

Statement

Autonomy of Trade Association in Northwestern Syria Come Under Serious Threat as the Syrian Interim Government Consolidates Control

Resolution 29 Must be Repealed,
 and Coercive Intrusion into Trade
 Associations' Work Must Stop



Friday 31 May 2024

The Syrian Network for Human Rights (SNHR), founded in June 2011, is a non-governmental, independent group that is considered a primary source for the OHCHR on all death toll-related analyzes in Syria.

On Tuesday, May 14, 2024, Habboush Lata, Minister of Justice in the Syrian Interim Government, run by the National Coalition of Syrian Revolutionary and Opposition Forces, issued resolution 29, halting the operations of any law firms affiliated with the Free Bar Association in northwestern Syria which do not fulfill the quorum requirement stipulated in Paragraph 1 of Article 46 of Law No. 30 of 2010 on Regulating the Practicing of Law. According to the legal text, in order for a law firm to be recognized by the Free Bar Association, it must have at least 150 lawyer professors and practicing lawyers registered as associates. Resolution 29 states that those lawyers currently working for smaller law firms which don't meet this criterion will need to transfer to larger firms which fulfill the quorum stipulated in the aforementioned article. Moreover, any lawyers currently practicing in these smaller law firms whose operations will be terminated will have their judicial license to practice law revoked until they move to firms that meet the criteria.

Pursuant to this resolution, the Public Prosecutor of the Court of Cassation and the Director of the Military Police Department both issued a circular to all judicial bodies ordering that they stop dealing with lawyers working with these discontinued law firms until they comply with resolution 29 of 2024. This is despite the fact that the text of the resolution makes no mention of any notification of or correspondence with the Central Free Bar Association Council to clarify which law firms' activities will be discontinued in light of this resolution, nor does the resolution address in any way the fate of the ongoing legal cases currently being handled by legal agencies established by the firms affected. In short, the resolution will lead to a state of widespread confusion, especially since courts in the region do not know which law firms are discontinued.

In response to Resolution 29, the Free Bar Association's offices in the affected government issued a statement protesting against it, declaring it unlawful, and a blatant intrusion into their work, and stating that it clearly contravenes the principle of the separation of powers.

In another development, the Free Bar Association issued Resolution 6 of 2024, which consolidates the law offices representing Deir Ez-Zour, Hasaka, and Raqqqa into one office; consolidates the law offices of Damascus and Rural Damascus, Homs, and Daraa into another single office; and consolidates the two law offices of Hama and Latakia into a third single office, in line with Law No. 30 of 2010 on regulating the Practicing of Law. Resolution 6/2024 made no mention of having been introduced in light of the resolution issued by the Minister of Justice, which suggests that it does not recognize it.

In 2018, the law firms in the Free Bar Association agreed on establishing one union body representing free lawyers in Syria in accordance with a bylaw. Following a series of meetings, that bylaw went on to become Law No. 30 of 2010 on Regulating the Practicing of Law, after the association dismissed all articles related to the powers and authority of the Baath Party regarding its supervision of the work of lawyers and the bar association.

Subsequently, preparations were made to elect the members for the inaugural term of the Free Bar Association which incorporated nine offices representing governorates across Syria:

- Free Bar Office in Aleppo
- Free Bar Office in Homs
- Free Bar Office in Hama
- Free Bar Office in Daraa
- Free Bar Office in Damascus and Rural Damascus
- Free Bar Office in Latakia
- Free Bar Office in Raqqa
- Free Bar Office in Hasaka
- Free Bar Office in Deir Ez-Zour

The office of Idlib, which is under the control of Hay'at Tahrir al-Sham's (HTS) Salvation Government, refused to join the FBA even though it was part of the preparatory meetings.

On December 21, 2019, the first central association, consisting of 11 members, representing all free lawyers in Syria, was elected in Izaz city in rural Aleppo.

