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Syria

Kurds in the Syrian Arab Republic one year after the March 2004 events

1. INTRODUCTION

The history of the Kurds in Syria took a violent turn in March 2004. Tensions rose dramatically on 12 March between rival Arab and Kurdish fans during a football match in Qamishli, north-eastern Syria, and security forces responded by firing live bullets into the crowd, reportedly only into the Kurdish section, killing several people. The next day, a funeral procession and demonstration was fired upon by members of the security forces, reportedly causing a number of fatalities and injuries. There followed two days of protests and riots in Qamishli and other towns in the north and north-east, including al-Qahtaniya, al-Malkiya and 'Amouda. A number of state-owned and privately-owned buildings were vandalised or set on fire. A police station in 'Amouda was attacked and a police officer received fatal injuries from stones that were thrown. Amnesty International has the names of at least 36 people who were killed in total, almost all Kurds who are believed to have been killed by the security forces. Over 100 people were injured. More than 2,000 people, almost all of them Kurds, are believed to have been arrested in the wake of the events. Most were held incommunicado at unknown locations and there were widespread reports of torture and ill-treatment of detainees, including children, women and the elderly. About 200 Kurds remained in detention at the beginning of 2005, of whom 15 were referred to trial before the Supreme State Security Court (SSSC), whose procedures fall far short of international standards for fair trials. Dozens of Kurdish students were also expelled from their universities and dormitories, including at least 11 expelled from Damascus University on 18 March 2004, reportedly for participating in peaceful protests. No official investigation is known to have been carried out into how tension at a football match escalated into such widespread riots, or into the use of lethal force by the security forces, or the mass arrests and reports of torture and ill-treatment that followed, or into any possible root causes of the events.

Kurds in Syria have been subjected to serious human rights violations, as other Syrians, but as a group they also suffer from identity-based discrimination, including restrictions placed upon the use of the Kurdish language and culture. In addition, a large proportion of the Syrian Kurds are effectively stateless and, as such, they are denied the full provision of education, employment, health and other rights enjoyed by Syrian nationals, as well as being denied the right to have a nationality and passport. Kurdish human rights defenders who raise such issues or undertake other

peaceful human rights activities are particularly at risk of arrest and imprisonment on specific charges which, to Amnesty International's knowledge, are mostly used against Kurds, such as "involvement in cells seeking to weaken nationalist consciousness and to stir up racial sectarian strife", "aggression aiming to incite civil war and sectarian fighting and incitement to kill", and "attempting to sever part of the Syrian territory and annex it to a foreign state". The bringing of such charges, as well as "involvement in an unauthorised organisation" which is also often used against non-Kurdish human rights defenders, leads to unfair trials before the SSSC or military courts. The maximum sentence, for "aggression aiming to incite civil war and sectarian fighting and incitement to kill", is the death penalty.

This report documents a range of human rights violations to which Kurds have been subjected in specific instances and incidents in Syria over the past couple of years. Chapter 2 of the report describes briefly the legal context in which such violations more generally occur in the country, and provides an overview of the identity-based restrictions that Syrian Kurds face and of the discriminatory measures specifically affecting the stateless Kurds. Chapter 3 illustrates a cycle of human rights abuses through the cases of a number of Kurdish human rights defenders who have sought to promote rights of the Kurdish population in Syria. Chapter 4 focuses on apparently un-investigated cases of alleged unlawful killings of Kurds, and alleged deaths as a result of torture and ill-treatment in custody, since March 2004. Chapter 5 describes patterns of torture and ill-treatment against Kurdish detainees, including children, who were held in the wake of the March 2004 incidents. The report includes recommendations to the Syrian authorities concerning specific human rights violations, and concerning Syria's obligations under international human rights treaties to which it is a state party.

2. BACKGROUND

a) The human rights context

Amnesty International and other organizations have documented serious violations of human rights in Syria throughout the years¹. Amnesty International's main human

¹ See, for example, AI, Report from Amnesty International to the Government of the Syrian Arab Republic, MDE 24/04/83, 1983; AI, Torture by the Security Forces, MDE 24/09/87, October 1987; AI, Long-term detention and torture of political prisoners, MDE 24/12/92, July 1992; AI, Syria: Repression and impunity: the forgotten victims MDE 24/002/1995, 1995; AI, Caught in a regional conflict: Lebanese, Palestinian and Jordanian political detainees in Syria, MDE 24/01/99, January 1999; AI, Briefing to the Human Rights Committee, MDE 24/001/2001, March 2001; AI, Tadmur Military Prison: Torture, Despair and Dehumanization, MDE 24/014/2001, September 2001; Syria: Smothering freedom of expression: the detention of peaceful critics, MDE 24/007/2002, June 2002.

rights concerns in Syria include: arbitrary arrest and imprisonment of people solely for the peaceful exercise of their fundamental human rights; "disappearances"; prolonged incommunicado detention; widespread use of torture and ill-treatment in detention; unfair trials; impunity for members of the security forces suspected of perpetrating human rights violations; severe restrictions on freedom of expression and freedom of association; harassment of human rights defenders; and the imposition of the death penalty.

Amnesty International remains gravely concerned at the continuing enforcement of the State of Emergency Legislation (SEL) in Syria. March 8, 2005 marks the 42nd anniversary of the declaration of the SEL, whose body of legislation has been augmented over the years and has resulted in thousands of suspected political opponents being detained, tortured and held incommunicado without charge or trial, and others being convicted and sentenced to lengthy prison terms after grossly unfair trials before the SSSC or Military Courts, including Field Military Courts (FMCs).

