

# COUNTRIES AT THE CROSSROADS

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## COUNTRIES AT THE CROSSROADS 2011:

### SYRIA

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#### INTRODUCTION

The Syrian Arab Republic was established as a French-controlled mandate at the end of World War I and became officially independent in 1946. After a period of intermittently-democratic rule and a short merger with Egypt from 1958 to 1961, the Arab Socialist Baath Party staged a coup in 1963, established a one-party government, and declared a state of emergency that remained in place for 48 years. A period of leadership transition among civilian ideologues and army officers, most of them members of the Alawite minority (adherents of an Islamic sect who comprise approximately 12 percent of the population) continued until 1970, when Alawite and Baath Party member General Hafez al-Assad assumed the presidency.

The ongoing state of emergency, Alawite dominance of the security forces, and the omnipresence of the Baath Party enabled Hafez al-Assad to maintain strict authoritarian control over virtually all sectors of political and social life. The regime centralized the state's legislative, judicial, and executive institutions under its control, restricted virtually all forms of dissent, and prohibited the operation of all independent media. The new presidential system revolved around al-Assad's personal will and networks of social, economic, and military interests based on personal loyalty to the president. Syria's 1973 constitution designates the Baath as "the leader party in the state and society," and the state is its sole source of funds, creating a very close relationship that renders indistinguishable the distinction between government institutions and ruling party.

Hafez al-Assad's authoritarian control was based in part on the powers granted him by Military Order No. 2, which established Syria's 48-year state of emergency. The order was never subject to review by Syria's parliament, the People's Council, nor any other legislative body.

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The law designated the prime minister as military governor and the minister of interior as his deputy, and expanded executive control over legislative and judicial powers. It authorized precautionary detention of anyone suspected of being a security threat, which resulted in widespread arbitrary arrest, and enabled the Alawite-dominated security services to suppress all forms of dissent through the regular use of force. The most notorious case of this severe approach was the government's brutal 1982 crackdown on a Muslim Brotherhood rebellion in the city of Hama, which killed as many as 20,000 insurgents and civilians. The state of emergency also restricted freedom of movement and choice of residence; limited freedom of expression in all publications and forms of artistic expression; and authorized official disruption of virtually all forms of public interaction.

Hafez al-Assad maintained power until his death in 2000, when his son Bashar assumed the presidency. Early in his tenure, Bashar spoke of his desire to eliminate corruption and modernize government institutions, and he gradually replaced his father's cronies with allies of his own. During his first months in power, he released a number of political prisoners, permitted the return of exiled dissidents, and allowed more frank political discussion. This opening, called the Damascus Spring, continued only until February 2001, when activists and reformers who had begun to flourish in the liberalized atmosphere were abruptly jailed or subjected to police surveillance and harassment. Some of Bashar's economic liberalization policies remained in place, but the promise of the Damascus Spring was largely extinguished.

Hopes of political reform rose again in 2003 and 2004, when the fall of the Iraqi Baath regime emboldened Syria's political reformers and inspired cooperation between dissidents in the secular and Islamist communities. Activists demanded political reform, including the cancellation of the state of emergency, the legalization of political parties, and the release of political prisoners. Syria's sizable Kurdish community, similarly galvanized by the events in Iraq, pushed for greater rights and recognition, culminating in eight days of rioting in March 2004, during which at least 30 people were killed and more than 2,000 arrested.

Amid international pressure and growing allegations of Syrian involvement in the 2005 assassination of former Lebanese prime minister Rafiq Hariri, Bashar al-Assad's regime attempted to quell the rising dissent through the release of hundreds of political prisoners and public hints of coming political reforms, none of which ever materialized. The opposition boycotted the 2007 elections which, unsurprisingly, resulted in overwhelming victories for al-Assad and the Baath-led coalition.

Despite the lifting of the curtain of fear that existed under Hafez al-Assad, Syria remains under Bashar al-Assad's strict authoritarian control. When the wave of the so-called Arab Spring demonstrations swept across the Middle East and North Africa in January 2011, it initially appeared that the Syrian regime was impervious to the swell of popular discontent that had already proven fatal to authoritarian regimes in Tunisia and Egypt. Scattered protests occurred in Damascus in February, but they failed to catalyze a nation-wide movement and the state's proven approach of quashing the mere hint of dissent seemed to extinguish the possibility of revolution in Syria. Those tactics appeared to backfire, however, in March, when security services arrested and tortured 15 schoolboys for scrawling anti-government graffiti on a public wall. Protests broke out on March 18 after word spread of the severe cruelty with which officials had treated the boys. Security forces, seeking to quell the disorder in the usual manner, unleashed open fire against the peaceful protestors, killing at least four. Outrage spread and the barrier of fear that for so long prevented public political activism seemed to disintegrate.

