syria are not entitled to Syrian nationality and therefore denied the rights of nationals, in particular social and economic rights. Since 1962, stateless Kurds have been divided into two official classifications: *ajanib* ("foreigners") and *maktoumeen* (literally meaning "concealed ones", a reference to their unregistered status), who have even fewer rights than the *ajanib*. Pursuant to Law No. 93 of 1962 and the census in the al-Hassaka province in the same year, about 120,000 Kurds who could not provide proof that they had lived in Syria since 1945 or earlier were stripped of their Syrian nationality or denied the right to claim it. These stateless Kurds, along with their descendants, are not issued passports or other travel documents and so may not legally leave or enter Syria. They also lack the necessary documentation to receive treatment in state hospitals. They are not allowed to vote or to run for public office; they are prohibited from owning property, land or a business; and from employment as lawyers, journalists, engineers, doctors or other professions requiring membership of the profession's union.

C. Promotion and protection of human rights on the ground

Freedom of expression and association

Freedom of expression is very tightly controlled in Syria. Genuine opposition political parties are not authorized and human rights NGOs cannot obtain a licence to operate. Scores of peaceful critics of the authorities, including human rights defenders,⁴ political activists,⁵ bloggers and Kurdish minority rights activists,⁶ have been arrested and detained in recent years. Dozens of human rights defenders and political activists have been tried and convicted on charges such as "weakening nationalist sentiments" and "inciting sectarian strife" and sentenced to prison sentences simply for peacefully expressing opinions that differ from those of the authorities. Lawyers who are active in human rights organizations or who otherwise promote human rights risk being disbarred by the government-controlled bar association.⁷ Dozens of Kurds have been arrested in apparent connection with their involvement in celebrations of Nawruz, the New Year for many central Asian peoples including the Kurds, and for otherwise promoting Kurdish cultural activities.⁸ Hundreds of people considered to be

³ All cited in Amnesty International, *Syria: Kurds in the Syrian Arab Republic one year after the March 2004 events* (Index: MDE 24/002/2005).

⁴ See Amnesty International, *Unfair Sentencing of Syrian Lawyer and Human Rights Activist*, 4 July 2010.

⁵ See Amnesty International, *Syria: Four convicted leftists must be released* (MDE 24/002/2011) and *Release Syrian prisoner of conscience 'Ali al-'Abdullah* (Index: MDE 24/004/2011).

⁶ See Amnesty International, *Kurds Denied Access to Lawyers Ahead of Trial* (Index MDE 24/010/2010).

⁷ See Amnesty International and International Commission of Jurists, *Syria: Lifetime law practice ban against Muhannad al-Hassani sends chilling message*, (Index MDE 24/032/2009)

⁸ For a recent example, see Amnesty International, *Kurdish folk singer at risk of torture*, (Index MDE 24/005/2011).

dissidents, including former political prisoners and members of their families, are barred from travelling abroad or from working in the public sector.

Unfair trials

Unfair trials are very common before the Supreme State Security Court (SSSC), criminal courts and military courts. In trials before the SSSC, defendants do not have the right of appeal. Before all the courts, the defendants have restricted access to their lawyers and the courts accept as evidence “confessions” allegedly extracted under torture. Allegations by defendants of torture or other ill-treatment are almost never investigated.

Torture and other ill-treatment

Torture and other ill-treatment are used extensively and with impunity in police stations and security agencies’ detention centres. According to reports, suspected Islamists and members of the Kurdish minority are subject to particularly harsh abuse. Allegations of abuse are almost never investigated and perpetrators are consequently not brought to justice.

Impunity for human rights violations

The authorities have taken no steps to account for thousands of people, mostly Islamists, who disappeared in the late 1970s and early 1980s in the context of the authorities’ crackdown on the Muslim Brotherhood-led opposition. Few steps have been taken to account for others abducted in Lebanon during and after the Lebanese civil war of 1975-90 by Syrian forces or pro-Syrian Lebanese and Palestinian militias. The authorities have also failed to disclose what happened during disturbances at Saydnaya Military Prison in July 2008, when 17 prisoners and five other people were reported to have been killed and since when there has been no information or known contact with 49 prisoners held there at the time.⁹

The death penalty

Death sentences continue to be imposed and at least 17 people were executed in 2010. The true number may be much higher as the authorities rarely disclose information about executions.

D. Recommendations for action by the State under review

Amnesty International calls on the government of Syria:

State of emergency legislation

- To formally lift the state of emergency as soon as possible, as called for by the UN Human Rights Committee in 2001;
- To abolish legislative provisions which grant state officials immunity from prosecution for offences they commit while carrying out their duties, such as Article 16 of Legislative Decree No. 14 of 1969 and Legislative Decree No. 69 of 2008.

⁹ For more information see Amnesty International, ‘Your Son is not Here’: *Disappearances from Syria’s Saydnaya Military Prison*, (Index 24/12/2010).

Legislation regarding women and sexual orientation

- To repeal all provisions in the Personal Status Law and other legislation governing family affairs which discriminate against women, particularly in relation to marriage, divorce and inheritance;
- To amend articles in the Penal Code so that punishments for gender-based violence match the seriousness of the crime;
- To abolish Article 520 of the Penal Code so as not to discriminate against anybody on the basis of their sexual orientation or identity.

Legislation regarding the Kurdish minority

- To end the prohibitions on the use of the Kurdish language in education, the workplace, official establishments and at private celebrations, and to allow children to be registered with Kurdish names and businesses to carry Kurdish names;
- To amend legislation on nationality to find an expeditious solution to the statelessness of Syrian-born Kurds, as recommended by the Committee on the Elimination of Racial Discrimination in 1999¹⁰ and by the Committee on the Rights of the Child in 2003¹¹, and to put an end to all related discrimination against stateless Kurds, including in the fields of education, health care, freedom of movement, employment and property ownership.

Freedom of expression and association

- To release all prisoners of conscience;
- To amend the legislation under which prisoners of conscience have been imprisoned to bring it in line with international human rights law, in particular Articles 18-22 of the International Covenant on Civil and Political Rights, to which Syria has been a party since 1969, guaranteeing the rights to freedom of conscience, expression, assembly and association.

Unfair trials

- To undertake reforms of the justice system, in particular to ensure that all court procedures comply with international standards for fair trial.

Torture and other ill-treatment

- To review legislation and practices to ensure full compliance with the requirements of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Syria acceded in August 2004;
- To officially and publicly condemn torture, to make incommunicado detention illegal, to establish an independent body to promptly and impartially investigate all complaints and reports of torture and other ill-treatment, to prosecute alleged perpetrators, and to prohibit the use of statements and other evidence extracted under torture as evidence in court.

The death penalty

- To impose an immediate moratorium on executions, as a first step towards abolition of the death penalty.

¹⁰ see CERD/C/304/Add.70, paragraph 14

¹¹ see CRC/C/15/Add.212, paragraph 33 (b)