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SYRIA

Smothering freedom of expression: the detention of peaceful critics

INTRODUCTION

One of the major concerns of Amnesty International featured in this report is the apparent surge of politically motivated arbitrary arrests in Syria towards the end of 2000, which have included members of parliament, prominent opposition figures, and other activists in civil society groups and the human rights movement. This report raises the cases of 12 prisoners of conscience - individuals arrested and held solely for the expression of their conscientiously held beliefs or exercise of their internationally recognized rights to freedom of expression and association - who are currently held in Syrian prisons¹. The cases featured in this report fall into three categories:

- a) Ten prisoners of conscience arrested in August and September 2001 and held since then in 'Adra prison. Two of these prisoners have been referred to a criminal court and sentenced in March and April 2002; the rest were referred to the Supreme State Security Court (SSSC).
- b) One prisoner of conscience arrested during the year 2000 upon his forcible return from abroad and currently held in Sednaya prison also sentenced by the SSSC.
- c) One prisoner of conscience held in Sednaya prison since 1992 and serving a lengthy prison term imposed by the SSSC after an unfair trial.

Amnesty International has expressed its concerns in public statements at the arrest and detention of these individuals and called for their immediate and unconditional release as prisoners of conscience. The organization has also been concerned that as prisoners of conscience - who should not have been in detention in the first place - these detainees were subjected to further injustices such as grossly unfair trials before criminal and state security courts, and in some cases were subjected to torture and/or other ill-treatment.

BACKGROUND

For many years Amnesty International has relentlessly campaigned for respect of human rights in Syria. It has raised concerns pertaining to torture, arbitrary arrest and long-term detention of prisoners of conscience, unfair trials for political prisoners, "disappearances" and extrajudicial executions.

¹ As used by Amnesty International the term "prisoner of conscience" refers to the imprisonment, detention or other physical restrictions imposed on any person by reason of his or her political, religious, or other conscientiously held beliefs, or by reason of his or her ethnic origin, sex, colour, language, national or social origin, economic status, birth, or other status, provided that he or she has not used or advocated violence.

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, May 1993, October 1994, and March 1997 Amnesty International delegates were permitted to visit Syria for talks with government officials and to observe trial hearings of the SSSC. Officials meeting with delegates during those visits undertook to grant Amnesty International open access to the country and promised future cooperation relating to the organization's human rights concerns. Since those visits Syrian officials have occasionally responded to enquiries from Amnesty International members and the International Secretariat about prisoners. Yet since March 1997 and despite repeated requests, the organization has not been allowed to visit the country for research and talks with officials. Although Amnesty International sent a delegate during May 2002 to observe the trial of prisoner of conscience, Riad al-Turk, who is featured in this report, he was denied access to the trial since it was heard *in camera*.

The overwhelming number of cases of human rights violations known to Amnesty International are the legacy of the State's confrontation with opposition groups during the 1970s and 1980s. This period saw thousands of individuals of all political affiliations detained and subjected to various human rights violations including torture and/or other ill-treatment, unfair trials, and judicial or extrajudicial executions. The fate and whereabouts of hundreds 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 December 2001; they reportedly covered hundreds of political prisoners from different opposition groups, mainly members of the Muslim Brotherhood. Thus, the number of political prisoners, including prisoners of conscience, has now been reduced to hundreds from the thousands who were in detention in 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 seem to have taken place during the last few years, leading to fewer reports of torture and ill-treatment.

However, to date no steps have been taken by the authorities to redress past and continuing human rights violations; there has been no investigation of "disappearances", extrajudicial executions, or torture and other ill-treatment, including deaths in custody. Though the bulk of these violations took place in the past, their impact continues to be felt by the victims, their families and friends.

Amnesty International remains concerned that mechanisms which facilitate human rights violations, the Emergency Legislation (imposed in 1963)², including the excessive

powers given to the security forces, are still in place. Hence, anyone known to belong or suspected of belonging to an opposition group risks arrest, detention and torture, and may have their freedom curtailed in one way or another.

