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Human Rights Lawyers and Defenders in Syria: A Watershed for the Rule of Law

July 2011

Report of the International Bar Association's Human Rights Institute (IBAHRI)

Supported by the IBAHRI Charitable Trust

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Executive Summary

This is the report of the second fact-finding mission undertaken by the International Bar Association's Human Rights Institute (IBAHRI) to Syria. Funded by the IBAHRI Charitable Trust, the IBAHRI delegation went to Damascus and Aleppo for a week-long visit on 19–26 March 2011 to investigate the independence of the courts and the legal profession. This was particularly in response to great concerns raised by the international community surrounding the treatment of several human rights lawyers and defenders, including octogenarian Haitham al-Maleh, Anwar al-Bunni and Muhannad al-Hassani, who had been charged and convicted for publicly speaking out against emergency laws, abuse of power and torture. Of particular concern were several disciplinary proceedings initiated by the Syrian Bar Association and its local affiliates against the same human rights lawyers for acts such as 'spreading false, exaggerated and distorting news that undermines the State's standing and reputation abroad'. The delegation held 20 consultations and interviews with a wide range of stakeholders, including human rights lawyers and defenders, civil society organisations, government officials, the Syrian Bar Association and diplomats.

The delegation reached Syria in the week that popular uprisings started to spread across the country, notably in the southern city of Da'raa. The IBAHRI acknowledges that Syria is undergoing a grave crisis, which is escalating and mutating with each passing week. Even at the time of writing, it is no longer possible to locate the precise source of authority within the state, and no one can predict who will be wielding power in the coming months. While the present report does take note of recent developments, it relies on evidence found during the mission relevant to its terms of reference. The IBAHRI believes, however, that its recommendations will have relevance whatever the immediate future may hold. Current events show that a failure to reform is no longer an option. The IBAHRI therefore urges Syria's leaders – current and future – to acknowledge the failings of recent years and remedy them by embarking upon genuinely radical change.

The IBAHRI found significant cause for concern about the extent of political interference in the courts and the Syrian Bar Association in relation to the treatment of human rights lawyers and defenders. Notwithstanding fundamental freedoms constitutionally protected, notably the freedom of expression, assembly and association, the exercise of those rights is regulated by Syrian laws, and at the time of the IBAHRI visit, curtailed by limits imposed by the 1963 Emergency Law. During the mission, the IBAHRI found that human rights defenders face numerous obstacles in carrying out their human rights work. They are subject to intense scrutiny as well as harassment by security officials. They are prevented from holding meetings and most of them are banned from travelling abroad.

In addition, human rights lawyers and defenders face criminal prosecution for speaking out against the state under provisions of the Penal Code, such as for 'weakening the national sentiment'. The practical impossibility of registering, under Law 93 on Private Associations, human rights organisations seeking to monitor the workings of the state and to uphold internationally recognised political rights, means that individuals operating as part of an unregistered organisation are exposed to further risk of criminal charges. The security services play an integral part in the registration process, so that the process mainly serves the purposes of state monitoring and control rather than organising the affairs of the community.

In relation to the judiciary, the IBAHRI is particularly concerned by the lack of judicial independence, particularly as the government retains the power to appoint and dismiss judges through its dominance of the Supreme Judicial Council. The IBAHRI welcomes, however, the fact that President Bashar al-Assad signed decrees on 21 April 2011 that formally abolished Syria's Emergency Law and the exceptional Supreme State Security Court (SSSC). Both institutions had been uniquely corrosive of the rule of law and human rights standards within Syria for almost half a century. But if replacement laws are not simply to replicate previous practice under a new name, it is fundamentally important that they comply with and implement Syria's obligations under international instruments, including the International Covenant on Civil and Political Rights and the Arab Charter on Human Rights.

The IBAHRI is seriously concerned with the lack of independence of the Syrian Bar Association and its regional branches. Both the state and the leadership of the Syrian Bar Association impose obstacles on lawyers handling cases dealing with political dissent. Many such lawyers have been tried before the former Supreme State Security Court. Law No 30 regulating the legal profession provides that lawyers must seek permission from the Syrian Bar Association to visit clients in prison, which consent is granted or withheld on political grounds. In addition, lawyers may face disciplinary proceedings before the Bar Association when they speak out on human rights issues or when they fail to seek permission from the Bar Association to join or take office in a lawyers' union or association. The IBAHRI further notes with great concern that rather than offering assistance to human rights lawyers persecuted by the government, the Syrian Bar Association has on many occasions used its power to institute disciplinary proceedings in addition to the criminal proceedings against the lawyer. The Syrian Bar Association and its local affiliates have failed in their vital role under the UN Basic Principles on the Role of Lawyers to 'protect their members from persecution and improper restrictions and infringements'.

This report makes several recommendations to the Ministry of Justice, the Ministry of Social Affairs, and to the Syrian Bar Association, to remedy these problems. These recommendations can be found in Chapter 6.

Chapter One: Introduction

The International Bar Association (IBA), established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. Its membership includes over 40,000 lawyers and 203 bar associations and law societies spanning every continent. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world. The International Bar Association's Human Rights Institute (IBAHRI) works to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.

This report is the result of a fact-finding mission to Syria carried out by the IBAHRI from 19–26 March 2011, funded by the IBAHRI Charitable Trust. It followed up on an earlier mission, funded by the Open Society Institute that had visited Syria in June 2010. The purpose of both missions was to examine the independence of the legal profession and the judicial system in Syria, with particular reference to the treatment of human rights lawyers and defenders. Concerns in this regard had been building within the international community for a number of years. In April 2007, a prominent human rights lawyer, Anwar al-Bunni, was sentenced to five years in jail for 'weakening national sentiment'. In October 2009, the same charge was used to impose a three-year sentence on the then-78-year-old lawyer Haitham al-Maleh, and in June 2010 it formed the basis for a similar sentence against lawyer Muhannad al-Hassani. All had spoken out against emergency laws, abuse of power and torture. There was great unease about the role played by the Syrian Bar Association, which not only failed to assist prosecuted lawyers, but initiated disciplinary proceedings against them. Following news in the second half of 2010 that the Syrian Bar Association was pursuing new allegations of professional misconduct against yet more human rights lawyers, most notably Radeef Moustafa and Abd al-Rahman Najjar, the IBAHRI decided to undertake a follow-up fact-finding mission. Its findings are presented in this report.

The terms of reference were:

1. To examine the independence of the legal profession and the courts in Syria in relation to the treatment of human rights defenders and the issues affecting this.
2. To analyse the international and domestic legal norms applicable to this situation and their implementation in Syria.
3. To examine any relevant related matters, including the responsibilities of all stakeholders.
4. To write and publish a report containing the findings of the mission, with recommendations.

The mission reached Syria during the week that large-scale protests began within the country. Although it took note of the demonstrations and has drawn relevant conclusions from their existence, this report has two specific limits:

- *Ratione temporis*: it rests on evidence gathered during the fact-finding mission's visit to Syria, which took place from 19–26 March 2011. It does, however, take note of developments since this time, knowledge of which is in the public domain.

- Ratione materiae: the delegation was mandated specifically to examine the independence of the legal profession and the courts in relation to human rights defenders and lawyers. It examines the wider human rights situation only insofar as it is relevant to this inquiry.

The legal framework for this examination is as follows:

- The International Covenant on Civil and Political Rights;
- The Arab Charter on Human Rights;¹
- The UN Basic Principles on the Role of Lawyers;²
- International Bar Association International Norms and Basic Principles Regarding Independent Bar Associations;³
- The Syrian Constitution;⁴
- The 1963 Emergency Law, and the 1968 Decree establishing the Supreme State Security Court;
- The 1972, 1981 and 2010⁵ Laws regulating the legal profession and the 1981 by-laws of the Syrian Bar Association;
- The 1958 Law on Private Associations and Institutions;⁶
- The 1961 Judicial Authority Law; and
- Certain provisions of the Syrian Penal Code.⁷

The Emergency Law was lifted and the Supreme Security State Court was abolished on 21 April 2011. Both were in operation during the course of the IBAHRI delegation's visit, however, and for reasons explained in the body of the report, they remain relevant to its assessment of the current legal situation. Although the Syrian Government has spoken with increasing urgency of the need for reform, all the other laws referred to above remained in force within the country as of early June 2011.

1.1 Delegation members

The IBAHRI would like to express its gratitude to the delegation members whose collective contributions played an important part in facilitating the production of this report. They were:

Dr Abdel Salam Sidahmed, rapporteur

Abdel Salam Sidahmed, Associate Professor, Political Science Department, University of Windsor, Canada. He teaches international human rights, Islamic and Middle Eastern politics, and politics of the developing world. His research interests include: contemporary Islamism; Sudanese affairs; and contemporary application of Sharia laws in Muslim countries. His publications include: *Sudan*

1 See Annex C.

2 See Annex E.

3 See Annex D.

4 See Annex F.

5 See Annex I.

6 See Annex H.

7 See Annex G.

[The contemporary Middle East Series] (RoutledgeCurzon, 2005); *Politics and Islam in Contemporary Sudan*, (Curzon Press, 1997); and co-editor and contributor of *Islamic Fundamentalism* (Westview Press, 1996). Additionally he published various articles in academic journals and book chapters in edited works within his field of interest. Before joining the University of Windsor, he worked as a researcher and Middle East Programme Director at the International Secretariat of Amnesty International. Dr Sidahmed was the rapporteur for the delegation.

Dr Mohammed Ayat

Dr Mohammed Ayat, Doctorat d'Etat (Ph D) Toulouse 1 University Capitole, France (1979); Senior Legal Advisor at the ICTR, Office of the Prosecutor (1997–2011); Professor of Law (Criminal Justice), Sidi Mohamed Ben Abdellah and Mohammed V University, Morocco; Vice Dean and Head of Private Law Department, Morocco (1983–1997); Attorney, Moroccan Supreme Court (1993–2010); former Judge and Deputy Prosecutor, Morocco (1971–1974); former member of the UN Human Rights Committee (September 2008–August 2009); former Editor of the Journal of Law and Economics at the School of Law at the University of Sidi Mohamed Ben Abdellah Fes; currently member of the Editorial Committee of Studies in International and Comparative Criminal Law New Series from Hart Publishing; Senior Fulbright fellow twice at Rutgers University (1989, 1994), USA; senior fellow researcher at Max Planck Institute, Germany (1996); associated to a worldwide project on Post-Conflict Justice based at the International Institute of Higher Studies in Criminal Sciences, Italy, as expert for North Africa; has contributed to the drafting of the sponsored UN Model Codes of Transitional Criminal Justice, as expert for the Arab and Islamic world; periodically contributes to trainings of Arab and African lawyers on international criminal law, notably within programmes initiated by the IBA; several consultancies for international human rights institutes and human rights NGOs about the Arab world, notably for the Human Rights Institute at DePaul University, Chicago, US; has published several books and articles on national and international criminal justice in Arabic and French, and some articles in English.

Michael Lynn

Michael Lynn is an Irish barrister based in Dublin. He is a graduate of Trinity College, Dublin, and qualified as a barrister at the Honorable Society of King's Inns, Dublin. He has an MA in International Relations, and a Diploma in International Human Rights Law. He has represented many applicants in human rights cases before the Irish High Court and Supreme Court, and the European Court of Justice and the European Court of Human Rights, and has represented the Irish Human Rights Commission as amicus curiae in cases in the High and Supreme Courts. He is regularly invited to speak on human rights issues, most recently at conferences organised by the Bar Council of Ireland, the Irish Criminal Bar Association, the Irish Penal Reform Trust, the Mental Health Lawyers Association, the Irish Refugee Council, University College Cork, University College Dublin, the University of Ulster and Thomson Round Hall publishers. He is a member of advisory panels established by the Irish Council for Civil Liberties and the Immigrant Council of Ireland. He teaches asylum and immigration law at the Honorable Society of King's Inns, Dublin, and previously taught postgraduate courses on constitutional law and media law. He has assisted the IBA in human rights training carried out in conjunction with the Palestine Bar Association and with lawyers in Libya.

Sadakat Kadri

Sadakat Kadri graduated from Trinity College, Cambridge and Harvard Law School, and he is an associate barrister at Doughty Street Chambers in London and a qualified New York attorney. He specialises in criminal, constitutional and international law. He has represented clients at all levels of the UK judicial system, including death row prisoners before the Privy Council. On the international plane, he has worked at the American Civil Liberties Union, advised foreign governments and citizens on matters ranging from telecommunications regulation to the constitutionality of a coup d'état, and participated in appeals in Brunei, Malawi and Fiji. He is familiar with several Middle Eastern and South Asian legal systems, through trial observations, human rights training and research for his forthcoming book *Heaven on Earth: A Journey of Sharia Law* (Random House UK, 2012; Farrar, Straus and Giroux US, 2012). Previous books include *The Trial: A History, from Socrates to OJ Simpson* (HarperCollins/Random House, 2005); he was a legal columnist for the *New Statesman* between 2006 and 2007; and he has contributed to several newspapers and magazines.

Dr Phillip Tahmindjis

Dr Phillip Tahmindjis (BA, LLB (Sydney); LLM (UCL); JSD (Dalhousie); Barrister, Supreme Court of NSW) is Co-Director of the IBAHRI. He has conducted human rights fact-finding missions to Russia, Nepal, Pakistan and Swaziland, and coordinated the project to establish global guidelines for human rights fact finding (the Lund-London Guidelines). He has considerable experience in capacity-building for bar associations, in particular in Afghanistan, Swaziland, Bhutan, the Maldives and East Timor. He has also undertaken human rights training of lawyers in Iraq, Libya, Palestine, Pakistan, Nepal, Jordan, Dubai and the Former Yugoslavia, and has compiled a Human Rights Training Manual in conjunction with the UN High Commission for Human Rights. He is also a trustee of the Southern Africa Litigation Centre. He was a professor of law for 26 years, teaching in Australia, North America and Hong Kong. He has been a consultant to private industry and government with respect to the implementation of human rights (particularly with respect to anti-discrimination measures) and is a former member of the Queensland Anti-Discrimination Tribunal. He is the editor of four books and the author of several articles in this area. He has held executive positions in several organisations, including President of the Queensland branch of Amnesty International and Trustee of the Queensland AIDS Council.

Shirley Pouget

Shirley Pouget is a French jurist and a human rights advocate with over eight years' experience working mainly within international NGOs. In August 2010, Shirley joined the IBAHRI London office as a programme lawyer, where she manages a wide range of projects, including the abolition of the death penalty campaign; human rights and poverty; and an advocacy campaign on Burma. Prior to working at the IBA, she worked as Cabinet member of Andre Vallini, President of the Isère council, France (*Conseil Général d'Isère*) and Member of Parliament, mainly advising on French justice reform and criminal draft legislation. Between 2006 and 2007, she worked as the scientific programme director of the 3rd World against the death penalty in Paris. In 2005, she coordinated a scoping mission on the Burmese–Thai border in Thailand. Shirley has travelled extensively across Eastern Europe and the Balkans while researching Roma issues in Budapest. Shirley is a French law graduate

and holds a postgraduate degree in civil crisis management and humanitarian law from the University of Law in Aix-en-Provence, and a certificate degree in European law from Eötvös Loránd University in Budapest. She studied English legal translation and is a former Hypokhâgne student (preparatory class to the French Grandes Ecoles). She has authored and co-authored published articles and reports on the abolition of the death penalty and international justice. Shirley managed the fact-finding mission to Syria for the IBAHRI.

1.2 Interviews and consultations

The IBAHRI delegation conducted 20 interviews and consultations in Aleppo and Damascus, Syria. It thanks all those who made themselves available for meetings, and it is grateful to all of the Syrian Government officials and legal professionals who found space in their busy schedules. It also benefited from the expertise and hospitality of a number of diplomats. It extends particular thanks to the ambassadors of France and the UK, and to the individuals from other states who were kind enough to share their thoughts during its stay. The delegation is obliged above all to those human rights lawyers and defenders who agreed to be interviewed, at some inconvenience and considerable personal risk. Most of the latter group declined to be quoted by name, and none have been identified. All government officials and bar association leaders agreed to be named.

Chapter Two: Background Information

Syria is located on the eastern Mediterranean, bordering Turkey, Lebanon, Jordan and Iraq. Its 183,630 square kilometres range from heavily populated coastal regions to arid central plains and the Euphrates basin and mountain belts to the east. It contains an estimated 21.7 million inhabitants (according to a March 2010 estimate), with a further 40,000 people living in the Israeli-occupied Golan Heights region. The population is primarily Arab (90 per cent), with Kurds, Armenians, Circassians and Turkomans comprising the remainder. The official language is Arabic, but Kurdish, Armenian, Aramaic and Circassian are widely spoken among minority groups. Ninety per cent of the population are Muslim, comprising Sunni Muslims (74 per cent) and other smaller groups such as Alawi, Shi'a, and Druze. Almost all of the remaining ten per cent are Christians, although a tiny Jewish community remains.⁸

Syria is a lower middle-income country, with a per capita gross national income of about US\$4,490. Its economic performance has strengthened in the last decade as a consequence of economic reforms and rising oil prices. Oil exports account for about 40 per cent of Syria's foreign exchange receipts, and services and overseas remittances make up much of the remainder. The country maintains a current account surplus of 1.5 per cent of GDP.⁹

2.1 Political history

The country's status as a province of the Ottoman Empire came to an end after the First World War, and Syria came under French control in 1920. It then gained independence on 17 April 1946. In May 1948, it joined several of its Arab neighbours in declaring war on the newly-created state of Israel to recapture Palestine; the state of war has been in place ever since. An ensuing internal crisis caused the government's collapse and the ascent to power of Colonel Husni al-Za'im in a coup on 30 March 1949. Two more military takeovers followed that same year: the first signs of an aspect of Syrian political life that would define the next two decades, and have an impact that has reverberated down to the present. The army became the primary agent of political change, and ideologues and parties pursued their ends by infiltrating the officer corps. Even when civilians appeared to wield power, security forces had control.

Instability continued during the 1950s and 1960s. In 1954, Adib al-Shashakli's regime, which had dissolved all political parties and tried to impose a one-party state, was overthrown by a coup and civilian rule was restored. In 1955, veteran nationalist Shukri al-Quwatli was elected president. Longstanding hopes of a pan-Arabist revival mounted – not least within a regional political movement with strong military support known as the Arab Socialist Baath Party – and nationalist sentiments grew so strong that Syria formally united with Egypt in February 1958 to form the so-called United Arab Republic (UAR). The new nation was led by President Nasser of Egypt, but actual unity was elusive and Syrians had second thoughts when Nasser dissolved all Syrian political parties, including the Baath Party. Another military coup on 28 September 1961 heralded Syria's secession from the short-lived UAR, and general elections saw Nizam al-Qudsi elected President in 1962.

8 World Fact Book, Syria. Available online at: www.cia.gov/library/publications/the-world-factbook/geos/sy.html.

9 World Bank Country Brief: Syria. Available online at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/SYRIAN-ARABEXTN/0,,menuPK:310557~pagePK:141132~piPK:141107~theSitePK:310548,00.html>; World Bank, GNI per capita. Available online at: <http://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD>.

On March 1963, a number of officers affiliated to the Baath Party staged another military takeover. In-fighting and a widening split between the Party's Iraqi and Syrian wings culminated in February 1966 with the triumph of one particular faction within Syria. The country's most powerful figure became Salah Jadid, the Assistant Secretary-General of the Baath Party; one of his close associates, Dr Nureddin al-Atassi, became President of the Republic. Hafez al-Assad, who would later become the longest ruling president of Syria since independence, was named Minister of Defence.

2.2 Rise of Hafez al-Assad

The Six Day War with Israel in June 1967 resulted in the occupation of the Golan Heights region of southern Syria, and another round of bitter internal recriminations. This came to a head on 16 November 1970, when Hafez al-Assad deposed and imprisoned a number of senior officials, including President al-Atassi and Salah Jadid.¹⁰ The bloodless coup would come to be immortalised in Syrian modern history as the 'Corrective Revolution'. Al-Assad initially assumed the role of Prime Minister and formed a 26-member cabinet. Half of it consisted of Baath Party members, and the remainder was made up of Socialists, Nasserites, Communists and independents. A national referendum on 12 March 1971 then elevated him to the presidency for the first of many seven-year terms.

Al-Assad consolidated his hold on power throughout the 1970s. A new constitution was promulgated in March 1973, and its enactment was followed by the first elections for the People's Assembly since 1962. Foreign relations improved as diplomatic ties were re-established with Britain and the US. After an unsuccessful attempt to retake the Golan Heights during the Arab-Israeli War of October 1973, Syria also signed a US-brokered armistice with Israel in 1974, which has seen UN peacekeeping forces stationed on the ceasefire line ever since. There were very definite limits to its diplomatic efforts, however. Syria refused to support the 1978 Camp David Accords between Egypt and Israel. The country also sent military forces across the border into Lebanon in 1976, following the outbreak of civil war within the country, and they would remain there until 2005.

Although President al-Assad was re-elected for a second seven-year term in February 1978, internal dissatisfaction with his rule was by then mounting. There was opposition from liberals, trade unions, professional associations and a number of breakaway Communist, Nasserite and Arab nationalist groups. The most militant hostility came from the Muslim Brotherhood, and its military wing (known as *al-Talee'ah al-muqatillah*, or the Fighting Vanguard). It effectively led an armed insurgency against the regime, committing a number of violent attacks on government installations and state officials (allegedly including a life attempt on President al-Assad). The regime reacted with punitive measures that included – among other things – making membership of the Muslim Brotherhood a capital offence in 1980.¹¹ The escalating confrontation culminated in an open rebellion by the Brotherhood, which seized control of the city of Hama at the beginning of February 1982. The government responded by besieging the city for three weeks. Sustained aerial and tank bombardment reduced swathes of the central area to rubble. Many thousands of men were arrested after the authorities recovered control, and an unknown number were summarily executed.

¹⁰ Al-Atassi was released from jail in November 1992 to undergo medical treatment in Paris, but died within weeks of his release. Jadid remained imprisoned until his death in August 1993.

¹¹ Act No 49, 22 July, 1980; this law still remains on the books.

2.3 Bashar al-Assad's succession

President Hafez al-Assad died on 10 June 2000, after 30 years in power. The People's Assembly responded with an immediate amendment to the Constitution, reducing the mandatory minimum age of the President from 40 to 34 years old. Hafez's 34-year old son, Bashar al-Assad, was duly nominated for the post by the Baath Party, and on 10 July 2000 he was elected unopposed for a seven-year term in a national plebiscite. He was inaugurated on 17 July 2000. On 27 May 2007, he was re-confirmed for a second seven-year term with 97.6 per cent of the vote.

President Bashar al-Assad came to power with promises to liberalise Syria's centrally-controlled economy and open up its political system. On the economic front there was steady progress in the decade that followed. Legislation was enacted to permit the creation of private banks, relax foreign investment controls, lower corporate taxes and liberalise exchange rates. Early indications were that President al-Assad was also serious about reforms on a broader front. Six hundred political prisoners were released in November 2000, and groups of intellectuals formed *muntadyy t* ('salons' or 'forums') to debate how the Syrian political system might best be reformed. As the 'Damascus Spring' flowered, there was a revival of organisations such as the Committee for the Defence of Democratic Freedoms and Human Rights in Syria (CDF) and newer ones were formed, including the Human Rights Association of Syria (HRAS, *Jam'iyyat Huquq al-Insan fi Suria*). One group of activists published the 'Manifesto of the 99', which called on the government to end the state of emergency and abolish extraordinary tribunals, to pardon all political prisoners and exiles, and to permit citizens a general right to form political parties and civil organisations. There were even calls to repeal Article 8 of the Syrian Constitution, which ensures the predominance of the Baath Party of state and society.

Such demands were not tolerated for very long. In August 2001, the authorities launched a widespread clampdown on the basis that the emergent organisations and demands were destabilising the country, undermining the national interest and serving the interests of foreign powers. An example was made of ten opposition leaders, including two members of the People's Assembly, who were charged with criminal offences in respect of a seminar during which they had called for certain amendments to the Constitution and democratic elections. The two legislators were convicted in the Damascus Criminal Court and sentenced to five years in jail for 'attempting to change the constitution by illegal means' and 'inciting racial and sectarian strife'. The remaining eight activists were referred to the Supreme State Security Court and given jail terms that ranged from two to ten years.

No serious attempt at political reform was ever attempted again. There were frequent claims to international observers and bodies that Syrian law was about to be greatly improved, but the promises were never realised. Syrians who dared to advocate legal change were often arrested. Many were detained incommunicado without trial. Others were put on trial before civilian or exceptional courts and imprisoned for violations of the Penal Code.

2.4 The political system

The 1973 Constitution establishes Syria as a presidential republic. The President is required to ensure respect for the Constitution, the orderly functioning of public authorities and the preservation of the state, and he exercises all executive powers enumerated in the Constitution (Art 93). He is nominated by the People's Assembly and serves a seven-year term, subject to approval by popular referendum.

There is no limit on the number of terms a President may serve. The President has the right to appoint ministers and constitute a cabinet, to declare war, to issue regular laws for ratification by the People's Assembly, to declare amnesties, to amend the constitution, and to appoint civil servants and military personnel. He also has a constitutional power to enact emergency measures without the need for ratification in the event of 'a grave danger or situation threatening national unity or the safety and independence of the homeland or obstructing state institutions from carrying out their constitutional responsibilities' (Article 113).

In his role as the state's chief executive he is aided by the cabinet he appoints, which proposes draft bills and the state budget for consideration by the People's Assembly, oversees the enforcement of laws and safeguards 'the rights of the citizens and the state's interest', among other things. Its members are all appointed by the President.¹² The President is also Secretary-General of the Baath Party, which has a constitutionally guaranteed status as 'the leading party in the society and the state' (Article 8) and therefore predominates within the government, the legislature, the civil service and the executive bodies of all trade unions and other mass organisations. It formally exercises this dominance in alliance with a number of smaller authorised parties, including Communist and Arab nationalist factions, who make up what is known as the National Progressive Front. This is also headed by the President.

Legislative authority is exercised by the 250-member People's Assembly, elected every four years, which has the power to debate, amend and approve legislation and presidential decrees. Its powers extend beyond the promulgation of laws to the right to debate government policies and question cabinet members; to approve the annual budget; to withhold confidence in the cabinet or an individual minister; and to approve international treaties and agreements. It nominates presidential candidates, and arranges for their election through (unopposed) plebiscites.¹³

Any law passed by the People's Assembly is subject to veto by the President, who has one month to promulgate the law or return it to the legislature with reasons for the veto (Art 98). If returned, it can be put to a second vote. If it then obtains a two-thirds majority of those present and an absolute majority of all members, the President must pass the bill as law. One-third of the members of the People's Assembly can propose a constitutional amendment, though it only enters into force if passed by a three-quarters majority and is approved by the President. The President has the right to dissolve the People's Assembly (Article 107), in which case a new legislature must be elected within 90 days.

The Constitution guarantees many rights and freedoms in theory, but their practical observance has in practice been considerably curtailed. One reason is inadequate enforcement. The second is Legislative Decree No 51 ('the Emergency Law'), a presidential law issued on 22 December 1962, which was adopted by the Baath Party on the day of its seizure of power on 8 March 1963. The Emergency Law is discussed in greater detail below, and it suffices here to observe that it has served in the past to override all constitutional and other legal protections, including those regulating arrest and detention, judicial oversight over security forces, privacy and the freedoms of expression, association and assembly. The Emergency Law was justified by Syrian authorities for its almost half-century existence as a necessary response to the state of war that has existed with Israel since 1948,

¹² On the Cabinet, see the Constitution, Articles 115–27.

¹³ On the People's Assembly, see the Constitution, Articles 50–82, 84.

and the ongoing Israeli occupation of the Golan Heights. President Bashar al-Assad formally brought it to an end on 21 April 2011.

2.5 Syria's domestic and international human rights obligations

Syria's domestic and international human rights obligations, insofar as they are relevant to this report, are discussed in detail at 3.3 and following. It is sufficient here simply to note that Syria's Constitution provides for freedom of expression and assembly, as well as due process and freedom from torture.¹⁴ The rights to free expression and association are circumscribed by reference to safeguarding 'the soundness of the domestic and nationalist structure'. The valid application of these qualifications is considered below in their own terms and in light of the recent repeal of the Emergency Law.

Syria is a party to the principal international human rights treaties, including the International Covenant on Civil and Political Rights and the UN Convention Against Torture, without any reservations here relevant. It is also a party to the Arab Charter on Human Rights. A table of these obligations can be found at Annex B of this report. The IBAHRI delegation was told that Syria's international treaty obligations have superiority in domestic law. The structure of Syria's courts, and the use of special courts, is discussed at 4.2 below.

2.6 Latest developments

As popular uprisings swept the Middle East and North Africa during the first quarter of 2011, Syria remained apparently untouched until the middle of March. A demonstration in support of political prisoners in Damascus on 16 March 2011 was followed on 18 March by protests in the southern city of Dara'a, against the arrest of some youths for scrawling graffiti. The initial anger was directed at the heavy-handedness of the arrests and alleged corruption among provincial politicians, but the use of lethal force by the authorities led to more general calls for economic and political reform. Unrest spread across the country to other cities, including Latakia, Banyas, Hama, Homs, Qamishli, Aleppo and Damascus itself, and the official response escalated in tandem, to the extent that artillery and tanks were used in several cities. Large numbers of Syrians were arrested, detained, injured and killed. Precise statistics are unavailable, but some indication of the protests' scale emerges from a statement by a spokesman for the UN High Commissioner for Human Rights in mid-May 2011. This stated that it was likely that, 'between 700 and 850 people have been killed since the start of the protests on March 15, and [that] thousands of other people have been arrested.'¹⁵

The government's response was somewhat contradictory. On the one hand, it blamed the violence on armed members of the Muslim Brotherhood and shadowy foreign elements who had infiltrated the protesters and targeted police and civilians alike in pursuit of their own ends. President Bashar al-Assad gave expression to this view in his first public response to the crisis, a televised address to the People's Assembly on 30 March 2011, in which he warned that: 'Syria is facing a great conspiracy whose tentacles extend to some nearby countries and far-away countries, with some inside the country. This conspiracy depends, in its timing not in its form, on what is happening in other Arab countries.' According to this theory, security forces had been the victims of violence rather than its perpetrators.

¹⁴ Articles 28, 38, 39.

¹⁵ 'UN rights office says activists' figures of up to 850 killed in Syria crackdown are realistic', *Washington Post*, 13 May 2011; see also, Human Rights Watch, 'We've Never Seen Such Horror', June 2011, online at www.hrw.org/node/99366.

