

**NGO SHADOW REPORT FOR THE REVIEW OF
THE SYRIAN ARAB REPUBLIC UNDER THE UN
CONVENTION AGAINST TORTURE (CAT)**

**Submitted by Kurdish Human Rights Project
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KURDISH HUMAN RIGHTS PROJECT

The Kurdish Human Rights Project ('KHRP') is an independent, non-political, non-governmental human rights organisation founded in 1992 and based in London, England. KHRP is committed to the promotion and protection of the human rights of all persons living within the Kurdish regions of Turkey, Iran, Iraq, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its UK office is located in central London, where it is not subject to the intimidation and censorship faced by NGOs (Non-Governmental Organisations) in these regions. KHRP is both a registered charity and limited company, and is funded through charitable trusts and donations.

INTRODUCTION

1. This report is not a comprehensive analysis of torture in Syria. Rather it focuses upon cases of mistreatment of Kurdish people in Syria which undermine the submissions made in the Initial Report submitted by the Syrian Arab Republic in July 2009. Syrian Kurds are stateless peoples who continue to be targeted by the Syrian authorities and subjected to ill treatment, characteristically in the form of arbitrary arrests, incommunicado detention, extrajudicial killings, disappearances, as well as torture and deaths in custody.
2. In respect of Syria's implementation of the Convention against Torture, KHRP advances three principal submissions:(1) Syrian law must **criminalise** the offence of torture; (2) Syria must properly **enforce** legislation aimed at preventing and punishing acts of torture; and (3) Syria must properly **investigate** allegations of torture against Syrian Kurds and, where torture is established to have occurred, provide appropriate **redress**. KHRP would like to thank International Support Kurds in Syria (SKS) for its assistance in the compilation of this report.

ARTICLES 1 & 4

3. There is no legislation in Syria establishing a crime of torture as defined in Article 1(1) of the Convention. Article 28(3) of the Constitution prohibits "physical or mental torture" and "degrading treatment", but fails to define what these terms constitute. The crime of battery in order to extract a confession, or information about an offence, does not criminalize causing mental suffering.¹ Nor does it prohibit acts for purposes such as punishment or for any reasons based on discrimination. The maximum sentence of three years' imprisonment for this offence is not proportionate to the gravity of the crime of torture. It is submitted that Syria should enact a specific offence of torture consistent with Article 1 of the Convention.

ARTICLE 2

4. Consistent allegations made by detainees have described the use of methods which clearly constitute torture under the Convention's definition and the jurisprudence of international tribunals. In several cases these allegations are substantiated by testimony, interrogators in court,² medical evidence and reports by human rights monitoring bodies.³ Most torture victims are left disabled and others have died. The following cases, raised by KHRP, exemplify its concerns about the use of torture in Syrian prisons:
 - (i) **Osman Mihemed Silêman Hecî**⁴, who served as a Syrian MP between 1991 and 2007, was tortured to death. Osman was arrested on 27 November 2007 and subsequently tortured in prison. On 22 January 2008 he was taken to El-Kindi Hospital by Syrian officials and registered with the name of "Eli Ehmed" to hide his identity. He died in hospital on 18 February 2008 from his injuries.
 - (ii) **Rojin Jumaa Rammo**,⁵ born in 1969 in Turbaspiya, was a member of a woman's organisation called "Sterk". She was arrested on 29 July 2009 by security forces in Kobani, Syria. Rammo was subjected to torture in prison and subsequently admitted to

¹ Article 391(1) of the Criminal Code

² April 1995(6) Amnesty International Report

³ Amnesty International reports, February 2007 and 2009; The Home Office, "Country of Origin Report on Syria;

⁴ KHRP press release, "Kurdish Politician Tortured to Death in Syria", 20 February 2008

⁵ UA sent to the Office of the High Commissioner for Human Rights by KHRP on 15 September 2009