In March 2001, the Syrian government presented its second periodic report on implementation of the International Covenant on Civil and Political Rights (ICCPR) to the Human Rights Committee (HRC) - the body of experts that monitors compliance by state parties with the provisions of the ICCPR. Though the report was due in 1984, its submission was welcomed by the HRC, and human rights organizations, including Amnesty International. In its concluding observations the HRC recommended, among other things, that: the Syrian authorities should ensure that anyone arrested or detained on a criminal charge be brought promptly before a judge; that respect for human rights be monitored by an independent agency; that human rights defenders and journalists be protected against any restriction on their activities; that legislation regarding limitations to freedom of expression and opposition to the "aims of the revolution" be revised; and that the state of emergency - in force since 1963 - be lifted formally and as soon as possible. Moreover, the Committee called on the Syrian government to review its legislation in order to render it compatible with all the provisions of the ICCPR.

The Syrian authorities have not only failed to heed the HRC recommendations, but have continued to violate the rights provided for in the ICCPR, as in the examples of the wave of arrests carried out in August and September 2001 and the subsequent unfair trials and sentencing of the two prisoners of conscience, Mamun al-Humsi and Riad Seif.

The cases featured in this report are testimony to the fact that the mechanisms facilitating human rights violations in Syria are still in place and that the Syrian authorities have neither taken the necessary steps to remedy the situation, nor lived up to their obligation to ensure protection and promotion of human rights as guaranteed by the human rights treaties to which Syria is a state party.

ARRESTS IN AUGUST AND SEPTEMBER 2001

Following the election of President Bashar al-Assad, who spoke about the necessity of reform and constructive criticism during his inauguration speech, the Syrian authorities tacitly allowed a margin of freedom of expression in the country. A climate, generally referred to as the *Damascus Spring*, led to the establishment of a number of discussion

² Article 4 (a) of Legislative Decree 51, which was issued on 22 December 1962 and came into force as a result of the Revolutionary Command decision of 8 March 1963, allows: "the placing of restrictions on freedoms 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."

fora wherein public affairs, political and cultural issues were discussed. These "pro-democracy movements" - generally known as civil society groupings - made it their goal to work for political reform, effective participation by the public in decision-making processes, and freedom of expression and association in Syria. However, in February 2001, the Syrian authorities imposed a number of restrictions on the activities of these discussion fora and civil society groups stating that they had violated the government's guidelines. Some of these groups, including the National Dialogue Forum led by parliamentarian, Riad Seif, continued their activities in defiance of the restrictions, and this appeared to have been one of the reasons which triggered a wave of arrests in August and September 2001. At least 10 individuals were arrested during this period.

The arrests started with the detention of independent member of the Syrian National Assembly (parliament), Mamun al-Humsi, on 9 August 2001, followed by that of Riad al-Turk, a leading opposition figure, who was arrested by the security forces on 1 September 2001, then the arrest of Riad Seif, parliamentarian and convenor of the National Dialogue Forum, on 6 September. Between 9 and 12 September 2001 'Aref Dalilah, Walid al-Bunni, Kamal al-Labwani, Habib Salih, Hasan Sa'dun, Habib 'Isa and Fawwaz Tello were arrested from their respective homes. None of these men were arrested pursuant to a recognizable criminal charge according to the law, and it appears that all were arrested and detained in view of their peaceful political opposition to, or criticism of the government. They are all considered by Amnesty International as prisoners of conscience.

