

**Syrian Arab Republic**  
**Briefing to the Human Rights Committee**  
**71<sup>st</sup> session - March 2001**

**Introduction**

Amnesty International greatly appreciates this opportunity to brief the members of the Human Rights Committee about the human rights situation in Syria. The organization also welcomes the decision of the Syrian Government to submit its second periodic report on its implementation of the International Covenant on Civil and Political Rights (ICCPR). Amnesty International regards this as a positive development which indicates the growing interest in human rights promotion and protection of the Syrian authorities.

Amnesty International notes with appreciation the climate of dialogue and discussion that is currently developing in Syria among both officials and civil society. It is the opinion of Amnesty International that such a climate is conducive to legal reform which will demolish the mechanisms that facilitate human rights violations, bringing the activities of the security forces and other law enforcement officials under judicial control, and enforcing human rights guarantees provided for in Syrian law, as well as in international standards. It is, therefore, in a constructive spirit in order to facilitate such changes that Amnesty International submits this briefing.

Amnesty International's human rights concerns in Syria are as follows:

- < arbitrary arrest and detention;
- < long term prisoners of conscience and political prisoners held without charge or trial or after unfair trials;
- < torture and ill-treatment;
- < unfair trials;
- < the death penalty;
- < past "disappearances" and extra-judicial executions.

The organization has communicated these concerns to the Syrian authorities in confidential correspondence, in public reports and statements, and during visits to Syria. During the 1980s Amnesty International delegates were not permitted by the Syrian authorities to conduct fact-finding visits to Syria or to meet with government officials. However in December 1992 and May 1993 Amnesty International delegates were permitted to visit Syria for talks with government officials and to observe trial hearings of the Supreme State Security Court . Officials met by delegates during those visits undertook to grant Amnesty International open access to the country and promised to ensure full

future cooperation on the organization's human rights concerns. Since those visits Syrian officials have continued to respond to queries made by Amnesty International about prisoners.

In July 1994 Amnesty International sent a detailed memorandum addressing its concerns to the Syrian Government, and in December of the same year a delegation from the organization held extensive talks with Syrian officials. Amnesty International issued a public report in April 1995 outlining its principal concerns in Syria. In March 1997 delegates from Amnesty International once again visited the country, held talks with government officials, and submitted updated documentation on victims of human rights violations. However, since that time Amnesty International has not received a response to its repeated requests to visit Syria for research or for talks with officials.

The overwhelming number of cases of human rights violations which have been made known to Amnesty International are the legacy of the State's confrontation with opposition groups during the 1970s and 1980s. This period witnessed the victimization of thousands of individuals of all political affiliations who were detained and subjected to various human rights violations including unfair trials, and judicial or extra-judicial executions. The fate and whereabouts of some of those arrested during this period remain unknown.

Since the beginning of the 1990s the majority of political prisoners have been released in batches in presidential amnesties, or upon expiry of their prison terms. The last of these amnesties was issued by President Bashar al-Assad in November 2000 and reportedly covered 600 cases of political prisoners from different opposition groups. Thus, the number of political prisoners, including prisoners of conscience, has now been reduced to hundreds from the several thousand who were in detention by 1991 when the first amnesty was issued. Amnesty International has repeatedly welcomed these releases as important steps towards redressing past human rights violations in Syria. The organization has also noted that comparatively fewer arrests seemed to have taken place during the last few years, leading to fewer reports of torture and ill-treatment.

However, Amnesty International remains concerned that the mechanisms which facilitate human rights violations, as provided for under the Emergency legislation, including the excessive powers given to the security forces, are still intact. Hence, any persons known to belong or suspected of belonging to an opposition group risk arrest, detention and torture, or may have their freedom curtailed in one way or another. Furthermore, the organization is concerned that thus far no step has been taken by the authorities to redress past and continuing human rights violations; there has been no investigation of "disappearances", extra-judicial executions, or torture and ill-treatment, including deaths in custody. Though the bulk of these violations have taken place in the past, their impact continues to be felt by the victims, their families and friends.

Effective redress of past violations will provide a clear break with past practices and will give strong indications that the Syrian authorities are living up to their responsibilities to human rights protection and promotion.

## **Background**

The Syrian Constitution and law provide for the protection of human rights and freedoms. In its Preamble the Constitution stipulates:

"Freedom is a sacred right and popular democracy is the ideal formula which ensures for the citizens the exercise of their freedom, which makes them dignified human beings capable of

giving and building, defending the homeland in which they live and making sacrifices for the sake of the nation to which they belong”.

The Constitution guarantees a number of internationally recognized human rights and freedoms. It states that all shall have equal rights and that the state shall protect personal freedom, dignity and security (Article 25), that defendants are innocent until proven guilty by a court, that torture and arbitrary detention are illegal and that the right of access to defence counsel shall be guaranteed by law (Article 28). It safeguards freedom of religion (Article 35), of assembly (Article 39), of speech and opinion (Article 38) and of movement within the country (Article 33). Article 131 of the Constitution guarantees the independence of the judiciary, and Article 133 stipulates that judges be autonomous and subject to no authority other than the law.

Amnesty International acknowledges and commends these guarantees, but notes with concern that the Syrian authorities have established a parallel regime under the State of Emergency legislation that in effect nullifies all of these provisions for freedom and human rights protection. Under the State of Emergency legislation the Martial Law Governor (Prime Minister) or his deputy (the Minister of Interior) may adopt a wide range of restrictive measures. As outlined in paragraph 51 of Syria's second periodic report to the Human Rights Committee (hereafter the Syrian Government Report), they “are empowered to issue written orders for the adoption of measures, restriction of the liberty of persons, censorship of correspondence, communications and information media, .... evacuation or isolation of certain areas, appropriation of movable or immovable property....., etc”. Furthermore the State of Emergency legislation provides for the establishment of special courts for the trial of state security and political cases without recourse to ordinary court procedures and guarantees.

It is often argued that the State of Emergency legislation has been implemented only as an exceptional measure and is “applied only in a limited number of cases”. Yet, monitoring and documentation by Amnesty International over the last two decades indicates that the Syrian authorities have acted primarily according to the restrictions facilitated by the State of Emergency legislation and not by the guarantees provided for in the Constitution and other ordinary Syrian laws. Under the State of Emergency, which has been in force without interruption since 1963, thousands of suspected political opponents have been detained and held incommunicado without charge or trial, some for over two decades; others have been subjected to grossly unfair trials before military or state security courts.

Additionally, the fate and whereabouts of scores of political suspects arrested in previous years remain unknown. Many it appears have simply "disappeared": the government has denied that they were detained and has denied any knowledge of their whereabouts. In other cases, information recently received by Amnesty International suggests that the prisoners were sentenced to death after summary trials many years ago; Amnesty International fears that they may have been secretly executed.

Furthermore, to Amnesty International's knowledge, in contravention of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, no independent investigations or inquests have ever been held into deaths in custody, including those allegedly caused by torture or ill-treatment. Nor have any investigations been made into the numerous torture cases reported to and documented by Amnesty International and which have been repeatedly raised with the Syrian authorities.

## **Article 2: Effective remedies**

The Syrian Government Report argues that “all citizens, regardless of their occupational or social status, have a legally guaranteed right to seek legal remedy in respect of any act of injustice committed against them”. While Amnesty International acknowledges that the Syrian Penal Code and the Code of Criminal Procedures (CCP) contain provisions for redress, it is concerned that no effective remedies appear to have been made available to the many individuals and groups whose rights were violated on grounds of their political opinions or non-violent activities.

