

SYRIA HUMAN RIGHTS WORKERS ON TRIAL

On February 22, six Syrian human rights workers stood trial before a state security court in Damascus for alleged violations of martial-law and state-of-emergency-law regulations. These violations are membership in an illegal organization and distribution without permission of leaflets critical of the Syrian government. The trial was adjourned after a brief session. After this session, defendants were returned to the custody of the Military Investigations Branch awaiting further hearings. No date has been fixed for the resumption of the trial.

The six had been held incommunicado since December 1991. There were credible reports of mistreatment during their interrogation. Aktham Nu`aisa, a human rights lawyer who is the most prominent among the defendants, is suffering from poor health, apparently resulting from a chronic ailment he suffered following a previous spell of imprisonment in 1982.

All six defendants are members of Committees for the Defense of Democratic Reforms and Human Rights in Syria (CDF), an independent human rights organization which has not been authorized to operate in Syria.¹

During the past two months, fifty others have also been arrested, apparently in connection with the same case. They are either CDF sympathizers or relatives of CDF members. As of March 5, fifteen were believed still in detention. Only one of them, Samer Nu`aisa, a brother of Aktham Nu`aisa, has been put on trial before a state security court.

State security courts in Syria do not respect recognized minimum standards of fair trials. By law, all judicial procedures normally observed in Syria are waived, "in all phases of investigation, interrogation and trial." Nor is there a right to appeal state security courts decisions which become final after being ratified by President Hafez al-Asad, in his capacity as martial-law governor.

When, near the end of 1991, the Syrian government announced the pardon of some 3,500 political detainees, Syrians expressed hope that this opening up of jail cells signalled genuine change towards tolerance of political dissent. This hope has been dashed by the almost simultaneous crackdown on political opponents,² and especially by the mass arrest of human rights workers, their families and friends. The sole offense of the latter appears to be membership in or sympathy with CDF, or the possession or distribution of its publications. These new arrests belie the Syrian government stated intentions regarding democratic reforms and underscore its legendary intolerance of political dissent.

¹ *See below* for additional information on CDF. CDF is the acronym adopted by the organization in its charter.

² Since the pardon, scores of other political detainees have also been arrested and accused of membership in or support of the banned Party of Communist Action, according to information received by Middle East Watch.

However regrettable these arrests may be, the fact that political detainees are being put on trial at all is a welcome departure from the normal practice in Syria. Thousands of political prisoners have been detained for many years without trial or formal charges.³ However, a hearing before a state security tribunal, a little more than a mere formality, can hardly be a substitute for fair trials that meet the conditions of Article 14 of the International Covenant of Civil and Political Rights, to which Syria is a state party.

Monitoring Human Rights in Syria

In Syria, human rights monitoring is considered a political activity and as such is strictly prohibited without government sanction, refused for groups outside the Ba`ath Party structure.

Since 1963, when the Ba`ath Party came to power, the Syrian government has exercised tight control over all political organizations and workers' associations. Other forms of association were tolerated until the security crackdown of 1980 and 1981, when the government extended its control to most professional organizations, including the lawyers, doctors and engineers' associations, whose independence had until then been tolerated.

A previous phase of human rights monitoring was brutally crushed twelve years ago. At the time, it was the Syrian Lawyers Union -- the equivalent of a national bar association -- that bore the brunt of the government crackdown. In 1976, after the union protested the Syrian intervention in Lebanon, the authorities detained two of its leaders, Tareq al-Haidari and `Adel al-Kayyali; later that year, they both died in detention under suspicious circumstances.

During 1976, members of the lawyers union formed a human rights committee that included Rashad Barmada, a prominent, politically independent, private lawyer who had been a defense minister in the pre-Baath period. Between 1978 and 1980, the union and its human rights committee called repeatedly for lifting of the state of emergency, in effect since 1963. They also urged the government to abolish special courts and safeguard independence of the judiciary. When the lawyers union called a one-day strike in March 1980 to press for these demands, the government retaliated harshly.

Sabah al-Rikabi, the union president, Rashad Barmada of the committee on human rights, and other officers were arrested. The government then dismissed the entire elected executive committee of the bar and appointed its own hand-picked officers. It also forcibly dissolved the regional bar elected committees and the human rights committee of the national bar. With these actions, the Syrian government put an end to overt independent human rights monitoring.