At the same time, the government acknowledged the legitimacy of the protestors' demands to the extent that it declared itself in favour of wide-ranging reforms. On 24 March 2011, a presidential adviser announced that a package of legal changes was being prepared, to include laws on the media and political parties; measures to improve the judiciary and criminal procedure; anti-corruption legislation; and the creation of a committee to study the possibility of lifting the Emergency Law. Five days later, President al-Assad accepted the resignation of his entire cabinet, and in his televised address the following day he stressed that his government had always been fully committed to radical reform. He stated:

'We have been talking about reform for the past ten years, and our reform today should reflect the past ten years and the next ten years. It should not only reflect this stage or this wave whether it is internal or external. Changes might delay or precipitate reform, change its direction, make us build on other countries' experiences... In principle, we cannot say that we do not want reform because this will be destructive to the whole country, but the main challenge is finding out what kind of reform you want and we need all our skills as Syrians when we start discussing the laws which will be proposed soon. The measures announced last Thursday [24 March 2011] did not start from square one because as I said the Regional Command [of the Baath Party] already made drafts for the emergency law and the [political parties law] more than a year ago.'¹⁶

President al-Assad quickly replaced his government and raised the former Minister of Agriculture Adel Safar to the post of Prime Minister on 4 April 2011. He then addressed his new cabinet on 16 April and stated, among other things, that the state of emergency was soon to be formally lifted. On 21 April he signed Decree No 161 to abolish the emergency legislation and Decree No 53 to abolish the Supreme State Security Court (SSSC). The liberalising measures were counterbalanced by two decrees that sought to control escalating protests within the country: Decree 54 introduced stringent licensing requirements for demonstrations, and Decree No 55 added a new paragraph to Article 17 of the Syrian Code of Criminal Procedures allowing police and security forces to detain suspects without judicial authority for a week, extendable to two months by order of the Prosecutor-General. Although neither measure appreciably affected either the scale of protests or the number of deaths, President al-Assad purported to display his continued commitment to reform on 31 May 2011 with Decree 61, which announced a general amnesty for all crimes committed before that date.¹⁷ The IBAHRI welcomes the fact that some of the political prisoners have been released.

16 Syrian News Agency (SANA) at www.sana.sy/index_eng.html, accessed 25 April 2011.

17 See the Syrian Arab News Agency report online at www.sana.sy/eng/21/2011/06/01/350232.htm; see also the BBC report at www.bbc.co.uk/news/world-middle-east-13607770.

Chapter Three: Obstacles Faced by Syrian Human Rights Lawyers and Defenders

Three days before the IBAHRI delegation's arrival in Syria on 19 March 2011, state security officials violently broke up a demonstration in Damascus and arrested a number of protesters, including a lawyer. They were then charged with criminal offences. Although the prosecutions are easily overshadowed by more recent events, they were a watershed. Coming a few days before protests began in the southern town of Daraa, at a time when observers were still unsure whether Syria was going to be affected by political upheavals elsewhere in the Arab world, they marked the first expression of serious dissent in the country. The arrests of 16 March 2011 would consequently inform all discussions and meetings held by the IBAHRI delegation, and a brief account and analysis of events on that date is accordingly set out below.

3.1 The events of 16 March 2011: a case study

On Wednesday 16 March 2011 at 12 noon, a number of Syrian citizens gathered in front of the Ministry of Interior at al-Marjeh Square in Damascus. They planned to submit a petition to the Minister of Interior requesting the release of some prisoners and clarification of the whereabouts and fate of others. Many were friends or relatives of detainees, and others were simply citizens who believed that the detainees were being held unjustly or treated improperly. There was particular concern about the fact that certain men in Adra prison were on hunger strike to protest against their continued detention and other alleged injustices. Witnesses later interviewed by the IBAHRI delegation stated that there were 150–200 individuals present, many of them carrying placards calling for the prisoners' release. About 200 police officers and Military Security agents then drove in to the square, parked their cars and set about snatching away placards and manhandling demonstrators. Two witnesses interviewed separately by IBAHRI delegates described the arrest of one person in particular: a lawyer named Ms Sirine al-Khouri, who tried to intervene when she saw a security officer using excessive force against a woman demonstrator. After asking who she was, the officer informed his superior and was told to 'arrest the lawyer, and drag her by the hair to the car'.¹⁸ According to the witnesses, she was then pulled as instructed about 150 metres to the security officers' parked vehicles.

Forty individuals were taken to the Military Interrogation Branch at Kafr Sousah in Damascus. Seven were released on the same day; the remainder comprised ten women and 23 men of various ages. They included six members of the same family: relatives of Kamal al-Labwani, a medical doctor and an artist, who was given a 15-year jail sentence for publicly asking the Syrian Government to respect human rights during a foreign trip in late 2005.¹⁹ The arrested protesters were detained for overnight interrogation and held in overcrowded cells. Although all had been arrested forcefully, only one detainee, Suhair al-Atassi, was referred to a doctor in respect of a serious leg injury. On the following

¹⁸ It should be observed that taking a woman by the hair has specifically violative connotations in any Muslim country, over and above its inherent brutality.

¹⁹ On Dr al-Labwani's case, see www.amnesty.org/en/for-media/press-releases/syria-un-rules-dissident%E2%80%99s-detention-illegal-20090429.

day, 17 March, they were reportedly²⁰ taken to a Prosecutor who charged them under Articles 285 and 307 of the Syrian Penal Code. These provisions provide as follows:

- (i) 'Anyone in Syria who, in wartime or at a time when war is expected to break out, engages in propaganda aimed at weakening national sentiment or at arousing ethnic or sectarian tension is to be punished by temporary detention' (Article 285);
- (ii) 'Every activity, every piece of writing, and every speech, in which what is intended is, or which results in, either firstly the arousing of sectarian or ethnic tension, or secondly the incitement of a dispute between sects and different elements making up the nation, is to be punished by imprisonment for from six months to two years and by a fine of one hundred to two hundred [Syrian pounds], and also by being prohibited from exercising [their civil rights]' ²¹ (Article 307).

The female detainees were then transferred to Doma women's prison, while the men were taken to Adra prison. Five days later, on 22 March 2011, they were all produced before an Examining Magistrate and questioned. All denied the charges against them. Lawyers were present, but they were not permitted to meet their clients in private. Defence applications for their release were deferred to the following day, and two IBAHRI delegates went on 23 March to the Justice Palace, where they were able to meet the Prosecutor-General and the Examining Magistrate. The latter informed them that he was scheduled to make a bail decision, but that there would be no formal hearing. He declined to discuss the case in any greater detail without express permission from the Ministry of Justice or Foreign Affairs. Later that day, IBAHRI delegates learnt that six detainees, including most of the women, had been released on bail of SYP5,000 (about US\$110). Another 17 were set free on bail of SYP7,000 each on 27 March, and seven more were soon released on the same terms. Ms Suhair al-Atassi was freed on 3 April 2011, and Kamal Sheikho remained in jail until 10 May 2011. The cases are still pending before the Examining Magistrate, who retains the power either formally to indict the defendants, or to drop the charges. Although the IBAHRI has attempted to establish their likely fate, answers have not been forthcoming.

3.2. The legislative and political context

The Syrian Constitution²² formally protects freedom of expression and association in the following terms:

'Art 38: Every citizen has the right to freely and openly express his views in words, in writing, and through all other means of expression. He also has the right to participate in supervision and constructive criticism in a manner that safeguards the soundness of the domestic and nationalist structure and strengthens the socialist system. The state guarantees the freedom of the press, of printing, and publication in accordance with the law.

'Art 39: Citizens have the right to meet and demonstrate peacefully within the principles of the Constitution. The law regulates the exercise of this right.'

20 One respondent told the IBAHRI delegation that in fact the Prosecutor did not interrogate the detainees but based his charges on the interrogation made by the Military Security.

21 The provision refers specifically to Articles 65 (b) and (d) of the Penal Code, which deprives a person sentenced to imprisonment from exercising civil rights such as election or being elected to trade unions, religious bodies or state councils.

22 See note 4 above.

Both rights are subject to express and implied limits under ordinary Syrian law, and at the time of the IBAHRI delegation's visit, they were also curtailed by stringent limits imposed by the 1963 Emergency Law. This mandated the Prime Minister to appoint a 'Military Governor' (who was usually the Minister of Interior) with extensive powers to intrude upon otherwise protected rights. He could, for example, 'monitor all types of letters, phone calls, newspapers, bulletins, books, drawings, publications, broadcasts, and all forms of expression, propaganda, and advertisements prior to publication.' Prohibited publications were to be 'seize[d], confiscate[d] and discard[ed]' and publishers were to lose their concessions and have their printing works closed down (See Article 4[b]). The Military Governor was also authorised to limit free assembly by 'impos[ing] restrictions on the freedom of persons in terms of holding meetings, residence, transport, movements, and detaining suspects or people threatening public security and order on a temporary basis, authorising the conducting of investigations related to both persons and places at any time, and requesting any person to perform any task' (Article 4[a]). The cabinet was meanwhile granted a broad power to extend the Military Governor's powers by further decree (Article 5).

States everywhere limit free expression and assembly to some extent, but it is clearly established under international law that they may only be curtailed in limited ways. The position is well expressed by Article 24 of the Arab Charter on Human Rights, an instrument ratified by Syria in February 2008 and in force since March of that same year.²³ This stipulates (in subsection (7)) that 'No restrictions may be placed on the exercise of [the rights to freedom of association and peaceful assembly] other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public health or morals or the protection of the rights and freedoms of others.'

This wording is almost identical to that contained in the equivalent Articles 21 and 22 of the ICCPR (to which Syria is also a party), and it has been authoritatively said of those limits that they should be narrowly construed. They imply an *immediate* threat to the nation and any infringements must always be *proportionate* to the end pursued.²⁴ Limitations on freedom of assembly based on national security 'are permissible only in serious cases of political or military threat to the entire nation' and prohibitions 'must remain an exception' because the 'discourse of conflicting ideas is an essential feature of democracy'.²⁵

The IBAHRI observes that Syria's 1963 Emergency Law failed this test in a number of respects over the years. It allowed the executive to restrict freedoms of expression, association and assembly virtually at will. Many of the restrictions were clearly disproportionate, even assuming that a half-century-old state of war might be sufficiently 'immediate' a threat to justify them in the first place. One emergency decree suspended all the guarantees contained under the Syrian code of criminal procedure, for example.²⁶ Political and social activists were detained incommunicado; reports of ill-treatment during interrogation were widespread; and there were frequent violations of internationally recognised fair trial standards. Human rights activists who campaigned against the Emergency Law were among those most likely to be victimised.

²³ See note 1 above.

²⁴ Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (Kehl, 1993), 386–387.

²⁵ *Ibid.*, 380–381.

²⁶ See Legislative Decree No 47 of 1968, Article 7, discussed below in the context of the Supreme State Security Court. In this regard, it should be noted that the Emergency Law infringed on rights of access to courts and fair and public trials which are regarded by international human rights treaties as non-derogable (see eg. Arab Charter on Human Rights, Articles 4(2), 13, and 14(6)). In particular, it allowed the executive to assume judicial powers to punish violations (Article 4 [g]), and to refer offences against state security to 'martial law courts' (Article 6). It entrusted the Military Governor with the discretion to choose the court to which a suspect was to be referred (Articles 7 and 8).

The failings of the Emergency Law were implicitly recognised by the announcement of President Bashar al-Assad on 21 April 2011 that it was being repealed, and the forceful suppression of a small gathering outside the Ministry of Interior might now seem relatively insignificant. It highlighted flaws that were of fundamental relevance to the IBAHRI mission, however. Credible eye-witnesses reported that the group had been non-violently petitioning a government body. The demonstrators had been concerned for prisoners who were themselves in jail for expressing peaceful opinions: men such as Dr Kamal al-Labwani, Anwar al-Bunni and Muhannad al-Hassani, whose cases were also of great concern to internationally respected organisations such as the UN Working Group on Arbitrary Detention, Amnesty International, the International Federation of Human Rights (FIDH) and Human Rights Watch. There was no perceptible threat to either national security or public safety, and the IBAHRI delegation notes that it never heard any claim to the contrary by prosecutorial officials or government representatives. And although the witnesses reported a grossly disproportionate use of force by security officials, there was no apparent interest by the state to investigate the matter, let alone to hold anyone accountable. The charges that the defendants faced – the ‘weakening [of] national sentiment’ and ‘arousing [of] sectarian or ethnic tension’ – were so broad that they potentially criminalised behaviour that merits unequivocal protection according to international law.

The IBAHRI delegation observes in conclusion to this section of its report that no future reform will be meaningful unless it contains safeguards that address all these issues. Although the 1963 Emergency Law has been formally abolished, half a century of executive, judicial and police practice remain in place. The charges used against the demonstrators of 16 March 2011 are still an integral part of the Penal Code, alongside other offences of equally broad scope. Syria faces some very pressing problems, but if it is to find new solutions it needs more than emergency laws by another name.

3.3 Freedom of association and human rights lawyers and defenders

As previously observed, the Syrian Constitution formally guarantees a broad range of human rights. Alongside the qualified protections of free expression (Article 38) and free assembly (Article 39) referred to above, it acknowledges (for example) absolute rights to equal treatment and opportunity (Article 25), due process and freedom from torture (Article 28) and privacy of communication (Article 32). The state is also party to several human rights treaties²⁷ including the Arab Charter on Human Rights, the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Insofar as substantial reservations are permissible at all, Syria has not lodged any.²⁸

As a consequence, there are many practical reasons why Syrian individuals and associations might concern themselves with human rights. Their right to do so is itself guaranteed by a number of very well-known international legal provisions and principles. They enjoy the previously mentioned freedoms of association and assembly under Article 24 of the Arab Charter on Human Rights and Articles 21(1) and 22(1) of the ICCPR, for example. The justifications for the recognition of these freedoms transcends the individual rights of those who associate together to pursue them. It is understood that bodies independent of the government perform a valuable social role by seeking out important information and expressing ideas and opinions. Their function in this regard serves

²⁷ See Annex B.

²⁸ See Section 2.5 above, ‘Syria’s domestic and international human rights obligations’; see also Annex B.

to check abuses of power, and they therefore act as ‘social watchdogs’.²⁹ It was in recognition of this that the UN General Assembly in 1998 adopted the Declaration on Human Rights Defenders. Article 5 provides that all peoples have the right to assemble peacefully to form, join or participate in NGOs. Article 6 states that individuals have the right to know, seek or obtain information about all human rights and fundamental freedoms, as well as the right to freely publish, discuss or otherwise impart such information.

IBAHRI delegates sought to ascertain how these rights operated in practice by meeting activists during their visit, and they were able to meet about a dozen campaigners. They all worked individually or within small organisations, in ways similar to those of countless other groups around the world. One activist described his organisation’s work in the following terms: ‘We usually monitor human rights violations, especially civil and political rights. Most of our work focuses on detention, disappearances, torture, etc. As people became more aware of us, they started to send us information [of violations]. After verification of this information we then issue a statement, send it to the media and pass it on to the UN offices.’³⁰ Another organisation, which worked in assisting former prisoners, and monitoring and raising public awareness, published regular reports and had submitted shadow reports on Syria to the UN Human Rights Council within the Universal Periodic Review mechanism. Two representatives of another group, primarily focused on Kurdish rights but concerned about the Syrian human rights situation more generally, said that the aim of their organisation is to ‘monitor human rights violations in Syria and to propagate a human rights culture’ in the country. ‘Within the framework of these aims, we issue statements and publish a quarterly magazine and monthly newspaper and we issue an annual report. We also issue specialised reports on particular issues, such as stateless people,³¹ media, and violence against women. This is in addition to our attempts to defend prisoners of conscience and fight human rights abuses’.³²

Notwithstanding the freedoms formally acknowledged by Syrian domestic law and binding international treaties, it quickly became clear to the IBAHRI delegation that human rights activists within the country faced numerous problems. Eight people cancelled meetings in circumstances which suggested they were very afraid to attend. One person was unable to keep an appointment because he was arrested and placed in detention about 24 hours earlier. Interviewees described more general hostility from the authorities which made it difficult and sometimes dangerous to raise funds or gain popular support. The IBAHRI delegation heard the following three complaints, among many others:

- (i) ‘There is the difficulty of holding general assemblies or large meetings, as security forces can disband the meetings; take our papers and arrest our members. If we decide to hold a board meeting we are usually harassed soon after we have had our meetings, and are interrogated regarding the substance of our meetings. We therefore communicate with each other by email and meet in smaller units using our houses.’

²⁹ See the judgment of the European Court of Human Rights in *Társaság a Szabadságjogokért v Hungary*, Application no 37374/05 (14/4/09), at para 27. The Court observed that ‘an association involved in human rights litigation with various objectives, including the protection of freedom of information... may... be characterised, like the press, as a social “watchdog”.’

³⁰ Meeting on 22 March 2011, Damascus.

³¹ Some 200–250,000 Kurds have been denied Syrian nationality pending ‘further investigation’ since the 1960s. The authorities’ ostensible concern was to establish whether they might in fact be Turkish. President Bashar al-Assad is reported to have issued a decree in April 2011 granting nationality to stateless Kurds, although its operation on the ground is not clear.

³² See above, note 29.

- (ii) ‘We have no financing; no office. We meet in coffee shops and work underground. Most of our members have left because of pressure. We are not allowed to ask or apply for funding. If we tried to register outside the country, we would be penalised.’
- (iii) ‘The government accuse us of being traitors all the time. We are constantly under the focus of the authorities; I cannot enter any foreign embassy in Syria. As a result of this [human rights] work, most of my family and friends have severed relations with me.’³³

All of the human rights activists who the IBAHRI met claimed to have experienced difficulties in travelling abroad, and some stated that they had been forbidden from leaving the country. More than one person claimed that security agents granted permission to attend international events only on condition that a report was submitted upon return. One interviewee said, ‘The last time I travelled was to attend the UN Human Rights Council in Geneva – that was when we submitted a shadow report on Syria to the Council. Previously, the Syrian Government refused to allow me to travel to Geneva. The second time they allowed me to go, however, when I came back I was told that I had three appointments at the security branches. Since then I have been under a travel ban’.³⁴

One law was central to the problems that the activists faced. All NGOs are obliged by law to register with the Ministry of Social Affairs under the 1958 Associations and Private Institutions Law (‘the Associations Law’).³⁵ A failure to do so is not unlawful per se, but operating as part of an unregistered organisation exposes individuals to serious risk of criminal charges under those broad provisions of the Penal Code previously mentioned. It has also been used as a basis for disciplinary action by the Syrian Bar Association.³⁶ Several activists were simultaneously concerned that the registration process operated to facilitate state monitoring and control rather than merely to organise community affairs in the public interest. Interviewees pointed in this regard to Article 3, which stipulates that the founding members of any association seeking registration may not be persons stripped of their political rights. This category includes anyone convicted of a political offence³⁷ with the consequence that state security organs are an integral part of the registration process. Even registered organisations are subject to prohibitions and penalties. Article 21 makes it an offence to affiliate to any organisation, society, or union based outside Syria, for example, without prior permission from the Ministry of Social Affairs. Article 22 restricts fundraising among the Syrian general public. Article 36(a) meanwhile grants the Ministry a power to dissolve a registered association at any time, and dissolution decisions are not subject to any form of review or appeal. One activist expressed a fear that this was likely to be used against any registered human rights organisation that campaigned with any effectiveness.

Even if an organisation attempts to register, the process is by no means straightforward. Article 10 of the Associations Law is apparently clear, providing that the Ministry must process an application for registration within 60 days, after which time the applicant organisation is deemed to be registered and entitled to have its name published in the Official Gazette. Despite this apparent clarity, it became apparent to the IBAHRI delegation that it did not reflect reality. One lawyer said that his

³³ Meetings on 25 March 2011, Damascus.

³⁴ *Ibid.*

³⁵ The Associations and Private Institutions Law (Law No 93 of 1958).

³⁶ See Section 5.5 below.

³⁷ Anyone imprisoned of a political offence is usually denied civil and political rights for a period equivalent to their prison sentence: see Penal Code, Articles 63, 65 and 66.

association had had its application for registration turned down on its 62nd day, and that he had gone to court to have his association declared legal – but had failed. Another interviewee said that their organisation tried to register but was not successful: ‘We sent our registration papers to the Ministry in March of last year. They refused it. They said the documents were false. [We know that] they will not give us registration/permission’.³⁸ Most respondents had not even tried to register because (in the words of a typical respondent) ‘registration is out of question’ for a genuinely independent association working in the human rights field. None of the human rights activists interviewed by IBAHRI delegates belonged to organisations that were in fact registered with the Ministry.

In view of this evidence, the IBAHRI delegation was grateful for the opportunity to discuss the state of freedom of assembly in Syria with the Minister of Social Affairs, Dr Diala Haj Aref, on 24 March 2011. She began by outlining the work of her Ministry, and was asked about the Syrian Government’s claim in 2006 to the UN Human Rights Committee that her Ministry had ‘simplified procedures’ and ‘facilitating registration of a large number of associations’.³⁹ She stated that this was true, and that she had not refused a single application since she took over the Ministry. She added that, ‘in 2004, when I became a minister, I asked for the number of civil associations; there were only 360. Now there are 1,800, maybe more’.

IBAHRI delegates asked about a specific group, which they understood to have failed in its application for registration: the Syrian Human Rights League. The Minister claimed that its application had not been rejected, but that it had been deficient in a number of (unspecified) respects and ‘they didn’t continue with their application’. When the IBAHRI asked to see a copy of the submitted application, she explained that the Ministry had recently moved and many files were not easily accessible. It was agreed that her officials should try to locate it, but though members of the delegation waited behind after the meeting, the file could not be found.

The Minister was then asked to explain the registration process in general and did so in the following terms: ‘We study the papers, and send the application to the Ministry of Interior. It is not a security issue with regard to politics; but is [needed] to enquire if the applicants have committed a crime. [Once registered] they will deal with the public and seek donations, so people need to trust them. We therefore must carry out these checks. After 60 days, if we do not give them permission, they are considered registered. If we refuse [an application], we will say why, eg, there may be other organisations with the same goal; others may have goals which are impractically broad’. The Ministry’s Director of Social Services, Mr Maher Rizk, later explained that in the case of applicants outside Damascus, applications had to be made to provincial offices of the Ministry, who passed them on to the regional governor, who would then forward them on to the Ministry of Interior. Once that Ministry had formulated its response, the application would be sent to the Ministry of Social Affairs for consideration.

The Minister was asked about Syria’s commitments under the ICCPR, and in particular about a statement that Syria had made in its September 2006 comments to the UN Human Rights Committee. It had stated then that, ‘A national committee is in the process of elaborating a new law for private associations in order to simplify registration procedures, ensure flexibility and transparency in their

³⁸ Meeting on 22 March 2011.

³⁹ CCPR/CO/84/SYR/Add.1, 15 September 2006, para 12.

work, and reduce the level of direct monitoring of their activities carried out by the competent government agencies.⁴⁰ The Minister stated that the government was currently putting ‘the final touches to a new law’. When asked to say how it would differ from the old law, she explained that it would reflect a vision of civil society ‘as the third sector in society’.

The IBAHRI delegation then sought to establish precisely which kind of organisations would be allowed to operate under the new law that had not been allowed under the 1958 law. The Minister expressed the view that some human rights groups were attempting to engage in ‘political’ work, and stated that such organisations fell outside the remit of the Associations Law altogether. Her Ministry, she explained, was concerned to register only those associations that addressed human rights issues from a ‘social’ perspective. Such organisations included those concerned with women and children. The IBAHRI delegation was curious about this distinction and certain members sought later to clarify its meaning with Mr Rizk, the Ministry’s Director of Social Services. On being questioned whether he would characterise as ‘political’ an organisation that sought to promote fair trials or freedom of expression, he stated that the question was ‘controversial’. Were he personally to be considering applications, however, he would not regard freedom of expression as a social goal clear enough to merit registration. He was then invited to consider the status of a body that campaigned against torture, having regard to Syria’s ratification of the Convention Against Torture (CAT). He initially replied that an official organisation already existed to deal with prisoners’ rights. When it was put to him that some Syrians might want to set up a group separate from those that already existed, he argued that torture was neither legal nor existent in Syria and that such a group would therefore be redundant for lack of work.

3.4 Analysis and conclusion

The groups met by the IBAHRI were engaged in activities which under any existing interpretation of international law are engaged in protected human rights work – and yet, the Ministry of Social Affairs imagined an entire range of ‘political’ human rights to be legally incapable of gaining authorisation. Even Ministry officials were unable to define ‘political’ human rights in any meaningful way. The difficulties inherent in the unwillingness of the Minister of Social Affairs to register a ‘political’ body were compounded by the fact that no other government agency exists to license a political association that is not part of the Baath Party or the Progressive National Front. The consequence was that activists – who typically regarded their work as apolitical – simply had no way of regularising their position under Syrian law.

The IBAHRI mission was concerned that although the Minister expressed enthusiastic support for reform in principle, the narrowness of this perspective is liable to render any changes purely cosmetic. The Ministry appeared to believe that it had no business authorising organisations that (for example) tried to monitor the workings of the state and publicise ideas about how it should act more lawfully. The IBAHRI team was particularly surprised by the Director of Social Services’ view that a practice such as torture could be presumed non-existent because it was outlawed. This evinced a profound failure to understand why laws and monitoring are necessary in the first place, and it calls into serious question Syria’s stated commitment to its international treaty obligations under the Arab Charter on Human Rights, ICCPR and CAT.

40 *Ibid.*

Specific recommendations are set out at the end of this report, but the IBAHRI delegation invites the Ministry of Social Affairs to reflect upon the fact that the practical impossibility of registering has placed numerous obstacles in the way of Syrian human rights defenders. An unauthorised NGO may not raise funds, hold meetings, publicise its work or pursue its aims openly. That has left many human rights groups with little alternative but to pursue their activities in clandestine fashion, which encourages harassment and intimidation by the authorities. The IBAHRI delegation had particular concern with respect to the following:

- (i) The present process of registration is not merely bureaucratic. It involves the Ministry of Interior and state security agencies, who act for reasons that are frequently entirely secret.
- (ii) The 60-day limit does not operate as the Minister believed. Strenuous efforts should be made to ensure security officials and organs of government understand that the absence of a clear and timely refusal by the Ministry serves to render an association lawful.
- (iii) Insofar as it is necessary to ensure associations act within the law, sanctions should not impinge upon protected freedoms. In particular, there should be minimal interference with activities such as fundraising and international cooperation, which lie at the heart of the freedom of association.
- (iv) The Ministry's unappealable dissolution power under Article 36(a) of the Associations Law is a potentially arbitrary intrusion on the freedom of association.

Chapter Four: The Judiciary

4.1 Constitutional arrangements

The third chapter of the Syrian Constitution of 1973 asserts the institutional independence of courts and the independence of judges as individuals. According to Article 131, ‘The judicial authority is independent. The President of the Republic guarantees this independence with the assistance of the Higher Council of the Judiciary’. Article 133 stipulates that, ‘(1) Judges are independent. They are subject to no authority except that of the law. (2) The honour, conscience, and impartiality of judges are guarantees of public rights and freedoms’. The Judicial Authority Law⁴¹ additionally affirms the judiciary’s independence of ‘any external influence’ (Article 14), and Article 92 ‘guarantees immunity of all judges from dismissal and transfer’.

A principle that is regarded as axiomatic in many other countries – the need for executive, legislative and judicial branches of the state to exercise power separately – is not widely observed, however. This is particularly notable in the case of the President’s extensive constitutional powers. In addition to being head of state, chief executive and Commander-in-Chief of the armed forces, the President can veto laws passed by the People’s Assembly (Article 98), dissolve the Assembly (Article 107), and assume legislative authority when it is not in session (Article 111). The same article allows him to assume legislative authority in the interim period between two assemblies, and legislation he issues during such a period need not be referred to an incoming Assembly (Article 111[4]). This assumes a particular significance in view of the President’s prerogative to dissolve the Assembly. The President may also assume legislative powers even when the Assembly is in session, ‘if it is extremely necessary in order to safeguard the country’s national interests or the requirements of national security, provided that the legislation issued by him is referred to the People’s Assembly in its first session’ (Article 111[2]). Should these powers prove insufficient, the President may take any measures necessary to meet an emergency (Article 113) without limit of time.⁴²

The President appoints judges to the Supreme Court for renewable four-year terms (Articles 139 and 141), for example, and he presides over the Supreme Judiciary Council (Article 132).⁴³ He (or, in practice the Minister of Justice) proposes resolutions relating to the appointment, promotion, disciplining and dismissal of judges. The Supreme Judiciary Council is also responsible for proposing draft laws about the immunity of judges, and their appointment, promotion and disciplining (Judiciary Law, Articles 67(1)(a), (2)(d)).

The function of the Baath Party limits further the scope for checks and balances. As previously observed, Article 8 of the Constitution explicitly accords it a leading role and it dominates all major institutions and organisations, including the People’s Assembly. The President is its Secretary-General.

41 Law No 98 of 1961.

42 The powers of the People’s Assembly, as enumerated in Article 71, do not extend to a role in debating and approving emergency legislation, or reviewing whether an emergency exists in the first place.

43 Other members of the Supreme Judiciary Council are the President of the Court of Cassation and his two most senior deputies, the Prosecutor-General, the head of judicial inspection and the Deputy Minister of Justice: Judiciary Law, Art 65.

4.2 The court structure

The 1961 Judicial Authority Law⁴⁴ acknowledges a broad range of specialised courts, including Juvenile Courts, Customs Courts, Court of Labour Conflict, Administrative Courts and Military Courts. There are also Courts of Personal Affairs, which are regulated by religious codes including Sharia Law Courts (for Muslims), Doctrinal Courts (for Druze) and Spiritual Courts (for Jews, Christians and other non-Muslim groups). Final appeals from all the religious courts are resolved by the Canonical and Spiritual Divisions of the Court of Cassation.

Ordinary civil and criminal courts of general jurisdiction are sub-divided into several tiers.⁴⁵ Civilians may also, in some circumstances, be tried before Military Courts. Although these tribunals are primarily concerned to deal with cases involving soldiers or members of other military or police branches, they have the authority to try civilians for ‘state security offences’: a broad category of crimes enumerated in Articles 260–339 of the Syrian Penal Code. A military prosecutor decides the venue for a civilian defendant. Anyone convicted has the same right as a military defendant to appeal to the Military Chamber of the Court of Cassation.

At the time of the IBAHRI delegation’s visit, the legal landscape had one other important feature. Violations of the 1963 Emergency Law could be tried either by Military Courts or an extraordinary tribunal known as the Supreme State Security Court (SSSC). This tribunal (which was formally abolished on 21 April 2011) was constituted in 1968, in the aftermath of the Six-Day War with Israel, by a decree issued under the authority of the 1963 Emergency Law. It was granted jurisdiction over ‘all persons, civilian or military, whatever their rank or immunity’, and it was explicitly exempted from the general rules contained in the Code of Criminal Procedure:

‘The right of defence as prescribed in relevant laws notwithstanding, state security courts are not required to follow judicial procedures stipulated in these laws during any of the phases of investigation, interrogation and trial’.⁴⁶

The SSSC’s subject matter jurisdiction was virtually unlimited. It shared an exceptional jurisdiction that Syria’s Military Courts had already been granted, and it was granted the authority to look at ‘all other cases referred to it by the martial law governor’.⁴⁷ Verdicts handed down by the SSSC were not subject to any judicial appeal. SSSC panels comprised two civilian judges and a military judge, appointed by decree upon the suggestion of the martial law governor.⁴⁸

Although the right to a legal defence was theoretically guaranteed, the state’s use of the SSSC for political ends meant that lawyers who took up cases before the tribunal were confronted with restrictions that often rendered their presence all but meaningless. Many detainees were held incommunicado, and lawyers had to obtain an official authorisation signed by the defendant in the presence of a representative from the Bar Association before they were recognised as their client’s counsel. Even if they succeeded, they were usually not given access to the defendant’s interrogation

44 Law No 98 of 1961.

45 See Annex J.

46 Legislative Decree No 47, Article 7.

47 Legislative Decree No 47, Article 5. The martial law governor is normally the Prime Minister according to Legislative Decree No 52, 1962, but he usually delegates that authority to the Minister of Interior.

