

## Amnesty International briefing

### Accountability for human rights violations in Syria and the role of the UN Security Council

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This briefing sets out Amnesty International's concerns, based on information obtained from a variety of resources, regarding the human rights violations that have been committed in Syria within the context of the unrest that began in March 2011 and which Amnesty International believes amount to crimes against humanity. The briefing also lays out Amnesty International's main call for the Security Council to refer the situation in Syria to the International Criminal Court and explains why Amnesty International is convinced that justice cannot be secured domestically in Syria.

- **The state of human rights in Syria**

Syria's security forces have violated human rights with impunity for decades, engaging in extrajudicial killings, enforced disappearances and the torture of people suspected of dissent. These violations have increased drastically in the last 10 months as the government has cracked down on dissent in an attempt to suppress pro-reform demonstrations in the country. The demonstrations began in Syria in February 2011 and evolved into mass protests in mid-March, when security forces fired on peaceful protesters in the southern city of Dera'a using live ammunition, killing several of them.

Amnesty International has obtained the names of more than 3,200 people, over 190 of them children, who are reported to have been killed in the unrest in Syria since then. The vast majority are believed to have been killed by the army and security forces, many of them during protests and security operations in residential areas. At least 150 of them are believed to have died in detention in highly suspicious circumstances. Reports of deaths of members of the army and security forces have been increasing in recent weeks, but no official figures have been released. Many have allegedly been killed in clashes with the Free Syrian Army, formed in July and composed in part of army personnel who have defected, and others who have taken up arms with the stated intention of protecting their neighborhoods. The UN's Office of the High Commissioner for Human Rights has put the number of people who have died in the crackdown on dissent at more than 3,500.

Thousands of people have been arrested in connection with the unrest, with many of them held incommunicado in detention centres run by unaccountable intelligence agencies with powers of arrest and detention. Some are believed to have been held

in conditions amounting to enforced disappearance as the authorities have refused to acknowledge the deprivation of their liberty or effectively concealed their whereabouts from their families. Released detainees commonly allege that they were tortured or otherwise ill-treated in such centres and that such treatment is widespread.

Amnesty International considers that the crimes committed by state forces in Syria amount to crimes against humanity: they are part of a widespread, as well as systematic, attack against the civilian population, carried out on a large scale and in an organized manner, pursuant to a state policy to commit such an attack.

- **Lack of accountability**

Since the beginning of the unrest the Syrian authorities have consistently failed to respond to international calls to rein in the security forces, cease unlawful killings and other excessive use of force, and to open prompt, thorough, independent and impartial investigations and hold all those responsible for human rights violations accountable – regardless of their official capacity.

Amnesty International notes that President Bashar al-Assad has issued a number of amnesties and announced some legislative developments – including long-awaited reforms such as the lifting of the state of emergency – that under different circumstances would have largely been welcome. These steps include:

- The release of hundreds of prisoners held on political and non-political offences, including prisoners of conscience, on 31 May 2011 and 21 June 2011 under two presidential amnesties. The earlier amnesty covered those imprisoned for offences committed before 31 May, including members of the banned Muslim Brotherhood and other “politically affiliated” prisoners. The latter covered those suffering from incurable diseases and others accused of minor offences.
- The repeal on 21 April 2011 of the long-standing national state of emergency, which was in force continuously since 1963 and provided the authorities with wide powers of arrest and detention.
- The abolition of the Supreme State Security Court (SSSC) on 21 April. The SSSC was a special court that fell far short of international standards for fair trial and rarely imposed sentences of less than five years.
- The passing of the Political Parties Law and General Elections Law on 3 August.
- The passing, on 28 August, of the Media Law, which recognized freedom of expression as a human right and established an independent body to regulate the media.

However, these developments cannot be considered in isolation from the legal, political and practical context within which they have taken place. Within this context in all its aspects, grave concerns remain.

First and foremost, the reforms have taken place while the Syrian government has been perpetrating human rights violations on a massive scale, amounting, by Amnesty International's assessment, to crimes against humanity. It is already clear that, at least so far, the legislative reforms have had little or no impact on this situation.

Secondly, a wide variety of laws and decrees remain in force which place severe restrictions on the enjoyment of human rights in Syria or otherwise violate the state's obligations under international law. For example, legislation providing impunity to perpetrators of human rights violations, in particular members of the intelligence services, still exist. Since 1950 members of Military Intelligence and Air Force Intelligence have been granted impunity from prosecution for crimes committed in the course of exercising their duties except in cases where a warrant is issued by "the general leadership of the army and military forces". In 1969 impunity was granted to members of State Security for crimes committed while exercising their duties except in cases where its director issues a warrant. In 2008 impunity similar to that granted to members of the Military Intelligence and Air Force Intelligence was given to Political Security, police and customs officials, with the same exception for cases where the "general leadership of the army and military forces" issues a warrant. In other words, no cases can be brought against members of the security services except where special permission is given by their own or military leaders.

Amnesty International has urged the Syrian authorities to conduct thorough, prompt and impartial investigations into the gross human rights violations which have been committed within the context of the unrest and amount to crimes against humanity. However, the Syrian authorities have failed and appear unwilling to do so. With respect to reported deaths of custody, for example, Amnesty International is only aware of investigations being announced into two such cases, those of Hamza Ali al-Khateeb, aged 13, and Sakher Hallak, both reported to have died in custody possibly as a result of torture. Yet, no information was published about the nature or scope of the investigations or even who the investigating authorities were. So, even in the rare cases where investigations were announced, there was no evidence that they were being conducted in a full, independent and impartial manner.