On December 10, 1989, a new human rights group, the Committees for the Defense of Democratic Freedoms and Human Rights in Syria (CDF) was announced. Independent of any political party affiliation, this group has been able to operate actively in France and Germany, but has had to maintain a clandestine presence in Syria itself. Since April 1990, CDF has published a regular Arabic-language bulletin, *Saut al-*

³ Dozens of political prisoners have been in detention without trial since 1970, the year President Asad came to power. Others are in prison years after the expiry of their sentences.

Arrests of Human Rights Monitors

During November and December 1991, coincident with President Hafez al-Asad's reelection for a record fourth term, some 3,500 political detainees were pardoned -- an unprecedented event.

On November 17, the People's Assembly, Syria's parliament, unanimously approved President Asad, who was the only candidate, for a fourth seven-year term after his third term expires this month. On December 2, 1991, a popular referendum approved Asad's reelection with 99.98 percent voting in favor, according to official figures.⁴

The government went to great lengths to project popular support for the president. Pressure, both direct and subtle, was applied to induce a large turnout. Although the turnout of eligible voters for the plebiscite was undoubtedly large, the officially reported figure of over 99 percent was remarkable.⁵ These impressive figures notwithstanding, it was widely believed that the pardon of this surprisingly large number of prisoners was part of President's Asad attempt to improve his government's image both internally and abroad.

On December 10, the CDF issued a statement commemorating the 43rd anniversary of the Universal Declaration of Human Rights which was also the CDF's own second anniversary. The two-page Arabic statement entitled, "Two Years on the Road to Seize Democracy and Liberate Human Rights," criticized the way in which the presidential referendum was conducted. It made the following charges:

- o People were forced to participate in the referendum. Entire villages were forced to travel on foot long distances to the nearest towns to cast their votes. Citizens were forced to chant slogans in support of the president. Those who did not comply were either assaulted or arrested. In some provinces, merchants were forced to pay for decorations of the festivities. There was wild firing of both side arms and heavy guns, especially in al-Lathiqiyya (Latakia) province, home province of al-Asad, endangering lives of the people.**
- o Allocating eight billion Syrian liras (equivalent to \$395 million) in the 1991 government budget to be spent on the referendum was wasteful.**
- o Since the referendum did not involve what the CDF deemed to be genuine popular participation, it appeared designed only to improve the image of the government without contributing to real democracy.**

⁴ For more details *see* Human Rights Watch, *World Report 1992*, New York, pp. 835-9.

⁵ According to Muhammed Harbah, Syria's Interior Minister, "citizens who exercised their right to vote number 6,786,992, which is 99.142 of the total number of citizens enjoying the right to vote. Those who approved of the People's Assembly candidate, President Hafiz al-Asad, for the position of the president, number 6,726,843 voters, which is 99.982 percent of the total number of voters." Damascus Syrian Arab Republic Radio Network, December 3, 1991, as reported in Foreign Broadcast Information Service, *Near East and South Asia Daily Report*, December 4, 1991 hereinafter FBISL.

The CDF called on the government to demonstrate its commitment to democracy by taking the following steps:

- o an immediate halt to arbitrary detention.**
- o the release of all political prisoners.**
- o the institution of reliable safeguards for those in voluntary exile to return to Syria.**
- o the lifting of the state of emergency and martial law and restoration of constitutional rule.**
- o passage of a law allowing opposition parties to function.**
- o legalization of the CDF.**

Between December 10 and December 17, a substantial number of copies of this statement were distributed in a number of Syrian cities. On December 18, the Syrian Military Investigations Branch -- one of a dozen security organizations in Syria -- started rounding up human rights workers. Over fifty members and supporters of the CDF and their relatives were arrested between December 18 and January 31. As of March 5, 1992, there were still about twenty of them were believed to be still in detention. According to information received by Middle East Watch, the arrests were accompanied by house searches that appeared focused on finding documents proving a link between the detainees and CDF. In one case, publications seized included *Legal Instruments for CDF's Work*, a book containing Syria's constitution, the Universal Declaration of Human Rights and similar documents.

Among those arrested by the Military Investigations Branch on December 18 and 19 were:

**Aktham Nu`aissa, 40, lawyer, al-Lathiqiyya (Latakia).
Muhammed Ali Habib, 37, university lecturer, al-Lathiqiyya.
Amjad Bahhouha, 34, teacher, al-Lathiqiyya.
Afif Mezher, 34, jurist, Jermana.⁶
Hassan Rifa`a, 35, government functionary, Ashrafiyyat Sahnaya.
Mahmoud Abu-Hamed, 29, poet, al-Lathiqiyya.**

Aktham Nu`aissa, 40, has been a member of the Syrian bar since 1976 and is the most prominent of those detained. He was previously detained from February to April 1982 for participation in activities aimed at regaining the independence of the Syrian Lawyers Union, taken over by the Syrian government the previous year. During his previous detention, he was subjected to severe torture that contributed to temporary partial paralysis in the right side and to complications of a kidney infection.⁷

On December 18, 1991, Aktham Nu`aissa was arrested by Military Investigations Branch on a street in al-Lathiqiyya. In early January, he was transferred to the Military Hospital in Harasta because he had

⁶ Although Mezher passed his qualifying exams to become a judge eight years ago, he has been denied employment in the field, allegedly for political reasons.

