



**Submission to the UN Universal Periodic Review
of the Republic of Syria**

*For consideration by the Office of the UN High Commissioner for Human Rights for
submission to the 12th session of the Working Group on the UPR (3-14 October 2011)*

Submitted by the Kurdish Human Rights Project on 10 March 2011

Kurdish Human Rights Project

11 Guilford Street

London, WC1N 1DH

Tel: 0044 207 405 3835

Fax: 0044 207 404 9088

www.khrp.org

The Kurdish Human Rights Project (KHRP) is a UK registered charity committed to the promotion and protection of the human rights of all persons living within the Kurdish regions. Its innovative and strategic approach to international human rights practice, combined with a long-term and consistent presence in the region, enables it to secure redress for survivors of human rights violations and prevent abuse in the future.

<p>KHRP SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW OF THE REPUBLIC OF SYRIA</p>
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INTRODUCTION

1. This submission focuses on several key human rights issues associated with the largest minority group in the Republic of Syria (hereafter, Syria), the Kurds, which number 1.7 million or almost 10 per cent of Syria's population.¹ However, it is hard to accurately confirm the true figure as the State does not record numbers disaggregated by ethnicity.²
2. This group experiences a range of significant and systemic human rights violations, including arbitrary arrest and detention, torture and ill-treatment of those detained by State agents, gender discrimination and violence, fair trial issues, restrictions on freedom of expression and association, exclusion from social and political participation, and discriminatory practices towards minorities and cultural and language rights restrictions.³
3. In addition, the Kurds face significant discrimination and inequality generally, in part due to the State's fear of a separatist agenda. However, as Syria does not officially recognise its Kurdish population as nationals or as an ethnic minority⁴ it is difficult to address widespread discrimination and inequality in such circumstances.
4. Within this context, we raise the following two issues faced by many members of the dispersed and marginalised Kurdish minority population in Syria:
 - (a) The human rights violations experienced by stateless Kurds in Syria;
and
 - (b) The Kurds as a target of torture, ill-treatment and related human rights violations.

A THE HUMAN RIGHTS VIOLATIONS EXPERIENCED BY STATELESS KURDS

¹ United Kingdom Foreign & Commonwealth Office, *Annual Report on Human Rights 2009* (March 2010) via <http://www.fco.gov.uk/en/global-issues/human-rights/> (last accessed 9 March 2011), 159. Another source states that Kurds make up 9.7 per cent of Syria's 22 million person population (approximately 2 million), see Central Intelligence Agency, 'The World Factbook: Syria' (March 2011) at <https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html> (last accessed 9 March 2011).

² Robert Lowe, 'The Syrian Kurds: A People Discovered', Chatham House: Middle East Programme (2006), 2, at http://www.chathamhouse.org.uk/files/3297_bpsyriankurds.pdf (last accessed 9 March 2011).

³ See, generally, Kerim Yildiz, *The Kurds in Syria: The Forgotten People* (Pluto Press, London, 2005), Chapters 8, 9 and 10. See, also, the Annex for examples of restrictions on the language and cultural rights of Kurdish people in Syria.

⁴ The Syrian Arab Republic Constitution, 13 March 1973, Preamble and Articles 1 and 43; Yildiz, above note 3, 34.

5. The October 1962 census stripped more than 120,000 Kurds of their Syrian citizenship overnight⁵ and Syria continues to refuse to reinstate and recognise nationality or citizenship for the affected population,⁶ which numbers up to 360,000 people today.⁷ Although the Syrian government made an official announcement in late 2006 that it would address this issue, when KHRP met with the government in 2007 we were told ‘it was a sensitive issue’, and there has been little, if any, progress on this issue to date.⁸
6. Stateless Kurds fall within the following two categories:
 - (a) *Ajanib* (meaning foreigners): people in this category may obtain identity papers⁹ but face restrictions as compared to the general population (for example, regarding travel outside Syria, State employment and marriage registration); and
 - (b) *Maktoumeen*: this term indicates unregistered stateless people in Syria. They cannot obtain identity papers and are subject to even stricter restrictions in terms of travel, employment and other aspects of life.
7. Stateless status gives rise to a variety of social, economic, legal and political hardships, with Kurds facing restrictions on their legal and human rights, a lack of access to resources, and inequality. This is illustrated further below.
8. **Acquiring Nationality/Citizenship:** At birth, the children of two stateless Kurds inherit their parents’ status. As women cannot pass their nationality on to their children, a Syrian woman married to a stateless man will be unable to register her children as Syrians.¹⁰ As stateless Kurds are not permitted to travel outside Syria, the situation is maintained.¹¹ This is in violation of Syrian legislation, and international law (see Annex for examples).
9. **Access to Education:** Generally, all Kurdish-speaking children face difficulties in education as classes are taught in Standard Arabic, with little, if any, education offered in Kurdish.¹² This situation is exacerbated for stateless Kurdish children, as their parents often have problems obtaining the required documents to register them in school,

⁵ Yildiz, above note 3, 34.

