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No Room to Breathe

State Repression of Human Rights Activism in Syria

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I. Summary

> *If you say you are a human rights activist to a security official, it is as if you are admitting you are a criminal.*
> –Syrian human rights activist, November 2006[1]

The government of Syria severely constrains the freedom of human rights activists to express their views and to associate as a group. Under restrictive and arbitrary legal provisions, human rights groups are consistently refused registration and endure a precarious existence without legal status. Worse, state security services subject human rights activists to intrusive scrutiny and harassment that includes travel bans, arrest, and trial.

This report documents these restrictions by examining the legal environment in which activists operate and the government practices to which they are subject. It is based on extensive interviews with representatives of all of the major Syrian human rights groups, independent lawyers, and members of the international diplomatic community in Damascus.

Although the Syrian constitution protects the rights to freedom of association and expression, the government has used emergency powers and restrictive legislation, such as the 1958 Law on Associations and Private Societies (Law No. 93), to stifle the activists' exercise of their most basic rights. The government has relied on these laws to override constitutional guarantees and to establish itself as the sole arbiter of with whom and how Syrians can associate.

Under the provisions of Law No. 93, the Syrian Ministry of Social Affairs and Labor (MoSAL) controls the registration of all civil society associations and has wide jurisdiction to intervene in the internal governance and day-to-day operations of any association. Associations must notify MoSAL of their meetings, and representatives of the ministry have the right to attend. In addition, MoSAL has the authority to

[1] Human Rights Watch interview with Syrian human rights activist (name withheld), Damascus, November 11, 2006.

regulate the ties of any local group with the international community, ensuring that local associations are severely restricted in their ability to finance their operations or seek advice, expertise, support, and cooperation from abroad.

The problem with Law No. 93 is not just the language of its provisions but also the arbitrary way in which the government applies its provisions. The only reliable factor to predict how strictly it will control a group is the extent to which the group's work includes criticism of the government.

In addition to Law No. 93, Government authorities also rely on the continuing state of emergency to adopt arbitrary measures to silence their critics and to prohibit them from operating as a legally recognized group.

The outcome has been that Syrian authorities have refused to register any of the human rights groups that have applied for registration. Without legal status, these groups operate at the whim of the authorities and live in constant fear of being shut down at any moment and their members imprisoned for violating the law.

Yet the most serious barrier to the rights and freedoms of Syria's human rights community lies not in the law but in the role of the powerful security services, which routinely harass human rights groups and scrutinize their leaders, activities, and funding. These security services frequently operate even beyond the provisions of Syria's strict laws to arbitrarily break up meetings of human rights groups, bar activists from traveling, arrest them, and refer them to trial under dubious charges.

The Syrian government often justifies its intolerance of criticism by arguing that it is presently under threat from the United States and other Western countries that are seeking to isolate it, and that any criticism of the government will only serve the interests of these foreign powers. However, state repression of human rights activism is not a recent phenomenon in Syria, and its victims usually have no link to foreign powers and are themselves critical of US policy in the region. Since the Ba`ath party assumed power in 1963, the Syrian authorities have maintained a tight lid on any form of criticism. The coming to power of Bashar al-Asad in 2000 carried

with it hopes of increased tolerance for criticism, but these hopes ended abruptly a year later when Syrian authorities cracked down on a nascent civil society movement.

Whatever its justifications for its refusal to respect the rights of Syrian citizens, the consequence of the government's actions is clear: insulating the authorities from any criticism and accountability. Another consequence is that restrictive laws and practices have left Syria's human rights community extremely vulnerable and isolated. Compared to other human rights groups in the Middle East, these activists have few links to international groups or networks.

By isolating human rights groups, the government of Syria is not only stifling the right of the activists to express themselves or associate freely. It is depriving the Syrian people of the vibrancy of a society in which individuals can hold the government accountable for human rights violations.

II. Recommendations

To the Syrian Government

In order to comply with its international obligations regarding freedom of association and freedom of expression, the Syrian government should:

With respect to the continuing State of Emergency

- Stop relying on the continuing state of emergency to detain and harass human rights activists and to prevent the registration of human rights groups.

With respect to the 1958 Law on Associations and Private Societies (Law No. 93) and its executive (implementing) regulations

- Amend the law to:
    - Ensure that all groups formed for any legal purpose are allowed to acquire legal personality by:
        - Making registration of associations automatic once these associations fulfill the formal requirements;
        - Abolishing penalties for participation in unregistered associations if such associations are not otherwise breaking the law; and
        - Removing restrictions on the ability to affiliate with other groups, whether domestic or foreign.

- Cease the vetting by the Ministry of Social Affairs and Labor (MoSAL) and the security agencies of registration requests, founding members, and candidates for board membership. No part of government should be involved in vetting registration requests or candidates.

- Remove the government's ability to appoint any number of board members of a non governmental association at will in any situation.

- Remove the government's ability to control organizational decisions of associations by abolishing the requirement that associations provide advance notice of any meeting and minutes of their meetings to MoSAL.

- Restrict MoSAL's authority to dissolve any association. Involuntary dissolution of an association should take place only by judicial order.

- Permit receipt of donations or transfers from Syrian or foreign donors, as long as all foreign exchange and customs laws are satisfied.

- Enforce Article 10 of Law No. 93, which stipulates that if MoSAL has not processed a registration application within 60 days, the law will deem the application approved. Specifically, recognize the legal status of the Human Rights Association in Syria (HRAS) and the Arab Organization for Human Rights – Syria (AOHR) since MoSAL did not respond to their registration request within the mandated 60 days.

With respect to practices by the security agencies

- Order the security services to:
    - Stop arbitrarily arresting activists;
    - Cease the practice of arbitrarily denying passports to activists or banning them from traveling;
    - Stop harassing activists through arbitrary detentions and regular interrogations;
    - Stop interfering in the trials of activists.

- End the impunity of the security agencies by taking immediate and practical steps to make the country's various security forces accountable for their conduct under the rule of law. Such steps should include the investigation, prosecution, and punishment of members of security forces who arbitrarily detain and interrogate activists.

With respect to convictions of and ongoing court cases against human rights activists

- Exonerate human rights activists who were sentenced for exercising their rights to freedom of expression and association.

- For ongoing court cases of human rights activists, drop all charges that are based on violations of freedom of expression or association.

- Ensure that the court trying the defendants is independent and impartial by putting an end to the intervention of security agencies in legal proceedings.

With respect to the country's overall respect for human rights and the Syrian constitution

- Announce publicly that the government will respect, encourage, and facilitate freedom of association generally, and the right of human rights groups to form associations to freely carry out their work.

- Reform MoSAL: new laws will not be sufficient if they are not administered by a body that facilitates the growth of associations.

To the European Union and its Member States

- Adhere to the EU Guidelines on Human Rights Dialogues and the EU Guidelines on Human Rights Defenders in dealing with Syria.[2]

- Before finalizing the Association Agreement with Syria (initialed in October 2004), ensure that the Syrian government commits to improving its human rights record and respecting the rights of human rights defenders.

- Extend support for human rights activists in Syria by advocating on their behalf with Syrian authorities and providing logistical support through capacity building programs.

[2] The EU Guidelines on Human Rights Dialogues (adopted in 2001) note that "issues of human rights, democracy and the rule of law will be included in all future meetings and discussions with third countries and at all levels, whether ministerial talks etc, joint committee meetings or formal dialogue led by the Presidency of the Council." The EU Guidelines on Human Rights Defenders (adopted in 2004) are intended to offer practical suggestions for enhancing the actions that the EU undertakes with respect to human rights defenders.

To the International Community

- Ensure that human rights concerns are at the core of any future talks or negotiations with Syria.

To the United Nations

- The Special Representative of the Secretary-General on human rights defenders should request a visit to Syria to examine the situation of human rights defenders in the country.

III. Background: The Emergence of a Human Rights Community in Syria

Syrian authorities consider human rights monitoring a political activity and, as such, view it with suspicion and maintain tight control over it. Since 1963, when the Ba`ath party came to power, there have been three distinct periods of human rights activity.

