

## Damascus Center for Human Rights Studies

### UPR Stakeholder Submission - Syria

#### Enforced Disappearances

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#### Introduction

This report is submitted by the Damascus Center for Human Rights to the Office of the High Commissioner for Human Rights (OHCHR) to be considered for inclusion in the summary of stakeholder submissions for the Universal Periodic Review of the **Syrian Arab Republic**, scheduled to take place in October 2011.

#### Enforced Disappearances in Syria

1. Enforced disappearances constitute a pillar of Syrian authoritarianism. The practice increased markedly after the Baath Party took power in 1963 and declared a state of emergency, peaking in the 1980s in a period of massive government crackdowns, known in Syria as *Al-Ahdath* (“the Events”). Since 1979, nearly 17,000 people have gone missing in prisons and interrogation centers. Some sources claim the number is as high as 25,000. Though disappearances have been less common in recent years, the Syrian government continues the practice and has not made any steps toward reconciliation [what do you mean reconciliation?]. Syria is not a signatory of the International Covenant for the Protection of All Persons from Enforced Disappearances but it is a party to the International Covenant on Civil and Political Rights.
2. Political arrests and forced disappearances became systematic and continuous during the late 1970s and early 1980s, coinciding with the outbreak of violent conflict between the Muslim Brotherhood and the Syrian regime. The regime started to use unmitigated violence not only against the armed Islamist organizations but also against the entire spectrum of opposition parties and their supporters in Syrian society. This culminated in a number of massacres that killed thousands of civilians, most notably the massacre of Hama in February 1982, when the army laid bombed to the city of Hama in an attempt to quell a revolt by the Muslim Brotherhood.<sup>1</sup> An estimated 5,000 to 15,000 people were killed during the attack, and entire neighborhoods were leveled. Alongside this massacre was a campaign of indiscriminate arrests across the country that targeted thousands of activists, dissidents, their supporters and even those “suspected” of

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<sup>1</sup> For more details about the massacre see Report by the Syrian Committee for Human Rights, The Massacre of Hama in February 1982: A genocide and a crime against humanity, February 2, 2006.

supporting the opposing. Another important episode in “the Events” was the massacre at Palmyra Military Prison on June 27, 1980, following an assassination attempt on President Hafez al-Asad. Hundreds of detainees were shot, and human rights groups estimate that about 1,000 victims were buried in unmarked mass graves. Their families were not informed of their fate. There are no official statistics for the numbers of missing persons from this period.

3. The majority of those missing or forcibly disappeared belonged to the Muslim Brotherhood, but members of communist and other leftist groups, various Palestinian and Lebanese groups, the Iraqi Baath Party, Nasserist parties, and the Islamic Liberation Party have also been targeted. Others have been taken hostage in the place of relatives who were wanted by the regime.
4. Syrian citizens are usually arrested at their homes, workplaces, or upon arrival at the airport after returning from abroad. In such cases, they are not given the opportunity to object, to seek legal counsel, or to contact their families. The security agency conducting the arrest often does not identify itself and does not tell the arrested person or his/her family the reason for the arrest. Sometimes a person is summoned to a security branch office and never returns. In response to a family’s inquiries, the security branch either gives non-committal answers or denies that the person in question is being detained.
5. Torture is reportedly [if we can only say that it is reportedly a tool, should this be deleted? what is the basis of this?] a common interrogation tool in cases of enforced disappearances. Prison conditions are typically “inhuman,” in the words of one political prisoner detained for 18 years for his suspected membership in a leftist party.<sup>2</sup>
6. Enforced disappearances impact not only detainees but also their families. The families of the disappeared are unable to obtain security clearances and consequently are barred from government jobs as well as many places of work in the private sector. Relatives of detainees also often have their property searched or stolen by security officers, are occasionally interrogated, and sometimes prevented from leaving the country. These relatives, moreover, suffer significant emotional and psychological pain over the loss of their loved ones, especially if their fate is unknown.

