Report
from
Amnesty International
to
the Government of
the Syrian Arab Republic



an amnesty international publication

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ERRATA

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page 5 line 24, (Article 27) should read (Article 28).

page 43 line 4, 13 March 1950 should read 22 June 1949

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PREFACE

This report is based on a memorandum which was submitted to the Syrian Government on 26 April 1983. In an accompanying letter to President Hafez al-Assad, Amnesty International expressed the hope that the memorandum and its recommendations would provide a basis for positive and constructive discussions and stated its willingness to send a delegation to Damascus for this purpose.

Amnesty International decided to submit this memorandum because it has received an increasing number of allegations of human rights violations by the Syrian security forces during recent years. The organisation has concluded that there is urgent need for the Syrian Government to take specific steps with respect to the control, supervision and monitoring of the activities of these forces.

Amnesty International asked the Syrian Government to respond by 6 June 1983 to its proposal for discussions.

On 13 June, having received no response, Amnesty International sent a telex to President Assad stating that the organisation would adjust its schedule in the hope of receiving a response by 24 June 1983. In accordance with its usual practice Amnesty International informed President Assad that if no response was received by 24 June 1983 Amnesty International would in due course publish its concerns in Syria. Amnesty International offered the Syrian authorities the opportunity to reply, stating that it would be able to publish the reply jointly with the memorandum if the reply were received by 1 August 1983. By that date no reply had been received from the Syrian authorities in Damascus. The Syrian Embassy in London has informed Amnesty International that an early date for a visit could not be anticipated but that the memorandum was being studied and the organisation would be sent the requested comments in due course.

It should be noted that the full range of Amnesty International's concerns in Syria extends beyond the specific issues raised in this report. This is reflected in the introductory section following this preface. (For an account of all Amnesty International's concerns in Syria, reference may be made to the Syria entries of the annual Amnesty International Reports which describe the organisation's actions with respect to human rights violations within its mandate.)

I INTRODUCTION

In October 1979 Amnesty International published Syria: An Amnesty International Briefing, a detailed account of human rights violations in that country. In a letter to President Hafez al-Assad, accompanying the report, Amnesty International summarized its concerns as follows:

- the use of emergency legislation to deny political and other basic human rights;
- the prolonged imprisonment without trial of known or suspected political opponents;
- the abduction of alleged political opponents from Lebanon by Syrian forces and their subsequent detention without trial in Syria;
- the use of torture to intimidate and to extract "confessions" during interrogation, routine ill-treatment during investigation and as punishment and prolonged solitary confinement of untried political detainees;
- the lack of basic legal safeguards and the holding of trials of political prisoners in camera before special security courts created under emergency legislation;
- the use of the death penalty for both political and criminal offences.

The letter concluded by saying Amnesty International would welcome the opportunity of meeting the President in order to explain the organization's purposes and methods and to discuss the matters of concern described in its publications.

Since publishing its 1979 report on Syria, Amnesty International has continued to receive news of arbitrary arrests, incommunicado detention, torture of detainees, unfair trials, often leading to execution, "disappearances" and extrajudicial executions.

The organization realizes that some opposition groups in Syria have themselves committed abuses, including bombings and assassinations, and it states clearly that the killing of prisoners by anyone, including opposition groups, can never be condoned and that governments should bring those who commit such abuses to justice acting in accordance with internationally agreed human rights standards.

The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ratified by Syria on 21 April 1969) recognize that there are times of national crisis when emergency powers may legitimately be used; however, such powers are clearly defined and limited. Article 4 of the Covenant states:

- "1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law
- No derogation from articles 6, 7, 8 (paragraphs one and two), 11, 15, 16 and 18 may be made under this provision.
- "3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary on the date on which it terminates such derogation."

As far as Amnesty International knows, Syria has not, as it should have according to Article 4, paragraph 3, of the Covenant, informed the United Nations Secretary-General of any deviations from the provisions of the Covenant, so presumably the country abides by it totally.

Amnesty International is also deeply disquieted because, under the present state of emergency, proclaimed in 1963 and still in force, anyone is liable to arbitrary arrest or abduction and no one can depend on the protection of the law. It considers there is overwhelming evidence that people not involved in violence have been harassed, wrongfully detained without chance of appeal, tortured and in some cases killed.

As regards the extremely long duration of the emergency and the safeguarding of human rights under a state of emergency, Amnesty International would mention one of the "general comments" made by the Human Rights Committee (set up under the Covenant) on 28 July 1981. The Committee stated that it considered:

"measures 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."

During a state of emergency, therefore, governments are forbidden to derogate from certain fundamental rights, including the right to life and the right not to be arbitrarily deprived of one's life (Article 6); the right not to be tortured or subjected to cruel, inhuman and degrading treatment or punishment (Article 7); the right not to be subject to ex post facto laws (Article 15); the right to recognition as a person before the law (Article 16); and the right to freedom of thought, conscience and religion (Article 18). In addition, Article 4 of the Covenant makes clear that restrictions on people's exercise of their 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".

In this memorandum Amnesty International assesses the practices systematically followed by the security forces that violate human rights in Syria, including the right to life, the right to security of person and the right not to be arbitrarily arrested and detained.

The first section of the memorandum describes existing constitutional safeguards for human rights and freedoms in Syria and the extraordinary powers invested in the executive and delegated to the security forces under the State of Emergency Law.

The main section is a study and assessment of human rights violations committed by the security forces, in particular arbitrary arrests, detention without trial, torture, "disappearances" and extrajudicial executions. At the end of the section is a summary of the organization's main concerns plus recommendations to the government.

Amnesty International decided to submit this memorandum because of the increasing number of allegations of human rights violations by the security forces it has received since the publication of its October 1979 report and because of the urgent need for the Syrian authorities to control, supervise and monitor the activities of these forces.

II THE LEGAL BACKGROUND

1. The Syrian constitutional system and the protection of human rights and freedoms

The Constitution of 31 January 1973 proclaims the Syrian Arab Republic to be a democratic, popular, socialist and sovereign state with Islamic jurisprudence as its main source of legislation and Arabic its official language. The principle of the separation of the legislative, executive and judicial powers is enshrined in the constitution.

The People's Assembly is the legislative body, its members being elected by secret ballot for four-year terms of office. It passes the laws of the land, appoints the President of the Republic, debates cabinet policy (and may force a minister or the cabinet to resign through a motion of no confidence), approves international treaties and agreements and endorses general amnesties proclaimed by the President.

The President, assisted by the ministerial cabinet, constitutes the executive body. The President is elected for a seven-year term of office by universal suffrage and may appoint or dismiss the Vice-President, the Prime Minister and the cabinet. The President is Supreme Commander of the Armed Forces and, in consultation with the cabinet, formulates general policy. The President may dissolve the People's Assembly or order it to meet in emergency session, declare states of war, emergency or general mobilization, announce a general amnesty and "submit to popular referendum important matters relating to the higher interests of the state".

The President may assume legislative powers during interim periods when the People's Assembly is not in session or may do so:

"in the event of grave danger, or a situation threatening national unity, the safety and integrity of the state, or obstructing state institutions from carrying out their constitutional responsibilities."*

Article 131 of the constitution guarantees the independence of the judicial authority and Article 133 stipulates that judges be autonomous and subject to no authority other than the law. Judges are appointed by the judicial and executive authorities via a Supreme Judicial Council presided over by the President of the Republic. They cannot be dismissed, suspended or transferred without the approval of the Council.

Administrative and judicial reviews of government agency decisions are made by a State Council (Majlis al-Dawla) whose decisions are binding on the government. The State Council may also serve as a consultative or advisory body; hence it is divided into several departments, each matching a particular government ministry.*

A Constitutional Court examines and decides on the constitutionality of laws passed by the People's Assembly or the President if it is so asked by the latter or by a quarter of the People's Assembly.**

The preamble to 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 their 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 27). 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).

The rights and freedoms outlined in the constitution of 1973 are guaranteed and regulated by laws, presidential decrees and military orders, most of them issued before 1973. This is confirmed by Article 27 of the constitution which states:

"Citizens exercise their rights and enjoy their freedoms in accordance with the law",

and Article 25(ii) which states:

"The supremacy of the law is a fundamental principle in society and the state."

Legislation introduced before the constitution came into being is still in force in accordance with Article 153 of the

^{*} Article 113 of the constitution

^{*} Article 138 of the constitution

^{**} Article 145 of the constitution

constitution which states:

"Legislation in effect and issued before the proclamation of the constitution will remain in effect until amended so as to be compatible with its provisions."

2. The state of emergency

On 8 March 1963 Military Order 2 was issued in line with a declaration by the National Revolutionary Command Council of a state of emergency throughout the country. Although Article 2a of the State of Emergency Law (SEL), which was passed beforehand on 22 December 1962, stipulates that the declaration of a state of emergency must be brought to the People's Assembly for approval at its next meeting, as far as Amnesty International knows this approval was never given. The state of emergency has remained in force for 20 years.

(i) Martial law powers under the state of emergency

Most arrests of a political nature are made under the State of Emergency Law. Article 3 of this law stipulates:

- "(a) On proclamation of a state of emergency the President of the Republic shall name a Martial Law Governor and all powers of internal and external security shall be placed at his disposal.
- "(b) The Martial Law Governor shall appoint by decree one or two deputies to work with him.
- "(c) The deputies of the Martial Law Governor shall carry out tasks delegated to them in the areas assigned by him."

The Martial Law Governor in Syria is the Prime Minister, who delegates martial law functions to the Minister of Interior, who fulfils the role of Deputy Martial Law Governor (DMLG).

Article 4 of the law defines the powers invested in the Martial Law Governor or appointed deputy as follows:

"The Martial Law Governor or his deputy shall issue written orders to adopt some or all of the following restrictions and measures and he shall bring anyone who violates them before military courts.

- "(a) 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.
- (b) The censorship of letters and communications of all kinds. Censorship of newspapers, periodicals, publications, drawings, printed matter, broadcasts and all means of communication, propaganda and publicity before issue; also their seizure, confiscation and suspension, the denial of their rights and the closure of the places in which they were printed.
- "(c) The fixing of opening and closing times for public places.
- "(d) The withdrawal of licenses for weapons, ammunition and all kinds of explosives and the ordering of their surrender and seizure. The closure of weapons stores.
- "(e) The evacuation of areas or their isolation, the organization of the means of transport, the restriction of communications and their limitation between areas.
- "(f) The requisitioning of movable property and real estate and the temporary sequestration of companies and establishments with delay in the settlement of debts and obligations due either to or from the requisitioned body.
- "(g) The imposition of punishments for the contravention of these orders provided these do not exceed three years' imprisonment and 3,000 lira or either of these two. If an order does not impose the punishment for the contravention of its rulings, such contraventions shall be punished with imprisonment for not more than six months and a fine of not more than 500 lira or with one of the two. This all being with the proviso that the maximum penalties specified in other laws are not exceeded.

In addition, Article 6 of the State of Emergency Law lists as offences falling under state of emergency procedures all the following ones in the Syrian Penal Code:

Articles	Offences
260 -3 39	against Security of the State and Public Order*
369-387	against Public Authority
427-459	which Disturb Public Confidence**
573-586	which Constitute a General Danger

The state of emergency in Syria has produced a number of special measures and led to an expansion of executive powers which are not part of normal criminal procedure. However, the State of Emergency Law has neither directly nor indirectly suspended existing legal or administrative procedures.

The Martial Law Governor may issue "written orders" to adopt a number of measures or restrictions defined in the State of Emergency Law. These written orders are of an administrative nature. They do not have the force of legislative or judicial decrees nor sovereign immunity. They are subject to review by the Administrative Court of Justice (Majlis al-Dawla) which has stated in a number of rulings that the Martial Law Governor's powers:

"must not go beyond decreed limits otherwise he will not be fulfilling his legal obligations and will be infringing, without legal justification, general freedoms, the right to possess private property or judicial rulings. His actions will be illegal, which will lead to their invalidation and compensation by the Administrative Court."*** In other rulings the court has made it clear that it possesses:

"the right to note the presence or otherwise of valid reasons for the interference of the Martial Law administration in any matter. In cases where documents show that such interference was not justifiable, the decision / that is, of the Martial Law Governor/ shall be declared null and void."*

When arresting and detaining suspects by order of the Martial Law Governor, the security forces are still legally bound to operate within the limits of existing laws and established procedures. For a brief description of these procedures see Appendix A.

(ii) Military courts and state security courts

Article 4 of the state of emergency legislation states that those detained for violation of the orders of the Martial Law Governor or the latter's deputies or for not observing the restrictions stipulated in the legislation shall be referred to military courts. These restrictions are listed in Article 6 of the State of Emergency Law.