In addition, there is concern that some of the provisions allowing the persecution of real or perceived opposition activists that were ostensibly repealed were in fact sneaked in again through the back door. For example, on 21 April, the same day the state of emergency was lifted and the SSSC abolished, two other legislative decrees were passed. The first related to "peaceful assembly". While allowing for peaceful protests under certain conditions, it appears to condition licence to demonstrate on the demonstration being "properly licensed" and subject to constitutional and other legal "principles" as well as administrative requirements. These conditions may not seem unreasonable in another context, but in the Syrian one, where popular protests

are being routinely suppressed with excessive force, they appear to be another attempt by the authorities to legally restrict the ability of people to exercise their rights to freedom of assembly and expression. The second decree allowed detention without charge for up to two months, thus legalizing arbitrary detention in conditions where there exists a high risk of torture and other ill-treatment.

The long-awaited Political Parties Law, although it allowed the formation of political parties, put the authority to allow or deny their registration in the hands of a committee comprised mostly of government appointees (though its decisions may be challenged in court). The General Elections Law stipulated that elections are to be overseen by the judiciary and that no parties competing in elections may be supported by state resources, but made no provision for the election of the President.

The new Media Law prohibited the media from publishing material if it “harms the nation unity and national security”, insults religion, provides information about the military without its consent or encroaches on symbols of the state, among other reasons.

Amnesty International also recognizes that the Syrian authorities have agreed an action plan with the League of Arab States on 30 October 2011, and pledged on 2 November to withdraw troops from restive cities, free prisoners held in connection with the current events, and start talks with opposition groups.

However, despite the announced releases on 5 and 15 November of a total of 1,733 detainees “who were involved in the events but whose hands were not stained with blood”, the Syrian authorities have failed to take these steps. Since the conclusion of the action plan, dozens of unarmed protesters and others are reported to have been killed by the army and security forces and dozens of others involved in or perceived to be supportive of the protests have been arrested.

The Syrian authorities have also restricted the access of independent international human rights organizations, including Amnesty International, the UN Office of the High Commissioner for Human Rights, and international media to the country.

The unwillingness of the of Syrian authorities to ensure accountability is borne out by a track record of impunity for a long history of human rights violations.

The authorities took no steps to account for the thousands of people, mostly Islamists, who disappeared in the late 1970s and early 1980s, and others who disappeared in Lebanon by Syrian forces or by pro-Syrian Lebanese and Palestinian militias, who then handed them over to Syrian forces in the years before the latter withdrew from Lebanon in April 2005. Nor have the authorities offered any

explanation of the extrajudicial executions of hundreds of prisoners, mostly Islamists, in the Military Intelligence-run Tadmour prison, on 27 June 1980. The bodies were never handed over to their families, nor were the families ever told their relatives had died.

The authorities also failed to disclose what occurred at Saydnaya Military Prison in July 2008, when 17 prisoners and five other people were reported to have been killed and since when, as far as Amnesty International is aware, there has been no information or known contact with at least 48 prisoners held there at the time.

Given this track record and the Syrian authorities' lack of credibility and apparent disregard for their obligation to protect human rights, Amnesty International is convinced that investigations and prosecutions, in accordance with international law, will not be possible in Syria.

- **Why must the Security Council act on Syria?**

Amnesty International's assessment is that crimes against humanity are being committed in Syria. Over 3,200 people, most of them unarmed, are reported to have been killed. The repression is also becoming a destabilizing factor in the region, creating displacement and refugee flows and negatively affecting neighbouring countries. It constitutes a threat to international peace and security.

The government has responded to the legitimate claims of its population with unremitting violence and ignored the concerns of the international community. It has played a stalling game with the League of Arab States and used the time gained to continue the repression. Moreover, the authorities have historically demonstrated virtually no willingness to prosecute human rights violations.

Amnesty International has therefore called on the UN Security Council to act swiftly and decisively. It should refer the situation in Syria to the Prosecutor of the ICC and thereby ensure that those committing the widespread and systematic human rights violations in Syria are brought to justice. It should impose an arms embargo on Syria and deprive the violators of additional firepower. Finally, it should impose an asset freeze on the Syrian President and his senior associates.

Continued inaction by the Security Council will not only allow the commission of more human rights violations in Syria with impunity, but embolden present and future violators. It will also cement a situation where states that have not ratified the Rome Statute would feel that they are beyond the reach of international justice and that crimes committed in the name of "combating armed groups" can simply be ignored. Not least, this lack of action permits an explosive situation to persist, with two major risks: a descent into a full-blown armed conflict, which the government

could use to justify even harsher repression, and the possibility of other countries in the region (and others farther afield) being drawn in further.

The Third Committee of the UN General Assembly adopted a resolution on 22 November strongly condemning “the continued grave and systematic human rights violations by the Syrian authorities” and calling for “an immediate end to all violence” and for the authorities to implement the League of Arab State’s action plan “in its entirety without further delay”. The Human Rights Council has also held two special sessions and established a commission of inquiry on Syria. It is time for the Security Council to act.