In 1976 members of the Syrian Lawyers' Union—the equivalent of a national bar association—formed a human rights committee to publish accounts of rights abuses in the country. Between 1978 and 1980 the union and its human rights committee called repeatedly for lifting of the state of emergency (in place since 1963) and urged the government to abolish special courts and safeguard the independence of the judiciary. When the lawyers' union called for a one-day strike in March 1980 to press their demands, the government retaliated harshly by dismissing the entire elected executive committee of the union, dissolving the human rights committee, and arresting some of its members.[3]

A second phase in Syria's human rights movement began on December 10, 1989, when a number of activists formed a new human rights group, the Committees for the Defense of Democratic Freedoms and Human rights in Syria (CDF). Independent of any political party affiliation, CDF operated actively in France and Germany but maintained a clandestine presence in Syria itself. In April 1990 CDF started publishing a regular Arabic-language bulletin, *Sawt al-Democratiyya* (Voice of Democracy), dealing with human rights and other reform issues. On December 10, 1991, CDF issued a statement commemorating the 43rd anniversary of the Universal Declaration of Human Rights and criticizing a referendum held on December 2, 1991, approving Hafez al-Asad's reelection to the presidency with 99.98 percent of the vote.[4]

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[3] For more background on this period of human rights activity in Syria, see Middle East Watch (now Human Rights Watch/MENA), *Syria Unmasked: The Suppression of Human Rights by the Asad Regime* (New Haven: Yale University Press, 1991), pp. 85-88.

[4] For additional background on the statement issued by CDF, see Middle East Watch (now Human Rights Watch/MENA), *Syria – Human Rights Workers on Trial*, vol 4, no. 5, March 1992, pp. 3-4.

The government arrested activists from CDF in late 1991 and early 1992. Ten of them were sentenced in March 1992 to prison terms ranging from five to ten years. This effectively caused the collapse of the nascent human rights movement inside Syria.[5] However, Syrians living overseas continued to report on the situation of human rights, one of the most active groups being the London-based Syrian Human Rights Committee.

The third phase of activity inside Syria began after Bashar al-Asad succeeded his father as president in July 2000. A human rights lawyer summed up his initial feelings on the succession, reflecting the mood and aspirations of many others in the country: "Bashar's inaugural speech provided a space for hope following the totalitarian years of President [Hafez] Asad. It was as if a nightmare was removed."[6]

The hope that Bashar al-Asad would prove more tolerant than his father was partly based on his image as a representative of a younger, more open generation of Syrian leaders and on his frequent emphasis on the need for change in the speeches he gave while being groomed for succession.[7]

A number of informal groups began meeting in private homes to discuss human rights, reform efforts, and other topics, leading to a period of relative openness often referred to as the "Damascus Spring." The "Damascus Spring" was characterized by the emergence of numerous *muntadat* (referred to in English as "forums") where groups of likeminded people met in private houses to discuss political matters (advance notice of meetings being spread by word of mouth). The most famous of these forums were the Riad Seif Forum and the Jamal al-Atassi National Dialogue Forum.

Soon thereafter, intellectuals and activists mobilized around a number of political demands, expressed in the "Manifesto of the 99": the cancellation of the state of

[5] For more information on the Supreme State Security Court, see Section IV, below. For more background on CDF and the trial of the activists, see Middle East Watch, *Syria – Human rights Workers on Trial*; and Human Rights Watch/Middle East, *Syria – The Price of Dissent*, vol. 7, no. 4, July 1995.

[6] Human Rights Watch interview with Syrian human rights activist (name withheld), Damascus, November 14, 2006.

[7] To read more about the mood in Syria at the time of Bashar al-Asad's accession to power, see Alan George, *Syria: Neither Bread nor Freedom* (London: Zed Books, 2003), pp. 30-33.

emergency and abolition of martial law and special courts; the release of all political prisoners; the return without fear of prosecution of political exiles; and the right to form political parties and civil organizations.[8]

Human rights activists seized the new-found openness to resume their activities. CDF revived its work in September 2000, and its activities became more public. According to one of its founders, "most of us were released by then, and we held a meeting in September 2000. We decided that our work will become more public, and we published the names of our members."[9] New human rights groups were also formed, such as the Human Rights Association in Syria (HRAS, *Jam`iyyat Huquq al-Insan fi Suria*), founded in May 7, 2001, with the goal of defending human rights.[10]

Many of the human rights activists at the time were former political activists who had previously spent time in jail. For example, Haytham al-Maleh, the-then president of HRAS, had spent seven years in jail for his activities in the Freedom and Human Rights Committee of the Syrian Lawyers Union; Salim Kheirbek, another activist in HRAS, had spent 13 years in jail because of his involvement with the workers' movement; Dr. Ahmad Fayez al-Fawaz, representative of HRAS, had spent 15 years in jail for his activities with the communist party; and Aktham Nu`aissa, had been sentenced in 1991 to nine years in jail for his activities in CDF (he was one of its founders) but released after six years because of bad health.

Bashar al-Asad's brief period of tolerance came to an abrupt end beginning in August 2001. Syrian authorities arrested 10 opposition leaders, including two members of parliament, and cracked down on civil society advocacy groups.[11] All 10 leaders were arrested following their participation in a seminar in the house of Riad Seif during which they called for political reform and democratic elections and

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[8] To read the "Manifesto of the 99" in English, go to http://www.meib.org/articles/0010_sdoc0927.htm.

[9] Human Rights Watch interview with a CDF founder (name withheld), Damascus, November 11, 1006.

[10] Human Rights Watch interview with HRAS board member (name withheld), Damascus, November 14, 2006.

[11] For more information regarding the crackdown on the Damascus Spring movement, see Amnesty International, "Syria – Smothering Freedom of Expression: the Detention of Peaceful Critics," AI Index: MDE 24/007/2002, June 6, 2002, http://web.amnesty.org/library/Index/ENGMDE240072002 (accessed February 15, 2007); and George, *Syria: neither Bread nor Freedom*, pp. 47-63. The government permitted one forum, the Jamal al-Atassi National Dialogue Forum, to function until 2005 but shut it down after a member publicly read a statement from the banned Syrian Muslim Brotherhood, a Sunni Islamist organization that had rebelled against the government of Hafez al-Asad in the early 1980s.

discussed amending the constitution and issuing a call for a civil disobedience campaign. The two members of parliament, Ma'mun al-Homsi and Riad Seif, were accused of "attempting to change the constitution by illegal means" and "inciting racial and sectarian strife" and were sentenced by the Damascus Criminal Court to five years in jail. The other eight activists, Riad al-Turk, `Aref Dalilah, Walid al-Bunni, Kamal al-Labwani, Habib Salih, Hasan Sa`dun, Habib `Isa, and Fawwaz Tello, were referred to the Supreme State Security Court which issued prison sentences between two to 10 years.

The crackdown was officially justified on the basis that the civil society movement was destabilizing the country and serving the interests of "foreign powers," but its real impetus was the authorities' fear that the civil society movement was challenging their power. On January 29, 2001, Syrian Information Minister Adnan Omran declared that civil society is an "American term" that had recently been given "additional meanings" by "groups that seek to become (political) parties."[12] A month later, Bashar al-Asad repeated the warnings to the civil society movement:

> When the consequences of an action affect the stability of the homeland, there are two possibilities: either the perpetrator is a foreign agent acting on behalf of an outside power, or else he is a simple person acting unintentionally. But in both cases a service is being done to the country's enemies, and consequently both are dealt with in a similar fashion, irrespective of their intentions or motives.[13]

Despite the crackdown, the nascent human rights groups continued to operate despite lacking legal status, and were soon joined by others. A number of activists formed the Arab Organization for Human Rights in Syria (AOHR, *al-Munathama al-`Arabiyya li Huquq al-Insan*) in February 2004.[14] A few months later, in September

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[12] "The emergency law is present but frozen," *Al-Dustour* (Amman, Jordan), January 30, 2001, http://www.addustour.com/extra/archive.asp?ac=%5CArabicNews%5C2001%5C01%5Carab413.html (accessed May 29, 2007).

[13] "Interview with Bashar al-Asad," *Asharq al-Awsat*, February 8, 2001, http://www.al-bab.com/arab/countries/syria/basharo102b.htm (accessed February 16, 2007).

[14] Human Rights Watch interview with an AOHR founding member (name withheld), Damascus, November 12, 2006. The website of the organization is http://www.aohrs.org.

2004, former members of CDF split off to form the Syrian Human Rights Organization (*al-Munathama al-Suriyya li Huquq al-Insan*, Swasiah).[15]

2004 also saw the emergence of Kurdish human rights groups. According to one Kurdish activist, members of the Kurdish community came together to create many of these organizations following events of March 2004, when government security forces killed at least 30 people and injured more than 160 in days of protests that began on March 12 following clashes between Kurdish and Arab fans at a football match in al-Qamishli, a city in northeastern Syria. Syrian security forces fired on the demonstrators and arrested hundreds of Kurds.[16] In the Kurdish activist's view, existing Syrian human rights organizations did not sufficiently cover the Qamishli events, and Kurdish groups emerged to fill this gap.[17]

Three separate Kurdish human rights organizations exist today: MAF ("Right" in Kurdish, known in Arabic as *al-Lijna al-Kurdiyya lil Difa` `an Huquq al-Insan*); DAD ("Justice" in Kurdish, in Arabic *al-Munathama al-Kurdiyya lil-Difa` `an Huquq al-Insan wal-Hurriyat al-`Ama fi Suria*); and the Kurdish Committee for Human Rights (*al-Lijna al-Kurdiyya li-Huquq al-Insan*).[18]

Kurdish groups operate even more secretly than their Arab counterparts. According to a founding member of DAD, "it took us a year and a half before having our founding meeting. During that initial period, only four names of members were known. We were terrified of being arrested."[19]

Despite an increase in the number of human rights groups in Syria, their situation remains very precarious. Activists continue to operate illegally without institutional structures. Personality clashes and suspicion that other activists are informants for the security services often lead organizations to break into multiple offshoots.