Military courts, as defined by the Military Code of Criminal Procedure (MCCP), comprise a President and two members appointed by the Minister of Defence. The President of the Court should be a qualified civilian judge of the first rank or have military rank not lower than that of Lieutenant Colonel. The rank of the other two members of the court should not be lower than Captain. Military courts' judgments are not subject to appeal but the accused may apply to the Military Court of Cassation to have the verdict quashed.

In January 1965 Legislative Decree No. 6 was passed, which permitted the formation of Exceptional Military Courts in Damascus and other towns. The courts' jurisdiction is defined in Article 3 and includes:

"(a) Actions considered incompatible with the implementation of the socialist order in the state whether they are deeds, utterances or writing, or are done by any means of communication or publication.

^{*} Amr 'Urfi (Martial Law Order) No. 16 of 17 June 1966 amended this and refers offences under Articles 314 and 318 to the relevant civil courts.

^{**} Amr 'Urfi No. 31 of 1 August 1965 has amended this Article and refers these offences to the relevant civil courts.

The Collection of the High Administrative Court of 1972, page 43, as reproduced in al-Muhamun, the monthly publication of the Syrian Bar Association, No. 2-4 of 1978, page 123.

^{*} Decision 334 of 4 December 1978 by the Administrative Court of Justice, reproduced in al-Muhamun No. 6-8 of 1979, pages 435-6.

- "(b) Offences contrary to legislative decrees Nos. 1 and 2 of 2 January 1965 and No. 5 of 3 January 1965 and all legislative decrees which have been or will be issued and are connected with the socialist transformation.
- "(c) Offences against the security of the state for which punishments are prescribed in Articles 291 to 311 of the penal code.
- "(d) Disobeying the orders of the Martial Law Governor.
- "(e) Opposing the unification of the Arab states or any of the aims of the revolution or hindering their achievement, whether by demonstrations, assemblies or riots or by incitement to such or by the publication of false news intended to create anxiety and to shake the confidence of the masses in the aims of the revolution.
- "(f) The taking of money or any other benefit from a foreign state or from an organization or individuals, whether Syrian or non-Syrian, or communication with a foreign agency, for the purpose of undertaking any action, verbal or physical, hostile to the aims of the revolution.
- "(g) Attack or aggression towards places intended for worship or the conducting of religious ceremonies, or command centres or military establishments or other governmental establishments and institutions, or public and private establishments, including factories, workshops, trading establishments and houses, or inciting disturbances or demonstrations, or arson, robbery and pillage.
- "(h) The monopolizing of trade in foodstuffs or the exorbitant raising of their prices.
- "(i) The removal of currency and other means of payment from the Syrian Arab Republic in violation of existing regulations."

In March 1968 the Exceptional Military Courts were replaced by state security courts. These courts, whose members are appointed by presidential decree*, have jurisdiction over the offences

specified in Article 6 of the Exceptional Military Court Law, and over any other cases referred to them by the Martial Law Governor.

The rulings of the state security courts cannot be the subject of appeal but must be ratified by the President of the Republic, who may suspend or vacate the verdict, order a retrial or reduce the penalty. The decision of the President is irreversible and cannot be contested or revised (Article 8).

The procedures of the state security courts are defined under Article 7a:

"While upholding the right of defence laid down in current laws, the courts of state security shall not be confined to the usual measures prescribed for them in current legislation in any of the stages and proceedings of prosecution, investigation and trial."

Trials before these courts are usually held in camera and, although defence lawyers may be engaged, choice of and prior access to defence counsel in accordance with internationally recognized standards is reported to be routinely denied. In certain trials (such as those of the individuals accused of the violent attack on the Semiramis Hotel in Damascus in 1976, or of the massacre of more than 50 military cadets in June 1979 at the Aleppo artillery school) the proceedings have been extremely summary, with trial, sentence and carrying out of sentence (in both cases the death penalty) all occurring within 24 hours.

^{*} As amended on 2 October 1971. Previously they were appointed by order of the Martial Law Governor and comprised a President and two judges, one civilian and the other military.

III HUMAN RIGHTS VIOLATIONS BY SYRIAN SECURITY FORCES

1. Arbitrary arrests and detention

(i) The arresting authority

Most arrests of a political nature in Syria are made not by the criminal police but by members of the security forces. They are made in accordance with the State of Emergency Law which invests the security forces, by delegation from the Deputy Martial Law Governor, with wide powers of arrest and preventive detention. Under the provisions of the State of Emergency Law, the Deputy Martial Law Governor may issue written orders to investigate, restrict, arrest and put in preventive detention anyone accused of "endangering security and public order" (State of Emergency Law, Article 4a). The same article also stipulates that the Deputy Martial Law Governor, who controls the internal and external organs of state security, may "authorize any individual to perform any of these tasks".

Although the Martial Law Governor has "all powers of internal and external security . . . placed at his disposal", since the security forces have functions not controlled by this official, not all their activities are as a rule the latter's business. The extent to which security force commanders are answerable to the Martial Law Governor or to their respective ministries, the Ministries of the Interior and of Defence, is not clear. Most reports suggest that, whereas in theory they are the direct responsibility of the appropriate ministries, and via them the Martial Law Governor, in practice they are answerable only to the President, via the Presidential Security Council. This body is chaired by the President and appears to be the means whereby the heads of the security forces report back to or receive their latest instructions from the President.

At present there are several networks of security forces in Syria to whom such powers are delegated. Each force has its own branches, detention cells and interrogation centres throughout the country, and its own <u>Mukhabarat</u> (Intelligence Service). The principal forces Amnesty International knows are:

- Saraya al-Difa' 'an al-Thawra (Brigades for the Defence of the Revolution), founded in 1971 and headed by Rif'at al-Assad. They are estimated to be 15,000 to 25,000 strong. Their main function is to protect the President, the administration and the revolution.
- Al-Wahdat al-Khassa (Special Units), commanded by 'Ali Haidar, comprise an estimated five to 8,000 commandos and paratroopers.

- Al-Mukhabarat al-'Ama (General Intelligence), headed by Nazih Zirair. Its functions include monitoring and collecting intelligence. It is responsible to the Minister of Interior.
- Al-Mukhabarat al-'Askariyya (Military Intelligence), headed by Brigadier 'Ali Douba. It collects and acts upon intelligence about or affecting the armed forces and is responsible to the Ministry of Defence.
- Mukhabarat al-Quwwa al-Jawiyya (Air Force Intelligence), commanded by Brigadier Muhammad al-Khuwali, who also heads the Presidential Security Council. Its main purpose is the same as that of military intelligence but only with respect to the Air Force. It is responsible to the Ministry of Defence.
- Al-Amn al-Siyassi (Political Security), headed by Ahmad Sa'id Salih. It monitors political activity in the country and acts upon information gathered. It is responsible to the Ministry of Interior.
- Al-Amn al-Dakhili (Internal Security), headed by Muhammad Nassif. Its specific jurisdiction is unclear. It is responsible to the Ministry of Interior.
- Maktab al-Amn al-Qawmi (National Security Bureau), headed by Ahmad Diab. Its main purpose is not known. It appears to be responsible to the Presidential Security Council.

In the 1940s and 1950s only two security forces are thought to have existed, each with well-defined terms of reference and lines of responsibility: al-Mukhabarat al-'Askariyya (Military Intelligence) was limited to intelligence work within or connected with the armed forces and was directly responsible to the Ministry of Defence; al-Amn al-Siyassi (Political Security) dealt with civilian political opposition and was under the authority of the Ministry of Interior. Since the 1960s, especially after the reintroduction of a State of Emergency Law in 1963, the security forces have grown, their roles and special functions have become more varied, overlapping in many instances, and the lines of upward responsibility have become increasingly difficult to trace.

After 1963 some security forces became directly responsible to the Martial Law Governor, as was Amn al-Dawla (State Security) which was renamed in 1971 al-Mukhabarat al-'Ama (General Intelligence). Originally its function was surveillance and information gathering.

Others were answerable only to the President of the Republic. In the early 1970s the Saraya al-Difa' 'an al-Thawra (Brigades for the Defence of the Revolution) — an elite guard to protect the President, the administration and the revolution — came into existence under the command of the President's brother, Rif'at al-Assad. At about the same time al-Wahdat al-Khassa (the Special Units) were established, under the command of 'Ali Haidar, as military commandos and paratroopers.

During the 1970s new and existing security forces appear to have become increasingly powerful, partly through the greater freedom of action they came to enjoy under the state of emergency, and their commanders have become more independent and less restricted by their services' original terms of reference.

There appears to be no clear distinction as regards jurisdiction between the different branches of the security forces. The <u>Mukhabarat al-Jawiyya</u> (Air Force Intelligence), answerable previously to President Assad (who, before becoming President, had been Commander of the Air Force) has played a prominent role in arresting civilian political opponents. Its chief, Brigadier Muhammad al-Khuwali, is also at present official head of the Presidential Security Council.

The activities of al-Mukhabarat al-'Askariyya (Military Intelligence) in practice have not been limited to matters concerning or affecting the armed forces but have included the arrest and interrogation of members of prohibited political parties and, after April 1980, members of the medical or engineers' associations. The Saraya al-Difa' (Defence Brigades), although based in Damascus primarily to protect the President, were reportedly active in Aleppo during the house-to-house searches in March 1980 and are alleged to have taken part in the massacre of prisoners at Palmyra (Tadmur) prison in June 1980. They are described by some Syrians and foreign observers as being above the law of the land and are answerable only to the President's brother. Rif'at al-Assad. Amnesty International has heard that trained members of the Saraya al-Difa' are regularly sent abroad to monitor the activities of Syrian political opponents in exile and to prevent such activity through harassment and sometimes violence.

The expanding powers and greater freedom of action enjoyed by the security forces plus the apparent lack of direct supervision of their activities have prompted numerous reports of the abuse of such powers, including widespread arbitrary arrests, denial of the rights of those arrested and long-term detention without trial. In recent years the increasing number of reports of human rights violations by the security forces have included allegations of torture, "disappearances" and extrajudicial executions.

(ii) Places of detention

Places of detention in Syria today vary from simple houses or floors in buildings to establishments capable of holding more than 1,000 prisoners. For the most part they fall into the following categories:

- official civil prisons;
- official military prisons;
- detention centres for investigation of cases;
- cells in police stations;
- the security forces' cells and buildings:
- makeshift places of detention.

Syria is divided into 12* provinces, in each of which, in the major city or town, there is at least one main Sijn Madani (civil prison), a Sijn Amm al-Dawla (state security prison) and a Sijn al-'Askari (military prison). Amnesty International knows also of at least two women's prisons, al-Qatana (Damascus) and Rastan (Homs). There are many other places of detention too, such as police cells, detention centres, military barracks and the security forces' buildings. When parts of towns have been sealed off and systematically combed with house-to-house searches (as has happened frequently over the past three years), makeshift places of detention have been used. These have ranged from schools and educational or cultural centres to factories, sports stadiums and camps pitched by the army.

The two largest centres of population in Syria are Damascus, the capital, and the city of Aleppo in the north. Amnesty International has received news since June 1979 about the detention of political prisoners in these cities in the following prisons and detention centres:

Demascus

- 1. al-Mezze military prison
- 2. al-Qala'a civil prison
- 3. al-Qasa' (Amn al-Dawla) detention centre
- 4. Kafr Sousseh prison
- 5. Qatana women's prison
- 6. Shaikh Hassan prison

reported location

on the hills of al-Mezze

the citadel near Suq al-Hamidiyya

northeast Damascus near Dar al-Shifa' hospital

district southwest of Damascus

southwest of Damascus

near Bab al-Saghir cemetery

Damascus, Aleppo, Homs, Hama, Idlib, Latakiyyah, Tartous, Dera'a, al-Suweida, al-Raqqa, Deir al-zor, al-Hassakeh.