Since the late 1970s, thousands have been arrested, mostly arbitrarily, and held without charge or trial, or subjected to trials which fail to reach international standards of fairness. Amnesty International knows of no case in which a person was given the opportunity to challenge the lawfulness of their detention or claim compensation in accordance with the provisions of Article 9(4&5) of the ICCPR, or Syria’s CCP. In several cases monitored by Amnesty International political detainees were brought before a court after being detained, mostly without charge or trial for several years. In none of these cases have the judges of the Supreme State Security Court (SSSC) questioned the legality of these lengthy pre-trial detentions or given the defendants and their lawyers the chance to do so.

In some cases political prisoners were kept in detention long after the expiry of their sentence. In 1994 Amnesty International submitted a memorandum on its concerns to the Syrian authorities which included five cases of political prisoners held for nearly ten years beyond expiry of their sentences. In 1999 Amnesty International drew attention to the fact that six prisoners of conscience were being detained beyond expiry of their sentences for periods ranging from four months to over two years. In general, reports received over the years suggest a pattern whereby, upon expiry of their sentence, political prisoners are transferred to another detention centre (normally the one in which they were initially held and interrogated following their arrest) where they spend from a few weeks to three months on average before being released. In some cases, however, detention beyond expiry of sentence may last for several years, as in the cases of Khalil Brayez and Mustafa Tawfiq Fallah. Detained in 1970 and sentenced to 15 years each, both men were released in 1998 nearly 13 years after the expiry of their sentences. In none of these cases were the individuals concerned given access to effective remedies for arbitrary detention after serving full prison terms which were often imposed after grossly unfair trials.

Amnesty International has repeatedly raised cases of alleged torture and deaths in custody as a result of torture or in suspicious circumstances and has called on the Syrian authorities to initiate adequate investigations. In 1993/1994 Amnesty International raised the issue of torture in meetings with the judges of the SSSC. The judges, however, argued that trial and prosecution for torture falls within the jurisdiction of ordinary courts and not the SSSC. Legal action against torture has, therefore, to be filed by defendants or their lawyers before ordinary criminal courts. In the opinion of Amnesty International, in light of the impunity security forces enjoy, the arbitrary treatment to which prisoners are systematically subjected, the denial of access to lawyers, and lawyers’ reluctance to take up cases of political detainees for fear of reprisals, this legal remedy is not available in practice to political detainees.

The Syrian Government Report states in paragraph 89, that “anyone claiming to be a victim of such illegal acts [in reference to torture] merely has to file a complaint with the department of Public Prosecutions, bring a personal action and pay the security in respect of legal costs and prosecution of a civil servant, the amounts of which are assessed by the judicial authority. The Department of Public

Prosecutions then has an obligation to institute public proceedings before the competent judicial body (Article 5 of the Code of Criminal Procedure)". In the opinion of Amnesty International this provision does not constitute an effective remedy for victims of torture; it puts the onus on the victims themselves to initiate proceedings and even to bear the legal costs in a case of abuse committed by state officials.

If ordinary courts are not competent to grant remedies, the special courts constituted for political and state security cases have also failed to do so. Neither the SSSC, which tries cases of political prisoners, nor indeed the military courts, are known to have ever investigated a torture case.

#### **Article 4 and the State of Emergency**

The Syrian Government referred to the "State of Emergency Act which is currently in force in the Syrian Arab Republic", as "an exceptional constitutional regime, based on the concept of imminent threat to the country's integrity, under which the competent authorities are empowered to take all the measures provided by law to protect the territory,...., from the dangers arising from external armed aggression by transferring some of the powers of the civil authorities to the military authorities." (Paragraph 48 of the Syrian Government Report).

The State of Emergency was declared in Syria on 8 March 1963 and has remained in force since that date. Article 3 of the State of Emergency Law (SEL), which was passed on 22 December 1962, empowers the President of the Republic to appoint a Martial Law Governor and invest him with powers over all internal and external security matters. The Martial Law Governor in Syria is the Prime Minister who delegates Martial Law functions to the Minister of Interior, the deputy Martial Law Governor. According to Article 4 of the SEL, the Martial Law Governor or his deputy "are empowered [among other things] to issue written orders for the adoption of measures, restriction of the liberty of persons, censorship of correspondence, communications and the information media..." (See Syria Government Report: para 52).

In procedural terms, however, it should be noted that the enforcement of the State of Emergency in Syria did not follow the SEL provisions. Although Article 2a of the State of Emergency Law stipulates that the declaration of a State of Emergency must be brought to the People's Assembly for approval at its subsequent session, Amnesty International knows of no occasion when the State of Emergency Law was brought before the People's Assembly.

Article 4 of the ICCPR recognizes that there are times of extreme national crisis which threaten the life of the nation when emergency powers may legitimately be used. However, such powers are clearly defined and limited by Article 4 which stipulates that restrictions placed on rights guaranteed by its provisions are to be limited in both scope and duration "to the extent strictly required by the exigencies of the situation".

As far as Amnesty International knows, Syria has not, as required by Article 4(3) of the ICCPR, informed the Secretary-General of the United Nations of any derogation from the provisions of the Covenant. The presumption is therefore that the Republic of Syria is bound by the totality of the provisions of the ICCPR articles. Yet, the wide powers given to the Martial Law Governor and his deputy under Article 4 of the State of Emergency Law affect individuals' lives and freedoms and violate the rights that the ICCPR seeks to guarantee.

The Syrian Government Report argues that “although the Emergency Act remains in force, in actual fact it is virtually in abeyance since it is applied only in a limited number of cases solely involving offences against the security of the State in keeping with the directives [of] the President of the Republic”. Yet the State of Emergency in Syria has actually produced a number of special measures which have led to an expansion of executive powers that are not part of the normal criminal procedure. Amnesty International has time and again expressed its grave concern that under the current State of Emergency several thousand individuals have been arrested, many for long terms of detention without charge or trial, and unfairly tried before the military or state security courts. Furthermore, over the years Amnesty International has documented evidence regarding persons - opponents or suspected opponents who were not involved in violence - who were routinely detained, harassed, tortured and, in some cases, summarily or extra-judicially executed. Even today, anyone is liable to arbitrary arrest, torture and ill-treatment, and no one can depend on the protection of the law. The regime established by the State of Emergency Law has facilitated these gross human rights violations.

The duration of the State of Emergency in Syria, nearly 38 years, is a cause of grave concern. A state of emergency is by definition a temporary legal response to an exceptional and grave threat to the nation. As the Human Rights Committee stated in its General Comment 5 on 28 July 1981:

".....[M]easures taken under article 4 are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened .... and that in times of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogation can be made."<sup>1</sup>

A perpetual state of emergency is a contradiction in terms. In such situations patterns and practices of human rights violations may become entrenched, even permanent.

As indicated by the above-cited Human Rights Committee Comment further concern is raised by the fact that resulting measures, such as prolonged arbitrary detention, have frequently led to violations of non-derogable rights such as torture and the right to life.