⁶ KHRP submission to UNHCHR, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (June 2010) at http://khrp.org/khrp-news/human-rights-documents/cat_view/46-2010-publications.html?limit=20&limitstart=0&order=name&dir=DESC (last accessed 9 March 2011), 41.

⁷ The estimated number of stateless Kurds varies between 300,000 to 360,000, see: UNHCR, ‘2011 UNHCR country operations profile - Syrian Arab Republic’ (undated) at <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486a76> (last accessed 9 March 2011); KurdWatch Report 5, *Stateless Kurds in Syria: Illegal Invaders or Victims of a Nationalistic Policy?* (KurdWatch, Berlin, March 2010), 13-14; KHRP, above note 6, 41.

⁸ KurdWac, above note 7, 24-25.

⁹ While Syrian identity cards are usually green, cards for this group are differentiated by being coloured red and marked with ‘Ajanib’.

¹⁰ Alessandra Galié and Kerim Yildiz, *Development in Syria: A Gender and Minority Perspective*, (KHRP, London, 2005) at http://khrp.org/khrp-news/human-rights-documents/cat_view/13-2005-publications.html (last accessed 9 March 2011), 54.

¹¹ Yildiz, above note 3, 97.

¹² KHRP, above note 6, 48.

particularly if the school is located far away from the child's place of birth. Access to education continues to be constrained throughout the child's development, with serious implications for subsequent employment opportunities (see Annex for further details).

10. This situation is compounded for minority girls, as they are very rarely educated even compared to minority boys. As a consequence, these girls have very limited job opportunities and even fewer chances of escaping early forced marriages or prostitution.¹³
11. **Employment:** Stateless Kurds are precluded from working in certain professions requiring Syrian citizenship (for example, employment with the State), limiting their employment options significantly. Therefore, they (especially Maktoumeen without identity cards) often find themselves working in the informal sector on an illegal basis, making them vulnerable to exploitation by employers who often refuse to pay them in the knowledge that they will be unable to complain to State authorities.¹⁴
12. Access to employment is even harder for stateless female Kurds, as women can work only during the day and only in occupations that do not damage their health or threaten their morals (the latter term is undefined, with men not subject to this requirement).¹⁵
13. **Property Ownership:** Stateless people are unable to legally own property in Syria, as they cannot obtain deeds or register either property or vehicles (see Annex for further details).¹⁶ Nevertheless, they still have to pay property tax on the land they use. Registering property in the name of a contact with Syrian nationality can be risky due to the lack of legal certainty.
14. **Marriage:** Explicit discrimination exists in relation to marriage options for stateless Kurds. For example, only marriages between women with Ajanib status and men with Syrian nationality/citizenship are legally recognised. Conversely, marriages between women with Syrian nationality and men with Ajanib status will not be registered.¹⁷ This has serious implications concerning who parents will allow their children to marry, registration of property in a marriage and subsequent inheritance rights.
15. **Freedom of Movement:** Stateless Kurds in Syria are effectively trapped in Syria as they cannot obtain passports or other relevant travel documentation.¹⁸ It is a criminal offence to leave Syria without proper documentation. Those people returned to the country after attempts to seek asylum abroad face arrest and arbitrary detention upon return, as such acts are perceived as opposition to the Syrian government (see Annex for examples).¹⁹ Maktoumeen Kurds also face restrictions on internal travel. For example, needing to

¹³ Galié and Yildiz, above note 10, 59.

¹⁴ KHRP, above note 6, 48.

¹⁵ Galié and Yildiz, above note 10, 55.

¹⁶ KHRP, above note 6, 48.

¹⁷ Yildiz, above note 3, 99.

¹⁸ Ibid.