Trials before the SSSC, which was created under the emergency laws in 1968 with the sole task of dealing with political and state security cases, do not meet international standards for fair trials: its verdicts are not subject to appeal; defendants have restricted access to lawyers; and wide discretionary powers are granted to the judges. Military Courts were granted exceptional powers under the SEL including the capacity to hear cases against civilians under Decree No. 46 of 1966. These courts do not appear to be independent and impartial and do not respect the right of the defendant to be present at trial and to present a defence with or without the assistance of legal representation. Trial sessions before FMCs may consist of one or two hearings, in many cases inside a prison, wherein the defendants appear only to plead guilty or otherwise to the charges filed against them. In other cases defendants were reportedly informed about their sentences without ever being asked to attend a hearing.

b) Restrictions on Kurds' economic, social and cultural rights

The Kurds are the second largest ethnic group in Syria. Arabs number about 90 per cent of the population of nearly 20 million, while Kurds amount to about 1.5 – 2 million or almost 10% of the population, and other minorities about one per cent. Major concentrations of Kurds are located around Aleppo in the north of the country, and the al-Jazeera region in the north-east. These predominantly Kurdish areas lag behind the rest of the country in terms of social and economic indicators; a situation compounded by direct and indirect discrimination against the Kurdish population.

In 1962 the Syrian government started implementing a policy of 'Arabisation' of the Kurdish-populated areas, whereby about 100,000 Kurds were forcibly relocated from about 300 villages and replaced with Arabs, with the strategic aim of creating an

'Arab belt' between Syria's Kurds and the Kurdish populations of Turkey and Iraq. Scores of Kurdish-named villages and towns were renamed in Arabic².

Restrictions on the use of the Kurdish language

In Syria, the Kurdish language is not recognised as an official language and it is not taught in schools. Since 1958 it has been forbidden to publish materials in Kurdish. In 1987 the Culture Minister reportedly extended the ban to the playing and circulation of Kurdish music cassettes and videos. According to some sources, the ban on Kurdish being taught in schools and universities was re-stated by a Secret Decree issued in 1989 which also banned the use of the language in all official establishments³. There are unconfirmed reports that by the summer of 2002 the authorities had raised the maximum sentence for printing in Kurdish, as well as for the teaching of Kurdish, to five years imprisonment. Kurdish is also reportedly banned from use at private celebrations and in the workplace⁴.

However, in practice, the circulation of a small number of Kurdish materials appears to be tolerated and in 2004 an officially authorised dictionary in Arabic-Kurmanji (the dialect of Kurdish spoken by 'northern' Kurds, including in Syria) was reportedly published. Similarly, the bans on the use of Kurdish language and materials appear to be loosely applied. Despite that, while other minorities in Syria, notably Armenians, Circassians, Assyrians and Jews, are permitted to run private schools, the Kurds are not. In the largely Kurdish-populated al-Hassaka province, businesses are banned from having Kurdish names⁵. In contrast, businesses may have names in Armenian and Arabic, or Russian and Arabic, and there appear to be no legal restrictions on the use of other languages or publication of materials in other languages. In 1992 the Minister of the Interior banned the registering of children with 'non-Arab' names in al-Hassaka province⁶. Over recent years, tens of Kurds have been arrested in apparent connection with their involvement in celebrations of Nawruz, the Kurdish New Year⁷.

Concerns over discrimination against the Kurds have been expressed by UN bodies, including the UN Committee on Economic, Social and Cultural Rights, which has strongly recommended that the Syrian authorities: "take effective measures to

² Letter, from Yahya Abu 'Ali, Minister for Local Administration, 20 December 1997, referring to Ordinance No. 36, 11 August 1971, and Law No. 56 (15 July 1980) [cited in Kerim Yildiz and Georgina Fryer, *The Kurds: Cultural and language rights*, KHRP, August 2004, p89].

³ Secret Decree No. 1856-S25, 1 November 1989 [cited in Yildiz and Fryer, p255].

⁴ Decree No.2013S52, cited in Mohammad Mullah Ahmad, *al-Qadhiya al-Kurdiya fi Suyiya* (2001), p81 [cited in Yildiz and Fryer, p87].

⁵ Order No. 933, 24 February 1994 [cited in Yildiz and Fryer, p88].

⁶ Decree No. 122 [cited in Yildiz and Fryer, p88].

⁷ See for example, AI, Annual Report 1997, p300; AI, Annual Report 1998, p322.

combat discrimination in practice against minority groups, in particular the Kurds. Such measures should be aimed especially at improving birth registration and school attendance and allowing for the use of their languages and other expressions of their culture.”⁸

The stateless Kurds

No reliable official records are available, but it is estimated that there are now between 200,000 and 360,000 of Syria's Kurds who are not entitled to Syrian nationality and therefore are denied accompanying rights of nationals. Since 1962 these stateless Kurds have been divided into two official classifications: *ajanib* ('foreigners') and *maktoumeen* ('concealed', effectively meaning 'unregistered') who have even fewer rights than the *ajanib*. As a result of Law 93 of 1962 and the accompanying census in al-Hassaka province, about 120,000 Kurds were stripped of their Syrian nationality or denied the right to claim it, if they could not prove they had lived in Syria since 1945 or earlier⁹. There were many reports that the census was carried out arbitrarily. These stateless Kurds are not issued passports or other travel documents, and so may not legally leave or return to Syria. They lack the correct documentation to guarantee treatment in state hospitals. They are not allowed to vote or to run for public office. They are prohibited from owning a house, land, or a business. They are prohibited from employment as lawyers, journalists, engineers, doctors or any other profession requiring membership of the profession's union – which is not permitted for stateless Kurds; and they are prohibited from employment in the public sector. *Maktoumeen* children are unable to study in school beyond the ninth grade. With such restrictions on employment, with there being no university in the al-Jazeera region, and with *maktoumeen* being prohibited from attending university altogether, higher education is not an option for a large percentage of the Syrian Kurdish population¹⁰.

The UN Committee on the Rights of the Child, the UN Human Rights Committee, the UN Committee on the Elimination of Racial Discrimination, and the

⁸ See E/C.12/1/Add.63.

⁹ Indeed, thousands of Kurds had fled poverty and repression across the newly-created Turkish-Syrian border in the 1920s.