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[15] Human Rights Watch interview with an SHRO founding member (name withheld), Damascus, November 15, 2006.

[16] For more background on the incident, see "Syria: Address Grievances Underlying Kurdish Unrest," Human Rights Watch news release, March 19, 2004, http://hrw.org/english/docs/2004/03/19/syria8132.htm.

[17] Human Rights Watch interview with DAD board member (name withheld), Damascus, November 14, 2006.

[18] Human Rights Watch interview with a DAD founding member (name withheld), Damascus, November 12, 2006; Human Rights Watch interview with a DAD board member (name withheld)], Damascus, November 14, 2006.

[19] Human Rights Watch interview with a DAD founding member (name withheld),, Damascus, November 12, 2006.

The newest human rights groups to emerge in Syria are the Damascus Center for Human Rights Studies (*Markaz Dimashq li Dirasat Huquq al-Insan*), a research center looking into human rights issues in Syria, and the National Organization for Human Rights (NOHR), which a number of former activists in AOHR founded in February—March 2006.[20]

[20] Human Rights Watch interview with an NOHR founder (name withheld), Damascus, November 12, 2006.

IV. Syria's Legal Framework

In principle, Syria's constitution enshrines many basic rights, including freedom of speech and freedom of assembly. Article 38 of the constitution guarantees the right of every citizen to "freely and openly express his views in words, in writing, and through all other means of expression" and to "participate in supervision and constructive criticism in a manner that safeguards the soundness of the domestic and nationalist structure and strengthens the socialist system." Article 39 grants citizens the right to meet and demonstrate peacefully, in accordance with the law. [21]

In reality, however, the Syrian authorities have used the declaration of a continuing state of emergency and its accompanying restrictive legislation to suppress the activities of nongovernmental associations and human rights groups. Underlying this approach is an official view that associations are not supposed to be an alternative to state institutions but rather instruments for the government to develop society and enshrine the goals of the Ba`athist revolution. This view was encapsulated in a response by Bashar al-Asad in 2001 to a question on his views towards "civil society" in Syria:

> The main issue is that these institutions are not an alternative to government institutions as some suggest, and they should not precede them in the process of construction. On the contrary, civil institutions are based on government institutions and support them and are not a replacement for them. One cannot talk about healthy institutions for civil society without talking about completing the building of the government's institutions. As we have spoken about the necessity of reforming institutions and consolidating institutional thinking, the development of civil society institutions should come at a later stage, and therefore it does not represent one of our priorities.[22]

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[21] The Constitution of the Arab Republic of Syria (promulgated on March 14, 1973), http://www.oefre.unibe.ch/law/icl/sy00000_.html (accessed February 15, 2007), arts. 38 and 39.

[22] "Interview with Bashar al-Asad," *Asharq al-Awsat*, February 8, 2001, , http://www.al-bab.com/arab/countries/syria/basharo102b.htm (accessed February 16, 2007).

The Emergency Law

The current state of emergency has been in place since March 8, 1963, when the Ba`ath Party seized power.[23] As presently codified, the Emergency Law designates the prime minister as the martial law governor of the country and the interior minister as his deputy, and gives them extraordinary powers. The law's sweeping provisions authorize the martial law governor to:

> place restrictions on freedoms of individuals with respect to meetings, residence, travel and passage in specific places or at particular times; to preventatively arrest anyone suspected of endangering public security and order; to authorize investigation of persons and places; and to delegate any person to perform any of these tasks. [24]

These powers have created an environment where the authorities abuse the most basic rights and freedoms of the Syrian people on a wide scale and where they adopt arbitrary measures to silence critics in the name of safeguarding national security. For instance, the law forbids contravention of orders from the martial law governor, offenses "against the security of the state and public order," offenses "against public authority," offenses "which disturb public confidence," and offenses that "constitute a general danger."[25]

Under the state of emergency, Syrian authorities can refer civilian defendants to the Supreme State Security Court (SSSC, *Mahkama Amn al-Dawla al-`Uliyya*), an exceptional court that is exempted from the rules of procedure followed by regular Syrian courts.[26] Syrian authorities relied on the SSSC in the past to prosecute human rights activists: it was the SSSC that in March 1992 sentenced the 10 CDF activists to

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[23] The Ba`ath Party imposed the state of emergency with Military Order No. 2 of March 8, 1963. A law enacted by the government that preceded the Ba`ath Party actually authorizes the government to declare a state of emergency. Legislative Decree 51, dated December 22, 1962.

[24] Legislative Decree 51, dated December 22, 1962, art. 4(a).

[25] Ibid., art. 6.

[26] As initially enacted, the emergency law (Legislative Decree 51) authorized the referral to military courts (art. 6). However, Decree Law No. 47 of 1968 replaced the military courts with the state security court. Under article 7(a) of Decree Law No. 47, "The right to defense as prescribed in the relevant laws notwithstanding, state security courts are not required to follow judicial procedures stipulated in these laws during any of the phases of investigation, interrogation and trial." For more background on state security courts, see Human Rights Watch/Middle East, *Syria – The Price of Dissent*.

prison (see Section III, above), for example. The SSSC charged the defendants in that case with membership in an illegal organization, distribution without permission of leaflets critical of the Syrian government, and conspiracy to undermine the government.[27]

Most human rights activists consider the continued application of the emergency law as the biggest impediment to their work. One of them expressed his frustration: "At the end of the day, the issue is not a question of [existing] laws, whether they are good or bad. Under the current [emergency] situation, I can't even buy a fax machine without a permit. The situation is not workable."[28]

The continued application of the Emergency Law for over 44 years violates the International Covenant on Civil and Political Rights (ICCPR), to which Syria is a state party.[29] Article 4 of the ICCPR limits the application of emergency laws to a time of "public emergency which threatens the life of the nation and the existence of which is officially proclaimed." It further stipulates that state parties to the ICCPR may derogate from their obligations under the treaty only "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."

In its 2000 report to the United Nations (UN) Human Rights Committee, the body charged with monitoring states' compliance with the ICCPR, Syria justified the continued application of the Emergency Law by saying that since Israel's establishment in 1948, Syria had faced "a real threat of war by Israel," and that this "gave rise to an exceptional situation that necessitated the rapid and extraordinary mobilization of forces in the Syrian Arab Republic and, consequently, the

[27] For additional information, see Middle East Watch, *Syria: Human Rights Workers on Trial*, pp. 5-6.

[28] Human Rights Watch interview with an NOHR member (name withheld), Damascus, November 11, 2006.

[29] The continued application of the Emergency Law may also be invalid under its own provisions. The source of the law, Legislative Decree No. 51(5) of 1962, holds that a "State of Emergency shall be declared by a decree from the Cabinet, presided over by the President of the Republic. It must be carried out by a majority of two-thirds and be made known to the Chamber of Deputies at its next meeting" (art. 2(a)). But the 1963 law was issued by military decree, was never approved by the government, and was never submitted to the Chamber of Deputies.

promulgation of legislation to ensure the Administration's ability to act rapidly in the face of these imminent threats."[30]

However, the UN Human Rights Committee did not find the justification convincing. On July 28, 2005, the committee concluded its observations regarding Syria's submissions by:

> Not[ing] with concern that the state of emergency declared some forty years ago is still in force and provides for many derogations in law or practice from the rights guaranteed under articles 9, 14, 19 and 22, among others, of the Covenant, without any convincing explanations being given as to the relevance of these derogations to the conflict with Israel and as to the necessity of these derogations to meet the exigencies of the situation claimed to have been created by the conflict.[31]

In its response in September 2006 to the criticism by the UN Human Rights Committee, Syria reiterated its position that the state of emergency was necessitated by a "real threat of war, Israel's continued occupation of part of the territory of the Syrian Arabic Republic, and the real threat of expansion of the occupation," and that:

> [the] Emergency Act is implemented in the Syrian Arab Republic in the narrowest of circumstances and under very special conditions. This is no way implies that it takes precedence over the Constitution and Syrian law or the State's other international obligations.[32]

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[30] UN Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Second Periodic Report of States Parties Due in 1984, Syrian Arab Republic, August 25, 2000, http://www.arabhumanrights.org/countries/syria/ccpr/ccpr-c-syr-2000-2e.pdf (accessed August 10, 2007).