### **Article 6: Right to life**

In Syria the death penalty is imposed for a wide range of offences, including political opposition activities (para 60, Syrian Government Report), and, in some cases, death sentences have been passed following unfair trials. There are indications that imposition of the death penalty for politically related offences has decreased in the 1990s. However, Amnesty International remains concerned that Syrian law still provides for the death penalty for political offences, some of which constitute no more than the non-violent expression of views or beliefs. In paragraph 60 of the Syrian Government Report the following are listed among those crimes which are punishable by death:

“(r) Anyone who opposes the aims of the Revolution as set forth in article 3, paragraph (a) and (b), of the Legislative Decree No. 6 of 7 January 1965, as amended, which prescribes a heavier penalty, or who contravenes paragraphs (f) and (g) of that article (article 4(a) of Legislative Decree No. 6 stipulates that anyone who commits any of the acts referred to in

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<sup>1</sup> Human Rights Committee, General Comment 5 (3) Article 4 (Thirteenth Session, 1981)

paragraphs (a) and (b) of the preceding article 3 shall be liable to penalty of life imprisonment with hard labour or to the more severe penalty of death);

(t) Anyone who joins the Muslim Brotherhood organization (article 10 of Act No. 49 of 8 July 1980)".

The following are examples of death sentences known to have been imposed for political reasons;

- ' **Khadija Yahya Bukhari**, a Lebanese singer born in 1940, was arrested at Beirut airport on 28 April 1992. She had just returned from Cyprus by sea but went to the airport to inquire about her son and daughter who had been arrested at their home before her return. After her arrest Khadija Bukhari was taken with her son and daughter to the Syrian Intelligence centre at the Beau Rivage, then 'Anjar; they were then transferred to detention centres in Syria (*Far' al-Tahqiq al-'Askari* and *Far' Falastin*). Both her son and daughter were subsequently released, but the fate and whereabouts of Khadija Bukhari was unknown. In June 2000 Amnesty International received a letter from the Syrian Government stating "Khadija Yahya Bukhari was arrested on 29 April 1992 because of her connection with Israeli intelligence Service [sic] in Cyprus and her activities to recruit a Syrian Officer to co-operate with the Israeli Intelligence Service. Mrs Bukhari was brought to trial and sentenced to death. The death sentence was carried on 2 December 1992. The Officer was also sentenced to death and the sentence was carried out." The family of Khadija Bukhari was never informed about her trial and execution.
- ' **Dani Mansurati**, a Lebanese national born in 1959, and a member of the Lebanese Phalange party (*hizb al-kata'eb*) until 1988, "disappeared" from 'Arnus Square in al-Sha'lan area in Damascus on 9 May 1992. He was being driven by his brother when reportedly a car overtook them and blocked their way. Three people in plainclothes approached them, asked the driver to leave and took Dani Mansurati to their car and drove away. As in similar cases, conflicting reports were received about his fate. However, in July 1994 the Syrian Government informed the UN Special Rapporteur on extrajudicial, summary and arbitrary executions that Dani Mansurati had been tried on suspicion of espionage and sentenced to death. No details were given about his trial proceedings. His family has not seen or heard from him since his visit to Damascus and has not received any clarification from the Syrian Government regarding his fate and whereabouts, or even whether he is dead or alive.

Over the years Amnesty International has sought clarification from the Syrian Government of trial procedures followed in cases of prisoners facing the death penalty, but has received no response. Hundreds of people have been sentenced to death over the last two decades, particularly in the late 1970s and early 1980s; most of them were executed. Their trials were often held in secret and little is known about the procedures which led to their conviction and execution. However, based on numerous cases which have come to the attention of Amnesty International, it is clear that, in contravention of the UN safeguards guaranteeing protection of the rights of those facing capital punishment, the death penalty has been imposed after secret and unfair trials in which defendants were not given the opportunity to exercise their rights to a proper public hearing, to a defence, or to appeal.

In July 1980 the government passed Law 49 making membership of the Muslim Brotherhood a crime punishable by death. The law was passed in the wake of the violent clashes between the security forces and armed members of the Muslim Brotherhood: these had begun in the late 1970's

and intensified during the first months of 1980. The clashes resulted in many civilian deaths and a number of government officials were assassinated by members of the Muslim Brotherhood. The security forces made arrests and carried out large scale killings in various parts of the country, particularly in the towns of Jisr al-Shughur and Sarmada. In June 1980 between 600 and 1,200 suspected Muslim Brotherhood supporters who had been arrested were reportedly shot dead in Tadmur Military Prison, where they were being held. The crackdown by the security forces continued into 1982 and culminated in the Hama massacre which occurred in February that year. At the beginning of that month some 90 soldiers were ambushed in Hama and killed by armed *Mujahideen*, one of the armed groups of the Muslim Brotherhood. This was followed by the occupation and ransacking of government and security forces buildings. Some government officials and "collaborators" were reportedly killed by members of the Muslim Brotherhood. The authorities responded by deploying between six to eight thousand soldiers and security forces in the city. Mass killings were carried out by the security forces. The clashes resulted in an estimated total of over 10,000 dead.<sup>2</sup> Many of the victims were unarmed.

### **Article 7: Torture and ill-treatment**

For over two decades, Amnesty International has documented a pattern of torture and ill-treatment by the security forces, and has consistently called on the Syrian Government to initiate prompt and impartial judicial investigations into torture allegations made by political detainees. Although as a result of fewer political arrests in recent years torture is less frequently reported, the machinery that facilitates torture remains firmly in place.

From reports documented by Amnesty International, political suspects have most frequently been tortured during the initial period following arrest while being held in incommunicado detention. There are also indications that detainees are tortured or ill-treated at other stages of detention. Torture has been used as a means of extracting information and also as a form of punishment. For example, detainees are commonly tortured upon arrival at the prison to which they have been transferred. The treatment they receive at that point, known as *haflat al-istiqbal* or "reception", differs among prisons. It usually ranges from common insults, to kicking and punching, to more severe techniques.

The most common methods of torture reported to Amnesty International include beatings on all parts of the body; *falaqa*, beating on the soles of the feet; *dullab* (tyre), hanging the victim from a suspended tyre and beating him or her with sticks and cables; and pouring cold water over the victim's body. Another method is *al-Kursi al-Almani* (the German Chair), a metal chair with moving parts to which the victim is tied by the hands and feet. The back rest of the chair bends backwards, causing acute hyper extension of the spine and severe pressure on the victim's neck and limbs. This is said to result in difficulty in breathing almost to the point of asphyxiation, loss of consciousness and, in some cases, fracturing of the vertebrae<sup>3</sup>.

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<sup>2</sup> For more details see Amnesty International Report: [Report from Amnesty International to the Government of the Syrian Arab Republic](#) (AI Index: MDE 24/04/83), pp 33-38

<sup>3</sup> A report published by Amnesty International in October 1987 under the title: Syria: Torture by the Security Forces (AI Index: MDE/24/09/87) has documented some 38 methods of torture practised by the Syrian security forces at the time.

Although Syria is not yet a state party to the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, torture is prohibited by the Constitution and punishable by imprisonment under the Penal Code. This is confirmed by the Syrian Government report, which lists relevant legislation that prohibits torture (paragraphs 85-87). However, despite repeated and consistent allegations of torture, Amnesty International is not aware of any cases where these laws have actually been implemented.

As pointed out by the Human Rights Committee in its General Comment 7 (16) on Article 7:

“... it is not sufficient for the implementation of this article to prohibit torture or cruel, inhuman or degrading treatment or punishment or to make it a crime. Most states have penal provisions which are applicable to cases of torture or similar practices. Because such cases nevertheless occur, it follows from Article 7, read together with Article 2 of the Covenant, that States must ensure effective protection through some machinery of control”.