Dama	scus (continued)	reported location
7.	Qabun (Mukhabarat al-Askariyya) detention centre	outskirts of Damascus
8.	Halbuni prison (military branch - section 285)	near Hijaz railway station
9.	Saraya al-Difa' detention centre	on the road to the international airport
10.	al-Rawda detention centre	northwest Damascus
11.	al-Amn al-Siyassi detention centre	abu Rummaneh district, off Fawzi al-Ghazi Street
12.	Shahlan prison	
13.	al-Mukhabarat al-Jawiyya detention centre	
14.	al-Wahdat al-Khassa detention centre	
Alep		
<u> </u>		reported location
_	Sijn Amn al-Dawla al-Madani	in the Muhafaza district opposite the palace of the provincial governor
1.	Sijn Amn al-Dawla	in the Muhafaza district opposite the palace of the
2.	Sijn Amn al-Dawla Sijn Amn al-Dawla	in the Muhafaza district opposite the palace of the provincial governor on the Tariq al-Siryan (road) near the Customs Offices
2.	Sijn Amn al-Dawla al-Madani Sijn Amn al-Dawla al-'Askari al-Sijn al-Markazi	in the Muhafaza district opposite the palace of the provincial governor on the Tariq al-Siryan (road) near the Customs Offices
 2. 4. 	Sijn Amn al-Dawla al-Madani Sijn Amn al-Dawla al-'Askari al-'Askari al-Sijn al-Markazi al-Madani Far' al-Mukhabarat	in the Muhafaza district opposite the palace of the provincial governor on the Tariq al-Siryan (road) near the Customs Offices on the Tariq al-Muslimiyyah (road)
 2. 4. 5. 	Sijn Amn al-Dawla al-Madani Sijn Amn al-Dawla al-'Askari al-Sijn al-Markazi al-Madani Far' al-Mukhabarat al-'Askariyya	in the Muhafaza district opposite the palace of the provincial governor on the Tariq al-Siryan (road) near the Customs Offices on the Tariq al-Muslimiyyah (road Baghdad station quarter fortress in al-Ramusa district, temporary headquarters of the 3rd Division of the army and of
 2. 4. 5. 	Sijn Amn al-Dawla al-Madani Sijn Amn al-Dawla al-'Askari al-Sijn al-Markazi al-Madani Far' al-Mukhabarat al-'Askariyya al-Madrassah al-Madfa'iyya Hanano (al-Shurta	in the Muhafaza district opposite the palace of the provincial governor on the Tariq al-Siryan (road) near the Customs Offices on the Tariq al-Muslimiyyah (road Baghdad station quarter fortress in al-Ramusa district, temporary headquarters of the 3rd Division of the army and of the Wahdat al-Khassa fortress of Arqub in the

Between March and April 1980, when the 3rd Division of the Syrian army encircled Aleppo and parts of the city were sealed off and searched by the security forces, the following were also reportedly used as places of detention:

Aleppo (continued)

9. Far' al Hizb

local branch of the ruling Ba'th Party near the citadel the citadel

reported location

- 10. al-Qala'a (controlled by the <u>Wahdat al-Khassa</u>)
- ll. Markaz Mudiriyyat al-Tarbiya wa'l Ta'lim
- 12. al-Markaz al-Thaqafi
- 13. al-Mal'ab al-baladi

Ministry of Education building

sports stadium in Bustan al-Zahra district

cultural centre

Also the following schools:

- 14. Al-Andalus
- 15. Ri'ayyat al-Shabab
- 16. al-Hikmat f'il Ugharit
- 17. Sa'dallah Jabeiri
- 18. al-Ard al-Muqadassah
- 19. al-Mar'ashli

(iii) Arbitrary arrests

Since the introduction of the state of emergency in 1963, many thousands of Syrians have been arrested by the security forces. Between January 1980 and December 1981 alone Amnesty International recorded the names of more than 3,500 individuals reported to have been arrested by the security forces. This is not a complete record of the number of arrests during the period but represents only those whose names were brought to the attention of the organization.

According to the State of Emergency Law the Deputy Martial Law Governor is ultimately responsible for the arrest of anyone suspected of being a threat to the "security and public order" of the state. This official may then decide to hold the arrested suspect in preventive detention by issuing an order to that effect, or may send the suspect to a military court or state security court for trial. The arrest procedures outlined in the Syrian Code of Criminal Procedure permit anyone arrested under the law to see and keep a copy of the arrest warrant. The exception to this rule is when a felonious Jurm Mashhud (flagrante delicto)* is committed; in such cases anyone present may make the arrest and take the offender immediately to the office of the Prosecutor General or the latter's

^{*} Al-Jurm al-Mashhud (flagrante delicto) is defined in Article 28 of the Syrian Code of Criminal Procedure as an offence in which the culprit is caught actually committing the offence or just afterwards, is being pursued by the public, or is seen within 24 hours of the offence having been committed with evidence, weapons or papers indicating that he or she was the culprit.

elected deputies.

In practice, however, in most of the cases of political prisoners that have come to the attention of Amnesty International, no warrant or other authorizing document was produced at the time of arrest. In a few cases former detainees have told Amnesty International that they were shown a list which included their names, but this usually took place after the actual arrest, during interrogation. Amnesty International believes that details about arrests made by the various local branches of the security forces are frequently not forwarded immediately to a central authority for official authorization, but sometimes delayed for weeks or months.

The impunity with which security forces may arrest any suspect at any time without immediate reference to a central authority has led to frequent arbitrary arrests and denial of the rights of those arrested. Amnesty International has heard that relatives have been arrested and held in lieu of the suspects sought. Mahmud Kassaha, a trader from Aleppo, was arrested in May 1980 and held for 21 days at a military prison in Aleppo while the security forces searched for his brother. 'Asmah al-Feisal, mother of two and wife of Riad al-Turk, First Secretary of the prohibited Communist Party Political Bureau, was arrested in mid-October 1980 when Syrian security forces belonging to al-Amn al-Siyassi (Political Security) began arresting prominent members of this party. She was held hostage while they sought her husband, who was finally arrested on 28 October 1980.

Sometimes when a suspect may have left the country, one or more members of the family have been arrested in order to compel the suspect to return. In December 1974 Hamud Qabani, Minister of Planning from September 1967 to October 1968 and Minister of Information from June 1969 until the November 1970 coup, who had been arrested in June 1971 for refusing to cooperate with the new government, escaped from the military hospital attached to al-Mezze prison, Damascus, and fled to Iraq. Immediately afterwards, seven of his relatives, Riad, Zuhair, Anis, Kamal, Jihad, Farhan and 'Adil Qabani, were detained. For the first three months they were kept in solitary confinement at al-Mezze prison. Despite denials of any involvement in the escape of Hamud Qabani, the first four remained in detention without trial until October 1975 and the other three until 1980.

More recently, 'Abd al-'Aziz, Qassim, 'Abd al-Majid and Salah were detained in June 1980 while Al-Mukhabarat al-'Askariyya (Military Intelligence) searched for their brother, 'Abd al-Jalil, who had fled the country. At the time of writing, they were still in detention without trial but had been moved from al-Qala'a prison in Damascus. Their present whereabouts are not known.

Relatives have complained to Amnesty International that "collective punishments", in the form of arrest and detention without trial, torture (see page 24) and sometimes execution (see page 33) have been inflicted on the families of security suspects already in detention.

The above abuses are violations of 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 be taken into custody except as prescribed by law."

The following articles of the Syrian Penal Code are also violated:

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."

Article 358

"Directors and guards of prisons, penitentiaries and houses of reform, and all officials assuming their authorities, who admit any person without a legal warrant or decision or detain him longer than is stipulated shall be sentenced to a period of one to three years' imprisonment."

These abuses are also a contravention of international law, including the Universal Declaration of Human Rights, Article 9, which states:

"No one shall be subjected to arbitrary arrest, detention or exile"

and the International Covenant on Civil and Political Rights, Article 9(i), which states:

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

(iv) Detention without trial

According to Article 4(a) of the State of Emergency Law, details about arrests are to be sent to the office of the Deputy Martial Law Governor, who decides whether to hold the arrested person in preventive detention, whether to refer the case to a military or state security court, or whether to order release. The Deputy Martial Law Governor is ultimately responsible for the actions of the arresting forces and it is under this official's written authority — a signed Preventive Detention Order — that they are empowered to detain an arrested suspect.

Amnesty International believes that Article 4(a) of the State of Emergency Law is used arbitrarily and widely to detain a range of people, including non-violent critics of the government. In many cases such detentions have lasted months or several years. At the time of writing Amnesty International is trying to achieve the release of 17 individuals who have been in preventive detention for more than 12 years and more than 300 who have been in similar detention without trial for between 18 months and eight years.

Amnesty International is aware too of a number of cases of tried political prisoners who have stayed in prison after the end of their sentences on the specific instructions of the Deputy Martial Law Governor or President.

Zuhair al-Shulak, a Syrian lawyer from Damascus who was reportedly sentenced in 1971 to five years' imprisonment by a state security court, remained in prison after completing his sentence and was eventually released in April 1980. Appeals by Amnesty International groups on his behalf, after the end of his sentence, received no response from the Syrian authorities.

Amnesty International believes that, in many cases, the actual decision to prolong the detention without trial of arrested individuals is not taken by a central authority in Damascus but by local security force commanders. Former detainees have told the organization that the security forces, to help them prolong periods of detention, have blank Preventive Detention Orders signed by the Deputy Martial Law Governor, to which the names of detainees may be added after arrest. The dates on these orders are allegedly filled in at the time of the detainee's release, after understating the length of time spent in detention.

This means that the vast majority of non-violent political detainees are held without trial under the authority of the security forces without any firm evidence against them or any further legal proceedings. They are kept in prisons, detention centres or security forces' cells without any judicial investigation or external supervision of their cases and without any means of appealing against wrongful arrest or prolonged

detention without trial. Their families and lawyers may appeal to the local commander of the security force, the Deputy Martial Law Governor or the President, but there is no legal right to challenge the lawfulness of the arrest in court nor to make any judicial appeals against wrongful detention. Appeals usually express only humanitarian concern and request details of whereabouts or visiting rights. A number of families who have given evidence to Amnesty International have said they were reluctant to make appeals or complaints to higher authorities partly because they did not expect any response and partly for fear of reprisals by the local security forces. The security forces have not confined use of their powers of detention to people suspected of endangering the security of the state but have extended their use to civil and criminal cases. When such cases have been referred to the proper courts, judges have discovered that they have been circumvented because defendants brought before them have been illegally detained for long periods without any judicial procedure and in contravention of the Syrian Code of Criminal Procedure. In some cases the defendants have been in detention without trial for longer than the sentence they would have received for the crime.

Such abuse of arrest and detention powers under the state of emergency was acknowledged by President Assad in his speech to the People's Assembly on 8 March 1978, following his re-election as President for a second seven-year term. Following the speech, a number of untried detainees were released, although it was later learned that they were mainly people held for minor civilian offences and no political detainees or security suspects were released.

In January 1980 the Regional Command of the Ba'th Party in Syria, aware of this situation, formed a committee from among its members to study the position of all untried detainees held under the state of emergency legislation. Amnesty International welcomed the formation of this committee and supplied a list of names of untried detainees, requesting further information about their situation. To this date there has been no response. Unofficial reports suggest that several hundred untried detainees were released during the first few months of 1980, but that many hundreds more stayed in detention.

Since then Amnesty International has received the names of several thousand people who have been arrested and detained for various periods under state of emergency procedures. They include individuals held on account of their alleged membership of or support for a variety of organizations or parties, legal or banned, as well as wives or children under the age of 10, held as "hostages" until the husband, elder brother or father is taken into custody. They are of all ages, represent many professions, and come from every province (Muhafaza) in the country.

2. Denial of rights during detention and allegations of torture

Under the present state of emergency wide discretionary powers are being used by security officers to suspend the fundamental rights of those arrested, including the right to be told the reasons for arrest at the time of arrest; to be promptly informed of any charges or the grounds for the detention; to have legal assistance and be able to communicate with a lawyer of one's choice as soon as possible after arrest; to receive a prompt medical examination after arrest and thereafter as necessary; and to communicate regularly with family or friends.

In most of the cases brought to the attention of Amnesty International, those arrested by the security forces are not told, on arrest, the official reason for the arrest; they are not informed of their rights and obligations, nor how to avail themselves of these rights. At first, after arrest, while still in the custody of the arresting authority, the prisoner is kept incommunicado, often in solitary confinement, without access to defence counsel or family. Requests to see a doctor or have a medical examination are also regularly refused. The arrested person is kept ignorant of any legal action pending and may be given misleading information by prison guards or during interrogation.

(i) Incommunicado detention

There appears to be no clear limit to the length of time the security forces may hold someone incommunicado under the procedures followed during the state of emergency: it could be for a few days, for several months, or for years. Jamil Hatmal. a writer and journalist, was arrested in April 1982 by al-Amn al-Siyassi (Political Security) and held incommunicado for 58 days in its underground detention cells in the district of Missate, Damascus. He spent the first 31 days in solitary confinement. Afterwards he was moved to a communal cell in the same detention centre. He was sent to hospital 27 days later because of the recurrence of an ailment he had suffered since before his arrest. Although he was questioned about his membership of a prohibited political party, the Party for Communist Action, he was never officially charged with having broken any law and throughout his detention was not allowed to see or communicate with his family or defence counsel.

