



# Universal Periodic Review: Syria

## Second Cycle

### Submission to the Stakeholders' Summary

**Alkarama Foundation, 24 March 2016**

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This contribution falls within the framework of the second cycle of the Universal Periodic Review (UPR) on the general human rights situation in Syria against the backdrop of the recommendations made in October 2011.

## 1 General Context and recent developments

1. The last four years have been marked by an escalation of the internal conflict both due to the interference and intervention of foreign actors as well as the increased fights between governmental forces and their allies and various armed opposition groups that caused the death of over 250,000 people.<sup>1</sup>
2. Following the first cycle, the repression of all protest movements exacerbated and sporadic clashes turned into civil war. The crisis eroded Syrian society's cohesion and gave a sectarian taint to the clashes with President Bashar Al-Assad seeking to strengthen his supporters' loyalty *vis-à-vis* the incapacity of the various opposition groups to form a united front.
3. In June 2013, the count of civilian deaths reached 90,000 victims.<sup>2</sup> In August of the same year, hundreds of people were killed following chemical attacks in several districts of Damascus.<sup>3</sup> Faced with the prospect of a military intervention by the United States, Bashar Al-Assad committed to totally destroy its arsenal of chemical weapons. However, the Organisation for the Prohibition of Chemical Weapons (OPCW) continued to document the use of toxic substances in the conflict.
4. In 2014, the security situation on the ground deteriorated significantly due to the proliferation of armed groups, the arrival of foreign fighters and the advance of the Islamic State of Iraq and the Levant (ISIS) strengthening its presence in the governorates of Raqqah, Idlib, Deir el Zor and Aleppo. This caused the military intervention of the American-led multinational coalition, itself composed of 40 States including some Arab countries, in September 2014. A year later, Russia entered the conflict as well at the request of Bashar al-Assad.
5. Since the beginning of the crisis, indiscriminate bombing of civilians, use of chemical weapons, massacres and extrajudicial executions, enforced disappearances and systematic torture have become widespread. At the same time, sieges of towns and starving of civilians have forced millions of Syrians to leave the country. In March 2016, the number of refugees exceeded 4.8 millions.<sup>4</sup>
6. Notwithstanding the attempts to negotiate a political solution, the peace process remains blocked. The prospects for peace raised by the last international talks in February 2016, leading to the implementation of a two-week truce, remain fragile as the fighting continues in most regions.

## 2 Scope of international obligations

7. Syria is a party to the main international instruments for human rights and international humanitarian law, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT), the four Geneva Conventions, the Additional Protocol I to the Geneva Conventions and the Chemical Weapons Convention (CWC).
8. Syria has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture (OPCAT) and the Second Optional Protocol to the ICCPR. It did not accept the individual complaints procedures under the Optional Protocol of the ICCPR and Article 22 of CAT.

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<sup>1</sup> The Huffington Post, *Syria Civil War Death Toll Paints A Horrifyingly Complex Picture*, 31 October 2015, [http://www.huffingtonpost.co.uk/2015/10/31/syrian-civil-war-death-n\\_8440378.html](http://www.huffingtonpost.co.uk/2015/10/31/syrian-civil-war-death-n_8440378.html) (accessed on 9 March 2016).

<sup>2</sup> UN News Centre, *Nearly 93,000 people killed in 'vicious' Syria conflict – UN human rights chief*, 13 June 2013, <http://www.un.org/apps/news/story.asp?NewsID=45162#.VuAB1fwnHo> (accessed on 9 March 2016).

<sup>3</sup> *Report of the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic on the alleged use of chemical weapons in the Ghouta area of Damascus on 21 August 2013*, Note by the Secretary General, 16 September 2013, A/67/997–S/2013/55.

<sup>4</sup> United Nations High Commissioner for Refugees, *Syria Regional Refugee Response – Inter-agency Information Sharing Portal*, <http://data.unhcr.org/syrianrefugees/regional.php> (accessed on 9 March 2016).

9. Furthermore, Syria has not ratified the Additional Protocol II to the Geneva Conventions, the Convention on cluster munitions, the Convention on Certain Conventional Weapons, the Anti-Personnel Mine Ban Convention and the Rome Statute.<sup>5</sup>

10. **Recommendations:**

- a) Ratify these Conventions;
- b) Accept the individual complaints procedures under the ICCPR and CAT.<sup>6</sup>

## 2.1 Constitutional and legislative framework

11. During the first cycle, the authorities pledged to amend Syrian legislation to bring it in compliance with their international obligations.<sup>7</sup> This commitment has never been fulfilled.