- Al- Kindi hospital on 21 August 2001 under a different name. She has since been granted amnesty by legislative decree.
- (iii) **Sheikh Mohammad Maashuq Al Khaznawi**⁶ died in June 2005 in hospital, where he was taken in secret by security officials, as a result of his injuries attributable to being tortured in detention.
 - (iv) Sisters **Esmā Murad Samî** (d.1960) and **Eyhan Murad Samî**⁷ (b.1973) both from al-Muabdah in al-Malikiyah province, were arrested by the Political Security Directorate in Al-Hasakah on 3 August 2009. They have been tortured and forced to collaborate with the security forces against fellow Kurds. On 17 September the sisters were released by the single military judge in al-Qamishli, to whom the case has been transferred. Their trial is pending before the court.
 - (v) **Mohammed Musto Rashid**,⁸ from Mabatli in the Kurdistan district of Afrin, Syria, died on 19 January 2010 as a result of being subjected to torture in Aleppo Central prison in Syria. Mr Rashid and his brother, **Zahr al-Din Khorshid Ibish**, were arrested on 1 January 2010 following security raids on their house.
5. Legislative measures preventing acts of torture against persons undertaking military service have not been implemented effectively. There has been a growing trend in the number of Kurdish conscripts who have died whilst carrying out their mandatory military service: the number of deaths among conscripts' amounts to 33 since the uprising on 12 March 2004, of which 16 died in 2009.⁹ According to the Syrian authorities, the individuals concerned committed suicide. However, reports from families and severe injuries on returned bodies indicate that they were tortured and killed because of their political activities.¹⁰ KHRP has raised its concerns regards torture in these circumstances in respect of the following persons:
- (i) **Barkhoddan Khalid Hammo**¹¹ from Qobani town died in al-Hassaka on 19 January 2009.
 - (ii) **Mohammad Bakker Sheikh Daada**¹² died whilst he was in the army on 13 January 2009.
 - (iii) **Ibrahim Rouf'att Charwish**¹³ from Afrin died in Damascus.
 - (iv) **Siwar Tammo**¹⁴ from Durbassia town died in Aleppo on 21 December 2008.
6. Syria has implemented legislation aimed at outlawing arbitrary arrests,¹⁵ incommunicado detention,¹⁶ the use of force against detainees,¹⁷ and which guarantee the rights of detainees to medical treatment and to contact with their families.¹⁸ According to international human rights jurisprudence, use of these methods constitutes torture.¹⁹ Despite the legislative safeguards, the cases raised by KHRP with OHCHR detailed below, demonstrate that use of these practices against politically active Kurds is widespread and habitual. This is of

⁶ Ibid.

⁷ Ibid.

⁸ UA sent to the Office for the High Commissioner for Human Rights by KHRP on 1 March 2010.

⁹ Support Kurds in Syria, "Kurdish conscript Khalil Bozan Sheikh Muslim is one of the new victims of killings in mysterious circumstances in the Syrian army", 11 December 2009

¹⁰ Middle East Newline, "Syria Said to Kill Its Kurdish Soldiers, 29 January 2009; Kurdish Aspect, "A Series of killings of Kurds in Syria", 26 January 2009; Support Kurds in Syria, "Continued Killing of Kurdish Conscripts in Syria", 9 April 2010; Support Kurds in Syria, "Ez al-Din Morrow – the latest Kurdish conscript to die in Syria" 24 December 2009; Support Kurds in Syria "YASA report July 2009", 6 September 2009. (all online)

¹¹ UA sent to the Office for the High Commissioner for Human Rights on 30 January 2009

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Article 214 of the Police Service Regulations.

¹⁶ Article 105 of the Code of Criminal Procedures.

¹⁷ Article 30 of the Prison Regulation of 1929 and Act No. 496 of 1957

¹⁸ Committee against Torture, "Consideration of reports submitted by States parties under article 19 of the Convention: The Syrian Arab Republic," 16 July 2009, paras 98 and 99

¹⁹ UN General Assembly, UN Doc. A/RES/60/148, 16 December 2005, Article 11; UN Convention on Human Rights, UN Doc. E/CN.4/RES/2005/39, 19 April 2005, article 9.

particular concern in view of the fact that Kurdish political prisoners are at grave risk of being tortured in Syrian prisons- a trend that began over a decade ago.²⁰