¹⁹ KHRP, above note 6, 42.

obtain permission from State security authorities to stay at a hotel, and to obtain a letter from the village *mukhtar* to travel intrastate.²⁰

16. **Freedom of Association and Assembly:** The growing political calls (particularly since the March 2004 riots where 30 people were killed, 160 injured, and hundreds of Kurds arrested and tortured) to recognise Kurdish human rights has caused Syrian authorities to implement harsh policies of increased repression against assembly by Syrian Kurds.²¹ Kurds with political associations are especially targeted by the Syrian government (see Annex for examples).

B TORTURE AND ILL-TREATMENT AGAINST THE KURDS

17. The use of torture and ill-treatment by State agents remains widespread in Syria,²² as does gender violence, as well as arbitrary arrest, incommunicado detention, death in custody and death during military service.²³ The potential for such events is increased by the state of emergency in effect since 1963, which elevates emergency laws above State law and concentrates executive, legislative and judicial powers.
18. Whilst Syria's Constitution prohibits torture in the forms of physical, mental or humiliation,²⁴ Syrian legislation does not include a definition of the acts that constitute torture. People may be unaware whether or not they are victims and there is no standard against which to assess any offence.²⁵ Furthermore, it does not prohibit acts for purposes such as punishment or for any reasons based on discrimination.²⁶
19. The Kurdish communities in Syria are a target for such adverse practices by the State. For example, political activity outside the Baath Party or PNF is illegal and so covert

²⁰ Yildiz, above note 3, 100.

²¹ Syrian Penal Code, Article 336: 'any gathering of more than seven people with the aim of protesting a decision or measure taken by the public authorities shall be deemed as a riot that is punishable by jail for between one and twelve months.' See also, Human Rights Watch, *Group Denial: Repression of Kurdish Political and Cultural Rights in Syria* (Human Rights Watch, New York, 2009), Part II: Repression of Public Gatherings since March 2004; Amnesty International, 'Syria – Amnesty International Report 2010: Human Rights in the Syrian Arab Republic' (2011) at <http://www.amnesty.org/en/region/syria/report-2010> (last accessed 9 March 2011).

²² The Committee Against Torture has reported widespread use of torture, ill-treatment, death in custody and incommunicado detention throughout the Syrian criminal justice system, against people belonging to the Kurdish minority, in large part stateless and in particular political activists of Kurdish origins, see: Committee Against Torture, 'Concluding observations of the Committee against Torture: Syrian Arab Republic' (Forty-fourth session, 26 April – 14 May 2010) at <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.SYR.CO.1.pdf> (last accessed 9 March 2011), 3.

²³ Yildiz, above note 3, 54; KHRP, above note 3, 41.

²⁴ Constitution of the Arab Republic of Syria, 13 March 1973, Article 28(3).

²⁵ Committee Against Torture, above note 22.

²⁶ KHRP, 'NGO Shadow Report for the Review of the Syrian Arab Republic Under the UN Convention Against Torture' (KHRP, London, April 2010), via http://khrp.org/khrp-news/human-rights-documents/cat_view/46-2010-publications.html?limit=20&limitstart=0&order=name&dir=DESC (last accessed 9 March 2011), 1.

Kurdish political parties are viewed as a separatist threat²⁷ and face persecution and arbitrary detention, and charges of belonging to ‘illegal’ organisations.

20. Violence, rape, and honour killings occur frequently, with young Kurdish girls particularly susceptible to the inaccessible nature of the legal system and its inadequacy, indifference of the police, and indirect legal justification of violence.²⁸ Further, Syria’s public health policies do not consider the issue of gender-based violence, which has grave consequences in respect of women’s health.²⁹
21. There is also a growing trend of deaths of Kurdish conscripts who have died whilst carrying out their military service and whose bodies were returned to the families with evidence of severe injuries.³⁰ 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.³¹
22. In relation to such issues, Syria fails to meet its human rights due diligence obligations sufficiently, with a lack of investigation into acts of torture or ill-treatment³² and widespread immunity enjoyed by State security services engaging in such acts. For gender-based violence, rapists and killers are very rarely investigated or prosecuted and often escape punishment by marrying their victims. Women in some cases resort to prostitution to escape these forced marriages.³³
23. Examples of arbitrary and incommunicado detention of Kurdish individuals, the targeting of political activists and others accused of separatist agendas, and suspicious deaths of Kurds during military service are all included in the Annex. It should be noted, however, that these examples are not isolated events but are indicative of widespread practice.³⁴

²⁷ KHRP, above note 6, 42.

²⁸ Galié and Yildiz, above note 10, 56.

²⁹ UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health - Visit to Syria 6-14 November 2010, ‘Preliminary Observations’ (December 2010) at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10532&LangID=E> (last accessed 9 March 2011).