48 Human Rights Watch Report ‘Far from Justice, Syria’s Supreme State Security Court’ published 2009. Available at: www.hrw.org/en/reports/2009/02/23/far-justice-0. Legislative Decree No 47, Art 2 states: ‘The Supreme State Security Court is formed by decree based on the proposal of the martial law governor.’

file prior to the trial, and generally saw their clients for the first time during the first hearing. According to one defence lawyer with experience of the SSSC, 'if a lawyer wants to represent a defendant before the SSSC, he should first obtain an approval from the head of the Court, [if granted] s/he does not have the right to meet the client or even see them before the first court hearing. When the trial starts, the lawyer is usually given about two minutes to make their case'.⁴⁹

4.3 Independence of the judiciary

Syria possesses an elaborate judicial structure and its laws establish a hierarchy of decisions, reviews and appeals. They repeatedly entrust power to the executive, however, and the IBAHRI delegation was concerned to find out if the concentration of executive power served in practice to erode the formal independence of judges. It noted that Articles 83, 85 and 93 of the 1961 Judicial Authority Law allow for the transfer of judges from one court to another and from one position to the other (notably, by allowing a judge to be made a prosecutor and vice versa). It also learned of one incident that caused it particular concern. About 80 judges had been dismissed from their jobs in 2004 for alleged corruption, and several lawyers and activists told IBAHRI delegates that the purge was politically motivated. No one provided clear evidence of this, but the team noted that the absence of any public information evinced a serious lack of transparency within the judiciary. There was uncertainty, at least, and one interviewee stated that only one of the dismissals had been publicly referred to the Supreme Judicial Council.

Many interviewees complained that judges and the judicial system were also subject to more general interference from the security forces and the executive. One lawyer interviewed by the IBAHRI delegation stated that legislative, executive and judicial authority were 'swallowed into one'.⁵⁰ One said that 'one of the main qualifications for appointment after written and oral exams is clearance from security officials',⁵¹ and claimed that two judges, who had stood up to pressure in the cases of the lawyer Anwar al-Bunni and Dr Kamal al-Labwani, had lost their jobs as a consequence. Several respondents said that prosecutorial decisions were also subject to manipulation by the executive or security forces: 'The martial law governor, that is the Minister of the Interior, decides to which Court the case should be referred – either the Supreme State Security Court, military court, or criminal courts; this is completely discretionary',⁵² said one respondent. Another said that, 'The security branches decide which court a case should be sent to. During the "Damascus Spring", for example, some were referred to the criminal courts; some to military courts; and some to the State Security Court'.

Lawyers were often frustrated about their own status within the proceedings. One interviewee remarked that, 'The role of the defence lawyer is just a formality. The courts do not really give any consideration to the submissions we make or the defence memorandum. Our appearance in the court is [therefore] just a gesture of solidarity. For the defendants, we believe our presence is still important because it boosts their morale and they know they are not alone'.⁵³

49 Meeting held on 24 March 2011.

50 Meeting held on Sunday 20 March 2011, Aleppo.

51 Meeting held on Tuesday 22 March 2011, Damascus.

52 Meeting held on Monday 21 March 2011, Aleppo.

53 Meeting held on Friday 25 March 2011, Damascus.

The IBAHRI delegation sought to balance the criticisms by gaining an official perspective, and it was extremely grateful to be granted two meetings with the Assistant Minister of Justice, Mr Najem al-Ahmad, on 23 March 2011. Mr al-Ahmad, who was also a professor of constitutional and human rights at Damascus Law School, made clear at the beginning of the first meeting that the government was keen to develop Syria's legal environment and that the country valued judicial independence. In his view, the best guarantee of that independence was, however, the executive, and more specifically, the President. He explained that Syria had 'great political, economic and social coherence' thanks to the leadership of President Bashar al-Assad. He was, indeed, 'the most loved person in the whole region and second worldwide'.⁵⁴

The Assistant Minister was asked why and on what basis civilians were brought before Military Courts. He reminded the delegation that Syria had been at war with Israel since 1948, and explained that the 'security implications' of certain crimes meant that they could not be tried in civilian bodies. He stated that the procedures adopted by the courts had been taken to a large extent from the military penal law of France.

When asked directly about the Ministry's status as de facto head of the Supreme Judiciary Council (SJC), and its specific role in judicial appointments, transfers and dismissals, he stated that it merely made 'suggestions' in relation to the career moves of judges. The SJC would then take decisions on its own account. He explained that there might be a glut or shortage of judges, for example, and it might become necessary to ask a judge to retire. In such a case, the Ministry would 'suggest' appropriate steps to be taken. Judges were always 'independent when dealing with cases', however, and they would only be disciplined (by presidential decree) if they committed an offence and were referred to the SJC.

When the IBAHRI delegation asked specifically about the 80 judges who had lost their posts in 2004, the Assistant Justice Minister drew a distinction between 'dismissals' and 'revocation', and explained that their judicial tenure was 'not revoked'. Attempts to clarify what he meant established only that the incident was linked to particular circumstances and was carried out pursuant to a presidential decree. He declined to elaborate further on the circumstances surrounding the judges' removal.

4.4 Analysis and conclusion

An independent judiciary is essential in any state committed to the upholding and protection of human rights, and it rests on the principle that it should not be subject to undue interference from either the executive or the legislature. There are many reasons to be concerned for Syria in this regard. The IBAHRI is troubled by the apparent lack of procedures to make real the theoretical independence of judges, a legal and political culture that had allowed ordinary rules of criminal procedure to be formally suspended within the SSSC for more than 40 years, and the extent to which Syrian judges appeared to be powerless to oversee the actions of the security forces.

⁵⁴ The Assistant Minister did not specify who was the foremost loved worldwide.

The IBAHRI welcomes the President's formal abolition of the SSSC on 21 April 2011. It notes in addition that there have been promises of more fundamental improvements to the legal system, including a statement by the Minister of Information on 17 May 2011 that the cabinet had approved the formation of a committee to reform the judiciary.⁵⁵ It hopes that these mark the beginning of a process that enable Syria at last to meet internationally recognised fair trial standards such as those laid down by Articles 12–16 and 20 of the Arab Charter on Human Rights and Article 14 of the ICCPR.

The IBAHRI makes specific recommendations in the conclusion to this report. It observes at this stage that meaningful reforms would have to recognise and address a number of particular problems:

- (i) The ease with which judges can at present be transferred, relocated, or dismissed at the will of the executive. The power to appoint and dismiss judges all the way up to the Supreme Constitutional Court rests with the executive-dominated Supreme Judiciary Council or the President in person. This is likely to encourage compliance at the cost of independence.
- (ii) The need for enhanced judicial powers to supervise and control forces charged with arrest, detention and interrogation. The absence of such powers, combined with the lack of judicial security of tenure, means that courts are permanently liable to rubber-stamp executive action.
- (iii) The need for root-and-branch reconsideration of the status of Military Courts. Although the SSSC has been abolished, it remains open to the authorities to send ordinary civilians for trial before Military Courts, and the basis on which such decisions are taken is opaque in the extreme.

⁵⁵ See the report carried by the Syrian Arab News Agency on 17 May 2011: www.sana.sy/eng/21/2011/05/17/347402.htm.

Chapter Five: The Legal Profession

A number of incidents over the last decade have given rise to concerns among lawyers and other observers that the Syrian legal profession is in crisis. Several lawyers known as advocates for politically contentious clients, or associated with human rights causes, have faced criminal charges in connection with their work. That problem has been compounded by the stance of the Syrian Bar Association and its local affiliates. They have not merely failed to provide meaningful support for prosecuted lawyers but have, on a number of occasions, instituted disciplinary proceedings against them. Some critics have claimed that the professional associations have thereby served not their members, but the Syrian state.

The concerns date back at least as far as April 2002, when the Damascus Bar Association suspended human rights lawyers Haitham al-Maleh and Anwar al-Bunni from practising for three months on charges of violating the Professional Code of Conduct. Both lawyers had been involved in defending former parliamentarian Mamun al-Humsi against charges arising out of his participation in the Damascus Spring reform movement, and it was said that they had defamed the Damascus Bar Association. In October 2009, the 78-year-old Mr al-Maleh was sentenced by a Military Court to three years' imprisonment for 'weakening national sentiment' in respect of a telephone interview to the overseas-based Barada television station. Another human rights lawyer, Muhannad al-Hassani, was similarly charged and punished by the Supreme State Security Court on 22 June 2010 for statements he had made criticising the operations of that court. Mr al-Hassani faced almost simultaneous disciplinary proceedings before the Syrian Bar Association. Misconduct hearings were also launched in respect of at least two other human rights lawyers, Radeef Mustafa and Abd al-Rahman Najjar. The IBAHRI delegation was concerned to establish the background to these cases. It wanted more particularly to investigate the suggestion that the Syrian Bar Association's misconduct allegations punished members for doing their jobs, and sent a message to other lawyers that criticism of the state was somehow unlawful.

5.1 The Syrian Bar Association: structure and relevant laws

The Damascus-based Syrian Bar Association has approximately 25,000 members. A 1972 law⁵⁶ unified the previously decentralised bar associations under its umbrella leadership, and its ruling council was made responsible for establishing regional branches, of which there are currently 14. Each branch is financially independent, with a chair and a council comprising of between five and seven members. Their goals include the development of legislation, the stimulation of legal discussion, the publication of learned journals and the raising of standards of legal education, and they are also responsible for regulating the two-year training period that all Syrian lawyers must undergo.⁵⁷ They also hear and resolve complaints against their members, including fee disputes and disciplinary proceedings.

The Syrian Bar Association receives a percentage of all fees earned by its members, and it owns considerable real estate and other investments. The moneys received and returns on investments

⁵⁶ Law No 14 of 1972.

⁵⁷ See Articles 4, 24–5 of the 2010 Legal Profession Law. Article 8 of the Syrian Bar Association's by-laws details 22 conditions and documentation that the aspirant lawyer should fulfil before they can start as a trainee.

are used to finance administration and training, along with generous benefits for practising and retired members. Payments of SYP1m (US\$22,000) are made when a member retires or dies while still in practice, and up to SYP250,000 is payable for medical emergencies. A hardship fund provides additional assistance in respect of absences from practice of up to a year, and close relatives of a lawyer in straitened circumstances are also eligible to receive financial support.⁵⁸

The structure of Syria's current legal system was put into place by the Legal Profession Law No 39 ('the 1981 Legal Profession Law'), promulgated by President Hafez al-Assad on 21 August 1981, and the genesis of that law helps to put the country's recent legal history into context. It was the government's response to a campaign among Syrian lawyers against the perceived iniquities of the Emergency Law, which had crystallised with a famous resolution of the Damascus Bar Association on 22 June 1978. This had called for safeguards against human rights abuses and a boycott of exceptional courts such as the Supreme State Security Court. It stated that the judgments of such tribunals 'should be considered as contrary to the law and to the principles of justice', and it warned lawyers against allowing 'the prestige of the legal profession [to] give credibility to these disastrous courts.'⁵⁹ A gathering campaign against emergency rule gave rise on 31 March 1980 to a one-day strike, organised by the Damascus Bar Association and backed by other regional bar associations and sections of the Syrian Medical Association and Syrian Engineers' Association. The government responded with some firmness. On 9 April 1980, the national congresses and regional assemblies of all three associations were dissolved. In the days that followed, many members were arrested and detained. Some were given secret trials, and others were denied trials entirely. Most of those punished were released as a result of presidential amnesties issued between 1991 and 1995, but about a dozen are thought to have been executed or to have died in custody.⁶⁰

The 1981 Legal Profession Law that emerged as a consequence was issued to close 'the loopholes' of the 1972 law, according to its preamble, and it reflected the country's 'huge political, social, and economic transformation' since the earlier law's passage.⁶¹ It centralised the national bar association structure to a greater extent than ever before, enhancing the Syrian Bar Association's policy and supervisory roles and leaving branches to implement central directives. The Bar Association was simultaneously placed under the effective control of the Baath party. The preamble affirmed the national and patriotic mission that the Syrian Bar Association shared with other professional bodies and mass organisations 'within the overall aims of the Arab Socialist Baath Party, leader of the state and society'. Article 3 stated that it was 'committed to work for the realisation of the Arab nation's aims in unity freedom, and socialism in accordance with the principles and resolutions of the Arab Socialist Baath Party, and its directives'. Article 4 required the Bar Association in Syria to work 'in coordination with the assigned bureau in the Regional leadership' of the ruling Baath Party'. This was complemented by the general primacy accorded the Party by Article 8 of the Syrian Constitution (which stipulates that 'The leading party in the society and the state is the Socialist Arab Baath Party'). Bar associations throughout Syria have subsequently been led by Baathists, although non-Party members may in theory serve on their councils.⁶²

58 Interview with Mr Nizar al-Skeif, 24 March 2011.

59 Human Rights Watch, 'Far from Justice, Syria's Supreme State Security Court', 2009. Available online at: www.hrw.org/en/reports/2009/02/23/far-justice-0, 18.

60 Amnesty International, Syria: Briefing to the Human Rights Committee: 71st session – March 2001: www.amnesty.org/en/library/asset/MDE24/001/2001/en/3ef3ebc9-dc45-11dd-a4f4-6f07ed3e68c6/mde240012001en.html.

61 Law No 39 of 1981.

62 See discussion of elections in Section 5.2.

Certain changes were made by the most recent law to regulate the legal profession, which was signed by President Bashar al-Assad on 11 July 2010 ('the law No 30 of the year 2010 concerning the regulation of the legal profession'⁶³).⁶⁴ It mitigates the previously explicit requirement that the Syrian Bar Association support the objectives of the ruling party by replacing it with a reference to the Bar Association as a professional body 'founded in accordance with the provisions of the Constitution' (Article 3). Article 4 retains a reference to the 'regional leadership' of the Baath Party, but it emphasises the professional rather than ideological obligations of the Syrian Bar Association somewhat more than in the past. The government and Party retain great influence, however. Under Article 7 the Ministry of Justice retains the power to supervise and inspect the Syrian Bar Association and its branches. Article 107 allows the cabinet to dissolve the national organisation and local affiliates at any time where it considers that there has been a deviation from their duties and goals. Meetings of the General Conference of the Syrian Bar Association, and the general assemblies of the branches are meanwhile of no legal effect without the attendance of a representative of the Baath Party and a representative of the Ministry of Justice (Articles 37 and 49).

5.2 Causes for concern

There were widespread perceptions that the Bar Association structures, though formally subject to regular democratic charge, were neither independent nor truly representative of the Syrian legal profession. Several respondents told the IBAHRI delegation that the Baath Party dominates the respective councils of all bar associations by occupying about 60 per cent of posts in all of these bodies. The President of the central Bar and the branch associations have to be members of the Party. Many lawyers claimed that this meant that leaders were effectively appointed from above rather than elected from below. One respondent said that: 'The elections are a formality – there is no proper list of candidates. Voting is not confidential; every ballot paper is numbered [the numbers correspond to the list of members]. The ballot paper has the four names of the Baath members, the others are blank and the names have to be inserted.'⁶⁵ The same person observed that this violated two articles of the Syrian Bar Association's own by-laws: Article 45, which provide for a secret ballot, and Article 48, which says that members should be given 'white ballot papers'.

Most lawyers who met the IBAHRI delegation believed that it was wrong that the Baath Party monopolised the operations and policy of the bar associations, and they thought that changes to the electoral process were essential. They argued that that the bodies did not represent the profession or promote legal reform, preferring to defend policies advocated by the ruling Party and pursued by the government. One lawyer from Damascus told the IBAHRI delegation: 'In order to get on the association board, you have to be a Party member or an independent but even if you're an independent, in order to be elected, you have to be part of the Party's circle. I would have no chance of getting elected. We should have the possibility of electing the Bar Association. I've been a lawyer for 18 years, and it has always been the same people and the same type of people, elected with only minor changes.'⁶⁶

63 See Annex I.

64 See above, note 62.

65 Meeting held on Friday 25 March 2011, Damascus.

66 *Ibid.*

There were more specific complaints about the ways in which leaders of the Syrian Bar Association exercised their powers to regulate and control the profession. Article 74 of the 2010 Legal Profession Law caused particular concern. This provides that, ‘a lawyer is to abstain’ from attempting to visit an imprisoned client until s/he obtains written permission from the chair of their regional Bar Association, failing which they are liable to punishment for professional misconduct. The IBAHRI delegation was frequently told that that consent was granted or withheld on political grounds. Interviewee lawyers stated that they were routinely denied permits to visit human rights defenders, and that meetings were almost always held in the presence of a prison guard. The problems were compounded by the fact that such detainees are usually held incommunicado or in locations that are not precisely known to their lawyers and families. According to one lawyer:

‘It is very hard to get permission to visit these people. [If clients are] human rights activists and political prisoners, the only person who can give permission to lawyers is the Head of the Damascus Bar Association, and then you need to go to the attorney-general for signing the permission – if you are refused, you cannot visit the detainee. When you do visit, there is a prison/security officer present listening and taking down [notes] of every word, so there is no confidentiality. Furthermore, you can only meet [your client] for ten to fifteen minutes; before the visit, they make you wait for an hour. In most other cases a permit is refused on grounds that we are both [detainee and lawyer] in the wrong. When I go to see my client I am not allowed to give or receive any papers. They also take the lawyer’s notes. [Jailed human rights lawyer] Muhannad al-Hassani has been charged with causing problems in prison because of his refusal to surrender his papers [to the officials].’⁶⁷

Many of the lawyers who met the IBAHRI delegation were as frustrated as other human rights defenders about obstacles that were placed in the way of their participation in international organisations or events. They stated that attendance was impossible without the prior consent of their bar association branch, and that the President of the Syrian Bar Association had issued a circular in February 2011 reiterating the need to seek permission from the Bar Association before attending meetings abroad. The IBAHRI team observed that concerns about travel restrictions on human rights lawyers had previously been expressed by the UN Special Rapporteur on the Independence of Judges and Lawyers.⁶⁸ It also took note of the fact that Article 79 of the 2010 Law also imposed an explicit statutory limit on a lawyer’s freedom of association, and a corresponding duty on the Syrian Bar Association. It forbids lawyers ‘from accepting, a post in, or the membership of an office space in, or the continuation of such membership in, any Arab or international organisation or federation of lawyers and legal staff, until after written approval has been obtained from the [Bar] Association.’

The IBAHRI delegation also took note of Article 78 of the 2010 Legal Profession Law, which governs legal privilege. The provision imposed a heavy responsibility on bar associations to defend this privilege, by stipulating that the investigation, arrest and interrogation of a lawyer and the search of his offices can only occur with the permission of the President of the regional branch of the bar association. The third subsection of the Article also contained a very broad exception to all safeguards. According to Article 78(c):

⁶⁷ Meeting held in Damascus on Tuesday 22 March.

⁶⁸ See, ‘Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy’, 19 May 2009, para 302 (A/HRC/11/41/Add.1), online at www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.41_en.pdf.

‘The provisions of the two preceding paragraphs are not applicable to legal cases, or to offences, which relate to the security of the State. In this event, it is sufficient to inform the leader of the [Bar] Association, and the chairman of the branch committee, of [the] procedure [that] is being adopted.’

5.3 The use of disciplinary proceedings against lawyers

The IBAHRI delegation was pleased to learn 12 days before its arrival in Syria that the veteran human rights lawyer Haitham al-Maleh had been released early from his three-year jail sentence for ‘weakening national sentiment’. It also sought to gather information on Anwar al-Bunni, who was serving five years for the same crime. As stated at the beginning of this report, one of the primary reasons for the IBAHRI visit was to examine the operation of bar association disciplinary procedures, however. These concerns were fuelled after its arrival in Syria, when several interviewees suggested that such actions were sometimes instigated by security forces. The purpose, it was said, was to intimidate lawyers who were too zealous in defending critics of the government, or too outspoken in making their own criticisms about Syrian law.

The procedures to be followed in handling allegations of professional misconduct are outlined in Articles 85–94 of the 2010 Legal Profession Law, and elaborated in Articles 106–27 of the by-laws of the Syrian Bar Association. Authority to initiate such actions is vested in the council of the relevant bar association. A disciplinary board is generally convened following preliminary hearings by the branch chair, and subsequent investigations are carried out by a rapporteur appointed for that purpose. Decisions are subject to appeal before the branch and central councils of the Bar. A lawyer facing disciplinary action is entitled to be defended by another lawyer; disciplinary sessions are confidential and decisions may not be published (Article 89).

There were three recent cases involving use of disciplinary powers:

Muhammad al-Hassani, a lawyer and head of the human rights group Sawasiyyah (We are Equal), an unregistered NGO, was arrested on 28 July 2009 and referred to the Second Criminal Court of Damascus on 28 October 2009 charged under Articles 285, 286 and 287 of the Syrian Penal Code. The specific allegations were that he made ‘declarations aimed at weakening patriotic feelings or encouraging sectarian or ethnic division when the country is at war or expecting a war’, spread ‘false or exaggerated statements aimed at weakening the nation’ and disseminated ‘false information abroad which undermines the prestige of the State’. A lawyer interviewed by the IBAHRI delegation claimed by contrast that, ‘all [he] did was to speak publicly about two issues: a) torture by the authorities; and b) the incident of a company building a dam using illegal explosives which affected a nearby village. His organisation, “We are Equal”, published his opinion on the internet.’⁶⁹ In any event, his trial began in February 2010, and it concluded with a conviction and three-year jail sentence on 22 June 2010. He was assaulted in October 2010 after a criminal inmate was moved into his cell.⁷⁰ The IBAHRI delegation was unable to obtain permission to visit him (or Anwar al-Bunni) during its visit to Syria.

Parallel disciplinary proceedings were initiated by the Damascus Bar Association on 4 August 2009, a week after his arrest. A hearing was held on 20 October 2009, eight days prior to his referral to

⁶⁹ Meeting held on Monday 21 March 2011 in Aleppo.

⁷⁰ Amnesty International, *Amnesty International Annual Report 2011 – Syria*, 13 May 2011, available at: www.unhcr.org/refworld/docid/4dce153934.html.

the Damascus Criminal Court. It resulted in a decision on 10 November 2009 that al-Hassani be permanently disbarred on the ground that he was ‘the president of an unauthorised organisation’ and ‘attended sessions of the SSSC to monitor its proceedings without being appointed as a defence lawyer by the accused’. Mr al-Hassani’s lawyers sought to challenge the disbarment decision on 10 December 2009, but there seems to be no statutory procedure to regulate such appeals. The IBAHRI delegation was unable to discuss the case with the head of the Damascus Bar Association, Jihad al-Laham, who did not respond to the meeting request send by the IBAHRI before the delegation reached Syria. Mr al-Hassani was released on 2 June 2011. His disbarment, however, means he cannot work as a lawyer. He is currently in hiding.

On 16 May 2010, disciplinary proceedings were initiated against the Aleppo-based lawyer **Radeef Mustafa** pursuant to Decision No 206 of the Syrian Bar Association. Mr Radeef Mustafa was the chair of the unregistered Kurdish Committee for Human Rights (al-Rased). The national organisation’s complaint was referred to the Aleppo Bar Association, which interrogated him on 19 December 2010. The allegation was that Mr Mustafa had violated Article 79 of the 2010 Legal Profession Law by heading an unauthorised organisation without permission from the Bar.⁷¹ He was also reportedly accused of ‘tackling topics with a view of undermining national unity’ and ‘publishing unfounded news’ in written articles. The disciplinary hearing of Radeef Mustafa was originally scheduled for 31 January 2011 and observers from a number of international organisations arrived in the country in the hope of attending. It was then adjourned to 3 April 2011, and the proceedings reportedly ended on that date with a written warning. IBAHRI is not aware of the precise terms of that warning.

On 26 September 2010, lawyer **Abd al-Rahman Najjar** was notified by the Aleppo Bar Association that disciplinary proceedings would be brought against him. Mr Najjar is a lawyer who has been defending political activists and campaigning for the economic, social and cultural rights of the Syrian Kurdish community for a number of years. Legal observers who attempted to attend his hearing report that the charges arose out of a communication to the Aleppo branch of the Syrian Bar Association by Political Intelligence officers. They were concerned by a speech he made at a Kurdish *Nawruz* (New Year) festival on 21 March 2010, which called for the Kurdish language to be taught to Kurdish children in schools, among other things, and by complaints he had subsequently made about the arrest of people for attending this festival. He was initially told that no action would be taken, but after intelligence agents telephoned Mr Najjar and learned that no action was proposed, he received news from the Aleppo Bar Association that it had been decided to re-open his case. The hearing was scheduled for 20 March 2011 in Aleppo. The IBAHRI delegation structured its travel arrangements in the hope of attending that hearing, but it was informed shortly before its departure from London that the session had been postponed. Delegates also sought a meeting with the head of the Aleppo Bar Association both before and after they reached the city on 19 March 2011, but he was unable to find the necessary time. IBAHRI learned after the return of its mission from Syria that the case against Mr Najjar had been ‘closed’, although it has no details beyond this.

Although the IBAHRI delegation was regrettably unable therefore to meet representatives of local bar associations, it was extremely grateful for the opportunity it was given twice to discuss matters of mutual interest with the President of the national Syrian Bar Association, Mr Nizar al-Skeif. The

71 See discussion of Article 79 above, page 35.

meetings took place at the Syrian Bar Association's offices in Damascus on 23 and 24 March 2011. Mr al-Skeif told the delegates at the time that he had then been in his post for about a year.

Mr al-Skeif was initially concerned to make a number of statements to the IBAHRI delegation. He explained that he did not appreciate being patronised, as had happened to him on occasions in the past. He also pointed out that there were many human rights violations elsewhere in the world, notably in the Gaza Strip and Guantánamo Bay. He reminded the mission that Syria was in a state of conflict with Israel. He was particularly keen to emphasise that Syrians enjoyed unique advantages compared to other countries in the region because 'the relationship between the President and the people is wonderful. He is in continuous communication with Syrians, and he walks on the street among the people, with his wife and children.'

Mr al-Skeif was then invited to tell the delegation about the functions of the Syrian Bar Association. He outlined the many financial benefits it provided its members, and stated that it welcomed international cooperation, so long as this took place on equal terms. It had recently contributed successfully to a one-month EU course on law formation, and it had held two fruitful sessions with German lawyers in the field of banking and extradition law. Mr al-Skeif explained that the Syrian Bar Association was playing an increasingly significant role in promoting law reform within Syria itself, and had done important work on a new media law and a law relating to people affected by AIDS. It participated in the drafting of bills by the cabinet, either by formulating specific proposals or commenting on those of others. Even where it did not participate directly in the drafting of legislation, it was able to speak frankly about problems that it perceived with Syrian laws, even with the President in person. The Syrian Bar Association was also in the process of establishing a Strategic Centre for Research, which was intended to be a centre for observing laws and making authoritative commentary on them. 'We want to restore a legal culture among Syrian lawyers', he explained.

Asked about allegations that the IBAHRI delegation had heard concerning the Syrian Bar Association's closeness to the government, he firmly denied that its independence was in any way compromised. Supervision and inspection of the Bar by the Ministry of Justice was primarily administrative and financial, he explained, and it did not affect the independence of the Bar.

The IBAHRI delegation asked Mr al-Skeif how he discharged his duty to protect legal privilege under Article 78 of the 2010 Legal Profession Law. Persons interviewed had expressed great concern that lawyers had no immunities at all in the case of state security crimes, under Article 78(c) of the 2010 Legal Profession Law, and Mr al-Skeif was asked in particular if he shared those concerns. He did not. He explained that the Bar Association believed in the concept of legal privilege, but that it was for the benefit of the profession and not for individual persons. 'It exists to create a space to defend the rule of law and freedom. But freedom and order are also commitments.'

Mr al-Skeif then raised the subject of professional misconduct. He told IBAHRI delegates that he anticipated that they were going to raise the sanctions imposed on certain lawyers. He mentioned Haitham al-Maleh and pointed out that he had recently been released, pursuant to a presidential amnesty for prisoners over 70 (Mr al-Maleh was 80 years old); his case was therefore moot. In relation to Muhannad al-Hassani, he warned the IBAHRI delegation that the lawyer did not merit serious attention. Mr al-Hassani had had 'a very low profile professionally' before his arrest, he explained. He had tried 'to make himself famous through an action that breaks the law'.

Asked to clarify how the disciplinary process operated, Mr al-Skeif explained that a person charged was usually questioned by a member of the relevant branch of the Bar Association. 'If he does not show up, we commence the hearing, which starts with a session's sitting. Each party has the right to represent their case. If found guilty, [the lawyer in question] is punished, if not, he is declared innocent. He was personally responsible for adjudicating appeals that were submitted to his office by branch councils. If a punishment of more than three years was imposed, disbarment would be considered by a board comprising three judges, the head of the Prosecutor-General's office in Damascus, the Assistant Minister of Justice and two members of the Bar Association.

Mr al-Skeif adamantly denied that political motivations underpinned the disciplinary measures that had been taken against lawyers such as Muhannad al-Hassani, or that there was a more general hostility to lawyers who represented clients in politically sensitive cases. 'It is not a crime to defend a person in the SSSC – a lot of lawyers do this. We don't punish people for their political opinion. We punish those who go against public order, and we punish anyone who establishes an organisation without permission to do so. Muhannad al-Hassani established an organisation without Ministerial permission or a resolution from a court allowing him to do so. He was also distributing personal publications, and I myself saw him doing this in Cairo... Do lawyers anywhere have the right to do this?'

The IBAHRI delegation put it to Mr al-Skeif that, although such behaviour might seem indefensible in his eyes, most lawyers around the world would not regard participation in an organisation or distribution of a publication in itself as objectionable. The delegates acknowledged that professional bodies are always bound by domestic law, but they invited Mr al-Skeif to consider whether the disciplinary procedures operated by the Syrian Bar Association might not in fact be over-broad and susceptible to abuse. He was asked to comment specifically on the wording of Article 85 of the 2010 Legal Profession Law, which positively requires the punishment of lawyers not only if they breach professional ethics but if they 'deviate from the objectives of the [Bar] Association'.⁷²

Mr al-Skeif denied that Article 85 was capable of abuse or subjective interpretation. Its meaning was sufficiently defined by other parts of the 2010 Legal Profession Law, he said, and in particular by the Syrian Bar Association objectives set out in Article 4. (The IBAHRI observes in parenthesis that this sets out a number of general goals, including an obligation to cooperate with the state authorities and the Baath Party to: '[concentrate] the energies of the general public for the sake of achieving the goals of the Arab nation ... developing legislation and the idea of legality in such a way as to serve not only the structure of Arab society but also the bringing about of justice and equality [and] striving to facilitate the paths of justice for litigants.')

The IBAHRI delegation asked Mr al-Skeif to explain the connection between criminal and disciplinary investigations, and he stated that the processes were ordinarily entirely separate. A lawyer might therefore be cleared in a disciplinary matter but convicted in criminal proceedings, or vice versa. It was put to him that several suggestions had been made to the contrary, and that in the interests of balance the IBAHRI would be interested to have information about a case in which a

⁷² According to Article 85(a): 'Each lawyer who deviates from the objectives of the [Bar] Association or breaches any of those obligations of the legal profession which are set forth in the present Law or in the internal regulations, or who behaves in a way which diminishes the dignity or standing of the legal profession, or who, in his personal life, behaves in a way which is associated with a disgraceful scandal, is to be punished by one of the following disciplinary penalties: 1. Being cautioned in a letter sent to the lawyer, with or without the caution also being registered; 2. Being disciplined before the committee; 3. Being banned, for a period not exceeding three years, from practising the profession of law; 4. Having his name struck off the list of lawyers belonging to the [Bar] Association.'

disciplinary tribunal had cleared a lawyer notwithstanding a criminal charge or conviction. Mr al-Skeif declined to identify or provide details of any such cases, however.