[31] UN Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee, Syrian Arab Republic, CCPR/CO/84/SYR, August 9, 2005, http://www.ohchr.org/english/bodies/hrc/hrcs84.htm (accessed August 10, 2007).

[32] UN Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Syria, Addendum, Comments by the Government of Syria on the concluding observations of the Human Rights Committee, September 15, 2006, www.ohchr.org/english/bodies/hrc/docs/AdvanceDocs/CCPR.CO.84.SYR.Add.1.pdf (accessed May 29, 2007).

While Syria's declaration that the emergency law does not take precedence over Syria's constitution or its international obligations is a welcome development, the ongoing practices of the Syrian security services towards human rights activists (described in Part V, below) do not support such a declaration.

The Law on Associations

The 1958 Law on Associations and Private Societies (Law No. 93) governs the establishment of any type of association or organization in Syria.[33] It was adopted during the short-lived union between Egypt and Syria as the United Arab Republic (1958-61) and was heavily influenced by notions that the state should control and guide society. Many of the relevant legal details are contained in the accompanying implementing regulations that were adopted by presidential decree in 1958 (the Executive Regulations issued by decision no. 1330 on October 13, 1958). In 1969 Syrian authorities amended certain provisions of the law through legislative decree (Legislative Decree No. 224) to further increase state control over associations.[34]

One of the key provisions added by Legislative Decree No. 224 allowed the government to "merge" associations that do similar work, and introduced the idea that there need not be more than one association to do any single type of work. As discussed below, the government has repeatedly relied on this concept to refuse to register new nongovernmental associations. Another key provision allowed for the non-judicial dissolution of associations. The preamble of Legislative Decree No. 224 justified the amendments on the basis that

> the current law is empty of the rules that permit the state to coordinate social services, for example, by allowing the merging of associations that are similar and working in the same field. In addition, the current law has restricted the dissolution of associations to the judiciary and experience has shown the lack of efficiency of this style because many

[33] The law adopted in 1958 was much more restrictive than its predecessor. See the historical analysis of the Law on Associations in Syria in Layla al-Jabiri, "The situation of freedom in the legislation of Arabic Associations – Syria," copy on file with Human Rights Watch.

[34] Legislative Decree No. 224, September 21, 1969.

of the organizations have come into being in conditions that are different from the conditions in the Syrian Arab State.

The law designated the Ministry of Social Affairs and Labor (MoSAL) as the entity responsible for administering the law, including exercising the authority to dissolve groups.[35] In practice, however, the Syrian security authorities are heavily involved. As an activist explained to Human Rights Watch, "under the law, you apply to the Ministry [of Social Affairs and Labour]. In practice, you apply to three security agencies: State Security [*Amn al-Dawla*], Political Security [*Amn al-Siyasi*], Military Security [*Amn al-`Askari*]."[36]

Registration

When a group applies for registration, it lodges the required forms at MoSAL and undergoes an official inspection. Under the law, an association only acquires distinct legal personality after MoSAL publishes its organizing documents in its official registry (Articles 7 and 9 of Law No. 93).

The Executive Regulations detail the registration requirements. MoSAL reviews the incorporating documents of the association "from a legal point of view and from the view of the importance of the goals of the association and the need for such activities," and asks General Security (*Amn `Am*) to conduct an investigation of the founders of the organization (Article 6 of Executive Regulations).

MoSAL has 60 days to respond to a registration request. If more than 60 days pass without an official response, a group is deemed to be registered by default, and MoSAL has an obligation to publish the organizing document of the group in the official register (Article 10 of Law No. 93).

Before issuing its registration decision, MoSAL has to get "the opinion of the Ministry of Interior and the opinion of the public institutions that consider that they are associated with the goals of the organization" (Article 8 of Executive Regulations).

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[35] Executive (implementing) Regulations issued by decision no. 1330 on October 13, 1958.

[36] Human Rights Watch interview with a CDF member (name withheld), Damascus, November 11, 2006.

MoSAL has wide latitude to refuse a request for registration, including if it deems the purpose of the association not to be the "most pressing." However, MoSAL must give reasons for its decision in writing (Articles 10 and 27 of Executive Regulations).

Groups that MoSAL has denied registration can appeal to MoSAL to review its decision (Article 11 of Law no. 93 and Article 11 of Executive Regulations). If this appeal process fails, they can also seek to have an administrative court review MoSAL's decision.

Registration is compulsory, and the law forbids unregistered groups from conducting any activity (Article 8 of Law No. 93). Anyone conducting any organizational activity before registering can be subject to imprisonment for up to three months and a fine (Article 71 of Law No. 93).

In practice, MoSAL plays only a limited role in approving applications for registration. It sends applications to security agencies, where they pass through a tight process of control that involves close examination and investigation of founder members. As is discussed below in Section V, the involvement of the security agencies has prevented all the human rights groups in Syria that have sought registration from being registered.

Control of operations

Law No. 93 and its Executive Regulations provide ample means for government officials to intervene in the internal governance and day-to-day operations of organizations. Meetings are strictly controlled. Associations have to advise MoSAL of any general assembly meeting 15 days in advance and inform it of the meeting's agenda. MoSAL is supposed to send one of its members to attend any meeting (Article 23 of Law No. 93). In addition, associations are required to send a copy of the minutes of the meeting to MoSAL within 15 days following the meeting (Article 23 of Law No. 93). In practice, a representative of one of the security agencies generally attends these general assembly meetings.

MoSAL has the right to appoint one or more of its staff to the board of any association at any time and in any number and it may determine the prerogatives of

such appointee(s) (Article 26 of Law No. 93). It also has the right to set the minimum and maximum number of board members (Article 26 of Law No. 93).

MoSAL has the right to merge associations that have similar goals if it determines this to be necessary (Article 24(b) of Law No. 93).[37] In addition, MoSAL has the authority to dissolve associations (Article 36 of Law No. 93). Amongst the reasons that can be invoked to dissolve an organization is "practicing any activity that is sectarian, racist or political that affects the safety of the state" or simply "if the Ministry finds that there is no need for the services of the association" (Article 36(a)(3)&(7) of Law No. 93). In principle, the decision to dissolve needs to be based on an official investigation conducted by MoSAL (Article 36(b) of Law No. 93), but in practice such an investigation does not take place. The dissolution decision is definitive and does not allow any appeal or reconsideration.

Most recently, on January 24, 2007, the Minister of Social Affairs and Labor issued an order dissolving the "Association for Social Initiative" (*Jam`iyyat al-mubadarat al-ijtima`iyyat*), whose activities focused solely on women's issues. The ministerial dissolution order did not specify the basis for the decision other than to state that the decision was taken "according to the requirements of public interest."[38]

Relations with outside world and funding

Law No. 93 strictly regulates ties of associations to the outside world. The law does not permit any association to join or participate with any entity based outside of Syria before advising MoSAL and waiting for 30 days to make sure that MoSAL does not object (Article 21 of Law No. 93).

MoSAL also has the power to block an association's funding. No association can receive any money from any individual or association outside of Syria without authorization from MoSAL (Article 21 of Law No. 93). For fundraising inside Syria, an association also needs MoSAL's prior approval (Article 17 of Executive Regulations).

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[37] This provision was added through Legislative Decree no. 224, September 21, 1969.

[38] Joint statement by Syrian human rights organizations regarding dissolution of Association for Social Initiative, February 7, 2007 (copy on file with Human Rights Watch).

Stalled attempts to reform the law

In 2005 Syrian authorities began the process of reviewing Law No. 93 and its related executive regulations. MoSAL organized a preliminary workshop in February 2005 in collaboration with the European Union (EU) to discuss how to develop civil society in Syria. A participant in the meeting told Human Rights Watch that the workshop ended without reaching any recommendations.[39]

A month later, on March 22-23, 2005, the Syrian Commission for Family Affairs (SCFA), a commission established in 2003 by presidential decree, organized a workshop with some 30 participants from different Syrian nongovernmental organizations (NGOs), the EU, the British Council, and the Swedish Embassy to look into the existing association law. [40]

The participants reached a number of conclusions:

- The government needed to pass a new law, as it was not sufficient to simply amend the existing Law No. 93. As one participant noted, "it would not be enough to amend an almost 50-year old text, which was created in a complete [sic] different context and reality compared to the challenges and opportunities Syria is facing today."[41]
- MoSAL should respect Article 10 of Law No. 93, which (as noted above) provides that if the ministry has not processed an organization's application within 60 days, the law will deem the organization to be lawfully registered. The participants noted that this was not occurring in practice.
- The government had to remove the difficulties that associations face in the registration process.
- It should allow associations to establish links to other associations working in related areas on the local, national, and international levels.
- It should loosen restrictions on funding and allow associations to fundraise and receive national and international support.

