

UPR Stakeholder Submission: Syrian Arab Republic

Second Cycle

Submitted in March 2016



1. This joint submission has been written by a coalition of 8 Syrian civil society organisations (CSOs)¹ in view of contributing to the second UPR of Syria.² All information contained herein is based on the research, documentation, and analyses we conducted in the period since the last review in October 2011. Both monitoring and documenting the human rights situation in Syria has become increasingly difficult and dangerous with the escalation of the conflict and repression against human rights defenders, lawyers, media workers, and others involved in the collection of information (see also sub-chapter C.6). As the risks grew, we nevertheless continued our work with the aim of establishing a basis for current and future initiatives to protect civilians and end impunity.

2. At the previous review, the authorities' violent response to peaceful assemblies and activism was among the main concerns of Recommending States, which was reflected in the wealth of recommendations to end arbitrary detention, torture, and the use of lethal force against protesters.³ These mechanisms of repression had already been practiced for decades under the legal cover of the State of Emergency, abolished in April 2011, but were carried over into ordinary law by a set of decrees that entered into force at the same time.

¹ EuroMed Rights (Euro-Mediterranean Human Rights network - EMHRN), Syrian Center for Legal research and Studies (SCLRS), Syrian Center for Statistics and research (SRC), Syrian Institute for Justice (JUSTICE -SIJ), Syrian League for Citizenship (SL4C), Syrian Network for Human Rights (SNHR), The Day After (TDA), Urnammu, Violations Documentation Center in Syria (VDC). *Please refer to Annex A for detailed description.*

² The writing of this report has been coordinated by the Euro-Mediterranean Human Rights Network (EuroMed Rights) and has been made possible with the funding of The European Union (EU).

³ Wherever deemed useful, recommendations will be referenced by paragraph and Recommending State as listed in Human Rights Council, *Report of the Working Group on the Universal Periodic Review of the Syrian Arab Republic (A/HRC/19/11)* 24 January 2012, para 100-103.

3. The scale of their application has since grown exponentially as the Government and its security services chose to respond to peaceful protests by resorting to the established procedures. The ensuing widespread abuses prepared the ground for a subsequent surge in violence and the transformation into the armed conflict with substantial international involvement that we see today. The contributing organisations wish to emphasise that armed conflict and alleged terrorist activity by no means relieve the Syrian government of its responsibility to respect international human rights and humanitarian law and to promote and protect the rights of its citizens.

4. Both war and repression are taking a heavy toll on civilians in Syria. While statistics of documented death of civilians since 2011 vary according to the methodology of counting and capacity to access data across Syria, we have documented between 95 500⁴ and 183 800⁵ individual cases of death amongst civilians, in addition to more than 48 000 to 65 000 persons' in detention whose fate remains unknown⁶, while estimation of the arbitrarily detained individuals reaches 150 000⁷. Deteriorating living conditions – also provoked by unlawful targeting of civilians (see sub-chapters C.1 and C.2) – have pushed millions of people to leave their home. Current estimates speak of 7,5 millions IDPs (more than 33 % of the population) and more than 5 millions refugees⁸, a majority of which remain in the neighbouring countries.

5. Within this context of widespread and systematic human rights violations that may amount to crimes against humanity and war crimes, writing a report summarising the events since October 2011 is not an easy exercise. The choice of topics has been made in relation to major recommendations accepted during Syria's first review⁹, while adding some of the contributing CSOs' priorities. In keeping with the purpose of a stakeholder submission we are focusing on the implementation of the obligations of the State under Review, including, wherever appropriate, the actions of affiliated forces.¹⁰

A. Background and Framework

1. Scope of International Obligations

6. At the previous UPR, Syria accepted the recommendation to accede to the 1951 Refugee Convention on Refugees and its 1967 Optional Protocol¹¹, but has failed to implement this pledge. Reservations to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) have remained unchanged, despite the promise to lift them.¹² With regard to its

⁴ Source: Violations Documentation Center in Syria (VDC), March 2016

⁵ Source: Syrian Network for Human Rights (SNHR), March 2016

⁶ Source: Violations Documentation Center in Syria (VDC), March 2016

⁷ Source: Syrian Center for Legal Research and Studies (SCLRS), March 2016

⁸ Source: UNHCR <http://data.unhcr.org/syrianrefugees/regional.php> (accessed on 15 March 2016)

⁹ Besides the recommendations listed as accepted in the *Report of the Working Group on the Universal Periodic Review of the Syrian Arab Republic* (n3), other recommendations have been accepted, as noted in Human Rights Council, *Report of the Human Rights Council on its nineteenth session (A/HRC/19/2)* 24 May 2013, para 604-638.

¹⁰ Contributors have extensively worked on violations committed by all sides to the conflict on other opportunities.

¹¹ 103.2 (Peru)

¹² 100.37 (Mexico)

reservations to the Convention on the Rights of the Child (CRC), Syria simplified their wording, but essentially maintained them.¹³

7. *In addition to the implementation of these recommendations, we recommend that the Syrian authorities:*

- *Ratify the Rome Statutes and the Additional Protocol II to the four Geneva Conventions of 1949;*
- *accede to the International Convention for the Protection of All Persons from Enforced Disappearance (CED), the Optional Protocol to the Convention against Torture (CAT), and the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR);*
- *withdraw all reservations to the CEDAW. This concerns in particular the provisions contained in Article 9.2, which would be a first step towards providing women with the possibility to pass on their nationality to their children.*

2. Constitutional and Legal Framework

8. In February 2012, a new Constitution¹⁴ was adopted following a drafting process by a president-appointed committee. This can safely be considered one of many missed opportunities to start an inclusive national dialogue that may have laid the foundations for a sustainable political solution.¹⁵