Riad al-Turk, First Secretary of the prohibited Communist Party Political Bureau (CPPB), was arrested on 28 October 1980, also by al-Amn al-Siyassi, in Damascus. At the time of writing his whereabouts are not known and he has been held incommunicado for more than 29 months without charge or trial. It is alleged that he has been tortured and that he has twice been sent to the intensive care unit of al-Mezze military hospital and al-Muwassa's hospital in Damascus for emergency treatment. Appeals by Amnesty

International groups for his release and for information concerning his whereabouts and health have remained unanswered by the Syrian authorities.

In some cases, when foreigners have been detained by the security forces, their embassies have not been told. When diplomatic representatives do inquire, they are not always allowed to see the detainee at first and may be told that the latter is not in custody. One foreigner arrested in April 1980 at a road block outside Aleppo, apparently because he was the only foreigner on the bus from Damascus, told Amnesty International that he was transferred from prisons in Aleppo to Damascus, where he was held by al-Mukhabarat al-'Askariyya (Military Intelligence). By chance, thanks to the overnight detention in the same prison of another foreigner who was later released, he managed to get word to his embassy that he was in prison. The embassy began by checking to see if one of its nationals with this name had been travelling in Syria.

"When the embassy had satisfied itself on these points they asked the foreign ministry about me and were told I had never entered Syria. After a few weeks, they asked again and were told that I had been detained but then released. Fortunately, my mother was thoroughly worried by then and kept pressure on the embassy to keep pressure on the government."

He was released after 54 days and deported.

Such procedures contravene Articles 92 and 93 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which state that:

- "92. An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.
- "93. For the purpose of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and to hand him confidential instructions. For these purposes, he shall if he so desires, be supplied with writing material. Interview between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official."

They also contravene Article 6 of the United Nations Code of Conduct for Law Enforcement Officials, according to which:

"Law Enforcement Officials shall ensure the full protection of the health of persons in their custody and, in particular, take immediate action to secure medical attention whenever requested."

(ii) Torture or cruel, inhuman or degrading treatment or punishment

The security forces' current procedure permits the investigation of cases to be conducted by the same authority as has arrested and is detaining the person in question. Usually only one branch of the security forces is involved throughout all stages of arrest, investigation, detention and release. There is little or no external supervision and, except in the few cases where the victim is brought to trial, no role for the al-Niyaba al-'Ama (office of the public prosecution) or the Qadi al-Tahqiq (investigating judge). It is at this early stage of incommunicado detention, when detainees are being investigated, that they have claimed to have been ill-treated or tortured.

Furthermore, detained security suspects are not brought to court and there appears to be no established procedure whereby a detainee can appeal to an outside authority against ill-treatment during detention. Allegations of torture or ill-treatment are therefore made only after the detainee has been released, which is often months or several years after the event.

Ever since its 1978 mission to Syria, when it expressed concern in detail about allegations of torture to the Syrian authorities, Amnesty International has continued to receive reports of torture or ill-treatment of prisoners by the security forces. The extent, consistency and detail of these persistent allegations, some of them supported by medical evidence, suggest that torture is systematically used in interrogation, both in order to extract a confession and as punishment.

The following are extracts taken from separate statements made to Amnesty International by 12 former detainees, arrested and detained at various times since July 1979. The names of the victims are not supplied, at their own request, and in some cases dates and places have been omitted to prevent identification.

"They tied my hands behind my back and put me in the dullab / a suspended tyre through which the prisoner is forced. They beat my legs until I passed out. I could not walk. On the second day they tied my feet and hung me upside down from a tree for about two hours. One of them then came back and beat me all over my body.

my head and my legs with a braided copper cable until I passed out. He threw water on me to revive me and continued to beat me for about four hours. They carried me back to the cell as I could not move. On the third day they applied electricity. They tied me down on a piece of wood cut into the shape of a human and used electricity to torture me."

(Student from Aleppo detained 7 August 1980 to 3 September 1980.)

- "I was put in the <u>dullab</u> and for about one and a half hours they applied electricity at regular intervals to my toes. They also tied my feet and caned them savagely, pulled my hair out, extinguished cigarettes on my body and whipped me on the face."
 - (Student from Aleppo detained 27 October 1979 to 8 March 1980.)
- "They raised my feet and caned them until they bled . . . kicked me, strapped and blindfolded, from the top of the stairs to the bottom . . . applied electricity to the sensitive parts of my body."
 - (Shopkeeper from Aleppo detained 5 May 1980 to 26 May 1980.)
- "As soon as I entered the prison they asked me about my father and I told them I did not know anything. My hands and feet were tied and my feet whipped until they became swollen. They threatened to put me in the <u>dullab</u>, and my torturer threatened to gouge out my eyes if I did not tell them where my father was and I would not be released until I had done so. That night I did not sleep because this was forbidden. Every time I shut my eyes one of them would pounce on me and beat me to stop me from going to sleep."

 (15-year-old schoolboy held for two days in August 1979.)
- "I was stripped naked. I was put in the dullab and caned. My wrists were then tied and I was hung up and whipped on my back and all over my body. My hands were then tied behind my back and I was put in a lm by 1.5m cell. I could not protect myself from the cold and it snowed all night. Next day I was strapped to a wooden apparatus nicknamed Bisat al-Rih (flying carpet) and caned and whipped. I was beaten on the toes

until my nails fell out."

1 July 1979 to 21 March 1980.)

(Trader detained January 1980 to April 1980.)

"I was put in the tyre of a small car and was beaten with canes, electric cables and clubs. The torture was carried out by prison guards with burly bodies and cruel hearts. Sometimes the interrogators themselves joined in, beating me with sticks while I was blindfolded . . . periodically electric shocks were applied by means of rings, each attached to a finger. The electric apparatus, when switched on, gave large or small doses. After each shock I would be picked up from the floor, made to stand barefoot and blindfolded facing the interrogator."

(Engineering student from Idlib detained

- "I was arrested at my office in Damascus . . .
they handcuffed and blindfolded me and took me
to an underground cell where I was severely
tortured. This included the application of
electric current, being put in the <u>dullab</u> and
beaten with braided electric cable, exposing my
body to electric heaters, having my hair pulled
or burned, having cigarettes extinguished on
sensitive parts of my body, being tied to a
wooden apparatus and beaten with sticks and being
hung upside down."

(Accountant from Damascus detained June 1980 to August 1980.)

"al-Wahdat al-Khassa came looking for my brother and for weapons. When they could not find either, the officer in charge ordered his men to take us outside and execute us in front of the house if we did not tell where my brother was. They took us after that to the Madrassat al-Madfa'iyyah (Artillery School) detention centre in Aleppo and began to torture and question us. I was blindfolded so I did not know where the blows were coming from. The torture included curses, beatings with steel cables and being put in the dullab until blood flowed."

(Pharmacy student detained 11 July 1980 to 5 August 1980.)

- "They used all forms of torture on me:
 - 1. Al-Shabah / the phantom /, where one's hands are tied behind one's back, one is suspended by them for a period and electricity is applied. This type of torture was the worst. After I had been left hanging for 20 minutes I was very weak and could not use my hands for a week.
 - 2. Electricity applied to the head and arms.
 - Fallaga / beating on the soles of the feet on the Bisat al-Rih.
 - 4. Fallaga on the dullab.
 - 5. Burning with fire or heat, which is one of the worst forms of torture."

(Shari'a law student detained 16 February 1981 to 16 March 1981.)

"I was caned all over the body . . . was tied, put in a rubber car tyre by my torturers and beaten with sticks until I thought that I would die. I passed out several times."

(Student from Dera'a detained 21 September 1980 to 20 October 1980.)

"I was taken to the office of al-Mukhabarat al-'Askariyya which is situated in the Siryan district of Aleppo. There I was blindfolded and taken down to the interrogation room. They questioned me for six hours during which time the torture was severe and savage. I was put in the dullab and my feet beaten savagely with sticks, then I was beaten all over my body with steel cables."

(Civil servant from Aleppo detained 20 January 1980 to 7 March 1980.)

"The torture room is square and is situated inside another room which is sound-proofed In it there are two tables for the interrogators and a bed beneath which are kept the torture tools. The clothes of the torture victim are put on the bed as, whenever a person is tortured, he is ordered to strip naked. Inside the room there is an electric apparatus, a Russian tool for ripping out finger nails, pincers and scissors for plucking flesh and an apparatus called al-'Abd al-Aswad / the black slave on which they force the torture victim to sit. When switched on, a very hot and sharp metal skewer enters the rear, burning its way until it reaches the intestines, then returns only to be reinserted."

(Student from Aleppo detained 28 July 1979 to 8 March 1980.)

Amnesty International has not been able to examine medically former detainees every time it has received a report of torture, but, when it has been able to do so, the results have been consistent with the allegations. During the 1978 mission, the Amnesty International delegates urged that a thorough investigation be made into the allegations of torture made by a released prisoner who was later examined by an Amnesty International team of doctors in Denmark. The team found the medical evidence to be consistent with the allegations made. Amnesty International delegates requested a government inquiry into ill-treatment and torture in Halbuni prison, Damascus, by a named prison officer.

Another such case is that of a 31-year-old doctor from Dera'a in southern Syria who was detained briefly by al-Mukhabarat al-'Askariyya (Military Intelligence) in September 1979 and who later fled the country. He claimed that, during his three-day detention, he was tortured systematically: he was beaten on the soles of the feet; electric shocks were applied to his shoulder blades and genitals; and he was injected in the left arm with an unknown fluid which made it difficult for him to keep his hand steady, as he needs to in his job. The following extracts are from a medical examination by a British doctor in September 1980, a year after his release.

"I took a history and examined this man on 30 September 1980. It was the first time I had seen him.

"His main complaint was 'not feeling well in himself' and 'depression'... he stated that he had been burnt with electric sparks on his back and genitalia, had suffered direct trauma to his right shoulder, and had been beaten on the soles of his feet. He also said he had been injected with anaesthetic agents.

"He gave a past medical history of no significant illness... Direct questioning about his cardiovascular, respiratory, genito-urinary, gastro-intestinal and neurological systems failed to disclose any significant abnormality.

"On examination he was quite lucid, speaking good English, and able to control his emotions. He was, however, clearly upset to recount his experiences.

"Examination of the cardiovascular system, respiratory system, abdomen, neurological system, arms and legs was normal. On his back were between 50 and 100 healed scars, some round, some linear, 2cm to 3cm long and 2cm wide. There were two similar, healed scars on his penis. The basilic vein in the left antecubital fossa was scarred. There was no obvious abnormality of the right shoulder or soles.

"Urine testing, haematologic count and serum chemistry were normal.

"CONCLUSION: Apart from his psychiatric condition, which, as a non-specialist in this field, I would think likely to be a reactive depression, he is suffering no organic illness. His scars are not compatible with natural causes, and are the result of external trauma, which could have been electrical.

"His left basilic vein has also been thrombosed in the past, and this must also have been the result of external trauma or injection of an irritant substance."

On 31 October 1980 a British consultant psychiatrist who had examined the subject wrote:

"Dr ... is suffering from a fairly severe anxiety and depressive state and he is receiving treatment for this. He is now unfit to work. While the prognosis of the condition is favourable, it is not possible as yet to predict with any confidence the duration of his incapacity to take on gainful employment. I expect it will not be less than two to three months."