³⁰ KHRP, above note 6, 42.

³¹ Ibid, 44.

³² KHRP, ‘Human Rights and the Kurds in Syria: Discrimination and Repression’ (2008) (Speech Delivered by Deputy Director Rachel Bernu) at http://khrp.org/khrp-news/human-rights-documents/cat_view/42-2008-publications.html (last accessed 9 March 2011), 2.

³³ Galié and Yildiz, above note 10, 56.

³⁴ KHRP, above note 6, 41.

ANNEX: FURTHER DETAILS IN SUPPORT OF STATEMENTS MADE IN SUBMISSION

Language and cultural rights

24. For many years, the Syrian government has placed significant restrictions on the use of the Kurdish language in Syria and expressions of Kurdish culture. Examples of such constraints in practice include:

(a) Kurdish people face severe restrictions on the use of their mother tongue language.

In this regard, Decree Number 1012/S/25, issued in 1986, forbade the use of Kurdish in the workplace, cinemas and cafes. Also, Circular 7014/H, issued in October 1996 forbade the use of Kurdish during working hours, even in private conversations. Such repressive laws are still regularly enforced to silence Kurds in Syria; examples indicative of widespread practice include:

- (i) Three people, Omar Abdi Ismail, Abdul Samad Hussain Mahmood, Ahmed Fattah Ismail, were arrested on 19 December 2010 for organising a poetry festival. They were charged under Syrian Penal Code, Article 307 – inciting racial/sectarian/religious strife via writings. Each was sentenced to four months imprisonment and a 60 Syrian lira fine.³⁵
- (ii) Siyament Ibrahim, Editor-in-Chief of the Kurdish-language newspaper, *Aso*, was arrested on 25 November 2010 for owning books translated into Kurdish.

³⁶

(b) In recent years, State security forces have attacked members of the Kurdish communities participating in traditional Kurdish celebrations. Examples indicative of widespread practice include:

- (i) In March 2010, security forces shot at Kurds celebrating the Kurdish New Year in the northern town of Raqqa to disperse them, killing three and injuring forty-one. In July 2010, a military court sentenced nine Kurds alleged to have participated in the celebrations in Raqqa to four months for ‘inciting sectarian strife’.

³⁵ KurdWatch, ‘Al-Qamishli: Four months imprisonment for poets’ (19 February 2011) at <http://www.kurdwatch.org/index?aid=1225> (last accessed 9 March 2011).

³⁶ Basam Mustafa, ‘Being Kurdish Forbidden in Syria’ (19 December 2010) *The Damascus Declaration for National Democratic Change*, at <http://www.nidaasyria.org/en/articles/kurds-assyrians/BeingKurdishForbiddeninSyria> (last accessed 9 March 2011).

- (ii) On 9 March 2009, a security contingent from the Qamishli police force stopped a musical event organised by the KDP-S (now commonly known simply as “al-Party”) in Qamishli in celebration of women’s role in society.³⁷
- (iii) On 20 March 2008, the Syrian security forces used live ammunition on crowds celebrating the Kurdish New Year ‘Newroz’ festival in the Syrian town of Qamishli. Several people died and others were seriously injured. Hundreds more were arbitrarily detained and there were reports of torture and ill-treatment suffered by the detainees.³⁸

25. Such instances represent violations of various international conventions Syria in relation to which Syria is a party, including, *inter alia*, the International Covenant on Civil and Political Rights, Article 27,³⁹ the Convention on the Rights of the Child,⁴⁰ Article 3 and the Arab Charter on Human Rights, Article 37: all enshrine the rights of ethnic/religious minorities, including to use their own language.

Acquiring Nationality/Citizenship

26. Syria’s current approach to stateless children and the acquisition of nationality/citizenship violates both its own domestic law as well as international law including, *inter alia*, the following:

- (a) *Nationality Act* [Syrian Arab Republic], 24 November 1969, Article 3: A child is deemed a Syrian Arab if he was born in Syria to a Syrian father, born in Syria to parents who were unknown or stateless, or born in Syria to parents who were aliens and whose nationality the child could not acquire.
- (b) The Convention on the Rights of the Child, Article 7; the International Covenant on Civil and Political Rights, Article 24: Every child should be registered at birth, and has the right to acquire nationality.
- (c) Universal Declaration of Human Rights,⁴¹ Article 15: everyone has the right to nationality.
- (d) Arab Charter on Human Rights, Article 24: no citizen shall be arbitrarily deprived of his original nationality, nor shall his right to acquire another nationality be denied without a legally valid reason.