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On April 21, amidst rapidly-spreading public disorder, President al-Assad lifted the long-standing state of emergency and promised to enforce the right of the Syrian people to engage in peaceful protest. The government's continually expanding crackdown on dissent demonstrated, however, that al-Assad's administration was looking only to placate protesters and had no intention of genuine implementation of the announced reforms. The regime continued to use the extensive authority and immunity granted by the state of emergency and eventually developed a large-scale military campaign of repression against protesters. By the summer of 2011, anti-government demonstrations were spread throughout the country and state security forces had reportedly killed more than 800 people and arbitrarily detained and tortured thousands, particularly men and boys.

Even before the protests and the subsequent violent clampdown, the prospects for genuine reform under Bashar al-Assad appeared bleak. Human rights and democracy advocates were subject to intense harassment and torture, and concrete policy improvements were nonexistent. With the proliferation of anti-government demonstrations and the regime's brutal crackdown, the extent of the rigid and inflexible regime's ability to weather continuing popular upheaval was unclear.

### ACCOUNTABILITY AND PUBLIC VOICE

Syria is officially a parliamentary republic, but the state of emergency and the ubiquity of the regime override the constitution and dominate all aspects of political life. The electoral system is not subject to judicial oversight, though civil servants monitor polling station activity, and the regime routinely orchestrates presidential referendums and parliamentary elections. The Baath Party nominates the president, who is then approved by popular referendum for a seven-year term. Hafez al-Assad was confirmed five times while in office, each time standing unopposed and frequently garnering 99 percent approval. Similarly, Bashar al-Assad won the latest unopposed presidential referendum, in May 2007, with 97 percent of the vote.<sup>1</sup>

The regime also heavily manipulates the selection of members in the People's Council. Elections for the Council are decided by a simple majority but two-thirds of the body's 250 seats are reserved for the ruling National Progressive Front (NPF), a coalition of the Baath Party and a small group of innocuous allied parties. NPF members are the only legal political parties in Syria, though regime allies who the party and military have thoroughly vetted are permitted to run as independents for the remaining seats. Elections and referendums typically have very low voter turnout and, given the completely superficial nature of Syria's electoral system, the potential for rotation of power is exceedingly low.<sup>2</sup> The regime won decisive victories in the 2007 parliamentary elections, in which seats for the Baath Party and the NPF increased by three to a total of 170. The remaining 80 seats went to independent candidates, many of them businessmen with close ties to the regime.

The People's Council acts as a rubber stamp for the executive's policies. It does not initiate legislation and has no power to affirm or withdraw confidence in the government. As outlined in the constitution, its role is limited to approving laws proposed by the government. The Council has never defeated any draft law and it does not exercise any monitoring functions over the government. The completely hollow nature of the parliament makes it such that there are no checks and balances on executive power.

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The National Democratic Coalition, a collection of five secular political parties that advocate for the expansion of political freedom, is the closest approximation to an opposition in Syria. Its member parties are officially illegal and operate underground without formal offices or publications. Party members face arrest at any time. The coalition boycotted the 2007 elections on the grounds that they lacked minimal standards of legitimacy.

Many hoped that the 2005 Baath conference would prompt political reform, but change has been extremely limited and superficial. For example, as of 2006 new parties were required to act in accordance with the spirit of the revolution that brought the Baath Party to power, and parties dissolved before 1963 were explicitly prohibited, the latter being a clear reference to the Muslim Brotherhood. In 2007, the parliament approved a campaign spending limit of approximately \$57,000. This measure was supposedly intended to prevent vote buying and other corrupt activity, but also met the regime's goal to prevent the influence of foreign powers. There is no discussion of substantive issues in Syrian campaigns: mention of relevant but sensitive topics like foreign relations, political reform, the Kurdish population, and human rights is forbidden.<sup>3</sup>

Syria's civil service is expansive but dominated by party and local interests. The high degree of influence enjoyed by the Baath Party and elites close to al-Assad has shaped the civil service into vehicle for the regime's interests, and its services are particularly inaccessible for those without valuable social connections. The state has tried to improve the quality of the civil service, including by targeting employees accused of corruption, but the executive controls most personnel appointments and graft continues to pervade the system.<sup>4</sup>

Some nongovernmental organizations (NGOs) were allowed to function during the Damascus Spring, but space for such activity has since contracted, despite Syrian first lady Asma al-Assad's public endorsements of an active civil society. In reality, the state exercises extensive control over NGOs and only allows the existence of organizations that are closely aligned with its interests. Groups must obtain a license from the Ministry of Social Affairs, which generally only authorizes apolitical groups conducting charitable, for example women's associations and environmental preservation groups. No human rights organization has ever been granted a license. Syrian law forbids international funding of domestic NGOs and the government imposes travel bans on individuals working on human rights and other sensitive reform issues. Civil society operates informally because of these restrictions and has minimal policy influence.