¹⁰ For further information on the stateless Kurds in Syria see, for example: Human Rights Watch, *The Silenced Kurds*, 1996, www.hrw.org/reports/1996/Syria.htm; Report of Danish Immigration Service fact-finding mission to Syria and Lebanon: Conditions for Kurds and stateless Palestinians in Syria etc., 17-27 September 2001, http://www.ecoi.net/pub/ds194_02376syria.pdf; Human Rights Association of Syria (HRAS), *Effect of Denial of Nationality on the Syrian Kurds*, November 2003, <http://www.hras-sy.org/>.

UN Committee on Economic, Social and Cultural Rights have all expressed their concerns regarding the discrimination faced by Syrian-born Kurds¹¹.

3. KURDISH HUMAN RIGHTS DEFENDERS: TORTURE, ILL-TREATMENT, HARASSMENT AND UNFAIR TRIALS

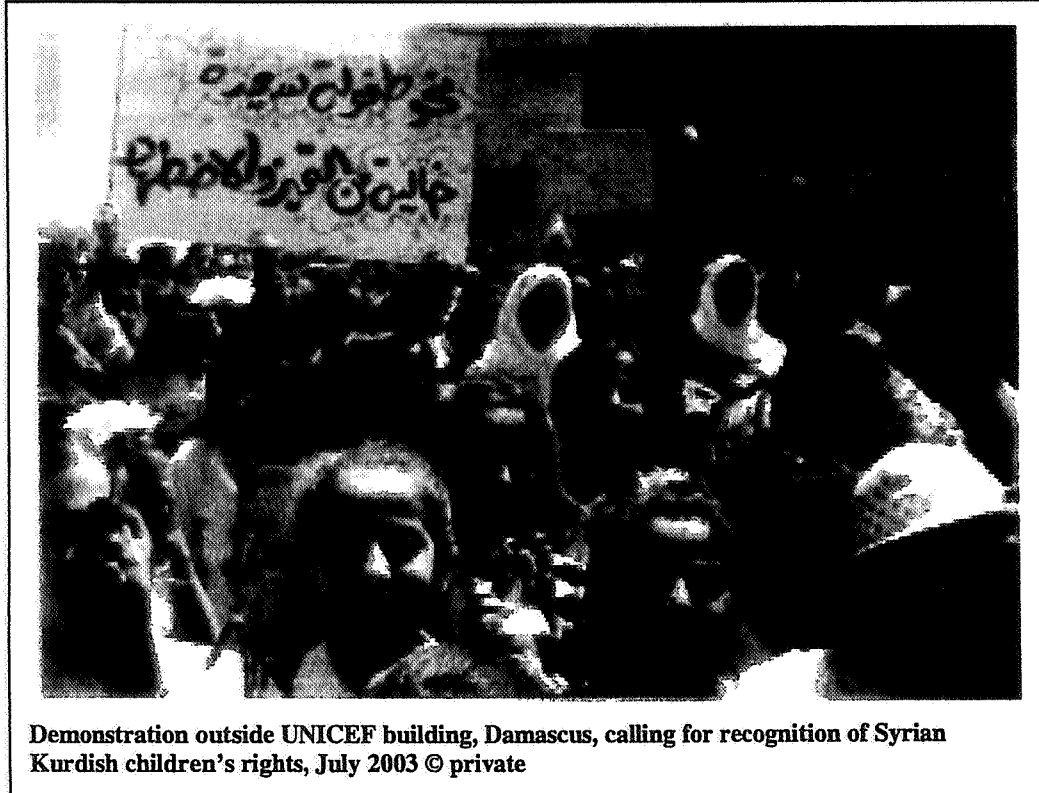
a) Participants in the June 2003 children's demonstration

On 25 June 2003 a group of 100 to 200 children and adults gathered outside the UN Children's Fund (UNICEF) building in Damascus calling for the rights of Syrian Kurdish children to be respected, including the UN-recognised right for everyone to have a nationality and the right to learn their own language¹². The organisers had reportedly composed a statement which they planned to hand to UNICEF officials, in which was described the restrictions imposed on the registering of Kurdish names and the discrimination faced by Kurdish children within the education system. The peaceful protest was broken up by police officers and members of the security forces, injuring about 20 people in the process.

Seven protestors, all men, were arrested, held incommunicado and reportedly tortured for 23 days at the security branch of al-Mezze Police Station in Damascus before being moved to the political wing of 'Adra Prison, near Damascus, where they were put into solitary confinement in tiny cells and suffered further ill-treatment. For several months the men were denied all access to families, lawyers and doctors. In August or September 2003 they were said to have appeared blindfolded and without legal representation in front of the SSSC. One detainee, **Muhammad Mustafa**, stated before the SSSC that his tiny cell at 'Adra Prison was in fact a toilet with a cover over the hole. A second detainee complained to the Court of the ill-treatment he had

¹¹ The Committee on the Rights of the Child has expressed its regret that children of Syrian-born Kurdish parents who are stateless and have no other nationality at birth continue to be denied Syrian nationality and are subject to discrimination, contrary to articles 2 and 7 of the Convention, (CRC/C/15/Add.212); The Human Rights Committee has expressed its concerns "about the fate of Kurds born in Syria whom the Syrian authorities treat either as aliens or unregistered persons and who encounter administrative and practical difficulties in acquiring Syrian nationality. The Committee considers this discriminatory situation to be incompatible with articles 24, 26 and 27 of the Covenant." (See: CCPR/CO/71/SYR); The Committee on the Elimination of Racial Discrimination has recommended further action to protect the rights of all persons belonging to ethnic and national groups to enjoy, without discrimination, the civil and political rights listed in article 5 of the Convention, notably the right to nationality and cultural self-expression. In particular, the Committee recommended that the State party review its legislation on nationality in order to find an expeditious solution to the situation of Syrian-born Kurds and refugee children born in the Syrian Arab Republic. (See CERD/C/304/Add.70 para 14); see footnote 10, See E/C.12/1/Add.63.

