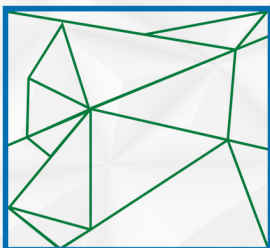


Case Study: The Laws and Mechanisms Underlying the Death Penalty in Syria



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This case study examines the executions of 24 Syrians, charged with “pyro-terrorism”, the violations the alleged convicts suffered, and their deprivation of fair trials

Executive Summary

In this report, Syrians for Truth and Justice (STJ) examines several laws and mechanisms that the various courts of the Damascus-based central Syrian government (SG) deploy to issue and implement the death penalty.

To this end, the report provides a case study that analyzes a mass execution the SG carried out against individuals accused of arson in its areas of control.

Additionally, the report sheds light on the roles of the president of the republic, the Counter-Terrorism Court (CTC), and the Special Pardon Committee (SPC) of the Ministry of Justice in enforcing the death penalty, focusing as well on the manner in which death sentences are implemented after they are passed by Criminal Courts.

Based on the case study, STJ concluded that the Syrian judiciary opted for aggravated circumstances by imposing the death penalty against 24 individuals, “convicted” of committing “terrorist acts” – specifically what the SG claims were crimes of arson in several Syrian provinces.

The Syrian Ministry of Justice announced the execution of 24 individuals on its official Facebook page. In the [statement](#), the ministry declared the implementation of the death sentences passed upon the “convicts” in late October 2021, indicating that the “criminals” were executed for committing acts of “pyro-terrorism”.

Notably, the justice ministry did not provide the names of the executed individuals in the statement, nor did it publicize indictment lists of the separate charges passed against them. This shrouded the case with ambiguity and attributed to it a sense of haste, especially as the concerned courts announced the convicts as criminals under the Counter-Terrorism Law No. 19 of 2012 but denied their families access to the charges brought against them. It was upon those charges, shrouded in secrecy and denied from the families, that the convicts were sentenced to death.

The treatment of this case runs at odds with the SG’s common practice, which usually publicizes the names of people sentenced to death, particularly those convicted in cases related to public opinion and which result in massive harm to individuals or society. The change in the execution protocols arouses suspicion that the SG might have implemented a few or all of the declared death sentences against detainees who might not have been the real perpetrators of the fires.

The ministry’s statement also provided the legal frames underlying the executions. The ministry said the concerned courts passed the death sentences in compliance with the [Syrian Penal Code No. 48 of 1949](#), the [Syrian Code of Criminal Procedure No. 112 of 1950](#), and the [Counter-Terrorism Law No.19 of 2012](#). The ministry claimed that the actions of the perpetrators caused death and damages to State infrastructure, public facilities, and private property with incendiary materials.

The death sentences against the convicts were reviewed by the SPC and then ratified by the Court of Cassation.¹

In addition to the death penalties, the concerned courts sentenced 11 "criminals" to life imprisonment with hard labor, for committing "terrorist acts" with incendiary materials that led to damage to public and private facilities, agricultural lands, and forests. The sentences were passed under Article 7 (1) of the Counter-Terrorism Law.

Moreover, the courts issued temporary hard labor sentences against four other individuals, and 10-12 prison sentences against five juveniles, on charges of committing acts that caused death and public property destruction.

Ahead of the executions, on 9 October 2021, the Minister of Justice, Ahmad al-Sayyed, issued a [circular](#), recommending that maximum penalties be imposed against all individuals involved in the arsons and that sentences passed against the offenders be carefully monitored and followed up on until litigation in the case had reached its final stage.

Notably, these recommendations are a flagrant infringement by the executive authority (the Ministry of Justice) on the work of the judiciary and interference with the court's conviction, which has the power to decide to apply discretionary mitigation to the case it presides over.

Contrary to previous circulars, the October circular was unnumbered. This likely means that the justice minister had directly addressed the document to the Attorney General and the courthouses (Palaces of Justice), and that it was not duly archived as other issued or mailed decisions.

In addition to referencing the penalty, the circular instructed the Judicial Inspection Department to follow up on the application of the circular and to inform the justice ministry of any violation of its provisions.

Notably, the SG-affiliated courts passed the death sentences and other penalties against convicts even though the alleged arsons have yet to be fully corroborated as a result of deliberate human action, and not simply rising temperatures and drought.