The IBAHRI delegation raised the case of Mr Najjar and asked whether it would be possible to attend his adjourned hearing. Mr al-Skeif stated that Article 89 of the 2010 Legal Profession Law requires that disciplinary hearings remain confidential. It was put to him that this rule existed for the benefit of a lawyer-defendant and could therefore be waived by a person charged, but he disagreed with this interpretation of the provision. It meant that all disciplinary hearings had to be secret, he stated, and it was not possible to make an exception for foreign legal observers.

Mr al-Skeif was asked about the support that the Bar Association provides arrested lawyers. He explained that, 'Usually a member of the [Bar Association's] branch attends if the lawyer is being questioned about the crime, and thereafter assists the lawyer in question.' The delegation then asked specifically about Ms Sirine al-Khouri, the lawyer who was arrested during the peaceful demonstration before the Ministry of Interior on 16 March 2011. The IBAHRI delegation had been told by other lawyers that, although a representative of the Bar had been present at the first hearing, permission for her inspection and interrogation had not been sought from the Damascus Bar Association, as is *prima facie* required under Article 78 of the 2010 Legal Profession Law. Mr al-Skeif told the delegation that Article 78 was not applicable in the case of detainees who were caught red-handed, and he was 'sure that Sirine al-Khouri would not have been arrested unless she was [in the act of committing an offence]'. He was asked if he had concerns nonetheless about the arrest of a member of the Syrian Bar Association during a peaceful protest, and he made clear that he did not. Indeed, he considered it normal to deny certain protections to lawyers who intruded upon sensitive state interests. This was, he believed, the practice everywhere, claiming: 'When it comes to security matters, a lawyer in the United States facing the CIA would not be entitled to have a lawyer present.'

When the IBAHRI delegation asked Mr al-Skeif about a complaint it had heard about a circular he had issued in February 2011 requiring that members of the Bar seek permission before travelling abroad, he denied that it amounted to a ban. No one had ever been punished for attending a meeting abroad, he said. If a lawyer planned to attend a conference, however, it was necessary that the Bar Association be 'informed' because the lawyer concerned might lack sufficient expertise. 'We have to know what the conference is about. If the lawyer is going individually, he or she might not have enough education to attend.'

The IBAHRI delegation concluded by asking Mr al-Skeif whether the Syrian Bar Association's role in promoting legal reform might enable it to narrow those broad offences in the Penal Code that have been the subject of most concern among international human rights bodies – Article 285's criminalisation of those who 'weaken national sentiment or awaken racial or sectarian tensions', for example. Mr al-Skeif did not address the question of improvements to the law, however, preferring to explain why it was justified. 'We are keen to defend multiculturalism and tolerance', he said. 'We have all the colours of the rainbow here in Syria.'

The President of the Syrian Bar Association, during the course of his two meetings with the IBAHRI delegation, also made several allegations of financial and moral impropriety against a number of Syrian human rights lawyers, as justification for their treatment. His attitude towards them was noted.

5.4 Legal education and training

The process to become a lawyer in Syria includes both study and practical training. There are law schools in various universities in Syria, chief among which are the Law Faculties at the Universities of Damascus and Aleppo. To obtain a law degree, lawyers must study for four years and then train under an experienced lawyer for two years subject. Both the Law of the Legal Profession (No 30, 2010) and the By-Laws of the Syrian Bar Association regulate in detail the procedures required in training and registration of lawyers.

However, some respondents told the IBAHRI delegation that educational standards for the study of law have significantly deteriorated. Two young lawyers told the delegation that law students in Syrian universities do not have sufficient exposure to international scholarship or foreign language legal literature. One of these respondents said that, when they were students they never studied international law, or human rights law; that there is a lot of corruption in universities and that graduation exams and licensing depends on ‘who you know’. One respondent recalled that the final exam, which was oral, consisted of a chat about family matters and no legal questions were posed.

The Assistant Minister of Justice, who is also a Law Professor, was very helpful in describing legal education. Although the IBAHRI delegation did not have the opportunity to examine the issue in detail, it became apparent that curricula are narrowly focused and that assessment, which often consists of multiple-choice questions, does not require analysis in depth of the law. Legal training in Syria appears to be superficial.

5.5 Analysis and conclusions

As Mr al-Skeif reminded the IBAHRI delegation repeatedly, Syria has a unique political system and it has been at war with Israel since 1948. He also pointed out that human rights violations have also occurred in many places around the world. Members of the delegation paid due attention to these remarks, and they made clear their belief that crimes against international humanitarian law and acts of torture (for example) are impermissible wherever they are to be found. They were surprised to find, however, that Mr al-Skeif advanced the existence of systematic human rights breaches elsewhere as a justification for the status quo in Syria. It must be noted that such an assumption contravenes the basic legal principle that certain violations are so serious that they may not be justified on grounds of exceptional emergencies: see for example, Articles 4(2) of both the Arab Charter on Human Rights and the International Covenant on Civil and Political Rights. IBAHRI delegates also considered it regrettable that Mr al-Skeif displayed no inclination to investigate concerns of Syrian human rights lawyers, even after being told that they were being relayed from members of his organisation.

Independence of the Bar

The UN Basic Principles on the Role of Lawyers⁷³ (‘the Basic Principles’) emphasise that bar associations play an essential role in protecting human rights in society at large and for their members. The preamble provides that the ‘adequate protection of human rights’ requires access to ‘legal services provided by an independent legal profession’ and acknowledges that ‘professional

⁷³ See Annex E.

associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in further the ends of justice and public interest.’

The Basic Principles make clear that a bar association exists to pursue the interests of its members rather than any other group. It manifests the collective right of lawyers ‘to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity’. The executive bodies of such associations ‘shall exercise their functions without external interference’. They do not, of course, oppose governments unnecessarily, but insofar as they work in tandem with the state, it is to advance the rule of law and the interests of the legal profession. They ‘shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognised professional standing and ethics’ (see Articles 24 and 25).

The IBA Principles on the Role of Independent Bar Associations are of similar effect. They provide that ‘a bar association must be independent in the way in which it is run and in the actions it legitimately undertakes. This means that, while it is set up by legislation and must cooperate with government to ensure that all people have access to legal services, it must not be subject to undue interference from the government or from any other source. The bar association must be allowed to work freely without being obliged to obtain a clearance from the Executive to carry out its work’.

The IBAHRI delegation found that the spirit of all these provisions was being violated. The Ministry of Justice is empowered to supervise and inspect the lawyers’ association and its branches, and Article 107 allows the cabinet to dissolve the bar association at any time where it considers that there has been a ‘deviation from their duties and goals’. The IBAHRI was particularly concerned by the requirement in Articles 37 and 49 of the 2010 Legal Profession Law that important decision-making meetings of the national and regional bar associations are of no legal effect unless an official from the Ministry of Justice and a member of the Baath Party is present. These provisions constitute a clear contravention of the principle acknowledged in Article 24 of the Basic Principles that, ‘The executive body of the professional associations shall... exercise its functions without external interference’.

Rights of lawyers

The Basic Principles link these important functions of bar associations to the personal rights of their members. Article 23 observes that: ‘Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation.’

The IBAHRI delegation found a clear contradiction between Article 23 of the Basic Principles and Article 79 of the 2010 Legal Profession Law, which prevents lawyers from participating in any organisation, domestic or foreign, without written approval from the bar association. The IBAHRI

delegation also found that Syrian lawyers faced de facto travel restrictions, which violated Article 23. Some of these were a consequence of obstacles that the state placed in the way of human rights activists generally. One of them, however, was very specific to members of the Syrian Bar Association: the requirement circulated by Mr Nizar al-Skeif in February 2011 requiring all lawyers to notify their local bar association before travelling abroad for professional purposes. Although he characterised this as a mere notification requirement, lawyers interviewed by the IBAHRI delegation did not perceive it as such. On this ground alone, it has the potential to intimidate lawyers from exercising their freedoms of association and speech and contravene Article 23 of the Basic Principles.

The IBAHRI delegates considered how Article 23 impacted on the cases of those lawyers who have been subjected to disciplinary proceedings. Although Mr al-Hassani and Mr al-Bunni have recently been released, concerns remain. Mr al-Hassani was convicted of a criminal offence by Syrian courts, and the mission acknowledges that there is a degree of force to Mr Nizar al-Skeif's argument that the Syrian Bar Association is bound to respect the findings of a Syrian court. It clearly has the same right – and duty – as any professional body anywhere to maintain the integrity of its membership through disciplinary measures. The delegation observes in addition that Article 23 of the Basic Principles refers specifically to *lawful* action and participation in *lawful* organisations, and stipulates that 'lawyers shall always conduct themselves *in accordance with the law* and the recognised standards and ethics of the legal profession' [emphasis added].

At the same time, the IBAHRI mission observes that a professional body of lawyers cannot simply abdicate independent judgment in the face of state action and court rulings. This is implicit in the preamble of the Basic Principles, which refers to an association's duty to protect members 'from *persecution* and *improper* restrictions and infringements' – a phrase which implicitly envisages that threats to lawyers might be ostensibly lawful and yet impermissible. The implied obligation to stand up to oppressive legal processes is made explicit in Article 16(c), which stipulates that lawyers, 'shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics'.

The crucial question in the view of the IBAHRI delegation is whether a lawyer represents a potential risk to his or her clients, or to the public at large. Someone found guilty of an offence of dishonesty or violence clearly threatens the financial or physical interests of anyone s/he might represent. A person who flouts the law in other ways might reasonably be found to have manifested a recklessness that renders them unsuitable for legal practice. Whether s/he does so in fact, will be a question of fact and degree. It would certainly be open to a bar association to discipline a lawyer convicted of a serious drugs offence, for example, even if there was no demonstrably specific threat. On the other hand, a minor driving violation might not pass the threshold.

Although proper arguments may be had over where the line should be drawn, the IBAHRI delegation believes however that one boundary is very clear. A bar association may not acknowledge as grounds for disciplinary action a conviction arising out of the vigorous representation of clients. Vigorous representation is the hallmark of a good lawyer. A failure to appreciate that contravenes Article 18 of the UN Basic Principles, which states, 'Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.' Lawyers are also entitled to campaign for internationally recognised rights and peaceful political change, for all the reasons set out above.

The delegation acknowledges Mr al-Skeif's claim that the Syrian Bar Association had always judged disciplinary cases on their merit independently of prosecutorial or other state action. It observes, however, that it concluded disciplinary proceedings against Mr al-Hassani on 10 November 2009, some seven months before he was convicted of criminal offences on 22 June 2010. In the more recent cases of Radeef Mustafa and Abd al-Rahman Najjar, there were no criminal charges at all. The IBAHRI also recalls that disciplinary action against Mr Haitham al-Maleh and Mr Anwar al-Bunni in earlier years arose out of political controversies that did not give rise to prosecutions. Mr al-Skeif was meanwhile invited to tell the delegation about cases in which a defendant lawyer had been positively cleared of a disciplinary offence in circumstances where there had been a conviction for Articles 285–8 or 307 of the Penal Code. He was unable to do so.

The IBAHRI mission notes in addition that the Syrian Bar Association's use of its disciplinary powers in recent years has displayed a systematic quality. Hearings have often concerned politically sensitive matters – calls for reform during the Damascus Spring, and Kurdish language rights, for example. According to earlier human rights missions, bar association branches actually used their power of veto over prison legal visits to place obstacles in the way of lawyers seeking to communicate with detained lawyers such as Anwar al-Bunni, Haitham al-Maleh and Muhannad al-Hassani.

The pattern of enforcement gives rise to inferences of impropriety that are compounded by the response of the Syrian Bar Association. IBAHRI delegates were disappointed that the bar association's leadership appeared to regard worries for the state of the Syrian legal profession as figments of people's imaginations. There was no apparent official concern for the fragile state of legal professional privilege in Syria, or the difficulties that lawyers were reporting about their access to imprisoned clients. Insofar as the delegation was able to raise its concerns, there seemed to be a belief at the higher levels of the Syrian Bar Association that war crimes and torture in other parts of the world made further inquiry inappropriate. The IBAHRI delegates were left with a sense that senior figures in the Syrian Bar Association considered it dubious for lawyers to call the Syrian state to account – or even that outspoken lawyers had in fact brought harassment, arrest and extended jail terms on themselves. For a bar association that is obliged to represent its members, promote legal independence and uphold the rule of law, this is a breach of its function and obligations as internationally recognised.

The Syrian Bar Association and its local affiliates have failed in their 'vital role' under the UN Basic Principles on the Role of Lawyers to '[protect] their members from persecution and improper restrictions and infringements'.

Chapter Six: Conclusions and Recommendations

The 11 years since the death of President Hafez al-Assad on 10 June 2000 can now be seen as a squandered opportunity. An era that might have allowed for gradual liberalisation saw little significant change. At the time of the IBAHRI mission in late March 2011, a lack of urgency still seemed to prevail. The Minister for Social Affairs claimed, for example, that she was putting ‘the final touches’ to a new law on freedom of association, almost five years after the Syrian Government had said much the same to the UN Human Rights Committee. The upheavals that have been convulsing Syria since then have been generating more official promises of imminent reform than ever before. It is no longer certain whether those in power have the capacity to control the speed or direction of change, but one conclusion is very clear indeed: if Syria is to be stabilised, it will only be if civil rights and the rule of law are respected by all stakeholders.

The IBAHRI observes that one longstanding demand among human rights activists has been for an end to the institutionalised supremacy of the Baath Party. The fundamental governing structure of Syria lies beyond the scope of this report. It is right to observe, however, that the legal shortcomings that became apparent during its visit were based on the same fundamental problem: a failure within the judiciary and the Syrian Bar Association to assert their independent place in the Syrian body politic.

Syria has already established or acceded to domestic and international legal standards which, if properly implemented, would substantially alleviate the problems observed by the IBAHRI delegation. This is particularly so now that the Emergency Law of 1963 has been repealed. However, after nearly 50 years of recourse to emergency laws being both commonplace and regarded as justifiable, attitudes need to change as well. This is particularly the case with respect to activities being regarded as legitimately or illegitimately ‘political’.

A necessary level of regulation is not achieved by simply classifying certain activities as being illegal, and the stifling of arguments for or against the acceptability of any action will never resolve this dilemma. This is especially so when censorship (or worse) is applied to lawyers presenting the arguments of their clients. There must be rule of law rather than rule by law. The independence of the judiciary, in a real rather than in a merely theoretical sense, is seminal to this. The essential role of a bar association in maintaining the standards of the legal profession, as acknowledged in the UN Basic Principles on the Role of Lawyers, does require when necessary the discipline of lawyers who breach the rules. However, a pattern of discipline that indicates that there are political motivations driving both the selection of the targets for discipline and its timing, gives rise to a reasonable inference of impropriety by a bar association and its leadership, and the urgent need for change.

Recommendations

1. In the light of the stated intention of the Syrian Cabinet on 17 May 2011 to engage in fundamental reform of the Syrian legal system, the **Ministry of Justice** should contribute positively to the process by seeking to enhance judicial independence, recognise the legitimate role of lawyers and limit the risks of arbitrary action by the state’s security and prison service. It should pay regard to

international standards of due process, such as those laid down by Articles 12–16 and 20 of the Arab Charter on Human Rights. The IBAHRI is concerned about the standard of legal education at all levels, with respect to curriculum, teaching methodology and assessment. The Ministry of Justice should formulate specific proposals that recognise the superiority in domestic law of international treaties to which Syria is a Party and implement these obligations. In particular it should:

- (i) lessen the risk of executive interference in the judicial process, by promoting an amendment to the Constitution to fortify the status of Supreme Constitutional Court judges; and amending relevant articles of the 1961 Judicial Authority Law to improve the security of tenure of other judges. In this regard the Ministry of Justice is invited to have regard to the IBA's Minimum Standards of Judicial Independence, and to promote reforms that:
 1. alter the composition of the Supreme Judiciary Council (currently governed by Article 65 of the Judicial Authority Law 1961), to ensure the judiciary has a majority;
 2. make lifetime appointment and financial security for judges the norm; and
 3. establish independent, transparent and clear rules and procedures for the appointment, transfer and removal of judges.
- (ii) further enhance the integrity of appropriate controls on the judiciary by making the judicial inspectorate, which is currently governed by paragraphs Articles 11 to 24 of the 1961 Judicial Authority Law, independent of the Ministry of Justice;
- (iii) enhance the powers of judges to supervise the operation of Syrian security forces, to ensure they are accountable in practice as well as theory for wrongful arrests, detentions and interrogations;
- (iv) narrow the scope of those broad offences that have been used with particular frequency against human rights activists over the last decade, most notably Articles 285, 286, 287, 288 and 307 of the Syrian Penal Code;
- (v) limit the jurisdiction of the Military Courts to military personnel being tried for breaches of military law;
- (vi) amend the provisions of Article 74 of the 2010 Legal Profession Law to make explicit the principle that lawyers always have a right to visit imprisoned clients regardless of the nature of their offence, and that such meetings are legally privileged and confidential;
- (vii) abolish the power in Article 78(c) of the 2010 Legal Profession Law, which currently permits security officials to investigate, arrest and interrogate lawyers without regard to legal privilege;
- (viii) abolish the restriction on international legal cooperation contained in Article 79 of the 2010 Legal Profession Law;
- (ix) improve upon the disciplinary procedures currently contained in Articles 85–94 of the 2010 Legal Profession Law, so as to make them more transparent, to clarify that an

accused lawyer is entitled to have his or her case heard in public, and to guarantee a right of appeal to a court from an adverse finding;

- (x) minimise the influence of the executive over the legal profession by removing the power of the Prime Minister and cabinet to abolish and reconstitute the governing bodies of the Syrian Bar Association under Articles 107 and 108 of the 2010 Legal Profession Law;
- (xi) introduce human rights training for judges;
- (xii) reform legal education and continuing legal education, with respect to curriculum, teaching methodology and assessment; and
- (xiii) promote an amendment to the Constitution to entrench the longstanding claim that international law has precedence within the country over domestic legislation.

2. The **Ministry of Social Affairs** should make good on its longstanding promise to liberalise the operation of NGOs with reforms that show unequivocally that the government is not engaged in a mere window-dressing operation. This means that it should guarantee freedoms of belief, association, expression and cultural rights consistently with Articles 24, 25 and 30 of the Arab Charter on Human Rights, and Articles 19, 21 and 22 of the ICCPR. The IBAHRI delegation recommends in particular that:

- (i) The registration procedure currently imposed on NGOs by the 1958 Associations Law should be abolished. Insofar as the government chooses to retain some form of registration requirement, the new law should stipulate in clear terms that absent a reasoned and timely refusal in writing, associations are lawful, and that there is no distinction in this regard between ‘political’ and ‘social’ organisations.
- (ii) The role of the Ministry of Interior and security agencies, if they are to be used at all, should be made transparent, and insofar as any legal consequences flow from any investigation of the background of members of an NGO, this should be revealed to those members.
- (iii) The criminal penalties contained in the 1958 Associations Law should be abolished. Although organisations should be subject to ordinary penal sanctions, the law should explicitly stipulate that lawful organisations are now free to raise funds within Syria and to cooperate or affiliate with non-Syrian bodies that operate openly and lawfully in countries with which Syria has full diplomatic relations.
- (iv) The dissolution power of the Ministry of Social Affairs under Article 36(a) of the 1958 Associations Law should be abolished. In order to strike an appropriate balance between the need to safeguard the public and the need to acknowledge the public interest in free association, it should be replaced with an appealable discretion to dissolve those organisations that have contravened the criminal law.

3. The IBAHRI has considered with particular care its recommendations in respect of the **Syrian Bar Association**. It is keenly aware of the organisation’s heritage, and it recalls with respect the bravery with which an earlier generation of leaders upheld the rule of law, sometimes at the cost of their lives. But the organisation has, in recent years, pursued other goals. As Syria navigates uncharted territory, the Syrian Bar Association now faces a clear choice. It could insist

that there is no need for any change. It might alternatively seek once again to champion legal independence and return to the global mainstream.

The IBAHRI invites the Syrian Bar Association to affirm through deeds that it values its current status in the international legal community. IBAHRI holds itself out to assist the Syrian Bar Association in this endeavour. Progress is essential in a number of key areas. In particular, efforts should be made by the Syrian Bar Association to:

- (i) clarify the extent to which the amnesty Decree 61 applies to any lawyers in Syrian jails;
- (ii) propose reforms of the 1958 Law on Associations, the 1961 Judicial Authority Law, the 2010 Legal Profession Law, the Penal Code and other Syrian laws or practices, and to render them congruent with Syria's domestic and international legal obligations;
- (iii) train Syrian lawyers on the value of legal independence and international instruments such as the Arab Charter on Human Rights, sufficient to make its members 'aware of the ideals and ethical duties of the lawyer and of human rights' as required by Article 9 of the UN Basic Principles;
- (iv) promote the rule of law within Syria through monitoring the impact of governmental action, by (for example) monitoring the effect of the laws introduced by President Bashar al-Assad on 21 April 2011 that regulate peaceful assemblies (Decree 54) and authorise the detention of suspects for up to two months (Decree No 55);
- (v) respect the right of Syrian lawyers to attend international legal conferences, or cooperate with non-Syrian bodies that operate openly and lawfully in countries with which Syria has full diplomatic relations, and to clarify this explicitly through an amendment to its 1981 By-Laws;
- (vi) clarify Articles 45 and 48 of its 1981 by-laws to ensure all elections to senior positions in the Syrian Bar Association are truly secret;
- (vii) encourage candidates independent of the Baath Party and the National Progressive Front to stand for all committees and governing bodies;
- (viii) amend its 1981 by-laws to minimise the difficulties that lawyers currently face in visiting their jailed clients;
- (ix) clarify through an amendment to its 1981 by-laws or a circular what might and might not amount to a disciplinary violation, and explicitly acknowledge that it is no offence merely to criticise a government, to promote human rights, to participate in an association, or to represent someone who has done any of these things; and
- (x) cooperate with the Ministry of Justice to reform legal education and training at all levels.

Although the current conflict within Syria is beyond the scope of this report, breaches of human rights and the rule of law are always legitimate matters for comment by a bar association. The Syrian Bar Association would go some way to affirming its adherence to recognised international principles by taking a stand against flagrant human rights violations.

Annexes

Annex A: Terms of Reference

Annex B: Republic of Syria – International Treaty Obligations

Annex C: The Arab Charter on Human Rights

Annex D: IBA International Norms and Basic Principles Regarding Independent Bar Associations

Annex E: UN Basic Principles on the Role of Lawyers

Annex F: Constitution of the Republic of Syria

Annex G: Extract of the Syrian Penal Code

Annex H: Extract of the Law of Private Associations and Institutions

Annex I: Law No 30 of the Year 2010, Concerning the Regulation of the Legal Profession

Annex A: Terms of Reference

1. To examine the independence of the legal profession and the courts in Syria in relation to the treatment of human rights defenders and the issues affecting this.
2. To analyse the international and domestic legal norms applicable to this situation and their implementation in Syria.
3. To examine any relevant related matters, including the responsibilities of all stakeholders.
4. To write and publish a report containing the findings of the mission, with recommendations.

Annex B: Republic of Syria – International Treaty Obligations

Convention	Status	Date Signed	Date Ratified/ Joined	Date in Force	Reservations
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Adoption		21 April 1969	1 March 1976	Article 26(1) is 'incompatible with the purposes and objectives of the said Covenants, inasmuch as [it does] not allow all States, without distinction or discrimination, the opportunity to become parties to the said Covenant [...]'
International Covenant on Civil and Political Rights (ICCPR)	Adoption		21 April 1969	23 March 1976	Article 48(1) is 'incompatible with the purposes and objectives of the said Covenants, inasmuch as [it does] not allow all States, without distinction or discrimination, the opportunity to become parties to the said Covenant [...]'
First Optional Protocol to the International Covenant on Civil and Political Rights					
Second Optional Protocol to the International Covenant on Civil and Political Rights					
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	Adoption		21 April 1969	21 May 1969	Not bound by Article 22 referring disputes to the International Court of Justice
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Adoption		28 March 2003	27 April 2003	Reservations to Articles 2 & 9(2) concerning the grant of a woman's nationality to her children; Article 15(4) concerning freedom of movement and of residence and domicile; Article 16(1)(c), (d), (f) and (g) concerning equal rights and responsibilities during marriage and at its dissolution with regard to guardianship, the right to choose a family name, maintenance and adoption; Article 16(2) concerning the legal effect of the betrothal and the marriage of a child, inasmuch as this provision is incompatible with the provisions of the Islamic Sharia; and Article 29(1) concerning arbitration between States in the event of a dispute.

Convention	Status	Date Signed	Date Ratified/ Joined	Date in Force	Reservations
Optional Protocol to the Convention on the Elimination of Discrimination against Women					
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	Adoption		19 August 2004	18 September 2004	Does not recognise the competence of the Committee against Torture provided for in Article 20.
Convention on the Rights of the Child (CRC)	Ratification	18 September 1990	15 July 1993	14 August 1993	Reservations on the Convention's provisions which are not in conformity with the Syrian Arab Republic's legislation and with the Islamic Shariah's principles, in particular Article 14 related to the Right of the Child to the freedom of religion and Articles 20 and 21 on adoption.
Optional Protocol to the Convention on the Rights of the Child Armed Conflicts	Adoption	17 October 2003	17 October 2003	17 November 2003	
Optional Protocol to the Convention on the Rights of the Child Sale of Children, Child Prostitution and Child Pornography Adoption	Adoption		15 May 2003	15 June 2003	Reservation to Article 3(5) Article 3(1)(a)(ii) relating to adoption
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	Adoption		6 February 2005	1 October 2005	

Annex C: The Arab Charter on Human Rights

Date enacted: 22 May 2004

In force: 15 March 2008

Given the Arab nation's belief in human dignity since God honoured it by making the Arab World the cradle of religions and the birthplace of civilizations which confirms its right to a life of dignity, based on freedom, justice and equality,

Pursuant to the eternal principles of brotherhood, equality and tolerance among all human beings which were firmly established by the Islamic Sharia and other divinely-revealed religions,

Being proud of the humanitarian principles which it firmly established in the course of its long history and which played a major role in disseminating centres of learning between the East and the West, thereby making it an international focal point for seekers of knowledge, culture and wisdom,

Conscious of the fact that the entire Arab world has always worked together to preserve its faith; believed in its unity; struggled to protect its freedom; defended the right of nations to self-determination; to safeguard their resources and to development; believed in the rule of law and its contribution to the protection of universal and interrelated human rights; and believed that every individual's enjoyment of freedom, justice; and equality of opportunity is the yardstick by which the merits of any society are gauged; rejecting racism and Zionism which constitute a violation of human rights and pose a threat to international peace and security; acknowledging the close interrelationship between human rights and world peace; reaffirming the principles of the Charter of the United Nations and the Universal Declaration of Human Rights; as well as the provisions of the United Nations International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights and the Cairo Declaration of Human Rights in Islam; the States Parties to this Charter have agreed as follows:

Article 1

The present Charter shall undertake, in the context of the national identity of the Arab States, their sense of belonging to a common civilisation, to achieve the following goals:

1. To place human rights at the centre of national preoccupation in the Arab States, to create great (fundamental) ideals for guiding the individual's will in these Arab States, and to help him improve his situation (life) in accordance with the noblest human values.
2. To instill (teach) in the human being in the Arab States pride in his identity, to (be) be faithful to his nation and to have a bond with his land, his history and common interests with all human beings in the Arab States. To encourage humane brotherhood, tolerance and open-mindedness in accordance with universal principles and the principles set out in human rights international instruments.

3. To prepare future generations in the Arab States to live free and responsible lives in a civil society united by a balance between consciousness of rights and respect for obligations, and governed by principles of equality, tolerance and moderation.
4. To establish the principle that all human rights are universal, indivisible, interdependent and indissoluble.

Article 2

1. All peoples have the right of self-determination and control over their natural wealth and resources and, accordingly, have the right to freely determine the form of their political structure and to freely pursue their economic, social and cultural development.
2. All peoples have the right to live under national sovereignty and territorial unity.
3. All forms of racism, Zionism, occupation and foreign domination pose a challenge to human dignity and constitute a fundamental obstacle to the realisation of the basic rights of peoples. There is a need to condemn and endeavour to eliminate all such practices.
4. All peoples have the right to resist foreign occupation.

Article 3

1. Each State Party to the present Charter undertakes to ensure to all individuals within its territory and subject to its jurisdiction the right to enjoy all the rights and freedoms recognised herein, without any distinction on grounds of race, colour, sex, language, religion, opinion, thought, national or social origin, property, birth or physical or mental disability.
2. The State Party to the present Charter shall undertake necessary measures to guarantee effective equality in the enjoyment of all rights and liberties established in the present Charter, so as to protect against all forms of discrimination based on any reason mentioned in the previous paragraph.
3. Men and women are equal in human dignity, in rights and in duties, within the framework of the positive discrimination established in favor of women by Islamic Sharia and other divine laws, legislation and international instruments. Consequently, each State Party to the present Charter shall undertake all necessary measures to guarantee the effective equality between men and women.

Article 4

1. In time of public emergency which threatens the life of the nation and which shall be officially proclaimed as such, the States Parties may take measures derogating from their obligations under the present Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 5, 8, 9, 10, 13, 14, 15, 18, 19, 20, 22, 27, 28, and 29 shall be made under this provision. The legal guarantees for the protection of those rights may not be suspended.
3. Any State Party to the present Charter availing itself of the right of derogation shall immediately inform the other States Parties, through the intermediary of the Secretary General of the League of Arab States, of the provisions from which it has derogated and of the reason for which the derogation was declared. A further communication shall be made, through the same intermediary, on the date on which it shall terminate such derogation.

Article 5

1. Every human being has an inherent right to life.
2. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 6

The death penalty shall be inflicted only for the most serious crimes in accordance with the law in force at the time of the commission of the crime. Such a penalty can only be carried out pursuant to a final judgment rendered by a competent court. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.

Article 7

1. The death penalty shall not be inflicted on a person under 18 years of age, unless otherwise provided by the law in force at the time of the commission of the crime.
2. The death penalty shall not be carried out on a pregnant woman prior to her delivery or on a nursing mother within two years from the date on which she gave birth. In any case, the interests of the infant shall prevail.

Article 8

1. No one shall be subjected to physical or mental torture or to cruel, inhuman or degrading treatment or punishment.
2. The States Parties shall protect every person in their territory from being subjected to such practices and take effective measures to prevent such acts. The practice thereof, or participation therein, shall be regarded as a punishable offence. Each victim of an act of torture is entitled to a right to compensation and rehabilitation.

Article 9

No medical or scientific experimentation or use of organs shall be carried out on any person without his free and informed consent about the consequences resulting from it. Ethical, humanitarian and professional rules shall be complied with. Medical procedures in conformity with the relevant laws of

each State Party aiming to ensure the concerned person's security shall be respected. The market of human organs is prohibited under all circumstances.

Article 10

1. Slavery and slave trade in all their forms shall be prohibited and punishable by law. No one shall, under any circumstances, be held in slavery or in servitude.
2. Forced labour, human trafficking for prostitution or sexual exploitation, the exploitation of others for prostitution and any other form of exploitation, as well as exploiting children during armed conflicts, are prohibited.

Article 11

All persons are equal before the law and have a right to enjoy its protection without discrimination.