9. With regard to the changes made in comparison to the previous text, the 2012 Constitution incorporates a few positive changes, such as the introduction of a multi-party system, but they have had no significant effect in reality. This was obvious, for example, during the deeply flawed presidential elections in June 2014, where Bashar Al-Assad won his third term with an 88.7% majority. We therefore consider relevant UPR recommendations not to have been implemented.¹⁶

10. Other provisions remain essentially untouched. This includes the articles, which continue to form the basis for the prevailing culture of impunity. Among others, they enshrine provisions that undermine the independence of the judiciary (e.g. articles 133 and 141) and make it quasi impossible to hold the President to account for acts committed during his term (article 117).¹⁷ Already by examining the Constitution, we therefore have to conclude that the Syrian authorities have failed to “[e]stablish an independent and impartial judiciary system.”¹⁸

11. With regard to the question of impunity of military and security personnel, the Military Procedure Law (1950) and the State Security Management Act (1969) remain in force. Accordingly, no member of the armed forces or the security services can be prosecuted without

¹³ 103.7 (Uruguay)

¹⁴ For an English translation of the text, see: *Constitution of the Syrian Arab Republic*, adopted by referendum on 27 February 2012, http://sana.sy/en/?page_id=1489 (accessed 12 March 2016)

¹⁵ For a more detailed discussion of the topic and a list of related recommendations accepted during the first UPR, see sub-chapter C.7.

¹⁶ 100.14 (Maldives)

¹⁷ SCLSR, *Syria: Land of Impunity*, February 2016, <http://www.sl-center.org/news/48?language=english> (accessed 10 March 2016).

¹⁸ 101.19 (Switzerland)

the authorisation of the Minister of Defence or the Director of the State Security Department, respectively. In addition, Legislative Decrees 14/1969 and 69/2008 grant immunity for members in the security forces for all acts committed while in duty. A 2011 amendment to the Criminal Code further extends protection from being held accountable for crimes committed while on duty to regular police forces.¹⁹ Although Syria accepted a recommendation to “[r]eform the legal system so as to entrench accountability of the military and the security apparatus”²⁰ in reference to the Constitution’s article 154, which provides for all laws to be brought into conformity with the Constitution by February 2015, these laws remain in force.

12. With regard to recommendations accepted²¹ in view of working towards the incorporation of the provisions of applicable international instruments into domestic legislation, including ICCPR, CEDAW, CAT, or the CRC, we have not been able to note progress. This lack is particularly notable considering the absence of a definition of torture in line with the CAT²² and the failure to “undertake reforms of the judicial system to ensure that the procedures are in conformity with international standards for an equitable judgment.”²³

13. *As a remedy we continue to recommend that the Syrian authorities:*

- *incorporate the principles and provisions of the international instruments ratified by the Syrian government into national legislation, as recommended, among others, by the Committee against Torture. This includes the amendment of Article 391 of the Syrian Criminal Code, as amended, to contain an accurate definition of torture.*

3. National Human Rights Framework

14. Despite accepting recommendations to establish a national human rights institution (NHRI)²⁴, we have no knowledge of the existence of such an instance in Syria.

15. It has to be noted that the Syrian authorities repeatedly announced the creation of specialised bodies to investigate or otherwise address widespread human rights abuses and violence in its territory. This includes, for example, the National Independent Legal Commission (established in March 2011) or the Minister of State for National Reconciliation Affairs (established by decree No. 210 of 2012). Their work is, however, neither conducted in a transparent and independent manner, nor is it extensive, and thus lacks credibility. In some instances, they are further discredited by rampant corruption, with requests for support only being accepted after the payment of bribes.²⁵

16. A substantial part of their activities to address the problem of missing persons, for example, has thus far been focused on the facilitation of prisoner exchanges. With time and the emergence of patterns in the negotiation of prisoner exchanges, the role of prisoners has slowly evolved to resemble bargaining chips or hostages. Families report to have paid large amounts to obtain a relative’s release in the context of such deals and especially women seem to be kept in

¹⁹ SCLSR (n13)

²⁰ 102.12 (Netherlands)

²¹ 100.2 (Maldives); 102.1 (Poland); 103.4 (Peru); 103.10 (Switzerland)

²² 103.5 (Brazil); 103.6 (Mexico)

²³ 101.20 (Belgium)

²⁴ 100.7 (Indonesia); 100.8 (Poland); 100.9 (Bolivia)

²⁵ Source : URNAMMU

government-run prisons to strengthen the authorities' position during negotiations.²⁶ The way in which these negotiations were conducted therefore further undermined the rule of law and instead of contributing to reconciliation, they further deepened political and sectarian divisions.²⁷

17. We thus submit that recommendations with regard to independent and effective investigations into the human rights violations and acts of violence have not been implemented.²⁸

18. *With regard to the national human rights framework, we therefore recommend that the Syrian authorities:*

- *Establish a national independent commission of inquiry, composed of a combination of respected international figures and independent, credible Syrian figures to be entrusted with the task of documenting war crimes, serious violations of international human rights law, and crimes against humanity committed by all parties to the conflict in Syria following the 2011 uprising;*
- *Create a national reparations programme for both individual and collective reparations to all civilians affected by the conflict, which include nonmonetary assistance for individuals located throughout Syria;*
- *In the meantime, take concrete measures to fight and prevent corruption within its institutions, particularly those involved in initiatives that aim at addressing the effects of the conflict and the human rights violations committed in this context.*

B. Cooperation with Human Rights Mechanisms

19. During the last UPR in 2011, the Syrian authorities accepted recommendations regarding the cooperation with the **Independent International Commission of Inquiry on Syria** established by the Human Rights Council²⁹ and to grant it unhindered access to its territory.³⁰ However, the Syrian authorities continue to prevent visits by the Commission of Inquiry and therefore failed to implement the recommendations.