12. A major change in domestic legislation is the adoption of the Anti-Terrorism Law no. 19, formally abolishing the state of emergency, followed by Decree no.22 of 26 July 2012 that established the Anti-Terrorism Court. The enforcement of the Anti-Terrorism Law and the unfair trials before the Anti-Terrorism Court are marred by numerous violations of due process guarantees.

13. **Recommendation:**

- a) Repeal the Anti-Terrorism legislation.

## 3 Cooperation with the human rights mechanisms

### 3.1 Cooperation with the treaty bodies

14. Despite the commitments made in 2011,<sup>8</sup> the authorities have still not submitted their second periodic report to the Committee against Torture, due in May 2014, nor their fourth periodic report to the Human Rights Committee, due in August 2009.

15. **Recommendation:**

- a) Submit the overdue periodic reports to the Treaty Bodies.

### 3.2 Cooperation with the Special Procedures mandate holders

16. The authorities have not issued a standing invitation to Special Procedures yet, and, in violation of their commitments,<sup>9</sup> they have not accepted all the pending requests for country visits<sup>10</sup> nor given their consent for the Independent International Commission of Inquiry on the Syrian Arab Republic established by Resolution S-17/1 of the Human Rights Council<sup>11</sup> to access the Syrian territory.

17. Moreover, the authorities have refused to implement the recommendations of the Special Procedures. Thus, Alkarama noted that several Opinions of the Working Group on Arbitrary Detention, calling in particular for the release of Ms Tal Al Mallouhi,<sup>12</sup> Mr Ammar Tellawi<sup>13</sup> and Mr Bassel

<sup>5</sup> Recommendations not enjoying Syria's support n. 104.1 (Uruguay), 104.2 (Poland), 104.3 (Slovenia).

<sup>6</sup> Recommendations not enjoying Syria's support n. 104.4 (Peru).

<sup>7</sup> Recommendations enjoying Syria's support n.100.1 (Indonesia) and especially bring national laws fully into line with its obligations under ICCPR, the Convention on the Elimination of All Forms of Discrimination against Women, CAT and the Convention on the Rights of the Child, recommendation n.100.2 (Maldives), adopt a definition of torture in conformity with the CAT, recommendation n. 103.5, 103.6 (Brazil and Mexico) and ensure that no statement made as a result of torture can be invoked as evidence in any judicial proceedings, recommendation n.103.6 (Mexico) and ensure that the judicial definitions contained in human rights treaties are incorporated effectively and in a timely fashion in its legislation, recommendation n. 103.4 (Peru).

<sup>8</sup> Recommendations enjoying Syria's support n.100.34 (Iran).

<sup>9</sup> Recommendations enjoying Syria's support n.103.24 (Slovenia) and in particular for the Special Rapporteur on Torture and the Special Rapporteur on the situation of human rights defenders n.103.25 (Belgium).

<sup>10</sup> In particular the request of the Special Rapporteur against torture, pending since 2010, the request of the Special Rapporteur on the situation of human rights defenders pending since 2010, the request of the Working Group on Arbitrary Detention pending since 2011, the request of the Working Group on Enforced or Involuntary Disappearances pending since 2011. However, Syria received the visit of the on the Human Rights of Internally Displaced Persons from 16 to 19 May 2015.

<sup>11</sup> Recommendations enjoying Syria's support n.103.11 (United Kingdom), 103.12 (Brazil), 103.13 (Slovenia), 103.14 (Switzerland), 103.15 (Thailand), 103.16 (Norway), 103.17 (Chile), 103.18 (Maldives), 103.19 (Republic of Korea), 103.20 (Germany).

<sup>12</sup> Opinion of the Working Group on Arbitrary Detention No. 38/2011, 1 September 2011 ; Alkarama, *Syria: Detention of Tal*

Khartabil,<sup>14</sup> have never been implemented. Furthermore, most of the elements provided by the authorities to the Working Group on Enforced and Involuntary Disappearances have failed to clarify the fate of numerous missing persons.

#### 18. **Recommendations:**

- a) Implement without delay all the recommendations of the Special Procedures and in particular the Working Group on Arbitrary Detention's Opinions, and clarify the fate and whereabouts of victims of enforced disappearances;
- b) Cooperate with all the Special Procedures mandate holders;
- c) Ensure free access to the Syrian territory to the Independent International Commission of Inquiry on the Syrian Arab Republic.