Access to education

27. Restrictions on access to education are illustrated by the fact that, among other things:

³⁷ Human Rights Watch, above note 21, Part II: Repression of Public Gatherings since March 2004.

³⁸ KHRP, above note 32, 2.

³⁹ Date of Accession is 29 April 1969.

⁴⁰ Ratified by Syria on 15 July 1993; reservations made on Articles 14, 20, and 21.

⁴¹ Adopted on 30 December 1948.

- (a) Ajanib children receive a certificate of completion of secondary education, which is marked with a stamp indicating their ‘foreigner’ status. They are then required to obtain a report from State security authorities in order to enter higher education, which details their parents, travels and any political involvement.⁴² However, they cannot work in state employment following graduation.⁴³
 - (b) Maktoumeen children are required to obtain formal permission from State security authorities to enter a higher educational facility, which can be highly difficult given that, although primary education is available to them, current policy prevents them being issued with a certificate of completion after graduating from secondary school.⁴⁴
28. Syria’s restrictions on access to education arguably constitute a violation in practice of, *inter alia*:
- (a) Universal Declaration of Human Rights, Article 26; The Convention on the Rights of the Child, Article 28; Arab Charter on Human Rights, Article 34: Everyone has the right to education – free in elementary stage, and at least accessible in secondary and tertiary stages.
 - (b) Syrian Arab Republic Constitution 1973, Article 37: Education is a guaranteed state right, and elementary education is free.

Property ownership

29. The practice of repressing Kurdish rights continued with the 10 September 2008 introduction of Decree 49. This places stricter state regulation on selling and buying property in certain border areas. It mostly impacts Kurds and is perceived as being directed against them. It has diminished business and construction in Kurdish areas by making it harder for Kurdish areas to be granted property rights.⁴⁵
30. Syria’s restrictions on property ownership constitute a violation of, *inter alia*, the Universal Declaration of Human Rights, Article 17; Arab Charter on Human Rights, Article 25: every citizen has the right to own private property and shall not be arbitrarily deprived of his property.

Marriage registration

⁴² Maureen Lynch and Perveen Ali, ‘Buried Alive: Stateless Kurds in Syria’ (Refugees International, 2006) at

<http://www.refintl.org/sites/default/files/BuriedAlive.pdf> (last accessed 9 March 2011), 3.

⁴³ Yildiz, above note 3, 101.

⁴⁴ Kurdwatch, above note 8.

⁴⁵ Kariane Westrheim, *The Current Situation of the Kurds in Syria*, (KNK report to CHACK International Conference, Stockholm, 12 February 2011).

31. Syria's restrictions on marriage registration arguably constitute a violation in practice of, *inter alia*, the Universal Declaration of Human Rights, Article 16; the International Covenant on Civil and Political Rights, Article 23: Men and women of marriageable age have the right to marry and found a family.

Freedom of movement

32. Examples of restrictions on freedom of movement indicative of widespread practice, some of which have been the subject of urgent action letters by KHRP to relevant UN special procedures, include:

- (a) On 8 February 2011, Dilawar Mahmoud Ali, a Kurdish man, was prevented by the Syrian police from travelling to Damascus because he was Maktoumeen.. A policeman checked his identity card at a transport stop, and after noticing he was a stateless Maktoumeen he was turned back. He was travelling to Damascus to work and support his family.⁴⁶
- (b) On 10 January 2011, the security authorities at Damascus International Airport arrested Ziad Jajan. Ziad Jajan is a Kurd from Deyrick in Syria who had been forcibly deported from Denmark back to Syria. He was arrested at the airport and taken to an unknown destination; there has been no news of him since that time.⁴⁷
- (c) On 27 June 2009, Berzani Karro was arrested at Damascus airport in Syria by state security forces, 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.⁴⁸

33. Syria's restrictions on freedom of movement constitute a violation of, *inter alia*, the International Covenant on Civil and Political Rights, Article 12; the Arab Charter on Human Rights, Article 20: freedom of movement within each State is guaranteed.

Freedom of Association and Assembly

34. Generally, human rights organisations require Syrian government permission to be registered, and none are officially authorised to exist.⁴⁹ This allows Syrian officials to

⁴⁶ Support Kurds in Syria, 'Stateless Kurd prevented from travelling within Syria' (12 February 2011) at <http://supportkurds.org/news/stateless-kurd-prevented-from-travelling-within-syria/> (last accessed 9 March 2011).