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[39] Human Rights Watch interview with European participant (name withheld), Damascus, November 16, 2006.

[40] For details regarding the workshop, see Johan Gärde, "NGO-Law & Civil Society Project in Syria, Final Report" (Notre Dame University, NGO Management & Civil Society Program in the MENA region), and Robert Latham, "Report on the 'Review of Association Law' Workshop (22-23 March 2005)," copy on file with Human Rights Watch.

[41] Gärde, "NGO-Law & Civil Society Project in Syria, Final Report," p. 37.

- It needed to appoint a new competent administrative authority to promote the growth of civil society in Syria. [42]

However, the drive to reform the existing laws came to a complete stop without the Syrian authorities providing any explanation. MoSAL cancelled the last plenary meeting of the workshop, where the different groups working on the issue were supposed to report on progress. An EU official told Human Rights Watch that they had prepared a draft legal text to revise the existing law but had not circulated it. Activists interviewed by Human Rights Watch had heard rumors of a draft but none of them had seen it.

Overall, most of the activists and diplomats interviewed by Human Rights Watch expressed skepticism about the likelihood of real reforms. An informed foreign embassy official in Damascus expressed the following view to Human Rights Watch:

> Even if there is a new law on associations, as long as you have emergency laws that give security services all this power, there will be a big question mark whether a new law will be effective in an environment that is so intimidating. [43]

Other Restrictive Laws

The government's dominant role with respect to associations is reinforced by other legislation influenced by Ba`athist ideology. In particular, successive Ba`athist governments have promoted the formation of general unions in certain segments of the population: a women's general union, a youth union, a workers' union. The laws and decrees that created these unions have given them a monopoly over their respective spheres of activity. For instance, Law No. 33 (December 21, 1975), which established the Women's General Union, prohibits the formation of any other women's associations (Article 66). Accordingly, activists who want to form a women's association outside the umbrella of the women's union will violate the provisions of Law No. 33.

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[42] Latham, "Report on the 'Review of Association Law' Workshop (22-23 March 2005)."

[43] Human Rights Watch interview with European diplomat (name withheld), Damascus, November 15, 2007.

V. Realities of Human Rights Groups in Syria

Denial of Legal Status

None of the existing human rights groups in Syria are registered, and accordingly none of them are legal. The main impediment to their registration is the refusal of the security authorities to recognize the legitimacy of these groups. One long-term activist in Syria told Human Rights Watch, "there can be no registration if there is no agreement from the security authorities."[44] While the continuing application of emergency laws in Syria means that even registered organizations are vulnerable to prosecution for violating the various provisions restricting freedom, this same activist added that obtaining legal registration "will weaken the influence of the security apparatus."[45]

Involvement of security authorities in registration

Most activists interviewed by Human Rights Watch stated that the real power behind decisions regarding their registration rested with security services and not MoSAL, as prescribed by law. One seasoned human rights advocate described the direct role of security services:

> I went to the ministry [MoSAL] to register my organization. The clerk there told me that I should go see the Military Security agency [*Amn al-`Askari*]. The Military Security agency then called me to tell me that my request was under study. Ten days ago, I got a call from State Security [*Amn al-Dawla*, a different security agency] and they said, "Don't hold your hopes up."[46]

MoSAL's acquiescence to the role of the security services extends to the highest levels. An activist who met with the minister of social affairs and labor to discuss his

[44] Human Rights Watch interview with Syrian political activist (name withheld), Damascus, November 11, 2006.

[45] Ibid.

[46] Human Rights Watch interview with a CDF member (name withheld), Damascus, November 11, 2006.

group's registration application told Human Rights Watch, "We met with the minister in April 2001. She welcomed us and told us frankly that this was not in her hands."[47]

When activists in the Jamal al-Atassi Forum applied to register with MoSAL, "the Ministry took in the papers initially, but then the Ministry said that they don't consider the application under their jurisdiction."[48] Later, the activists received a call from Political Security (*Amn al-Siyasi*), yet another security agency, telling them that they would not allow the Forum. When the activists asked for a reason, the answer on the phone was "I cannot tell you."[49]

The involvement of the security authorities has deterred many human rights organizations from even trying to register. One human rights activist told Human Rights Watch, "Registration would place us under the control of the authorities. I want to register after there is a new law."[50] Other activists were fearful that their registration application would endanger their members by revealing their identity to the security services.

Denial of application without justification

Despite the extrajudicial role of the security services and the shortcomings of the current legislation, many human rights activists have tried to register their organizations by following the required steps. Their efforts met a bureaucracy that failed to apply its own regulations.

In at least one case, involving the Kurdish Committee for Human Rights (*Al-Lijna Al-Kurdiyya Li Huquq al-Insan*), MoSAL refused even to accept a group's registration documents.[51] According to one activist who went to submit the organization's paperwork, "When the clerk saw 'Kurdish' in the name of the organization, he

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[47] Human Rights Watch interview with a Syrian human rights lawyer (name withheld), Damascus, November 15, 2006.

[48] Human Rights Watch interview with a founder of Jamal al-Atassi Forum (name withheld), Damascus, November 11, 2006.

[49] Ibid.

[50] Human Rights Watch interview with a CDF member (name withheld), Damascus, November 11, 2006.

[51] Human Rights Watch interview with a Kurdish activist (name withheld), Damascus, November 11, 2006.

refused to accept the demand. I knew beforehand that our application would be rejected. I did not expect that they would not even accept our documents."[52]

In other instances MoSAL accepted the request to register but failed to respond within the stipulated 60-day timeframe. At that point, the law requires MoSAL to consider the association as registered de facto and to then publish the formation documents of the association in the official registry. However, MoSAL has refused to act in accordance with the law to recognize the registration of these associations.

This was the case for the Human Rights Association of Syria (HRAS) and the Arab Organization for Human Rights – Syria (AOHR). HRAS applied for registration on December 11, 2001. Sixty-two days later, on February 10, 2002, MoSAL issued a decision rejecting the demand. The written decision did not specify any reason for the refusal as required by law. It simply stated, "We inform you that we do not accept."[53] HRAS challenged MoSAL's decision before the Administrative Tribunal (*Majlis al-Dawla*) on July 28, 2002. However, the case is still pending and MoSAL continues to consider HRAS as illegal. In a letter dated May 10, 2006, MoSAL responded to the request by HRAS to hold their annual meeting by informing them that they considered them illegal and threatening them with legal prosecution if the meeting went ahead. AOHR applied for registration on April 15, 2004. Following the passage of 60 days without any response from MoSAL, AOHR requested that the ministry publish its formation documents in the official registry in accordance with Article 10 of Law No. 93. A week later MoSAL rejected the demand of AOHR "due to public interest." Similar to HRAS, AOHR challenged the Ministry's decision before the Administrative Tribunal; the case is still ongoing.[54]

In cases where MoSAL responded to a registration demand within 60 days, its response often did not contain any justification for its rejection. This was the case for the National Organization for Human Rights (NOHR), which sent its application for registration in April 2006. From April to August 2006 NOHR was in constant communication with MoSAL, answering any additional information request by the

[52] Ibid.

[53] MoSAL letter to Mr. Muhammad Omar Kardas (secretary of HRAS), copy on record with Human Rights Watch.

[54] Human Rights Watch interview with a senior AOHR member (name withheld), Damascus, November 12, 2006.

Ministry. During this time, Political Security, State Security, and Air Force Security (*Amn al-Jawwi*) contacted some of the organization's members and lawyers and ordered them to stop any activity they were undertaking until the organization was registered. In August 2006 NOHR submitted its complete application, and nine days later MoSAL rejected the application on the broadly worded basis of "public interest."[55]

Impact of lack of legal status

One observer noted that civil society in Syria is "illegal but working."[56] In a January 2006 interview with an Egyptian newspaper, Bashar al-Asad echoed a similar sentiment when he stated:

> We have civil societies that are tolerated even though they are not registered. But the state does not prohibit it. We are now looking for a mechanism that is more legal to achieve results with respect to this topic and to prevent personal or foreign exploitation.[57]

While the government tolerates the activities of unregistered human rights and other civil society groups to a limited extent, the lack of legal status has direct negative implications for their activities. A human rights lawyer told Human Rights Watch that the "lack of registration is like a sword over our necks. The *mukhabarat* [secret services] can act on it whenever they want."[58]

More specifically, Syrian authorities can rely on two legal provisions to pursue anyone active in an unregistered association. Article 71 of Law No. 93 imposes a sentence of up to three months in jail for whomever engages in any activity before his or her organization has been registered. Article 288 of Syria's Penal Code imposes a sentence of up to three years in jail for anyone in Syria who "without governmental authorization joins a political or social organization of an international

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[55] Human Rights Watch interview with an NOHR member (name withheld), Damascus, November 12, 2006.

