

Submission to the UN Universal Periodic Review
26th Session of the UPR Working Group

Civil and political rights in Syria



A joint submission by Alkawakibi Organisation, Human Rights Guardians, Start Point, the Free Syria Lawyers Association and No Peace Without Justice

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I. Introduction

1. This is a joint submission of Alkawakibi Organisation, Human Rights Guardians, Start Point, the Free Syria Lawyers Association and No Peace Without Justice.
2. **Alkawakibi Organisation** is a civic non-governmental human rights organization Registered in Sweden, concerned with the development of human rights. With a special focus on woman's and children's rights as a cultural issue. They are responsible for monitoring and documenting the ongoing abuses of these rights and the pursuit of a transitional justice system. Alkawakibi aims to address the historical legacy of human rights violations in Syria, with cooperation from civil actors working in this field regionally and internationally.
3. **Human Rights Guardians** is a human rights non-profit organization concerned with the control and monitoring of human rights violations in Syria and the countries of refuge through documenting violations and disseminating reports and peaceful movement and awareness campaigns and raising the voice of the authorities to adopt the approach that respects human rights and equal citizenship.
4. **Start Point** is a civil society organisation concerned with community development organization. It is seeking to raise the intellectual side and the human rights of the Syrian society, both within Syrian territory and in neighbouring countries, also concerned with working towards sustainable development by working on integrated projects.
5. **Free Syria Lawyers** Association is a non-governmental, non-profit civil society organization concerned with legal affairs. Its overall activity in Syria, where several programs are supervised by civil documentation criminal documentation, focuses on arbitration to resolve civil and commercial disputes, observatories, support of local councils and awareness campaigns.
6. **No Peace Without Justice** (NPWJ) is an international non-profit organisation founded by Emma Bonino and born of a 1993 campaign of the Transnational Radical Party that works for the protection and promotion of human rights, democracy, the rule of law and international justice. NPWJ's International Criminal Justice program focuses on international and national efforts to restore the rule of law and provide accountability and redress for the victims of crimes under international law. NPWJ has been working on Syria since 2011 with local

and international actors; on the one hand, to strengthen their work and capacities and, on the other hand, to maintain the resolve of Syrian civil society and bolster the political and strategic will to fight impunity and build a culture of accountability. The strategic goal of NPWJ's work on Syria is to equip citizens to demand accountability and justice for violations that have been taking place on a daily basis for the past five years and, at the same time, to equip local and international actors to answer that demand. NPWJ does this through mentoring Syrian human rights actors to bolster their skills on documentation and advocacy and promoting their participation in political negotiations aimed at ending the conflict in Syria.

II. Background and framework:

The International Committee of the Red Cross described the situation in Syria as a non-international armed conflict, at least from July 2012, a description that did not meet any objection from the Syrian government or from any international organizations concerned with the Syrian affairs. While the characterization may have changed since 2012, the rules of international law are nonetheless fully applicable, in particular international human rights law and international humanitarian law, in particular common Article 3 of the four Geneva Conventions of 1949. Syria ratified the Geneva Conventions in November 1953; common article 3 represents customary international law. As such, it applies to all Syrian territory and to all parties to the conflict, whether State or non-State actors.

III- Freedom of opinion and expression:

1. Syria ratified the International Covenant on Civil and Political Rights in 1966. Article 39 of the Syrian Constitution states that "Citizens have the right to meet and demonstrate peacefully within the principles of the Constitution and the law shall regulate the exercise of this right". Although the Syrian government promised during the first round of the Universal Periodic Review (UPR) to respect freedom of expression, freedom of association and the media without any obstacles, there remains large numbers of opinion, political and human rights prisoners who are subjected to torture and murder.