Riad al-Turk, a lawyer and a leading opposition activist aged about 72 years, was arrested by the security forces on 1 September 2001. He was apparently receiving emergency medical treatment for a heart problem at the time, in the city of Tartus. As well as the heart condition for which he was being treated when he was arrested, Riad al-Turk has diabetes. He underwent major heart surgery in 1999. He was taken to 'Adra Prison where he was initially held incommunicado (without access to family or lawyers) and in solitary confinement. Later on he was transferred with other prisoners and allowed family visits in November 2001. Riad al-Turk was interrogated by an examining magistrate on September 2001 and referred for trial before the SSSC, charged with offences including "attempting to change the Constitution by illegal means...", "inciting racial and sectarian strife" and "dissemination of false information". Riad al-Turk is a leading member of the National Democratic Alliance, an opposition coalition of left-wing and Arab nationalist groups, and the First Secretary of the unauthorized Syrian Communist Party – Political Bureau. Riad al-Turk was detained as a prisoner of conscience from 1980 to 1998 because of his opposition to the Syrian government. He was held without charge or trial, mostly incommunicado, in the Military Interrogation Branch (*Far' al-Tahqiq al-'Askari*) in Damascus. He was eventually released under an amnesty declared by the late President Hafiz al-Assad in May 1998.

Mamun al-Humsi, aged 45, independent member of the Syrian People's Assembly and a businessman, was arrested by police on 9 August 2001, two days after he issued a statement, accompanied by a hunger strike, calling for political and economic reform in Syria and denouncing corruption and the broad powers wielded by the security forces. A huge armed police force reportedly arrested him and took him to 'Adra prison, where he is presently held. The Speaker of the People's Assembly agreed to lift the parliamentary immunity of Mamun al-Humsi while he was in custody. He was reportedly denied family visits and access to medication, which he takes regularly for diabetes, during the first week of detention. Mamun al-Humsi is in need of hospitalization so that he may receive specialist medical care for his diabetes but this has so far been denied him by the authorities. Although he was later allowed family visits and access to medication and lawyers, he was primarily confined to his cell and not allowed regular exercise. Mamun al-Humsi has represented a Damascus constituency as an independent parliamentarian for 11 years. He was apparently active within the newly emerging human rights and civil society movement in Syria and called for an independent parliamentary human rights committee to be set up at the People's Assembly. Mamun al-Humsi was referred to the Criminal Court of Damascus and sentenced to five years' imprisonment in March 2002, charged with offences including "attempting to change the Constitution by illegal means". He has lodged an appeal against his conviction which remains pending.

Riad Seif, aged 54 years, a businessman and independent member of the Syrian People's Assembly since 1994, was arrested on 6 September, one day after hosting a political seminar at his house on the outskirts of Damascus. Between 400 and 500 people reportedly attended the seminar organized by Riad Seif during which the guest speaker, Professor Burhan Ghalyun, called for political reform and democratic elections in Syria. Riad Seif, the second member of parliament to be arrested, was the organizer and spokesperson of the National Dialogue Forum, which was holding regular meetings in his house. In March 2001 he issued a discussion paper on the principles of *Harakat al-Silm*, Social Peace Movement (a new organization he was apparently planning to establish). On 19 March he was summoned for interrogation by the Attorney General's office to be questioned about his activities (which the authorities regard as forming a clandestine organization and hosting of unauthorized meetings). The Attorney General had sought and obtained permission from the Speaker of the People's Assembly to pursue the interrogation of Riad Seif. Riad Seif was released the same day without charge.

Riad Seif was arrested by Political Security (*al-Amn al-Siyassi*) on 6 September, on grounds of his initial interrogation in March, and following resumption of the activities of the National Dialogue Forum, which hosted Professor Ghalyun's lecture of 5 September 2001. Riad Seif was held in 'Adra prison for about two weeks with no access to his family, who heard the details of his detention from the media quoting a Syrian

News Agency report. In October 2001 Riad Seif was referred for trial before the Criminal Court of Damascus; he was sentenced to five years' imprisonment on 4 April 2002. Riad Seif has lodged an appeal against his conviction which remains pending. During Riad Seif's detention, his wife has on occasion been subjected to harassment and intimidation by the Syrian authorities.

Both parliamentarians, Mamun al-Humsi and Riad Seif, had their immunity lifted without due attention to the procedures established by Syrian law.