20. Syria participated in one review before one of the UN human rights **treaty bodies** since the last UPR, but remains late on all other reporting obligations. Additionally, it refused to participate in a special review called by the Committee against Torture, which it conducted in May 2012. It therefore failed to implement accepted recommendations regarding the submission of overdue periodic reports³¹ and cooperation with treaty bodies in general.³²

21. As for the authorities' cooperation with the **special procedures** of the Human Rights Council, we have noted among others the absence of visits of the Working Group on

²⁶ EuroMed, *Detention of Women in Syria: A weapon of war and terror Report on Women Detainees*, May 2015, <http://euromedrights.org/publication/detention-of-women-in-syria-a-weapon-of-war-and-terror/> (accessed 12 March 2016)

²⁷ SCR, *The Negotiations Process in the Syrian Conflict: Routes and Results*, September 2014

²⁸ 100.39 (Russian Federation); 102.4 (Thailand); 102.6 (South Africa); 102.9 (Spain)

²⁹ 103.12 (Brazil); 103.13 (Slovenia); 103.15 (Thailand); 103.16 (Norway); 103.17 (Chile); 103.19 (Republic of Korea); 103.20 (Germany); 103.23 (Guatemala)

³⁰ 102.11 (United Kingdom); 103.14 (Switzerland); 103.18 (Maldives); 104.26 (Norway); 104.27 (United States)

³¹ 100.34 (Iran);

³² 100.6 (Malaysia); 103.15 (Thailand); 103.19 (Republic of Korea)

Enforced or Involuntary Disappearances, the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, or the Special Rapporteur on human rights defenders despite their repeated request for visits. In addition, URNAMMU notes that of 45 cases it submitted to the Working Group on Enforced or Involuntary Disappearances, the Syrian authorities provided information only for 6 cases, most of which was incomplete or erroneous. It must be noted that the UN Secretary General Special Representative on Sexual Violence in Conflict was authorized to conduct a field visit to Syria in mid-2015. However, we note that the visit was carried out under the strict scrutiny of Syrian military intelligence. We therefore consider that Syria failed to implement accepted recommendations in this regard.³³

22. *With regard to the information above, we recommend that the Syrian authorities:*

- *fully cooperate with the Commission of Inquiry and allow it to access its territory;*
- *submit all pending reports to treaty bodies, participate in treaty body reviews, implement their recommendations, and report on the measures taken in view of the implementation;*
- *accept requests for visits by special procedures, especially the Special Rapporteur on torture, facilitate their visits, and extend a standing invitation to all special procedures; provide comprehensive and truthful information on all individuals whose situation is brought to their attention by the special procedures in view of ending ongoing violations as well as providing protection and redress.*

C. Human Rights Situation on the Ground

1. Prohibited Weapons and Prohibited Use of Weapons

23. Five years of repression and conflict have taken a heavy toll on the civilian population in Syria. Casualty counts put the number of deaths since the March 2011 at 250 000.³⁴ Behind this statistical value hide the agony of a population terrorised by, among others, the use of chemical weapons, weapons that are by nature indiscriminate, and the indiscriminate use of weapons, as well as the targeting of civilian facilities protected by customary international humanitarian law (IHL). The information collected by the contributing organisations and referenced below points, among others, to government and government-affiliated forces as responsible for the commission of these war crimes.

24. One of the best-documented instances where **chemical weapons** were used is the attacks on suburbs of Damascus on 21 August 2013.³⁵ Carrying chlorine gas, the bombs that were dropped on Zamalka, Ein Tarma, and Moadamieh caused over 1500 deaths of persons with symptoms such as choking, suffocation. Around 67% of the victims were reported to be women and children, who are more vulnerable to the chemical agents compared to adult men. This

³³ 100.6 (Malaysia); 103.15 (Thailand); 103.19 (Republic of Korea); 103.21 (Guatemala); 103.24 (Slovenia); 103.25 (Belgium)

³⁴ Source: UN Security Council, August 2015, <http://www.un.org/press/en/2015/sc12008.doc.htm> (accessed on 12 March 2016)

³⁵ CSR, *Chemical Weapons in Damascus Countryside*, Sept 2013, <http://www.csr-sy.com/index.php?action=readMore&clD=553&l=1> (accessed 12 March 2016); VDC, *Special Report on Use of Chemical Weapons in Damascus Suburbs*, August 2013, <http://www.vdc-sy.info/index.php/en/reports/chemicaldamascussuburbs#.VuVlyBjpxE4> (accessed 12 March 2016)

instance was, however, neither the first nor the last attack of this nature for which the Syrian Government bears full responsibility.

25. With the prolongation of the conflict, we observed the increasing use of **other weapons that are by nature indiscriminate**. Syrian armed forces resorted increasingly to the use of so called barrel bombs – improvised devices made of metal containers filled with explosives and small items such as shrapnel or incendiary substances³⁶, which are dropped out of helicopters without particular targeting mechanism. The VDC, for example, documented the killing of 6589 civilians due to the use of barrel bombs until May 2015.³⁷ The SNHR reports that 99% of the individuals killed by barrel bombs are civilians.³⁸ In addition, the contributing organisations have on numerous occasions documented the use of cluster bombs.³⁹ With the start of the joint Russian-Syrian military operations, the increasing use of cluster and vacuum bombs took their toll on the civilian population in northern Syria.⁴⁰

26. The high numbers of civilian casualties, including women and children, are also an effect of the **indiscriminate use of conventional weapons**. Aerial bombardment of densely populated areas or surface-to-surface shelling of opposition-held neighbourhoods are common both before and after the involvement of foreign forces.⁴¹ Deliberate **targeting of civilian facilities** such as