⁴⁷ Support Kurds in Syria, 'Ziad Jajan disappears after being forcibly returned from Denmark to Syria' (14 January 2011) at <http://supportkurds.org/news/ziad-jajan-disappears-after-being-forcibly-returned-from-denmark-to-syria/> (last accessed 10 March 2011).

⁴⁸ KHRP, above note 6, 46.

⁴⁹ Law No. 93, 1958.

remove or terminate any human rights organisations, and therefore, lawfully arrest those who attend meetings.

35. Examples of restrictions on freedom of association and freedom of assembly indicative of widespread practice include:

(a) In mid-January 2011, the Military Court in Aleppo sentenced three students – Ahmed Yousef Bin Walid, Javan Alshawish bin Abdul Rahman, Abdou Rustem bin Zehny – in absentia, on charges of belonging to a forbidden political organisation that aims to truncate part of Syrian territory and attach it to a foreign country. They were each sentenced to ten years' imprisonment.⁵⁰

(b) The Arab revolutions have caused Syria to increase their raids on Kurdish people. At least 35 Kurdish people affiliated with the PYD have been arrested at home or work since January 2011.⁵¹

(c) On 9 November 2010, four men – Luqman Hussein Ibrahim, Salah Saeed Shaikhmous, Abdul Ghafoor Hussein, Saad Furman al-Hassan – were each sentenced to one month's imprisonment under Syrian Penal Code, Article 336, for peacefully protesting against Decree 49.⁵²

(d) On 1 July 2010, the Syrian government detained 400 Syrian Kurds across four major towns, including Damascus, for allegedly sympathising with the PKK. They were arrested for 'inciting sectarian strife'.⁵³

36. Such conduct arguably violates, *inter alia*:

(a) The International Covenant on Civil and Political Rights, Article 21 (right of peaceful assembly) and Article 22 (freedom of association).

(b) Syrian Penal Code Articles 267 and 307 for the charges, Article 335/336 criminalise gatherings/protests of public authority of more than seven people.

Torture and ill-treatment

37. Examples of instances of torture or ill-treatment, indicative of widespread practice, include:

(a) In July 2010, a military tribunal sentenced Haitham al-Maleh, an 80-year-old prominent human rights lawyer and former judge, to three years in prison for

⁵⁰ Kurdish Centre for Legal Studies & Consultancy, 'YASA monthly report' (January 2011), 2.

⁵¹ Support Kurds in Syria, '35 PYD supporters including students and children arrested by Syrian authorities' (20 February 2011) at <http://supportkurds.org/news/35-pyd-supporters-including-students-and-children-arrested-by-syrian-authorities/> (last accessed 9 March 2011).

⁵² Support Kurds in Syria, 'Prison Sentence for Protesting against Decree 49' (13 November 2010) at <http://supportkurds.org/news/prison-sentence-for-protesting-against-decree-49/#more-3638> (last accessed 9 March 2011).

⁵³ Sebnem Arsu, 'Syria said to Detain 400 Kurdish Separatists' (1 July 2010) *The New York Times*, at http://www.nytimes.com/2010/07/02/world/europe/02turkey.html?_r=1&emc=eta1 (last accessed 9 March 2011).

“weakening national sentiment” and “spreading false information that weakens the nation’s morale” after an opposition television station aired a phone interview with him in which he criticised Syrian authorities.⁵⁴

- (b) In April 2010, the Supreme State Security Court (SSSC) sentenced four members of the Kurdish Yekiti Party – Yasha Wader, Dilghesh Mamo, Ahmad Darwish, and Nazmi Mohammad – to five years in prison on the charge of undertaking acts “to cut off part of Syrian land.”⁵⁵ Three other prominent Yekiti members – Hassan Saleh, Muhammad Mustapha, and Ma`ruf Mulla Ahmad – face the same charges in their ongoing trial before the SSSC. They have been held incommunicado since 26 December 2009, and their trial is scheduled to continue in February 2011.⁵⁶
- (c) On 19 January 2010, Mohammed Musto Rashid, from Mabatli in the Kurdistan district of Afrin, Syria, died 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.⁵⁷
- (d) On 3 August 2009, sisters Esma Murad Samî and Eyhan Murad Samî, both from al-Muabdah in al-Malikiyah province, were arrested by the Political Security Directorate in Al-Hasakah. They have been tortured and forced to collaborate with the security forces against fellow Kurds. On 17 September 2009, 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.⁵⁸
- (e) On 19 February 2008, the former Kurdish politician Osman Mihmend Silëman Hecî, who had served as a Syrian MP between 1991 and 2007, died in hospital following several months of torture and ill treatment in prison. Mr Hecî was arrested on 27 November 2007 and had been in prison until 22 January 2008 when Syrian officials took him to El Kindi Hospital. He was registered with the name of Eli Ehmed in the hospital to hide his real identity. He died as a result of his injuries.⁵⁹