'Aref Dalilah, aged around 59 years, was arrested in Damascus on 9 September 2001. He is a former Dean of the Faculty of Economics of Aleppo University, and a founding member of the Preparatory Committees of the Civil Society Forum. 'Aref Dalilah was dismissed from his post as Dean of Economic Faculty, reportedly due to his outspoken views against corruption and his calls for granting freedom of expression to complement economic reform. Although 'Aref Dalilah was received by President Bashar al-Assad, who promised to reinstate him in his academic post, he was reportedly informed by the Prime Minister that he could not return to his post unless he renounced his critical views with regard to corruption and reform. He was also said to have taken part in the political seminar held on 5 September 2001 in the house of parliamentarian, Riad Seif, (see above). 'Aref Dalilah was reportedly held initially incommunicado and in solitary confinement in 'Adra prison, before being allowed family visits.

Amnesty International is concerned for the health 'Aref Dalilah. He was taken from his cell at the beginning April to a hospital in Damascus, suffering from deep vein thrombosis. Although he was in urgent need of appropriate medication and specialist medical care, he was returned to prison before receiving either. 'Aref Dalilah's health could deteriorate further as a result of complications arising from his deep vein thrombosis.

Walid al-Bunni, aged around 38 years, and **Kamal al-Labwani**, aged 44, both medical doctors, were arrested from their homes in Damascus and Zabadani (50kms north of Damascus) respectively in September 2001. Both were apparently called on by some visitors to check on patients only to discover that a force of the Syrian Political Security (*al-Amn al-Siyassi*) was waiting to arrest them. Walid al-Bunni, and Kamal al-Labwani were said to have taken part in the political seminar held on 5 September 2001 in the house of parliamentarian, Riad Seif, (see above). They were taken to 'Adra prison and held initially in incommunicado detention and in solitary confinement. Subsequently they gained access to their lawyers and were allowed family visits.

Habib Salih, aged 52, a businessman and founder of a discussion forum in Tartus, was arrested in September 2001 from his home town. He was reportedly

summoned for interrogation earlier this year, and his Forum suspended. *The reasons for his arrest are believed to be related to his criticism of Syrian government policies. He was reported to have accused the authorities of "corruption", "tyranny" and lack of respect for human rights. He was an active participant in debates organised by the Jamal al-Atassi Forum, and the National Dialogue Forum.*

Hassan Sa'dun a retired teacher from Qamishli in northern Syria and married with children, *was arrested in Damascus by the Political Security (al-Amn al-Siyassi) on 9 September 2001 during the security clampdown on human rights activists and civil society groups. He is being held in 'Adra prison. He was reportedly a member of the ruling Ba'th Party and was said to have recently become critical of the Syrian government's policies, for instance he took part in the emerging political discussion fora, and this is believed to be the reason for his arrest. Hassan Sa'dun is a human rights activist and a founding member of the Human Rights Association in Syria (HRAS).*

Habib 'Isa, a lawyer aged 55, and **Fawwaz Tello**, an engineer, were arrested on 12 September by Syrian Political Security (*al-Amn al-Siyassi*) agents as part of the September crackdown on opposition political activists and members of the emerging human rights movement. Habib 'Isa was reportedly taken from his home in Damascus in the early hours of 12 September. He is one of the founding members of the Human Rights Society in Syria and is also one of the lawyers representing detained parliamentarian, Riad Seif, who was arrested on 6 September (see above). Likewise both men were initially held incommunicado and in solitary confinement during their first weeks of detention. As was the case with others, Habib 'Isa and Fawwaz Tello were allowed family visits in November 2001.

Amnesty International is concerned at reports that these prisoners of conscience are not allowed access to newspapers, books and radios. Family visits are allowed once a fortnight for only half an hour.

All detainees with the exception of the two parliamentarians, Riad Seif and Mamun al-Humsi, were referred to the SSSC on charges of “attempting to change the Constitution by illegal means”, “inciting racial and sectarian strife”, and dissemination of false information. If convicted they face up to five years in prison. Their cases have been referred to the SSSC for trial.

