

Report on the Civil and Political Rights in the Context of a Regular Comprehensive Review

Background and Context

Between the previous report and this one, human rights situation has terribly worsened. Torture levels have risen; numbers of forcibly disappeared persons have not been accurately counted; persons are denied the right to fair trials; a law on combating terrorism has been enacted and an exceptional court of terrorism cases has been established; crimes of killing, execution, starvation and siege have been perpetrated, including those mounting to the level of crimes against humanity and genocide crimes. Since mid-2012, when the International Committee of the Red Cross classified the conflict in Syria as an internal armed conflict, the international humanitarian law is applied; and states' direct and indirect interferences in the Syrian conflict have tremendously increased, which aggravated the humanitarian situations and human rights violations.

This report tackles many aspects of human rights violations by the Syrian Government since 2011 to date. It is prepared by the Syrian League for Citizenship, a civil Syrian organisation concerned with the dissemination of citizenship and human rights culture.

Torture:

1. On 1 July 2004, Syria ratified the Convention against Torture, but made a reservation on Article 20 thereof and has not ratified the Optional Protocol of the Convention. Moreover, there is no clear definition of torture in the Syrian Constitution, nor in other national legislation.
2. Many laws and decrees immunize the perpetrators of torture crimes who perpetrate those crimes while performing their jobs. Examples of those include: Article 16 of the Legislative Decree no. 14 of 1969; Article 74 of the Legislative Decree no. 5409 of 25/05/1969; and the Regulatory Decree no. 69 of 2008, which amended the Military Criminal Law, making the prosecution of policemen and political security staff an exclusive right of the General Command of the Army and Armed Forces, though administratively they report to the Ministry of Interior.
3. Torture is a systematic practice; it has been broadly practiced since a long time. There are no accurate statistics on the issue, but the number of individuals who have been tortured is estimated to be hundreds of thousands.
4. Torture is practiced by policemen in police stations, staff of the different security branches, pro-regime militia men and by some doctors and nurses in the hospitals to which wounded oppositionists would resort. Torture is also practiced at a lower level by armed opposition factions.
5. Torture includes all society categories, men and women. There are also evidences that so many minors have been savagely tortured, and intellectuals and peaceful oppositionists have been targeted as well.
6. Torture is practiced in different ways, including psychological torture by which a detainee is terrified and threatened that his family members would be arrested or that his female family members would be physically abused, and is made to hear detainees' cries. Also, there are physical and sexual abuses, including rape and threat of rape.

7. Detention conditions are another means of torture; detention places are too crowded and lack airing arrangements, which causes suffocation; lack of food and water; drinking water is mixed with some substances that accelerate the detainees' collapse, which caused the death of tens of thousands under torture.

Recommendations:

1. Ratify the Optional Protocol of the Convention against Torture;
2. Remove the reservation on Art. 20 of the Convention against Torture;
3. Adopt the definition of torture as set forth in the Convention against Torture and include it in the national legislation;
4. Abolish Article 16 of the Legislative Decree no. 14 of 1969 (creation of the State Security Administration), Article 74 of the Legislative Decree no. 5409 of 25/05/1969 (Internal Regulations of the State Security Administration) and the Regulatory Decree no. 69 of 2008;
5. Reveal soon the destiny of those who died under torture, where they have been buried and redress their families;
6. Permit the Special Rapporteur on torture to visit Syria and to freely inspect the detention places;
7. Enact a national legislation stating explicitly that the confessions extracted under torture and arrest shall not be acceptable and must be refused;
8. Allow international independent committees to visit detention and arrest places and to investigate torture cases.
9. Implement the recommendations made by the Committee against Torture to the Syrian Government.

B. Trials and arbitrary detention

1. The Field Court Law allows Field Trials to be carried out against accused individuals without giving them the right to defend themselves or to appoint a lawyer; such trials are not public and rapid and their sentences include criminal penalties that amount to the level of death penalty and lack the minimum rules of fair trials.
2. Though the Emergency Law has been abolished, the Legislative Decree no. 14 of 1969, especially Article 16 thereof, protects policemen from any accountability for the violations that they may perpetrate.
3. Though the Syrian Government has ratified the International Covenant on Civil and Political Rights, and though there are provisions in the Penal Law criminalizing any detention out of law, these provisions are not activated and applied, such as the last amendment of Article 17 of the Procedures in Criminal Law, which makes it permissible for the police and security forces to detain an accused person for a period of time amounting to 60 days.
4. Though the State Security Court has been dissolved, exceptional courts continue to exist; the Terrorism Court has been established; such courts lack the minimum principles of fair trials, such as the assumption of not-guiltiness and quick and overt trial; also, they build their sentences on evidences extracted from accused individuals by force and after long-lasting trials during which the

accused are not allowed to contact with their lawyers and lawyers are denied the duties of defending their clients.