¹² The event was reportedly planned to coincide with the International Day of the Child, but this should in fact be on the second Sunday of December.



suffered in prison, while a third said he intended to sue the prison authorities and General Intelligence for the torture he had suffered, the effects of which reportedly remained visible on his body. The Court President rejected the complaints and ordered the detainees to be removed to the Court's holding room. No investigation is known to have been carried out into their complaints of torture. On 27 June 2004, all seven men were convicted of "involvement in an unauthorised organization" and "attempting to sever part of the Syrian territory and annex it to a foreign state", crimes often ascribed to Syrian Kurds for their involvement in peaceful demonstrations and other peaceful activities. **Muhammad Mustafa, Sherif Ramadhan and Khaled Ahmad 'Ali** were sentenced to two years' imprisonment. Four others - 'Amr Mourad, Salar Saleh, **Hosam Muhammad Amin** and **Hussayn Ramadhan** - were sentenced to one year, and were released immediately, given the time they have already spent in pre-trial detention. Muhammad Mustafa, Sherif Ramadhan and Khaled Ahmad 'Ali reportedly continue to suffer cruel, inhuman and degrading treatment in 'Adra Prison. They remain in solitary, largely incommunicado detention. They may receive one 30 minute visit from immediate family members every two months, but prior permission has to

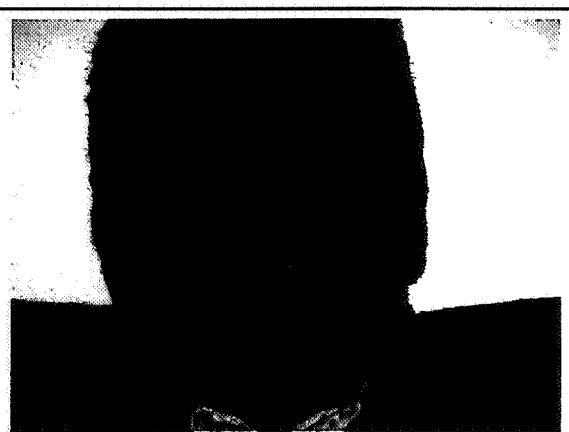
be obtained from the Political Security Department. Visits take place in the presence of a security officer and no talking in Kurdish is allowed. Sherif Ramadhan and Khaled Ahmad 'Ali are reported to be held in cells measuring 1m x 1.5m, while Muhammad Mustafa's cell, the 'toilet', is said to measure 80cm x 80cm. Amnesty International considers the men to be prisoners of conscience, held solely for the peaceful expression of their views¹³.

b) Student photographer of the June 2003 children's demonstration

Mas'oud Hamid, a student of journalism at Damascus University, was arrested by Political Security officers on 24 July 2003 after he sent photographs he had taken of the demonstration to several Internet sites including the German-based Kurdish site www.amude.com. He was detained in the political wing of 'Adra Prison and, on 10 October 2004, was convicted by the SSSC of being a member of "an unauthorised organization" and "attempting to sever part of the Syrian territory and annex it to a foreign state". He was sentenced to five years' imprisonment and remains held incommunicado in solitary confinement. It was reported in December 2004 that he had begun a hunger strike after his trial in protest at the conditions in which he is held. Mas'oud Hamid is one of several people convicted in Syria in 2004 in relation to Internet use, all of whom Amnesty International consider to be prisoners of conscience¹⁴.

c) Participants in the Human Rights Day demonstration

Hassan Saleh and Marwan 'Uthman participated on 10 December 2002 in a peaceful demonstration celebrating the universally-recognised Human Rights Day, outside the People's Assembly in Damascus. The demonstrators were calling for the government to officially recognise the existence of the



Marwan 'Uthman © private

¹³ See, for example, AI, Syria: Kurdish prisoners of conscience must be immediately released, MDE 24/002/2004, 9 January 2004.

¹⁴ See, for example, AI, Syria: Punished for using the internet - Amnesty International calls for an end to the suppression of the right to freedom of expression, MDE 24/017/2004, 12 March 2004.

Kurdish nationality within the unity of the country, remove the barriers imposed on the Kurdish language and culture, and release all political prisoners. The two men, both leading members of the illegal Kurdish Yeketi Party, were arrested five days later when they appeared, as requested, to meet with the then Minister of the Interior, Major General 'Ali Hammud. On 20 December 2002 they reportedly appeared without legal representation before the Military Court where they were charged with "involvement in an unauthorised organisation". They were initially detained at the Political Security Department in Damascus, where, after two and a half months of incommunicado detention, they were allowed monthly visits by close members of their families. The visits were restricted to between 15 and 30 minutes each, and carried out from behind bars in the presence of a security officer. While held at the Political Security Department they both reportedly suffered beatings by security officers, and for prolonged periods were denied visits by lawyers and doctors. There were particular concerns for sixty-year-old Hassan Saleh's health as he was suffering from chest pains and was denied medical treatment.

In March 2003 the Military Court, having added the charge of "inciting sectarian strife" to the initial charge, transferred the case to the SSSC which added a further charge of "attempting to sever part of the Syrian territories and annex it to another state". They were only permitted to talk very briefly with a lawyer, reportedly for three or four minutes, through a window while in the SSSC's detention centre. After almost one year's detention, they were transferred to a Military Police detention centre where they reportedly suffered physical and psychological torture, including being stripped naked in front of security officers and other prisoners. A military judge then ordered them to 'Adra Prison, where they were put in solitary confinement for about three months. In February 2004 the SSSC convicted them of "attempting to sever part of the Syrian territory and annex it to a foreign state". They were sentenced to three years' imprisonment which was reduced immediately by the Court President to 14 months, which time they had already served in prison, and they were released on 24 February 2004. Amnesty International considered both men to be prisoners of conscience¹⁵.

Marwan 'Uthman was detained again on 15 March 2004, during the mass arrests of Syrian Kurds in the north of the country. While detained at the Political Security Department in Qamishli he was reportedly beaten by a security officer and sustained damage to his teeth and an eye. After his release the following day, he had an operation to remove a broken tooth.