FROM ASYLUM-SEEKER TO PRISONER OF CONSCIENCE

Hussain Daoud, a Syrian Kurd aged about 31, was arrested by the Political Security (*al-Amn al-Siyassi*) at Damascus airport in December 2000 on his arrival from Germany from where he was forcibly returned following the rejection of his asylum application. He was initially held at *Far' Falastin*, Palestine Detention Centre, where he was interrogated about his political activities in Germany. He was then held incommunicado for months at various detention centres in Damascus and al-Qamishli in northern Syria, where he was reportedly tortured. On 4 February 2001 Hussain Daoud was transferred to Sednaya prison on the outskirts of Damascus where he is currently held. He was refused family visits for months, but on 26 June 2001 the authorities allowed a representative of the German embassy in Damascus to visit him. He was then allowed visits from his family. In March 2002, Hussain Daoud was sentenced by the SSSC to two years' imprisonment. He was charged with "involvement in an attempt to sever part of the Syrian territory" and "opposing the objectives of the revolution through taking part in demonstrations". The charges are apparently related to Hussain Daoud's involvement with Kurdish opposition groups abroad, which the Syrian authorities consider to be separatist organizations intent on dividing the country. There is no right of appeal against decisions made by the SSSC.

Amnesty International considers Hussain Daoud to be a prisoner of conscience detained solely for exercising his right to freedom of expression and association, and is calling for his immediate and unconditional release.

LONG-TERM PRISONER OF CONSCIENCE

'Abd al-'Aziz al-Khayyir, a medical doctor, born in 1951 and married with one child, was arrested in Damascus on 1 February 1992 in connection with the prohibited *Hizb al-'Amal al-Shuyu'i*, the Party for Communist Action, (PCA). He was arrested together with three others suspected of links to the PCA by members of *al-Mukhabarat al-'Askariyya* (Military Intelligence) at the Hamidiyya market in the historic quarter of Damascus. About 13 others were arrested around the same time on grounds of their suspected links to the PCA. 'Abd al-'Aziz al-Khayyir was reported to have been sought by the authorities for many years

prior to his arrest in relation to his suspected membership of the PCA. While 'Abd al-'Aziz al-Khayyir was sought by the authorities other members of his family including his brother, sister and a cousin were arrested and detained for various periods primarily to exert pressure on him. His wife, Muna al-Ahmed, was also detained without charge or trial in connection with the PCA from August 1987 until December 1991 when she was released. Following their arrest 'Abd al-'Aziz al-Khayyir and his colleagues were held in

incommunicado detention for about three months, first in *Far' Falastin* (Palestine Detention Centre) and *Far' al-tahqiq al-'askari* (the Military Interrogation Branch) where they underwent continuous interrogation accompanied by torture. On 14 April 1992, 'Abd al-'Aziz al-Khayyir was transferred to Sednaya prison on the outskirts of Damascus where he is still held. He was allowed family visits for the first time since his arrest on 19 July 1992. Throughout his detention in Sednaya, Dr Al-Khayyir has reportedly been giving medical advice and care to fellow prisoners as much as possible and generally acting as an informal prison doctor.

'Abd al-'Aziz al-Khayyir was eventually tried and sentenced in August 1995 by the SSSC to 22 years' imprisonment (the longest sentence known to have been handed down thus far by the SSSC) on charges of membership of the PCA. He was convicted of charges relating to his political affiliation and beliefs rather than any act of violence. He has been adopted by Amnesty International as a prisoner of conscience and the organization is seeking his immediate and unconditional release. 'Abd al-'Aziz al-Khayyir is the only remaining member of the PCA to remain in prison as all those imprisoned with him were released in December 2001 as part of a presidential amnesty. Amnesty International does not know why he was exempted from the amnesty.