In a report published in April 1995 Amnesty International stated that most of the 500 or more defendants tried before the SSSC since July 1992 stated in court that they had been tortured; that none were known to have been medically examined; and that no investigations were known to have been carried out. In March 1997 the Minister of Interior informed Amnesty International delegates that any official who committed torture or ill-treatment would be brought to court. He also stated that any person who suffered torture had the right to make a complaint to a judge who would then refer the case to the Ministry of Interior to take the necessary measures. However, the cases of torture allegations presented by Amnesty International to the Syrian authorities remain unaccounted for; no investigations are known to have been carried out.

In certain prisons, like Tadmur Military Prison, torture is still believed to be routine.

**Tadmur Military Prison** is located near to the ancient city of Tadmur (Palmyra) in the Homs desert, approximately 250 km northeast of Damascus. The prison is under the administration of the military police. For many years Amnesty International has documented a pattern of torture and ill-treatment which appears to be peculiar to Tadmur prison. Amnesty International has also documented a pattern of political prisoners being sent to Tadmur prison as a punitive action. The last of such reports were received by Amnesty International in 1996 and 1998 when two groups of political prisoners, including prisoners of conscience, were transferred to Tadmur apparently because of their refusal to renounce their political affiliation or to agree to a conditional release.

According to reports received by Amnesty International “receptions” at Tadmur are among the most brutal. The following account of a “reception” at Tadmur in the 1980s given to Amnesty International by a former detainee, is typical of statements the organization has received over the years.

*The bus arrived at Tadmur Prison where the Military Police awaited us. ... The warders helped us off the bus [prisoners are usually blindfolded when moved from one place to another] whipping us mercilessly and brutally until we were all out. They removed the handcuffs and blindfolds, and then we were taken into a courtyard overlooked by prison offices, where our names were registered. All the while we were being whipped from all sides. Then we were taken through a metal door into a courtyard known as the*

*torture courtyard. The military police searched our clothes. One by one we were put into the dullab [tyre], and each person was beaten between 200 and 400 times on his feet. When they had finished beating us we were lined up in a single file. Holding on to each others' clothes, blindfolded and with our heads lowered, we walked into the prison. We reached the fourth courtyard, a cell door was opened and we went in. Of course until the cell door was closed we continued to be whipped from every direction. Everyone was in a bad condition, their legs bleeding and covered with wounds, as well as other parts of their bodies. Some of the prisoners died during the 'reception'... .*

Many detainees continue to be ill-treated throughout their subsequent imprisonment. Ill-treatment is reported to be regular and frequent in Tadmur and is aimed at intimidating and humiliating detainees. Former prisoners have stated to Amnesty International that they were beaten, whipped and otherwise ill-treated throughout the time they were in prison. They said detainees are routinely beaten when entering and leaving their cells, sometimes when naked. When given their meals three times a day detainees are whipped, kicked, punched and slapped, and cigarettes are extinguished on sensitive parts of their bodies. This is usually accompanied by insults or threats.

Detainees are also routinely ill-treated during their daily exercise (breather) period of approximately half an hour. They are taken out into the prison courtyards and ordered to run around in bare feet while being simultaneously whipped on their backs or legs by prison guards supervising the exercises. They are forced to crawl on their stomachs with their elbows to the ground, their hands over their ears and their heads lowered. They are also forced to lie down and raise their legs which are then beaten, sometimes until they bleed. Alternatively, the guards force them to lie on their stomachs and then step on their heads, necks or backs or whip them. Detainees who refuse to carry out orders during the exercise period are "punished" with other forms of ill-treatment, such as *dullab* (tyre method) They are also ill-treated when they are shaved, approximately every three to four weeks; in addition to being beaten while waiting their turn to be shaved, their faces, particularly the lips, ears and nose, are slashed with razor blades.

Other forms of ill-treatment in the prison include deprivation of sleep: detainees are forced to stand in their cells with their heads erect and their arms raised. Guards observe prisoners constantly through openings in the roof of the cells, which are also used to pour cold water on them in winter.

As a result of routine ill-treatment, most detainees in Tadmur are said to suffer frequently from swollen hands, feet, eyes and faces, flayed skin (particularly on the back), broken teeth, and fainting spells. Their psychological health is said to be extremely poor, both as a consequence of such treatment and from having to watch others being ill-treated or hearing their screams.

A report sent recently to Amnesty International by a group of former Syrian prisoners referred to the situation in Tadmur as follows:

*Tadmur is unique among Syrian prisons in being a penal institution in the form of a concentration camp - a glaring example of intimidation, terrorizing, torture, killing, as well as psychological, moral, and physical humiliation. [In Tadmur] we have*

*experienced indescribable events and atrocities over seventeen years, from the beginning of 1980 to the end of 1996.*

The report went on to point out that after 1996,

*the daily torture routine began to lose much of its intensity [but] the treatment of prisoners acquired a different character .... torture now focuses on reminding the inmates at all times of the meaning of Tadmur, and the persistence of methods of causing spiritual death.*

Recent reports received by Amnesty International, however, suggest that Tadmur remains a prison where torture of detainees is a daily routine. Political prisoners who were released from Tadmur, during the last three years indicated that torture, though less vigorously pursued compared to previous years, is still routinely inflicted. Some of these prisoners confirmed that detainees are still regularly beaten whenever they leave their dormitories (to collect meals, go to the toilet, or for the “breather” exercise). Moreover prisoners - who are kept under constant surveillance - are still subjected to harsh punishments at the slightest unauthorised action (such as going to the toilet during the night). One testimony stated that penalties which were set at 50 lashes per “offence” in 1996, have been subsequently increased to 100, and then 200 lashes per offence. Other testimonies suggest that while the overall conditions remain cruel in Tadmur, treatment varies from one section to another, apparently in relation to categories of prisoners.

Amnesty International does not know of any investigation that has been conducted into these systematic violations.

#### ***Deaths in custody***

No investigation appears to have been ordered or carried out by the Syrian authorities into cases raised by Amnesty International in previous years relating to deaths in custody alleged to have resulted from torture or to have occurred in suspicious circumstance. Such cases include:

- ' **Attiyeh Dhiab Attiyeh**, a Palestinian aged about 31, who died in February 2000 in Tadmur prison allegedly because of torture and ill-treatment. A member of Fatah - the mainstream Palestinian faction led by Yasser Arafat - Attiyeh Dhiab Attiyeh was arrested in 1989 in south Lebanon and apparently transferred to Syria. Amnesty International does not know whether he was charged or tried, but he was one of the scores of Palestinians held on political grounds in Syrian prisons.
- ' **Rif'at bin Ahmad Rajab** died in 'Adra prison in April 1992, reportedly as a result of a heart condition exacerbated by torture and lack of medical treatment. He was detained as a suspected member of *al-Tanzim al-Sha'bi al-Dimoqrati al-Naseri*, Nasserist Democratic Popular Organization in 1986.
- ' **Ziad Musa Qatnani** is reported to have died on 8 May 1990 in *Fara' al-Tahqiq al-'Askari* (Military Interrogation Branch) in Damascus. He was arrested at Damascus airport in July 1985 on arrival from Tunis. He was visited by his mother one month before his death when he apparently appeared in reasonable health. However, when his body was returned to his family, it apparently bore marks of torture by electricity and had a broken skull.

During its last visit to Syria in March 1997 Amnesty International repeated its request to the government to ensure that arrests and detention are carried out only under strict supervision by the judiciary; that detainees are given prompt and regular access to a judge and their family, as well as lawyers and doctors of their own choosing; that arresting authorities are clearly instructed that torture or ill-treatment of prisoners or detainees will not be tolerated, and that the perpetrators of such acts will be punished. These measures should be coupled with practical steps to ensure that allegations of torture and deaths in custody are urgently, thoroughly and impartially investigated and that any officials found responsible for torture or other abuses of human rights are brought to justice. No response has been received.