Types of allegations received by Amnesty International

The allegations of torture or ill-treatment which have been made to Amnesty International by former detainees over the past few years have included the following:

- Beatings on all parts of the body, involving punching, slapping and/or kicking, with braided steel cables or cables inside plastic hoses with the ends frayed, with leather belts, sticks or whips;
- 2. Showering or pouring boiling hot or cold water over the victim, alternately or at different times;
- 3. Extracting finger-nails;
- 4. <u>Dullab</u>: forcing the victim to hang from a suspended tyre and beating him/her with sticks, clubs, cables or whips;
- 5. Fallaga: beating the soles of the feet while the victim is strapped to a table:
- 6. Bisat al-Rih (Flying Carpet): strapping the victim to a piece of wood shaped like a human being and beating her/him or applying electricity all over the body;

- 7. Al-Shabah (the Phantom): tying the victim's arms behind the back and suspending him/her by them; beatings or electric shocks may also be inflicted;
- 8. Al-Abd al-Aswad (Black Slave): strapping the victim onto a device which, when switched on, inserts a heated metal skewer into the anus;
- 9. Hanging the victim from a rotary fan in the ceiling and beating him/her as he/she rotates slowly or quickly;
- 10. Extinguishing cigarettes on sensitive parts of the body:
- 11. Plucking hair or skin with pincers or pliers;
- 12. Sexual abuse or assaults:
- 13. Applying electricity to sensitive parts of the body, particularly the genitals;
- 14. Forcing the victim to stand for long periods on one leg or to run carrying heavy weights;
- 15. Forcing the victim to sit on bottle necks or inserting a bottle or sticks into the rectum;
- 16. Complete isolation in a small dark cell without any human contact at all for several days:
- 17. Switching on the light while the victim is asleep or keeping a bright light on for longer or shorter periods day or night, possibly for several days;
- 18. Using loudspeakers to transmit noise, ranging from loud music to the screams of people undergoing torture, day or night;
- 19. Threatening the victim that his/her relatives or friends are in danger. The threats may be of anything from torture, sexual abuse or assault to kidnapping, amputation of limbs or execution:
- 20. Torturing other detainees in front of the victim;
- 21. Torturing or sexually assaulting relatives of the victim in the latter's presence:
- 22. Degrading the victim by using obscene language or insults or by forcing him/her to undress in front of guards of the opposite sex;
- 23. Deprivations, including deprivation of sleep, food, water, fresh air, toilet or washing facilities and visits by relatives.

Torture or cruel, inhuman or degrading treatment or punishment is prohibited under Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights. It is also prohibited under Article 28(3) of the Syrian Constitution, which states:

"No one shall be tortured physically or mentally nor be subjected to degrading treatment. The law shall define the punishment for anyone who commits such an act".

Article 3 of the United Nations Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contains an absolute prohibition on torture.

"No state may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment."

3. "Disappearances" and killings by Syrian security forces

Since early 1980 the tactics reportedly used by the security forces to track down Muslim Brotherhood fighters or hidden arms caches have included sealing off whole areas of towns, followed by house-to-house searches and widespread arrests of the inhabitants. In many cases this has meant that detainees were taken away in lorries to unknown destinations. Current security force detention procedure permits the local commanding officer to decide whether to tell the victim's family what has happened. Often this has meant that the family has not known for weeks, months and sometimes years, where the detainee was. This has made them worry in case their relative had been moved to another part of the country, might be undergoing torture or other forms of cruel, inhuman or degrading treatment or punishment or might no longer be alive.

Attempts by relatives or lawyers to discover the whereabouts of those recently detained are often hindered by a long period of incommunicado detention, by denials that a person is in custody, and by the transfer of detainees from one place to another, in the custody of the same or a different security force. Detainees with relatives in the government or the security forces or who have rich relations can sometimes gain their freedom or get information about their whereabouts sent to their families; those without such social or financial connections can evidently seldom do so, hence they stay in detention without trial.

(i) "Disappearances"

The frequency of such practices in recent years has led to disquiet lest detainees in Syria are "disappearing". Frequently when the

relatives or lawyers of an individual have known or have had good reason to believe the latter had been apprehended by government agents or people acting in conjunction with them, officials have denied that the person concerned had been apprehended or was in custody and have refused either to investigate such a case of "apparent kidnapping" or else to report fully the results of an investigation.

Thirty-eight Syrian youths are still reported "disappeared" nearly 18 months after their transfer from a prison in the town of Deir al-Zor, in eastern Syria, to an unknown destination. They were detained on 15 March 1980 after a demonstration in the town of Deir al-Zor which allegedly resulted in clashes between demonstrators and the security forces and led to the burning down of the local Ba'th Party offices. The youths were moved from Deir al-Zor three months later. Their parents sent an open letter to President Assad on 11 October 1980 in an effort to trace their missing sons. They received no response. In October 1981 Amnesty International groups began investigating these "disappearances", but they too received no response from the Syrian authorities.

The youths are:

Muhammad Walid al-Jassem al-'Abboud Ahmad Saleh al-'Ali al-'Abdallah Muhammad 'Akkab Ahmad al-'Ali Nouri al-Asi Hamid al-Asmar Ahmad al-Banki Lou'ai Ahmad Bash'an Qusai Ahmad Bash'an Ayman Bash'an Haitham Khader al-Battah Bassam Dalaf Hassan Saleh Diab Ahmad Hassan al-Fallah 'Abd al-Fattah al-Habbab Muhammad al-Hamdoush Jamal Dhukur al-Hamed Ahmad Rashid al-Hiba Munir Jad'an

Muhammad Yunis al-Kamour Khaled Ibrahim al-Kassem Sufian Jamal Kharaba Shukri Mahmoud Khuweildi Marwan al-Lijji 'Amer Maloud Muhammad al-Maslawi Subhi 'Abd al-Mun'im Maher Nuwaiji Tha'er Nuwaiji Maher Sattam Ahmad Taleb Shihab Ahmad Salem al-Shtaita 'Ayesh Tabbash Mustafa Jalal Tu'ma Ibrahim al-Turki Mihaidi Saleh al-'Ubaid Hassan Taha Zamzam 'Ali Zu'ayyer

Another matter being investigated by Amnesty International is the "disappearance" of Tawfiq Drak al-Siba'i, a 36-year-old neurologist and father of five. In May 1980 he was summoned to the office of the head of prisons in the town of Homs after a letter to him from relatives in Saudi Arabia had been intercepted by the Syrian censors. On 2 June, a week after his arrest, he was moved to an unknown destination. The prison authorities in Homs denied knowing his whereabouts when approached by his relatives. Amnesty International has submitted details about the case to the United Nations Working Group on Enforced or Involuntary Disappearances.

Paragraph 125 of the Working Group's report of 21 January 1983 stated:

"Since the renewal of its mandate the Working Group has received information on cases of enforced or involuntary disappearances in the Syrian Arab Republic provided by a non-governmental organization in consultative status with the Economic and Social Council and a relative of a missing person. The Working Group, in June 1982, informed the Government of the Syrian Arab Republic that the Group had received a number of communications on enforced or involuntary disappearances in that country, emphasized the group's purely humanitarian task, and expressed its desire for cooperation so as to reach a speedy solution these human rights matters. In June 1982 the Working Group transmitted two reports of enforced or involuntary disappearances to the Syrian Government. One of the reports concerns a medical doctor who reportedly was summoned to the Prison Governor's Office in Homs and detained there; a week after his arrest he was transferred to an unknown destination. The second case also concerns a doctor who was arrested and accused of membership and activities on behalf of the Muslim Brotherhood and his whereabouts are unknown since his arrest. At its ninth session the Working Group decided to transmit a further case which it had received from a relative to the Government and to request information. It concerned a student who reportedly was arrested, together with two fellow students, at his home in August 1980 by security agents; he was said to have been taken to a specified prison. To date, no information has been received from the government on the above cases."

(ii) Extrajudicial executions

During the past few years Amnesty International has received an increasing number of reports of killings or extrajudicial executions of selected individuals or groups by Syrian security forces. The term "extrajudicial executions" is defined by Amnesty International as "unlawful and deliberate killings of persons by reasons of their real or imputed political beliefs or activities, religion, other conscientiously held beliefs, ethnic origin, sex, colour or language, carried out by order of a government or with its complicity". The fact that they are "extrajudicial" distinguishes them from the judicial death penalty—the carrying out of a death sentence imposed by a court after the defendant has been convicted of a capital offence. They are unlawful and deliberate, and this distinguishes them both from reasonable force in law enforcement and from killing in warfare, which is not forbidden under international laws that regulate

the conduct of armed conflicts. They are committed outside the judicial process, in contravention of national laws and without regard to international standards forbidding the arbitrary deprivation of life.

Amnesty International has received allegations that the security forces have been responsible also for the killing abroad of several Syrian Government opponents. The following six cases of alleged extrajudicial executions have been chosen among the many reported to Amnesty International. The organization has not been able fully to investigate the precise circumstances of these killings, however, it is deeply disquieted by the pattern and increasing number of such reports. In earlier years the organization has asked the Syrian authorities to set up commissions of inquiry to investigate the facts and make public their findings, but the Syrian Government did not respond to such requests.

The town of Jisr al-Shughur

Amnesty International knows the names of 24 people alleged to have been killed on 10 March 1980 by troops from al-Wahdat al-Khassa (Special Units) as they emerged from a military field court trial in the small town of Jisr al-Shughur. According to reports, on Sunday 9 March numerous Jisr al-Shughur citizens took to the streets in a demonstration that followed a week of nationwide strikes which had resulted in several clashes with security forces and a number of deaths. The demonstrators marched on the office of the ruling Ba'th Party and, after shouting anti-government slogans, disarmed the guards and set the building on fire. A group of demonstrators is reported then to have headed for the local headquarters of al-Jaysh al-Sha'bi (People's Army) and, after a brief struggle with guards, to have broken into the headquarters and taken possession of the arms and ammunition there. An attempt to restore law and order by forces sent from the town of Idlib was prevented as the entrance across the river to Jisr al-Shughur was mined. Consequently, al-Wahdat al-Khassa commandos, based in Aleppo, are said to have been despatched to Jisr al-Shughur in helicopter gunships. After several hours of resistance, the town was surrounded and law and order was restored.

Wholesale arrests followed the restoration of calm and, the next day, a military field court was set up in the post office to try those detained. Apparently, even though the court decided against individual convictions because of lack of evidence and ordered the release of the detainees, as they emerged from the building, many were shot down by waiting al-Wahdat al-Khassa troops.

Amnesty International has the names of 24 individuals reported to have been killed in this fashion, but the total number of those killed is not known.

Tadmur (Palmyra) Prison

It is reported that, on the morning of 27 June 1980, 12 helicopters from Hama, carrying 350 Saraya al-Difa' commandos, and 10 helicopters from Damascus, with 100 members of the 40th Army Corps and 100 members of the 138th Security Brigade, landed at Tadmur military airport. Eighty men were instructed to move towards the prison, 20 were to guard the helicopters and the rest were to remain on standby. The group of 80 were divided into units of 10 and, once inside the prison, were ordered to kill the prisoners in their cells and dormitories. Some 600 to 1,000 prisoners are reported to have been killed. This extrajudicial execution of these prisoners, most of whom, it seems, were thought to have been suspected of belonging to the Muslim Brotherhood, was allegedly an act of revenge for an unsuccessful attempt on the life of President Assad the day before.

After the massacre the bodies were removed and buried in a large common grave outside the prison. Two Syrian soldiers who were detained in Jordan on suspicion of attempting to assassinate the Jordanian Prime Minister stated on Jordanian television that they had taken part in the massacre and gave details of the "operation".

Amnesty International has asked the Syrian authorities to establish a commission of inquiry into these events.

The town of Sarmada

Amnesty International has heard that, on the night of 24 July 1980, six Mujahideen (Muslim Brotherhood fighters), pursued by security forces, fled towards the village of Sarmada. At dawn the next day, the villagers were informed by loudspeakers that the village was surrounded and they were ordered to remain indoors. House-to-house searches began. The six were finally cornered and, after a brief battle, they were killed. Many arrests reportedly followed and an investigation was begun by the security forces. Hundreds of villagers were taken to the grounds of the main school, publicly interrogated and beaten. Several were shot. At least 22 men were said to have been killed during this interrogation - their names have been given to Amnesty International. The troops are alleged also before departing to have razed part of the village to the ground.

Aleppo

On 11 August 1980, the start of the 'Id al-Fitr (the end of the fasting month of Ramadan), al-Wahdat al-Khassa commandos are reported to have entered the district of al-Masharqah in Aleppo, forced residents out of their homes and assembled them in the cemetery at the tomb of Ibrahim Hanano. They then opened fire,

killing more than 80 and injuring several hundred. A large common grave was dug in the cemetery and the dead were buried. Amnesty International has received a list of 41 names of individuals killed at the tomb of Ibrahim Hanano (the list is reported to have featured in an inquiry conducted on 12 August 1980 by the fifth investigating judge of Aleppo at Jabal Sim'an district court). The list includes the approximate ages of those who died and, in 15 cases, adds the remark "buried before an autopsy".

Hama, 24-25 April 1981

Amnesty International has the names of 123 people alleged to have been killed by members of al-Wahdat al-Khassa and the 47th Brigade on 24-25 April 1981. Reports state that, on Tuesday 21 April, a group of Mujahideen ambushed a security forces' checkpoint and were seen withdrawing towards the city of Hama. On the Thursday night, al-Wahdat al-Khassa and 47th Brigade units moved into the western and northern parts of the city to conduct house-to-house searches. On the Friday, armed Mujahideen and government forces fought on the streets and helicopter gunships were summoned before the fighting eventually died down. House-to-house searches continued throughout Saturday. According to reports received by Amnesty International, sectors of Hama were sealed off and people were dragged from their homes, lined up in the streets and shot. Some reports estimate that 350 were killed (this figure may include those who died in the fighting) with more than 600 injured. In the Zanbaki district 30 people were evidently dragged from their homes, lined up and shot; in the Bustan al-Sa'adeh district a further 70; and at al-Mas'ud mosque 60.