Article 12

All persons are equal before the courts. The States Parties ensure the independence of the courts and the protection of judges against interference, pressure or threat. All persons within the territory of the States Parties are ensured a right to legal remedy.

Article 13

1. Everybody has the right to a fair trial in which sufficient guarantees are ensured, conducted by a competent, independent and impartial tribunal established by law, in judging the grounds of criminal charges brought against him or in determining his rights and obligations. States Parties shall ensure financial aid to those without the necessary means to pay for legal assistance to enable them to defend their rights.
2. The hearing shall be public other than (except) in exceptional cases where the interests of justice so require in a democratic society which respects freedom and human rights.

Article 14

1. Every individual has the right to liberty and security of person and no one shall be arrested, searched or detained without a legal warrant.
2. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.
3. Anyone who is arrested shall be informed at the time of arrest, in a language which he understands, of the reasons for his arrest, and shall be promptly informed of any charges against him. Anyone who is arrested has a right to contact his relatives.
4. Anyone who has been deprived of his liberty by arrest or detention is entitled to be subjected to a medical examination, and shall be informed of such right.

5. Anyone arrested or detained on a criminal charge shall be brought promptly before a Judge or other officer authorised by law to exercise judicial power, and shall be entitled to trial within a reasonable time, or to release. The release may be subject to guarantees to appear for trial. It shall not be a general rule that persons awaiting trial shall be held in custody.
6. Anyone who is deprived of his liberty by arrest or detention shall be entitled to proceedings before a court, in order that a court may decide without delay on the lawfulness of his arrest or detention, and order his release if the arrest or the detention is not lawful.
7. Anyone who is the victim of unlawful arrest or detention shall be entitled to compensation.

Article 15

There shall be no crime or punishment except as provided by a previously promulgated law. The accused shall benefit from subsequent legislation if it is in his favour.

Article 16

The accused shall be presumed innocent until proven guilty at a lawful trial. During the investigation and the trial, the accused shall be entitled to the following minimum guarantees:

1. To be informed promptly and in detail, in a language which he understands, of the nature and cause of the charge against him.
2. To have adequate time and facilities for the preparation of his defence and to contact his relatives.
3. To be tried in his presence in front of a judge, and to defend himself or through legal assistance of his own choosing or with the assistance of his lawyer, with whom he can freely and confidentially communicate.
4. To have free legal assistance of a lawyer to defend himself if he does not have sufficient means to pay for his defence, and if the interests of justice so require. To have the free assistance of an interpreter if he cannot understand or speak the language of the court.
5. To examine, or have examined, the witnesses against him, and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.
6. Not to be compelled to testify against himself or to confess to guilt.
7. If convicted of a crime, to have his conviction and sentence reviewed by a higher tribunal according to law.
8. To have the security of his person and his private life respected in all circumstances.

Article 17

Each State Party shall ensure to all children deemed 'at risk' and juvenile persons accused of an infraction the right to a special legal regime for minors during the length of the hearing, the trial and the application of judgment. Such special treatment shall be appropriate for their age, protect their dignity and promote their rehabilitation, and allow them to play a constructive role in society.

Article 18

No one shall be imprisoned on the ground of his proven inability to meet a debt or fulfil any civil obligation.

Article 19

1. No one shall be tried twice for the same offence. Anyone against whom such proceedings are brought shall have the right to challenge their legality and to demand his release.
2. Anyone whose innocence has been established by a final judgment shall be entitled to compensation for damages suffered.

Article 20

1. Persons sentenced to a penalty of deprivation of liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. Accused persons shall be separated from convicted persons and shall be subject to treatment appropriate to their status as unconvicted persons.
3. The essential aim of the penitentiary system is the reformation and social rehabilitation of prisoners.

Article 21

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honor and reputation.
2. Everyone has a right to the protection of the law against such interference or attacks.

Article 22

Everyone shall have the inherent right to recognition as a person before the law.

Article 23

Each State Party to the present Charter shall ensure that any person whose rights or freedoms recognised in the present Charter are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 24

Every citizen has the right to:

1. Freedom of political activity.
2. Take part in the conduct of public affairs, directly or through freely chosen representatives.

3. Stand for election and to choose his representative in free and fair elections under conditions guaranteeing equality between all citizens and ensuring the free expression of the will of the electorate.
4. The opportunity to gain access, on general terms of equality, to public service in his country under equal conditions of opportunity.
5. Form associations with others and to join associations.
6. Freedom of peaceful assembly and association.
7. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a society that respects freedom and human rights, in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 25

Persons belonging to minorities shall not be denied the right to enjoy their own culture, to use their own language or to profess and practise their own religion. The law shall regulate the exercise of such rights.

Article 26

1. Every person lawfully within the territory of a State Party shall, within that territory, have the right to liberty of movement and freedom to choose his residence in accordance with applicable regulations.
2. An alien lawfully in the territory of a State Party may be expelled only in pursuance of a decision reached according to the law and shall, except where compelling reasons of national security otherwise require, be given the possibility of having his case reviewed by a competent authority. Collective expulsions are prohibited in all cases.

Article 27

1. No one shall be arbitrarily or unlawfully prevented from leaving any country, including his own, nor prohibited from residing, or compelled to reside, in any part of his country.
2. No one shall be expelled from his country or prevented from returning thereto.

Article 28

Everyone shall have the right to seek political asylum in other countries to escape persecution. This right shall not be enjoyed by persons facing prosecution for an offense under ordinary criminal law. Political refugees shall not be extraditable.

Article 29

1. Every person has the right to a nationality, and no citizen shall be deprived of his nationality without a legally valid reason.
2. The States Parties shall undertake, in accordance with their legislation, all appropriate measures to allow a child to acquire the nationality of his mother with regard to the interest of the child.
3. No one shall be denied the right to acquire another nationality in accordance with the applicable legal procedures of his country.

Article 30

1. Every person shall have the right to freedom of thought, belief and religion, which may be subject only to such limitations as are prescribed by law.
2. Freedom to manifest or practice one's religion or beliefs or to perform rituals, either individually or in community with others, shall be subject only to such limitations as are prescribed by law and are necessary in a tolerant society that respects freedoms and human rights, to protect public safety, public order, health or morals or the fundamental rights and freedoms of others.
3. Parents and legal guardians are guaranteed the freedom to ensure the religious and moral education of their children.

Article 31

Everyone has a guaranteed right to own private property. No person shall under any circumstances be divested of all or any part of his property in an arbitrary or unlawful manner.

Article 32

1. The present Charter shall ensure the right to information, freedom of opinion and freedom of expression, freedom to seek, receive and impart information by all means, regardless of frontiers.
2. Such rights and freedoms are exercised in the framework of society's fundamental principles and shall only be subjected to restrictions necessary for the respect of the rights or reputation of others and for the protection of national security or of public order, health or morals.

Article 33

1. The family is the natural and fundamental unit of society, founded by the marriage of a man and a woman. The right of men and women of marriageable age to marry and to found a family shall be recognised. No marriage shall be entered without the full consent of the intending spouses. The law in force shall regulate the rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.

2. The State and society provide for the protection of the family and its members, for the strengthening of its bonds. All forms of violence and abusive treatment in the relations between family members, especially towards women and children, shall be prohibited. The State and society undertake to provide outstanding care and special protection for mothers, children and the elderly. Young persons have the right to be ensured maximum opportunities for physical and mental development.
3. The States Parties shall take all appropriate legislative, administrative and judicial provisions to ensure the protection, survival and well-being of children in an atmosphere of freedom and dignity. The best interest of the child, in all circumstances, serves as the basis for all measures taken, whether the child is a juvenile delinquent or a child 'at risk'.
4. The States Parties shall take all appropriate measures to ensure to young persons the right to engage in sports activities.

Article 34

1. Every citizen shall have the right to work. The State undertakes to ensure employment for as many employment seekers as possible, while ensuring maximum state production, and the freedom to work and equality of opportunity without discrimination of any kind as to race, colour, sex, language, religion, political opinion, affiliation to a trade union, national or social origin, handicap or other status.
2. Every worker shall have the right to the enjoyment of just and favourable conditions of work which provide for: a fair wage allowing workers to sustain a decent living for themselves and their families, limitation of working hours, rest and periodic holidays with pay, safe and healthy working conditions, the protection of women, children and handicapped persons in the workplace.
3. States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age of employment.
 - (b) Provide for appropriate regulation of the hours and conditions of employment.
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.
4. No distinction between men and women shall be made in the exercise of the right to benefit effectively from training, employment, protection of work and equal pay for work of equal value and quality.
5. Every State Party shall ensure protection to workers migrating to its territory in accordance with its laws.

Article 35

1. Every individual shall have the right to form trade unions, become a member of a trade union and to freely exercise trade union activity to defend his interests.
2. No restrictions shall be placed on the exercise of this right other than those imposed in conformity with law and which are necessary in the interests of national security, public safety, public order, the protection of public health, morals or the rights and freedoms of others.
3. Each State Party shall ensure the right to strike provided that it is exercised in conformity with its laws.

Article 36

The States Parties shall ensure the right of everyone to social security, including social insurance.

Article 37

The right to development is a fundamental human right. All States Parties shall establish development policies and take measures to ensure this right. They must give effect to the values of solidarity and cooperation among them and, at the international level, to eliminate poverty and achieve economic, social, cultural and political development. In accordance with this right, every citizen shall have the right to participate in the development, and contribute to and enjoy the benefits, of their goods and fruits of their labour.

Article 38

Everyone shall have the right to an adequate standard of living for himself and his family, ensuring well-being and a decent life, including adequate food, clothing, housing, services and a right to a safe environment. The States Parties shall take appropriate measures within their available resources to ensure the realisation of this right.

Article 39

1. The States Parties shall recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the right of every citizen to enjoy free and non-discriminatory access to health services and health care centres.
2. The steps to be taken by the States Parties shall include those necessary to:
 - (a) Develop basic healthcare and ensure the free and non-discriminatory access to the services of health care centres.
 - (b) Make every effort to fight disease by means of prevention and cure in order to reduce mortality.
 - (c) Take action to increase awareness and promote health education.
 - (d) Fight against traditional practices which are harmful to an individual's health.

- (e) Ensure basic nutrition and clean water for everybody.
- (f) Fight environmental pollution and supply sanitation systems.
- (g) Fight against tobacco, drugs and psychotropic substances.

Article 40

1. The States Parties undertake to ensure that mentally or physically disabled persons should enjoy a decent life, in conditions which ensure dignity, promote self-reliance and facilitate their active participation in society.
2. The States Parties shall provide social services free of charge to all disabled persons, including material support for those in need, directly or through their family to enable the family to provide for them and do all necessary to keep them out of an institution. In all cases, the disabled person's best interest will be taken into account.
3. The States Parties shall take all necessary measures to fight disability by all possible means, including preventive health programmes, awareness-raising efforts and education.
4. The States Parties shall provide all educational services suitable for disabled persons, taking into account the importance of integrating these persons in the educational system, the importance of professional training and preparation for pursuit of a professional activity and the creation of suitable job opportunities in public or private sectors.
5. The States Parties shall provide all health services for disabled persons, including rehabilitation services, to integrate them into society.
6. The States Parties shall ensure to disabled persons access to all public and private collective services.

Article 41

1. The eradication of illiteracy is a binding obligation and every citizen has a right to education.
2. The States Parties ensure free primary and fundamental education to their citizens. Primary education, at the very least, shall be compulsory and shall be made easily accessible to all.
3. The States Parties shall, in every domain, take the appropriate measures to ensure partnership between men and women to reach the goals of development.
4. The States Parties shall ensure an education aimed at the total fulfilment of the human being and the strengthening of respect of human rights and fundamental liberties.
5. The States Parties shall work to promote the principles of human rights and fundamental liberties through educational programmes and activities, educational methods and training programmes, both official and non-official.
6. The States Parties shall ensure the establishment of mechanisms necessary to ensure primary education to all citizens, and shall establish national plans for the education of adults.

Article 42

1. Every person shall have the right to take part in cultural life, and to enjoy the benefits of scientific progress and their applications.
2. The States Parties shall respect freedom of scientific research and creativity, and shall ensure the protection of moral and material principles linked to scientific, literary or artistic production.
3. The States Parties shall work together and reinforce cooperation between them at all levels, with full participation of intellectuals and inventors and their organisations, in order to expand and implement recreational, cultural, artistic and scientific programmes.

Article 43

Nothing in the present Charter shall be interpreted as impairing the rights and freedoms protected by the States Parties' own laws, or as set out in international or regional instruments of human rights that the States Parties have signed or ratified, including women's rights, children's rights and minorities' rights.

Article 44

Where not already provided for by existing legislative or other measures, the States Parties undertake to adopt, in accordance with their constitutional processes and with the provisions of the present Charter, the necessary laws or other measures in order to give effect to the rights recognised by the present Charter.

Article 45

1. There shall be established, pursuant to the present Charter, an Arab Human Rights Committee (the Committee). The Committee shall be composed of seven members elected by secret ballot by the States Parties to the present Charter.
2. The Committee shall consist of nationals of the States Parties to the present Charter, who shall be highly experienced persons competent in the Committee's field of work. The members of the Committee shall serve in their personal capacity with full impartiality and integrity.
3. The Committee shall not include more than one person from the same State Party. Such member shall be eligible for re-election only once. The principle of rotation shall be strictly observed.
4. The members of the Committee shall be elected for a four-year term. However, the terms of three of the members elected at the first election shall expire at the end of two years, with the names of these three members chosen by lot.
5. Six months before the date of the election, the Secretary General of the League of Arab States shall invite the States Parties to submit their candidates over a three-month period. He shall give them the list of candidates two months before the date of the election. The candidates who obtain the most votes will be the elected members of the Committee. If, because two or more candidates have an equal number of votes, the number of candidates with the largest number

of votes exceeds the number required, a second ballot will be held between the persons with equal numbers of votes. If the votes are again equal, the member or members shall be chosen by lot. The first election of the Committee's members shall take place no later than six months after the Charter comes into force.

6. The Secretary-General shall convene the States Parties to a meeting dedicated to the election of the members of the Committee at the Headquarters of the League of Arab States. The majority of the States Parties shall constitute a quorum. If the quorum is not reached, the Secretary-General shall convene a new meeting where a third of the States Parties shall constitute a quorum. If the quorum is still not reached, the Secretary-General shall convene a third meeting which will take place without regard to the number of States Parties present.
7. The Committee's first meeting shall be convened by the Secretary-General. During this meeting, the Committee shall elect its chairman from its members, for a two-year term renewable for one further term of two years. The Committee shall establish its own statute and rules of procedure and shall determine how often it shall meet. The Committee shall hold its meetings at the headquarters of the League of Arab States. It may also meet in any other State Party to the present Charter at that party's invitation.

Article 46

1. The Secretary-General shall declare a seat vacant after being notified by the Chairman of the Committee in case of:
 - (a) Death
 - (b) Resignation
 - (c) If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any acceptable cause or for any reason other than a temporary absence.
2. When a vacancy is declared in accordance with subparagraph (1), and if the term of office of the member to be replaced does not expire within six months of the vacancy, the Secretary-General of the League of Arab States shall notify each of the States Parties to the present Charter, which may within two months submit nominations in accordance with article 45 for the purpose of filling the vacancy.
3. The Secretary-General of the League of Arab States shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Charter. The election to fill the vacancy shall then take place in accordance with the relevant provisions.
4. A member of the Committee elected to fill a vacancy declared in accordance with subparagraphs (1) shall hold office for the remainder of the term of the member who vacated the seat under the provisions of those subparagraphs.
5. The Secretary-General shall award on the budget of the League of Arab States the necessary financial resources, staff and facilities for the effective performance of the functions of the

Committee. The members of the Committee shall be considered, regarding remuneration and reimbursement of expenses, as experts of the Secretariat.

Article 47

The States Parties undertake to ensure that members of the Committee shall enjoy the immunities necessary for their protection against any form of harassment, moral or material pressure or prosecution on account of the positions they take or statements they make while carrying out their functions as members of the Committee.

Article 48

1. The States Parties shall submit reports to the Secretary-General of the League of Arab States on the measures they have taken to give effect to the rights and freedoms recognised in this Charter and on the progress made towards the enjoyment thereof. The Secretary-General shall transmit these reports to the Committee for its consideration.
2. The States Parties shall submit an initial report to the Committee within one year from the date on which the Charter enters into force, and a periodic report every three years thereafter. The Committee may request the States Parties to supply it with additional information relating to the implementation of the Charter.
3. The Committee shall study in public the reports submitted by the States Parties under paragraph 2 of this article in the presence and with the collaboration of the representative of the States Parties whose report is being considered.
4. The Committee shall examine the report, comment thereon and make the necessary recommendations in accordance with the aims of the Charter.
5. The Committee shall submit an annual report containing its comments and recommendations to the Council of the League, through the intermediary of the Secretary-General.
6. The Committee's reports, concluding observations and recommendations shall be public documents which the Committee shall disseminate widely.

Article 49

1. The Secretary-General of the League of Arab States shall submit the present Charter to the States Parties once approved by the League for signature, ratification or accession.
2. The present Charter shall enter into force two months after the date of the deposit of the seventh instrument of ratification with the Secretariat of the League of Arab States.
3. After its entry into force, the present Charter shall become effective for each State two months after the State in question has deposited its instrument of ratification or accession with the secretariat.
4. The Secretary-General shall inform the States Parties of the deposit of each instrument of ratification or accession.

Article 50

Any State Party may propose an amendment to the present Charter and file it in writing with the Secretary-General. Upon notification of the amendments to the other States Parties, the Secretary-General shall convene the States Parties to examine the amendments for approval prior to the submission to the Council of the League for adoption.

Article 51

Amendments shall come into force and be binding on those States Parties which have accepted them when they have been approved by two thirds of the States Parties to the Charter.

Article 52

Any State Party may propose supplementary protocols to the present Charter, which shall be adopted according to the same process as followed for the adoption of amendments to the Charter.

Article 53

1. Any State Party, when signing this Charter, depositing the instruments of ratification or accession, may make a reservation to any article of the Charter, provided that such reservation does not conflict with the aims and fundamental purposes of the Charter.
2. Any State Party that has made a reservation pursuant to paragraph a) of this article may withdraw it at any time by addressing a notification to the Secretary-General of the League of Arab States.
3. The Secretary-General shall notify the States Parties of reservations made and petitions for withdrawal.

Annex D: International Norms and Basic Principles Regarding Independent Bar Associations

IBA Standards for the Independence of the Legal Profession

(Adopted 1990)

WHEREAS:

The independence of the legal profession constitutes an essential guarantee for the promotion and protection of human rights and is necessary for effective and adequate access to legal services:

An equitable system of administration of justice which guarantees the independence of lawyers in the discharge of their professional duties without any improper restrictions, pressures or interference, direct or indirect is imperative for the establishment and maintenance of the rule of law.

It is essential to establish conditions in which all persons shall have effective and prompt access to legal services provided by an independent lawyer of their choice to protect and establish their legal, economic, social, cultural, civil and political rights.

Professional associations of lawyers have a vital role to uphold professional standards and ethics, to protect their members from improper restrictions and infringements, to provide legal services to all in need of them, and to co-operate with governmental and other institutions in furthering the ends of justice.

NOW THEREFORE the following standards are established by the IBA to assist in the task of promoting and ensuring the proper role of lawyers which should be taken into account and respected by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers, judges, members of the executive and the legislature and the public in general.

Entry into the legal professional and legal education

1. Every person having the necessary qualifications in law shall be entitled to become a lawyer and to continue in practice without discrimination.
2. Legal education shall be open to all persons with requisite qualifications and no one shall be denied such opportunity by reason of race, colour, sex, religion, political or other opinion, national or social origin, property, birth, status or physical disability.
3. Legal education shall be designed to promote knowledge and understanding of the role and the skills required in practising as a lawyer, including awareness of the legal and ethical duties of a lawyer and of the human rights and fundamental freedoms recognised within the given jurisdiction and by international law.
4. Programmes of legal education shall have regard to the social responsibilities of the lawyer, including co-operation in providing legal services to the needy and the promotion and defence of legal rights of whatever nature whether economic, social, cultural, civil and political and especially rights of such nature in the process of development.

Education of the public concerning the law

5. It shall be a responsibility of the legal profession and state organs to educate the members of the public about the principles of the rule of law, the importance of the independence of the judiciary and of the legal profession and to inform them about their rights and duties and the relevant and available remedies.

Rights and duties of lawyers

6. Subject to the established rules, standards and ethics of the profession the lawyer in discharging his or her duties shall at all times act freely, diligently and fearlessly in accordance with the legitimate interest of the client and without any inhibition or pressure from the authorities or the public.
7. The lawyer is not to be identified by the authorities or the public with the client or the client's cause, however popular or unpopular it may be.
8. No lawyer shall suffer or be threatened with penal, civil, administrative, economic or other sanctions or harassment by reason of his or her having legitimately advised or represented any client or client's cause.
9. No court or administrative authority shall refuse to recognise the right of a lawyer qualified in that jurisdiction to appear before it for his client.
10. A lawyer shall have the right to raise an objection for good cause to the participation or continued participation of a judge in a particular case, or to the conduct of a trial or hearing.
11. Save as provided in these principles, a lawyer shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in his or her professional appearances before a court, tribunal or other legal or administrative authority.
12. The independence of lawyers in dealing with persons deprived of their liberty shall be guaranteed so as to ensure that they have free, fair and confidential legal assistance, including the lawyer's right of access to such persons. Safeguards shall be built to avoid any possible suggestion of collusion, arrangement or dependence between the lawyer who acts for them and the authorities.
13. Lawyers shall have all such other facilities and privileges as are necessary to fulfil their professional responsibilities effectively, including:
 - (a) confidentiality of the lawyer-client relationship, including protection of the lawyer's files and documents from seizure or inspection and protection from interception of the lawyer's electronic communications;
 - (b) the right to travel and to consult with their clients freely both within their own country and abroad;
 - (c) the right freely to seek, to receive and, subject to the rules of their profession, to impart information and ideas relating to their professional work.

14. Lawyers shall not by reason of exercising their profession be denied freedom of belief, expression, association and assembly; and in particular they shall have the right to:
 - (a) take part in public discussion of matters concerning the law and the administration of justice;
 - (b) join or form freely local, national and international organisations;
 - (c) propose and recommend well considered law reforms in the public interest and inform the public about such matters.

Legal service for the poor

15. It is a necessary corollary of the concept of an independent Bar that its members shall make their services available to all sectors of society so that no one may be denied justice.
16. Lawyers engaged in legal service programmes and organisations, which are financed wholly or in part from public funds, shall enjoy full guarantees of their professional independence in particular by:
 - (a) the direction of such programmes or organisations being entrusted to an independent board with control over its policies, budget and staff;
 - (b) recognition that, in serving the cause of justice, the lawyer's primary duty is towards the client, who must be advised and represented in conformity with professional conscience and judgement.

Lawyers' Associations

17. There shall be established in each jurisdiction one or more independent self-governing associations of lawyers recognised in law, whose council or other executive body shall be freely elected by all the members without interference of any kind by any other body or person. This shall be without prejudice to their right to form or join in addition other professional associations of lawyers and jurists.

Functions of the Lawyers' Associations

18. The functions of the appropriate lawyers' association in ensuring the independence of the legal profession shall be inter alia:
 - (a) to promote and uphold the cause of justice, without fear or favour;
 - (b) to maintain the honour, dignity, integrity, competence, ethics, standards of conduct and discipline of the profession; and to protect the intellectual and economic independence of the lawyer from his or her client;
 - (c) to defend the role of lawyers in society and preserve the independence of the profession;
 - (d) to protect and defend the dignity and independence of the judiciary;

- (e) to promote free and equal access of the public to the system of justice, including the provision of legal aid and advice;
 - (f) to promote the right of everyone to a prompt, fair and public hearing before a competent, independent and impartial tribunal and in accordance with proper and fair procedures in all matters;
 - (g) to promote and support law reform, and to comment upon and promote public discussion on the substance, interpretation and application of existing and proposed legislation;
 - (h) to promote a high standard of legal education as a prerequisite for entry into the profession and the continuing education of lawyers and to educate the public regarding the role of a Lawyers' Association;
 - (i) to ensure that there is free access to the profession for all persons having the requisite professional competence, without discrimination of any kind, and to give assistance to new entrants into the profession;
 - (j) to promote the welfare of members of the profession and the rendering of assistance to members of their families in appropriate cases;
 - (k) to affiliate with and participate in the activities of international organisations of lawyers.
19. Where a person involved in litigation wishes to engage a lawyer from another country to act with a local lawyer, the appropriate association of lawyers shall co-operate in assisting a foreign lawyer to obtain the necessary right of audience provided that he or she has the qualifications and fulfils the conditions required to obtain that right.
20. To enable the lawyers' association to fulfil its function of preserving the independence of lawyers it shall be informed immediately of the reason and legal basis for the arrest or detention and place of detention of any lawyer; and the lawyers' association shall have access to the lawyer arrested or detained.

Disciplinary proceedings

21. Lawyers' associations shall adopt and enforce a code of professional conduct of lawyers.
22. There shall be established rules for the commencement and conduct of disciplinary proceedings that incorporate the rules of natural justice.
23. The appropriate lawyers' association will be responsible for or be entitled to participate in the conduct of disciplinary proceedings.
24. Disciplinary proceedings shall be conducted in the first instance before a disciplinary committee of the appropriate lawyers' association. The lawyer shall have the right to appeal from the disciplinary committee to an appropriate and independent appellate body.

Annex E: UN Basic Principles on the Role of Lawyers

Adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

Whereas in the Charter of the UN the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international cooperation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence, the right to a fair and public hearing by an independent and impartial tribunal, and all the guarantees necessary for the defence of everyone charged with a penal offence,

Whereas the International Covenant on Civil and Political Rights proclaims, in addition, the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Whereas the International Covenant on Economic, Social and Cultural Rights recalls the obligation of States under the Charter to promote universal respect for, and observance of, human rights and freedoms,

Whereas the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that a detained person shall be entitled to have the assistance of, and to communicate and consult with, legal counsel,

Whereas the Standard Minimum Rules for the Treatment of Prisoners recommend, in particular, that legal assistance and confidential communication with counsel should be ensured to untried prisoners,

Whereas the Safeguards guaranteeing protection of those facing the death penalty reaffirm the right of everyone suspected or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, in accordance with article 14 of the International Covenant on Civil and Political Rights,

Whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power recommends measures to be taken at the international and national levels to improve access to justice and fair treatment, restitution, compensation and assistance for victims of crime,

Whereas adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession,

Whereas professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and public interest,

The Basic Principles on the Role of Lawyers, set forth below, which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation

and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general. These principles shall also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.

Access to lawyers and legal services

1. All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.
2. Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status.
3. Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organisation and provision of services, facilities and other resources.
4. Governments and professional associations of lawyers shall promote programmes to inform the public about their rights and duties under the law and the important role of lawyers in protecting their fundamental freedoms. Special attention should be given to assisting the poor and other disadvantaged persons so as to enable them to assert their rights and where necessary call upon the assistance of lawyers.

Special safeguards in criminal justice matters

5. Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.
6. Any such persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.
7. Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.
8. All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.

Qualifications and training

9. Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognised by national and international law.
10. Governments, professional associations of lawyers and educational institutions shall ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or other status, except that a requirement, that a lawyer must be a national of the country concerned, shall not be considered discriminatory.
11. In countries where there exist groups, communities or regions whose needs for legal services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, Governments, professional associations of lawyers and educational institutions should take special measures to provide opportunities for candidates from these groups to enter the legal profession and should ensure that they receive training appropriate to the needs of their groups.

Duties and responsibilities

12. Lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.
13. The duties of lawyers towards their clients shall include:
 - (a) Advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients;
 - (b) Assisting clients in every appropriate way, and taking legal action to protect their interests;
 - (c) Assisting clients before courts, tribunals or administrative authorities, where appropriate.
14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognised by national and international law and shall at all times act freely and diligently in accordance with the law and recognised standards and ethics of the legal profession.
15. Lawyers shall always loyally respect the interests of their clients.

Guarantees for the functioning of lawyers

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.
18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.
19. No court or administrative authority before whom the right to counsel is recognised shall refuse to recognise the right of a lawyer to appear before it for his or her client unless that lawyer has been disqualified in accordance with national law and practice and in conformity with these principles.
20. Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.
21. It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.
22. Governments shall recognise and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

Freedom of expression and association

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognised standards and ethics of the legal profession.

Professional associations of lawyers

24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.
25. Professional associations of lawyers shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognised professional standards and ethics.

Disciplinary proceedings

26. Codes of professional conduct for lawyers shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognised international standards and norms.
27. Charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice.
28. Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.
29. All disciplinary proceedings shall be determined in accordance with the code of professional conduct and other recognised standards and ethics of the legal profession and in the light of these principles.

Annex F: Constitution of the Republic of Syria

Preamble

The Arab nation managed to perform a great role in building human civilization when it was a unified nation. When the ties of its national cohesion weakened, its civilizing role receded and the waves of colonial conquest shattered the Arab nation's unity, occupied its territory, and plundered its resources. Our Arab nation has withstood these challenges and rejected the reality of division, exploitation, and backwardness out of its faith in its ability to surmount this reality and return to the arena of history in order to play, together with the other liberated nations, its distinctive role in the construction of civilization and progress. With the close of the first half of this century, the Arab people's struggle has been expanding and assuming greater importance in various countries to achieve liberation from direct colonialism.

The Arab masses did not regard independence as their goal and the end of their sacrifices, but as a means to consolidate their struggle, and as an advanced phase in their continuing battle against the forces of imperialism, Zionism, and exploitation under the leadership of their patriotic and progressive forces in order to achieve the Arab nation's goals of unity, freedom, and socialism.

In the Syrian Arab region, the masses of our people continued their struggle after independence. Through their progressive march they were able to achieve their big victory by setting off the revolution of 8 March 1963 under the leadership of the Socialist Arab Baath Party, which has made authority an instrument to serve the struggle for the construction of the United Socialist Arab society.

The Socialist Arab Baath Party is the first movement in the Arab homeland which gives Arab unity its sound revolutionary meaning, connects the nationalist with the socialist struggle, and represents the Arab nation's will and aspirations for a future that will bind the Arab nation with its glorious past and will enable it to carry out its role in achieving victory for the cause of freedom of all the peoples.

Through the party's militant struggle, the 16 November 1970 corrective movement responded to our people's demands and aspirations. This corrective movement was an important qualitative development and a faithful reflection of the party's spirit, principles, and objectives. It created the appropriate atmosphere for the fulfilment of a number of significant projects in the interest of our large masses, primarily the emergence of the state of the Confederation of Arab Republics in response to the call for unity, which figures prominently in the Arab conscience, which was buttressed by the joint Arab struggle against imperialism and Zionism, regionalist disputes, and separatist movements, and which was confirmed by the contemporary Arab revolution against domination and exploitation.

Under the aegis of the corrective movement, an important stop was taken on the road leading to the consolidation of national unity for our popular masses. Under the leadership of the Socialist Arab Baath Party, a national and progressive front with developed conceptions emerged in such a manner as to meet our people's needs and interests and proceed toward unifying the instrument of the Arab revolution in a unified political organisation.

The completion of this Constitution crowns our people's struggle on the road of the principle of popular democracy, is a clear guide for the people's march toward the future and a regulator of the movement of the state and its various institutions, and is a source of its legislation.

