



**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

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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.

KHRP SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW OF THE REPUBLIC OF SYRIA

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

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

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 Yildiz, above note 3, 34.

⁶ KHRP submission to UNHCHR, Special Rapporteur on contemporary forms of

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, 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).

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.

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

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.

²⁰ Yildiz, above note 3, 100.

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

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 Arabic 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.

²⁷ KHRP, above note 6, 42.

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

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.