³⁶ For the use of IEDs with incendiary substances, see VDC, *Flash Report: Over Seventy Cylinder Bombs loaded with incendiary substances Falls on Daraya City*, August 2015, <http://www.vdc-sy.info/index.php/en/reports/1440027730#.VuFv2hjpxE4> (accessed 12 March 2016)

³⁷ VDC, *Flash Report: The Use of Barrel Bombs in Syria: An Indiscriminate Weapon, Thousands of Civilian Casualties*, June 2015, <http://www.vdc-sy.info/index.php/en/reports/1435353368#.VuFwbjpxE4> (accessed 12 March 2016)

³⁸ SNHR, *More than 6524 Barrel Bombs Dropped on Syria since the Russian Military Intervention: 1286 Barrel Bombs Killed Two Civilians, including a Woman in February 2016*, March 2016, http://sn4hr.org/wp-content/pdf/english/1286_explosive_barrels_in_February_2016_en.pdf (accessed 21 March 2016)

³⁹ VDC, *Press Statement: Tseel Town is exposed to a Number of Attacks by the Internationally Prohibited Cluster Bombs*, May 2014, <http://www.vdc-sy.info/index.php/en/reports/1399119053#.VuGFirjpxE4> (accessed 12 March 2016)

⁴⁰ SNHR, *The Legal Outcomes of the Russian Intervention: Compensation and Accountability is a Must*, March 2016, http://sn4hr.org/wp-content/pdf/english/Russian_intervention_Harvest_in_Syria_en.pdf (accessed 21 March 2016); VDC, *Press Release: Russian Airstrikes Kill Hundreds of Civilians by Cluster Munitions and Vacuum Bombs*, November 2015, <http://www.vdc-sy.info/index.php/en/reports/1447972413#.VuVoRBjpxE5> (accessed 12 March 2016)

⁴¹ VDC, *Martyred Children*, April 2013, <http://www.vdc-sy.info/index.php/en/reports/children#.VuFXcRjpxE4> (accessed 12 March 2016); VDC, *Updated Flash Report: Carnage in Douma! : "Deliberate Killing of More than Sixty Civilians"*, August 2015, <http://www.vdc-sy.info/index.php/en/reports/1440664134#.VuFaOBjpxE4> (accessed 12 March 2016); VDC, *Flash Report about Tuesday and Thursday's Massacre in Raqqa: Horrific Indiscriminate Attacks against Civilians*, November 2014, <http://www.vdc-sy.info/index.php/en/reports/1418246112#.VuFvOhjpxE4> (accessed 12 March 2016); VDC, *"Shelling of Civilian Homes in the Northern Suburbs of Homs": Flash Report on Russian Airstrikes in Syria on 30 September 2015*, November 2015, <http://www.vdc-sy.info/index.php/en/reports/1444252328#.VuFX7RjpxE4> (accessed 12 March 2016)

hospitals⁴², bakeries⁴³, schools⁴⁴, places of worship⁴⁵, monuments and archaeological sites have caused additional hardship to civilians. Apart from the fact that bombardment of these places are likely to cause loss of civilian lives, they represent a violation of the rights to health, adequate standards of living, and education.

27. *In view of ending the widespread and systematic violations of international humanitarian law, we recommend that the Syrian authorities:*

- *Seize the use of chemical weapons and respect its obligations under the Geneva Protocol of 1925 and ban the use of chemical and biological weapons falling within the scope of prohibited materials under the Protocol;*
- *Take immediate measures to ensure that neither its own nor affiliated forces use indiscriminate weapons, including barrel, cluster, and vacuum bombs;*
- *Take immediate measures to ensure that neither its own nor affiliated forces conduct indiscriminate attacks that may result in the disproportionate loss of civilian lives, in particular on densely populated areas and civilian facilities.*

2. Besieged Areas

28. Sieges, mostly imposed on opposition-held areas by governmental and government-affiliated forces, have become a distinctive character of the conflict in Syria. First restrictions placed on access to areas in Homs or the suburbs of Damascus were observed around May 2012. Over the following months, the blockades were gradually tightened to prevent the entry of food, water, and medical supplies. By the late 2012, areas including the old city of Homs, Moadamieh and Yarmouk were effectively cut off from water supplies, food and fuel was hardly available, and even the most essential medical equipment and medication ran out. The urgency of the situation was accentuated by frequent indiscriminate shelling despite the presence of civilians, including with chemical weapons, and the destruction of vital facilities, such as hospitals and clinics. Relief agencies have rarely been granted access to provide humanitarian aid into these areas.⁴⁶

⁴² VDC, *A Special Report on the Medical Conditions in Aleppo: Including the Violations against the Medical Cadres*, May 2014, <http://www.vdc-sy.info/index.php/en/reports/1401644133#.VuF0-BjpxE4> (accessed 12 March 2016); VDC, *A Special Report on the Massacre of Khalid Bin AlWalid for Maternity and Children Hospital, Waer Neighborhood – Homs*, November 2013, <http://www.vdc-sy.info/index.php/en/reports/1385329563#.VuGAWRjpxE4> (accessed 12 March 2016); VDC, *A Special Report on: The Medical Situation in Eastern Gouta - Damascus Suburbs*, November 2013, <http://www.vdc-sy.info/index.php/en/reports/1383565710#.VuGA6BjpxE4> (accessed 12 March 2016)

⁴³ SNHR, *The Syrian Network for Human Right- casualties Report-35 Bakery were targeted as a definitive evidence for the willful killing of civilians*, January 2013, <http://sn4hr.org/blog/2013/01/20/syrian-network-human-right-casualties-report-35-bakery-targeted-definitive-evidence-willful-killing-civilians/> (accessed 12 March 2016)

⁴⁴ VDC, *The Report of Al-Maghara School's Massacre*, June 2013, <http://www.vdc-sy.info/index.php/en/reports/maghara#.VuGDChjpxE4> (accessed 12 March 2016)