- (i) **Mustafa Jum'a Daqori**,²¹ (b.1947) was the deputy chairperson of the Syrian Kurdish Azadi Party, when he was arrested by Syrian security forces on 6 January 2009. It is believed that he was transferred to Damascus on 10 January 2009 and was held by the military secret service in the Fir'a Vilistin near the Syrian capital.
- (ii) **Mohammad Sa'id Hossein 'Omar** and **Sa'dun Mahmoud Sheikhu**²² are also members of the committee of the Kurdish Azadi Party. They were arrested by the Syrian military security services in the towns of Romelan and Raas al-Ein on 26 October 2008. All three are currently held in Adra prison.
- (iii) **Mohammad Sa'id 'Omar** was hospitalised after having suffered a stroke on 24 April. As a result he is now partially paralysed and has impaired mobility and speech. Guards chained him to his bed whilst he was in hospital. He received medication from his family when they make weekly visits to him in prison.
- (iv) **Naser Daqori**,²³ (b.1962), who is married with three children, was arrested in Amoda city on 11 January 2009. He was subsequently transferred to the political security service in Hasaka. He has since been released.
- (v) **Darweesh Ghaleb**,²⁴ ran Kurdish language courses, established the Committee for Learning the Kurdish Language and was a member of the Kurdish PEN. He was taken from his home by Syrian security forces in Qamishli on 13 January 2009. He has since been released.
- (vi) **Kadar Mahmoud Saadoh**²⁵ was arrested on 16 January 2010 in Qamishli city by intelligence security services. He is held in incommunicado detention.
- (vii) **Salah Saed Unis**, a Kurdish activist, was arrested on 31 October 2008 by military security services in Amuda town and is held in incommunicado detention.
- (viii) **Mesh'al al-Tammo**,²⁶ a 51 year old spokesperson for Kurdish Future Current, was arbitrarily arrested on 15 August 2008 by Syrian Air Force security officers. Mr al-Tammo was held in incommunicado for twelve days. During his initial detention he was transferred to Adra prison, which is infamous for torture amongst political prisoners²⁷ and where is still thought to be detained.
- (ix) **Abdelbaqi Khalaf**²⁸ was arrested by State Security Officers on 11 September 2008 in Qamishli. Mr Khalaf is an advocate for democracy and political unity within the Kurdish community in Syria. He is still held in incommunicado detention.
- (x) **Munther Ahmed** and his brothers **Nedal Ahmed** and **Riad Ahmed**²⁹ were planning to set up a Kurdish cultural organisation when they were arrested by state security officers at their homes in Qamishli on 3 September, 11 September and 8 October 2008 respectively. They are in incommunicado detention. The grounds for their arrest are unknown.
- (xi) **Falak Naz Khalil** and **Ms Afra Mohammad Musa**³⁰ were arrested by security forces on 3 August 2009 following a raid on their houses in the Zorava district of Damascus. They were members of Yekitiya Star a women's union belonging to the Democratic Union Party (PYD). They participated in a hunger strike in prison due to their torture and ill treatment in prison and were subsequently held incommunicado at an unknown prison. The detainees had their charges dropped, together with another Kurdish detainee called **Mohammed Khalil Khalil**, on 22 March 2010 due to the amnesty legislative decree 22 that was issued on 23 February 2010.

²⁰ The Damascus Centre for Human Rights Studies Report, August 2006

²¹ UA sent to the Office of the High Commissioner for Human Rights by KHRP on 22 January 2009

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ UA sent to the Office of the High Commissioner for Human Rights by KHRP on 1 July 2009

²⁷ See Amnesty International reports of 2007 and 2009

²⁸ UA sent to the Office of the High Commissioner for Human Rights by KHRP on 7 September 2009

²⁹ Ibid.

³⁰ UA sent to the Office of the High Commissioner for Human Rights by KHRP on 15 September 2009

- (xii) **Berzani Karro**,³¹ (20) was arrested at Damascus airport in Syria by the security forces on 27 June 2009, following his deportation from Cyprus. He was permitted to make one phone call to his family after being arrested, during which he told his family that he was going to be taken to the al-Fayha Security branch in Damascus. Mr Karro is being held in incommunicado detention, without access to a lawyer, and has not been charged with a criminal offence. There is a strong possibility that Mr. Karro requires medical treatment.
 - (xiii) **Nashat Mustafa Hanan**,³² (45) from Aleppo, was detained by Syrian security officers on 27 October 2009. Mr Hanan's family have no information about his condition and have been prevented from visiting him. They believe that Mr. Hanan was transferred to the Political Security Directorate in Damascus soon after his disappearance.
 - (xiv) **Ms Naziye Ahmed Kejal**,³³ a member of the PYD has been missing since 2004 and is thought to be at grave risk of torture.
 - (xv) **Mustafa Ismail**,³⁴ a lawyer and a member of the non-governmental organ "Defend International", was arrested in Aleppo on 12 December 2009 and was held in incommunicado detention without access to his family, a lawyer, or any medical treatment until 22 March 2010 He is currently in the central prison in Aleppo.
7. Under the state of emergency, which has remained in force in Syria since 8 March 1963, the judicial system and constitutional rights were superseded by martial law.³⁵ Martial law offences deemed to affect state security are tried in State Security Courts, whose presiding members are appointed by presidential decree. Nor are verdicts from these courts subject to appeal, but are rather subject to the president's ratification. These changes have facilitated and justified the mass arbitrary arrests of Kurdish political groups. As has been highlighted by the cases referred by KHRP to the special procedures of the OHCHR, those detained have frequently been tortured whilst held in total isolation from the outside world for months or years without charge or trial.³⁶ KHRP submits that the law should be amended so as to reflect international human rights law and Syria's commitments under the Convention.