## **4 Compliance with international obligations under international humanitarian and human rights law**

### **4.1 Attacks against civilians and hospitals**

19. For the entire duration of the conflict, governmental forces have conducted indiscriminate attacks in densely populated areas causing the death of thousands of civilians.<sup>15</sup> In several attacks, the authorities have made use of barrel bombs,<sup>16</sup> cluster munitions,<sup>17</sup> as well as weapons whose effects are of an indiscriminate nature and hence are prohibited by international humanitarian law<sup>18</sup> as well as by the UN Security Council Resolution 2139 (2014).<sup>19</sup> In addition, the use of chemical weapons<sup>20</sup> has been documented, despite Syria being party to the Convention on the Prohibition of Chemical Weapons since October 2013.

20. Furthermore, hospitals and health facilities under the control of opposition forces are systematically<sup>21</sup> the object of direct attacks by governmental forces, particularly following the government's decision to declare "illegal" any health facility providing medical care in the areas controlled by the opposition forces.<sup>22</sup>

21. Finally, it is noteworthy that the government has continuously imposed siege, such as in Madaya,<sup>23</sup> town at the border of Lebanon, which could be reached by the first humanitarian convoys

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*Al-Mallouhi condemned by the UN*, 22 November 2011, <http://en.alkarama.org/syria/882-syria-detention-of-tal-al-mallouhi-condemned-by-the-un> (accessed on 26 January 2016).

<sup>13</sup> Opinion of the Working Group on Arbitrary Detention No. 36/2014, 28 August 2014, Alkarama, *Syria: United Nations Calls for Release of Activist Ammar Tellawi*, 10 December 2014, <http://en.alkarama.org/syria/1569-syria-working-group-on-arbitrary-detention-calls-for-release-of-activist-ammar-tellawi> (accessed on 22 March 2016).

<sup>14</sup> Opinion of the Working Group on Arbitrary Detention No. 5/2015, 21 April 2015, Alkarama, *Syria: UN Calls for the Release of Freedom of Speech Advocate Bassel Khartabil*, 10 December 2014, <http://en.alkarama.org/1763-syria-un-calls-for-the-release-of-freedom-of-speech-advocate-bassel-khartabil> (accessed on 26 January 2016).

<sup>15</sup> For example the aerial attacks carried out on 16 August 2015 on Duma's popular markets, killing at least 112 people as documented by Human Rights Watch, *Syria: Events of 2015*, <https://www.hrw.org/world-report/2016/country-chapters/syria> (accessed on 22 March 2016).

<sup>16</sup> Reuters, *Refugee camp barrel bomb 'massacre': Footage shows horrific aftermath of attack in Syria*, 30 October 2014, <http://www.abc.net.au/news/2014-10-30/reports-syrian-helicopter-bombs-displaced-persons-camp/5853758> (accessed on 7 March 2016).

<sup>17</sup> Human Rights Watch, *Russia/Syria: Extensive Recent Use of Cluster Munitions*, 20 December 2015, <https://www.hrw.org/news/2015/12/20/russia/syria-extensive-recent-use-cluster-munitions> (accessed on 7 March 2016).

<sup>18</sup> In particular, article 51.4.b of Additional Protocol I and customary international law.

<sup>19</sup> UN Security Council Resolution 2139 (2014), 22 February 2014, S/RES/2139 (2014), para. 3

<sup>20</sup> Ian Pannel, "Syria civilians still under chemical attack", BBC News, 18 June 2014, <http://www.bbc.com/news/world-middle-east-34212324> (accessed on 23 March 2016).

<sup>21</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, *Assault on medical care in Syria*, 13 September 2013, A/HRC/24/CRP.2 (accessed on 3 March 2016).

<sup>22</sup> Kareem Shaheen, "MSF stops sharing Syria hospital locations after "deliberate" attack", *The Guardian*, 18 February 2016, <http://www.theguardian.com/world/2016/feb/18/msf-will-not-share-syria-gps-locations-after-deliberate-attacks> (accessed on 3 March 2016).

<sup>23</sup> Doctors without borders, *Syria: Five More Starvation Deaths in Madaya Since Humanitarian Convoy Arrival*, 15 January 2016, <http://www.doctorswithoutborders.org/article/syria-five-more-starvation-deaths-madaya-humanitarian-convoy-arrival> (accessed on 23 March 2016).

only after several months of negotiations. Moreover, despite their commitments,<sup>24</sup> governmental forces have continued to prevent the passage of all humanitarian aid.