⁴⁵ SNHR, *Targeting Christian Places of Worship in Syria: 63% have been targeted by government's forces*, May 2015, <http://sn4hr.org/blog/2015/05/07/6767/> (accessed 12 March 2016); SNHR, *Targeting Mosques by Syrian Government's Armed Forces*, June 2013, <http://sn4hr.org/blog/2013/06/11/targeting-mosques-by-syrian-governments-armed-forces/> (accessed 12 March 2016)

⁴⁶ See, for example: SCR, *Moa'damieyet*, Sept 2013, <http://www.csr-sy.com/index.php?action=readMore&cID=550&l=1> (accessed 10 March 2016); SCR, *Homs*, April 2014,

29. Although Syria is not a signatory to Additional Protocol II of the Geneva Conventions, which prohibits starvation as a method of warfare in non-international armed conflict, the principle has been established as a rule of customary IHL and is therefore applicable in the Syrian context.⁴⁷ By extension, “attacking objects indispensable to the survival of the civilian population”, “denying access of humanitarian aid intended for civilians in need, including deliberately impeding humanitarian aid” and “restricting the freedom of movement of humanitarian relief personnel” are also prohibited.⁴⁸ The actions of government and government-affiliated forces that the contributing organisations have documented therefore constitute war crimes.

30. For the purpose of this stakeholder submission, we add that the sieges attest to the failure of the Syrian authorities to implement recommendations⁴⁹ with regard to access for humanitarian agencies to the civilian population in need. Targeting civilian facilities such as schools and hospitals⁵⁰ and effectively destroying the local economy further violates the concerned populations’ right to adequate standards of living, health, and education. Recommendations on the improvement of services in this area can therefore not be considered to have been fully implemented.⁵¹

31. *In view of ending this military strategy that inflicts severe suffering on the civilian population, we recommend that the Syrian authorities:*

- *Implement all relevant Security Council resolutions, particularly those relating to humanitarian aid;*
- *Immediately lift the blockade on all besieged areas and facilitate the arrival of humanitarian aid and assistance without restrictions, and in particular to the areas most affected by the conflict.*

3. Arbitrary Arrests, Death in Custody, Torture, and Detention Conditions

32. In an attempt to quell the protest movement emerging after mid-March 2011, the authorities had started to reproduce their habitual response to political opposition on a larger scale already before the previous UPR of Syria. Reports on the **death of protesters**⁵² and military-supported **arrest campaigns** emerged.⁵³ During some of these campaigns, stadiums and schools

<http://www.csr-sy.com/index.php?action=readMore&CID=570&l=1> (accessed 10 March 2016); VDC, *A Special Report on the Siege of Yarmouk Camp in Damascus and Mo'adamieh City in Damascus Suburbs: Forgotten under siege*, September 2013, <http://www.vdc-sy.info/index.php/en/reports/1379660373#.VuGBuxjpxE4> (accessed 10 March 2016)

⁴⁷ Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Humanitarian Law* (Cambridge University Press 2005) 186

⁴⁸ *ibid* 198-202

⁴⁹ 100.26 (Malaysia); 100.27 (Thailand); 101.5 (Poland); 104.26 (Norway); 104.27 (United States); 104.28 (Australia)

⁵⁰ VDC, *A Special Report on: The Medical Situation in Eastern Gouta - Damascus Suburbs*, November 2013, <http://www.vdc-sy.info/index.php/en/reports/1383565710#.VuGA6BjpxE4> (accessed 10 March 2016)

⁵¹ 100.33 (Russian Federation)

⁵² See, for example, VDC, *Dignity Revolution’s Martyrs in Darayya, Rif Dimashq*, January 2013, <http://www.vdc-sy.info/index.php/en/reports/darayya#.VuNJZhjpxE4> (accessed 11 March 2016)

⁵³ See, for example, VDC, *Report: Martyrs of Dignity in Khan Shiekhon/Idleb*, December 2012, <http://www.vdc-sy.info/index.php/en/reports/khansheihoun#.VuNBORjpxE4> (accessed 11 March 2016);

were used to hold the arrestees as regular detention centres rapidly reached their capacity, which attests to the indiscriminate manner in which residents were taken away. Recommendations⁵⁴ to investigate specific deaths in custody and the killing of thousands of peaceful protesters have not been implemented.

33. The number of those **arbitrarily detained** in relation to their exercise of the right to freedom of expression and peaceful assembly or otherwise imprisoned arbitrarily remains high despite numerous recommendations on the topic.⁵⁵ In March 2014, for example, the SNHR counted 130'000 detainees based on interviews with former detainees⁵⁶ while the VDC's database provides information on 63078 cases of arbitrary detention, which the VDC documented between 15 March 2011 and 11 March 2016.⁵⁷ At least 48863 of these individuals continue to be held by Government forces.⁵⁸

34. With the surge in the number of detainees, the authorities at the very least accepted, if not actively encouraged, the **deteriorating detention conditions**. Overcrowding, malnourishment, lack of access to health care and sanitation have become commonplace. Numerous deaths due to starvation and illness have been documented.

35. Far more common as a direct or indirect cause of death in custody is, however, **torture**. An extensive report by the VDC mentions hundreds such cases in one of Damascus' Military Intelligences branches by September 2013. Together with extrajudicial and arbitrary executions, withholding of medical care, and otherwise inhuman detention conditions, the report estimates 3'000 deaths within the first two-and-a-half years in this detention facility alone.⁵⁹ By June 2015, the SNHR counted 11'429 deaths under torture, 99% of which can be attributed to government and government-affiliated forces.⁶⁰ The evidence collected suffices to conclude that the Syrian government has failed to implement recommendations⁶¹ aimed at ending the widespread and systematic practice of torture.