⁷ The infection left him with chronic glomerulonephritis, a kidney ailment, according to a Syrian physician interviewed by Middle East Watch. This ailment required regular medical supervision for some time following his release in 1982.

reportedly suffered partial paralysis again. Since then, he has spent most of his detention in hospital. Syrian human rights workers believe that his paralysis recurred because of beating at the hands of the interrogators of Military Investigations Branch.

During January and February 1992, more CDF supporters and sympathizers, and their relatives, were arrested. On January 18, for example, Samer Nu`aisa, 32, was arrested by the Military Investigative Branch. An engineer, he is not known to have been active in human rights or politics; his sole reason for being in detention is probably that he is a brother of Aktham Nu`aisa.

Also during January, other relatives of human rights workers were arrested, including Nida' George Shahhoud, who was arrested with her daughter Sarah, 23 months, probably to put pressure on her husband, Nizar Nayyoub, to surrender to the authorities. According to information available to Middle East Watch, Nayyoub is wanted for his activities in the CDF.

Trial of Human Rights Monitors

Most of the thousands of political detainees in Syria have been held without trial or formal charges. Some have been held without trial for over twenty years.⁸ It was therefore unusual when Syrian authorities decided to put the recently arrested human rights workers on trial. The decision to try these detainees may have been Syria's response to the strong international protest of these recent arrests. As part of this protest, several human rights organizations appealed to the Syrian government to release the detainees. It is not clear whether this decision will be replicated in the cases of other detainees.

State of Emergency Powers

The Syrian human rights workers are being detained and tried under the State-of-Emergency Law of March 8, 1963 and the State Security Courts Legislative Decree of March 28, 1968. Syria has been under a state of emergency since March 1963, when the Ba`ath Party first seized power. Under the State-of-Emergency Law, security forces have wide-ranging powers to arrest and detain indefinitely those accused of "endangering security and public order." (Article 4).

Under Article 5 of the State Security Legislative Decree No. 47 of March 28, 1968, the martial-law governor is authorized to refer cases to state security courts involving violations of state-of-emergency or martial-law regulations. The breadth of these violations include "verbal actions hostile to the objectives" of the state, or conspiracy to commit such acts. The martial-law governor of Syria is President Hafez al-Asad himself who exercises this authority through the office of the martial-law governor, outside the normal government channels.

Once classified as state security offenders, suspects are denied under Syrian law rudimentary safeguards of justice. Legislative Decree 47 exempts state security cases from the judicial procedures followed in other offenses. Under Article 7(a), "The right to defense as prescribed in the relevant laws notwithstanding, state security courts are not required to follow judicial procedures stipulated in these

⁸ See, e.g., Middle East Watch, *Syria Unmasked: Suppression of Human Rights by the Asad Regime*, Yale University Press, 1991, chapters 3 and 5.

laws during any of the phases of investigation, interrogation and trial."

Using this sweeping waiver, intelligence officials and martial-law officers have exercised near complete authority to conduct the investigation, interrogation and trial of political opponents, sidestepping the formal guarantees provided for in the Syrian constitution of 1973 and the Penal Procedures Code of 1950.

Syrian law goes even further to deny state security defendants a chance at getting a fair hearing. Article 8 of Decree 47 denies defendants before state security courts the right of appeal. Their decisions become final after they are ratified by the president, in his capacity as martial-law governor. There is no legal requirement, nor has there been one in practice, that such ratification is guided by judicial standards.

After the Syrian human rights workers were arrested in December, they were held incommunicado until after the first session of their trial on February 22. On that day, a state security court held its first session in the State Security Court building in Saba` Bahrat Square, in the center of Damascus, to try seven of those detained: Aktham Nu` aisa, Samer Nu` aisa, Muhammed Ali Habib, Amjad Bahbouha, Afif Mezher, Hassan Rifa` a, and Mahmoud Abu-Hamed. Only close relatives of defendants were allowed to attend. No lawyers were present. The court adjourned after a brief session. According to sources present at the first session of the trial, three of the defendants -- Aktham Nu` aisa, Muhammed Ali Habib and Afif Mezher -- showed signs of mistreatment in prison. The charges against the seven were membership in an illegal organization, the distribution of unlicensed political publications, and conspiracy to undermine the government.