In 2022, the General Congress of the Lawyers Association issued resolution 11, which maintains the recognized status of the various governorates' offices, and provides for going over the quorum requirement stipulated in Article 26 of the Law on Regulating the Practicing of Law. This was further reiterated in resolution 16 adopted on May 6, 2023, which provides for the implementation of the resolution adopted in the General Congress. The resolution further confirms that all law offices shall exercise their rights on equal grounds, and emphasizes that the recognized status of these offices does not detract from their rights. The resolution was first amended and approved in the Free Bar Association's General Congress held on December 21, 2019, with this amended document being used as the applicable regulatory legal text ever since.

On May 24, 2023, the Central Free Bar Association Council announced the start of a third electoral term for the Free Bar Association and its nine offices in the liberated region of north Syria in accordance with resolution 32, in order to select the councilors and members making up the General Congress and the Free Bar Association Council in Syria, in accordance with Law No. 30 of 2010. Indeed, the election were held under the supervision of the central association, but the Aleppo office was excluded, due to holding its elections outside the confines of the authority of the central association, creating a dispute that was eventually settled by the Court of Cassation in decision No. 99 on December 26, 2023.

The Syrian Network for Human Rights (SNHR) stresses that the work done by civil society organizations, and most importantly by trade associations, has always been a point of pride in democratic states, since they are rooted in the belief that the people are the source of authority.

In conditions of fluctuation and disorder, as is the case in Syria, the part played by trade associations has an even more crucial role. Not only do such associations need to act as a shield for their members, but they must devise ways to deal with the despotism and extremism that usually thrives in such vacuums. Trade associations also need to propose national, organized solutions the basis of a unifying national identity. In the case of Syria, trade associations also play a crucial role in helping guide Syrian civil society to a new, positive and progressive era free from the despotism of the Assad dynasty that has long eroded any form of democratic power and denied the people any role except to serve the hereditary dictatorship and its regime.

For instance, on May 9, 1980, following a strike by trade unions, the Hafez Assad regime eliminated the unions and other civil society organizations that remained. On April 7, 1980, Hafez Assad issued a legislative decree authorizing the Council of Ministers to dissolve trade unions, which came into effect on April 10, 1980, through a decision passed by the government. As such, those unions representing lawyers, doctors, dentists, pharmacists, and engineers were all dissolved, with their members arrested. Subsequently, the unions were supplanted by new bodies which were subservient to the ruling authority and closely linked to the regime's security apparatus, which remains the case until this day.

While a case can be made that resolution 29/2024 was issued for regulatory purposes, SNHR condemns the intrusion into the work of the Free Bar Association Council, since the issuing of such resolutions is not within the scope of the Minister of Justice's mandate.

Article 46 of [Law No. 30 of 2010](#), namely the law approved by the Free Bar Association as the regulating legal text, states:

- A. An office for the association in every governorate shall be founded on a decision by the bar council. The number of lawyer professors and practicing lawyers enlisted in each office must not be less than 150.
- B. In the event that this quorum was not fulfilled in a governorate, the lawyers present in this governorate join the office located in the closest governorate.
- C. In the event that multiple governorates were found to not have the stipulated quorum for establishing an office, those lawyers shall be banded together to establish an office whose headquarters is determined by a decision from the bar council.

As the article states, establishing, discontinuing, and merging offices is the prerogative of the bar council which has sole authority to decide on such issues. Furthermore, Paragraphs B and C further describe the mechanism necessary for any merger, which makes resolution 29/2024 by the Minister of Justice an example of lack of jurisdiction,¹ and an encroachment on the mandate of the Free Bar Association Council.

1. In Jurisprudence, the deficit of lack of jurisdiction is the "state of not having the legal ability to engage in a certain legal action that was prescribed by the legislator as part of the jurisdiction of another authority in accordance with laws regulating the organization. As such, it is an organic deficit that entails the inability to engage in a legal action made by the legislator as part of the jurisdiction of another body of individual." Excerpt taken from:

Al-Jar, T. (1977). Raqābah alqaḍā' li'a-māl al'idārḥ al'āmh [Judicial Oversight Over Public Administration Work] P. 341.