36. The pre-eminence of the practice of torture and arbitrary detention is, amongst others, aided by the absence of measures to afford **legal safeguards** to all detainees from the outset of their detention. Prompt access to a lawyer, independent medical examinations and the possibility to notify a relative of their arrest is denied to many people taken into custody, which points to

⁵⁴ 102.5 (United Kingdom); 102.10 (Poland)

⁵⁵ 101.10 (Spain); 101.11 (Norway); 101.12 (Poland); 101.13 (Switzerland); 101.14 (Uruguay); 101.15 (Sweden); 101.16 (Chile)

⁵⁶ SNHCR, *Prisoners in Syria*, March 2014, <http://sn4hr.org/blog/2014/03/19/468/> (accessed 10 March 2016)

⁵⁷ This period starts with the first demonstrations in Syria and ends at the time of writing of this report.

⁵⁸ VDC, 'Detainees', <http://www.vdc-sy.info/index.php/en/detainees/1/c29ydGJ5PWEuaTN0ZXFhbF9kYXRlFHNVcnRkaXI9REVTQ3xhcHByb3ZlZD12aXNpYmxlfGV4dHJhZGlzcGxheT0wfHN0YXJORGFOZT0yMDExLTAzLTExfGVuZERhdGU9MjAxNi0wMy0xMXw=> (accessed 11 March 2015)

⁵⁹ VDC, *A Report on Branch 215, Raid Brigade, Military Intelligence Division – Damascus: "A Conflict Between Death and Hope"*, September 2013, <http://www.vdc-sy.info/index.php/en/reports/1380463510#.VuPquhjpX5> (accessed 11 March 2016)

⁶⁰ SNHR, *International Day in Support of Victims of Torture: Almost Twelve Thousands Victims of Death by Torture in Syria*, June 2015, <http://sn4hr.org/blog/2015/06/26/8417/> (accessed 12 March 2016)

⁶¹ 101.9 (Sweden); 102.2 (Belgium); 102.3 (Norway); 102.8 (Republic of Korea); 103.10 (Switzerland)

the failure of the authorities to implement some recommendations accepted during the previous UPR.⁶²

37. Particular efforts have been made to highlight the situation of **women** in detention.⁶³ While some have been arrested for participation in protests, media related activity, relief work or documentation of human rights abuses, others have been arrested to exert pressure on, or retaliate against, close relatives. Held in similar detention conditions as their male co-detainees, often guarded only by male prison staff, they are exposed to additional risks of abuse and under certain circumstances more affected by the lack of healthcare and access to sanitation. The latter are particular problematic for pregnant women or during menstruation.

38. Apart from common methods of torture, reports of women subjected to **sexual abuse and rape** have grown more frequent over time. Although not all women detainees are concerned by such practices, the assumption that all women are raped in prison prevails. The ensuing stigmatisation affects first and foremost the women themselves, but harms also their relationship to relatives and friends. The potential of this stigmatisation to tear deep wounds in to the fabric of society is consciously exploited by governmental and government-affiliated forces. Recommendations to protect women and girls from violence have in these cases clearly not been implemented.⁶⁴

39. Another particularly vulnerable group of detainees are **children**. By November 2014, the VDC documented 1380 detained children, hundreds of which remained in custody at that time. In addition, the organisation collected information on 112 cases in which children were tortured to death, two of which were girls.⁶⁵ This serves as a direct indication that the Syrian authorities failed to protect children from the inhuman treatment at the hands of the security services under its responsibility.⁶⁶

40. *In view of ensuring the cessation of all violations regarding arbitrary detention, torture and inhumane detention conditions, we recommend that the Syrian authorities:*

- *Fully respect the right to freedom of peaceful assembly and association, investigate all violations against the latter and hold their perpetrators to account;*
- *Release all persons arbitrarily in accordance with the Resolution 2139 adopted by the Security Council;*
- *Take all measures necessary to end overcrowding in all places where actors under its responsibility keep detainees and ensure that those detained in accordance with international norms and standards are held in appropriate facilities and conditions;*

⁶² 101.17 (Spain); 101.18 (Ploand)

⁶³ See, for example, VDC, *Press Statement: Adraa Women's Prison is turning into Just another Security Branch*, September 2013, <http://www.vdc-sy.info/index.php/en/reports/1379945097#.VuQksRjpxE4> (accessed 11 March 2016). See also EMHRN, Report "Detention of Women in Syria, a weapon of war and terror", June 2015

⁶⁴ 100.30 (Vietnam); 102.8 (Republic of Korea);

⁶⁵ VDC, *On the Universal Children's Day: Daily Violations against Children's Rights are Committed in Syria*, November 2014, http://www.vdc-sy.info/index.php/en/reports/1416486971#.Vu_sdRjpxE5 (accessed 21 March 2016)

⁶⁶ 100.30 (Vietnam); 100.41 (Bangladesh); 101.7 (Chile)

- *Allow immediate and unconditional access for any independent, impartial, and neutral organization that enjoys international credibility to inspect and visit all prisons and detention facilities in Syria;*
- *Take all necessary measures to ensure that no court decision can be rendered on the basis of confessions or statements made under torture*
- *Take all measures necessary to protect particularly vulnerable groups of detainees, in particular women and children.*

4. Enforced Disappearance

41. The prevailing culture of impunity, the absence of legal safeguard to protect detainees, and the lack of oversight mechanisms for places of detention contribute to the atmosphere in which not only the numbers of arbitrary detentions, but also **enforced disappearances** grow into the tens of thousands. While the SNHR estimates that 65'000 people had been forcibly disappeared by August 2015, the VDC has thoroughly documented more than 48 000 cases⁶⁷ and the SCSR 1451 cases⁶⁸ by the time of writing of this report. All say that the real number of disappearances is likely closer to the SNHR estimates and therefore attest to the failure to implement recommendations to end the practice of enforced disappearance and provide information on the whereabouts of the disappeared.⁶⁹

42. In addition to placing the forcibly disappeared person at heightened risk of extrajudicial execution, torture, and other forms of abuse, the fact of being held without contact to the outside world is in itself recognised as a form of torture. Similarly, not knowing the fate of missing family members constitutes a form of torture in itself⁷⁰. These abuses cannot be expected to be resolved with an eventual end of hostilities, as they will remain an ongoing source of suffering for those concerned until the fate of the missing has been clarified.