The Constitution is based on the following major principles:

1. The comprehensive Arab revolution is an existing and continuing necessity to achieve the Arab nation's aspirations for unity, freedom, and socialism. The revolution in the Syrian Arab region is part of the comprehensive Arab revolution. Its policy in all areas stems from the general strategy of the Arab revolution.
2. Under the reality of division, all the achievements by any Arab country will fail to fully achieve their scope and will remain subject to distortion and setback unless these achievements are buttressed and preserved by Arab unity. Likewise, any danger to which any Arab country may be exposed on the part of imperialism and Zionism is at the same time a danger threatening the whole Arab nation.
3. The march toward the establishment of a socialist order besides being a necessity stemming from the Arab society's needs, is also a fundamental necessity for mobilizing the potentialities of the Arab masses in their battle with Zionism and imperialism.
4. Freedom is a sacred right and popular democracy is the ideal formulation which insures for the citizen the exercise of his freedom which makes him a dignified human being capable of giving and building, defending the homeland in which he lives, and making sacrifices for the sake of the nation to which he belongs. The homeland's freedom can only be preserved by its free citizens. The citizen's freedom can be completed only by his economic and social liberation.
5. The Arab revolution movement is a fundamental part of the world liberation movement. Our Arab people's struggle forms a part of the struggle of the peoples for their freedom, independence, and progress.

This Constitution serves as a guide for action to our people's masses so that they will continue the battle for liberation and construction guided by its principles and provisions in order to strengthen the positions of our people's struggle and to drive their march toward the aspired future.

Chapter 1: Basic Principles

Part 1: Political Principles

Article 1: Arab Nation, Socialist Republic

1. The Syrian Arab Republic is a democratic, popular, socialist, and sovereign state. No part of its territory can be ceded. Syria is a member of the Union of the Arab Republics.
2. The Syrian Arab region is a part of the Arab homeland.
3. The people in the Syrian Arab region are a part of the Arab nation. They work and struggle to achieve the Arab nation's comprehensive unity.

Article 2: Republic, Sovereignty

1. The governmental system of the Syrian Arab region is a republican system.
2. Sovereignty is vested in the people, who exercise it in accordance with this Constitution.

Article 3: Islam

1. The religion of the President of the Republic has to be Islam.
2. Islamic jurisprudence is a main source of legislation.

Article 4: Language, Capital

The Arab language is the official language. The capital is Damascus.

Article 6: Flag, Emblem, Anthem

The state flag, emblem, and the national anthem are the flag, emblem, and the national anthem of the Union of the Arab Republics.

Article 7: Oath

The constitutional oath is as follows:

‘I swear by God the Almighty to sincerely preserve the republican, democratic, and popular system, respect the constitution and the laws, watch over the interests of the people and the security of the homeland, and work and struggle for the realisation of the Arab nation’s aims of unity, freedom, and socialism.’

Article 8: Baath Party

The leading party in the society and the state is the Socialist Arab Baath Party. It leads a patriotic and progressive front seeking to unify the resources of the people’s masses and place them at the service of the Arab nation’s goals.

Article 9: Organisations

Popular organisations and cooperative associations are establishments which include the people’s forces working for the development of society and for the realisation of the interests of its members.

Article 10: People’s Councils

People’s councils are establishments elected in a democratic way at which the citizens exercise their rights in administering the state and leading the society.

Article 11: Armed Forces

The armed forces and other defence organisations are responsible for the defence of the homeland's territory and for the protection of the revolution's objectives of unity, freedom, and socialism.

Article 12

The state is at the people's service. Its establishments seek to protect the fundamental rights of the citizens and develop their lives. It also seeks to support the political organisations in order to bring about self-development.

Part 2: Economic Principles

Article 13: Economy

1. The state economy is a planned socialist economy which seeks to end all forms of exploitation.
2. The region's economic planning serves in achieving economic integration in the Arab homeland.

Article: 14 Ownership

The law regulates ownership, which is of three kinds:

1. Public ownership includes natural resources, public utilities, and nationalized installations and establishments, as well as installations and establishments set up by the state. The state undertakes to exploit and to supervise the administration of this property in the interest of the entire people. It is the duty of the citizens to protect this property.
2. Collective ownership includes the property belonging to popular and professional organisations and to production units, cooperatives, and other social establishments. The law guarantees its protection and support.
3. Individual ownership includes property belonging to individuals. The law defines its social task in serving the national economy within the framework of the development plan. This property should not be used in ways contrary to the people's interests.

Article 15: Expropriation

1. Individual ownership may not be expropriated except for public interest and in return for just compensation in accordance with the law.
2. The public seizure of funds is permissible.
3. Private seizure cannot be effected except through a judicial decision.
4. Private seizure ordered by law is permissible in return for just compensation.

Article 16: Agricultural Ownership

The law defines the maximum of agricultural ownership in a manner that guarantees the protection of the farmer and of the agricultural worker against exploitation and insures increase in production.

Article 17: Inheritance

The right of inheritance is guaranteed in accordance with the law.

Article 18: Savings

Saving is a national duty protected, encouraged, and organized by the state.

Article 19: Taxes

Taxes are imposed on an equitable and progressive bases [sic] which achieve the principles of equality and social justice.

Article 20

The exploitation of private and joint economic foundations must seek to meet the social needs, increase the national income, and achieve the people's prosperity.

Part 3: Educational and Cultural Principles

Article 21: Goals

The educational and cultural system aims at creating a socialist nationalist Arab generation which is scientifically minded and attached to its history and land, proud of its heritage, and filled with the spirit of struggle to achieve its nation's objectives of unity, freedom, and socialism, and to serve humanity and its progress.

Article 22: Progress

The educational system has to guarantee the people's continuous progress and adapt itself to the ever-developing social, economic, and cultural requirements of the people.

Article 23: Socialist Education, Arts, Sports

1. The nationalist socialist education is the basis for building the unified socialist Arab society. It seeks to strengthen moral values, to achieve the higher ideals of the Arab nation, to develop the society, and to serve the causes of humanity. The state undertakes to encourage and to protect this education.
2. The encouragement of artistic talents and abilities is one of the bases of the progress and development of society, artistic creation is based on close contact with the people's life. The state fosters the artistic talents and abilities of all citizens.

3. Physical education is a foundation for the building of society. The state encourages physical education to form a physically, mentally, and morally strong generation.

Article 24: Science, Intellectual Property

1. Science, scientific research, and all scientific achievements are basic elements for the progress of the socialist Arab society. Comprehensive support is extended by the state.
2. The state protects the rights of authors and inventors who serve the people's interests.

Part 4: Freedom, Rights, Duties

Article 25: Personal Freedom, Dignity, Equality

1. Freedom is a sacred right. The state protects the personal freedom of the citizens and safeguards their dignity and security.
2. The supremacy of law is a fundamental principle in the society and the state.
3. The citizens are equal before the law in their rights and duties.
4. The state insures the principle of equal opportunities for citizens.

Article 26: Participation

Every citizen has the right to participate in the political, economic, social, and cultural life. The law regulates this participation.

Article 27: Boundaries of the Law

Citizens exercise their rights and enjoy their freedoms in accordance with the law.

Article 28: Defence

1. Every defendant is presumed innocent until proven guilty by a final judicial decision.
2. No one may be kept under surveillance or detained except in accordance with the law.
3. No one may be tortured physically or mentally or be treated in a humiliating manner. The law defines the punishment of whoever commits such an act.
4. The right of litigation, contest, and defence before the judiciary is safeguarded by the law.

Article 29: Criminal Laws

What constitutes a crime or penalty can only be determined by law.

Article 30: Retroactive Laws

Laws are binding only following the date of their enactment and cannot be retroactive. In other than penal cases, the contrary may be stipulated.

Article 31: Home

Homes are inviolable. They may not be entered or searched except under conditions specified by law.

Article 32: Secrecy of Communication

The privacy of postal and telegraphic contacts is guaranteed.

Article 33: Residence, Move

1. A citizen may not be deported from the homeland.
2. Every citizen has the right to move within the state's territory unless forbidden to do so by a judicial sentence or in implementation of public health and safety laws.

Article 34: Asylum

Political refugees cannot be extradited because of their political principles or their defence of freedom.

Article 35: Religion

1. The freedom of faith is guaranteed. The state respects all religions.
2. The state guarantees the freedom to hold any religious rites, provided they do not disturb the public order.

Article 36: Work

1. Work is a right and duty of every citizen. The state undertakes to provide work for all citizens.
2. Every citizen has the right to earn his wage according to the nature and yield of the work. The state must guarantee this.
3. The state fixes working hours, guarantees social security, and regulates rest and leave rights and various compensations and rewards for workers.

Article 37: Free Education

Education is a right guaranteed by the state. Elementary education is compulsory and all education is free. The state undertakes to extend compulsory education to other levels and to supervise and guide education in a manner consistent with the requirements of society and of production.

Article 38: Expression

Every citizen has the right to freely and openly express his views in words, in writing, and through all other means of expression. He also has the right to participate in supervision and constructive criticism in a manner that safeguards the soundness of the domestic and nationalist structure and strengthens the socialist system. The state guarantees the freedom of the press, of printing, and publication in accordance with the law.

Article 39: Assembly

Citizens have the right to meet and demonstrate peacefully within the principles of the Constitution. The law regulates the exercise of this right.

Article 40: Defence

1. All citizens have the sacred duty to defend the homeland's security, to respect its Constitution and socialist unionist system.
2. Military service is compulsory and regulated by law.

Article 41: Taxes

The payment of taxes and public expenses is a duty in accordance with the law.

Article 42: Preservation of Unity

It is a duty of every citizen to preserve the national unity and to protect state secrets.

Article 43: Citizenship

The law regulates Syrian Arab citizenship and guarantees special facilities for the Syrian Arab expatriates and their sons and for the citizens of the Arab countries.

Article 44: Family, Marriage, Children

1. The family is the basic unit of society and is protected by the state.
2. The state protects and encourages marriage and eliminates the material and social obstacles hindering it. The state protects mothers and infants and extends care to adolescents and youths and provides them with the suitable circumstances to develop their faculties.

Article 45: Women

The state guarantees women all opportunities enabling them to fully and effectively participate in the political, social, cultural, and economic life. The state removes the restrictions that prevent women's development and participation in building the socialist Arab society.

Article 46: Insurance, Welfare

1. The state insures every citizen and his family in cases of emergency, illness, disability, orphanhood, and old age.
2. The state protects the citizens' health and provides them with the means of protection, treatment, and medication.

Article 47: Services

The state guarantees cultural, social, and health services. It especially undertakes to provide these services to the village in order to raise its standard.

Article 48: Organisations

The popular sectors have the right to establish unionist, social, professional organisations, and production cooperatives. The framework of the organisations, their relations, and the scope of their work is defined by law.

Article 49: Organisational Functions

The popular organisations by law effectively participate in the various sectors and councils to realise the following:

1. Building the socialist Arab society and defending the system.
2. Planning and guiding of the socialist economy.
3. Development of work conditions, safety, health, culture, and all other affairs pertaining to the lives of the organisation members.
4. Achievement of scientific and technical progress and the development of the means of production.
5. Popular supervision of the machinery of government.

Chapter 2: Powers of the State

Part 1: Legislative Power

Article 50: People's Assembly

1. The People's Assembly assumes legislative power in the manner defined in this Constitution.
2. The members of the People's Assembly are elected by general, secret, direct, and equal ballot in accordance with the provisions of the election law.

Article 51: Term

The People's Assembly is elected for 4 years beginning on the date of its first meeting. This term can be extended by law only in the state of war.

Article 52: Representation

A member of the People's Assembly represents the whole people. His mandate may not be limited by any restrictions or conditions. He must exercise his mandate guided by his honor and conscience.

Article 53: Membership

The law defines the electoral districts and the number of the members of the People's Assembly, provided that at least half their number are workers and peasants. The law defines the terms: worker and peasant.

Article 54: Voters

Voters are citizens of at least 18 years of age who are listed in the civil status register and who meet the conditions specified in the election law.

Article 55: Election, Referendum

The law provides for elections and plebiscites. It defines the conditions to be met by members of the People's Assembly.

Article 56: State Worker Candidacy

State workers, including public sector workers, may nominate themselves for membership in the Assembly. Except in the cases defined by law, the elected member may take a leave in order to join the Assembly. His position or work is reserved for him and the period of leave is regarded as active duty.

Article 57: Electoral Guarantees

The election law must include provisions guaranteeing:

1. Freedom of the voters in electing their representatives and integrity of the election.
2. The right of the candidates to watch over the voting.
3. Punishment for those who tamper with the will of the voters.

Article 58 Continuous Assembly

1. The elections are to be held within 90 days following the date of the expiration of the Assembly's term.

2. The People's Assembly reconvenes in accordance with the law if no other Assembly is elected. It convenes after the lapse of 90 days and remains in office until a new Assembly is elected.

Article 59: Vacancies

If a seat becomes vacant for any reason, a member is elected to this seat within 90 days after the vacancy, provided the remaining period of the Assembly's term is not less than 6 months. Membership of the new member ends with expiration of the Assembly's term. The election law defines the conditions of membership vacancies.

Article 60: First Meeting

1. The People's Assembly is invited to meet by a decree issued by the President of the Republic within 15 days beginning on the date of the announcement of the results of the elections. The Assembly meets in accordance with the law on the 16th day if no decree is inviting the Assembly to hold a session.
2. At its first meeting, the Assembly elects its President and the members of its secretariat.

Article 61: Sessions

The People's Assembly is convened in three ordinary sessions yearly. It may also be convened in extraordinary sessions. The Assembly's table of organisation sets the dates and periods of the sessions. The Assembly is invited to meet at extraordinary sessions by a decision of the President of the Assembly, at the written request of the President of the Republic, or at the request of one-third of the members of the Assembly.

Article 62: Electoral Control

The People's Assembly rules on the validity of the membership of its members if it is challenged in light of investigations undertaken by the Supreme Constitutional Court within one month of the Assembly's notification of the Court's verdict. A member's membership in the Assembly is invalidated only by a majority vote of its members.

Article 63: Oath

Before assuming office, each member of the Assembly publicly takes before the Assembly the oath specified in Article 7.

Article 64: Remuneration

The compensations and allowances for the members of the Assembly are defined by law.

Article 65: Internal Organisation

The People's Assembly lays down its internal organisation to regulate the mode of work and the manner of carrying out its duties.

Article 66: Indemnity

Members of the Assembly are not accountable before criminal or civil courts for any occurrences or views they express, in voting in public or secret sessions, or in the activities of the various committees.

Article 67: Immunity

Members of the Assembly enjoy immunity throughout the term of the Assembly. Unless they are apprehended in the act of committing a crime, no penal measures can be taken against any member without the advance permission of the Assembly. When the Assembly is not in session, permission must be obtained from the President of the Assembly. As soon as it convenes, the Assembly is notified of the measures taken.

Article 68: Incompatibility

1. An Assembly member may not take advantage of his Assembly membership in any activities.
2. The law defines the activities which are incompatible with membership in the Assembly.

Article 69: President, Guard

1. The President of the People's Assembly represents, signs, and speaks on behalf of the Assembly.
2. The Assembly has a special guard which accepts the orders of the President of the Assembly. No other armed force may enter the Assembly building without permission of the President of the Assembly.

Article 70: Membership Rights

The members of the Assembly have the right to propose bills and address questions and inquiries to the cabinet or any minister in accordance with the Assembly's internal organisation.

Article 71: Powers

The People's Assembly assumes the following powers:

1. Nomination of the President of the Republic.
2. Approval of the laws.
3. Debate of cabinet policy.
4. Approval of the general budget and development plans.

5. Approval of international treaties and agreements connected with state security; namely, peace and alliance treaties, all treaties connected with the rights of sovereignty or agreements which grant concessions to foreign companies or establishments, as well as treaties and agreements which entail expenditures of the state treasury not included in the treasury's budget, and treaties and agreements which run counter to the provisions of the laws in force or treaties and agreements which require promulgation of new legislation to be implemented.
6. Approval of general amnesty.
7. Acceptance or rejection of the resignation of a member of the Assembly.
8. Withholding confidence in the cabinet or a minister.

Article 72: Vote of No Confidence

Confidence may not be withheld without the interrogation of the cabinet or a minister. A request for withholding confidence has to be made in accordance with a proposal submitted by at least one-fifth of the members of the Assembly. Confidence in the cabinet or a minister may be withheld by a majority of the members of the Assembly. In the event of no confidence in the cabinet, the Prime Minister must submit the cabinet's resignation to the President of the Republic. A minister from whom confidence has been withheld must also resign.

Article 73: Committees

The Assembly forms provisional committees from its members to collect information and to find facts on the subjects concerning the exercising of its jurisdiction.

Article 74: Budget

The draft budget is submitted to the Assembly two months before the beginning of the fiscal year. The budget is not in force unless it is approved by the Assembly.

Article 75: Budget Vote

Voting on the budget is chapter by chapter. The method of preparing the budget is defined by law.

Article 76: Fiscal Year

Every fiscal year has one budget and the beginning of the fiscal year is defined by law.

Article 77: Continuing Budget

If the Assembly fails to approve the budget before the beginning of the new fiscal year, the previous fiscal year remains in force until approval of the new fiscal year. Revenues are obtained in accordance with the laws still in force.

Article 78: Budget Changes

No change in the budget's chapters is permissible except in accordance with provisions of the law.

Article 79: Budget Amendments

During study of the budget, the Assembly has no right to increase the estimates of revenues and expenditures.

Article 80: New Expenditures

After approval of the budget, the Assembly can approve laws on new expenditures and revenues.

Article 81: Tax Laws

It is not permissible to impose taxes, to modify taxes, or to cancel taxes except by law.

Article 82

Final accounts for the fiscal year are submitted to the Assembly within two years of the end of that year. The settlement of accounts should be made by law. Amounts to be applied to the settlement of accounts should be applied to the budget, subject to approval.

Part 2: The Executive Authority

Section 1: The President of the Republic

Article 83: Eligibility

A candidate for the presidency must be an Arab Syrian, enjoying his civil and political rights, and be over 40 years of age.

Article 84: Election

Upon the proposal of the Arab Socialist Baath Party regional command, the Assembly issues the order for election of the President:

1. the candidacy is proposed to the citizens for referendum;
2. the referendum takes place upon the request of the President of the Assembly;
3. the new president is elected before termination of the term of the present President, within a period of not less than 30 days and not more than 60 days;
4. the candidate becomes President of the Republic if he obtains an absolute majority of the total votes. If he fails to obtain this majority, the Assembly names another candidate. The same procedures are followed concerning the election, provided this takes place within 1 month from the time the results of the first plebiscite were announced.

Article 85: Term

The President of the Republic is elected for 7 years according to the Christian calendar, beginning at the date of the expiration of the term of the incumbent President.

Article 86: Incapacity

If any temporary incapacity prevents the President of the Republic from carrying out his duties, the Vice President takes his place.

Article 87: Resignation

If the President of the Republic wishes to resign, he must submit his resignation to the Assembly.

Article 88: Re-Election

The first Vice President of the Republic or the Vice President named by the President, carries out the President's duties if the President fails to do so. If the incapacity is permanent or in case of death or resignation, a referendum takes place to elect a new President in accordance with the provisions of Article 84, within a period not exceeding 90 days. If the Assembly is dissolved or if its term is due to expire in less than 90 days, the first Vice President carries out the President's duties until the new Assembly convenes.

Article 89: Vacancy

If the post of President becomes vacant and there is no Vice President, the Prime Minister exercises all the President's powers and jurisdictions until a new President is elected by means of referendum within 90 days.

Article 90: Oath

Before taking his post, the President takes the constitutional oath before the People's Assembly in accordance with Article 7.

Article 91: Liability

The President cannot be held responsible for actions pertaining directly to his duties, except in the case of high treason. A request for his indictment requires a proposal of at least one-third of the members of the People's Assembly and an Assembly decision adopted by a two-thirds majority in an open vote at a special secret session. His trial takes place only before the Supreme Constitutional Court.

Article 92: Remuneration

The protocol, privileges, and compensation of the post of the President of the Republic are established by law.

Article 93: Functions

1. The President of the Republic insures respect for the Constitution, the orderly functioning of public authorities, and the preservation of the state.
2. The President of the Republic exercises executive authority on behalf of the people within the limits defined in this Constitution.

Article 94: Policy

The President of the Republic, through consultation with the cabinet, lays down the state's general policy and supervise its implementation.

Article 95: Appointments

The President of the Republic appoints one or more Vice Presidents and delegates some of his duties to them. The President also appoints the Prime Minister and his deputies and the ministers and their deputies, accepts their resignations, and dismisses them from their posts.

Article 96: Oath

Before assuming their posts, the Vice Presidents take the Constitutional oath specified in Article 7 before the President of the Republic.

Article 97: Cabinet Meeting, Reports

The President of the Republic can call a cabinet meeting under his Chairmanship. He can also request reports from the ministers.

Article 98: Veto

The President of the Republic promulgates the laws approved by the People's Assembly, he may veto these laws through a decision, giving the reasons for this objection, within a month after their receipt by the President. If the Assembly again approves them by a two-thirds majority, the President of the Republic has to issue them.

Article 99: Decrees

The President of the Republic issues decrees, decisions, and orders in accordance with the legislation in effect.

Article 100: War and Peace

The President of the Republic can declare war and general mobilization and conclude peace following the approval by the People's Assembly.

Article 101: State of Emergency

The President of the Republic can declare and terminate a state of emergency in the manner stated in the law.

Article 102: Diplomacy

The President of the Republic accredits the heads of diplomatic missions to foreign governments and accepts the accreditation of the heads of foreign diplomatic missions to him.

Article 103: Commander-in-Chief

The President of the Republic is the supreme commander of the army and the armed forces. He issues all the necessary decisions and orders in exercising this authority. He can delegate some of his authority.

Article 104: Treaties

The President of the Republic ratifies and abolishes internal treaties and agreements in accordance with the provisions of the Constitution.

Article 105: Amnesty

The President of the Republic can issue amnesty and reinstatement decisions.

Article 106: Decorations

The President of the Republic can bestow decorations.

Article 107: Dissolution of Parliament

1. The President of the Republic can dissolve the People's Assembly through a decision giving the reasons. Elections are held within 90 days from the date of the dissolution.
2. He may not dissolve the People's Assembly more than once for the same reason.

Article 108: Extraordinary Sessions, Addresses

1. The President of the Republic can call on the People's Assembly to convene an extraordinary session.
2. He can also address the Assembly through messages and can make statements before the Assembly.

Article 109: Appointment of Officials

The President of the Republic appoints civilian and military officials and terminates their services in accordance with the law.

Article 110: Initiative

The President of the Republic may draft project laws and submit them to the Assembly for approval.

Article 111: Assuming Legislative Authority

1. The President of the Republic assumes legislative authority when the People's Assembly is not in session, provided that all the legislation issued by him is referred to the People's Assembly in its first session.
2. The President of the Republic can assume legislative authority even when the Assembly is in session if it is extremely necessary in order to safeguard the country's national interests or the requirements of national security, provided that the legislation issued by him is referred to the People's Assembly in its first session.
3. The People's Assembly can abolish or amend the legislation as provided for in Paragraph (1) and (2), or by law by a two-thirds majority of the members attending the session, provided their number is not less than the Assembly's absolute majority and provided that the amendment or abolition does not have a retroactive effect. If the Assembly does not abolish or amend this legislation, then it is considered legally approved and there will be no need for a vote on it.
4. The President of the Republic assumes legislative authority in the interim period between two assemblies. Legislation issued by the President during this period is not referred to the People's Assembly. Its validity as regards amendments or abrogation are the same as with existing laws.

Article 112: Referenda

The President of the Republic can hold public referenda on important issues affecting the country's highest interests. The results of the referenda are binding and effective on the date of their promulgation. The President of the Republic issues the results.

Article 113: Emergency Measures

In case of a grave danger or situation threatening national unity or the safety and independence of the homeland or obstructing state institutions from carrying out their constitutional responsibilities, the President of the Republic can take immediate measures necessitated by these circumstances.

Article 114

The President of the Republic can form specialized organisations, councils, and committees. The powers and jurisdiction of these bodies are specified in the decisions forming them.

Section 2: The Council of Ministers

Article 115: Cabinet

1. The cabinet is the state's highest executive and administrative body. It consists of the President of the Council of Ministers, his deputies, and the ministers. It supervises the execution of the laws and regulations and the work of the state machinery and institutions.
2. The President of the Council of Ministers supervises the activities of the ministers.
3. The compensations and allowances of the President of the Council of Ministers, his deputies, the ministers, and their deputies are fixed by law.

Article 116: Oath

The President of the Council of Ministers, his deputies, and the ministers and their deputies take the constitutional oath, as specified in Article 7, before the President of the Republic and before they assume their responsibilities, whenever a new cabinet is formed. In the case of a cabinet reorganisation, only the new ministers take the oath.

Article 117: Responsibility

The President of the Council of Ministers and the ministers are responsible before the President of the Republic.

Article 118: Policy Statements

1. Upon its formation, the cabinet submits a statement to the People's Assembly on its general policy and programmes of action.
2. The cabinet submits annual statements to the People's Assembly on implementation of the development plans and production progress.

Article 119: Minister

The Minister is the highest administrative authority in his ministry. He carries out the state's general policy where it concerns his ministry.

Article 120: Incompatibility

While in office, the ministers are not permitted to be members of the Board of Directors of any private company, act as its agents, participate in any commercial or industrial transaction, or undertake any liberal profession. While in office, the ministers are not permitted to be directly or indirectly involved in the contracts, tenders, or works carried out by the state ministries, departments, or establishments, or by public sector companies.

Article 121: Liability

The law defines the civil and penal responsibilities of the ministers.

Article 122: Continuing Cabinet

On the expiration of the term of the President of the Republic or in the case of his permanent inability to discharge his duties for any reason, the cabinet continues to manage the affairs of the state until the new President names a new cabinet.

Article 123: Criminal Liability

The President of the Republic has a right to refer a minister to trial for whatever crimes he commits while in his post or because of it, in accordance with provisions of the Constitution and the law.

Article 124: Suspension

An accused minister is suspended as soon as the indictment is issued and until the court arrives at a decision regarding the charges brought against him. His resignation or dismissal does not prevent committing him to trial. The trial and its procedures are in accordance with the law.

Article 125: Compatibility

Cabinet and People's Assembly membership may be combined.

Article 126: Deputy Ministers

The provisions applicable to the ministers are also applicable to the deputy ministers.

Article 127: Powers

The cabinet has the following powers:

1. Participation with the President of the Republic in drawing up and carrying out the state's general policy.
2. Steering, coordinating, and following up the work of the ministries and all the state's public departments and establishments.
3. Drawing up the state's general budget project.
4. Preparing draft laws.
5. Preparing the development plan, developing production, and exploiting national resources and everything that will strengthen the economy and increase the national income.
6. Contracting and granting loans in accordance with the provisions of the Constitution.
7. Concluding agreements and treaties in accordance with the provisions of the Constitution.

8. Following up the enforcement of the laws, preserving the state's security, and safeguarding the rights of the citizens and the state's interest.
9. Issuing administrative and executive decisions in accordance with laws and regulations, and supervising their implementation.

Article 128: Other Powers

In addition to the cabinet's powers, the Prime Minister and the ministers discharge the duties mentioned in valid legislation, provided they are not in conflict with the powers given to other state authorities by this Constitution.

Part 3: The Local People's Councils

Article 129: Councils

1. The Local People's Councils are bodies which exercise their powers within the administrative units in accordance with the law.
2. The administrative units are defined in accordance with the provisions of the law.

Article 130: Powers

The law defines the powers of The Local People's Councils, the method of electing and forming them, the rights and duties of their members, and all relevant regulations.

Annex G: Extract of the Syrian Penal Code

Article 278:

The following persons are to be punished by temporary detention:

- A. Anyone who violates the measures which the State adopts in order to preserve its neutrality in war.
- B. Anyone who engages in activities, writings or speeches which the Government does not permit and who thus exposes Syria to the danger of enemy activities, or disturbs Syria's links with a foreign country, or exposes Syrians to acts of revenge which are perpetrated against Syrians or their assets.

Article 285:

Anyone in Syria who, in wartime or at a time when war is expected to break out, engages in propaganda aimed at weakening national sentiment or at arousing ethnic or sectarian arrogance is to be punished by temporary detention.

Article 286:

1. Anyone is to deserve the same punishment who – in Syria and in the same circumstances – communicates news items which he knows to be untrue or exaggerated and which tend to dishearten the psychology of the nation.
2. If the perpetrator considers these news items to be true, he is to be punished by at least three months' imprisonment.

Article 288:

1. Anyone in Syria who, without the Government's permission, engages in joining either a political or social association which has an international character, or an organisation of that type, is to be punished by imprisonment or house arrest for a period of from three months to three years, and by a fine of between one hundred Liras and two hundred and fifty Liras.
2. The punishment of anyone who holds a position of employment in the association or organisation referred to is not to be less than imprisonment or house arrest for a period of one year and a fine of one hundred Liras.

Article 307:

1. Every activity, every piece of writing, and every speech, in which what is intended is, or which results in, either firstly the arousing of sectarian or ethnic arrogance, or secondly the incitement of a dispute between sects and different elements making up the nation, is to be punished by imprisonment for from six months to two years and by a fine of one hundred to two hundred Liras, and also by being prohibited from exercising the rights referred to in the 2nd and 4th paragraphs of Article 65.
2. The Court may rule that the judgment is to be published.

Annex H: Extract of the Law 93 of Private Associations and Institutions

Article 3

When an association is being founded, it is a requirement that written articles are to be laid down for it and are to be signed by the founders. No persons who have been denied the exercising of political rights are to take part in founding an association, neither are they to become members of it.

Article 9

The articles of the association are announced as soon as they are entered in the register drawn up for this purpose. A summary of the entry is to be published in the Official Gazette free of charge. The executive regulations are to state the requirements and rules relating to that register, and the procedures and requirements for making an entry in that register.

Article 10

The competent administrative agency is to make the announcement within sixty days from the date when the announcement is requested. If the sixty days elapse without the announcement being made, the announcement is deemed to have taken place by force of law. The above-mentioned agency is, in accordance with a request by those concerned with the matter, to make not only the entry in the register but also the announcement in the Official Gazette.

Article 11

Those concerned with the matter have the right – within sixty days of their being informed of the decision refusing the making of the announcement – to complain to the competent administrative agency about the decision which was issued and by which the making of the announcement was refused. This complaint is to be decided upon by a well-reasoned decision within sixty days from the date on which the complaint is received by the competent administrative agency; otherwise, the decision refusing the making of the announcement will be deemed not to have been made.

Annex I: Law No 30 of the Year 2010, Concerning the Regulation of the Legal Profession

On the basis of the provisions of the Constitution and of what the Parliament decided at its session held on 17.7.14341 AD, corresponding to 28.6.2010 AD, the President of the Republic hereby issues the following law:

Section 1: Concerning the Legal Profession

Article 1

The law as a profession is a free, intellectual, scientific profession whose task is to cooperate with the judicial authorities in bringing about justice and in defending the rights of the clients in accordance with the provisions of the present law.

Subsection 1: The Lawyers' Association and its objectives

Article 2

The lawyers who operate in the Arab Republic of Syria and are registered in the list belonging to the Lawyers' Association form a single association whose location is the city of Damascus and which is a legal entity, enjoys financial and administrative independence, and is subject to the provisions of the present law.

Article 3

The Lawyers' Association is a scientific, social, professional organisation founded in accordance with the provisions of the Constitution.