In July that year Amnesty International wrote to President Assad expressing concern about these killings and asking for the establishment of a commission of inquiry into the incident. There has been no response.

Hama, 1982

According to news reports and information received by Amnesty International, shortly after dark on 2 February 1982, regular Syrian soldiers tried to raid a house in the ancient, western part of the city of Hama. Ninety soldiers led by a lieutenant surrounded a house believed to contain a large cache of arms belonging to the outlawed Muslim Brotherhood. As they started their raid, the troops were ambushed by armed Mujahideen. They were captured or killed and their uniforms were removed. The insurgents then posted themselves on the rooves and turrets of the city.

The next morning, the citizens of Hama were apparently informed from the minarets of several mosques that the city had been "liberated" and that the "liberation" of the rest of the country would follow. The insurgents occupied government and security forces' buildings, ransacked the local armoury and began executing government

officials and "collaborators". At least 50 people are reported to have been killed by anti-government demonstrators on this first day of protest.

The government responded by sealing off the city. Some 6,000 to 8,000 soldiers, including units from the 21st Mechanised Brigade of the 3rd Armoured Division, the 47th Independent Armoured Brigade, the Saraya al-Difa' and al-Wahdat al-Khassa, were reportedly despatched to the city. On 11 February Syrian television showed a film of what it claimed was a cache of arms found in Hama, comprising 500 United States M16 rifles, 40 shoulder-fired rocket launchers, with armour-piercing rockets, and a huge arsenal of ammunition and small firearms.

According to some observers, old parts of the city were bombarded from the air and shelled in order to facilitate the entry of troops and tanks along the narrow streets. The ancient quarter of Hadra was apparently bombarded and razed to the ground by tanks during the first four days of fighting. On 15 February, after several days of heavy bombardment, Major-General Mustapha Tlas, the Syrian Defence Minister, stated that the uprising in Hama had been suppressed. However the city remained surrounded and cut off. Two weeks of house-to-house searches and mass arrests followed, with conflicting reports of atrocities and collective killings of unarmed, innocent inhabitants by the security forces. It is difficult to establish for certain what happened, but Amnesty International has heard that there was, among other things, a collective execution of 70 people outside the municipal hospital on 19 February; that Hadra quarter residents were executed by Saraya al-Difa' troops the same day; that cyanide gas containers were alleged to have been brought into the city, connected by rubber pipes to the entrances of buildings believed to house insurgents and turned on, killing all the buildings' occupants; that people were assembled at the military airfield, at the sports stadium and at the military barracks and left out in the open for days without food or shelter.

On 22 February the Syrian authorities broadcast a telegram of support addressed to President Assad from the Hama branch of the Ba'th Party. The message referred to Muslim Brotherhood fighters killing party activists and their families and leaving their mutilated bodies in the streets. It said the security forces had taken fierce reprisals against the Brotherhood and their sympathisers "which stopped them breathing for ever".

When order was restored, estimates of the number dead on all sides ranged from 10.000 to 25.000.

Whether or not these killings were due to the lack of control and supervision at present exercised by the central authorities over the activities of the security forces or to a systematic policy

of counteracting violent opposition in Syria is difficult to establish. Amnesty International knows that, according to a number of these reports, including the one about events in Hama in February 1982, opposition groups have themselves committed abuses, including killings. Amnesty International states categorically that the killings of prisoners by anyone, including opposition groups, can never be condoned. The organization considers it the responsibility of governments to bring those who commit such abuses to trial.

The Syrian Government has a both national and international obligation to investigate such incidents thoroughly, to make public the facts and to punish those responsible. Massacres and extrajudicial executions such as those described above are a violation of the right to life, enshrined in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, Article 6(1), which states:

"Every human being has the inherent right to life. This right shall be protected by law. No-one shall be arbitrarily deprived of his life."

IV CONCLUSIONS AND RECOMMENDATIONS

In submitting this memorandum Amnesty International has come to the following conclusions and makes the following recommendations.

1. Arbitrary arrest and detention

This memorandum describes a pattern of arbitrary arrests, without authorization or legal warrants, made by the security forces in Syria in accordance with emergency legislation introduced in 1963. Such abuses are a violation of national and international law including Articles 25(i) and 28(ii) of the Syrian Constitution and Article 9(i) of the International Covenant on Civil and Political Rights which states:

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

Furthermore, under the provisions for preventive detention, which is an integral part of the State of Emergency Law, thousands of Syrians, including non-violent critics of the government, have been arrested and held without trial, some for more than 12 years. No official charges are brought against them, nor is there any judicial review of the legality of their arrest or continued detention.

Amnesty International recommends that steps be taken to enforce existing legislation which requires the production of arrest warrants and provides those arrested with direct appeal machinery against wrongful arrest.

Amnesty International further recommends that the Syrian Government consider revoking all provisions for the preventive detention of political prisoners, such as those specified in the State of Emergency Law of 1962. It also urges that, until preventive detention is abolished, the names of individuals arrested or released be published regularly in the press and that, in all cases, relatives be informed immediately of the arrest and place of detention of the prisoner.

Amnesty International recommends that the government review current detention cases in order to release all of those detained for the non-violent exercise of their human rights, including those named in this memorandum.

2. Denial of rights to those in detention and allegations of torture

Amnesty International believes that the fundamental rights of people in custody are routinely infringed by the Syrian security forces. Detainees are usually not informed of the reason for arrest at the time of arrest, are denied legal assistance and the right to prompt medical examination after arrest, and are frequently held incommunicado for long periods without being allowed contact with family or friends.

This constitutes a violation of Articles 92 and 93 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which provide that:

- "92. An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.
- "93. For the purpose of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and to hand him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interview between the prisoner and his legal adviser may be within sight but not within the nearing of a police or institution official."

They also violate Article 6 of the United Nations Code of Conduct for Law Enforcement Officials, according to which:

"Law Enforcement Officials shall ensure the full protection of the health of persons in their custody and, in particular, take immediate action to secure medical attention whenever requested."

Bearing in mind these articles, Amnesty International recommends that legal provision be made for any arrested individual to have immediate access to a lawyer; that close relatives should be notified of the arrest and allowed to visit the detainee within 48 hours of arrest; and that regular visits be permitted throughout the detention period.

Amnesty International has continued to receive allegations

of torture and ill-treatment of prisoners held by the security forces. The extent, consistency and detail of these allegations, which have been received persistently over the years, some of them supported by medical evidence, forces the organization to conclude that torture is frequently inflicted in the course of interrogation, both to extract a confession and as punishment.

Since most of the torture reported to Amnesty International is alleged to occur during the period immediately following arrest, this inevitably calls in question current provisions intended to protect the rights and personal safety of those in custody.

Moreover, whereas the Syrian Code of Criminal Procedure provides for external supervision at the inquiry and investigation stages by the investigating judge and the Public Prosecutor, this is not so with respect to those in preventive detention.

Amnesty International believes that prolonged incommunicado detention of suspects exclusively by the arresting authority without any pretrial judicial supervision is conducive to the routine violation of their basic rights as they lack adequate protection.

Amnesty International would draw attention to the "general comment" made by the United Nations Human Rights Committee on 27 July 1982, according to which it is not sufficient for States Parties merely to prohibit torture by law:

"States must ensure an effective protection through some machinery of control. Complaints about illtreatment must be investigated effectively by competent authorities. Those found guilty must be held responsible, and the alleged victims must themselves have effective remedies at their disposal, including the right to claim compensation. Among the safeguards which may make control effective, are provisions against detention incommunicado, granting, without prejudice to the investigation, persons such as doctors, lawyers and family members access to the detainees; provisions requiring that detainees should be held in places that are publicly recognized and that their names and places of detention should be entered in a central register available to persons concerned, such as relatives; provisions making confessions or other evidence obtained through torture or other treatment contrary to Article 7 (of the International Covenant on Civil and Political Rights) inadmissible in court; and measures of training and instruction of law enforcement officials not to apply such treatment."

With this in mind, Amnesty International respectfully makes its recommendations, bearing in mind also the provisions of the

United Nations declaration on torture, Resolution 3452 (XXX) of 1975, the Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, particularly Article 6, which states:

"Each state shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment."

Amnesty International therefore recommends that the Syrian Government examine current legislation and practice designed to prevent abuses by the security forces, and that it initiate an impartial investigation into complaints of abuses or excesses by the security forces and allegations of torture or ill-treatment. Amnesty International further recommends that the government endeavour to bring to trial those responsible for the infliction of torture and that it make adequate compensation to the victims, in compliance with Article 11 of the above Declaration.

"Disappearances" and extrajudicial executions

This memorandum supplies information about and lists* names of people who have reportedly "disappeared" or who are alleged to have been victims of extrajudicial execution by the Syrian security forces. The Syrian Government is under an obligation to investigate such incidents thoroughly, to make public the facts, and to punish those responsible.

Amnesty International respectfully urges the Syrian Government to institute immediately a full and impartial investigation into all cases mentioned in this memorandum of alleged "disappearances" and extrajudicial execution, to publish the findings of these investigations and to punish those responsible.

APPENDIX A

Arrest and detention procedures under the Syrian Code of Criminal Procedure (SCCP)

(i) Types of offences

The Syrian Penal Code (SPC) of 13 March 1950 distinguishes between five different categories of offence (SPC, Articles 37 to 41) according to their penalties:

- Mukhalafat (infringements), the least grave type of misdemeanour, punishable by imprisonment for up to 10 days or a small fine;
- b) Junah Siyasiyya (political misdemeanours), punishable by imprisonment or restriction of movement for up to three years or by a heavy fine;
- Junah (misdemeanours), punishable by imprisonment for up to three years with or without hard labour or a heavy fine;
- d) Jinayat Siyasiyya (political felonies), punishable by life imprisonment or by imprisonment, restriction of movement or loss of civil rights for between three and 25 years;
- e) Jinayat (felonies), punishable by death, life imprisonment, with or without hard labour, or by imprisonment for between three and 25 years, with or without hard labour.

(ii) The role of the Judicial Police

According to the Syrian Code of Criminal Procedure (SCCP) of 13 March 1950, officers of the Judicial Police are responsible for investigating offences, collecting evidence, arresting offenders and bringing them to court (Article 6). The functions of the Judicial Police are discharged by the al-Na'ib al-'Am (Public Prosecutor), deputies and assistants, and the Quda al-Tahqiq (investigating judges) (SCCP Article 7).

The Public Prosecutor, as head of the Judicial Police, is directly responsible for the activities of deputies and assistants, including those of the investigating judges, where such activities are concerned with the investigation of offences and the detention of offenders (SCCP, Article 14). This official represents the executive authority in courts, is responsible for the administration of the Department of Justice, supervises prisons and detention centres and reports directly to the Minister of Justice (SCCP, Article 15).

^{*} These lists, which were submitted to the Syrian authorities with the memorandum on 26 April 1983, do not appear in this publication, but are available separately from Amnesty International.

All arrested suspects -- except in cases of al-Jurm al-Mashhud (flagrante delicto) where the offence is a misdemeanour -- should first be the subject of a police inquiry held under the authority of the Public Prosecutor, then of a judicial investigation by an investigating judge, before their cases come to court. The purpose of both the police inquiry and the judicial investigations is to collect evidence and elicit the full facts before the case comes to court. In theory these procedures do not involve "opposed" parties and are not adversarial.

(iii) Al-Jurm al-Mashhud

Al-Jurm al-Mashhud (flagrante delicto) is defined in Article 28 of the SCCP as an offence in which the culprit is caught actually committing the offence or just afterwards, is being pursued by the public or is seen within 24 hours of the offence having been committed with evidence, weapons or papers indicating that he or she was the culprit. Al-Jurm al-Mashhud can be a felony (Jinaya) or a misdemeanour (Junha); if the latter, the judicial pre-trial investigation may be dispensed with, mainly in order to accelerate the judicial process in cases where this is warranted. The suspect is brought before the Public Prosecutor to be questioned and, if necessary, kept in custody before being brought to a court of conciliation or court of first instance for trial the same day or, at the latest, the next day (SCCP, Articles 231 to 232). In the case of a felonious Jurm Mashhud, Article 112 of the SCCP stipulates that:

"Any government official or member of the general public may make the arrest and bring the person before the Public Prosecutor."