43. *With regard to the issue of enforced disappearances, we recommend that the Syrian authorities:*

- *Amend national legislation to include a definition of enforced disappearances in accordance with international standards and criminalize enforced disappearance in the in view of preventing impunity for perpetrators;*
- *Immediately disclose the fate of all persons detained incommunicado which amount to enforced disappearance by allowing those regular access with family members, legal counsel and medicals.*
- *Take all necessary measures to establish the fate and whereabouts of the disappeared, including the publication of a full and official list of prisoners' names to determine the persons still held in custody, provide any relevant information to the relatives of those disappeared, and hold perpetrators to account.*

⁶⁷ VDC, <http://www.vdc-sy.info>, (accessed 11 March 2016)

⁶⁸ SCR, ,Missing', http://www.csr-sy.org/?l=1&sons=redirect&id=185&act=search&sequence=&name=&father_name=&surname=&incident_state=&incident_town=&incident_date_from=&incident_date_to= (accessed 11 March 2016)

⁶⁹ 101.17 (Spain); 102.8 (Republic of Korea)

⁷⁰ See for instance: Report of the Working Group on Enforced or Involuntary Disappearance, UN ESCOR, 39th sess, Agenda Item 10(b), UN Doc E/CN.4/1983/14 (21 January 1983)

5. Administration of justice, including impunity, and the rule of law

44. During the previous UPR, Syria accepted the recommendation “to establish an independent and impartial judiciary system”⁷¹ as well as various recommendations regarding legislative reform to ensure that its laws and procedures are in conformity with international norms and standards, in particular article 14 of the ICCPR.⁷² Legal provisions and common practices that prevent immediate access to effective legal counsel or allow for confessions extracted under torture to be used as evidence in court remain, both within the ordinary court system as well as in specialised courts.

45. Turning to the question of specialised courts, we wish to first and foremost point to the **Counterterrorism Court (CTC)**, established by Decree No. 22 in June 2012.⁷³ The decree itself already incorporates a provision exempting the court from respecting the procedural rights of the defendants in a similar way as the law establishing the CTC’s predecessor, the Syrian State Security Court. As a result, the contributing CSOs have learned of numerous instances where procedural rights of defendants as enshrined in article 14 of the ICCPR were breached. The most common violations include the use of confessions extracted under torture, the failure to open investigations into allegations of torture as well as excessive periods of pre-trial detention.

46. In addition, the CTC mainly bases its judgements on Law 19 of 2012, also known as the Anti-Terrorism Law. The text contains broad provisions that are routinely used to prosecute peaceful activists, human rights defenders, and journalists for activities that fall under their legitimate right to exercise their freedom of expression and peaceful assembly and association. Apart from resulting in numerous arbitrary detentions, this also establishes the failure of the Syrian government to implement recommendations regarding the protection of these freedoms.⁷⁴

47. The second specialised jurisdiction that gives rise to concern are the **military field courts**. Their legal basis is Decree No. 109 of 1968, which doesn’t provide for a possibility to appeal and exempts the judges, all military personnel, from respecting procedural right. It is estimated that the courts treat the cases of about 40’000 individuals, half of whom are being considered in absentia. Initially designed to try only military personnel, many of the defendants are now civilians. Their proceedings are characterised by their extreme secrecy and the fact that many defendants are sentenced to death in a blatant breach of their right to life.

48. This adds a different aspect to culture of impunity discussed above with regards to flaws in the 2012 Constitution and domestic initiatives to investigate the excessive use of force against civilians (see sub-chapters A.2 and A.3). The failure of courts to investigate and prosecute alleged violations of security and military personnel further entrenches the lack of accountability and

⁷¹ 101.19 (Switzerland)

⁷² 101.1 and 101.20 (Belgium), 101.18 (Poland); 102.12 (Netherlands)

⁷³ See, among others: SCLSR, *The Terrorism Of Courts In Syria: The Court of Terror, Military Field Courts, Courts and Islamic Legitimate Bodies*, August 2015, <http://www.sl-center.org/news/40?language=english> (accessed 11 March 2016); VDC, *Counter-Terrorism Court in Syria: a Tool for War Crimes*, April 2015, <http://www.vdc-sy.info/index.php/en/reports/1430186775#.VuQ68xjpxE6> (accessed 12 March 2016)

⁷⁴ 100.42 (Russian Federation); 100.43 (Netherlands); 100.44 (Russian Federation); 101.21 (Japan); 101.22 (Brazil); 101.23 (Poland); 101.24 and 101.25 (United Kingdom); 101.26 (Poland); 102.13 (Switzerland); 104.30 (France)

perpetuates the widespread and systematic practice of arbitrary detention, torture, enforced disappearance and arbitrary deprivation of life. The relevant recommendations emanating from the previous UPR have therefore not been implemented.⁷⁵

49. Lastly, we have no knowledge of instances where courts have acknowledged any of the violations above and accorded the victim redress and reparations and therefore consider the recommendations made in this regard at the previous UPR as not implemented.⁷⁶

50. *In view of improving the administration of justice and issues related to impunity, we recommend that the Syrian authorities:*