Freedom of expression is similarly constrained. The Baath Party outlawed independent media when it assumed power in 1963. Bashar al-Assad later replaced that ban in 2001 with Decree no. 50, which allows for independent media under the strict control of the government, particularly the Ministry of Information and the Ministry of Culture and National Guidance. The decree empowers state officials to deny and rescind media licenses for any reason they consider to be in the public interest, authorizes the imprisonment of journalists, editors, publishers, printers, and virtually all other media actors, and establishes a wholesale prohibition on coverage of national security issues.<sup>5</sup> Penalties for violations of the law range from one to three years imprisonment and fines between \$10,000 and \$20,000.

Specific bureaus within the official daily newspapers are responsible for monitoring content for subversive information and the Ministry of Information, the Baath Party media office, and a branch of the security services monitors coverage of Syria by international news agency correspondents inside the country. The Baath Party also owns most newspaper publishing

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houses in the country and therefore is able to prevent the publication of information it deems at all subversive or critical of the government.

Despite these strict controls, some private print media developed during the Damascus Spring, when authorities granted licenses to economic and cultural publications and political newspapers published by Baath Party members and allies. The two private daily political newspapers are published by regime stalwarts. *Al Watan*, launched in November 2006, is a daily newspaper published by al-Assad's controversial brother-in-law, Rami Makhlouf (see Anticorruption and Transparency), and *Baladna*, a social affairs newspaper, is published by Majd Suleiman, the son of former security chief General Bahjat Suleiman. All Kurdish-language publications are banned.

The government owns virtually all television and radio stations in the country. As is the case with print media, the only independent outlets are careful to stay well within known boundaries for acceptable content and do not report on political news or any other information that is likely to rile government censors.

In addition to its extensive control over media ownership and operation, the regime also closely monitors and targets individual journalists. The government's harassment of journalists includes arrest, incommunicado and prolonged detention, torture, forced exile from the country and delayed or rejected accreditation requests. Dozens of journalists have been harassed, arrested, and censored, with many put on trial for coverage considered at all critical of the government. Journalists are targeted with a variety of ambiguous and questionable accusations, among them the spreading of false news about the Syrian criminal code, threatening national security or unity, publishing false information, inciting sectarianism, and opposing the goals of the revolution. In 2009, a Syrian Kurdish journalist was arrested and held incommunicado for three months because of his articles on the contentious Syrian-Lebanese relationship.

Defamation is a criminal offense in Syria and the state uses a variety of judicial means to harass journalists, including lawsuits, fines, and forced dismissal for reporters that produce coverage that officials consider critical of the government or the regime. Ahmad Takroun, the editor of a regional newspaper, was fired after publishing an article arguing the importance of regional over national identity. The government has similarly repressed journalists working in broadcast media, shutting down multiple television shows under dubious pretenses.

Advocates for media freedom are subjected to similar treatment. In September 2010, government authorities shut down the domestic office of the Syrian Center for Media and Freedom of Expression with no reason. Unsurprisingly, four decades of strict media control have made self-censorship pervasive among Syrian journalists.

Syria's rate of internet access expansion is among the fastest in the Middle East, but only approximately 18 percent of the Syrian population uses the internet and the government engages in widespread internet censorship. The government amended the press law in 2005 to allow it to monitor and control electronic media. Changes to the code include the arbitrary requirement that editors of online content are Syrian citizens and residents who are a minimum of 25 years of age and who do not work for any foreign government. The law was further extended in 2009, when penalties (including imprisonment) for violating the state's media regulations were extended to internet users.

In 2009, the Committee to Protect Journalists ranked Syria third in a list of the ten worst countries to be a blogger, based on the extent of arrests, harassment, and restrictions that online writers face.<sup>6</sup> In December 2009, state security arrested Tal al-Mallohi, a 19-year old blogger,

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after she expressed hopes for political reform on her blog and called on foreign leaders to take more interest in the Palestinian cause. She was convicted in a closed trial in February 2011 on charges of spying for a foreign power and sentenced to five years in prison.<sup>7</sup> In July 2007, the blogger Karim Arbaji was arrested and held without trial until September 2009, when he was convicted of undermining national morale and sentenced to three years in prison. Arbaji was granted a presidential pardon and released on January 7, 2010.<sup>8</sup>