⁵⁴ Front Line, ‘Syria: Update – Sentencing of human rights defender Haitham al-Maleh to three years in jail’ (5 July 2010) at <http://www.frontlinedefenders.org/node/2593> (last accessed 10 March 2011).

⁵⁵ Support Kurds in Syria, ‘Syria: Four Kurdish Yekiti Party members sentenced to 5 years in prison, one other has disappeared’ (18 April 2010) at <http://supportkurds.org/news/syria-four-kurdish-yekiti-party-members-sentenced-to-5-years-in-prison-one-other-person-has-disappeared/> (last accessed 10 March 2011).

⁵⁶ Support Kurds in Syria, ‘Kurdish Yekiti Party leaders’ court hearing fixed for 6 February 2011’ (29 January 2011) at <http://supportkurds.org/tag/kurdish-yekiti-party-in-syria/> (last accessed 10 March 2011).

⁵⁷ KHRP, above note 6, 42.

⁵⁸ KHRP, above note 32, 3.

⁵⁹ KHRP, above note 6, 42-43.

38. These instances of torture and ill-treatment are violations of one or more of the following:
- (a) The International Covenant on Civil and Political Rights, Article 7; the Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁶⁰ Articles 1, 3 and 4, and notably, Article 2 regarding the insufficient legislative measures to prevent torture.⁶¹
 - (b) Syrian Arab Republic Constitution, 1973, Article 28(3).

Violence Against Women

39. KHRP welcomes Syria's progress towards eradicating legislative protection for honour killings and family-based violence but notes that the current legislative mechanisms continue to facilitate and entrench abuse and cultural repression against women. Further amendments are necessary to eradicate honour killings and violence against women as it is estimated nearly 200 honour killings occur each year.⁶² However, such numbers are hard to predict, as Syria does not keep definitive data, notwithstanding this, such crimes are recognised as widespread.⁶³
40. The legal framework relating to the elimination of violence and repression of women includes:
- (a) The Syrian Penal Code, Article 498: defines rape, but excludes marital rape.
 - (b) The Syrian Penal Code, Article 508: which exempts rapists from punishment if they marry their victim. This Article reflects the cultural affinity to avoid the social stigma attributed to a family by rape by dealing with it internally, rather than making it public by reporting it to the police.
 - (c) The Syrian Penal Code, Article 548: has recently been amended to mitigate the punishment to five to seven years if a family member catches a mother, sister, or female relative in 'suspicious' or 'illegitimate' act and unintentionally kills them.
41. Examples of violence against women, within the context of a weak human rights due diligence approach to such issues, include:
- (a) Iman Wannouss is a 21-year-old woman from Damascus who was married off to a close relative. She gave up her work and raised three children in a violent marriage, but was afraid of the consequences and the shame of reporting

⁶⁰ Syrian Arab Republic acceded on 19 August 2004.

⁶¹ See for comprehensive discussion of breaches of Convention Against Torture: KHRP, above note 26.

⁶² Human Rights Watch, 'Syria: No Exceptions for "Honor Killings"' (28 July 2009) at <http://www.hrw.org/en/news/2009/07/28/syria-no-exceptions-honor-killings> (last accessed 9 March 2011).

⁶³ UN Committee Against Torture, *Consideration of reports submitted by States parties under article 19 of the convention*, UN Doc. CAT/C/SYR/CO/1, 25 May 2010.

the abuse. Iman eventually filed for a divorce, but according to Syrian law, had to relinquish all her rights and belongings.⁶⁴

- (b) Bushra (last name unknown) is a 17-year-old Sunni Muslim from Damascus. After falling in love with Fadel, from Syria's Alawite Muslim minority, he asked her family permission to marry her, but he was rejected. Instead, in 2007, Bushra's family forced her to marry her cousin. However, on her wedding day she ran away with Fadel; her family reported this to the police and she was subsequently taken into custody for her protection. Bushra's family are tracking her down to 'erase the dishonour'. Consequently, her freedom of movement is severely restricted as she is forced to reside in a juvenile centre for protection.⁶⁵