¹⁵ See, for example, AI, Syria: Release three prisoners of conscience, MDE 24/014/2004, 20 February 2004.

d) People involved in cultural and linguistic activities

While the authorities do appear to tolerate the circulation of a small number of Kurdish-language publications and music, and, particularly in rural villages, the practise of some Kurdish cultural activities, promoters of and participants in Kurdish cultural and linguistic activities continue to risk harassment, detention, torture and ill-treatment, and imprisonment. In 2001 **Habib Ibrahim** established a cultural club in Qamishli to promote Kurdish-Arabic dialogue. During one lecture, security forces arrived and closed the club. Two of the members were reportedly arrested and tortured and ill-treated while held in detention, many hours of which they were reportedly held in a toilet.

In another case, **Muhammad Hammu**, the owner of a Kurdish bookshop in Aleppo, was detained from 27 August to 3 September 2001, reportedly in connection with his involvement in the distribution of Kurdish literature. He was released without charge but was threatened that his bookshop would be closed unless he "cooperated" with the authorities¹⁶.

Ibrahim Na'san was arrested in Aleppo on 8 January 2002 in connection with distributing cultural and educational material in the Kurdish language. He was reportedly held incommunicado for at least six months at the State Security Detention Branch of Kafr Sousa, in Damascus, and then sentenced to three years' imprisonment by the SSSC. Amnesty International wrote to the Syrian authorities on 20 August 2002 urging that he be released, but received no response. He was released at the end of his sentence in January 2005.

On 30 August 2003, **Khalil Sulyman** was arrested after he organized a party - at which Kurdish songs were sung - to celebrate the graduation of a group of students. He was charged before the Military Court with inciting racial hatred - but the charges were subsequently dropped and he was released on 18 January 2004.

On 8 March 2004, seven Kurds were arrested in connection with Kurdish musical celebrations for the universally-recognised Women's Day, around al-Hassaka¹⁷. They were reportedly released after several days' detention.

¹⁶ AI Annual Report 2002, p237.

¹⁷ AI, Urgent Action 107/04, MDE 24/018/2004, 12 March 2004.

4. ALLEGED UNLAWFUL KILLINGS AND DEATHS AS A RESULT OF TORTURE AND ILL-TREATMENT IN CUSTODY DURING AND AFTER THE MARCH 2004 EVENTS

a) Alleged unlawful killings during the March 2004 events

During the events which started at the football stadium in Qamishli on 12 March, at least 36 people were killed. Almost all of them were Kurds killed apparently as a result of the use of lethal force by the security forces. No official investigation is known to have been carried out into the series of incidents which led to widespread riots, or into the use of lethal force by the security forces, or the mass arrests and reports of torture and ill-treatment that followed, or into any possible root causes of the events.

Unofficial reports indicate that the security arrangements at the al-Baladi stadium were inadequate and that the security forces' firing of live bullets into the crowd was disproportionate. The apparent absence at the stadium and during the ensuing demonstrations of suitable non-lethal policing arrangements may have contributed to the rapid escalation of violence. Under the United Nations Basic Principles on the Use of Force and Firearms, law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms and shall give a clear warning of their intent to use firearms with sufficient time for the warning to be observed. The Principles also specify that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

b) Deaths as a result of torture and ill-treatment in custody

The widespread use of torture in Syrian prisons and detention centres is well documented. Over the years, Amnesty International has recorded at least 38 different methods of torture employed by Syrian security officers¹⁸. Deaths reportedly resulting from torture and ill-treatment in custody have been reported in different types of cases, whether the detainees were political or ordinary criminal suspects, and irrespective of their ethnic origin or nationality. However, a significant increase in the number of reported deaths of Kurdish detainees occurred in the weeks and months following the March 2004 events, all reportedly caused by torture and ill-treatment in custody. Of nine such deaths reported to Amnesty International in the six months from March 2004, five were Kurds. The five, all of whom were reportedly being held

¹⁸ See, for example, AI, Syria: Torture by the Security Forces, MDE 24/09/87, October 1987; AI, Syria: Tadmur Military Prison: Torture, Despair and Dehumanization, MDE 24/014/2001, September 2001; AI, Syria: Unfair trial of Kurdish prisoners of conscience and torture of children is totally unacceptable, MDE 24/048/2004, 29 June 2004; AI, Syria: The authorities must investigate deaths in detention and end torture and ill-treatment, MDE 24/053/2004, 11 August 2004.

incommunicado and without charge, are: **Hussein Hammo Na'aso**, 23, who died on 6 April, reportedly after torture and the denial of specialized medical treatment for his diabetes; **Ferhad Muhammad 'Ali**, 19, who died on 8 April, reportedly after torture; **Ahmad Husayn Hasan** (also named as Ahmad Husayn Husayn), who died on 1 or 2 August, at the Military Intelligence Branch in al-Hassaka and whose body was buried without anyone being allowed to see it; **Ahmad Ma'mu Kenjo**, 37, who died at home on 3 August from a brain haemorrhage resulting from head injuries received in a beating by a security patrol in Ras al-'Ayn and while detained during April and May; and **Hanan Bakr Deeko**, who reportedly died in custody between 16 September, when he was arrested by Military Intelligence officers from Aleppo, and 22 September, when his body was delivered to his family. His body reportedly showed scars of torture, bruises on his neck, feet and back and injuries to his skull. No investigations are known to have been carried out into any of these deaths¹⁹.

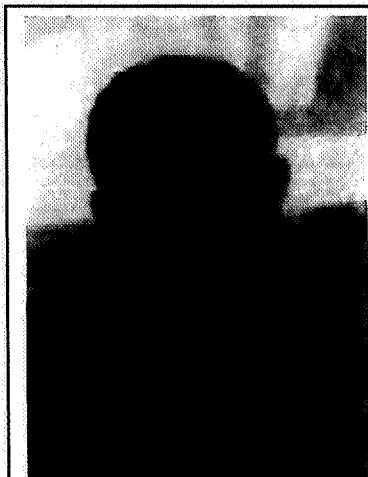
To Amnesty International's knowledge, in contravention of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, no independent investigations or inquests have ever been held into any deaths in custody, including those allegedly caused by torture or ill-treatment.

c) Deaths in suspicious circumstances of Kurdish conscripts

No investigation is known to have been carried out either into any of at least six deaths in suspicious circumstances of Kurds carrying out their military service in the weeks and months after the March events. The deaths were reportedly due to beatings or shootings by military superiors or colleagues.