## 22. **Recommendations:**

- a) Put an end to the indiscriminate attacks and the use of weapons prohibited by international humanitarian law;
- b) Put an end to the attacks targeting hospitals and health facilities;
- c) Put an end to sieges on residential areas and stop starving the civilian population;
- d) Allow the free and unhindered passage of humanitarian aid.

## 4.2 **Death penalty and extrajudicial executions**

23. The death penalty is foreseen for numerous criminal offenses. The Anti-Terrorism Law, providing a particularly broad definition of a terrorist crime,<sup>25</sup> provides for the death penalty for acts such as "smuggling, production, possession or theft of weapons and similar acts." It is particularly concerning that numerous death sentences were handed down by the Anti-Terrorism Court and military courts following summary and heavily flawed trials.

24. At the same time, several cases of summary executions have been committed against civilians<sup>26</sup> by government forces and allied foreign forces with complete impunity. Alkarama has furthermore documented numerous cases of deaths in detention. This has also been documented through the thousands of photographs of detainees being tortured and killed disclosed by a Syrian military photographer,<sup>27</sup> as well as the last report of the Independent International Commission of Inquiry on the Syrian Arab Republic.<sup>28</sup>

## 25. **Recommendation:**

- a) Open prompt, thorough and impartial investigations into all allegations of summary, arbitrary and extrajudicial executions.

## 4.3 **Torture: a widespread and systematic practice**

26. In the previous review, the Syrian authorities affirmed that the recommendations calling for an end to the practice of torture were "already implemented"<sup>29</sup> or "in the process of being implemented".<sup>30</sup> However, as noted in the report submitted by Alkarama<sup>31</sup> during the special review of Syria by the Committee against Torture in 2012,<sup>32</sup> this practice remains systematic in all detention centres controlled by the government and its allied forces.

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<sup>24</sup> Recommendations enjoying Syria's support n.100.26 (Malaysia), 100.27 (Thailand), recommendation enjoying Syria's support and considered by the State Party already implemented n.101.5 (Poland).

<sup>25</sup> The Anti-Terrorism Law defines terrorism as "every act that aims at creating a state of panic among the people, destabilising public security and damaging the basic infrastructure of the country by using weapons, ammunition, explosives, flammable materials, toxic products, epidemiological or bacteriological factors or any method fulfilling the same purposes." The reference to "any method" leaves the door open for the authorities label any act as terrorist act and hence use this law in an arbitrary manner.

<sup>26</sup> For example the summary and extrajudicial executions carried out between 2011 and 2012 in Homs and Idlib governorate by the governmental forces and its allied armed groups, such as documented by Human Rights Watch, *Syria: extrajudicial executions*, 9 April 2012, <https://www.hrw.org/news/2012/04/09/syria-extrajudicial-executions> (accessed on 8 March 2016).

<sup>27</sup> Garance la Caisne, « 'They were torturing to kill': inside Syria's death machine », *The Guardian*, 23 January 2014, <http://www.theguardian.com/world/2015/oct/01/they-were-torturing-to-kill-inside-syrias-death-machine-caesar> (accessed on 8 March 2016).

<sup>28</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, *Out of Sight, Out of Mind: Deaths in Detention in the Syrian Arab Republic*, 3 February 2016, A/HRC/31/CRP.1, para.21 (accessed on 8 March 2016).

<sup>29</sup> Recommendation enjoying Syria's support and considered by the State Party already implemented n.101.9 (Sweden).

<sup>30</sup> Recommendation enjoying Syria's support and considered by the State Party as being in the process of implementation n. 102.3 (Norway).

<sup>31</sup> Alkarama, *Syria: Committee against Torture 2012 – Alkarama's Report Submitted to CAT in view of State's Special Review*, 20 April 2012 (accessed on 8 March 2016).

<sup>32</sup> Committee against Torture, *Concluding Observations, Syrian Arab Republic*, 29 June 2012, CAT/C/SYR/CO/1/Add.2 (accessed on 8 March 2016).