### **Article 9: Right to liberty and security of the person**

Arrest and detention practices mentioned in this briefing are contrary to Syria's international human rights obligations under Article 9 of the ICCPR. They are also contrary to Syria's own law, particularly Article 104(1) and (2) of the Code of Criminal Procedures (CCP), which requires the arresting authorities to bring a suspect before a judicial authority within 24 hours; failure to do so renders him or her legally entitled to immediate release. According to Article 105 of the same code, if the detainee is kept in custody for more than 24 hours without having appeared before a judge, the authority holding him or her is acting arbitrarily and is liable to prosecution for the crime of deprivation of personal liberty, punishable by imprisonment for one to three years, as stipulated by Article 358 of the Penal Code. Similarly, according to Article 72 (2) of the CCP, suspects are guaranteed the right to contact their lawyers at any time and in private, except in cases of espionage. These legal requirements, however, are routinely ignored by the authorities and have been subordinated to the State of Emergency legislative provisions and to the power given to the various security forces to act without judicial control.

In accordance with the State of Emergency legislation the Martial Law Governor (by delegation the Minister of Interior) enjoys a wide range of powers some of which infringe directly on fundamental rights and freedoms. Article 4a of Legislative Decree No. 51 allows:

"The placing of restrictions on freedom of individuals with respect to meetings, residence, travel and passage in specific places or at particular times. Preventive arrest of anyone suspected of endangering public security and order. Authorization to investigate persons and places. Delegation of any person to perform any of these tasks."

In most cases of political prisoners who have come to the attention of Amnesty International, no warrant or other authorizing document was produced at the time of arrest. Furthermore, Amnesty International has documented a pattern in which details about arrests made by the various local branches are frequently not forwarded immediately to a central authority for official authorization, but are instead often delayed for weeks or months. Evidence of this pattern is the discrepancy between the actual date of arrest and the date registered in official documents such as indictment sheets. The impunity with which security forces may arrest any suspect at any time without immediate reference to a central authority has led to numerous cases of arbitrary arrest, incommunicado detention and denial of the rights of those arrested. This pattern continues today, though on a lesser scale and with less intensity.

Over the years suspected political opponents have been subjected to long-term detention without charge or trial in violation of the ICCPR, and invariably denied the most basic rights guaranteed by international human rights standards. Some of them have never been brought before a judge or a judicial authority or been able to challenge the lawfulness of their detention. In addition they have been denied any contact with a lawyer.

- ' A group of former government and Ba'th party officials were arbitrarily held without charge or trial for more than two decades: from 1970 until their death in prison or release in 1993/94. They included former Syrian President **Nur ad-Din al-Atassi**, who died shortly after his release from prison in 1994.
- ' **Riad al-Turk**, a leading member of the Communist Party Political Bureau (CPPB, *al-Hizb al-Shuyu'i al-Maktab al-Siyassi*) and a prisoner of conscience, was released in 1998. He had been arrested in 1980, held in incommunicado detention without charge or trial for nearly 18 years and allowed only four or five visits from his family during that time.

There are still hundreds of prisoners held in connection with the unauthorized Muslim Brotherhood group (*al-Ikhwān al-Muslimūn*) in various Syrian prisons, despite the release of over two thousand political prisoners held in connection with this group in 1995, 1998 and 2000. Most have been held in incommunicado detention since the early 1980s and their whereabouts remain unknown.

- ' **'Abd al-Rahman Muhammad 'Anjarin**, an engineering student at the University of Aleppo born in 1958, was arrested in March 1980 apparently because of his father's suspected links to the Muslim Brotherhood. He is believed to have been held incommunicado in Tadmur prison, but his fate and current whereabouts are not known.

More recently,

- ' **Midhat Munir Tayfur**, a 46-year old Syrian foreman, married with five children, was reportedly arrested by the Syrian security forces at Dara' at the Syrian-Jordanian border on 22 May 1998. At the time of his arrest Midhat Munir Tayfur was on his way to visit his family in Syria after eight years of residence abroad. Before entering Syria he approached the Syrian Embassy in Jordan to allow him to visit the country and to ensure that his safety would be guaranteed given the involvement of his brother with the Syrian Muslim Brotherhood. After obtaining the necessary clearance from the Embassy he embarked on his trip on a passenger bus from Amman. Midhat Munir Tayfur is believed not to be personally involved with the Muslim Brotherhood or in any political activity. Amnesty International raised the case of Midhat Tayfur with the Syrian authorities in June 2000, but received no reply.

Currently there are hundreds of political prisoners, including prisoners of conscience, detained in Syrian prisons. While some of them are held probably without charge or trial, others are serving sentences mostly imposed after unfair trials (see below).

- ' **Wajih Ghanim**, a government employee born in Jablah in 1949, married with one child, was arrested along with others in the coastal city of Latakia in August 1987 for their involvement with the Party for Communist Action (PCA). He was reported to have been tortured and ill-treated while being interrogated by the Syrian security forces following his arrest. At the time of the arrest of Wajih Ghanim and his compatriots, the Syrian security forces were reported to have carried out a major search of dozens of houses in Hama and Homs areas in pursuit of

PCA activists. Wajih Ghanim was charged with the affiliation to the Party for Communist Action (PCA), which the Syrian authorities describe as "an organisation intended to change the social and economic structure of the state and society's fundamental conditions", and "opposing the objectives of the Revolution". He was subsequently tried by the SSSC and sentenced in 1994 to 15 years' imprisonment with hard labour.

Although reports of arbitrary arrest on political grounds are far fewer than in the 1980s the legislative and administrative framework remains unchanged and open, therefore, to continued abuse. Under the inclusive State of Emergency and the wide range of powers given to the security forces anybody may be placed under arrest, summoned for questioning, or have their freedom of movement restricted in one way or another without recourse to challenge the legality of such measures. Suspected members and sympathizers of opposition or unauthorized groups are particularly vulnerable to this type of arbitrary procedure.

' In December 1999 the Military Intelligence (*al-mukhabarat al-'askariyya*) and other branches of the Syrian security forces made arrests in Homs, Aleppo, Damascus and other parts of the country. Those arrested belong to political or religious groups which oppose the peace process with Israel and include large numbers of members of Islamist groups such as the Muslim Brothers of *Hizb al-Tahrir al-Islami* (The Islamic Liberation Party), as well as supporters of leftist groups. At least 100 members of Hizb al-Tahrir were believed to have been arrested then. The majority have since been released as part of the presidential amnesty issued in November 2000.

An unspecified number of Lebanese, Palestinians and Jordanians are also detained or have "disappeared" in Syria. They are primarily victims of regional conflicts and political struggles which dominated the region during the previous decades. Most of the arrests took place in the context of the Lebanese civil war, between 1975 and 1990, or during the conflict between Syria and the Palestine Liberation Organization (PLO) in the 1980s. Most Lebanese were arrested or abducted outside any legal framework by Syrian forces operating in Lebanon, or were handed over by Lebanese military intelligence or militias allied to Syria during the war. Palestinians and Jordanians were most commonly arrested at the Syrian/Jordanian border or inside Syria itself. Some Palestinians were also taken from Lebanon.