### **Emergency Law Facilitates Enforced Disappearances**

7. The Emergency Law was enacted in 1963 -- nominally in response to the threat of war with Israel and terrorist groups -- has been continuously in effect since then. The law gives the state, and in particular the security forces, extensive powers to violate human rights guaranteed by the Syrian Constitution and international human rights conventions. For example, it grants security forces the authority to place civilians under military arrest and detain them indefinitely, to initiate searches of persons and property without a warrant, and to restrict the freedoms of assembly, movement, and residence. Enforced disappearances in Syria have been justified on the basis of the Emergency Law.

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<sup>2</sup> Interview made on August 2009 with a former political prisoner detained from 1980 to 1998.

8. The provisions of the Emergency Law give extensive powers to the security forces and do so in terms so broad and vague that they encompass virtually any “unacceptable” conduct to be considered a crime. Article 6 of the law, for example, states that the following crimes must be referred to military courts: “Crimes committed against state security and public safety,” “Crimes against public authority,” “Crime against public trust” and “Crimes that constitute a general danger.” The openness of this terminology to interpretation has effectively given the regime license to arrest anyone who expresses dissent. With the increase of arrests and the issue of civilian versus military jurisdiction, it has created a state of chaos in the courts – and the more chaotic the courts, the easier the authorities can conceal crimes such as enforced disappearances.
9. The Emergency Law also allows for high levels of impunity in the security services. Article 16 states that “No employees in the administration shall be charged for crimes committed during the execution of specific tasks entrusted to them or in carrying out such an order unless a prosecution order is issued by the director.” Legislative Decree No. 69 of 30/09/2008 extended immunity to the police, political security forces and customs as well as state security. With this immunity from prosecution, those responsible for disappearing Syrian citizens cannot be held accountable. This culture of impunity is apparent in the practice of issuing blank arrest orders; these blank papers are signed by the Minister of the Interior, acting as Deputy Martial Governor before arrests are made. This lack of control or oversight also leaves the security forces free to practice brutal methods of extracting confessions from detainees, and if a detainee dies from torture, the security forces that arrested him will often bury him in secret and then deny that he had been arrested or in their custody.<sup>3</sup> There are few legal controls on the security services that could address the problem of enforced disappearances.
10. It is important to note, moreover, that the Emergency Law violates numerous provisions in the Constitution. There were legal provisions in place for declaring a state of emergency before 1963 – namely Legislative Decree No. 51 of 22/12/1962 – but instead of the declaration being issued by the Council of Ministers by a two-thirds majority of its members, as the law stipulated, the state of emergency was declared by military order and never presented to the Council. The Constitution of 1973 furthermore states that it is the responsibility of the president to declare or suspend a state of emergency, and that “the rule of law is a fundamental principle in society and the State” and “no person can be investigated or detained except in accordance with the law.” The Syrian government has been repeatedly criticized for imposing the emergency law for 48 years, particularly in the absence of a state of war or unrest in the country.

### **Recent Cases**

11. Though the number of enforced disappearances is far below the peak of the 1980s, it still occurs and the government has failed to acknowledge the practice or to reconcile with the victims. [what do you mean “reconcile” with the victims?] Today detainees may disappear for months or even years, often being transferred among security branches; the security branches, all deny knowledge of detainees’ whereabouts. Families are allowed to visit their relatives in detention after several years have passed.

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<sup>3</sup>Radif Mustafa, “The State of Emergency: Its Legal and Constitutional Legitimacy,” July 2007, [http://tharwacommunity.typepad.com/syrian\\_elector/2007/07/\\_\\_\\_\\_.html](http://tharwacommunity.typepad.com/syrian_elector/2007/07/____.html).