Khayri Berjes Jando, 21, a Yazidi Kurd, began his compulsory military service on 7 March 2004, at the al-Qutayfa barracks, about 25km north-east of Damascus. After the outbreak of violence from 12 March, his concerned father Sheikh Berjes Jando travelled to the barracks from the village of Saradek, near al-Hassaka, and on 22 March, reportedly after hours of waiting, was allowed to see his son. Khayri Berjes Jando was reportedly unable to walk and was being held up by two colleagues. His eyes and face were badly swollen and he said he had been beaten with batons and kicked on his body and head for hours by at least one officer whose name was later published in the Kurdish and German media. The beatings had started on 21

¹⁹ On 18 June 2004 Amnesty International wrote to then Minister of the Interior, Lieutenant General 'Ali Hammud, requesting clarification of the circumstances surrounding five deaths in 2004, but has not received any response. A similar letter to the Minister of the Interior in August 2003 concerning the death in custody, at the Military of Intelligence Detention Centre in Aleppo, of Syrian Kurd Khalil Mustafa bin Muhammad Sherif has also remained unanswered. Reports received by Amnesty International alleged that severe injuries and bruises were visible on his corpse, including a leg broken in two places, a missing eye, and a head wound.



Khayri Berjes Jando who was killed while doing military service
© private

March, Nawruz, Kurdish New Year's Day. He had reportedly been summonsed to his commanding officer, together with four other young Kurdish conscripts who were also beaten, on account of being Kurdish. He reportedly pleaded with his father to get him released from the barracks as he feared for his life. He died of his injuries in a military hospital on 24 March. No autopsy was carried out. His body was quickly buried by military officers in a manner not adhering to Yazidi customs, in a cemetery near Saradek.

Five other cases have been reported to Amnesty International. On 6 May 2004 **Huseyn Khalil Hasan** was reportedly killed in suspicious circumstances while serving with the Air Defence battalion at Ras al-Basit on the western coast. On 15 May the body of conscript

Dhiya al-Din Nuri Nasr al-Din, with two shot gun wounds to his head, was handed over to his family. In June, **Qasim Muhammad** was reportedly shot dead in circumstances which were not clarified, while serving in the al-Kiswah district south of Damascus. In August, the body of 19-year-old **Bedia' Jelo Delef** was handed over to his family after suffering – according to the authorities – a heart attack while carrying out his military service in the Hama province. The body in this case, as in the others, was reportedly buried without autopsy. Also at the al-Qutayfa barracks, on 24 October 2004, **Muhammad Sheikh Mohammed** died when he was shot from behind. Reportedly, no autopsies were allowed into any of these suspicious deaths and in at least one case the family of the deceased was forced to make a statement, despite overwhelming evidence to the contrary, that there was no need for any autopsy. In cases where the families of those who died filed applications to the judiciary asking for permission to file suits against those allegedly involved in the deaths, the applications were reportedly dismissed. Amnesty International has not received reports of any non-Kurdish conscripts having died in suspicious circumstances in the same period.

5. TORTURE, ILL-TREATMENT AND UNFAIR TRIALS FOLLOWING THE MARCH 2004 EVENTS

a) Children

In its consideration of the Syrian authorities' second periodic report in 2003, the UN Committee on the Rights of the Child expressed concerns that strict limitations to pre-trial detention of juveniles and children do not seem to be observed in practice, and that conditions in detention centres for juveniles are often harsh²⁰. In the wake of the March 2004 events, Amnesty International received reports that children as young as twelve had been tortured in detention.

Four 12 and 13-year-old Kurdish schoolchildren, **Nijirfan Saleh Mahmoud, Ahmad Shikhmous 'Abdallah, Walat Muhammad Sa'id and Serbest Shikhou** were arrested by Political Security officers on 6 April 2004 in apparent connection with a quarrel they had with Arab children. The four Kurdish children were brought before the al-Hassaka Criminal Court for Juveniles and charged with "inciting sectarian strife". They were detained in the Minors' Section of Qamishli Prison where they were reportedly subjected to torture by being beaten with electric cables and having their heads clashed together. They were also reportedly ordered to strip almost naked while counting from one to three and were beaten if they did not complete the stripping in time. It was reported in December 2004 that they had been released and had the charges against them dropped, as a result of a Presidential Amnesty.

Amnesty International has the names of more than 20 other children, aged between 14 and 17, who were reportedly subjected to various types of torture and ill-treatment while detained for over three months in the wake of the March 2004 events. The ill-treatment reportedly left scars on their bodies, and led to injuries including broken noses, perforated ear drums and infected wounds. Like those cited above, they were reportedly subjected to beatings with electric cables, had their heads clashed together, and were ordered to strip almost naked while counting. Other types of torture reportedly used against them were: receiving electric shocks on hands and feet and sensitive parts of the body; having toe-nails pulled off; and being beaten with rifle butts. Charges against them include "congregation in a manner that may disturb public tranquillity"; "uttering phrases that may cause discord among the elements of the nation" and; "[carrying out] attacks with the intent of preventing authorities from carrying out their functions"²¹. At the time of writing, at least two of them, **Tareq al-**

²⁰ See CRC/C15/Add.212, para. 36, 52, 10 July 2003.

²¹ AI, Syria: Unfair trial of Kurdish prisoners of conscience and torture of children is totally unacceptable, MDE 24/048/2004, 29 June 2004.