According to the Syrian Center for Media and Free Expression, a total of 241 websites were blocked in Syria in 2009, including social network sites and blog platforms.<sup>9</sup> The government lifted the ban on Facebook and YouTube in February 2011, but observers surmised that the measure was intended only to enable more extensive government supervision of social networking activity as pro-reform activism spread throughout the region.<sup>10</sup>

### CIVIL LIBERTIES

The extensive immunity granted by the state of emergency and the ongoing de facto exercise of those powers after the state of emergency was lifted allow Syrian security forces to use brutal physical force at will and essentially guarantees that the Syrian people have no protection from physical abuse. Security forces are the subject of widespread allegations of torture, unjustified and prolonged imprisonment, and unexplained disappearances and deaths. There were at least five unexplained deaths in Syrian prisons in 2010 and the government has not undertaken any efforts to investigate these violations. There is an ongoing refusal on the part of the regime to account for the disappearance of approximately 17,000 people since the late 1970s, most of them activists or Muslim Brotherhood members.<sup>11</sup>

Although the Syrian constitution prohibits the use of torture, there are extensive credible reports that security forces regularly torture detainees. Amnesty International has documented 38 different types of torture used by security forces, including the use of electric shocks, burning, hyperextending the spine, the forced insertion of objects into the rectum, whipping and beating, and the pulling out of fingernails.<sup>12</sup> Security forces regularly deny detainees' families access to or information about their relatives. In June 2010, for example, the family of Mohamed Ali Rahman was deprived of information about his condition and whereabouts after his arrest only to have security service officials later abruptly return his corpse without explanation. The family reported that his body indicated clear signs of torture.

According to Syrian human rights organizations, military police killed at least 25 prisoners in July 2008 during rioting at Sednaya prison near Damascus. After two days of government silence, the official Syrian news agency SANA claimed that convicted terrorists and extremists had rioted, but that security forces restored the peace and that the rioters would be held accountable. The government imposed a total blackout on Sednaya prison, refusing to acknowledge that anyone was killed and preventing prisoners' families from visiting to inquire about their relatives. The authorities allowed some families to go the jail in July 2009, a year after the massacre, but they continue to prohibit visits of non-family members and restrict detainee information. Human Rights Watch estimated in July 2010 that 42 Sednaya inmates are still denied access to the outside world, and other human rights advocates argue that the true number in isolation is much higher.<sup>13</sup>

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Syria's prison conditions are a constant focus of criticism from domestic and international human rights organizations. Jails are severely overcrowded such that inmates must sleep on the floor. Prisoners are commonly deprived of food and medical care and visiting rights depend on connections to high-powered individuals. Security forces routinely refuse such legal safeguards as the right to prompt access to an attorney and to independent medical examination; the right to notify a relative; the right to be informed of charges at the time of arrest; and the right to appear before a judge within an appropriate time limit. Such protections are not even nominally guaranteed for security detainees.

The constitution prohibits arbitrary arrest and detention without trial, but the broad and ambiguous powers granted in the state of emergency give security services extensive flexibility to conduct preventative arrests of anyone they consider a political threat, even in cases with no demonstrable evidence. Security services commonly detain subjects without reason for months and years at a time.

Following allegations from international organizations that Syria is a human trafficking hub, particularly for women coming from Iraq, the government drafted legislation on the matter and established a shelter for trafficking victims. The government also co-sponsored with Interpol a conference on human trafficking in 2010.

Citizens have no effective means of petition and redress when their rights are violated. There is no ombudsman's office or state human rights commission and individuals who seek to lodge a complaint against security services must first obtain permission to do so from the very service against which they would like to file a case.

The Baath Party has shown some interest in advancing women's rights, though both genders were of course equally subjected to the wide-ranging crackdown on freedoms that came with the Baath's rise to power. Syria's constitution establishes the need for equality among all citizens and calls for the removal of barriers to women's full participation in political, social, cultural, and economic life. Syrian women gained suffrage in 1949, a very early first in the region, and are active participants in public life, including in ministerial positions.

Despite these advances, however, certain cultural biases and penal code provisions prevent gender equality. Despite the efforts of women's groups, Syrian women married to non-citizens do not have the right to pass Syrian citizenship to their children. Furthermore, honor killing remains one of the most serious gender-related issues in Syria. The government instated in 2009 a minimum two-year sentence for perpetrators of honor crimes, but has not sufficiently enforced that provision and the practice continues unabated. According to official estimates, there were 57 honor killings in 2009. Domestic workers, most of them female, are vulnerable to exploitation and abuse by their employers. The government has put in place regulations to protect domestic workers, but these provisions lack enforcement mechanisms and are largely ineffective.<sup>14</sup>

The state systematically represses and discriminates against Kurds, who constitute the country's largest ethnic minority. Kurdish districts typically have poor economic development and few social services. The government has arbitrarily denied citizenship to approximately 300,000 Kurds born in Syria, and political representation of the Kurdish community is virtually nonexistent.<sup>15</sup> The Syrian government has replaced Kurdish names of villages and areas with Arabic names and has moved members of the population away from what it considers sensitive areas. The government routinely prevents Kurds from fully exercising their rights to property ownership and employment, and prevents them from registering marriage and birth certificates.