27. Detention conditions are additionally inhumane. Thus, prisoners are exposed to chronic insufficient food and water adding to the spread of infectious diseases such as tuberculosis,<sup>33</sup> lack of access to healthcare and a cruel and degrading corporal punishment.<sup>34</sup>

28. The systematic practice of torture is encouraged by the lack of political will to put an end to it, including through the adoption of national legislation consistent with the Convention against Torture. This situation fosters a general climate of impunity, the law rendering prosecution of torture perpetrators conditional to the prior consent of the director of the security service or the general commander.<sup>35</sup>

29. **Recommendations:**

- a) Put an end to the systematic practice of torture;
- b) Ensure that detention conditions are in conformity with international standards;
- c) Allow access to appropriate medical care to all torture victims and detainees, without any discrimination;
- d) Put an end to the impunity of the members of the security services;
- e) Implement all the recommendations issued by the Committee against Torture during its special session in 2012;
- f) Open and conduct prompt, thorough and impartial investigations into all allegations of torture in accordance with Article 12 of the Convention against Torture (CAT).

#### 4.4 Arbitrary detention

30. During the previous review, the Syrian authorities considered as “already implemented” the recommendations calling for the release of all prisoners of conscience and those arbitrarily detained.<sup>36</sup> However, arbitrary detention remains a major concern in Syria.

31. Human rights defenders, political activists, aid workers and common citizens are in fact arbitrarily detained and prosecuted under exceptional legislation.

32. Alkarama noted that those accused of terrorist crimes are usually detained without any judicial review and without being brought before a competent judicial authority for six months to two years; a period of custody which by far exceeds the limit of 60 days, already excessive, provided by Decree no. 55 of 24 April 2011.<sup>37</sup>

33. Another major concern is the systematic practice of secret and *incommunicado* detention, fostering the practice of torture and enforced disappearance. Alkarama has in fact documented numerous cases of *incommunicado* detention, such as that of Anas Al Hussein,<sup>38</sup> who was arrested by security forces in 13 December 2012, then secretly detained and forced to “confess” under torture. His “confessions” were even broadcasted by a TV station on 3 March 2013, in violation of the principle of the presumption of innocence.

34. **Recommendations:**

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<sup>33</sup> Detainees’ Voice, Letter of Demands, <https://detaineesvoice.org/%D8%AD%D9%85%D9%84%D8%A9-%D8%A3%D9%86%D9%82%D8%B0%D9%88%D8%A7%D8%A7%D9%84%D8%A8%D9%82%D9%8A%D8%A9/save-the-rest-letter-of-demands/> (accessed on 8 March 2016).

<sup>34</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, *Out of Sight, Out of Mind: Deaths in Detention in the Syrian Arab Republic*, 3 February 2016, A/HRC/31/CRP.1, para.21 (accessed on 8 March 2016).

<sup>35</sup> For example this is foreseen by article 16 of Decree 14 of 1969 for the members of the General Intelligence Directorate, Decree 61 for the staff of the Internal Security Forces and the Political Security Division who can be only prosecuted upon an order by the general command of the armed forces, and Decree 69/2008 concerning prosecution of the members of the Political Security and the police forces.

<sup>36</sup> Recommendation enjoying Syria’s support and considered by the State Party already implemented n.101.10 (Spain), 101.11 (Norway), 101.12 (Poland), 101.13 (Switzerland), 101.14 (Uruguay), 101.15 (Sweden), 101.16 (Chile).

<sup>37</sup> Violations Documentation Centre (VDC), *Special Report on Counter-terrorism Law No.19 and the Counter-Terrorism Court in Syria – Counter-terrorism Court: a Tool of War Crimes*, April 2015, (accessed on 10 March 2016).

<sup>38</sup> Alkarama, *Syria: Enforced Disappearance of Syrian Kurd Following Confessions Under Torture Broadcasted on National TV in March 2013*, 9 September 2015, <http://en.alkarama.org/syria/1855-syria-enforced-disappearance-of-syrian-kurd-following-confessions-under-torture-broadcasted-on-national-tv-in-march-2013> (accessed on 10 March 2016).

- a) Put an end to arbitrary arrests and detentions of political opponents, human rights defenders and aid workers under the special legislation ;
- b) Release or put under the protection of the law all the people secretly detained or held *incommunicado*.

#### 4.5 Violations of fair trial guarantees

35. Despite its commitments during the first cycle,<sup>39</sup> fundamental fair trial guarantees have never been respected by the judicial authorities. During the past four years, Alkarama submitted numerous communications to the Special Procedures incontestably documenting systematic violations of the right to a fair trial. Thus, the majority of the accused do not benefit from legal assistance; the right of defence being systematically violated and severe sentences – including the capital punishment – being handed down after summary trials with secret hearings, usually lasting only a few minutes, in violation of the principle of a public hearing.