[56] Glada Lahn, "Illegal But Working: Civil Society in Syria," *The World Today*, Chatham House (Royal Institute of International Affairs), London, Vol. 62, No. 4, April 2006.

[57] "Text of interview given by President Bashar al-Asad to *al-'Usbu` newspaper," al-'Usbu`* (Cairo), January 9, 2006.

[58] Human Rights Watch interview with human rights lawyer (name withheld), Damascus, November 17, 2006.

character." Syrian authorities relied in part on Article 288 when they arrested in June 2005 the then-president of AOHR, Muhammad Ra`dun (he was detained for six months).[59]

Lack of registration has weakened the ability of groups to increase in size and become more sustainable. A human rights lawyer noted that "because these organizations are painted as illegal, it has scared people away. It has slowed down the formation of a new generation of activists because they remain afraid of being arrested."[60] Another activist put it more basically: "registration allows you to have an office space to meet, to organize activities, to hold trainings. Right now, we are forced to meet in our own homes."[61]

Another drawback is that unregistered organizations cannot officially correspond with officials on human rights issues. One senior representative of AOHR told Human Rights watch that "if we were registered, we could correspond with the authorities to ask about specific cases of violations of human rights. We could try to obtain precise information. Right now, we can only get the information from the relatives of victims of human rights abuses."[62]

Lack of registration has also limited the access of human rights groups to funds. A number of activists expressed frustration that they are currently unable to fundraise inside Syria and to receive funds from foreign donors because they are unregistered. Registering under the current law will not solve this issue entirely, as Syrian law imposes tight restrictions on fundraising activities, but it will facilitate the task for human rights groups.

Prohibition of Meetings

Syrian authorities routinely prohibit or interrupt meetings by civil society and human rights groups. As mentioned above, when HRAS informed MoSAL (as required) that it

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[59] Ibid.

[60] Human Rights Watch interview with young human rights lawyer (name withheld), Damascus, November 11, 2006.

[61] Human Rights Watch interview with AOHR member (name withheld), Damascus, November 12, 2006.

[62] Ibid.

was planning to hold its annual meeting, MoSAL responded that if the meeting went ahead it would prosecute HRAS' members under Article 71 of Law No. 93, prohibiting any activity by an unregistered organization.

In instances where the groups decided to hold their meeting without informing the authorities, the authorities intervened to break up the meeting. A human rights activist told Human Rights Watch:

> We had a gathering organized in our house to discuss secularism. The security [agents] came to our house and said that the meeting was prohibited. They asked people to leave. From 11 a.m. until 4 p.m. they would not let me back into my apartment, and they forced me to wait in the lobby. They also arrested a Kurdish activist who was attending the meeting.[63]

These prohibitions extend to meetings with international activists visiting Syria. One activist organized a meeting for Kamal Jendoubi, the president of the Euro-Mediterranean Network for Human Rights, in a coffee shop in Damascus. Security officials circled the coffee shop and broke up the meeting. They also photocopied the identity papers of many of those attending.[64]

Security agencies also prohibit human rights groups from holding press conferences. On January 31, 2006, authorities prevented HRAS from holding a press conference to announce the release of a number of detainees whom the government had arrested four years earlier following the "Damascus Spring," and to highlight the plight of others who remained in detention.[65]

The pressure on activists extends throughout Syria. A Homs-based activist told Human Rights Watch that "while the level of pressure may vary from area to area, the logic remains the same."[66] Another activist based in Hama echoed this view. He

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[63] Human Rights Watch interview with CDF member (name withheld), Damascus, November 11, 2006.

[64] Ibid.

[65] See HRAS, *Third Annual Report, "For the Citizen and the Individual in Syria", 2005-2006* (June 2006).

[66] Human Rights Watch interview with Homs-based activist (name withheld), Homs, November 13, 2006.

mentioned that the local head of Political Security himself came to his house to ask them not to hold a planned meeting: "During any meeting, we are harassed. Security forces prevent us from meeting. They always follow us."[67]

The only public meeting of human rights activists that Syrian authorities appear to have allowed was when a delegation of the UN Office of the High Commissioner for Human Rights (OHCHR) visited Syria and held a meeting on February 13, 2006, in the Cham Palace Hotel with local human rights organizations to discuss the situation of human rights in Syria.

Arrests and Trials

Syrian security agencies frequently arrest human rights activists for their peaceful activities. This trend has increased in 2006. Many security agencies are involved in these arrests: Political Security, Military Security, State Security, and to a lesser extent Air Force Security. Activists interviewed by Human Rights Watch indicated that there are no guidelines to determine which agency will get involved and noted that in some cases security agencies duplicated efforts.

Syrian security agencies frequently arrest activists following their return from trips overseas, apparently as a form of punishment for the activists' discussion of Syrian human rights issues abroad. On March 12, 2006, Military Intelligence detained Dr. Ammar Qurabi, former spokesman for the Arab Organization for Human Rights – Syria and one of the founders of the National Organization for Human Rights for four days upon his return from Washington DC and Paris, where he had attended two conferences on democratic reform and human rights in Syria.[68]

Security agencies have arrested other activists for their activities inside Syria. On March 22, 2006, security forces detained Muhammad Najati Tayyara, former vice-president of the Human Rights Association in Syria, for remarks he made at a ceremony on March 12 held to commemorate the second anniversary of clashes in March 2004 between Kurdish demonstrators and security forces in the northern city

[67] Human Rights Watch interview with Hama-based activist (name withheld), Hama, November 13, 2006.

[68] "Syria: Rights Activist Arrested Upon Return Home," Human Rights Watch news release, March 14, 2006, http://hrw.org/english/docs/2006/03/14/syria12940.htm.

of Qamishli. Tayyara spent 24 hours detained in a filthy jail cell before being released.[69]

While the security agencies released some activists without charge, others were tried on politically motivated charges relating to their human rights activities. On November 8, 2005, Syrian security forces detained Dr. Kamal al-Labwani, a physician and founder of the Democratic Liberal Gathering, moments after he had landed in Syria following a two-month trip to Europe and the United States.[70] While abroad, Labwani had met with foreign government officials, journalists, and independent human rights organizations, and had appeared on two pan-Arab television networks where he called on the Syrian government to respect fundamental freedoms and human rights. On May 10, 2007, a Damascus criminal court sentenced Labwani to 12 years in prison including hard labor for "communicating with a foreign country and inciting it to initiate aggression against Syria" because he had met with US officials during his time in the United States.[71]

On March 23, 2006, State Security arrested the writer `Ali al-Abdullah and his son Muhammad a day after they intervened outside the Supreme State Security Court to protest the harassment by security officers of relatives of defendants due to appear before the court.[72] A military court sentenced them on October 4, 2006, to six months in prison for "broadcasting abroad false or exaggerated news that would damage the reputation of the state."[73] They were released from the court on the basis of time served awaiting trial. However, State Security continues to harass `Ali al-Abdullah.

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[69] "Syria: Rights Activists Detained in Crackdown," Human Rights Watch news release, March 25, 2006, http://hrw.org/english/docs/2006/03/25/syria13073.htm.

[70] "Syria: Rights Activist Detained after Travel Abroad," Human Rights Watch news release, November 18, 2005, http://hrw.org/english/docs/2005/11/18/syria12059.htm. The Democratic Liberal Gathering is a group of Syrian intellectuals and activists who advocate for peaceful change in Syria based on democratic reforms, liberalism, secularism, and respect for human rights.

[71] "Syria: Peaceful Activist Gets 12 Years with Hard Labor," Human Rights Watch news release, May 11, 2007, http://hrw.org/english/docs/2007/05/11/syria15898.htm.

[72] "Syria: Rights Activists Detained in Crackdown," Human Rights Watch news release.

[73] 'Ali al-'Abdullah was sentenced to another six months on charges of "damaging" the financial reputation of the state, but the judge took the decision to merge 'Ali al-'Abdullah's sentences into one six-month sentence. See Amnesty International, "Syria: Further information on Incommunicado detention/Prisoners of Conscience," AI Index: MDE 24/062/2006, October 6, 2006, http://web.amnesty.org/library/index/ENGMDE240622006?open&of=ENG-SYR (accessed August 10, 2007).

One month following his release, in November 2006, Branch 255 of State Security called him in and threatened him with jail if he continued his activities.[74]

State Security arrested Anwar al-Bunni, one of Syria's most prominent human rights lawyers, on May 17, 2006, after he signed the Beirut-Damascus Declaration, which called for improved Lebanese-Syrian relations based on respect for each country's sovereignty. Two men wearing civilian clothes dragged al-Bunni away as he was getting into his car outside his home in Damascus.[75]

The general prosecutor's office charged al-Bunni with "spreading false news" in connection with a statement he had made claiming that a man had died in a Syrian jail because of the inhumane conditions under which he had been held. On April 24, 2007, the First Damascus Criminal Court sentenced al-Bunni to five years in jail for "spreading false or exaggerated news that weaken the spirit of the nation," and also ordered him to pay the equivalent of US$2,000 to MoSAL for his membership in an unlicensed human rights center.[76] Al-Bunni had been slated to run the human rights center that had opened in February 2006 with funding from the European Commission, but Syrian security forces had immediately shut down the center (see Section VII, below).