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Kurds classified as “denationalized people” are not registered with the Syrian government and lack official identification cards.

Bans on Kurdish-language publications and music prevent the community from expressing its cultural identity and security forces regularly break up gatherings of Kurdish people, often with the use of lethal force. For example, three people were killed on March 20, 2008, when security officials fired on a group of Kurds gathered in Qamishli in celebration of the Kurdish New Year.

Unlike most Middle Eastern countries, Syria has no official religion, though its constitution does require the president to be a Muslim and specify Islam as the source of jurisprudence. The vast majority of Syrians are Muslim, with 74 percent of the population being Sunni and 13 percent being Shia, Alawite, and Ismaili Muslims. The population is 10 percent Christian, 3 percent Druze, and a very small Jewish community numbers approximately 100 people. The Baath Party adheres to a secular ideology and the government generally allows the small Christian and Jewish populations to worship without interference.

Government interference in religious matters tends to be confined to Islamist groups, who the regime has controlled and repressed for nearly three decades. The Muslim Brotherhood, who the government targeted in a 1982 assault in Hama that resulted in the death of approximately 20,000 people, remains illegal, and police and security services closely monitor suspected members of the Muslim Brotherhood and Salafist organizations. The government appoints all of the country’s Islamic religious scholars (‘*ulama*) with the goal of promoting moderation. Given the extensive reach of the government’s suppression of Islamist organizing, it is difficult to ascertain the size of the Islamist community and the extent of the threat it poses.

The Baath Party under Hafez al-Assad paid relatively little attention to regulation of the religious sphere. It did not invest in the Ministry of Awqaf (Religious Endowments) and paid little attention to the training of clerics. It repressed Islamist movements for the purpose of preventing Islamist mobilization, but the regime did not focus on everyday religious affairs. When Bashar took power, however, the regime was under significant pressure to build legitimacy, and it expanded space for Islamic charities and informal prayer networks to operate in hopes that such liberalization would garner social favor. As external threats receded after 2006, the regime began reclaiming the opened space, and again restricted a range of informal practices by Islamic movements. In 2008, the regime began the most extensive expansion of state regulation of the religious sphere since 1963, including by overseeing religious education and expanding the Ministry of Awqaf.

Some discrimination on the basis of religion exists in practice. The Alawite community, despite its relatively small size in the population, dominates the military and security sectors and adherents of banned religions like the Jehovah’s Witnesses are routinely subjected to interrogation and harassment.

In 2004, the government issued a law to empower and protect Syrians with disabilities, including by encouraging improvements in public access and establishing fee reductions for persons with disabilities at monuments and cultural sites. The Ministry of Social Affairs and Labor launched a media campaign with the president’s wife to raise awareness about the issue. In 2010, the government passed a labor law requiring that at least 2 percent of private sector company employees be from the disabled community. Despite these advancements, however, major problems remain and very few government offices, buildings, or methods of public transportation are accessible to people with disabilities.

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Since 1968, all Syrian workers have been required to belong to the General Federation of Trade Unions (GFTU), a nominally independent organization whose president is a senior member of the Baath Party. The Ministry of Labor appoints the GFTU congress and sets regulations for the organization's use of funds. The GFTU has extensive control over its members, including the ability to dissolve the executive committees of member organizations as it sees fit and to determine which groups of workers can unionize. The GFTU generally acts as a conduit between workers, management, and political leadership in discussions of the minimum wage, hours, working conditions, and measures to address unemployment.

Strikes are legal in all non-agricultural sectors but are very rare, likely because striking workers are subject to serious penalties, including forced labor, if they do not comply with the strict rules for strikes. Such regulations include the fact that strikes in particular sectors can involve no more than 20 workers, and cannot occur in public places or on job sites. Foreign workers cannot serve in union leadership positions and have few legal protections.

Those wishing to stage public demonstrations or gatherings of more than three people must first apply for permission from the Ministry of the Interior, a process that includes the submission of a list of all possible participants. Permission is typically refused and the rare protests that do occur are almost always organized by the Baath Party or the government itself. Aware of the unlikelihood of receiving permission, many groups hold secret meetings, which are subject to disruption by state intelligence services.