SNHR has contacted the Syrian Interim Government's Minister of Justice at its official e-mail address to request a comment on this resolution and to enquire about its justification, but has not received any answer as of this writing.

It is also noteworthy that the Syrian Interim Government's Minister of Justice has tried previously to encroach on the work of the bar with resolution 308 adopted on November 15, 2023, which shows that there have been repeated attempts to perpetuate the hegemony of the executive branch over trade associations in Syria, which, should it be allowed to continue, will strip trade associations of their identity, role, and autonomy, and further undermine the few remaining gains of the popular uprising in Syria since it began in 2011. Trade associations are under the threat of becoming merely an arm of the government administrative executive which would have full control over their operations.

Such intrusions violate the freedom of trade association work established in international law. Article 2 of the International Labor Organization's (ILO) C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which was ratified by Syria, states, "Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation."

Paragraph 2 of Article 3 of the same instrument also states, "The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise" of "the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes" as detailed in Paragraph 1 of the same article. Moreover, Paragraph 2 of Article 8 states "The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention [C087]."

Not only does C087 enforce a negative obligation on states, but it also binds states to "undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize." as stated in Article 11.

Article 23 of the Universal Declaration of Human Rights further establishes the right to establish trade associations and unions, stating, "Everyone has the right to form and to join trade unions for the protection of his interests." Also, Article 22 of the International Covenant on Civil and Political Rights (ICCPR) states, "1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests." And Article 8, Paragraph C, of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states, "The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;"

In addition to these points, resolution 29 also conflicts with resolution 22 of 2022, adopted by the Free Bar Association to maintain the recognized status of governorate offices and go above the quorum requirement stipulated in Law No. 30 of 2010, which, as mentioned earlier, was approved as the regulating legal text bar the articles on the hegemony of the Baath Party and the Executive Authority's control over the bar association.

SNHR calls on the Syrian Interim Government and the Ministry of Justice to respect the autonomy of all Syrian trade associations, particularly the Free Bar Association, who have played a prominent role in advocating for the popular uprising and represented hundreds of victims. We condemn any arbitrary intrusion into the work of trade association, and call for repealing resolution 29 and ending any intrusion into the work of civil society organization, which has been one of the gains of the popular uprising of 2011.

Resolution 29/2024 by the Syrian Interim Government

Syrian Interim Government
Ministry of Justice

الحكومة السورية المؤقتة
وزارة العدل

قرار رقم /٢٩/

وزير العدل

بناءً على قرار الائتلاف الوطني لقوى الثورة والمعارضة السورية رقم (٤٧/١) بتاريخ ٢٠١٩/٠٨/٣١، وعلى أحكام النظام الداخلي لوزارة العدل الصادر بقرار رئاسة الحكومة رقم ٥٧/ بتاريخ ٢٠٢٠/١٠/٠٦، وعلى أحكام النظام الأساسي للحكومة السورية المؤقتة، وعلى أحكام قانون تنظيم مهنة المحاماة رقم ٣٠/ لعام ٢٠١٠، وعلى مقتضيات المصلحة العامة.

يقرر ما يلي

مادة ١: يعتبر لاغياً بحكم القانون كل فرع من فروع نقابة المحامين الأحرار لا يتحقق فيه شرط التمسك العدي المحدد في الفقرة الأولى من المادة ٤/٦ من قانون تنظيم مهنة المحاماة رقم ٣٠/ لعام ٢٠١٠.

مادة ٢: يتخمس أعضاء الفروع المعلقة وفق الفقرة الأولى إلى الفروع التي يتحقق فيه شرط التمسك المحدد في المادة ٤/٦ من القانون المذكور.