2. Precise statistics are not available on the number of such prisoners in Syria, but there have recently been growing arrests by the security services of reporters, human rights activists and students who tried to exercise their right to freedom of expression and assembly. Syrian authorities have suppressed peaceful demonstrations despite the issuance of a special law allowing for the organization of peaceful demonstrations by legislative Decree No. 54 of 2011, which in itself also violates the Constitution and is contrary to Syria's international obligations in terms of restricting the right to demonstrate.
3. Since the last UPR for Syria, there has been ongoing excessive use of force, including the use of live bullets by the security forces, against people exercising their right to freedom of opinion and expression.
4. Prior to the last UPR for Syria, on 17 April 2011, Syrian security forces shot peaceful demonstrators in Bab Saba, Homs, resulting in the fall of 7 people. The following night, after the funeral, a big, peaceful sit-in by civilians in the courtyard of clock in Homs, was broken-up with weapons and dozens of people were killed. There has been no investigation and no accountability for these actions against peaceful demonstrators exercising their right to freedom of opinion and expression.
5. The Syrian authorities suppress all media that conveys independent information in Syria. Many people were arrested in 2011 in the city of Aleppo because they watched Al-Jazeera, also a police officer from Al Tabaqa city was questioned by the security services in 2011 because he watches Al-Jazeera on a television in his office. To this day, all newspapers and printed and audio-visual media are strictly controlled by the Syrian security forces and no neutral or opposition media is permitted or authorized. The licensing of any media needs a long series of security clearances, which are doomed to fail if they are not affiliated with or loyal to the regime.
6. The Syrian authorities have arrested journalists and media workers and tortured them. The Syrian Network for Human Rights has documented nearly 1075 cases of arrest and kidnap of media activists in Syria from March 2011 to 31 January 2016. Syrian authorities still exercises the emergency law issued by a legislative Decree No. 51 issued on 22 December 1962 despite its having been repealed on 26 March 2011.

7. Practicing certain professions in Syria that relate to freedom of opinion and expression is still subjected to security approvals and is under the control of the security forces. For example the opening of an Internet cafe needs numerous security clearances, as do many of the liberal professions.
8. The establishment of associations and organizations, registration and dissolving them falls under the broad powers of the Ministry of Social Affairs, which requires stringent security clearances, many of which are not granted because the applicant is not loyal to the regime.
9. All telecommunication in Syria and means of social communication and many websites are subjected to severe security controls. There are several cases of arrests of many young men and women due to a post written on their pages on Facebook. Many websites in Syria are blocked.

Recommendations:

The Syrian Government should:

- a) Amend legislation which allows for the imprisonment of political, opinion and human rights prisoners.
- b) Release of opinion prisoners and peaceful demonstrators, journalists and media activists.
- c) Lift all censorship on means of communication and social networking sites, unblock all websites, reinstate the freedoms of media institutions and allow diversification of media institutions in Syria.
- d) Amend law No. / 93 / of 1958 as it is an obstacle to civil society, contrary to the objective of its legislation, to ensure the lifting of censorship and security restrictions imposed on the establishment of associations and organizations.
- e) Amend the peaceful demonstration law issued in the legislative decree No. 54 to ensure the freedom to demonstrate, lift all restrictions and clarify the conditions for granting a permit, the protection of demonstrations and the dispersal of demonstrations, which are currently unaddressed by the law.

IV. Freedom of movement:

1. Article 38 of the Syrian Constitution ensures the right of every citizen to travel unless prohibited from movement through a decision issued by the court, but

the security forces frequently imposed a travel ban without any court decision. According to Human Rights Watch, the Syrian authorities have expanded the scope of the use of travel bans since 2006 to punish activists and dissidents. It is very difficult for civilians to get travel documents and many of them are forced to pay bribes in exchange for what is actually a right. Also, the Syrian authorities have prevented the travel of many individuals ostensibly for security reasons and have arbitrarily arrested a number of Syrians coming to Syria without any warrants.

2. The Syrian Personal Status Law provides that in the absence of the father, guardianship is exercised by a child's grandfather and uncles as opposed to the mother. As such, if a Syrian woman is without her husband, for example in the event of his arrest, enforced disappearance or death, she is not the guardian of her children. It is therefore impossible for a Syrian woman to obtain travel documents for her children or even travel with her children in the absence of her husband. This is an effective denial of the right to freedom of movement for women and their children.
3. Another problem concerns Kurds who are deprived of citizenship in AlJazeera in Syria; they cannot obtain travel documents and therefore cannot travel in a legal way. If these people were to leave Syria, this would be considered a crime punishable under Syrian law.
4. There were cases of preventing the return of displaced persons and those who had sought refuge in Lebanon. On 7 August 2014, the Syrian authorities prevented Syrian refugees from returning from Aarsal to Syria under the pretext of not having documents or their illegal exit from the country; this had been confirmed by the Syrian Ambassador in Lebanon, Ali Abdel Karim. On the same day, the Syrian authorities turned back a convoy of refugees accompanied by the United Nations High Commissioner for Refugees (UNHCR). According to the UNHCR, there were 42,000 Syrian refugees to Aarsal while only 1,700 people were allowed to return on the grounds they had met the security conditions. Residents of the old city of Homs, the southern countryside, Qusair and southern neighborhoods of the city of Damascus were prevented from returning to their areas of origin from 2013 to 2014.