The arrest and trial of al-Bunni were the latest measures in the government's campaign against him. Four months before his arrest, unknown strangers approached him on the street and beat him. Around the same time, he had problems with the Syrian Lawyers' Union, which suspended his membership for one year, reportedly for publicizing the plight of his dissident clients.[77]

These sentences against prominent human rights activists recall the harsh sentences imposed on activists following similar crackdowns in 1992 and in 2001.

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[74] Human Rights Watch interview with activist (name withheld), Damascus, November 18, 2006.

[75] Human Rights Watch interview with relative of Anwar al-Bunni (name withheld), Damascus, November 17, 2006.

[76] "Syria: Harsh Sentence for Prominent Rights Lawyer," Human Rights Watch news release, April 25, 2007, http://hrw.org/english/docs/2007/04/25/syria15764.htm.

[77] The Center for Human Rights was to provide training for Syrian civil society and the project was funded by the European Commission through its initiative for Democracy and Human Rights. Human Rights Watch interview with Syrian activist (name withheld), Damascus, November 17, 2006; Human Rights Watch interview with European official (name withheld), Damascus, November 16, 2006.

One difference is that the Syrian authorities tried Labwani and al-Bunni before the regular criminal courts and not before the Supreme State Security Courts (SSSC).[78] On one level, this is a positive development as the SSSC are exceptional courts that are not constrained by the usual rules of criminal procedure. However, this change in court venue has not prevented interference by state security agencies and has failed to guarantee a fair hearing for Labwani and al-Bunni.

For example, during Labwani's trial, the head of National Security sent a letter on November 17, 2005, to the Minister of Justice asking him to add the charge of "communicating with a foreign country and inciting it to initiate aggression against Syria" to the lesser charges that the General Prosecutor's office had initially filed against Labwani. In his defense pleadings, Labwani's attorney argued that the new charge would not have been included if National Security had not intervened because the investigation had not revealed any evidence that Labwani had called on any country to initiate aggression against Syria.[79]

Commenting on the use of regular criminal courts to try Labwani and al-Bunni, a respected human rights lawyer expressed worry that as long as the judiciary is not independent, such trials before the ordinary criminal courts are simply "an attempt to legalize repression. It is a shame to drag the judiciary into this system of repression."[80]

Travel Bans

Syrian authorities routinely use travel bans as punishment for activists and dissidents. The use of such bans expanded dramatically in 2006. While there are no official statistics on the number of those banned from traveling, the Syria-based Committees for the Defense of Democratic Liberties and Human Rights (CDF) has

[78] The Supreme State Security Court had been regularly used in the past to prosecute human rights activists. See for example, Middle East Watch, *Syria – Human Rights Workers on Trial.*

[79] For more details, see "Syria: Activist's Trial Enters Final Stage," Human Rights Watch news release, April 7, 2007, http://hrw.org/english/docs/2007/04/07/syria15667.htm.

[80] Human Rights Watch interview with human rights lawyer (name withheld), Damascus, November 12, 2006.

published a list of over 110 activists banned from traveling.[81] However, the actual number is likely much higher.

In a typical example, Dr. Radwan Ziadeh, director of the Damascus Centre for Human Rights Studies, was traveling from Damascus to Amman, Jordan, on June 26, 2006, to attend an international conference on human rights and criminal justice organized by the Amman Centre for Human Rights Studies. Syrian security forces at the border prevented him from leaving the country. They did not explain the reason for the travel ban but indicated that the General Intelligence Agency (al-Mukhabarat al-`Ama) had issued the order and that Ziadeh had to report to them. [82]

Such restrictions constitute a violation of the activists' right to freedom of movement and an undue interference with their rights to freedom of expression and association. Under international law, everyone is free to leave his or her country. The International Covenant on Civil and Political Rights bars states from restricting someone's right to leave the country, except when the given restrictions are prescribed by law and are "necessary to protect national security, public order, public health or morals or the rights and freedoms of others," and are consistent with the other rights recognized in that treaty. Syrian security agents have issued travel bans in Syria without any explanation and without any judicial basis.

The UN secretary-general's special representative on human rights defenders, Hina Jilani, expressed concern in her March 2006 report about the lack of freedom of assembly and freedom of movement for defenders in Syria, in particular with respect to their participation in seminars and workshops abroad on human rights issues.[83]

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[81] Copy of list on file with Human Rights Watch.

[82] "Syria: Civil Society Activists Barred from Traveling," Human Rights Watch news release, July 12, 2006, http://hrw.org/english/docs/2006/07/12/syria13722.htm.

[83] UN Commission on Human Rights, Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, E/CN.4/2006/95/Add.5, March 6, 2006, http://www.ohchr.org/english/bodies/hrcouncil/4session/docs/A-HRC-4-37.doc (accessed June 20, 2007), paras. 1527-1543.

Other Forms of Harassment

Almost all the activists interviewed by Human Rights Watch reported that security agencies routinely question them about their activities. According to an activist in Homs, "we get called in for questioning by various security branches: Political Security, Military Security, Internal Security. They ask you about your role, your activities."[84]

In a typical incident, border guards stopped Aktham Nu`aissa, a long-time human rights activist, at Damascus airport as he was coming back from Paris on August 10, 2006. They told him that Branch 255 (Information Branch) of State Security wanted to speak to him and that he should report to them the following day. As soon as he got home, another security agency, Military Security, called him and asked him to go see them as well.[85]

In addition to being routinely asked to report on their own activities, one activist in CDF told Human Rights Watch that Political Security tried to pay a young member in CDF to follow the more senior members and report on them.[86]

Some activists have lost their jobs for their outspoken activities. Ossama Nu`aissa, the brother of Aktham Nu`aissa and an activist in his own right, was fired from his job as a medical specialist for children at the National Hospital in Lattakia on December 12, 2002, for his activities on behalf of detainees.[87] More recently, 17 state employees were fired from their jobs in June 2006 following their signing of the Beirut-Damascus Declaration, which called for an improvement in relations between Lebanon and Syria, and a subsequent statement calling for the release of 10 signatories of the declaration who were arrested in mid-May.

Most activists reported that security services usually exercised pressures directly on them and not their relatives. However, in a number of instances, activists told

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[84] Human Rights Watch interview with Homs-based activist, Homs, November 13, 2006.

[85] Human Rights Watch interview with CDF member, Damascus, November 11, 2006.

[86] Human Rights Watch interview with activist (name withheld), Lattikia, November 13, 2006.

[87] Ibid.

Human Rights Watch that their relatives also had come under pressure. As one activist told Human Rights Watch, "for any government job, you need to fill out a security sheet." In that sheet, you are asked about your relatives, so it causes problems."[88]

[88] Human Rights Watch interview with Homs-based activist (name withheld), Homs, November 13, 2006.

VI. Syria's International Legal Obligations

The right to freedom of association, and the associated rights to freedom of expression and assembly, are well established in international law. Syria has obligations under several international treaties to uphold these rights, including the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic and Cultural Rights (ICESCR). Syria ratified the ICCPR on March 23, 1976, and the ICESCR on January 3, 1976.

The government may restrict the right to freedom of association, but only on certain prescribed grounds and only when particular circumstances apply. According to Article 22 of the ICCPR:

> (1) Everyone shall have the right to freedom of association with others …
>
> (2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others …

The restrictions specified in Article 22 (2) should be interpreted narrowly. For example, terms such as "national security" and "public safety" refer to situations involving an immediate and violent threat to the nation. The government may impose restrictions only if they are prescribed by existing legislation and meet the standard of being "necessary in a democratic society." This implies that the limitation must respond to a pressing public need and be oriented along the basic democratic values of pluralism and tolerance. "Necessary" restrictions must also be proportionate: that is, carefully balanced against the specific reason for the restriction being put in place.[89] The UN Human Rights Committee has repeatedly

[89] Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rein: N.P. Engel, 1993), pp. 386-387.

highlighted the importance of proportionality.[90] In applying a limitation, a government should use no more restrictive means than is absolutely required.

The international covenants employ similar language to describe the rights of free expression and assembly. Article 19(3) of the ICCPR, for instance, states that the exercise of the right to freedom of expression carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be only such as are provided by law and are necessary "for respect of the rights or reputations of others or for the protection of national security or of public order (*ordre public*), or of public health or morals."