‘Amri and Muhammad Saleh ‘Aziz, reportedly remained imprisoned at al-Hassaka Prison while on trial before the al-Hassaka Criminal Court for Juveniles.

b) Testimonies of released adults

More than two thousand Kurds are believed to have been arrested following the March 2004 events. All but about 200 are thought to have been released by December 2004. Amnesty International has received many allegations of torture and ill-treatment from those released. The allegations concern torture and ill-treatment that they had suffered or witnessed while detained in Criminal Security, Political Security or Military Security detention and investigation centres. Amnesty International has the names of many victims who have requested not to be identified. The types of torture and ill-treatment they reported include:

- beatings to all parts of the body, including by bamboo sticks, batons, whips and cables. In a number of cases people had bones or teeth broken;
- electric shocks to the body, including to the penis;
- cigarettes being stubbed out on the detainees' bodies;
- having finger-nails pulled off. New detainees would reportedly bite down their nails themselves for fear of suffering the same ill-treatment;
- the "German Chair": being strapped to a metal chair with moving parts in which the back-rest is lowered backwards causing acute hyperextension of the spine and severe pressure on the victims' neck and limbs;
- insults to themselves and their families;
- being threatened with execution;
- mock execution: at least one man had a noose put around his neck;
- being held in extremely poor and unhygienic conditions. Food was scarce and of poor quality; access to the bathroom was severely restricted and often there was no water, and no soap, available; detainees became covered in body-lice;
- denial of medical treatment for illnesses including tuberculosis and serious tooth infection. In one case of the latter, the detainee pulled his own tooth out using a metal wire but the infection continued;
- being held in prolonged long-term incommunicado detention without access to families or a lawyer. It appears that in most cases the families were not given any information at all about the detention of their family members.

The testimony of **Hassan** (not his real name) is in line with other testimonies by former Kurdish detainees alleging torture and ill-treatment in detention. Hassan

stated that he was beaten and kicked during his arrest, and suffered and witnessed many types of torture and ill-treatment during two months' detention in several detention and investigation centres. On arrival at the first detention centre, he stated,

... all our clothes were removed in order to search us, even our underpants, then we were beaten with whips and insulted with dirty words like calling us animals and insulting our parents. [Shortly afterwards, wearing underpants only] we were asked to stand facing the wall, lifting one leg with hands in the air, for 72 hours ... Every hour we had a rest and were made to lie on the floor. After two days we were no longer able to stand, and because our arms could no longer go up from the pain, they asked us to put our hands behind our heads ... Every time we started to fall asleep, we would be hit.

[There was] no bathroom, just an area, full of dirt and a hideous smell, all in the same room. All the time we were not allowed to talk to each other... For three days there was no questioning, we were not allowed to sleep, and there was no food. To get us exhausted to the point where we could not talk clearly, then they would start the questioning... They would present one [of us], blindfolded, to three or four interrogators, and each one would ask a question to confuse you so you could be accused of a crime, for example, 'Who did you kill? A policeman?' They would accuse you of being in the march in Qamishli, or in other events that were happening on the outside... If we did not answer properly during the questioning, we were put, blindfolded, into the 'dulab' [the 'tyre', whereby the victim is forced into a tyre which is turned around till the person is upside down] and beaten with bamboo sticks or whips ... till we were no longer able to stand up. Then they would ask us to run so our blood would circulate and bring colour to our feet that had become black from the beatings. After a while we would be returned to the room and after a few hours... they would then take another one of us. So for weeks either we were being beaten or heard our friends being beaten.

[Hassan stated that he witnessed other forms of torture and ill-treatment]. They brought in five Kurdish girls who they insulted; beat on their bottoms and touched in front of us... They said they would do what they wanted to them. [Then] in the girls' presence, a young detainee, about 14 or 15 years old, was told to play with the genitals of one of the guards. [Hassan gave Amnesty International the names of two brothers and a father and son who were forced to beat each other with a whip. Hassan named a man who was whipped one thousand times on his hands, and hung naked in the air by his legs, while being whipped on his back and legs]. He 'confessed' after being tortured. Others would be taken and have a rope put around their throats, to frighten them and force them to 'confess' to crimes they had not committed.

[From the sixth day they were finally given some food, but just] jam and one or two pieces of bread a day, not enough to satisfy our hunger, just to keep us alive...They always asked us to take off our clothes, especially when they brought the food, then they would beat us – to the extent that we never wanted the food to come since it meant being beaten again. [Throughout the detention] we were told that we would be executed because of being accused of several crimes, that we were 'traitors' and 'infidels'...working to destroy the country.

We were so tired, we started seeing things on the walls that were not there.

Hassan stated that at another detention centre where he was detained for some weeks,

We were put in a closed room where we couldn't see anything at all...sleeping on the floor with lice and mice. Our hair was shaved. They would only open the door to throw in the food then close the door again. During meals they would turn on the water tap and put us under it clothed, and then we would be beaten. [In this detention centre] they made us undress, and placed us on top of each other. Then a fat person came on top of us while beating our heads with a whip. We were insulted with words like 'You animals, now you don't like the penis of Saddam Hussein'. Or 'You are ungrateful while we provide you with the best life here...and yet you want a separate country.'

For none of this time, stated Hassan, was he allowed any visits from his family or a lawyer, nor allowed to take a shower, nor to take exercise, nor to take fresh air. For prolonged periods he says they were denied access to the toilet.

c) Kurds still detained and facing unfair trial

Of approximately 200 Kurds believed to remain detained since the March 2004 events, 15 were referred to the SSSC on 24 June 2004. They are: 'Ammar 'Umar, Kahdar Khaled, Mas'ud Khaled, Hasan 'Umar, Murad Aslan, Daglash Khalil, Shenidan Muhammad Yusuf, Shiyar Muhammad Yusuf, Zedeshta Muhammad Yusuf, Zibar Muhammad Yusuf, Tawfiq Husayn, Manal 'Abdi, Diyar 'Ali, Juwan Khaled, and Jivara Shukri. They are charged with: "attempting to sever part of the Syrian territory to annex it to a foreign state" (Article 267 of the Penal Code); "involvement in cells seeking to weaken nationalist consciousness and to stir up racial sectarian strife" (Article 285 of the Penal Code); "involvement in an unauthorised organisation" (Article 288 of the Penal Code); and "aggression aiming to incite civil

war and sectarian fighting and incitement to kill" (Article 298 of the Penal Code). The maximum sentence, under Article 298, is the death penalty²².