36. Following a communication submitted by Alkarama,<sup>40</sup> the Working Group on Arbitrary Detention found that the detention of Bassel Khartabil, known for his peaceful activism for the diffusion of “open source” software, was arbitrary. The Working Group noted that the victim’s “confessions” under torture were retained by the judge and that his right to a legal assistance was denied.

37. Alkarama also notes that Syria has two types of special courts: military courts, which have jurisdiction to try civilians, and the Anti-Terrorism Court; both courts systematically violating all fair trials guarantees. In addition, field military courts were established and apply martial law in total opacity. Most often they also hand down death sentences following secret trials, condemnations that are enforceable immediately with no possibility of appeal.

#### 38. Recommendations:

- a) Put an end to all violations of fair trial rights;
- b) Abolish all exceptional jurisdictions.

#### 4.6 Enforced disappearances

39. Whereas during the last review the only recommendation<sup>41</sup> on enforced disappearances was rejected on the grounds that it was “based on incorrect assumptions”, enforced disappearances have become a widespread and systematic practice since the beginning of the conflict, constituting, within the meaning of the Rome Statute, a crime against humanity.<sup>42</sup>

40. Tens of thousands of families remain without any news about their relatives arrested or abducted by the various governmental security forces and face the systematic refusal of the authorities to provide any information on their fate.

41. Alkarama has documented many cases of enforced disappearances attributable to state officials and submitted them to the United Nations Working Group on Enforced and Involuntary Disappearances. In most of these cases, the authorities refused to cooperate with the Working Group and provide any information on their fate and whereabouts.

#### 42. Recommendations:

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<sup>39</sup> Recommendation enjoying Syria’s support and considered by the State Party already implemented n. 101.17 (Spain) and 101.18 (Poland) demanding in particular to ensure the right to have prompt access to a lawyer, 101.19 (Switzerland) demanding to establish an independent and impartial judiciary system, 101.20 (Belgium) demanding to undertake reforms of the judicial system to ensure that the procedures are in conformity with international standards for an equitable judgment.

<sup>40</sup> Alkarama, *Syria: UN Calls for the Release of Freedom of Speech Advocate Bassel Khartabil*, 23 June 2015, <http://en.alkarama.org/1763-syria-un-calls-for-the-release-of-freedom-of-speech-advocate-bassel-khartabil> (accessed on 10 March 2016).

<sup>41</sup> Recommendation not enjoying Syria’s support n.105.9 (Czech Republic).

<sup>42</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, *Without a trace: enforced disappearances in Syria*, 19 December 2013, para. 6, <http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ThematicPaperEDInSyria.pdf> (accessed on 10 March 2016).

- a) Put an end to the systematic practice of enforced disappearances, open and conduct prompt, thorough and impartial investigations into all cases of enforced disappearances and inform the victims' families about the fate of their missing relatives;
- b) Collaborate effectively with the Working Group on Enforced and Involuntary Disappearances and clarify all the cases submitted.

#### **4.7 The Anti-Terrorism legal framework**

43. The introduction of the Anti-Terrorism Law no.19 of 28 June 2012 together with the Decree no.22 establishing the Anti-Terrorism Court of 26 July 2012 abolished the state of emergency as well as the State Security Court. This had a purely formal aspect as more repressive provisions came into force through these two new laws. The application of this exceptional law and the unfair trials before the Anti-Terrorism Court lead to many violations of fundamental rights.

44. Thus, the Anti-Terrorism Law, providing a broad definition of terrorism crime<sup>43</sup> is used against political opponents, human rights activists, aid workers and common citizens. This is particularly worrying as this legislation may hand down the death penalty for many offences, including non-violent ones.

45. Moreover, Alkarama noted that those accused of terrorist crimes are usually held *incommunicado* without any legal proceedings. Their "confessions" extracted under torture are also used by the Anti-Terrorism Court as the only evidence to sentence them to death following summary trials.

46. **Recommendation:**

- a) Repeal the Anti-Terrorism Law and abolish the Anti-Terrorism Court.

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<sup>43</sup> The Anti-Terrorism Law defines terrorism as "every act that aims at creating a state of panic among the people, destabilising public security and damaging the basic infrastructure of the country by using weapons, ammunition, explosives, flammable materials, toxic products, epidemiological or bacteriological factors or any method fulfilling the same purposes." The reference to "any method" leaves the door open for the authorities label any act as terrorist act and hence use this law in an arbitrary manner.