ARTICLE 11

8. Although the inspection of prisons by the Ministry of Justice, the Ministry of the Interior and the Prosecutor-General as well as by investigating judges and justices is a significant advancement in safeguarding the humane treatment of prisoners, their implementation has not been sufficient to eradicate torture in Syrian prisons.³⁷

ARTICLES 12 & 13

9. Complaints of torture are overseen by the Ministry of Presidential Affairs which raises serious concerns about independence and impartiality. However, out of the cases that KHRP has raised, there have been no investigations into the "disappearances", extrajudicial executions, or torture and ill-treatment, including deaths in custody and military service.
10. Furthermore, pursuant to presidential decree No.64 signed on September 30 2008, the police, state security forces, and customs police personnel are provided with state immunity while they carry out their duties.³⁸ The killings of **Sammy Maatouk** and **Johnny Suleiman**, in the Al-Mushayrefeh village took place shortly after the decree was signed. Those responsible for their alleged deliberate killings have escaped prosecution as a result of this law.³⁹

³¹ UA sent to the Office of the High Commissioner for Human Rights by KHRP on 13 November 2009

³² UA sent to the Office of the High Commissioner for Human Rights by KHRP on 17 November 2009

³³ UA sent to the Office of the High Commissioner for Human Rights on 4 December 2009

³⁴ KHRP Press release, "KHRP Calles for Immediate and Unconditional Release of Mr. Mustafa Ismail", 21 December 2009

³⁵ See, for example, The State of Emergency Law 1963, Arts 4 and 6

³⁶ See paragraph 4 above

³⁷ Ibid.

³⁸ Reform Party of Syria, "Damascus Declaration Cites New Law Allows for Crimes Against Humanity", October 21 2008

³⁹ Ibid.

11. As well as ensuring that complaints about torture and other inhumane treatment are investigated by an independent and impartial body, Syrian law should also require that all documents pertaining to the conduct of all interrogations, including those relating to national security, and the names of security personnel be kept public, making it possible for a complainant to know if the actions of which he or she complains were authorised by the state.

ARTICLES 14 AND 15

12. Although Syrian law ostensibly provides for avenues of redress to victims of torture,⁴⁰ no disciplinary action or prosecutions have ensued against any public official, despite flagrant breaches of the Convention and the prevailing laws, in any of the aforementioned cases. Nor have any of the aggrieved parties received any compensation.
13. The use in court of confessions extracted from defendants or witnesses by interrogation methods amounting to torture or other ill-treatment is widespread due to weaknesses in the law of evidence and judicial precedents.⁴¹ For instance, there appears to be no law regulating the admissibility of out-of-court statements by an accomplice. A codified and comprehensive document regulating the criminal procedure and good practice of the police and security personnel would be an important advance in the protection of suspects from ill-treatment, as would a requirement that all stages of a suspect's interrogation be recorded by video.⁴²

ARTICLE 16

14. The imprisonment of Kurdish activists and human rights defenders for vague offences such as "weakening nationalist sentiment" and/or "inciting sectarian or racial strife or provoking conflict between sects and various members of the nation" has become widespread and is symptomatic of the systematic repression of the Kurdish people. Sentences for several similar offences are implemented concurrently, totalling disproportionate amounts of time usually spent in isolation or undertaking hard labour. The prisoners are not allowed access to their lawyers or to their families. Kurdish members of the PYD incarcerated in Adra prison under these circumstances resorted to a hunger strike on October 30 2009, after having submitted numerous petitions to the government. The hunger strike was a protest against their arbitrary arrest, torture and isolation.⁴³
15. With respect to minors, the reform measures set out in the Juveniles Act No. 18 and 1974 only apply to children under the age of 15. The Prison Regulations do not specifically safeguard against the ill-treatment of young persons beyond providing for their separation.⁴⁴ For example, the rules do not provide the parent or relative with the opportunity to be present during any questioning of the minor. It is submitted that Syria should classify persons under the age of 18 as juveniles so as to extend the protection offered by the Juveniles Act to young persons.

**KHRP
April 2010**

⁴⁰ Committee against Torture, "Consideration of reports submitted by States parties under article 19 of the Convention, Syrian Arab Republic", 16 July 2008, paras 103-104 and 186-191

⁴¹ See, for example, paragraph 4(iv); Amnesty International Report 2009

⁴² See, for example, Israel's Criminal Procedure (Interrogating Suspects) law, 2002.

⁴³ UA sent to the Office of the High Commissioner for Human Rights on 4 December 2009

⁴⁴ Committee against Torture, "Consideration of reports submitted by States parties under article 19 of the Convention, Syrian Arab Republic", 16 July 2008, paragraph 76