مادة ٣: يتوقف تنظيم الوكالات القضائية للمحامين المسجلين في الفروع المعلقة ويصار إلى تنظيمها من قبل الفروع الجديدة التي يتم الانضمام اليه.

مادة ٤: يبلغ هذا القرار من بزم تنفيذه ويصدر نافذاً من تاريخ صدوره.

٢٠٢٤/٠٥/١٤

وزير العدل
القاضي جيتون لاطه

موزعين

- ١- مكتب رئاسة الحكومة
- ٢- الديوان العام
- ٣- المديرية التنفيذية لتسيير على المحاكم
- ٤- وزارة الدفاع لتسيير على إدارة القضاء العسكري
- ٥- إدارة الفروع القضائية المشغولة.

Email: office.minister.justice@sriaiaa.org

وزارة العدل

Circular issued by the Public Prosecutor of the Court of Cassation to implement resolution 29 by the Minister of Justice

Syrian Interim Government
Ministry of Justice

الحكومة السورية المؤقتة
وزارة العدل

قرار رقم /٢٩/

وزير العدل

بناءً على قرار الائتلاف الوطني لقوى الثورة والمعارضة السورية رقم (٤٧/١) بتاريخ ٢٠١٩/٠٨/٣١، وعلى أحكام النظام الداخلي لوزارة العدل الصادر بقرار رئاسة الحكومة رقم ٥٧/ بتاريخ ٢٠٢٠/١٠/٠٦، وعلى أحكام النظام الأساسي للحكومة السورية المؤقتة، وعلى أحكام قانون تنظيم مهنة المحاماة رقم ٣٠/ لعام ٢٠١٠، وعلى مقتضيات المصلحة العامة.

يقرر ما يلي

مادة ١: يعتبر لاغياً بحكم القانون كل فرع من فروع نقابة المحامين الأحرار لا يتحقق فيه شرط التمسك العدي المحدد في الفقرة الأولى من المادة ٤/٦ من قانون تنظيم مهنة المحاماة رقم ٣٠/ لعام ٢٠١٠.

مادة ٢: يتخمس أعضاء الفروع المعلقة وفق الفقرة الأولى إلى الفروع التي يتحقق فيه شرط التمسك المحدد في المادة ٤/٦ من القانون المذكور.

مادة ٣: يتوقف تنظيم الوكالات القضائية للمحامين المسجلين في الفروع المعلقة ويصار إلى تنظيمها من قبل الفروع الجديدة التي يتم الانضمام اليه.

مادة ٤: يبلغ هذا القرار من بزم تنفيذه ويصدر نافذاً من تاريخ صدوره.

٢٠٢٤/٠٥/١٤

وزير العدل
القاضي جيتون لاطه

موزعين

- ١- مكتب رئاسة الحكومة
- ٢- الديوان العام
- ٣- المديرية التنفيذية لتسيير على المحاكم
- ٤- وزارة الدفاع لتسيير على إدارة القضاء العسكري
- ٥- إدارة الفروع القضائية المشغولة.

السادة القضاة المحترمين ورؤساء الهيئات العامة وعضواتها
العلمية محترمة بمراسلة وزير العدل والتقديم بخصوصية ووفقاً لما
بالإشارة إلى مقتضيات المرفقة فبموجب المراسلة التي أودعتموها من
شرف القضاء العدوي ووددت ببدء تاريخ ٠٤/٠٥/٢٠٢٤ وتاريخ صدورها
٢٠٢٤/٠٥/١٤

القاضي جيتون لاطه

Email: office.minister.justice@sriaiaa.org

وزارة العدل

Resolution 6/2024 by the Free Bar Association calls for the merging of neighboring offices



Circular sent by the Director of the Military Police Department to the branches and prisons of the Military Police



Statement issued by seven Free Bar Association offices rejecting the Minister of Justice's resolution





SYRIAN NETWORK FOR HUMAN RIGHTS



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No justice without accountability

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