In March 2010, 26 Kurdish university students were arrested for participating in a short, silent observation of the anniversary of the 2004 Kurdish uprising. The following month, 24 Kurdish activists were sentenced to more than a year in jail for their participation in a 2007 demonstration against Turkish attacks in Iraqi Kurdistan. Security forces also target apolitical gatherings; in March 2010, they conducted a series of raids to shut down groups of women gathered to commemorate International Women's Day.<sup>16</sup> As noted above, the Syrian government reacted to widespread antigovernment protests in the spring and summer of 2011 with brutal force, reportedly causing the death of more than 800 civilians.<sup>17</sup>

### **RULE OF LAW**

Syria's constitution explicitly endorses the separation of powers, but the state of emergency overrode this principle and endowed the executive and various security services with a wide range of authority that has serious implications for judicial independence.

The Syrian judicial system is influenced by both French and Egyptian traditions. It has three levels of courts of general jurisdiction: magistrate courts, courts of first instance, juvenile courts and customs courts; civil and criminal appeals courts; and the court of cassation, which is divided among civil and commercial, criminal, and personal status sections.<sup>18</sup> The country has separate courts for religious matters, which include personal, family, and religious cases between Muslims or between Muslims and non-Muslims. There are separate courts for members of the Druze sect, Christians, Jews, and other non-Muslims.

The Supreme State Security Court (SSSC) was created in 1968 under the authorization of the state of emergency. The SSSC is exempt from Syria's rules of criminal procedure and its prisoners, the vast majority of whom are political dissidents and Kurdish and Islamist activists, have no right of appeal. Defense attorneys are not allowed to argue in defense of their clients or

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to call witnesses. Three judges, including one from the military, preside over each of the SSSC's two divisions. The president has extensive control over SSSC proceedings, including the power to ratify or annul verdicts, call for a retrial, and commute sentences. SSSC trials are closed to the public.

The judiciary is not independent and is, like much of the government bureaucracy, a mouthpiece of executive will. The Minister of Justice is a direct representative of the president in the Supreme Judicial Council and as such, the judiciary is akin to an executive-run state department.<sup>19</sup> According to Legislative Decree 40, judges do not have immunity and can be dismissed or transferred by unilateral order at any time. Such a dismissal requires no justification and cannot be appealed. An overwhelming proportion of judges are members of or close allies with the Baath Party. The party, government, and security services control judicial appointments and compensation and bribes and gifts are common. The lack of judicial immunity and broad executive powers ensure that the judiciary protects executive interests. The reputation for corruption and the perception that access to justice is dependent on informal personal connections inspires little public confidence in judicial institutions.

Despite constitutional guarantees, defendants are regularly denied access to a fair and timely trial. Detainees are technically considered innocent before proven guilty but, as with most procedural rights, that is not the case in practice. Defendants in civil and criminal courts are entitled to legal representation, and counsel is assigned for those who cannot afford it, but the efficacy of these services is severely hindered by the fact that lawyers often have limited access to their clients and are prevented from presenting complete cases with testimony and evidence. There are no procedural rights in SSSC cases. SSSC defendants and their lawyers are not present when prosecutorial evidence is presented and defendants are often prohibited from meeting with their lawyers before trial.

There are very few cases in which government officials or Baath Party members have been tried before a court for misconduct or abuse of power, and those that do go before a court are generally situations in which the defendant has fallen out of political favor. In cases of alleged abuse, victims must obtain permission from state security to file complaints. A member of the security apparatus has not been tried before a court since 1963.

In May 2010, the UN Committee against Torture expressed strong concerns about numerous, ongoing, and consistent allegations of the routine use of torture by law enforcement and investigative officials, particularly in detention facilities. The regime has not conducted any substantive investigation of such claims.

There are four security services in Syria: the General Intelligence Administration (or State Security), affiliated with the Ministry of the Interior; Political Security, a division of the Ministry of the Interior; and Military Intelligence and Air Force Intelligence, both nominally under the control of the Ministry of Defense. The Bureau of National Security of the Baath Party Country Leadership oversees all of these services. With the exception of the Air Force Intelligence, which has special tasks, all other security branches conduct domestic surveillance at the local level. Headquartered in Damascus, they have branches in all provinces.

The military underwent a process of professionalization and subordination to the Baath Party after 1970, but it remains an influential force in Syrian life, including through its extensive economic interests. Despite its subordination to the party, military officials continue to be able to operate without transparency and with complete impunity. The heads of security branches often have close relationships with the president, and these relationships expand their influence beyond

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that of their own parent ministries. As a result, security branches have a decisive say in political, economic, and administrative decisions, but are accountable only to the president.