UNFAIR TRIALS

Of the 10 prisoners of conscience detained in August and September 2001, two, Mamun al-Humsi and Riad Seif, have been tried and convicted by the Criminal Court in Damascus; the other eight have been referred to trial before the SSSC, which also tried both 'Abd al-'Aziz al-Khayyir in 1995 and Hussain Daoud in 2002. Amnesty International maintains that as prisoners of conscience the detainees mentioned in this report should not have been in prison in the first place and that their trials before the Criminal Court and SSSC were grossly unfair. The organization is also concerned about the cases of the eight prisoners of conscience whose trials are still pending before the SSSC. All of these prisoners have been apparently denied any legal remedies enabling them to challenge the legality of their continued detention in violation of Article 9 (4) of the ICCPR which states that "[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful".

The trial of parliamentarians: Mamun al-Humsi and Riad Seif

Mamun al-Humsi and Riad Seif were referred to the Criminal Court of Damascus in October 2001 accused of a number of political crimes under the Syrian Penal Code. Both were separately indicted on charges including "attempting to change the Constitution by illegal means" and "inciting racial and sectarian strife". Additionally, Mamun al-Humsi was charged with "assault on the state with the aim of preventing it from carrying out its

constitutional obligations”, and “disruption of national unity and harmony among the various sectors of the nation”. As for Riad Seif, he was also charged with “inciting sectarian hatred and divisions” and “formation of a secret organization whose aims are contrary to the law”. After a number of hearings, eventually boycotted by defence lawyers in protest at procedural irregularities in the trial, Mamun al-Humsi and Riad Seif were sentenced to five years’ imprisonment each, in March and April 2002 respectively.

In addition to the fact that the two parliamentarians were arrested, detained and tried solely for the peaceful expression of their political opinion in criticizing the Syrian authorities, the procedures accompanying their arrest and trial were also a cause of concern for Amnesty International. The following procedural irregularities were observed:

- Both detainees were held incommunicado for some days without access to family or lawyers. They remained confined to their cells for most of the time.
- Riad Seif was arrested apparently without a warrant clearly specifying the charges against him and remained in detention for seven days without interrogation.
- Mamun al-Humsi was interrogated by the examining magistrate without the presence of his lawyer in contravention of Article 69 of the Syrian Code of Criminal Procedures; he was not made aware of his right not to answer any questions in the absence of his lawyer.
- Both detainees were denied confidential access to their lawyers throughout their detention.
- The lawyers of both detainees complained that contrary to Article 275 of the Syrian Code of Criminal Procedures, they were not allowed access to the charge sheet and other documents relevant to the cases for several sessions after the trial had commenced.
- Riad Seif was not questioned publicly by the court and was not given the opportunity to rebut the charges against him; all the requests for defence witnesses were rejected by the court in both cases.

In substantive terms the two parliamentarians were tried and convicted primarily because they had exercised their constitutionally guaranteed right to express their opinions. Mamun al-Humsi was tried and convicted on grounds of the statement he issued calling for political and economic reform in Syria, whereas Riad Seif was interrogated, arrested, and eventually convicted on grounds of his activities within the National Dialogue Forum, the discussion paper he issued together with a group of intellectuals in the name of the Social Peace Movement, and the lecture by Professor Ghalyun he hosted in his home prior to his arrest. In both cases the two parliamentarians were exercising their constitutionally guaranteed and internationally recognized rights to freedom of expression and association.

Article 25 of the Syrian Constitution stipulates that “every citizen shall have the right to participate in the political, economic, social and cultural life of the country”; and Article 38 ensures that “every citizen shall have the right to express his opinion publicly and freely, in speech, writing and other forms of expression and to participate in the work ... and the voicing of constructive criticism aimed at ensuring the safety of the structure of the homeland and the Nation and to enhance the socialist regime”. Likewise, Article 39 of the Syrian Constitution provides for the right of assembly and peaceful demonstration.