(iv) Police inquiry

The police inquiry is conducted under the authority, although not direct supervision, of the Public Prosecutor. Justices of the Peace, heads of police stations and police officers are empowered under Article 46 of the SCCP to:

"draft the report, listen to witnesses' statements, conduct the investigations and search of premises and all other formalities which in such cases are within the competence of the Public Prosecutor and which conform with the rules laid down in section five regarding the performance of the Public Prosecutor's functions".

When conducting the inquiry, the police are empowered to impound weapons or any other instruments bearing indications that they may have been used to commit the crime (SCCP, Article 32); to search the suspect's home in his or her presence or in the presence

of witnesses, and impound any papers or objects that might help prove guilt or innocence (SCCP, Articles 33 to 36); to take statements from witnesses or anyone who knows anything about the crime or has information that might be relevant to the inquiry (SCCP, Article 30); and to enlist the aid of and get evidence from specialists in order to determine properly the type of offence or crime committed if the need arises (SCCP, Articles 39 and 40). A report based on the above is then written and submitted to the Public Prosecutor.

while the inquiry is taking place, the police may order anyone present at the scene of the crime not to leave the area and may take such people into custody and bring them before an investigating judge if they disobey such an order. In the case of a felonious Jurm Mashhud, the Public Prosecutor may order the arrest of any person present, or issue a warrant for the arrest of someone not present, where there are strong indications that this person may be the culprit. Such suspects must be questioned by the Public Prosecutor (SCCP, Article 37). The police inquiry can last up to 48 hours in routine cases, with further extensions up to a maximum of six days, on the written authorization of the Public Prosecutor. Article 50 of the SCCP specifies that:

"In cases where judicial police officials receive information concerning a misdemeanour or a felony and where they are not empowered by law to carry out the investigation themselves, they must send this information immediately to the Public Prosecutor."

If the offence is a felony, once the inquiry has ended, the Public Prosecutor sends the case to the investigating judge for pre-trial investigation. Where the offence is a mis-demeanour, the Public Prosecutor may choose to send the case either to the investigating judge or to a lower court for trial. Alternatively, this official may decide to keep the papers but close the file, if the deeds in question are not offences or if there is insufficient evidence to proceed further.

(v) Pre-trial investigation

The investigating judge, in carrying out the judicial investigation, is under the supervision of the Public Prosecutor, who may inquire how the case is progressing at any stage of the investigation. (Any papers sent to the Public Prosecutor must be returned to the investigating judge within 24 hours, according to Article 54.) In investigating an offence referred by the Public Prosecutor, the investigating judge may issue a Mudhakirat Da'wa (writ of summons) for the suspect to appear. If the latter ignores the summons, the judge may then issue a Mudhakirat al-Ihdar, which empowers judicial police officers to take the suspect into custody pending appearance before the investigating judge within 24 hours of arrest. Article 105 of

Mudhakirat al-Ihdar and remains in custody for more than 24 hours without being questioned or brought before the Public Prosecutor or investigating judge, the detention is considered arbitrary and the official in charge of the place of custody shall be prosecuted for curtailing personal freedom, provided for in Article 358 of the Penal Code, which states:

"Directors and guards of prisons, penitentiaries and houses of reform, and all officials assuming their authorities who admit any person without a legal warrant or decision or detain him longer than is stipulated shall be sentenced to a period of one to three years' imprisonment."

When the suspects appear before the investigating judge, the latter must establish their identity, tell them what they are charged with and ask if they have anything to say in reply to the charge, at the same time cautioning them that they are not obliged to make a statement in the absence of counsel. By law, the caution is entered in the investigation record. If a suspect refuses to appoint counsel within 24 hours, the investigation takes place without one. In cases where a suspect finds it impossible to appoint counsel and asks the investigating judge to do so, the latter entrusts the President of the Bar Association with this task, or else appoints a lawyer from the court's district (Article 69).

Once the investigation has begun, and if it appears that the offence committed is punishable by imprisonment or a heavier penalty, the investigating judge may, after consulting the Public Prosecutor, issue a <u>Mudhakirat al-Tawqif</u> (detention order) permitting the suspect's detention in custody for the period of investigation (SCCP, Article 106). Such an order may be issued also if the suspect flees. The <u>Mudhakirat al-Tawqif</u> should include the name and official stamp of the judge, the name and, where possible, description of the suspect, and details about the crime and relevant legislation (SCCP, Articles 107 to 109). A copy is given to the suspect.

The SCCP does not specify a minimum or maximum period for the investigation or for the detention of the suspect. However, where someone under investigation is suspected of having committed a misdemeanour (Junha) punishable by imprisonment for no more than one year, and provided such a person has no previous prison record involving a sentence of more than three months, this suspect must be discharged within five days of being questioned (SCCP, Article 117). In other cases, the investigating judge, after consulting the Public Prosecutor, may release the suspect with or without bail, provided the latter promises to attend whenever requested to do so at any stage of the investigation.

When investigating judges have completed questioning suspects and collecting evidence, they report their conclusions and recommendations to the Public Prosecutor. If they decide that there is no evidence against a suspect, the latter is released. However, if there is evidence, a procedure is followed whereby:

- a) If the offence is an "infringement", the case is referred to a court of conciliation (Mahkama Sulhiyya) and the suspect, if in custody, is released.
- b) If the offence is a misdemeanour not punishable by a term of imprisonment, the case is referred to a court of conciliation or court of first instance (Mahkama Bida'iyya) and the suspect is released. If the offence is punishable by a term of imprisonment, the suspect may remain in custody. In either case, the Public Prosecutor is compelled by law to hand over to the appropriate court all the material available on the case within two days of receiving the investigating judge's report.
- c) If the offence is a felony, the suspect may remain in custody and the case goes to a trial judge (Qadi al-Ihala). In all cases, the investigating judge, after consulting the Public Prosecutor, may release the suspect on bail, provided the latter can be summoned before the investigating judge at any time during the investigation.

(vi) The courts

The organization of the criminal court system in Syria is based on the SCCP and the Judicial Authority Law of 15 November 1961. These laws establish four basic jurisdictions and the Public Prosecutor, after deciding that a particular offence has been committed, assigns the case to the court competent to adjudicate. The following are the different types of court:

- 1. Courts of Conciliation (Sulhiyya) and of First Instance (Bida'iyya);
- 2. Courts of Assizes (al-Mahakim al-Jina'iyya);
- 3. Appeal Courts (al-Mahakim al-Isti'nafiyya);
- 4. Court of Cassation (Mahkamat al-Tamyiz).

The Courts of Conciliation and of First Instance consist of one judge and deal with infringements punishable by small fines or up to 10 days' imprisonment and misdemeanours punishable by up to three years' imprisonment. If the sentence is less than 10 days' imprisonment, it is subject to appeal to the Criminal Court of Appeal, whose decision is final. If the sentence is more than 10 days' imprisonment, the decision may be reviewed also by the

criminal department of the Court of Cassation.

The Court of Assizes is competent to judge all felonies, or related offences if the punishment is more than three years' imprisonment or the death penalty. The decision of these courts is subject to appeal to the Criminal Court of Appeal. There is no appeal against the judgments of the Court of Appeal, but the accused may apply to the Supreme Court of Cassation to quash the verdict. In considering such applications, the Supreme Court does not examine evidence or re-examine the substance of the case but may only overturn the Appeal Court decision on the grounds that the proper procedures were not followed or the law had been improperly applied.

APPENDIX B

Legislative Decree Number 51

dated 22/12/1962

Law For A State of Emergency

The Cabinet issued and the President of the Republic broadcast the following legislative decree.

Part One

The Proclamation of a State of Emergency

Article 1

- A state of emergency may be announced in a situation of war or one in which war threatens to break out or one in which public security and order in the territory of the Republic or part of it is exposed to danger through the occurrence of internal disturbances or general catastrophes.
- b) The state of emergency can extend to the whole of the Syrian territory or to a part of it.

Article 2

- a) The state of emergency shall be proclaimed by a decree from the cabinet, presided over by the President of the Republic. It must be carried by a majority of two thirds and be made known to the Chamber of Deputies at its next meeting.
- b) The decree shall define the restrictions and measures which the Martial Law Governor may adopt and which are stipulated in Article 4 of the Legislative Decree without violation of the rulings of Article 5 of the same Decree.

Article 3

- a) On proclamation of a state of emergency the President of the Republic shall name a Martial Law Governor and all powers of internal and external security shall be placed at his disposal.
- b) The Martial Law Governor shall appoint, by decree, one or two deputies to work with him.
- c) The deputies of the Martial Law Governor shall carry out tasks delegated to them in the areas assigned by him.

Article 4

The Martial Law Governor or his deputy shall issue written orders to adopt some or all of the following restrictions and measures and he shall bring anyone who violates them before military court

- a) 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.
- The censorship of letters and communications of all kinds. Censorship of newspapers, periodicals, publications, drawings, printed matter, broadcasts and all means of communication, propaganda and publicity before issue; also their seizure, confiscation and suspension, the denial of their rights and the closure of the places in which they were printed.
- c) The fixing of opening and closing times for public places.
- d) The withdrawal of licenses for weapons, ammunition and all kinds of explosives and the ordering of their surrender and seizure. The closure of weapons stores.
- e) The evacuation of areas or their isolation, the organization of the means of transport, the restriction of communications and their limitation between areas.
- f) The requisitioning of movable property and real estate and the temporary sequestration of companies and establishments with delay in the settlement of debts and obligations due either to or from the requisitioned body.
- The imposition of punishments for the contravention of these orders provided these do not exceed three years' imprisonment and 3,000 lira or either of these two. If an order does not impose the punishment for the contravention of its rulings, such contraventions shall be punished with imprisonment for not more than six months and a fine of not more than 500 lira or with one of the two. This all being with the proviso that the maximum penalties specified in other laws are not exceeded.

Article 5

a) Where necessary the cabinet, in session under the chairmanship of the President of the Republic, may extend the field of the restrictions and measures listed in the previous paragraph through a decree to be submitted to the Chamber of Deputies at its first meeting.

b) The cabinet may also limit the field of the restrictions and measures referred to in accordance with the situation which called for the announcement of the state of emergency.

Article 6

In the areas where a state of emergency has been declared the following offences shall be referred to military courts whatever the rank of those who committed them, incited their commission or participated in them.

- a) Contravention of orders issued by the Martial Law Governor.
- b) Offences against the security of the state and public order (Article 260 339 of the Penal Code).*
- c) Offences against public authority (Article 369 387).
- d) Offences which disturb public confidence (Article 427 459).**
- e) Offences which constitute a general danger (Article 573 586).

Article 7

The Martial Law Governor may exempt some of the offences defined in the previous article from the jurisdiction of military courts.

Article 8

Where there is a dispute regarding jurisdiction between civil and military courts the Martial Law Governor shall act as final arbiter.

Article 9

Death sentences in the process of confirmation shall only be carried out where they have been approved by the Martial Law Governor after he has consulted the pardons committee of the Ministry of Justice.

Part Two

The Termination of a State of Emergency

Article 10

The state of emergency shall be terminated by the authority responsible

^{*} Amr 'Urfi (Martial Law Order) No.16 of 17 June 1966 amended this and refers offences under Articles 314 and 318 to the relevant civil courts.

^{**} Amr 'Urfi No.31 of August 1965 has amended this Article and refers these offences to the relevant civil courts.

for proclaiming it and in accordance with the provisions in Article 2 of this legislative decree.

Article 11

After the termination of the state of emergency military courts shall continue to deal with cases within their jurisdiction whether or not they are assigned to them.

Part Three

Temporary Rulings

Article 12

State of Emergency Law number 162 of 27/9/1958 with all its amendments is hereby cancelled.

Article 13

a) In all cases the state security courts created by Law 162 shall remain competent to try offences within their jurisdiction which were committed before the issuing of this legislative decree whether or not they are assigned to them.

In the matters of investigation, assignment, trial, suspension of trial, confirmation or alteration of rulings issued or due to be issued they shall follow the principles and procedures that are followed in accordance with that law.

The President of the Republic or whomsoever he delegates may suspend a judicial investigation while it is at the courts.*

- b) The sequestration imposed on certain firms and establishments in accordance with Law 162 shall remain in force until it is cancelled by a decree passed by the Cabinet.
- c) The state of emergency announced on the basis of Law 162 shall be considered to remain in force until its abolition is completed in accordance with Article 10 of this legislative decree.