Amnesty International has documented the cases of more than 300 Lebanese, Palestinian and Jordanian political prisoners and "disappeared", a number of which were repeatedly submitted to the Syrian Government together with requests for clarification. No substantive response has been forthcoming. In March 1998, 121 Lebanese political prisoners were released from Syria, and scores of Lebanese, Palestinians and Jordanians were released during 2000. However, at least 200 Lebanese, Palestinian and Jordanian political prisoners are still believed to be in detention in Syria; they include:

' **Mustafa Dib Khalil** (known as Abu Ta'an), a Palestinian born in 1923, was arrested on 7 November 1983 in the Nahr al-Bared Palestinian refugee camp near Tripoli in north Lebanon. He was a *Fatah* activist and reportedly a co-ordinator of Palestinian guerrilla fighters in Lebanon. He was held for eight years in solitary confinement and then remained in incommunicado detention for about 14 years. Some reports suggest that he has been tried and sentenced to life imprisonment but he is apparently being held without charge or trial.

' **Najib Yusuf Jarmani**, a Lebanese national born in 1957 and married with five children, was arrested on 24 January 1997 from his house in Ba'abda reportedly by members of the Lebanese Intelligence forces. He was apparently transferred a few days later to Syria. A member of his family is said to have visited him in prison in Syria. Most recently, however, Najib Jarmani has reportedly been denied any visit from his family. It is believed that he was referred to a Military Tribunal, but Amnesty International has no information regarding the charges or any sentence passed.<sup>4</sup>

### *Hostage-taking*

Amnesty International has documented a continuing pattern of arrest and detention by security forces of relatives of the political suspects they are seeking in place of the suspects themselves. The following case is typical of a number of similar incidents:

' **Doha 'Ashur al-'Askari**, born in Aleppo in 1965, married, was arrested in Aleppo on 11 February 1993 by members of the Political Security Department (*al-Amn al-Siyassi*). She had been in hiding since 1987 when she was warned that she was being sought by the Political Security Department. Earlier in 1983 she had been forced to discontinue her studies at Aleppo University after one year as a student of English literature, due to continued harassment by the security forces and the targeting of her family members.

While she was in hiding, Doha's husband was arrested and detained in connection with the PCA and held for months without charge or trial. In 1987 her sister, Lina, was arrested from the family home in Aleppo by plain clothes security men, apparently in lieu of Doha. The security forces told her mother, Siham, that Lina would be back in 10 minutes. She did not return and was held at the Military Interrogation Branch in Damascus for a year from December 1987 to December 1988. Her mother was also summoned and interrogated at the same detention centre in Damascus in 1992, and was asked to disclose the whereabouts of Doha. On another occasion she was threatened with arrest unless she disclosed the whereabouts of her daughter.

Doha 'Ashur al-'Askari was sentenced to a prison term of six years by the SSSC in 1995. She was released in July 1999, five months after expiry of her sentence.

Sometimes when a suspect may have left the country, one or members of the family have been arrested in order to compel the suspect to return.

' In December 1986 Fathi al-Masri, a soldier in the Syrian army, attacked a political security patrol in Damascus (apparently on behalf of an opposition group), and fled the country. As a result nine male relatives and in-laws, in addition to a number of women from the family were detained. The male relatives - five brothers and three in-laws - were detained for five years (1986-1991) without charge or trial. **Salim al-Masri**, the father of Fathi al-Masri, died in custody, reportedly from a heart attack in 1991.

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<sup>4</sup> For further information on the category of prisoners who are not Syrian nationals see: Amnesty International's Report (AI Index MDE 24/01/99) released in January 1999; *Syria: Caught in a Regional Conflict: Lebanese, Palestinian and Jordanian Political Detainees in Syria*

- ‘ **Shafa’ Saleem Joulaq**, born in 1961 in Latakia, was arrested in 1981 in lieu of her brother - a suspected member of the Muslim Brotherhood - who had left the country. Her fate and whereabouts are currently unknown. Other members of the family, including her elderly father Saleem Muhammad Joulaq, have been in detention since 1980.

More recently Amnesty International received information that the round of arrests in December 1999- January 2000, which targeted suspected activists of *Hizb al-Tahrir al-Islami* (Islamic Liberation Party), also involved the arrest of relatives in place of absent suspects. For example one person was arrested by the Political Security force, *al-Amn al-Siyassi*, and detained for one week in Damascus while they searched for his brother.

These arrests violate Articles 9, and 15 of the ICCPR. They are also contrary to Syrian law, in particular the following articles of the constitution:

- **Article 25(i):** “Freedom is a sacred right. The state shall guarantee the personal freedom of citizens and safeguard their dignity and security”
- **Article 28(ii):** “No one shall be subjected to a search or investigation or to be taken into custody as prescribed by law.”
- **Article 357:** “Any official who detains or imprisons anyone in cases other than those stipulated by the law shall be sentenced to a term of hard labour.”

#### “Disappearances”

The fate and whereabouts of scores of prisoners arrested in previous years remain unknown. Amnesty International fears that some of them have "disappeared" or have been secretly executed. Those concerned were detained for political reasons by different security forces without judicial warrant and without their families or relatives being informed of their arrest or detention.

The cases of those who have "disappeared" follow a similar and simple pattern: they were arrested by one or other branch of the security forces and have not been seen or heard from since. The government has denied knowledge of their whereabouts, but families and relatives continue to seek an explanation of what has happened to them. The following persons are among those who have "disappeared", or whose fate and whereabouts in detention are not known to their families:

- ‘ **Mudar al-Jundi**, a 34-year-old engineer, was reportedly arrested or abducted by members of *al-Amn al-'Askari* (Military Intelligence) at seven o'clock in the evening of 20 September 1987 in Baghdad Street in Damascus, on suspicion of being a member of the PCA. He had been sought by the authorities in connection with the PCA since 1984. He was apparently taken to Fara' Falastin, Palestine Branch, detention centre in Damascus, but has not been seen or heard from since. The authorities have not acknowledged his detention. In 1995 certain reports suggested that Mudar al-Jundi had been tried and executed in 1988. Nevertheless the Syrian authorities have never publicly acknowledged the arrest, trial or execution of Mudar al-Jundi.
- ‘ **Wafa’ Fahmi ‘Ali ‘Abidat**, a Jordanian national of Palestinian origin, was arrested in Damascus in 1986 on charges of spying for Jordan. It seems that her arrest was linked to her brother’s connection with the Palestinian Fatah Revolutionary Council. Syria denies her detention but her family has received some reports confirming her presence in a Damascus prison. Her exact fate and whereabouts, however, remains unknown.

- ‘ **Mustafa Abu-Qaws**, a university student born in 1963 in Aleppo, was arrested on 12 October 1983 in Aleppo. The reasons for his arrest are not known but he was apparently suspected of having links with the Muslim Brotherhood. He was visited by his family once in 1983 in Aleppo two weeks after his arrest. His fate and whereabouts have been unknown since, but some reports suggest that he was executed some years ago.

These are some of the 59 "disappearance" cases raised by Amnesty International with the Syrian Government in a 1994 memorandum (submitted again in 1997); no information has been forthcoming.

#### **Article 14: Fair trials**

There are primarily two types of courts for trials of political detainees in Syria: military courts and the Supreme State Security Court.

##### ***Military courts***

Evidence received by Amnesty International, including personal testimonies, indicates that serious breaches of Article 14 of the ICCPR take place in military courts. It appears that the courts are not independent and impartial tribunals; the principle of presumption of innocence is not respected, as in many cases the defendants' guilt appears to have been prejudged; the right of the defendant to be present at trial and to present a defence with or without the assistance of legal representation is not respected.