5. The number of judges (1505 judges) does not match the number of population (about 24 million). The judiciary infrastructure is old and overloaded; 60% of courts are improper to perform their work properly, either because the rooms are too small or because they lack the simplest means needed for litigation. Also, the personnel (5040 employees) are insufficient to handle the big number of cases considered by the courts, which negatively affects the process of litigation and justice. Additionally, the salaries of both the judges and the personnel are too low, which opens the door wide for briberies and corruption and makes corruption the label of the judiciary as a whole. As judges are not independent and as they report legally to the Ministry of Justice in all aspects of their job affairs and under the current events, the negatives have greatly increased. There are now tens of thousands of illegally and arbitrarily detained individuals, in places lacking the simplest requirements of life and there are tens of thousands who are referred to exceptional courts, such as the Terrorism Court, the Military Courts and Field courts. Those individuals are expected to be given unfair sentences without any juridical evidences. There are also thousands of individuals who have died in the detention places without any accountability of those who caused that; moreover, the authorities do not admit that they have died and thus, they become missing individuals of which there are hundreds of thousands. Recently, the Ministry of Justice created three offices to receive applications from the citizens who have missing relatives, but these offices don't work seriously; the answers come after more than three months with unclear and unspecific expressions.

Recommendations:

1. Terminate the military field courts, the Terrorism Court and the Military Judiciary Courts and refer the accused to the normal judicial system;
2. Abolish the aforementioned legislation and legal texts which violate human rights and contradict the principles of fair trials;
3. Enact and activate legislative texts that criminalize arbitrary detention;
4. Adopt a serious policy for judicial reform process, with a view to increasing the number of courts and improving the conditions and places of detention;
5. Abolish the detention of accused individuals in unknown and secret places and allow their families and lawyers to visit them in their detention places and refer all detainees to regular courts and transfer them to judicial prisons;
6. Provide effective and neutral judicial assistance;
7. Permit human rights organizations to regularly inspect and visit the places of detention and verify their compliance with the international standards.

Enforced disappearance

1. Syria has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, though in the previous session, it made a commitment to do that.
2. The Syrian Government has not permitted the Working Group on Enforced Disappearances to enter into the Syrian territories to detect and document violations.

3. The Syrian Constitution states that freedom is a sacred right, and Articles 242 and 252 of the Law of Procedures state that individuals may not be detained but in the places specified for that end, and citizens must be informed of that, but the Syrian Government has not abided by these constitutional and legal provisions; moreover, it has enacted undeclared legal texts that help impunity, such as Decree 14 of 1969 and Decree 55 of 2011.
4. Because of the armed conflict in Syria, enforced disappearances have systematically and broadly increased since the beginning of the current events. All security forces and branches of the Syrian Government have practiced the policy of enforced disappearance, which took many forms: disappearance just after arrest or at a later phase of arrest, some people disappeared when they went to inquire about their family members (Amnesty International report). At the beginning, these practices affected the oppositionists and opinion persons and their family members, as well as human rights activists, relief workers and medical staff, but now they are randomly practiced as a weapon to suppress and terrify people and for blackmailing and trafficking in human organs. According to Amnesty International, there are around 65,116 enforced disappearances, 12,145 of them are women and 3,879 are children.
5. Enforced disappearance results in legal consequences affecting the legal status of a victim family members (inheritance, ownership, custodianship, redress, marriage, lineage, divorce), in addition to the psychological and social effects.

Recommendations

1. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance;
2. Permit the Working Group on Enforced Disappearances to enter into Syria;
3. Permit the International Fact-finding Mission on Syria to enter into the Syrian territories;
4. Abolish the Decree no. 14 of 1969;
5. Abolish the Decree no. 55 of 2011;
6. Develop a clear definition of enforced disappearance and criminalize its perpetrators in clear legal texts;
7. Settle the legal statuses of the enforcedly disappeared persons and their family members according to the principles of impartiality and independence;
8. Reveal the destiny of the enforcedly disappeared persons;
9. Keep DNA records of the enforcedly disappeared persons and reveal places of collective cemeteries.

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The Decree n. 55 of 2011 can be found on this link:

<http://www.damascusbar.org/AlMuntada/showthread.php?t=17919>

The Decree n. 14 of 1969 can be found on this link:

<http://www.shrc.org/?p=7451>

Articles 242 and 252 can be found on this link:

<http://www.legal-agenda.com/print.php?id=600&folder=articles&lang=ar>

Amnesty International report is available on this link:

<https://www.amnesty.org/ar/documents/mde24/2579/2015/ar/>