Similarly, the ICCPR, to which Syria acceded in April 1969, affirms the right of everyone to enjoy freedoms of opinion and expression (Article 19), of assembly (Article 21), and association (Article 22). It appears, therefore, that by criminalizing the activities carried out by Riad Seif and Mamun al-Humsi, the Syrian authorities have failed to honour their obligations under international human rights law and violated the provisions of their own Constitution.

Trials before the Supreme State Security Court (SSSC)

Eight prisoners of conscience have been referred for trial before the SSSC. They are: Riad al-Turk, ‘Aref Dalilah, Walid al-Bunni, Kamal al-Labwani, Habib Salih, Hasan Sa’dun, Habib ‘Isa and Fawwaz Tello. On 28 April 2002, Riad al-Turk appeared for his first hearing before the SSSC, and again on 19 May 2002 when the trial was held *in camera*. The next session of the trial was scheduled for 27 May. No dates have yet been set for the trials of the others. Amnesty International is concerned that trials by the SSSC do not follow guarantees set forth in international fair trials standards, and in many cases appear to be grossly unfair. There is no right of appeal against decisions made by the SSSC.

During the years 1992-1994 and 1997, Amnesty International delegates observed trials of political prisoners held before the SSSC. During these occasions and others, representatives of the organization held talks with SSSC judges, prosecutors, lawyers who defended clients before this court, and former prisoners of conscience who were tried by the SSSC. Amnesty International has also examined documents - such as indictments and verdicts - issued by the SSSC or on cases referred to it. On the basis of evidence collected over the years by Amnesty International, the organization remains concerned that trials before the SSSC breach international fair trial standards and fail to meet the requirements of Syria's own laws or conform with 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. Firstly, 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. Secondly, 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 some basic fair trial standards³.

Other procedures which render the SSSC trials unfair are:

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, who 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.

Wide discretionary power given to judges, particularly to the President of the Court. The President of the Court has discretion to determine important aspects of the trial including whether it is held in public (with no requirement to give reasons for its determination) whether or not lawyers can meet with their clients, and the form in which the defence lawyers deliver their pleas.

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

³ 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."

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 or statements had been taken as a result of torture.

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, which states that “[e]veryone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law”.

The trials of ‘Abd al-‘Aziz al-Khayyir and Hussain Daoud

Most of the above concerns apply to the cases of ‘Abd al-‘Aziz al-Khayyir and Hussain Daoud who were sentenced by the SSSC in 1995 and 2002 respectively. ‘Abd al-‘Aziz al-Khayyir was referred to court on 5 May 1992 along with four others - Bahjat Sha’bu, ‘Abbas Mahmud ‘Abbas, Muhammad Hasan al-M’imar and ‘Adnan Mahfudh - all held in connection with the PCA. Their trial took place as part of a mass trial of hundreds of PCA members and supporters. In a letter to Amnesty International, sent on 16 July 1992, the Syrian Embassy in London stated that “[l]egal cases were raised against them in Syrian courts ... they were referred to court and were given a public trial with their defence lawyers attending”. The letter also stated that ‘Abd al-‘Aziz al-Khayyir and his colleagues were detained by the Syrian authorities on charges including “armed violence in Syria”.

‘Abd al-‘Aziz al-Khayyir has been imprisoned on grounds of his membership of the PCA, an organization that is not known to have used or advocated violence. Furthermore, ‘Abd al-‘Aziz al-Khayyir and his co-defendants were charged collectively with the following offences:

- belonging to an association formed with the aim of changing the fundamental economic and social structure of the state by terrorist means (under Article 306 of the Penal Code);
- carrying out activities opposed to the socialist system of the state (Article 3[a] and Article 4[a] of the Legislative Decree No. 6, 1965);
- opposition to the aims of the revolution (Article 3e and Article 4c of the Legislative Decree No. 6, 1965).