In some cases known to Amnesty International trials have been conducted inside the prison and consisted of a single hearing wherein the defendants appeared before a military court panel only to plead guilty or otherwise to the charges filed against them. In other cases defendants were reportedly informed about their sentences without themselves ever being asked to attend a hearing. In most cases relatives learned about the trials long after they had taken place and often from a third party, usually former prisoners. In other cases relatives remained unaware of the prisoners' trials and of the outcome. These include people whose fate and whereabouts are unknown. These types of trials are usually conducted by exceptional courts, known as the **Field Military Courts**, which dispense verdicts that are not subject to any appeal, without the guarantees laid down in the Code of Criminal Procedures. These courts can pass any sentence they see fit, including the death penalty.

Constituted by Legislative Decree No. 109 of 17 August 1968, the Field Military Courts are set up by the Commander-in-Chief of the armed forces and are normally composed of a president (of a rank not lower than major) and two members (Article 3). While Article 4(a) provides for a prosecutor to be appointed for these courts by the Commander in Chief, the Decree is silent about the defence rights of the accused. The field military courts may not be restricted by the principles and procedures stated in current legislation (Article 5), and their sentences are not subject to any form of appeal (Article 6). The verdicts of the field military court, however, are subject to the approval of the head of the state and/or the Commander in Chief of the army, who has the right to annul the judgment to reduce or suspend the sentence, or order a re-trial before another military court (Article 8).

- ‘ A Syrian physician arrested in 1980 informed Amnesty International that he appeared before a field military court on 14 November 1981. The court was held in the administrative quarter of Tadmur prison. In his account he said:

*The military police brought me blindfolded to the courtroom and ordered me to sit on a chair in front of the court bench. When they removed my blindfold, the presiding officer asked my name and job, then looked into some papers in front of him, shook his head and cursed me. He then instructed the clerk to write down that 'the defendant repeated his previous testimony saying that he had medically treated a sick person from the 'gangs' of the Muslim Brotherhood'. He then said to me that he will imprison me for 15 years and ordered the police to take me out. I had not uttered a single word before the court, and was not given a chance to say anything.*

This prisoner knew that he had in fact been sentenced to 10 years' imprisonment only after his release on 17 December 1991, by which time he had spent 11 years and four months in detention, some 16 months longer than his sentence.

' A Palestinian former prisoner told Amnesty International about his trial before a field military court in 1988:

*At 8am we were taken blindfolded for the trial which was conducted in the office of the prison director. When my turn came, around 1.30pm, they called my name and led me to the office and lifted the blindfold at the door. Upon entering I saw the court which was composed of a Major General who was the President of the First Military Court, his deputy, the prison director and the clerk. They told me to sit on a wooden chair. After taking down my name, nationality, and other particulars, they asked what I was charged with. I said: "I don't know". The president then said that I was accused of carrying out subversive activities in the country [Syria]. I said: "This is not true". He said: "We know better, you may leave the room now". That was it. I didn't know what my sentence was.*

Prisoners were commonly not informed of the length of their sentence and even if they managed to discover it were not necessarily released when it expired, or even if they were acquitted.

' A Jordanian former detainee arrested in the 1990s relates that he appeared before a military court which was composed of two Major Generals, the Head of the Military Interrogation Branch, and a representative from the Presidential Palace. Although a military prosecutor was present, there were apparently no defence lawyers. He recalls:

*When I appeared before the court they asked about my name, profession, and other particulars, and then told me that I had been charged with spying for Jordanian Intelligence. I denied the charge.... They then ordered me to leave and said that the sentence would be pronounced after one month. I had to pay money to a guard to know my sentence. I was acquitted.*

Yet this prisoner was only released later, as a part of a presidential amnesty.

Following these secret and summary trials some detainees were reportedly sentenced months later to 10 or 15 years' imprisonment, while others were sentenced to life imprisonment or even to death.

In the last few years Amnesty International has not received any reports of military courts being used in political trials. However, no steps have been taken to review sentences, including lengthy prison terms and death penalties, handed down by these courts in the past.

### ***Supreme State Security Court (SSSC)***

In general, Amnesty International remains concerned that trials before the SSSC breach international fair trial standards and fail to meet the requirements of Syria's own laws or even to follow the practices in Syria's ordinary courts. Introduced in 1968, the SSSC has from its inception been conceived as an institution of the State of Emergency with the sole task of dealing with political and state security cases: it appears to be neither independent nor impartial.

The SSSC is solely dependent on the executive branch of the government with such dependence apparently secured in at least two ways. First, the court is placed outside the ordinary criminal justice system and is accountable only to the Minister of Interior, who is by delegation the Martial Law Governor in charge of overseeing the implementation of the State of Emergency Law. Second, the powers of the SSSC are limited to the courtroom and do not extend to control or supervision of the activities of the various security forces and the procedures followed in relation to arrests, detention and treatment of political suspects. The SSSC is also unable to ensure that those acquitted are actually released.

The lack of independence and impartiality of the SSSC is compounded by the fact that its verdicts are not subject to appeal, rather only the approval of the Minister of Interior (under the State of Emergency Law) and the fact that it is not bound by the rules of the Code of Criminal Procedures, in force and obligatory for all ordinary criminal courts in Syria, which guarantees important fair trial standards.<sup>5</sup>

Other procedures which render the SSSC trials unfair are:

- T ***Restricted access of defendants to lawyers.*** For example, it is required that a detainee must provide his defence lawyer with a *wakala* (authorization) before the lawyer can be legally recognized as his or her representative counsel. The *wakala* must be signed by the defendant in the presence of the lawyer and a representative from the Bar Association. The detainee must also pay a fee for the *wakala*. This complicated process is not available for political detainees. Political detainees are frequently held incommunicado and their whereabouts are unknown even to their families. In addition, lawyers experience great difficulties in trying to contact detainees while they are in the custody of the security forces, and are deterred by the fear of being associated with the defendant's political views or activities and the risk of being detained themselves. These factors completely rule out the possibility of obtaining a *wakala* during the defendant's pre-trial detention.
- T ***Wide discretionary power given to judges, particularly to the Court President.*** The Court President has discretion to determine other important aspects of the trial including whether it is held in public, whether or not lawyers can meet with their clients, and the form in which the defence lawyers deliver their pleas.

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<sup>5</sup>Principle 5 of the UN Basic Principles on the Independence of the Judiciary states that "everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures".

- T ***Acceptance of "confessions" allegedly extracted under duress or torture without due investigation in torture cases.*** In most of the cases observed by Amnesty International, the evidence produced before the court and accepted as admissible consisted of confessions, often alleged to have been extracted under duress, which were used to justify vaguely formulated charges not related to specific acts. Amnesty International knows of no case where the court took steps to establish whether confessions had been taken under torture.
- T ***The denial of any right of appeal against the SSSC decisions,*** or even review by cassation, in breach of Article 14(5) of the ICCPR.

In view of these considerations it is difficult to endorse what appears in paragraphs 52, 53, and 54 of the Syrian Government report concerning the independence and fairness of SSSC.

Political trials before the SSSC monitored by Amnesty International have failed to meet international human rights standards for a fair trial. In many cases defendants have been denied the rights to a proper public hearing, to an adequate defence and to appeal.

In 1992 hundreds of political prisoners, including prisoners of conscience, were brought before the SSSC in a mass trial. Some of them had already spent over 10 years in detention without charge or trial. While some were acquitted by the court or sentenced to terms equivalent to the periods they had spent in prison before trial, many were sentenced to lengthy prison terms of between 10 and 15 years on average.