On 3 December 2004, these 15 Kurdish prisoners began a hunger strike protesting at their conditions of detention in 'Adra prison. They are said to suffer from ill-treatment in prison including very poor quality and insufficient food and drink, beatings and insults, and restrictions on receiving visits and taking exercise. Visits are limited to the immediate family and can take place only every two months if and when prior permission is granted by the Political Security Department. The visits last 30 minutes, take place in the presence of a security officer and no talking in Kurdish is allowed. Reportedly, after calling off their hunger strike on 16 December 2004 when the prison authorities said they would improve conditions of detention and stop beatings, the prisoners were beaten and whipped.

Most of the approximately 190 other Kurds still in detention were transferred to the jurisdiction of the Military Judge, who reportedly decided to form a special body to consider their cases. At the time of writing, the composition, functions and procedures of the special body had not been made public and the trials had not started.

6. RECOMMENDATIONS

Regarding prisoners of conscience, freedom of expression and the promotion of human rights:

- **Release prisoners of conscience** Muhammad Mustafa, Sherif Ramadhan, Khaled Ahmad 'Ali and Mas'oud Hamid, as well as all other prisoners of conscience in Syria;
- **Ensure that the legislation, under which prisoners of conscience have been imprisoned, be brought in line with Articles 18 - 22 of the International Covenant on Civil and Political Rights (ICCPR)**, to which Syria has been a party since 1969, guaranteeing the right to freedom of conscience, expression, assembly and association and the right to exercise these freedoms without undue interference;
- **Overturn the decisions to expel dozens of Kurdish students from university for having peacefully expressed their views;**
- **Respect the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**, adopted by the UN General Assembly on 9 December 1998, which states in Article 1 that "everyone has the right, individually and in association with

²² In 2002 and 2003, at least 27 people were executed in Syria.

others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and implement measures laid out in the Declaration for the promotion and protection of human rights and fundamental freedoms.

Regarding suspected unlawful killings and deaths as a result of torture and ill-treatment in custody:

- Establish independent and impartial investigations into the following allegations of unlawful killings including deaths as a result of torture and ill-treatment in custody; prosecute anyone suspected of unlawful killing, and give compensation to the families of the following victims:

- a) at least 36 people killed during the March 2004 events;
- b) the Kurds who died allegedly as a result of torture and ill-treatment in custody;
- c) the Kurdish military conscripts who died in suspicious circumstances allegedly on account of their Kurdish identity.

Regarding the March 2004 events and discrimination against Kurds in Syria:

- Set up an inquiry into the March 2004 events to:

- a) establish how tension at a football match escalated into widespread riots;
- b) investigate the apparently disproportionate response of the security forces;
- c) examine systemic discrimination and other human rights violations that may have contributed to the tension and the outburst of violence;
- d) propose remedies that address these violations in order to help prevent similar incidents occurring in the future.

- Amend legislation on nationality so as to find an expeditious solution to the statelessness of Syrian-born Kurds as recommended by the Committee on the Elimination of Racial Discrimination (CERD) in 1999²³, and by the Committee on the Rights of the Child (CRC) in 2003²⁴, and put an end to all accompanying discrimination against stateless Kurds including in the fields of education, health care, freedom of movement, employment, and property ownership;

²³ see CERD/C/304/Add.70, paragraph 14

²⁴ see CRC/C/15/Add.212, paragraph 33 (b)

- **End the prohibitions on the use of the Kurdish language** in education, the workplace, official establishments and at private celebrations, and allow children to be registered with Kurdish names and businesses to carry Kurdish names.

Regarding Syria's obligations under the UN Convention Against Torture (CAT) and its cooperation with the UN thematic mechanisms:

- **Review legislation and practices in line with the requirements of the UN Convention Against Torture (CAT)** to which Syria acceded in August 2004, and ensure that all its provisions are fully implemented. Amnesty International welcomed the accession and encourages the Syrian authorities to:
 - officially and publicly condemn torture;
 - abolish Article 16 of Legislative Decree no.14 of 1969 which states that employees of the State Security administration shall not be prosecuted for offences they commit while carrying out their duties. The authorities should also review, and abolish if necessary, any other legislation that grants immunity from prosecution to employees of the other security forces regarding offences they commit while carrying out their duties;
 - make incommunicado detention illegal, as called for by the UN Special Rapporteur on Torture²⁵;
 - put an end to all secret detention;
 - implement safeguards during interrogation and custody including the authorisation of regular visits by an independent body to places of detention;
 - establish an independent body to promptly and impartially investigate all complaints and reports of torture or ill-treatment;
 - prohibit the use of statements and other evidence extracted under torture as evidence in trials or any proceedings except against a person accused of torture;
 - bring to justice anyone who is suspected of having committed acts of torture or ill-treatment;
 - set up training procedures for all officials involved in the custody,

²⁵ The Special Rapporteur on torture stated that "Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal, and persons held incommunicado should be released without delay." E/CN.4/2003/68, para. 26.

interrogation or treatment of prisoners to make clear that torture and ill-treatment are criminal acts and that they are obliged to disobey any order to torture;

- enable victims of torture and their families to be entitled to obtain financial compensation and for victims to be provided with appropriate medical care and rehabilitation;
- sign the Optional Protocol to the Convention against Torture;
- **Issue invitations to the UN Working Group on Arbitrary Detention, the UN Special Rapporteur on Torture, and the Special Representative of the UN Secretary General on Human Rights Defenders, to visit Syria.**

Regarding reform of the justice system:

- **to urgently review the State of Emergency Legislation (SEL) that is inconsistent with the requirements of human rights law, particularly Article 4 of the International Covenant on Civil and Political Rights (ICCPR), to which Syria is a state party²⁶;**
- **to undertake reforms of the justice system, in particular to ensure that all court procedures comply with international standards for fair trial.**

²⁶ In its consideration of Syria's second periodic report in April 2001, the Human Rights Committee, which monitors states' implementation of the ICCPR, expressed concern over the SEL in Syria which it said "does not provide remedies against measures limiting citizens' fundamental rights and freedoms". The Committee recommended that the SEL be "formally lifted as soon as possible".