Recommendations:

The Syrian Government should:

- a) Lift the siege on populated civilian areas.
- b) Remove security barrier.
- c) Withdraw all foreign militias stationed at security checkpoints.
- d) Lift security restrictions that limit citizens' freedom to travel and move.
- e) Grant travel documents for all citizens.
- f) Amend the Personal Status Law to allow Syrian women to have guardianship of their children.

V. The right to identity:

1. The Syrian government and the Personal Status Law do not ensure women and men enjoy equal rights; Citizenship Law No. 276, enacted in 1969, prevents women from exercising their right to grant citizenship to their children. This reflects negatively on children who are not registered, including children who were born in countries of asylum, children who were born in detention as a result of rapes within the detention centers, children who were born outside the control of the Syrian government areas who are married to foreigners and the children of disappeared persons.
2. The Syrian government issued a decision to strip nationality from a number of Syrian Kurds on 23 August 1962, issued by the President of the Republic Nazim Qudsi and Prime Minister Bashir Alazmah, in Decree No. 93, which provides a special situation for the Aljazeera area. This situation has not been rectified to this day.
3. Kurdish are an ethnic minority are subjected to systematic discrimination including arbitrary denial of citizenship and preventing them from using their language at schools. They also suffer from religious persecution; the organization of (KIS) recommended that Syria should recognize the religious rights of the Kurds.
4. The Yazidis as a religious minority in Syria are deprived of their right to exercise their religious freedom and their rituals. Like the Kurds, they are prevented from learning the basics of their religion at public schools.

Recommendations:

The Syrian Government should:

- a) Amend the Nationality Law to ensure woman's right to grant citizenship to her children.
- b) Amend the Personal Status Law in order to achieve equality between women and men.
- c) Ensure full commitment to the Convention on the Elimination of Discrimination Against Women and remove their reservations about Article IX concerning the granting of nationality to all citizens who live in Syria for long periods if they wish.
- d) Recognise the religious and ceremonial rights of Aesidein and give them the freedom to exercise their faith
- e) Grant Syrian nationality for Kurds and give them the right to use and teach their language.

VI. Arbitrary arrest and illegal arrest:

1. Although Syria accepted the recommendation during its first cycle to “ reform the judicial system to ensure that procedures are compatible with international standards for fair trial (Article 14 of the International Covenant on Civil and Political Rights)” the judiciary is still not independent.
2. While the Syrian Constitution contains guarantees of due process and denies arbitrary detention (Article 51 and Article 53), the Syrian criminal justice system, which includes the Civil Courts, anti-terrorism court, military courts and field courts, does not take into account fair trial standards and proceedings are often carried out in secret. The judiciary is failing to supervise the national justice system properly and does not provide an effective means of redress for victims of abuses attributable to the state. Individuals cannot challenge violations for fear of punishment.
3. Since 2011, the government forces have carried out arbitrary arrests on a large scale. During raids, males over the age of 15 are usually arrested. Nearly 250,000 prisoners have been documented, according to local human rights organizations. Arrests are increasingly taking place at the hands of security

forces, armed Syrian forces and armed militias working on behalf of the government during mass arrests, during house searches, at inspection points and in hospitals. Prisoners are generally detained for days or months in a manner contrary to the law and are subject to harsh treatment before they are transferred to the security services.