About 10 prisoners of conscience are currently serving lengthy prison sentences imposed by the SSSC after unfair trials since 1992. Examples include:

- ' **Nizar Nayyuf**, a prisoner of conscience who was convicted in March 1992 on charges of belonging to the Committees for the Defence of Democratic Freedoms and Human Rights in Syria (CDF), an unauthorized voluntary organization, and sentenced to ten years' imprisonment. He was part of a group of 17 who were arrested in 1991 and early 1992 following the distribution by CDF of a leaflet critical of the presidential referendum in Syria and the coercion of citizens by the agents of the state to declare their loyalty to President Assad. During the trial ten were sentenced to terms of imprisonment ranging from five to ten years. In February 1997 four were released several weeks after the expiry of their sentences. Aktham Nu'aysa, a lawyer and leading member of the CDF was released in a presidential amnesty in May 1998. Four other CDF prisoners were released in January and November 2000. All these prisoners of conscience were allegedly subjected to torture during pre-trial detention.
- ' Other prisoners of conscience were those convicted in 1993, 1994, and 1995 in connection with the Party for Communist Action (PCA), an unauthorized opposition organization, and sentenced to between six and 15 years' imprisonment on average. In other cases prisoners were sentenced to longer terms, as in the case of '**Abd al-'Aziz al-Khayyir**, who was sentenced to 22 years' imprisonment in 1995, the longest sentence known to have been passed by the SSSC. At least nine prisoners are currently serving lengthy prison terms in connection with the PCA. They were among more than 500 political detainees, including prisoners of conscience, who were tried by the SSSC after July 1992, all charged in connection with various political parties and opposition groups.

Prior to 1992 available information on trials was very limited as most were held in extreme secrecy. According to information on such cases received since then defendants' rights were gravely violated; they were not allowed legal representation or given the opportunity to appeal before a higher court as evidenced in the following example:

- ' **Muhammad Hassan al-Din ibn Kamil**, a 67-year-old accountant, was arrested on 21 September 1980 in Damascus. He was reportedly a prominent figure in the Muslim Brotherhood and this is said to have been the reason for his arrest. According to former detainees, he was tried by the Supreme State Security Court. His trial is said to have been held in camera and he had no access to a lawyer then or throughout his detention. Details of the trial are not known to Amnesty International. They are also unknown to his family as they have not been allowed to visit him since his arrest.

Some political trials since 1992 have been held in relatively improved conditions. For example, relatives of defendants were able to obtain information about the trials and some were even able to attend the hearings, and most defendants were represented by volunteer lawyers chosen by their families. Nevertheless, the outcome of the trials remained the same, including harsh sentences for merely exercising the fundamental rights to freedom of association and expression. Consequently, lawyers who had volunteered to take up cases of political detainees in 1992 and 1993, found themselves unable to properly represent their clients, and withdrew in protest. Thenceforth, defendants before the SSSC have been represented by lawyers appointed by the Court.

#### **Article 19: Freedom of expression**

#### **Article 22: Freedom of association**

Over the years Amnesty International has expressed grave concern over arrest and detention of hundreds of prisoners of conscience. In addition to leaders and members of unauthorized political groups, the Syrian authorities have, over the last two decades, arrested individuals and members of trade union or voluntary organizations on grounds of their expression of critical views of the government's structures and policies.

- ' In March 1980 dozens of doctors, engineers, and lawyers were arrested and detained - most for over 11 years - either without charge or trial or subjected to secret trials. Their arrests occurred in the wake of a one-day general strike on 31 March 1980, which was organized by the Damascus branch of the Syrian Bar Association and supported by various professional associations. They called for political reforms, including an end to the state of emergency in Syria and the human rights violations committed under the State of Emergency legislation.

The strike was the culmination of a movement for reform initiated by the lawyers in Damascus in 1978. They were seeking to amend the emergency legislation to prevent human rights abuses, to re-instate the effective role of the judiciary and to protect the rights of the individual.

During the strike shops, schools, universities and businesses were shut. In Damascus the security forces went out in large numbers and forced businesses to remain open. Similar attempts were made in other Syrian cities and led to clashes in the streets between security forces and demonstrators. Shortly after the strike a presidential decree was issued recommending the dissolution of the elected councils of the Medical, Engineers and Bar Associations. On 9 April 1980 the Ministerial cabinet met and found that the councils of these

associations had broken laws concerning the aims and objectives of their professions, and resolved to dissolve the national congresses and assemblies of these associations. In the days that followed, hundreds of lawyers, doctors and engineers were arrested.

In 1994 Amnesty International presented a list to the Syrian authorities of 105 health professionals and 58 engineers as samples of professionals who were detained following the strike, including Zahi Abbadi, a general practitioner who had reportedly died in custody, and engineer Talal al-Ra'i. The majority of those professionals have since been released, mostly as a result of presidential amnesties issued between 1991 and 1995. About a dozen of them, however, were said to have been executed or believed to have died in custody.

In December 1991 and January 1992, 17 people were arrested in connection with the Committee for the Defence of Democratic Freedoms and Human Rights in Syria (CDF). The CDF had been campaigning for the abolition of the State of Emergency in Syria, the release of all political prisoners, and for greater respect for individual freedoms. The 17 were held incommunicado in pre-trial detention in *Fara' al-Tahqiq al-'Askari*, Military Interrogation Branch, in Damascus, and some were reportedly tortured. All 17 were tried by the SSSC between 29 February and 17 March 1992 (see SSSC section under Article 14).

Three of the defendants were acquitted and released. Fourteen were sentenced to prison terms ranging between three and 10 years. They were convicted on three separate charges: dissemination of false information, receiving money from abroad and the withholding of information.

The accusation of dissemination of false information related to a leaflet issued and distributed by the CDF on 10 December 1991. The leaflet protested against human rights violations in Syria and criticized procedure used for the re-election of President Hafez al-Assad in December 1991. The charge of disseminating false information was formulated on the basis of article 3(e) of Legislative Decree No. 6 of 7 January 1965, amended by Legislative Decree No. 47 of 28 March 1968. The crime is punishable by imprisonment with hard labour for between three and 15 years, according to Article 44 of the Syrian Penal Code. Under the aforementioned Article 3(e) the leaflet and CDF activities were considered to be a crime of "... publication of false information intended to create anxiety and to shake the confidence of the masses in the aims of the revolution" (The Revolution referred to is that of 8 March 1963, when the ruling Ba'th party assumed power in Syria).

The charge of receiving money from abroad reportedly related to about 25,000 Syrian Lira (about £700) sent to one of the main defendants by a brother of his who lives in Europe. The prosecution charged that the money was to finance the activities of the CDF and as such was a crime under Article 3(f) of Legislative Decree No. 6 of 7 January 1965. This crime is punishable by death under Article 4(d) of the same decree.

The charge relating to the withholding of information was brought against some defendants on the grounds that they were aware of the distribution of the CDF leaflet and possibly the money transfer and failed to inform the authorities. Such non-disclosure is considered a crime against the security of the state under Article 388 of the Penal Code, punishable by imprisonment for between one and three years and deprivation of civil rights (see paragraph 200, Syrian Government report).

Amnesty International has campaigned for many years for the immediate and unconditional release of all CDF detainees as prisoners of conscience. All, except Nizar Nayyuf, have now been released either on expiry of their prison terms, or as a result of a presidential amnesty.