12. In one case, dozens of inmates disappeared from Sednaya Military Prison after a riot that began on July 5, 2008 and continued for several days. As of yet, the authorities have refused to provide information about their whereabouts. After the riot, the government imposed a communication ban on the prisoners. Human Rights Watch also reported in 2009 that at least 25 prisoners were being held past the end of their sentences.<sup>4</sup>
13. Kadar Saado, a Kurdish Syrian, was arrested on January 8, 2009, and detained for a year before being allowed a family visit. As of October 2010, he had still not been charged or brought before a court, and had been refused legal counsel.<sup>5</sup>
14. Ayat Issam Ahmed, a university student, disappeared in October 2009 after being summoned by the Political Security branch to be questioned about her religious beliefs. The human rights organization Alkarama reported that she had been tortured in custody.<sup>6</sup>
15. Tal Almlouhi, a 19-year old high schooler was arrested in December 2009 and held incommunicado and without charge for more than nine months after posting poetry relating to Palestine on her blog. On February 14, 2011, she was sentenced to five years in prison for espionage.
16. Human rights activist Ismail Abdi was detained in August 2010 while at the airport on his way back to Germany from Syria, and it was 40 days before his family heard through informal channels that he was in being held by State Security and had been transferred to Adra prison, where he was being interrogated regarding emails he sent discussing human rights in Syria.<sup>7</sup>
17. Adnan Zaitoun disappeared over 14 years ago. He was arrested in February 1997 by plainclothes police officers and to date his family has received no information about his whereabouts.<sup>8</sup>
18. The writer and activist Abdul Hafez Abdul Rahman was arrested on March 2, 2010 by military intelligence, who also confiscated Abdul Rahman's computer, some of his Kurdish literature and other papers relating to his activism for Kurdish rights.
19. In January 2010, eight Kurds from the Qamishli community reappeared almost two years after being arrested between August and November 2008. No information was given to their families until September 2009.

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<sup>4</sup> Human Rights Watch, "Syria: Disclose Fate of Detainees," <http://www.hrw.org/en/news/2009/07/03/syria-disclose-fate-detainees>

<sup>5</sup> [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=658:syria-kurdish-syrian-held-incommunicado-for-one-year&catid=36:communiqu&Itemid=198](http://en.alkarama.org/index.php?option=com_content&view=article&id=658:syria-kurdish-syrian-held-incommunicado-for-one-year&catid=36:communiqu&Itemid=198)

<sup>6</sup> [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=519:syria-ayat-issam-ahmed-is-disappeared-and-tortured-by-political-security-agents-in-damascus&catid=36:communiqu&Itemid=198](http://en.alkarama.org/index.php?option=com_content&view=article&id=519:syria-ayat-issam-ahmed-is-disappeared-and-tortured-by-political-security-agents-in-damascus&catid=36:communiqu&Itemid=198)

<sup>7</sup> [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=579:syria-syrian-human-rights-defender-reappears-in-adra-prison-40-days-after-arrest-&catid=36:communiqu&Itemid=198](http://en.alkarama.org/index.php?option=com_content&view=article&id=579:syria-syrian-human-rights-defender-reappears-in-adra-prison-40-days-after-arrest-&catid=36:communiqu&Itemid=198)

<sup>8</sup> [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=679:syria-adnan-zaitoun-forcibly-disappeared-for-over-14-years&catid=36:communiqu&Itemid=198](http://en.alkarama.org/index.php?option=com_content&view=article&id=679:syria-adnan-zaitoun-forcibly-disappeared-for-over-14-years&catid=36:communiqu&Itemid=198)

## **Recommendations**

20. The government of Syria should suspend the Emergency Law immediately.
21. The government of Syria should sign and ratify the International Covenant for the Protection of All Persons from Enforced Disappearances
22. The government of Syria should acknowledge its role in enforced disappearances, release anyone who has been detained without charge, provide family members with information concerning the fate of those who were disappeared, establish a commission for truth and reconciliation that will investigate and document cases of disappearances, prosecute those responsible for disappearances, and compensate the families of the victims.