Article 4

The Lawyers' Association – operating in cooperation with the official and People's authorities in the Arab country of Syria, and also in coordination with the office responsible for the regional leadership of the Socialist Arab Baath Party – strives to achieve the following goals:

1. Taking part in concentrating the energies of the general public for the sake of achieving the goals of the Arab nation.
2. Taking part in developing legislation and the idea of legality in such a way as to serve not only the structure of Arab society but also the bringing about of justice and equality.
3. Striving to facilitate the paths of justice for litigants.
4. Stimulating any learned legal discussions, issuing learned journals and publications, and creating libraries of law publications in order to raise the scientific and professional standard of the members of the Lawyers' Association.

5. Coordination with the universities and higher educational institutions from which the members of the Lawyers' Association graduate, the aim being to raise the standard of the study courses and develop them in such a way as to ensure a solid link between education and life and to cause lawyers and legal staff to be more efficient at practising their profession, at serving the state and society, and at participating with the judicial authorities in the good administration of justice, because lawyers and legal staff on the one hand, and the judicial authorities on the other, have a unity of purpose and there is a solid link between these two groups. Defending, free of charge, the rights of citizens who are suffering from financial difficulties, and providing legal consultation for the public authorities, trade unions and other People's organisations.
6. Defending those interests of the Lawyers' Association, and of its members, which are related to their practising their profession in accordance with the provisions of law.
7. Providing the members of the Lawyers' Association with economic, health-related, social and cultural services which ensure that the members benefit from pensions for old age and disability and from compensation in the event of death, and rendering assistance in the event of illness and unforeseen accidents in such a way as to ensure that the members of the Lawyers' Association, and their families, lead a dignified life.
8. Organising matters so that the profession is practised on a cooperative basis, promoting the founding of cooperative business offices and lawyers' companies, and providing business for the members. Regulations are to be issued which relate to the lawyers' companies referred to in paragraph 6 of Article 6 of Law No 3 of the Year 2008 Concerning Companies.
9. Holding conferences, debates and lectures inside and outside the Arab Republic of Syria, and taking part in them.
10. Cooperating with Arab and international organisations of the legal profession and with Arab and international lawyers' associations, and working with them to assist the causes of the Arab nation and of liberation and justice the world over.

Subsection 2: The powers of the Lawyers' Association

Article 5

The Lawyers' Association is to carry out all the work which achieves its objectives, and is to have the following powers within the limits of the applicable laws and regulations:

1. Owning and managing movable and immovable property, and investing it in those projects and situations which the Lawyers' Association determines.
2. The concluding of contracts.
3. The setting-up of cooperative associations and of funds for savings and for home-related lending, and cooperating in, guaranteeing, supervising and keeping accounts for such associations and funds.
4. Issuing legal publications and journals.

Article 6

The Lawyers' Association has the right, in the name of its members, to litigate against groups and individuals, and to do so in all matters relating to the legal profession.

Article 7

The Ministry of Justice has the right, in accordance with the provisions stipulated in the Law of Judicial Authority, to supervise and inspect the Lawyers' Association and its branches.

Section 2: Membership of the Lawyers' Association, and the Requirements for Practising the Legal Profession

Article 8

It is a requirement that the name of anyone practising the law is to be entered in the list of lawyers and that the Courts and official departments are not permitted to accept the power of attorney of a lawyer whose name is not entered in this list.

Article 9

The following requirements apply to anyone requesting to be registered in the list of lawyers:

1. He must be fully qualified.
2. He must possess a degree in law from one of the Syrian Arab universities or from an equivalent institution.
3. He must be no more than fifty years old unless he has previously practised the profession of lawyer or judge for a period of no less than seven years. It is a requirement that this is not to impair the acquired rights of anyone who was previously registered at the Lawyers' Association.
4. He is to have been a Syrian Arab for at least five years, except for citizens of Arab countries, on condition that there is equality of treatment.
5. His conduct is to be good and of a kind which inspires the confidence and respect which are necessary in this profession. This is to be proved in the investigation conducted by the committee of the competent branch of the Lawyers' Association.
6. He is not to have been sentenced to a criminal penalty.
7. He is not to have been sentenced to any penalty for an offence which is incompatible with the duties and dignity of the legal profession.
8. His name is not to have been struck out of any of the branches for a disciplinary reason. He is not to have been dismissed or driven out of any Governmental positions, or out of agencies in the public sector or collective sector. Neither is he to have been discharged from any such agency for a reason which impaired either the security of the State or the honour of the position of employment.

9. He is to be actually and permanently resident in the location of the branch in which he is requesting that his name be entered.
10. He is not to be afflicted by an incurable disease which tends, or an aggravated form of which tends, to make him permanently incapable of practising law. This is to be in accordance with a medical report issued by the committee specified in the Law of the Superannuation of Lawyers.
11. He is not to have been discharged or transferred to superannuation for medical reasons.

Article 10

Every Arab lawyer who is registered in the list of lawyers who are operating in one of the Lawyers' Associations of the Arab countries has the right to plead in all the Syrian Arab Courts in specific legal cases at the instance which corresponds exactly to the instance at which he pleads in his own country, on condition that there is to be equality of treatment and that prior approval is to be obtained from the head of the Lawyers' Association or from the chairman of the competent branch.

Article 11

- A. Membership of the Lawyers' Association is not permitted to be combined with any of the following:
 1. Public or private positions of employment in which a salary or a compensation is paid, irrespective of the nature of the positions and of whether they are permanent or temporary. The following persons are exempted from this requirement: teachers at universities, lawyers working in law-related journalism, and lawyers to whom the Lawyers' Association gives the task of managing the Lawyers' Association and its organisations.
 2. The profession of trading, industry or agriculture.
 3. The position of a chairman or member of a board of management, or of a managing director of companies, or of a representative of foreign companies, or of an employee in foreign companies.
 4. All activities which are incompatible with a lawyer actually practising his profession or which do not conform with the dignity and honour of the profession.
 5. Members of the association of any other learned profession.
- B. If the name is to continue to be registered in the list of lawyers, practising the law is not permitted to be combined with any of the following:
 1. Occupying oneself exclusively with being a member of the national or regional leadership of the Socialist Arab Baath Party and a member of the central leadership of the Progressive National Front.
 2. A leading position in the legislative authority.
 3. Ministers and governors of provinces.

4. Occupying oneself exclusively with being a member of the supervisory and investigatory committee of the Socialist Arab Baath Party.
 5. Occupying oneself exclusively with being a member of the leadership of the branches of the Socialist Arab Baath Party.
 6. Occupying oneself exclusively with being a member of the branch and central executive offices of the People's organisations.
 7. Occupying oneself exclusively with being a member of the executive offices of the local administration in the provinces.
- C. If a lawyer who has been entered in the list of lawyers holds one of the posts, or undertakes one of the activities, which are referred to in paragraph 'B' of the present Article, this is deemed to constitute practising the legal profession, and the lawyer is obliged to pay all the annual fees stipulated in the budgets relating to superannuation, to the Lawyers' Association, to the branch, and to the funds belonging to the Lawyers' Association.
- D. Whenever the application for registration includes the requirements laid down in the present Law, the persons referred to in paragraph 'B' of the present Article are permitted to apply to be registered in the Lawyers' Association without swearing an oath and without practising the legal profession, and the application for registration does not produce any effects except that the applicant for registration retains the right to the requirement regarding age.

Article 12

If a lawyer fails to fulfil any one of the requirements regarding the pursuit of the legal profession, or if he conducts an activity which is not permitted to be combined with the legal profession, he is to be legally struck off the list in accordance with the rules laid down in the internal regulations.

Article 13

A lawyer who is a member of the legislative, municipal or administrative public committees is – during the duration of the membership, and for a period of five years following the termination of that membership – prohibited, under penalty of being legally struck off the list of lawyers, from accepting a power of attorney either by himself, or through his partner, or through any lawyer who is operating for the benefit of the first-mentioned lawyer and is opposing either the committees of which the first-mentioned lawyer is a member or the departments which are attached to those committees.

Article 14

Any person who holds a public or private position of employment, or is a legal consultant for any agency, or who quits employment, is prohibited, under penalty of being legally struck off the list of lawyers, from accepting a power of attorney either by himself, or through his partner, or through any other lawyer who, for the benefit of the person referred to, is operating in a legal action directed against the agency at which the person referred to was employed; such a person is, again under penalty of being legally struck off the list of lawyers, prohibited from being employed as a

legal consultant opposing that agency and from being employed at any agency which has a direct relationship with the person's original employment; all this applies unless five years have expired since the end of the person's employment at the above-mentioned agency.

Article 15

Anyone who practises the legal profession is, after he gives up being a judge, not permitted to do any of the following:

1. He is not permitted, either by himself or through a mediator, to plead cases in the Courts of the provinces in which he was employed as a judge during the last two years before he gave up being a judge, unless six months have passed since he gave up being a judge and his employment in matters relating to those provinces is limited to providing legal consultation.
2. Under penalty of being legally struck off the list of lawyers, he is not permitted to accept a power of attorney either by himself, or through his partner, or through any lawyer who, for the benefit of the above-mentioned practiser of the legal profession, is operating in a legal action which was presented to that practiser or in which that practiser gave his legal opinion.

Article 16

Under penalty of being legally struck off the list of lawyers, a person who is an arbitrator or an expert in a legal case is not permitted – either by himself, or through his partner, or any other lawyer who is operating for the benefit of the above-mentioned person – to accept a power of attorney in that legal case.

Article 17

A Syrian Arab lawyer is not permitted to register his name at more than one branch, or to open more than one office, or to combine an office and a lawyers' company with one another. A lawyers' company is not permitted to open more than one office.

Article 18

- A. An application for registration is to be submitted to the committee of that branch of the Lawyers' Association which is competent as regards the applicant's place of residence. The application is to include the documents which prove that the requirements stipulated in Article 9 have been fulfilled. The committee is – within sixty days from the date on which the documents are completed and the applicant is registered in the administrative office of the committee – to ascertain whether the requirements referred to have been fulfilled, and is to decide whether the application is rejected or accepted.
- B. If the branch committee does not decide upon the application within the stipulated period, the application is deemed to have been accepted.

- C. Neither the resolution which is passed by the branch committee and accepts or rejects the application, nor the fact that the application is deemed to have been accepted, is subject to being contested under the provisions of the present Law.

Article 19

If, after registration, it becomes apparent to the committee of the Lawyers' Association that any of the documents employed in the lawyer's application is forged or invalid, the committee is to reconsider the resolution concerning registration, and the passage of time is not to be relied upon here.

Article 20

The committee of the Lawyers' Association is, each year, to draw up a list which states the names of the teaching lawyers and trainee lawyers and is to be sent to the Ministry of Justice, to the Public Prosecution Office, to the Courts, to the lawyers' associations in the Arab countries, and to the Arab federation of lawyers, and a copy of which is to be hung up in each lawyers' chamber in the Courts and at the location of each branch of the Lawyers' Association.

Article 21

Lawyers who have not paid the stipulated subscription rates and annual fees within the period laid down by the Lawyers' Association are not to be registered in the list of lawyers. A lawyer is to be registered in the list once again if he pays the rate, fees and other allocations which are laid down in the regulations of the Lawyers' Association. The period of absence from the list is not to be included when calculating the superannuation, and a lawyer whose name was removed from the list is not to benefit from any assistance or allowance during the period in which his name was removed.

Article 22

A lawyer who is registering his name in the list for the first time is – before the Court of Appeal, and in the presence of the chairman of the competent branch or of whomever that chairman authorises – to swear the following oath:

'I swear by Almighty Allah that I practise my profession with integrity and honour, that I maintain the confidentiality of the legal profession and that I respect the laws.'

Article 23

Every lawyer who holds one of the positions, or undertakes one of the activities, referred to in Article 11, or whose relationship with the legal profession is discontinued for any reason whatever, or who no longer has an actual residence in the area of the branch at which he is registered, is to inform the branch of the Lawyers' Association of this fact within thirty days in order that his name may be crossed out on the list of lawyers; otherwise, he is deemed to have breached the obligations of the legal profession and his name is to be struck off the list by a resolution passed by the branch committee. As regards the calculation of the period of practising the legal profession, the striking-off is deemed to apply as from the date of the occurrence of the reason which necessitated it. The

resolution passed by the branch committee in this regard is subject to being contested before the committee of the Lawyers' Association.

Article 24

A trainee lawyer is to spend his period of training in the office of a lawyer regarding whom at least seven years have elapsed since the time of his registration as a teaching lawyer.

Article 25

- A. The training period is to be two years.
- B. A trainee lawyer is regularly to attend the office of the lawyer who is training him, is to be present at the sessions of the Courts, and is to listen to what is said at training lectures and at the annual meetings of general boards.

Article 26

The following persons are to be exempted from training:

- A. A judge who has occupied a judicial post for a period of at least five years and has not been dismissed from service for any reason whatever.
- B. A teaching lawyer who is registered with one of the associations in the Arab countries, on condition that there is to be equality of treatment.
- C. Those members of the teaching staff who have spent more than five years teaching law at colleges of law.
- D. A lawyer who administers the State's legal cases, has been pleading before the Courts for a period of at least five years, and has not been dismissed from service for any reason whatever.

Article 27

Under penalty of being struck off the list of lawyers, a trainee lawyer is not permitted to open an office in his own name or to plead in the Courts other than in the name of the persons in whose office he is being trained, with the exception of arbitration cases.

Article 28

The branch committee is, by means of a confirmed resolution, to decide every dispute which concerns the training and arises between the trainee lawyer and the lawyer in whose office he is being trained.

Article 29

- A. If a trainee lawyer has completed the requirements of training, he has the right to apply for his name to be entered in the list of teaching lawyers.

- B. The trainee lawyer is to submit the application to the branch committee, along with a certificate which is issued by the lawyers who taught him and states that those requirements have been completed and that the trainee lawyer is efficient.
- C. After it has been confirmed whether or not the trainee lawyer is efficient, the branch committee is to make a decision regarding the application.

Article 30

The branch committee is, if necessary, to resolve to prolong the training for a period of no more than one year, and the resolution passed by the committee is to be confirmed.

Article 31

- A. The trainee lawyer's name is to be struck off the list for the following reasons:
 - 1. Failure to complete the training requirements.
 - 2. If a trainee lawyer does not apply to be registered as a teaching lawyer and three years have passed since the time when he was registered as a trainee lawyer. Compulsory service, and service as a reserve, are not to be included in the calculation of this period of three years.
- B. A trainee lawyer whose name has been struck off the list has the right to apply once again to be registered as a trainee lawyer, and here he is to lose the rights previously associated with this application.

Section 3

Subsection 1: The general conference of the Lawyers' Association, and the powers of that conference

Article 32

- A. The general conference of the Lawyers' Association is the supreme body of the Association, and consists of:
 - 1. The members of the committee of the previous Lawyers' Association; that committee's period of office has ended.
 - 2. The members of the elected committee of the Lawyers' Association, and the members of the branch committees.
- B. The period of office of the general conference continues for five years.

Article 33

If one of the executive members is deprived of his membership for any reason, he is to be replaced by the person who is the next member in terms of the number of votes.

Article 34

The general conference of the Lawyers' Association has the following special functions:

1. Electing the committee members of the Lawyers' Association.
2. Confirming, and attending to the implementation of, the general policy of the Lawyers' Association.
3. Discussing and confirming the annual report of the committee of the Lawyers' Association, approving the final account for the previous year after examining the report by the accounts auditor, and confirming that budget for the financial year which has been proposed by the committee of the Lawyers' Association.
4. Appointing one or more chartered auditors of accounts.
5. Determining the fees of the Lawyers' Association in accordance with the provisions of the financial regulations.
6. Withdrawing – by a majority of two thirds of the members of the conference – the confidence placed in the leader, or in the committee, or in one of the members of the committee, of the Lawyers' Association.
7. Resolving the disputes which arise between the committee of the Lawyers' Association and the committees of the branches.
8. Confirming the internal regulations, the financial regulations, the training regulations, the regulations of the legal training institute, the regulations relating to the funds for cooperation and relief and to the cooperative offices, and the other central regulations proposed by the committee of the Lawyers' Association. These regulations are not deemed to be in force until after they have been approved by the Minister of Justice, and they are to be approved within a period not exceeding sixty days from the date of their being lodged at the administrative office of the Ministry. They are deemed to have been legally approved if the Minister does not issue a resolution regarding them during that period.
9. Confirming the proposals which the committee of the Lawyers' Association makes in requesting the passing of the necessary legislation, and submitting those proposals to the competent authorities.
- 10 Examining everything relating to the affairs of the legal profession.

Article 35

- A. The general conference is, by an invitation from the leader of the Lawyers' Association, to be convened in the following instances:
 1. It is to be convened for an electoral session within thirty days from the date of the completion of the elections not only of the committees of the branches but also of the executive members. The aim of convening it is to elect a new committee of the Lawyers' Association.

2. It is to be convened for an ordinary session within the sixty days following the end of the financial year. The aim here is to approve the final accounts and to confirm the budget and the annual report, with this being done in accordance with a resolution passed by the committee of the Lawyers' Association.
 3. It is to be convened for an extraordinary session in accordance either with a resolution passed by the committee of the Lawyers' Association or with a written request by at least a third of the members of the conference, on condition that the purpose of this invitation is specified in that request or in that resolution.
- B. The invitation to convene the general conference is to be issued by announcing it at the locations of the Lawyers' Association and of the branches.

Article 36

The meetings of the general conference of the Lawyers' Association are to be chaired by the leader of the Lawyers' Association, or by his deputy in the event of his absence, or, failing that, by the most senior member of the committee of the Lawyers' Association in the list of those present.

Article 37

- A. The meetings of the general conference are only deemed to be legal if a representative of the competent office of the regional leadership, and a representative of the Ministry of Justice, are both invited after both these representatives have been duly informed at least three days before the time specified for the meeting, and if an absolute majority of the members is present. If that majority is not available, an invitation to the conference is, within fifteen days, to be issued for a second time. The second meeting is to be legal irrespective of the number of members present. The time for the second meeting is permitted to be specified in the first invitation, and the resolutions are to be adopted by a majority of the votes of those present. If the votes are equal, the side which includes the chairman of the meeting is to prevail.
- B. An invitation to the extraordinary meetings of the general conference is permitted to be issued only after prior permission has been obtained from the competent office of the regional leadership of the Socialist Arab Baath Party.
- C. The extraordinary meetings of the general conference which are convened upon a request by a third of the members are not deemed to be legal unless a majority consisting of two thirds of the members of the conference is present. If such a majority is not available in the first invitation, the request that an invitation to the meeting be issued is deemed to be invalid.

Article 38

The general conference is to elect, from among its members who are candidates, the committee of the Lawyers' Association. They are to do this by secret ballot and by a proportional majority of those present.

Article 39

The leader of the Lawyers' Association is to issue the resolutions of the general conference, and these resolutions are, in a report drawn up by the secretary, to be published by announcing them at the locations of the Lawyers' Association and of the branch committees.

Subsection 2: The committee of the Lawyers' Association

Article 40

- A. The affairs of the Lawyers' Association are to be undertaken by a committee made up of eleven members who are teaching lawyers and have been practising the legal profession in that capacity for at least ten years.
- B. The committee of the Lawyers' Association is to be elected for a period of five years.
- C. The members of the committee of the Lawyers' Association are deemed to be legal members of the next general conference until its period expires.
- D. The committee of the Lawyers' Association is to elect, from among its members, a leader, a deputy leader, a secretary and a treasurer.
- E. The leader and no more than two of the members of the committee of the Lawyers' Association are permitted to go on study leave. The general conference is to determine not only the rules of this study leave but also the salaries and compensations received by those going on study leave.

Article 41

The internal regulations of the Lawyers' Association are to specify not only the manner of the activities of the committee of the Lawyers' Association, but also the distribution of the activities among the members of the committee.

Article 42

The remit of the conference of the Lawyers' Association is to include everything relating to the affairs of the legal profession, especially the following:

1. Implementing the resolutions of the general conference.
2. Maintaining the principles and traditions of the legal profession, striving to achieve its objectives, raising its standards, defending the rights of the Lawyers' Association and the professional rights of its members, and cooperating with the Arab and non-Arab federations of lawyers and with the organisations of the legal profession in a manner which is in keeping with the objectives of the Lawyers' Association.
3. Administrating the work at the Lawyers' Association, and drawing up standardised internal regulations for the staff working at the Association and its branches, with this being done in a manner which does not conflict with the Employment Law.

4. Proposing drafts for the Association's various sets of central regulations.
5. Managing and investing the Association's funds and property, and collecting the fees required for those funds and property.
6. Activating the accounts of the branches, and paying the obligations which the branches owe to the Association, with this being done by means of a compensation which the general conference specifies in respect of a particular branch in specific cases.
7. Requesting that the general conference be invited to convene.
8. Supervising the work of the branch committees, and monitoring the matter of whether they are implementing, in a good manner, the provisions of the present Law and the resolutions passed by the general conference.
9. Drawing up and implementing an annual work plan for the Association.
10. Standardizing the professional procedure, the independent judgement, and the dealings conducted between the branches of the Association.
11. Drawing up the draft of the annual budget, and implementing that budget after it has been confirmed.
12. The granting – on the basis of proposals by the branch committees – of licences to practise the legal profession.
13. Promoting the practise of the legal profession on a cooperative or collective basis or in the form of lawyers' companies, and drawing up the regulations relating to each such company.
14. Appointing the syndicated and learned committees which are required in order to achieve the Association's objectives.
15. Regulating the relationships between the committee of the Lawyers' Association on the one hand and the branch committees on the other, and resolving the disputes which occur between the branch committees or within the committee of any one branch.
16. Examining the resolutions passed by the general boards of the branches and of their committees, giving the necessary instructions regarding those resolutions, and invalidating anything which violates either firstly the law, or secondly the regulations of the Lawyers' Association, or thirdly the resolutions passed by the general conference or by the committee of the Lawyers' Association.
17. Drawing up, at the beginning of each year, an annual list with the lawyers' names.
18. Requesting, when necessary, that the general board of any branch of the Association be invited to meet.
19. Deciding on the appeals submitted to the conference on the subject of those resolutions by the branch committees which, under the provisions of the present Law, are subject to being appealed against at the committee of the Lawyers' Association.

Article 43

- A. The meetings of the committee of the Lawyers' Association are not legal unless an absolute majority of the members of the committee is present.
- B. The resolutions are to be passed by a majority of the votes of those present. If the votes are equal, the side for which the chairman of the committee votes is to prevail.

Article 44

- A. The leader of the Lawyers' Association is to represent and chair the meetings of the Association's committee, is to implement that committee's resolutions, is to sign the contracts approved by that committee, and has the right to litigate in the name of the Association and to pardon not only the members of the Association's committee but also any of the lawyers.
- B. The leader of the Lawyers' Association is, in his absence, to be represented by his deputy. If the leader's deputy is absent, the leader is to be represented by the secretary. Whoever represents the leader in the event of the leader's absence is to have the leader's powers.
- C. The leader, secretary and treasurer of the Association are to be resident in Damascus if they are on study leave.

Article 45

- A. If the position of the leader of the Association, of the leader's deputy, of the secretary, or the treasurer, becomes vacant, the committee is to meet to elect a replacement.
- B. If the positions of more than four members of the Association's committee become vacant for any reason whatever, the conference is to be called upon to elect replacements for them within a period not exceeding 30 days from the date on which the vacancy arose.

Subsection 3: Branches of the Lawyers' Association

Article 46

- A. By a resolution passed by the committee of the Lawyers' Association, branches of the Association are to be created in every province. The number of teaching lawyers and trainee lawyers who are registered in the lists in the branches is to be no less than 150 lawyers.
- B. If the number of lawyers required in order to form a branch of the Association in any province is not available, these lawyers are to join forces with the branch located in the nearest adjoining province.
- C. If there are a number of adjoining provinces and the number of lawyers in each of them is not sufficient to create a branch of the Lawyers' Association, a branch is to be formed from those lawyers. The site of that branch is to be determined by a resolution passed by the committee of the Lawyers' Association.

Subsection 4: The general board of a branch

Article 47

The general board of a branch is made up of all the teaching lawyers and trainee lawyers who are registered in the list belonging to the branch.

Article 48

The general board of a branch is to have the following powers:

1. Electing the members of the branch committee.
2. Electing the executive members of the general conference from among the teaching lawyers who have been practising the legal profession in this capacity for no less than 10 years. This relates to one executive member out of every 50 members of the general conference, on condition that the total does not exceed 10 members.
3. Discussing and confirming the annual report on the work of the branch committee, and submitting proposals and recommendations relating to the affairs of the legal profession so that the proposals and recommendations can be presented to the general conference or to the committee of the Lawyers' Association.
4. Approving the final account for the year which has elapsed – this is to be done after examining the report by the accounts auditor – and confirming the draft budget for the following year so that it can be submitted to the committee of the Lawyers' Association preparatory to its being presented to the general conference.
5. Appointing one or more chartered accounts auditors.
6. Withdrawing – by a majority of two thirds of the members of the branch – the confidence placed in the branch chairman, or in the branch committee, or in one of the members of the branch committee.

Subsection 5: Meetings of the general board

Article 49

Upon an invitation by the chairman of the branch, the general board is to convene in the following circumstances:

1. It is to convene for an electoral session 15 days before the date on which the period of office of the branch committee ends. The general board is to do this in order to elect the new branch committee and the executive members.
2. Within the thirty days following the end of the financial year, the general board is to convene for an ordinary session in order to approve the final accounts, confirm the draft budget for the next year, and discuss and confirm the branch's annual report.

3. The general board is to convene for an extraordinary session for the following purposes:
 - A. Implementing a resolution issued by the committee of the Lawyers' Association.
 - B. Implementing a resolution issued by the branch committee.
 - C. The general board is to convene on the basis of a request made by lawyers who number no less than a third of the lawyers registered in the branch's list, on condition that the purpose of convening the session is explained in the request. The branch committee is to send the invitation within no more than a week from the date on which it receives the request referred to.
4. The meetings of the general board are to be chaired by the branch committee or by the secretary. If they are absent, it is to be chaired by the most senior one of those members of the branch committee who are stated in the list.

If the invitation is based on a resolution passed by the committee of the Lawyers' Association, the meeting of that committee is to be chaired by the leader of the Association if he is present.
5. The provisions of Article 37 of the present Law are to be applied to the meetings of the general board, with the expression 'general conference of the Lawyers' Association' being replaced by the expression 'general board of the branch', and with the expression 'competent office of the regional leadership of the Socialist Arab Baath Party' being replaced by the expression 'representative of the competent office of the branch of the Party in the province'.

Subsection 6: The branch committee

Article 50

- A. The branch committee is to be made up of from five to seven members who are elected by teaching lawyers who have been practising the legal profession in this capacity for no less than ten years. The number of members in the committee of each branch is to be determined in accordance with the following:
 1. Five members if the number of members in the general board is 500 or less.
 2. Seven members if the number of members in the general board exceeds 500.
- B. The branch committee is to elect from among its members a chairman, a secretary and a treasurer.
- C. The chairman of the branch is permitted to go on study leave on the basis of a resolution which is passed by the committee of the Lawyers' Association in accordance with a proposal by the branch committee. The general conference is to determine the rules of this study leave and the salary and compensations for the person going on study leave.

Article 51

The branch committee is to be elected for a period of five years.

Article 52

- A. If the position of the branch chairman, or of the secretary, or of the treasury, becomes vacant, the branch committee is to meet and elect a replacement.
- B. If the positions of two or more of the members of the branch committee become vacant for any reason whatever, the general board is – within a period of not more than thirty days from the date on which the vacancy occurs – to be called upon to elect replacements who are to complete the remaining part of the period of office if that remaining part is more than six months.

Subsection 6: Particular tasks of the branch committee

Article 53

The remit of the branch committee is to include the following:

- 1. Implementing the resolutions and instructions issued by the general conference and by the committee of the Lawyers' Association.
- 2. Implementing the resolutions passed by the general board.
- 3. Administrating the work of the branch.
- 4. Providing the committee of the Lawyers' Association – and also the committee in the area where the branch performs its work – with the necessary information concerning the professional situation, and proposing matters which will achieve the objectives of the Association.
- 5. Managing and investing the branch's funds, raising money and collecting fees.
- 6. Proposing the branch's annual budget.
- 7. Inviting the general board of the branch to attend a meeting.
- 8. Drawing up and authenticating the judicial powers of attorney in the area of the branch.
- 9. Appointing someone who is to represent the branch on the judicial assistance committees.
- 10. Registering the fact that the trainee lawyers have been accepted, and reporting that they have been entered in the list of teaching lawyers in accordance with the provisions of the present Law.
- 11. Proposing that the members be transferred to superannuation.
- 12. Looking after and protecting the members' rights, being intent on ensuring that the members carry out their tasks, and supervising their conduct and discipline.
- 13. Rendering judgment in legal actions and assessing the fees.
- 14. Settling every disagreement or dispute which arises between the lawyers and their clients.

15. Appointing the chairmen of the members of the committees which are created at the branches, and informing the committee of the Lawyers' Association of this.
16. Submitting proposals which tend to raise the standard of the profession.
17. Supporting the social and cultural links between the members of the branch in accordance with the provisions of the present Law.
18. Authenticating and approving the memoranda of association of lawyers' companies, with the provisions of Law No 3 of the Year 2008 Concerning Companies being heeded.

Article 54

- A. The meetings of the branch committee are legal if an absolute majority of the members of the committee is present. The resolutions of the committee are to be passed by a majority of the members present. If the votes are equal, the side for which the chairman of the meeting votes is to prevail.
- B. The committees of the branches are to send copies of the resolutions which they pass, and of the resolutions passed by their general boards, to the committee of the Lawyers' Association within a week of the resolutions' being passed.

Article 55

The chairman of the branch is to have the following powers:

1. He has the power to represent the branch, chair the meetings of its committee and of its general board, keep abreast of the implementation of the resolutions passed by the committee and the general board, and sign the contracts which the branch committee approves. He is to have the right to litigate in the name of the branch.
2. He has the power to appoint his deputies in the various areas, in order that the deputies may draw up and approve judicial powers of attorney.
3. He has the power to pardon the lawyer of the branch.
4. He has the power to entrust lawyers with the task of the judicial defence of persons who are suffering or are accused, and also the judicial defence of incidents.
5. The chairman of the branch is, if he is absent, to be represented by the secretary, and if the secretary is absent the chairman is to be represented by the treasurer. The person representing the branch chairman in the latter's absence is to have the powers of the branch chairman.

Section 4: Regarding the Rights and Obligations of Lawyers

Article 56

- A. A lawyer is given the choice of whether to accept or to reject legal cases, except in the following circumstances in which the branch chairman entrusts him with the task of handling the case:
1. If there is a resolution by a judicial assistance committee, or a request by a Criminal Court, or by an investigating judge, or by a Court dealing with incidents.
 2. If one of the opposing parties does not find anyone who will accept the idea of acting as his legal representative.
 3. If the lawyer is unable to practise the legal profession; this continues until the client authorises another lawyer within a period determined by the chairman of the branch council.
- In locations where there is no branch of the Lawyers' Association or where there is no representative of the branch, the lawyer is to comply with the requests which arrive directly from the Courts or from the investigating judges in the circumstances set forth in the previous paragraph.
- C. Either firstly the fact of entrusting someone with judicial powers, or secondly the chairman of the branch committee, or thirdly his representative, takes the place of the power of attorney issued by the person concerned.
- D. A lawyer is not permitted to refuse to accept the power of attorney in the above-mentioned circumstances, except for reasons which are accepted by the judicial authority, by the branch chairman, or by the branch chairman's representative.