- *Respect its obligation under Article 3(d) common to the four Geneva Conventions relative to the prohibition of sentencing to, and implementation of, executions without a trial before a regularly constituted court;*
- *Immediately suspend the enforcement of capital punishment on basis of decisions issued by any military or civil criminal court*
- *Abolish all special courts, and in particular the CTC;*
- *Ensure that its judicial instances open investigations into violations committed by its own and affiliated forces, prosecute the perpetrators and, wherever applicable, pronounce appropriate sentences.*

6. Threats to the Work of independent Civil Society Groups

51. In addition to the targeting of civilians, civilian facilities, and the abuse and killing of protesters as discussed above (see sub-chapters C.1-C.5), some exponents of civil society have been exposed to additional threats emanating from governmental and government-affiliated forces by virtue of their work. This includes in particular Human Rights Defenders (HRDs), journalists and media workers, and lawyers as well as medical and aid workers. We are dedicating one sub-chapter to the difficulties that these professions and activities face as rendering their work impossible has substantial adverse effects on the rest of society.

52. Firstly, we are particularly concerned by the numerous cases of physical attacks on, and targeted killings of, such civil society actors. While five years ago peaceful protesters, media workers, and HRDs were among those most affected by extrajudicial killings, we have seen a rise in attacks on medical and aid workers over time. We have no knowledge of impartial and effective investigations into their deaths, which points to the failure of the Government to implement recommendations in this regard.⁷⁷

53. Secondly, we continue to document the arbitrary arrest and detention of many of our colleagues as well as of others working towards the alleviating the suffering of the Syrian population. Many have been referred to the CTC and subjected to a blatantly unfair trial. Others have otherwise been tried without regard for due process or were released without trial altogether. For others', the contact with the outside world was lost after their arrest and they remain in a state of enforced disappearance.

⁷⁵ 102.7 (Switzerland); 102.12 (Netherlands)

⁷⁶ 100.40 (Malaysia)

⁷⁷ 100.43 (Netherlands); 102.10 (Poland);

54. Thirdly, we have been alerted to cases where governmental or government-affiliated forces were not able to arrest the targeted person. Instead, relatives have been detained or disappeared to exert pressure on the person concerned.

55. The last practice that we note at times concerns the sources of income of the persons involved in, or suspected of involvement in, undesired activities. Over the years, we have collected cases where they or their relatives lost employment in governmental agencies or where employers in the private sector were pressured by security services to lay off the person concerned.⁷⁸

56. All these practices undermine the exercise of the right to freedom of expression and to freedom of association and peaceful assembly and constitute violations of the right to life, liberty and security of person. In addition, they may result in a breach of the individuals' economic and social rights in their various forms. Taken together, they prevent HRDs, journalists and media workers, medical and aid staff, and lawyers from exercising their profession and from participating in public and political life (see also sub-chapter C.7).

57. *In view of alleviating the pressure on civil society actors and facilitating their work and in addition to recommendations listed under previous sub-chapters, we recommend that the Syrian authorities:*

- *Abolish law No. 93 of 1958, and draft a law ensure freedom of association and peaceful assembly for all citizens in accordance with international human rights standards*
- *Put an end to State security surveillance and intimidation, arbitrary arrest, enforced disappearances and extrajudicial killing of civil society activists and human rights defenders, and provide legal protections to allow them to conduct their activities without interference;*
- *Immediately and unconditionally release all those arbitrarily detained in relation with peaceful civil society, human rights, media and humanitarian activities*
- *Diligent independent and impartial investigations into allegations of crimes, punish those responsible and take measures to guarantee non-repetition;*

7. Inclusive Dialogue and Transitional Justice

58. A number of recommendations accepted during the previous UPR concerned the establishment of an inclusive and meaningful dialogue to find a peaceful solution to the violence engulfing the country⁷⁹, some mentioning the involvement of civil society in particular⁸⁰, or the promotion of the involvement of women in political life.⁸¹ Regrettably, the concern for inclusiveness has only decreased since these recommendations were made and both women and the concern of civil society actors are underrepresented in the predominant discourse.

59. Apart from the recommendations listed in the present report thus far, the contributing organisations wish to take this as an opportunity to emphasise the non-negotiability of certain

⁷⁸ VDC, *A Special Report on the Layoff of Governmental Sector Employees in Hama*, May 2014, <http://www.vdc-sy.info/index.php/en/reports/1400502918#.VuF3SBjpxE4> (accessed 12 March 2016)

⁷⁹ 100.15 (Spain); 100.16 (Ecuador); 100.17 (Iran); 100.18 (Indonesia); 100.19 (South Africa); 100.21 (Vietnam); 100.22 (Malaysia); 100.23 (Thailand); 100.24 (Vietnam); 100.25 (Sudan)

⁸⁰ 100.18 (Indonesia)

⁸¹ 100.37 (Mexico); 101.6 (Slovenia); 100.35 (Bangladesh)

obligations of the Syrian authorities. This includes access for humanitarian relief to civilians in need as well as accountability for violations of IHL and Syria's human rights obligations. Further priorities, as also raised in previous joint initiatives by Syrian CSOs⁸², cannot be established without due regard to the voices representing all parts the Syrian people.

⁸² See, for example: Transitional Justice Coordination Group, *A letter issued by Syrian organizations working in the field of documentation, accountability, and transitional justice*, February 2016, <http://tda-sy.org/%D8%AF%D8%B9%D9%88%D9%83%D9%85-%D9%85%D8%AC%D9%85%D9%88%D8%B9%D8%A9-%D8%AA%D9%86%D8%B3%D9%8A%D9%82-%D8%A7%D9%84%D8%B9%D8%AF%D8%A7%D9%84%D8%A9-%D8%A7%D9%84%D8%A7%D9%86%D8%AA%D9%82%D8%A7%D9%84%D9%8A/?lang=en> (accessed 13 March 2016)