The lawfulness of government restrictions on the possession and distribution of pamphlets as well as other restrictions on the dissemination of information by NGOs and their members are subject to the same considerations of proportionality and necessity. Thus the government may prohibit the procurement and dissemination of military secrets, but restrictions on freedom of expression to protect national security "are permissible only in serious cases of political or military threat to the entire nation."[91] Since restrictions based on protection of national security have the potential to undermine completely freedom of expression, "particularly strict requirements must be placed on the necessity (proportionality) of a given statutory restriction."[92]

Article 21 of the ICCPR recognizes "the right of peaceful assembly," and qualifies the permissible restrictions in identical language to Article 22 (2). Respected scholars have noted that prohibitions or restrictions on freedom of assembly based on national security "are permissible only in serious cases of political or military threat to the entire nation." Prohibitions or restrictions on public order grounds "must … always remain the exception … The discourse of conflicting ideas is an essential feature of democracy."[93]

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[90] See, for example, Vladimir Petrovich Laptesevich v. Belarus, Communication 780/1997 of the Human Rights Committee. See also Richard Fries, "The Legal Environment of Civil Society," *The Global Civil Society Yearbook 2003*, Centre for the Study of Global Governance, London School of Economics, 2003, chapter 9.

[91] Nowak, *CCPR Commentary*, p. 355.

[92] Ibid., p. 357.

[93] Ibid., pp. 380 -81.

On December 9, 1998, the UN General Assembly adopted the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," commonly referred to as the Declaration on Human Rights Defenders. Article 5 of the Declaration states that all people have the right to assemble peacefully, to form, join or participate in NGOs, and to communicate with NGOs. Article 6 states that all individuals have the right to know, seek, or obtain information about all human rights and fundamental freedoms, as well as the right to freely publish, discuss or otherwise impart such information, knowledge, and views.

The different UN committees responsible for monitoring Syria's compliance with its treaty obligations have several times highlighted the government's need to ease restrictions on civil society.

In its July 2005 examination of Syria's ICCPR implementation, the UN Human Rights Committee stated:

> The Committee is concerned at the obstacles imposed on the registration and free operation of non-governmental human rights organizations in the State party and the intimidation, harassment and arrest of human rights defenders. It also continues to be deeply concerned about the continuing detention of several human rights defenders and the refusal to register certain human rights organizations.
>
> The State party should immediately release all persons detained because of their activities in the field of human rights and end all harassment and intimidation of human rights defenders. Furthermore, the State party should take urgent steps to amend all legislation that restricts the activities of these organizations, in particular state of emergency legislation which must not be used as an excuse to suppress activities aimed at the promotion and protection of human

rights. The State party should ensure that its law and practice allow these organizations to operate freely.[94]

[94] UN Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee: Syrian Arab Republic, CCPR/CO/84/SYR , August 9, 2005, http://www.ohchr.org/english/bodies/hrc/hrcs84.htm (accessed August 10, 2007), para. 12.

VII. Response of the International Community

The international community's response to the restrictions and harassment facing Syrian human rights activists has been to try to increase their institutional capacity, and to monitor their arrests and trials. However, these efforts have generally been limited in scope and have failed to change the behavior of the Syrian authorities.

The EU, EU countries, the US, and Canada, have provided training and capacity building for Syrian human rights activists to assist them in institutionalizing their work. For instance, many Western embassies in Damascus have offered practical courses to activists in writing grant proposals, effective management of NGOs, and even English.[95]

However, the impact of these efforts has been restricted to a few individuals because many younger activists are fearful that any association with a foreign embassy will expose them to additional scrutiny by the security services. [96] In addition, a number of activists told Human Rights Watch that since they are not legally registered, they don't have the institutional framework to benefit from capacity building programs.[97]

When the European Commission tried to further its activities by directly funding a center in Damascus that will provide human rights training, the Syrian authorities shut down the center before it even became operational, and jailed and fined Anwar al-Bunni, the Syrian human rights lawyer selected to run the center (see Section V.C, above).

In addition to offering limited logistical support to local human rights activists, Western diplomats in Damascus have been active in monitoring the detention and trial of activists. Diplomats attended the trials of prominent activists like Dr. Kamal Labwani (see Section V.C) and Anwar al-Bunni before the Damascus criminal courts.

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[95] Human Rights Watch interview with delegate from the European Commission (name withheld), Damascus, November 16, 2006.

[96] Human Rights Watch interview with human rights lawyer (name withheld), Damascus, November 11, 2006.

[97] Ibid.

Since 2004, diplomats can attend trials at the State Supreme Security Court.[98] While the presence of diplomats at trials is important and represents a source of relief for the activists and their families, it has not had any tangible effect on guaranteeing fairer trials for the activists as evidenced by the harsh sentences against Labwani and al-Bunni.

The EU, EU countries, the US, and Canada, have also issued a number of public statements condemning the harassment and arrests of human rights activists. For example, since 2005 the European Parliament has adopted four resolutions calling on Syria to respect the rights of activists; [99] in 2007 so far the EU Presidency has issued three separate statements expressing its concern about the sentences imposed on four human rights activists; [100] in April 2007, the EU and US issued a joint statement noting that "they remain deeply concerned about the role Syria plays within the region and its repression of civil society; "[101] and the US State Department and the White House have also issued a number of statements condemning the harassment, arrest, and sentencing of Syrian activists.[102]

However, these condemnatory statements have had little impact on the Syrian authorities. Part of the problem is that the governments and international institutions issuing these statements have not incorporated the requirement that Syria needs to respect human rights into their core foreign policy. This was most

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[98] Human Rights Watch interview with European diplomat (name withheld), Damascus, November 15, 2006.

[99] European Parliament resolution, "Political Prisoners in Syria," P6_TA(2005)0340, September 8, 2005; European Parliament resolution, "European Parliament Resolution on Syria," P6_TA(2006)0279, June 15, 2006; European Parliament resolution, "European Parliament resolution containing the European Parliament's recommendation to the Council on the conclusion of a Euro-Mediterranean Association Agreement between the European Community and its Member States, of the one part, and the Syrian Arab Republic, of the other part," P6_TA(2006)0459; October 26, 2006; and European Parliament resolution, "European Parliament resolution of 24 May 2007 on Syria," May 24, 2007.

[100] "EU Presidency statement on the sentencing of Syrian human rights lawyer Anwar Al-Bunni," April 24, 2007, http://www.eu2007.de/en/News/CFSP_Statements/April/0424Syrien.html (accessed June 1, 2007); "EU Presidency statement on the sentencing of Syrian opposition figure Dr Kamal Labwani," May 11, 2007, http://www.eu2007.de/en/News/CFSP_Statements/May/0511Syrien.html (accessed June 1, 2007); "EU Presidency Statement on the sentencing of intellectual Michel Kilo and political activist Mahmoud Issa in Syria," May 14, 2007, http://www.eu2007.de/en/News/CFSP_Statements/May/0514Syrien.html (accessed June 1, 2007).

[101] "2007 U.S.-EU Summit Promoting Peace, Human Rights and Democracy Worldwide," April 30, 2007, http://www.whitehouse.gov/news/releases/2007/04/20070430-13.html (accessed June 1, 2007).

[102] For a general overview, see US State Department, Bureau of Democracy, Human Rights and Labor, "Supporting Human Rights and Democracy: The U.S. Record 2006," April 5, 2007, http://www.state.gov/g/drl/rls/shrd/2006/80589.htm (accessed June 1, 2007); White House, "Statement Condemning Sentencing of Political Prisoners in Syria and Vietnam," May 11, 2007, http://www.whitehouse.gov/news/releases/2007/05/20070511-11.html (accessed June 1, 2007).

evident when Javier Solana, the EU foreign policy chief, failed to publicly raise the issue of Syria's repression of human rights activists when he met Bashar al-Asad in March 2007.[103]

A number of European and American diplomats in Syria told Human Rights Watch that they did not have a unified view on the measures that should be taken to improve Syria's human rights record, and that a number of their governments were keen to engage with Syria even before it improved its human rights record because the hope was that better relations will increase their leverage with the authorities.[104]

This approach has led many Syrian activists to feel that the international community is not committed to protecting them or to improving Syria's human rights record. One of them told Human Rights Watch, "We have a real question, what is the extent of their credibility on democracy and human rights?"[105]

[103] See "Summary of Remarks by Javier Solana, EU High Representative for CFSP, at the press conference with Mr. Walid Muallem, Minister of Foreign Affairs of Syria", March 14, 2007, www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/discours/93196.pdf (accessed on June 1, 2007).

[104] Human Rights Watch interview with European diplomat (name withheld), Damascus, November 14, 2006.

[105] Human Rights Watch interview with activist (name withheld), Damascus, November 11, 2006.

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