Syrian law is unique in the extent of immunity that it grants to officials, particularly those who work for security services. Legislative Decree No. 549, for example, prohibits legal action against any member of the state's security services for crimes committed in the course of duty. Further, any prosecution of police, customs, and security officials must be approved by the army and armed forces.<sup>20</sup> This immunity shields government actors from accountability for human rights violations.

Bashar al-Assad's economic liberalization program included the reform of Syria's private property laws. Outright nationalization and seizure of property no longer occur and the regime has streamlined legislation on commercial and industrial ownership and foreign direct investment. The right to own property is guaranteed by law but protection of private property rights is weak in practice and, like many other rights, is often tied to an individual's access to members of the regime, security, and the Baath Party. Disputes over property are often determined in court according to personal connections with the security forces and bribery.<sup>21</sup>

### ANTICORRUPTION AND TRANSPARENCY

Despite the fact that Bashar al-Assad spent the most recent of his pre-presidency years establishing an anti-corruption campaign, corruption and transparency issues in Syria do not appear to have improved under his rule. Instead, the economic liberalization policies that Bashar has enacted may have created the opportunity for the growth of crony capitalism, which is perhaps the biggest corruption problem in the country at present.

Transparency International's 2010 Corruption Perceptions Index gave Syria a score of 2.5 on a 10-point scale, and a rank 127 of 178 countries surveyed.<sup>22</sup> Syria performs below average on indicators of transparency, public voice, and accountability, as well as control of corruption. Petty corruption is pervasive in Syria. Citizens must commonly pay bribes and rely on personal connections (*wasta*) to obtain services, conduct business, and gain access to government and civil service information.

Citizen access to information on government activities and spending is limited, even among regime officials and members of parliament. There is no legislation that establishes the right to access to information and news about the security services and Ministry of Defense is particularly difficult to obtain. The government has made no effort to increase the transparency of its operations, including information on the budget and the official procurement processes. Syria's tax collection system is plagued by weak administration capacity and corruption, which has allowed private sector actors to avoid the payment of taxes.

There is no official anti-corruption framework or organization to fight graft. Given the strict controls on reporting and the complete lack of independent media, there is no public coverage of corruption allegations. Journalists that report on corruption are subject to severe harassment and intimidation on the part of security services. This level of control over the media's discussion of fraud allows executive and party officials to enjoy absolute immunity. Prosecution for corruption is virtually unheard of, as the only government officials who are subject to disciplinary actions are those who have fallen out of the government's favor. The former MP Riad Saif was arrested in 2001, for example, when he was working to uncover

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corruption among mobile phone companies, one of which was owned by al-Assad's cousin, Rami Makhlouf. Saif was sentenced to five years in jail.

Makhlouf is in fact no stranger to allegations of corruption. Considered one of the most powerful men in the Syrian economy, Makhlouf is involved in a wide range of major commercial transactions in Syria. He maintains a monopoly on two Syrian mobile phone companies, and is also said to control the free trade zones on Syria's borders. In February 2008, the U.S. Department of the Treasury designated Makhlouf as a beneficiary and facilitator of public corruption in Syria,<sup>23</sup> in conjunction with a White House executive order expanding American sanctions on Damascus. This action was taken pursuant to Executive Order 13460, which targets individuals and entities determined to be responsible for or who have benefited from the public corruption of senior officials of the Syrian regime. In the spring of 2011, Makhlouf quickly became a focal point of antigovernment protesters, as he had become a symbol of the corruption and excess of Syria's developing crony capitalist system. In June 2011, Makhlouf declared he would resign from business and focus on charity work in an apparent effort to appease demonstrators, though the extent to which this intention was genuine is unclear.<sup>24</sup>

The Syrian government has refused to register any civil society groups working to fight graft and bans activists and experts from travelling to attend anticorruption training workshops and conferences. These restrictions have prevented civil society from doing any meaningful work to combat corruption.

### RECOMMENDATIONS

- The state should genuinely enforce the cancellation of the state of emergency and repeal all legislation related to it, including the impunity guaranteed to all government officials.
- The al-Assad regime must establish legislation for a genuine multiparty system and free and fair presidential and parliamentary elections to allow for the full participation of the Syrian people.
- Constitutional limitations on executive power should be established, along with clear and enforceable checks on executive power.
- The state should release all political prisoners, lift travel bans on reformers and activists, and allow the freedom of movement of all foreign and domestic journalists.
- The government should take steps to resolve the legal status of the Kurds and establish protections for their equal enjoyment of rights as Syrian citizens.
- The state should discontinue all censorship of media and internet and establish fair legislation regarding libel.

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<sup>1</sup> "Election Profile: Syria," International Foundation for Electoral Systems (IFES) Election Guide, <http://www.electionguide.org/results.php?ID=1133>, accessed June 17, 2011.