Article 14

This legislative decree shall be published and shall take effect from the day of its being issued.

Damascus 26/8/1382 (= 22/12/1962)

APPENDIX C

Detention without trial: sample of individuals adopted as prisoners of conscience by Amnesty International

1. Dr Nour al-Din al-Atassi (former Syrian President)

Dr Nour al-Din al-Atassi, former President and Prime Minister of Syria and Secretary General of the Syrian Ba'th Party, has been held without charge or trial for more than 12 years in al-Mezze military prison, Damascus. He is one of a group of people arrested after the November 1970 coup which brought President Hafez al-Assad to power; all had either served in or were connected with the previous government and were reportedly arrested for refusing to collaborate with the new government.

Dr Nour al-Din al-Atassi, aged 54, comes from the city of Homs in central Syria. He studied medicine at the University of Damascus and practised as a physician in Homs before his first ministerial appointment in August 1963 as Minister of Interior. Between May 1964 and December 1965 he was a member of the Syrian Presidential Council and was appointed its Vice-President in September 1965. In 1966 he became President of the Republic and Secretary General of the Syrian Ba'th Party. In 1968 he was appointed Prime Minister. He held these posts until his arrest on 27 November 1970.

He and other detained former government officials are reported to have been tortured and denied medical treatment during the early stages of their imprisonment. There is reported to be only one prison doctor in al-Mezze prison and medical facilities are said to be inadequate. Medical prescriptions have to be obtained outside the prison and brought in by visiting relatives. Before 1975, sick prisoners used to be sent for treatment to the adjacent military hospital, but this practice was suspended after a prisoner escaped from the hospital.

In November 1978 Amnesty International issued urgent appeals on behalf of Dr al-Atassi, who was reported to have been suffering from chronic diabetes for some years; his condition was said to be critical. There was no response from the Syrian authorities.

In October 1980 Amnesty International received reports that Dr al-Atassi had been released and put under house arrest. There was no official confirmation of this from the Syrian authorities, and subsequent reports in March 1981 suggested that he was back in al-Mezze prison.

Recent reports about conditions in the prison suggest that the 18 former government officials are separated from other political prisoners and are sharing two adjoining cells. They are allowed monthly visits from their families, reportedly on the orders of the President. During visits, relatives are separated from the prisoners and have to speak loudly within earshot of the prison officers. There

^{*} Amended by Legislative Decree No. 1 of 9/3/1963.

is access to a prison library but no books or newspapers may be brought in from outside. No correspondence to or from the prisoners is allowed.

Amnesty International has adopted 18 as prisoners of conscience, including Dr Nour al-Din al-Atassi. All have been held without trial since late 1970 or early 1971 in al-Mezze prison.

2. Muwaffaq al-Din al-Kozbari (lawyer)

Muwaffaq al-Din al-Kozbari is a 53-year-old lawyer, married, with no children. He is President of the Prisoners' Care Association and First Secretary of the Syrian League for the Defence of Human Rights.

He is one of a group of lawyers who were arrested in April/May 1980 following a one-day strike by the Syrian Bar Association on 31 March 1980 and the subsequent dissolution of the Councils of the Bar Association by presidential decree. The action was part of a national strike involving lawyers, doctors, engineers and other professional groups, calling for an end to the state of emergency. Muwaffaq al-Din al-Kozbari has been detained since April 1980 without charge or trial, and most recently was in al-Qala'a prison in Damascus. He was not allowed visits at first, but permission was later granted for visits by close relatives every 15 days.

In December 1982 Amnesty International members appealed urgently on his behalf after receiving reports that he had been taken to hospital suffering from kidney stones, malfunction of the gall bladder and grave loss of weight. Amnesty International urged that he be released immediately and that he continue to receive adequate medical care and follow-up treatment.

J. Umar Qashash (member of the Executive Committee of the Communist Party Political Bureau)

'Umar Qashash was born in 1922. He comes from a poor family in Aleppo. As a youth he was a stone mason; he later joined the printing industry. In 1950 he became active in the trade union movement and was subsequently elected Secretary General of the Printers' Union. Several times he was elected to the Executive Committee of the Syrian Trade Union Federation, where he promoted workers' rights.

He was first arrested on 31 January 1958 and detained until March 1962, following his efforts to have trade union guarantees incorporated into the draft constitution of the United Arab Republic -- the Syrian-Egyptian union of 1958 to 1961. On 14 June 1978 he was arrested again in a Damascus street and detained without charge or trial in Shaikh Hassan prison. He was allegedly held

incommunicado and tortured, causing severe lesions in his spinal column which have affected his central nervous system. He was adopted by Amnesty International as a prisoner of conscience. In February 1980 he was released, together with a large number of untried detainees, following an inquiry initiated by the Ba'th Party Regional Command in December 1979 into abuses of the procedures for detention without trial.

His most recent arrest, on 5 October 1980, came at a time when leading members of the Communist Party Political Bureau (CPPB), to which he belongs, had either been arrested or were under surveillance by Syrian security forces. The CPPB was set up in 1973 under the leadership of Riad al-Turk following dissent within the Syrian Communist Party, which then led to a split between the Soviet-orientated wing, led by Khalid Bakdash and represented in the ruling National Progressive Front, and Riad al-Turk's prohibited wing. The CPPB has faced periodic suppression, and its members have been arrested, because of its non-violent opposition to certain aspects of the Syrian Government's policies, particularly to Syrian intervention in Lebanon since 1976. In October 1980 prominent members of the CPPB, including its Secretary General Riad al-Turk, were arrested and have since been held without charge or trial. 'Umar Qashash is currently in al-Qala'a prison in Damascus. He is one of 140 detained CPPB members adopted by Amnesty International.

4. Marwan Hamawi (journalist)

Marwan Hamawi is a journalist and former Director of the Syrian News Agency, SANA. He graduated from the University of Damascus with a Bachelor of Arts degree in English. He was employed by the Central Bank of Syria. Later he worked in Cairo, first as SANA correspondent and then as press attaché. In 1974 he was appointed Director of SANA and returned to Damascus. He is 45, married and has two sons, Zuhair and Khalid.

Marwan Hamawi is one of a group of Syrians arrested in the mid-1970s on suspicion of collaboration with the Iraqi wing of the Ba'th Party, and still held under the 1962 emergency legislation. He was arrested on 21 March 1975 and, for the past eight years, has been detained in al-Mezze military prison without charge or trial. He was adopted by Amnesty International as a prisoner of conscience in July 1976.

5. Fateh Jamus (member of the Party for Communist Action)

Fateh Jamus, also known as Abu 'Ali, is a 35-year-old mechanical engineer. He is married and has two children. He was arrested in March 1982 and is one of a group of members of the Party for

Communist Action (Hizb al-'Amal al-Shuyu'i) who have been arrested at various times since early 1980 and have since been held incommunicado without charge or trial. In July and August 1982 Amnesty International adopted 49 members of the party as prisoners of conscience.

The Party for Communist Action was founded in August 1976 and was initially called the League for Communist Action (Rabitat al-'Amal al-Shuyu'i). It has criticized both the policies of the present government and the Muslim Brotherhood's violent opposition campaign. Since its foundation, the party has faced periodic suppression and its members have been arrested. In 1979 Amnesty International investigated the cases of more than 60 of its members to verify that they were prisoners of conscience. Most were released in 1980.

In August 1981, the League for Communist Action held its first General Congress in Lebanon and changed its name to the Party for Communist Action. On their return to Syria, some of those who had attended the Congress were detained and questioned and, in the following months, more than 40 members of the party were reportedly arrested.

In June 1982, Amnesty International received reports that three detained members of the Party for Communist Action, including Fatch Jamus, had been severely tortured and taken to al-Mezze military prison hospital in Damascus for urgent treatment. Their families had not at the time received confirmation from the Syrian authorities that they were in hospital and were not allowed to see them. Amnesty International appealed to the authorities on their behalf, urging that they be allowed proper medical treatment, that their whereabouts be made known and that they be allowed to see their families and lawyers. One of the three detainees, who was reported to be suffering from a heart condition, was released in July 1982.

Unconfirmed reports received by Amnesty International in December 1982 suggested that Fateh Jamus had been transferred the previous month from al-Qala'a prison in Damascus to Tadmur (Palmyra) desert prison.

6. Seven members of the Kurdish Democratic Party (KDP)

Amnesty International is working on behalf of seven members of the Kurdish Democratic Party (KDP) who have been detained without charge or trial for more than nine years. The seven were among a group of 12 Syrian Kurds who were arrested in July and August 1973 after sending a memorandum to President Hafiz al-Assad protesting against the Arab Belt Plan. Described officially as "a plan for the establishment of model state farms", the plan, in effect, involved the transfer of the Kurdish population in Syria's northern border areas and their replacement by Arabs. By 1977, 12,000 were said to have been deported from the Jazira area.

Amnesty International adopted eight of the 12 detained Kurds as prisoners of conscience in 1974 and the other four in 1978. In 1980 it learned that five had been released. The seven still being detained are: 'Abdallah Mulla 'Ali, Hassan Osman Ibrahim, Muhammad Mulla Fakhri (aged 43) and Muhammad Khalid 'Abdul Rahman Sharaf (aged 48), all from the town of Qamishli; Ahmad Haj Sa'id al-Arbu (aged 49) from Malak; Amin Gulin, a teacher from Afrin, and Hassan Muhammad Musa (aged 47) from Ali Furu.

Since their arrest in 1973, the seven have been separated and transferred at different times to various prisons in Damascus and Aleppo. Repeated appeals by Amnesty International groups to the Syrian authorities for their release and requests for information about their health and whereabouts have remained unanswered.

APPENDIX D

(i) <u>Declaration on the Protection of All Persons from</u>

<u>Torture and Other Cruel, Inhuman or Degrading Treatment</u>

or Punishment

Adopted unanimously by United Nations General Assembly resolution 3452 (XXX) of 9 December 1975.

Article 1

- 1. For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.
- 2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

Article 2

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

Article 3

No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 4

Each State shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised within its jurisdiction.

Article 5

The training of law enforcement personnel and of other public

officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons.

Article 6

Each State shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment.

Article 7

Each State shall ensure that all acts of torture as defined in article 1 are offences under its criminal law. The same shall apply in regard to acts which constitute participation in, complicity in, incitement to or an attempt to commit torture.

Article 8

Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned.

Article 9

Wherever there is reasonable ground to believe that an act of torture as defined in article I has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.

Article 10

If an investigation under article 8 or article 9 establishes that an act of torture as defined in article 1 appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings.

Article 11

Where it is proved that an act of torture or other cruel, inhuman

or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

Article 12

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

(ii) United Nations Code of Conduct for Law Enforcement Officials
Resolution 34/169 of 17 December 1979

Article 1

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:*

- a) The term "law enforcement officials" includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.
- In countries where police powers are exercised by military authorities, whether uniformed or not, or by state security forces, the definition of law enforcement officials shall be regarded as including officers of such services.
- c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.
- d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

- The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.
- b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary:

- This provision emphasizes that the use of force by law enforcement officials should be exceptional, while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.
- b) National law orinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

^{*} The commentaries provide information to facilitate the use of the Code within the framework of national legislation or practice. In addition, national or regional commentaries could identify specific features of the legal systems and practices of different States or regional intergovernmental organizations which would promote the application of the Code.

The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty, or the needs of justice, strictly require otherwise.

Commentary:

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary:

This prohibition derives from the Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which such an act is "an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights"* and other international human rights instruments.

b) The Declaration defines torture as follows:

"torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners."*

The term "cruel, inhuman or degrading treatment or punishment" has not been defined by the General Assembly, but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, take immediate action to secure medical attention whenever requested.

Commentary:

- "Medical attention", which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.
- while the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgment of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.
- c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Commentary:

a) Any act of corruption, in the same way as any other abuse of

^{*} Article 2 of the Declaration.

Standard Minimum Rules for the Treatment of Offenders: First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat (UN publication, Sales No.1956.IV.4). annex I.A.

authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their own agencies.

- b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.
- c) The expression "act of corruption" referred to above should be understood to encompass attempted corruption.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of this Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Commentary:

- a) This Code shall be observed whenever it has been incorporated into national legislation or practice.

 If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.
- for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.
- c) The terms "appropriate authorities or organs vested with reviewing or remedial power" refer to any authority or organ existing under national law, whether internal to

the law enforcement agency, or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.

- In some countries, the mass media may be regarded as performing complaint review functions similar to those described in commentary c). Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.
- e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the cooperation of the community and of the law enforcement agency in which they serve, as well as of the law enforcement profession.

Amnesty International Publications

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