The prosecution’s indictment was primarily based on an analysis of the political program of the PCA to substantiate the charges. There was no material evidence to prove or even suggest that the defendants had committed or planned any violent or “terrorist” acts as the prosecution claimed, and no reference made to the “terrorist means” as provided for under Article 304 of the Penal Code. This article allows for “... all acts

which intend to create a state of fear and are committed by such means as explosives, military weapons, inflammable substances, poisonous or burning products, epidemic or microbial agents which cause public danger". The PCA is not known to have used or advocated violence, or indeed any of the acts described in Article 304 of the Syrian Penal Code.

On 20 March, 2002 Hussain Daoud, who had been in detention since December 2000, was sentenced by the SSSC to two years in prison following an unfair trial. Hussain Daoud was charged according to the provisions of Article 267 of the Penal Code and Article 3 of Legislative Decree Number 6 of 1965 of "involvement in an attempt to sever part of the Syrian territory" and "opposing the objectives of the revolution through taking part in demonstrations". The charges are apparently related to Hussain Daoud's involvement with Kurdish opposition groups abroad, which the Syrian authorities consider to be separatist organizations intent on dividing the country. In a letter to Amnesty International dated 6 February, the Syrian authorities stated that Hussain Daoud was involved with the Kurdish People's Union Party which is prohibited in Syria.

The trials of Riad al-Turk and others

Riad al-Turk was interrogated by the Attorney General of the SSSC on 13 September 2001 on charges of "attempting to change the Constitution by illegal means" (pursuant to Article 291 of the Syrian Penal Code; "inciting racial and sectarian strife" (Article 285); and "dissemination of false information" (Article 286). He was officially referred for trial before the SSSC on 26 March 2002, and attended his first hearing on 28 April 2002. The second hearing on 19 May 2002 was held *in camera* and a third hearing was scheduled for 27 May. Amnesty International received reports that the other seven prisoners of conscience, 'Aref Dalilah, Walid al-Bunni, Kamal al-Labwani, Habib Salih, Hassan Sa'dun, Habib 'Isa and *Fawwaz Tello*, have also been referred to the SSSC, but no date has yet been fixed for their hearings.

CONCLUSION AND RECOMMENDATIONS

In this report Amnesty International has expressed concern at the pattern of arbitrary arrest and detention of prisoners of conscience and their subsequent referral, without their having committed any recognizably criminal offence, to courts whose procedures fall seriously short of international standards for fair trial. Amnesty

International calls on the Syrian authorities to take measures without delay to implement the following recommendations:

- A. Immediately and unconditionally release all prisoners of conscience including: Riad al-Turk, Mamun al-Humsi, Riad Seif, ‘Aref Dalilah, Walid al-Bunni, Kamal al-Labwani, Habib Salih, Hassan Sa’dun, Habib ‘Isa, *Fawwaz Tello*, Hussain Daoud and ‘Abd al-‘Aziz al-Khayyir;
- B. Bring the procedures of the SSSC and the Criminal Courts into conformity with the requirements for fair trial procedures under the ICCPR to which Syria is a state party;
- C. Implement the recommendations addressed to the Syrian government by the HRC of April 2001.

In addition, the organization urges the authorities to introduce safeguards to protect human rights. The government should:

- A. Introduce legislation allowing for the availability of legal remedies to enable detainees to challenge the legality of their continued detention and guaranteeing the right to appeal to a higher judicial tribunal against conviction and sentencing in all cases, without exception, in line with Article 9 (4) of the ICCPR;
- B. Ensure that detainees are well-treated and not subjected to torture and/or other ill-treatment by members of the Syrian security services;
- C. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without reservations and implement its provisions;
- D. Ensure that detained or imprisoned people are given prompt and regular and unrestricted access to family, lawyers and doctors;
- E. Implement international standards with regard to treatment of prisoners and prison conditions such as the UN Minimum Standard Rules for the Treatment of Prisoners, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;

- F. Ensure that the legislation, under which prisoners of conscience have been imprisoned, be brought in line with Articles 18 - 22 of the ICCPR guaranteeing the right to freedom of conscience, expression, assembly and association and the right to exercise these freedoms without undue interference.