Recommendations:

The Syrian Government should:

- a) Immediately release all prisoners who are arbitrarily arrested without warrants or referral to a trial.
- b) Investigate all cases of arbitrary arrest, ensure accountability for those responsible and compensate the victims.
- c) Allow the UN Working Group on Arbitrary Detention to visit Syria and brief them on all arrest centers, including those of the various security services.
- d) Ensure the independence of the judiciary from the security orders and executive power and ensure fair trials for prisoners.
- e) Cancel Decrees 14/1969 and 69/2008 that give immunity to members of the security forces and police in crimes which represent a violation of international legal obligations to investigate extrajudicial killings, torture and other violations and prosecution.
- f) Cancel exceptional courts and courts of terrorism.
- g) Release all prisoners in accordance with the Resolution 2139 adopted by the Security Council.
- h) Cancel Article VI of Decree No. 109 of 1968, which states that the field court's decisions are final and cannot be challenged in any way.
- i) Declassify the field and military courts and allow the presence of lawyers and stop trying civilians before those courts.
- j) Amend Articles 47 and 50 of the Military Penal Code, which authorizes civilians' trials in military courts (Decree 61 on February 27 in 1950).
- k) Adhere to Common Article Three of the four Geneva Conventions concerning the prohibition on the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court

affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

- 1) Establish a unified system for registration of all cases of disappearances in Syria, in addition to providing information about the remains of the bodies or mass graves.

VII. Torture and ill-treatment:

1. Syria ratified the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment in 2004, but with reservations on the committee charged with the task of monitoring respect for the treaty among the signatory countries provided in Article 20. Syria has not ratified the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading treatment.
2. Article 28 of the Syrian Constitution bans torture, but there is no definition of torture in the national legal system in Syria that matches the definition in Article 1 of the Convention. Article 391 of the Syrian Penal Code recognizes that torture is a crime punishable by law, but it only attracts a maximum penalty of three years.
3. During the last UPR in 2011, Syria accepted several recommendations related to addressing the issue of torture, such as: “all the recommendations by the Committee Against Torture should be implemented and put an immediate end to all acts of torture and punish those responsible for such acts, and to take all necessary steps to ensure that there is no practice of torture and other cruel, inhuman and degrading treatment of civilians”. After four years, implementation of that recommendation has yet to be realized.
4. The Syrian government still uses torture in a widespread scale, to cause pain, physical and mental suffering, to get information and extract confessions and frequently ends in death.
5. The deliberations of the field courts are used on a large scale for the issuance of penalties, including the death penalty for the civil movement in the context of the Syrian revolution. Field courts do not employ fair trial procedures and confessions obtained under torture are admissible as evidence.

6. In January 2015, a group of forensic experts and investigators, who are international war crimes experts, examined photographs taken of thousands of corpses of prisoners in military hospitals, and said that Syrian authorities have engaged in systematic torture of prisoners and illegally killed them. This is the Caesar Files, which contain more than 50,000 images of over 6,000 people who have been killed as a result of torture in secret arrest centers in Syria, which are directly related to the Syrian government. These include military intelligence branch (215) in Damascus, the region branch known with the number 227 in Damascus, the Air Force intelligence branch, the Palestine branch in Damascus and the patrols branch in Damascus, which is one of the military intelligence branches. The methods of killing differ from suffocation, hunger, disease and executions with a bullet in the head or as a result of brutal beatings on the head or other forms of torture. Other people died because of inflammation in the intestine or skin diseases and lack of medicine.
7. Government forces including its security forces use acts of systematic and systematic torture to investigate those it considers opponents. Over four years, local human rights organizations in Syria documented more than 15,000 cases; 4500 civilians died under torture including 27 women and 150 children in the security forces branches.
8. Many government institutions are involved in different stages that has been documented for a system of incommunicado detention and ill-treatment of prisoners. Army units and security institutions are conducting arrests, interrogations and killing all over the country, including in institutions such as military hospitals and military police.
9. In the arrest facilities, investigators sometimes kill prisoners in front of their fellow prisoners. In early 2014, a prisoner was killed in Sednaya prison (Damascus) after the entry of guards to the dungeon, who hit him severely, including on the head and vital organs. Those guards ordered the other prisoners to stand and face the wall while listening to his screams and not to help the victim, who was vomiting blood until he died as a result. This kind of incident happens in many places and security facilities of the Government, according to other prisoners.
10. Often prisoners are either ignored or punished if they seek medical help. They are kept in inhumane conditions and subjected to degrading treatment in

overcrowded cells or kept in solitary confinement for extended periods of time.