Suspicious Kurdish Deaths in Military Service

42. The number of deaths among conscripts' amounts to 46 since the uprising on 12 March 2004, of which 16 died in 2009 and 11 in 2010.⁶⁶ Alla Jamal Shekho on 20 January is the first reported death during military service in 2011. 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.⁶⁷

Arbitrary Arrest and Incommunicado Detention

43. Syria has implemented legislation prohibiting arbitrary arrests,⁶⁸ incommunicado detentions,⁶⁹ and the use of force against detainees.⁷⁰ KHRP supports these legislative safeguards, as international human rights jurisprudence recognises such conduct as torture.⁷¹
44. However, despite these legislative safeguards, Syria's security services routinely arrest and hold activists incommunicado while interrogating them. The period of detainment can last for a few days or a few months. Moreover, the family of those detained are not informed of the location of detention and often there is no legal representation or proper trial.

⁶⁴ Rebecca Murray, 'Getting Away Legally With Assaulting Women' (10 December 2010) *Inter Press Service*, at <http://ipsnews.net/print.asp?idnews=53832> (last accessed 9 March 2011).

⁶⁵ Lina Sinjab, 'Honour crime fear of Syria women' (10 December 2007) *BBC News*, at http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/middle_east/7042249.stm (last accessed 9 March 2011).

⁶⁶ KHRP is able to provide a list of names if the Committee would like to see it.

⁶⁷ KHRP, above note 6, 44.

⁶⁸ Article 214 of the Police Service Regulations.

⁶⁹ Article 105 of the Code of Criminal Procedures.

⁷⁰ Article 30 of the Prison Regulation of 1929, and Act No. 496 of 1957.

⁷¹ 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.

45. Examples of instances of arbitrary arrest and/or incommunicado detention, indicative of widespread practice, include:

- (a) On 20 February 2011, a political blogger, Ahmad Hudaifa, was arrested by Military Security on his way to Damascus. Military Security agents subsequently visited his home and confiscated his computer. On 22 February 2011, officials at the Military Security branch nearest to Baniyas reportedly told Ahmad Hudaifa's family that he was being held at the Palestine Branch in Damascus, but did not reveal the reasons for his arrest.⁷²
- (b) On 16 January 2010, Kadar Mahmoud Saadoh was arrested in Qamishli city by intelligence security services. He is being held in incommunicado detention.⁷³
- (c) On 6 January 2009, Mustafa Jum'a Daqori, the deputy chairperson of the Syrian Kurdish Azadi Party, was arrested by Syrian security forces. 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.⁷⁴
- (d) On 26 October 2008, Mohammad Sa'id Hossein 'Omar and Sa'dun Mahmoud Sheikhu, members of the committee of the Kurdish Azadi Party, were arrested by the Syrian military security services in the towns of Romelan and Raas al-Ein and are currently being held in Adra prison.⁷⁵
- (e) On 3 and 11 September 2008 and 8 October 2008 respectively, Munther Ahmed and his brothers Nedal Ahmed and Riad Ahmed were planning to set up a Kurdish cultural organisation when they were arrested by state security officers at their homes in Qamishli. They are in incommunicado detention. The grounds for their arrest are unknown.⁷⁶
- (f) On 11 September 2008, Abdelbaqi Khalaf was arrested by State Security Officers 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.⁷⁷
- (g) On 15 August 2008, Mesh'al al-Tammo, a 51 year old spokesperson for Kurdish Future Current, was arbitrarily arrested by Syrian Air Force security officers. Mr al-Tammo was held in incommunicado for 12 days. During his initial detention he was transferred to Adra prison, which is infamous for torture amongst political prisoners and where he is still thought to be detained.⁷⁸

⁷² Amnesty International, 'Syria: Syrian Blogger Held Incommunicado: Ahmad Mohammad Hudaifa' (22 February 2011) at <http://www.amnesty.org/en/library/asset/MDE24/007/2011/en/968f0be6-f658-4a9d-ac55-1583aa5cd83a/mde240072011en.html> (last accessed 9 March 2011).

⁷³ KHRP, above note 6, 44-46; KHRP, above note 26, 3.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

46. These arrests and detainments instil a large degree of fear within the Kurdish community of Syria and serve to intimidate others from expressing their cultural identity.⁷⁹

⁷⁹ Ibid, 47.