<sup>2</sup> Constitution of the Republic of Syria,

[http://www.law.yale.edu/rcw/rcw/jurisdictions/asw/syrianarabrep/syria\\_constitution.htm](http://www.law.yale.edu/rcw/rcw/jurisdictions/asw/syrianarabrep/syria_constitution.htm), accessed June 17, 2011.

<sup>3</sup> "Baath time in Syria," *Economist*, April 18, 2007, <http://www.economist.com/node/9032177>.

<sup>4</sup> The Fund for Peace *Syria Country Profile 2009* (Washington, DC: The Fund for Peace).

<sup>5</sup> "A Wasted Decade," Human Rights Watch, July 16, 2010, <http://www.hrw.org/en/node/91580/section/4>.

## COUNTRIES AT THE CROSSROADS

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<sup>6</sup> “10 Worst Countries to be a Blogger,” Committee to Protect Journalists, April 30, 2009, <http://www.cpj.org/reports/2009/04/10-worst-countries-to-be-a-blogger.php>.

<sup>7</sup> “Schoolgirl blogger jailed in Syria,” Al Jazeera, February 15, 2011, <http://english.aljazeera.net/news/middleeast/2011/02/201121514319413714.html>.

<sup>8</sup> “Karim Arbaji,” Threatened Voices, Accessed July 12, 2011, <http://threatened.globalvoicesonline.org/blogger/karim-arbaji>.

<sup>9</sup> “Country Profile: Syria, 2010,” Reporters without Borders, <http://en.rsf.org/report-syria,163.html>, Accessed July 12, 2011.

<sup>10</sup> Jennifer Preston, “Syria Restores Access to Facebook and YouTube,” *New York Times*, February 9, 2011, <http://www.nytimes.com/2011/02/10/world/middleeast/10syria.html>.

<sup>11</sup> “Country Summary: Syria,” Human Rights Watch, January 2011, <http://www.dchrs.org/english/File/Reports/SyriaSummeryReport2010.pdf>.

<sup>12</sup> “2009 Human Rights Report: Syria,” U.S. Department of State— Bureau of Democracy, Human Rights, and Labor, March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136080.htm>.

<sup>13</sup> “Syria: Lift Blackout on Prisoners’ Fate,” Human Rights Watch, December 10, 2009, <http://www.unhcr.org/refworld/publisher,HRW,,SYR,4b28a091c,0.html>; “Syria: ‘Your Son is Not Here’: Disappearances from Syria’s Saydnaya Military Prison,” Amnesty International, July 5, 2010, <http://www.amnesty.org/en/library/info/MDE24/012/2010>.

<sup>14</sup> “Country Summary: Syria,” Human Rights Watch.

<sup>15</sup> Ibid.

<sup>16</sup> “2009 Human Rights Report: Syria,” U.S. Department of State.

<sup>17</sup> “We’ve Never Seen Such Horror,” Human Rights Watch, June 1, 2011, <http://www.hrw.org/en/node/99345/section/2>.

<sup>18</sup> Nathan J. Brown, “Arab Judicial Structures,” UNDP-POGAR, <http://www.undp-pogar.org/publications/judiciary/nbrown/syria.html>.

<sup>19</sup> Haytham al-Malih, *Huquq al-insan bayn al-ta’dhib wa halat al-tawari’* [Human rights between torture and emergency state] (Damascus: Dar al-Ahali, 2003), p. 88.

<sup>20</sup> Radwan Ziadeh (ed.), *Years of Fear: The Enforced Disappeared in Syria* (Washington, DC: Transitional Justice Project in the Arab World, 2010); Damascus Center for Human Rights Studies, *Torture in Syria: Shadow report to accompany the Syrian government initial report on measures taken to fulfill its commitments under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Damascus Center for Human Rights Studies, 2010).

<sup>21</sup> “2011 Index of Economic Freedom: Syria,” Heritage Foundation, <http://www.heritage.org/index/Country/Syria>, accessed June 17, 2011.

<sup>22</sup> The Corruption Perceptions Index (CPI) measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is a “survey of surveys,” based on 13 different expert and business surveys.

<sup>23</sup> “Rami Makhoul Designated for Benefiting from Syrian Corruption,” U.S. Department of the Treasury, February 21 2008, <http://www.treasury.gov/press-center/press-releases/Pages/hp834.aspx>.

<sup>24</sup> Anthony Shadid. “Reviled Tycoon, Assad’s Cousin, Resigns in Syria,” *New York Times*, June 16, 2011, <http://www.nytimes.com/2011/06/17/world/middleeast/17syria.html?scp=1&sq=Rami%20Makhoul&st=cse>.