11. Some prisoners with serious illnesses were transferred to military hospitals in Damascus such as Mezze military hospital 601 and Tishreen Military Hospital located near Barza. Some of them were tortured by medical staff, while others received limited medical care before being sent to the same conditions of prison that threaten life, which led to the death of many prisoners in the hospital.
12. Arrest centers and prisons often are places for sexual violence. In December 2012, a woman who was arrested in the Mezze in Damascus described the rape of a woman with her in the prison. The threat of rape is used as a means to extract confessions and women have been harassed, insulted and sometimes beaten at checkpoints in Damascus, Daraa, Homs and Quneitra. A college student was raped at a checkpoint in Daraa in 2013 because her brother was wanted by the government.

Recommendations:

The Syrian Government should:

- a) Cancel its reservation to article 20 of the Convention Against Torture, which Syria ratified in 2004.
- b) Ratify the Optional Protocol to the Convention Against Torture and other cruel treatment.
- c) Implement the recommendations of the Committee Against Torture of the United Nations.
- d) Cancel all decrees and laws that facilitate the commission of the crime of torture and provide immunity for actors.
- e) Enact a clear definition of torture in Syrian law that is consistent with the Convention Against Torture.
- f) Allow a prompt, impartial and independent investigation into all human rights abuses.

VIII. The Disappeared.

1. The Syrian government accepted, during the first round of the UPR, the recommendation “to allow all prisoners to call lawyers after being arrested directly and refer them to one of the judges during a maximum period of 48 hours and provide information on the whereabouts of the disappeared persons”. They considered this was already implemented, including in the Constitution, which in article 28 states that no one may be investigated or arrested except in accordance with the law, no one may be tortured physically or mentally or ill-treated, which is punishable by law. Litigation, the appeal and the defense before the judiciary is safeguarded by law.
2. Enforced disappearances have increased greatly since the beginning of the conflict. By excluding victims from the scope of protection afforded by the law, government forces are spreading terror among the population. The number of disappeared and missing persons is nearly 60,000, according to local human rights organizations. The Syrian Human Rights Network has documented the names of 65,116 people, including 58,148 civilians forcibly disappeared between March 2011 and August 2015. Among the disappeared are 2,145 women and 3,879 children according to the network and the Violations Documentation Center in Syria. 53% of the disappeared have been missing for more than two years.
3. Authorities refuse to provide information or to admit to arrests. A dissident who was working with the Air Force Intelligence in the middle province until late 2012 noted that orders have been issued not to provide any information about prisoners to their relatives, according to the International Commission of Inquiry on Syria 2013. Among those who remained disappeared are individuals, such as Joan Abdul Rahman Khalid, a Kurdish activist who was arrested by officials of the State security in a raid of the Valley projects neighborhood in Damascus in September 2012, and entire families, such as Abdul Rahman Yasin and Rania Alabasi and their six children aged between three and fifteen years, and another woman who was with them when arrested by security forces in their home in March 2013. In 2014, government forces carried out mass arrests in Assal al-Ward in April, in the city of Homs in May and in Yabrood. This resulted in the enforced disappearance of adults of fighting age in areas that had fallen under their control, and elderly women and children in Bab Amr in Homs, in a counter-attack by the army on the city.

There are also reports of the disappearance of medical staff and people who are internally displaced and people who fled the violence.

Recommendations:

The Syrian Government should:

- a) Stop the kidnapping, hostage-taking and take specific steps to ensure accountability for those working in its ranks who commit violations.
- b) Establish DNA database for all the families of the missing.
- c) Take appropriate actions to protect potential mass graves in order to keep information that may be vital in any search for the truth in the future.
- d) Cooperate with the competent authorities in the United Nations and with the Human Rights Council mechanisms.
- e) Ratify the international convention for the protection of all persons from enforced disappearances.
- f) Ratify the Second Optional Protocol on Civil and Political Rights, the International Covenant.
- g) Ratify the Rome Statute of the International Criminal Court, which Syria signed in 2000.
- h) Provide information about the fate of the disappeared and deliver their bodies to their families in case they died.
- i) Provide lists of arrested persons to enable their families and their lawyers to review them at any time, identifying the location of their detention and the charges against them, disclose the names of people who died during the forced disappearance, and the settlement of their legal status.
- j) Include the concept of enforced disappearances in the Syrian Penal Code and the criminalization of enforced disappearance in the Syrian criminal law so as to prevent these acts being done with impunity.
- k) Ensure places of arrest and detention are subject to the necessary legal oversight and desist from detention in the security services that are difficult to be counted and are not subject to any control.
- l) Ensure the investigation and punishment of any security force involved in enforced disappearances.

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