Since February 22, the seven defendants who were put on trial have been allowed to meet with their lawyers. However, no family visits to the defendants have been allowed before or after the first trial session.⁹

The others fifteen detainees held in connection with the case have to date not been brought to trial or formally charged. They have not been allowed family visits or legal counsel. They are all believed being held at the detention facilities of the Military Investigations Branch in Damascus.

Violations of the Covenant on Civil and Political Rights

To punish CDF members and supporters for the peaceful expression of their views is a clear violation of Article 19 of the International Covenant of Civil and Political Rights, which has been ratified by Syria. Article 19 states that,

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Several aspects of Legislative Decree 47 of 1968 violate important safeguards enshrined the

⁹ Close family relatives were allowed to attend the first session of the trial.

International Covenant for Civil and Political Rights, to which Syria has acceded. Article 9 of the Covenant, for instance, requires that "Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him." (emphasis added)

The Covenant also mandates that anyone arrested or detained on a criminal charge shall be brought promptly before a court to determine the lawfulness of the detention. Article 14(1) stipulates that,

"All persons shall be equal before the courts and tribunals. In the determination of any criminal charges against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

In addition, the Syrian Military Investigations Branch violated the Covenant when it failed to inform, promptly and in detail, the nature and cause of the charges against the detainees. Detainees were not given either the time or the appropriate facilities for the preparation of their defense and to communicate with counsel of their own choosing. The defendants were brought to the first trial hearing without ever consulting with a lawyer. During the trial, defendants were not allowed to examine, or have examined, the witnesses against them or to obtain the attendance and examination of witnesses on their behalf.

Denial of appeal is a clear violation of Article 14(5) of the Covenant: "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

Recommendations

I. Regarding the seven defendants before the state security court in Damascus, Middle East Watch calls on President Hafez al-Asad, in his capacity as martial-law governor of Syria:

- o To release the seven defendants immediately. Since they are not charged with committing violence, there are no reasonable grounds for their detention. Pending their release, they should be allowed family visits.**
- o Considering the poor health of Aktham Nu`aisa, he should be provided promptly with adequate medical care, including the services of a specialist.**
- o To investigate the reports of torture and mistreatment of the detainees, and prosecute those responsible.**

II. Regarding the fifteen other detainees held in connection with the CDF case – but have not been formally charged – Middle East Watch calls on the Syrian authorities:

- **To end incommunicado detention of all detainees. Those against whom there is no evidence of wrongdoing should be immediately released.**
- **Pending their release or trial, all detainees should be allowed family visits and legal counsel.**
- **Those prisoners against whom there is credible evidence of wrongdoing must be promptly informed of the charges against them and allowed adequate time and facilities for the preparation of their defense and to communicate with counsel of their own choosing.**
- **Defendants accused of wrongdoing should be tried without undue delay before a competent, independent and impartial court where they can receive a fair and public hearing. As this reports has demonstrated, Syria's state security courts do not meet these criteria. Syrian law waives all procedural requirements for a fair trial before state security courts and denies defendants the right of appeal.**

Middle East Watch calls on the Syrian government to permit the unfettered activities in Syria of the Committees for the Defense of Democratic Freedoms and Human Rights (CDF), a legitimate human rights organization.

Middle East Watch urges the Syrian government to rescind all legislation that restricts judicial protection provided for in the International Covenant on Civil and Political Rights, to which Syria is a treaty.

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Middle East Watch was created in 1989 to monitor human rights practices in the Middle East and North Africa and to promote respect for internationally recognized standards. The chair of Middle East Watch is Gary Sick, the vice chairs are Lisa Anderson and Bruce Rabb, the executive director is Andrew Whitley, the research director is Eric Goldstein, the associate director is Virginia N. Sherry, the senior researcher is Aziz Abu-Hamad, and the associate is Christina Derry.

Middle East Watch is a division of Human Rights Watch, a non-governmental organization which is also composed of Africa Watch, Americas Watch, Asia Watch, the Fund for Free Expression and Helsinki Watch. The chair of Human Rights Watch is Robert L. Bernstein, the vice chair is Adrian W. DeWind, the executive director is Aryeh Neier, the deputy director is Kenneth Roth, the Washington director is Holly J. Burkhalter, and the press director is Susan Osnos.