Article 57

- A. A lawyer has the right to follow the path which he considers to be beneficial as regards defending his client. He has the right to be present at all the Courts, judicial and administrative departments and committees, arbitration tribunals, police departments, police stations and all the authorities which conduct a criminal or administrative investigation in accordance with the provisions of law.
- B. A lawyer is to refrain from mentioning anything which harms the dignity of the opposing party, unless this is required by the circumstances of the legal action or by the needs of pleading. The Court has the right to determine that repugnant expressions, for which there is no justification, be omitted.
- C. A lawyer has the right, if necessary, to authorise another lawyer to act on the first-mentioned lawyer's behalf in – upon the first-mentioned lawyer's responsibility – attending the hearing and putting forward the arguments at it in the first-mentioned lawyer's personal legal actions and in the legal actions for which the first-mentioned lawyer is responsible. This is to be done by a letter which the first-mentioned lawyer sends to the Court, unless the authorization in the document of the power of attorney prohibits this.

- D. A trainee lawyer legally represents the lawyer training him, irrespective of whether or not the name of the lawyer training him is stated in the document of the power of attorney. The trainee lawyer also represents the lawyer training him in the personal legal actions of the lawyer training him.
- E. A lawyer is not permitted to go beyond the limits of his power of attorney.
- F. A lawyer has the right to disassociate himself from a power of attorney unless the power of attorney has been submitted to a judicial authority. Disassociation is only to take place within the limits of the following two requirements:
 - 1. The disassociation is to have been previously approved by the authority which takes possession of the legal action.
 - 2. The branch committee is to send this disassociation to the client, and the approval of the above-mentioned judicial authority is to be enclosed with the disassociation.
- G. The client has the right to dismiss his lawyer. In this event, the client is obliged to pay all the fees for the entire task with which the lawyer was entrusted if the dismissal is not based on a lawful reason. The assessment of that reason falls within the remit of the branch committee.
- H. If the lawyer disassociates himself from the power of attorney, the procedures of the legal action are to continue where he is concerned and he is to proceed with his work until his client is informed or the client himself conducts the legal action in the circumstances permitted by law.

Article 58

Every unjustified act of negligence, and every dishonourable piece of ignorance, on the part of the lawyer or of whomever the lawyer authorises to act on his behalf is deemed to be a professional lapse if it causes harm to the lawyer's client, and the lawyer is to be made liable for the harm which befalls the lawyer's client because of the negligence or ignorance.

Article 59

- A. The lawyer is, upon his client's request, to hand over to his client not only the cash and personal property which he received for the credit of his client, but also the original documents which are in the lawyer's possession.
- B. If there is a written agreement concerning the fees, the lawyer has the right to keep the cash and personal property in the amount which is equivalent to what is owed to the lawyer. If there is no written agreement, the lawyer is to submit the matter to the branch committee in order that the appropriate resolution may be adopted.
- C. The lawyer is, upon his client's request and at his client's expense, to give to his client copies of the documents in the legal action.
- D. After five years have passed since the date on which the legal case ended, the lawyer is not to be liable for the documents lodged with him.

- E. The lawyer has the right to take part of his fees, in a differentiated way, from the amounts awarded to his client in the judgment, and to do so on the strength of presenting to the enforcement department the document of the agreement concluded between the lawyer and his client, without there being any need to consult the Court. If the client raises an objection, he is to consult the Court within a week of the date of the objection in order that the dispute can be decided upon. In this event, the equivalent of the agreed amount is to be kept in safe custody at the enforcement department, and the judgment of the Court which is competent as regards the lawyer's right to take part of his fees in the manner previously employed is to be final and incapable of being reconsidered in any way.
- F. The lawyer's fees have the right, in the first instance, to take preference over the funds and legal claims which the lawyer collects for his client, and the lawyer's fees have the right, in the second instance, to take preference over all the funds of his client in other circumstances.

Article 60

- A. The lawyer is to reach a written agreement with his client regarding the lawyer's fees.
- B. The lawyer does not have the right to purchase all or some of the legal claims which are in dispute, or to regard as supporting documents the instruction to pay his fees, or to transfer the ownership of the supporting documents to his own name in order that he may make allegations regarding those documents. However, the lawyer is permitted to agree that his fees are to be a percentage of the disputed amounts, or of the value of the disputed capital asset, on condition that the fees do not exceed twenty-five percent of that value or of that asset except in exceptional circumstances whose assessment falls within the remit of the branch committee.
- C. The fact that there are more than one legal actions regarding a single issue, or that there are more than one lawyers in one legal action, is not included in the determination of the percentage.

Article 61

The branch committee is to decide every dispute concerning the fees, irrespective of whether the fees are based on a written or an oral contract, with consideration being given to the importance of the legal case, the effort expended, the rank of the lawyer, and the situation of the client after the two parties have been summoned, irrespective of whether these fees arise from Court work or from administrative work.

Article 62

- A. The resolutions which the branch committee passes in matters regarding the fees can be appealed against within the respite laid down in the Law for Appealing Against Judgments Passed by the Civil Courts of First Instance, and in accordance with the rules stipulated in the present Law.
- B. The ruling passed by the Court of Appeal is ratified, and is incapable of being reconsidered in any way.

- C. In the event that there is no appeal, the Chairman of the Court of Appeal is, within a deadline of three days from the date of the request, to give an enforceable capacity to the resolution passed by the branch committee.

Article 63

The branch committee has the right, in the deliberation chamber, to adopt preventive procedures and to impose precautionary sequestration. Such rulings are to be enforced by the enforcement department.

Article 64

- A. If the lawyer ends the legal case by achieving reconciliation in respect of what his client empowered him to do, the agreed fees are to fall due without prejudice to Article 61 of the present Law.
- B. If reconciliation takes place between the client and his opposing party without the lawyer's knowledge or approval, the lawyer is to be entitled to the fees determined by the branch committee, on condition that they do not exceed the agreed rate.
- C. If the lawyer discharges himself for necessary reasons, the fees for the work which the lawyer has actually done are to be assessed by the branch committee.

Article 65

In the circumstances laid down in Article 56 of the present Law, the lawyer has the right – in respect of the amounts which, in a judgment, were awarded to the opposing party – to conduct litigation regarding the fees which the branch committee assesses.

Article 66

When passing judgment against the losing party, the Court is to inflict the following penalties upon that party:

1. Reimbursement of the lawyers' fees, on condition that the reimbursement is not less than the minimum tariff which the committee of the Lawyers' Association lays down after the Minister of Justice has granted his approval. Half of the fees awarded in the judgment is to be allocated to the fund of the lawyers' superannuation department, and the other half is to be allocated to the cooperative fund. The fees are to be collected in accordance with the rules.
2. The fees and expenses of the power of attorney, and the whole of the minimum amount which, in accordance with the provisions of the regulations in force at the Lawyers' Association, is stipulated for the costs of the legal action.

Article 67

Each lawyer is to occupy a suitable office space which is dedicated to the work of the legal profession. A lawyer does not have the right to occupy more than one office space unless he is elected to be the leader of, or a member of, the Lawyers' Association. In that event he has the right to occupy another office space in Damascus, but only for the period of his membership.

Article 68

It is only after permission has been obtained from the branch committee to which the colleague in question belongs that a lawyer is permitted, in criminal legal actions, to approve a power of attorney which is directed against a colleague of his, on condition that the above-mentioned committee decides the matter within ten days of its receiving the relevant request, and the approval in question is subject to being deemed to have occurred legally.

Article 69

When pleading on behalf of the clients, a lawyer is to wear the robe pertaining to lawyers.

Article 70

- A. A lawyer is prohibited – as regards both the subject of the dispute and matters directly relating to that subject – from accepting a power of attorney directed against someone who was previously the lawyer's client.
- B. A lawyer is to refrain from displaying any assistance, even in the form of advice, towards his client's opposing party in the same dispute or in a dispute linked to that dispute.

Article 71

A lawyer is not permitted either to announce himself in a manner which does not accord with the traditions of the legal profession, or to chase after clients either directly or through someone's mediation.

Article 72

A lawyer is not permitted to accept a power of attorney and continue with it in a legal action being conducted before a judge to whom he is linked by kinship or by relationship by marriage. This also applies even if the lawyer's opposing party agrees to the lawyer's accepting it and continuing with it.

Article 73

- A. A lawyer is to refuse to accept, and to continue with, a power of attorney issued by an international or non-Syrian company, or corporation, or institution, or organisation, or by any other non-Syrian agency, or by any of the branches or offices of such entities, before the lawyer obtains permission from the Minister of Internal Affairs. This applies not only irrespective of the characteristics of the power of attorney but also under penalty of being legally struck off

the list of lawyers. As regards firstly summary and temporary procedures and measures, and secondly circumstances in which there may be a prohibition under the statute of limitations, or in which periods of respite, or other matters, are to be observed, permission is to be obtained from the governor of the province.

- B. Written contracts of consultation which are permanent or have a stipulated time period are deemed to be equivalent to powers of attorney.
- C. The chairmen of the branches are to submit, to the committee of the Lawyers' Association, the application to obtain permission from the Minister of Internal Affairs.
- D. The chairman of the competent branch is to forward the application to the committee of the Lawyers' Association within five days of the date on which the application was registered at the competent branch. The committee of the Lawyers' Association is to forward the application, along with an opinion regarding it, to the Ministry of Internal Affairs within ten days from the date on which the application is received by the administrative office of the Lawyers' Association. Within fifteen days from the date on which the application for permission is received by the Ministry's administrative office, the Minister of Internal Affairs is to make his decision regarding the application for permission and communicate the decision to the Lawyers' Association; if this is not done, the application will be deemed to have been accepted.

Article 74

A lawyer is to abstain from visiting prisoners in places of detention except in accordance with a written application made by the detained person or his relatives or if he is entrusted with the task of defending the detained person legally; all this only applies after permission has been obtained from the chairman of the branch committee or from whomever the chairman authorises to grant such permission; this applies under penalty of being held professionally accountable.

Article 75

A lawyer who draws up a contract at the request of the two parties to it when neither of the two parties was previously his client is not permitted to act as a legal representative of either of the two parties for purposes of implementing or interpreting that contract. This does not prohibit him from nominating an arbitrator by the consent of the two parties to the contract.

Article 76

A lawyer who wishes to be absent for a period exceeding two months is to notify the chairman of the branch committee of this before the lawyer departs, and is to inform the chairman of not only the name of the colleague whom the lawyer has entrusted with ensuring that the work in the lawyer's office progresses well, but also the measures which the lawyer has adopted in this regard.

Article 77

- A. A lawyer who accepts a power of attorney by conducting dealings with middlemen is to be punished by being struck off the list of lawyers.
- B. Anyone who, in exchange for profit, habitually mediates between clients and lawyers is deemed to be a middleman as regards the application of paragraph 'A' of the present Article.
- C. A middleman as defined in paragraph 'B' of the present Article is to be punished by imprisonment for a period not exceeding one month and by a fine of no less than SYP5,000.
- D. Anyone who, without being legally permitted or empowered, conducts those activities of the lawyer's profession which are stipulated in the present Law is to be punished by imprisonment for a period of one year and by a fine of SYP100,000.

Article 78

- A. It is not permissible to investigate a lawyer while he is conducting his work, or to investigate his office space, or to arrest him, or to interrogate him, until after the chairman of the branch committee has been informed in order that he may be present himself or may send those members of the committee whom he empowers, or those teaching lawyers whom he considers to be appropriate; a lawyer is not by these means deemed to have lost his legal right; this applies under penalty of the procedures being invalidated.
- B. Except in the event of flagrante delicto, it is not permissible to arrest or interrogate a lawyer, or to bring a public legal action against him, before the committee of the branch to which he is attached is informed so that the committee knows of the matter and can examine all the procedures adopted against the lawyer. In this event the Public Prosecution Office is to entrust the private plaintiff with the task of putting up a cash security the amount of which is to be determined by the Public Prosecution Office at the time when the indictment is presented and which is to be no less than SYP5,000. If it becomes evident that the plaintiff is not in the right with his legal claim, it is a requirement that the security is to be seized for the benefit of the public treasury.
- C. The provisions of the two preceding paragraphs are not applicable to legal cases, or to offences, which relate to the security of the State. In this event, it is sufficient to inform the leader of the Lawyers' Association, and the chairman of the branch committee, of what procedure is being adopted.
- D. If, during a Court hearing, a lawyer unexpectedly does something which is deemed to be a disturbance that violates the regulations and makes it necessary that there should be disciplinary or criminal liability, the chairman of the Court is to draw up a report which he is to send to the Public Prosecution Office. A copy of it is to be sent to the chairman of the branch committee.

- E. The Public Prosecution Office is to conduct the investigation procedure and is to inform the chairman of the branch committee so that the chairman can send someone to represent the branch in the investigation.
- F. Neither the chairman of the Court in which the incident occurred, nor any of the members of that Court, is permitted to be a member of the body which interrogates the lawyer in question.
- G. Anyone who acts unlawfully against a lawyer while he is practising his profession, and does so because he is practising it, is to be punished by the penalty by which he is punishable, unless the unlawful act was committed against a judge.

Article 79

A lawyer is to abstain from not only nominating himself as a candidate for, but also from accepting, a post in, or the membership of an office space in, or the continuation of such membership in, any Arab or international organisation or federation of lawyers and legal staff, until after written approval has been obtained from the Lawyers' Association, with that approval being issued by a resolution passed by the committee of the Association.

Article 80

- A. If one of the lawyers dies, the chairman of the branch committee, or whoever the chairman authorises, is to relieve that lawyer's office space of its tasks, is to entrust the clients with the task of giving the power of attorney to another lawyer instead of the deceased lawyer, is to hand over to the clients the files in the legal action, and also the documents, after the clients have settled the accounts for the fees, is to liquidate all the business done in the office space, and is to hand over the assets of the office space to the lawful heirs of the deceased lawyer. A copy of the report of the liquidation of the office space, and a copy of the record of the handing-over, are to be kept in the administrative office of the branch, with the legal provisions relating to legacies being heeded.
- B. The chairman of the committee also has the right, in urgent instances, to entrust a lawyer with conducting the legal actions until the procedures stipulated in the preceding paragraph are carried out.

Section 5: Financial Affairs of the Lawyers' Association

Article 81

The income of the Lawyers' Association is made up of:

1. The registration fee.
2. The annual fee.
3. The other legal fees.
4. The proceeds from the funds and real estate.

5. Contributions and donations.
6. All the other legal sources of income.

Article 82

- A. The fees and the method of paying them are to be determined in accordance with the regulations in force at the Lawyers' Association.
- B. The fees which have been paid to the Lawyers' Association or to the branch are not refundable for any reason whatever after the budgets have been approved by the general conference, and no appeal, and no legal action at first instance, will be accepted regarding this subject.

Article 83

The financial year of the Lawyers' Association and its branches is, each year, to start on the first day of the month of January and is to end on the last day of the month of December.

Article 84

- A. The draft budgets of the branches are to be submitted for approval to the general boards of the branches, and are then to be presented to the committee of the Lawyers' Association.
- B. The committee of the Lawyers' Association is, each year, to draw up the budget for the next financial year. That budget is to include the budgets of the branch committees, and the committee of the Lawyers' Association is to submit it to the general conference so that it can be approved.

Section 6: Disciplinary Authority

Article 85

- A. Each lawyer who deviates from the objectives of the Lawyers' Association or breaches any of those obligations of the legal profession which are set forth in the present Law or in the internal regulations, or who behaves in a way which diminishes the dignity or standing of the legal profession, or who, in his personal life, behaves in a way which is associated with a disgraceful scandal, is to be punished by one of the following disciplinary penalties:
 1. Being cautioned in a letter sent to the lawyer, with or without the caution also being registered.
 2. Being disciplined before the committee.
 3. Being banned, for a period not exceeding three years, from practising the profession of law.
 4. Having his name struck off the list of lawyers belonging to the Lawyers' Association.

- B. On the basis of a request by the complainant, the committee is to issue against the lawyer a ruling ordering him to repay the amounts which, according to the committee's assessment, the committee paid but which were not owed, and this is to be without prejudice to the complainant's right to claim compensation at the competent judicial authorities.

Article 86

- A. A lawyer's being banned from practising the profession of law is to result in his name being temporarily removed from the list of lawyers during the period of the ban.
- B. A lawyer who has been banned from practising the profession of law is not permitted to open his office space during the ban, or to conduct any of the other activities of the legal profession.
- C. The period of the ban is to be included neither in the calculation of the period of training or superannuation, nor in any of the time periods required in order to undertake the cooperative tasks.
- D. A lawyer who has been banned from practising the legal profession continues to be subject to the provisions of the present law.
- E. The fact that a lawyer's name has been definitively struck off the list of lawyers is not to result in an encroachment upon the rights of superannuation.
- F. The fact that a lawyer has been dismissed, or that his registration has been crossed out, or that he has been banned from practising the profession of law, is not to prevent him – for the period of the three years following the dismissal, the ban, or the crossing-out – from being interrogated from a disciplinary point of view for acts which he perpetrated while he was practising that profession.
- G. The legal action relating to the profession is to lapse under the statute of limitations after three years have expired since the date on which the infringement was committed.
- H. On the basis of a request by someone connected with the matter, the branch committee is permitted – after ten years have elapsed since the decision to strike the lawyer off became ratified – to reconsider a lawyer who has been definitively struck off the list of lawyers.

Article 87

- A. The leader of the Lawyers' Association, and the chairman of the branch committee, have the right to bring a disciplinary legal action either directly, or on the basis of a written complaint or a written notification, or on the basis of a request by a lawyer who considers himself to be the subject of a wrongful accusation and thus, without design, places his conduct in the power of the disciplinary committee.
- B. It is not permissible to bring the legal action, or to refer the lawyer to the disciplinary committee, until after the leader of the Lawyers' Association, or the chairman of the branch committee, or whoever the leader of the chairman authorises, listens to the lawyer's statements, unless the lawyer fails to appear after being summoned.

- C. The leader of the Lawyers' Association, and the chairman of the branch committee, have the right to draw the lawyers' attention to the lawyers' tasks.
- D. Each Court which passes a criminal judgment concerning a lawyer is to send a copy of that judgment to the chairman of the branch committee.

Article 88

The leader of the Lawyers' Association, and the chairman of the branch committee, have the right not only to appoint one of the members of the committee, or someone who represents that member, in the area in which the lawyer who is being complained about resides, but also to determine that that member or representative is to investigate and gather the evidence.

Article 89

- A. The disciplinary committee has the right to uphold the complaint, or to take the complaint as a standard, after the accused person has been summoned. The sessions of the disciplinary committee are to be held in secret, and the rulings passed by it are not permitted to be published.
- B. The accused person is himself to appear before the disciplinary committee, and has the right to have recourse to a teaching lawyer to defend him. The committee has the right to exempt him from appearing before it when there is a legitimate excuse.
- C. When issuing the ruling, the disciplinary committee is to justify that ruling.

Article 90

- A. The disciplinary committee has the right, either of its own accord, or upon the request of the accused lawyer or of the complainant, to determine that witnesses be heard.
- B. If a witness fails to appear before the committee, the Public Prosecution Office is, upon a request by the committee, to issue an ordinance summoning the witness. If the witness appears and refrains from giving a witness's statement, or bears false witness, the committee is to request the Public Prosecution Office to adopt the necessary legal procedure regarding the witness.

Article 91

- A. The complainant and the accused person have the right to request that the chairman and members of the committee, or one of the members of it, be rejected for the reasons which are laid down in the Code of Judicial Procedure and concern the rejection of judges.
- B. The fact that the leader of the Lawyers' Association or the chairman of the branch committee brings the disciplinary legal action is not to be a reason to reject the leader or the chairman.
- C. In accordance with the rules relating to the rejection of judges, the civil chamber at the Court of Appeal is – in the deliberation chamber, and by a confirmed ruling – to decide upon the request for rejection.

- D. If it is impossible to form the disciplinary committee because the rejection or the stepping-aside is accepted, the committee of the Lawyers' Association is, upon a request by the chairman of the branch committee, to appoint that number of teaching lawyers which is required in order to form the disciplinary committee; those lawyers are to have been practising the legal profession for at least ten years in the capacity of being teaching lawyers.

Article 92

A lawyer against whom judgment has been passed banning him from practising the legal profession is, during that period, to be deprived of all the rights granted to lawyers; however, he continues to be subject to the rules which are binding upon lawyers.

Article 93

The entry, in the list of lawyers, of a lawyer who, by a ratified judgment, is sentenced to a penalty for a felony or a misdemeanour because of an offence which is incompatible with the requirements and precepts of the legal profession is to be legally struck out by a resolution passed by the disciplinary committee after the lawyer has been duly summoned.

Article 94

- A. The resolutions passed by the disciplinary committee are to be sent to the person connected with the matter and to the Public Prosecution Office.
- B. The confirmed disciplinary resolutions are to be enforced by the Public Prosecution Office.
- C. The disciplinary resolutions are to be recorded in a register relating to the branch, and are to be referred to in the file concerning the lawyer in question. The Lawyers' Association is to be informed of this so that it can notify the other branches.

Section 7: Regarding the Election of the Institutions of the Lawyers' Association

Article 95

- A. The committee of the Lawyers' Association is to determine the time when the elections of the committees of the branches, and of the executive members, are to be held.
- B. The chairman of the branch committee is to invite the general board to the meeting which, during the electoral period, is held at the time which the committee of the Lawyers' Association specifies.

Article 96

- A. The nomination of candidates for membership of the branch committee and for executive membership is to begin 15 days before the time stipulated for the meeting of the general board, and is to continue for five days. A request for nomination is not to be accepted after the period referred to has expired.

- B. Nomination is to take place in accordance with a letter which the candidate is to submit in this regard to the chairman of the branch committee and which is to be registered at the administrative office of the branch.
- C. The branch committee is to scrutinise the applications for nomination, and the chairman of the branch is, within three days of the time when the nomination of candidates ends, to announce – on the notice board at the location of the branch, and in the lawyers’ hall in the courthouse – the names of the candidates whose applications have been accepted.
- D. A candidate whose name has not been announced has the right to file, within forty-eight hours from the date of the announcement, an objection before the Court of Appeal in the location of the branch. The Court is, in the deliberation chamber, to decide on the objection within twenty-four hours.

Article 97

- A. The leader of the Lawyers’ Association is – within 30 days from the date of the end of the elections to the branch committees and of the elections of the executive members – to invite the general conference to convene for an electoral session. The nomination of candidates is to continue for ten days from the date of the invitation. Any such application for nomination as is submitted after the expiry of the period referred to is not to be accepted.
- B. Nomination is to take place in accordance with a letter which the candidate is to submit in this regard to the leader of the Lawyers’ Association and which is to be registered at the administrative office of the Lawyers’ Association.
- C. The committee of the Lawyers’ Association is to scrutinise the applications for nomination, and the chairman of the branch is, within three days of the time when the nomination of candidates ends, to announce – on the notice board at the location of the branch, and in the lawyers’ hall in the courthouse – the names of the candidates regarding whom the requirements of nomination have been fulfilled.
- D. A candidate whose name has not been announced has the right to file, within three days from the date of the announcement, an objection before the Civil Chamber of the Court of Cassation. The Court is, in the deliberation chamber, to decide on the objection within three days.

Article 98

The internal regulations of the Lawyers’ Association are to lay down the manner in which the elections are to be held.

Section 8: Contesting the Rulings of the Lawyers' Association and its Institutions

Article 99

The branch chairman is permitted, within 30 days from the date on which the general board issues resolutions to the branch, to contest those resolutions before the committee of the Lawyers' Association; this is to be without prejudice to the right of the committee of the Lawyers' Association to inspect and cancel those resolutions.

Article 100

- A. The resolutions passed by the branch committee on the subject of cases concerning fees and concerning a dispute between the lawyers and their clients are permitted to be contested by means of appeal in accordance with the provisions of Article 62 of the present Law.
- B. The resolutions passed by the branch committee in matters relating to registration or to disciplinary striking-off are – within 30 days starting from the day following the date on which the resolutions are brought before a committee formed in accordance with the provisions of the present Law – permitted to be contested by the Minister of Justice or by the leader of the Lawyers' Association on the basis of a resolution passed by the committee of the Lawyers' Association.
- C. Not only the other resolutions passed by the branch committee, but also legal striking-off, are permitted – within a period of 30 days starting from the day following the date on which the resolutions are issued – to be contested by persons linked to the matter, this being without prejudice to the provisions of Article 28 of the present Law.

Article 101

- A. The committee referred to in paragraph 'B' of Article 100 of the present Law is to be formed by a resolution issued by the Minister of Justice and is to be made up as follows:
 - A judge holding the rank of a chairman of a chamber of appeal, being the chairman.
 - Two judges holding the rank of consultant, being two members.
 - Two members of the committee of the Lawyers' Association who are appointed by that committee, being two members.
- B. This committee is, by a confirmed resolution, to decide on the contestations submitted to it.
- C. The committee is to be located at the Lawyers' Association.

Article 102

- A. The committee of the Lawyers' Association is – in the deliberation chamber, and after the two parties have presented their arguments – to decide on the contestations submitted to it.
- B. The resolutions which the committee of the Lawyers' Association, in disciplinary cases, passes in its capacity as an appeal authority are confirmed, and the Minister of Justice is permitted to request that those resolutions be contested by a written ordinance on the basis of an application which an interested party submits to the civil chamber of the Court of Cassation.

Article 103

- A. The Minister of Justice, or the chairman of the branch committee, is permitted, within thirty days from the day following the date on which the resolution in question is issued, to contest, by means of cassation, the resolutions which are passed by the committee of the Lawyers' Association and to annul the resolutions of the general board of a branch.
- B. The parties connected with the matter are permitted, within 30 days from the day following that on which the resolution in question is issued, to contest, by means of cassation at the civil chamber of the Court of Cassation, the other resolutions passed by the committee of the Lawyers' Association.

Article 104

The resolutions passed by the general conference in approving the budgets and the final accounts are ratified, and are not permitted to be contested in any way.

Article 105

The resolutions which are passed by the general conference and are not those stipulated in the previous Article are permitted to be contested before the civil chamber at the Court of Cassation within a period of 30 days starting from the day following the date on which they are announced at the location of the Lawyers' Association. The contestation is to be effected by one of the following authorities:

1. The Minister of Justice.
2. The leader of the Lawyers' Association in accordance with a resolution passed by the committee of the Lawyers' Association.
3. The chairman of the branch committee in accordance with a resolution passed by the branch committee.
4. Ten members of the general conference.

Article 106

The Court of Cassation is, by means of a confirmed ruling, to decide the contestations submitted to it.

Section 9: Dissolving the General Conference and the Committees of the Lawyers' Association

Article 107

The general conference, the committee of the Lawyers' Association, and the committees of the branches, are permitted to be dissolved by a resolution passed by the Council of Ministers if any of these committees or boards deviates from its tasks or objectives. Such a resolution is not permitted to be reconsidered or contested in any way.

Article 108

- A. If the committee of the Lawyers' Association, or a branch committee, is dissolved, the Prime Minister is to convene the general conference or the general board within 15 days from the time when the decision to dissolve the committee is issued, the purpose of convening it being to elect a new committee of the Lawyers' Association or a new branch committee in accordance with the legal provisions in force.
- B. If the general conference or the general board is not convened within the period referred to in the previous paragraph, a temporary committee of the Lawyers' Association or of the branch is to be appointed by a resolution issued by the Prime Minister and is to exercise the same special functions as the original committee. A supervisor of the superannuation fund organisation, and an assistant for him, are also to be appointed.
- C. All the members of the committee of the Lawyers' Association and of the branch committees are, on a temporary basis, to perform the tasks of the general conference of the Lawyers' Association and are to have the powers of that conference. The supervisor of the superannuation fund organisation, and his assistant, are deemed to be executive members of the conference.
- D. All the members of the committee of the Lawyers' Association, and all the members of each branch committee of the Lawyers' Association, are temporarily to perform the tasks of the general board of the branch and are to have the powers of that board.
- E. The committee of the Lawyers' Association is to set a time for the meeting of the two committees referred to in the two preceding paragraphs 'C' and 'D', and is to draw up the agenda for the meeting. The leader of the Lawyers' Association is to send out the invitation to the meeting, and is to chair the meeting.

Section 10: General Provisions

Article 109

- A. A competent employee is, under penalty of legal liability and being prosecuted for damages, not permitted to register and notarise the companies' contracts, and the amendments to those contracts, in the office of the notary public or of any other authority which is competent to notarize contracts, when the amount being contracted for exceeds SYP100, unless the contracts are drawn up by a lawyer who has been registered in the list of teaching lawyers for a period of no less than five years, and unless the contracts are drawn up upon that lawyer's responsibility and the chairman of the branch, or whoever that chairman authorises, certifies that lawyer's signature.
- B. In exchange for the certification, the Lawyers' Association is to pay in full, to the credit of the superannuation fund, a fixed fee which is determined by the regulations applicable at the Lawyers' Association.
- C. Each branch is to set up a certification office on the basis of a resolution which contains the regulations and is issued by the committee of the Lawyers' Association, and in which the rules for implementing these regulations are specified.

Article 110

The internal regulations, and all the other regulations of the Lawyers' Association, are to be amended in a manner which conforms with the provisions of the present Law. The current regulations are to remain in force until they are duly amended.

Article 111

The funds and property of the Lawyers' Association are to be exempted from all fees, taxes and other financial imposts.

Article 112

The Lawyers' Association is permitted to set up an institute for the training and qualification of lawyers. The Lawyers' Association is – in accordance with the rules followed when issuing the regulations of the Lawyers' Association – to issue the internal regulations of that institute, and is to state the specialisations in which the training and qualification are carried out.

Article 113

The provisions of Law No 39 of the year 1981, and of the amendments to that Law, are invalidated, and all provisions which conflict with the present Law are also invalidated.

Article 114

The present Law is to be published in the Official Gazette.

Damascus, 30.7.1431 AH, corresponding to 11.7.2010 AD

Bashar Al-Assad,

President of the Republic

Annex J – The Civil and Criminal Court Structure of Syria

Courts of first instance:

Reconciliation Courts are composed of a single judge known as the Reconciliation Judge. Jurisdiction over minor civil and criminal disputes is divided between Magistrates Courts and Courts of First Instance. The Court of Assize hears criminal charges for which the punishment may exceed three years' imprisonment.

Court of appeal:

The decisions of Reconciliation Courts, Courts of First Instance and Courts of Assize may be appealed to a Court of Appeal, or, in some instances, the Court of Cassation. Of the 30 Courts of Appeal, three criminal courts and four civil courts are located in Damascus, and one civil court and one criminal court is located in every district. Decisions of the Courts of Appeal may not be appealed. However, their verdicts may be reviewed by the Court of Cassation (Article 41), which has three sections: civil and commercial, criminal and personal status. The Court of Cassation is located in Damascus and subdivided into specialised three-judge panels devoted to civil, criminal, canonical and military matters (Articles 44, 45).

Supreme Constitutional Court:

The Supreme Constitutional Court does not hear appeals from the civil and criminal justice system, which are heard by the Court of Cassation. Its function (governed by Articles 139–148 of the Syrian Constitution) is to rule on the constitutionality of laws, hear election disputes and try the President if accused of criminal offences. It also has a power to render advisory opinions. The bench comprises a five-member panel, and renewable four-year appointments are made by presidential decree.



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