At the same time, STJ has obtained an account that demonstrated that the SG neglected to respond appropriately to the fires. Delving into the circumstances of the case, STJ reached out to a farmer from one of the areas affected by the fires. The source narrated that the SG-affiliated departments barely responded in the beginning, adding that they hastened to put down the fires only when locals were outraged, the risk was beyond control, and the area was already critically damaged.

¹ "Syria: The President Enforces Death Sentences through a Formal Pardon Committee", STJ, 7 June 2022 (Last visited: 19 October 2022).

<https://stj-sy.org/en/syria-the-president-enforces-death-sentences-through-a-formal-pardon-committee/>

Names and Testimonies

On 16 December 2020, the SG-run Syria TV broadcasted a documentary titled *Shayateen al-Nar* ([The Devils of Fire](#)). The three-part film included the “confessions” of several individuals, who said they committed the crimes in return for “money from unknown external parties.”

STJ tracked the individuals featured in the film, and obtained the names of 17 of the purported convicts and the charges they faced in the arsons case:

	Name	Role as confessed in the documentary
1	Walid Jawhar Faris	Planner
2	Zuhair Jum'a Faris	Planner
3	Al'ez Ali Faris	Planner
4	Ali Khalid Faris	Perpetrator
5	Nasser Hussein Faris	Perpetrator
6	Ayman Omar Faris	Perpetrator
7	Zakaraya Abdulkarim Muhammad	Perpetrator
8	Omar Hussein Faris	Perpetrator
9	Jamal Ali Hussein	Perpetrator
10	Khalid Jawhar Faris	Perpetrator
11	Muhammad Khalid Faris	Perpetrator
12	Dirgham Nazir Faris	Perpetrator
13	Ibrahim Muhammad Faris	Perpetrator
14	Nazim Ali al-Akhras	-
15	Hassan Muhammad al-Hassan	Perpetrator
16	Alaa Hussein Ali	Perpetrator
17	Ibrahim Darwish Hariq	Perpetrator

To obtain further information about the case, STJ interviewed a farmer from [Mashta al-Helu](#) town, in Latakia's countryside, in April 2022. The town is one of several hit by the fires and, most importantly, the birthplace of a few of the executed "convicts". The farmer narrated:

"A relative of mine, who works in the Latakia Prison, told me verified information that several of the executed persons are from the Faris family. Others were executed; I heard about them from the villagers, not from my relative. I also learned that there was a total of 38 convicts, but that only 21 were executed."

The source commented on the SG's response to the fires:

"The temperatures were extremely high and the wind was light when the fires broke out. We called the SG-affiliated Civil Defense, and at the time, there were only small pockets of fire. However, we got a disinterested and irresponsible response. They told us that there was no fuel for the vehicles and that it was difficult for the teams to reach the location where the fire started. I believe that most of the fires were unplanned. They happened due to high temperatures, or because of people's barbecues during picnics in the areas. The barbecue fires would just expand to other locations."

The farmer believes that neither criminal nor terrorist motives are behind the fires, blaming the Syrian Civil Defense for their inaction and negligence even though the locals reported the blazes to them.

Elaborating on the SG's insufficient response, the farmer said that officials from the government acted to "prevent fires" only after massive losses were recorded. He recounted:

"Government officials showed interest only when the fire expanded to lengths that could no longer be hidden, and after the area and residents suffered human and material losses. Only by then did the officials started rushing into the area. Despite this, the jets were too late to help put down the fires. When the blazes began to recede widely, we learned from locals that it was the Russian Air Force that saved us and limited the spread of the fires."

Financial Losses

In the above-mentioned Facebook statement, the justice ministry said that there were nearly 187 fires in 2020. The fires targeted approximately 280 villages and towns in the provinces of Latakia, Tartous and Homs. The flames spread across at least 13,000 hectares of olive and citrus trees and about 11,000 hectares of forestland, causing damage to 370 residential homes, in addition to destroying the infrastructure in affected plots, including equipment, electricity, sewage, and telephone networks.

The SG estimated locals' losses at approximately 30 billion Syrian pounds (SYP)—the equivalent to nearly 56,470,000 USD at the time's exchange rate, whereby one USD made 531 SYP.

Additionally, the justice ministry claimed that the interior ministry had identified the perpetrators and those involved in starting dozens of fires in the provinces of Latakia, Tartous and Homs. The ministry also noted that the perpetrators confessed to starting the fires and

that they had planned them by holding meetings since late August 2020, while they carried out the crimes intermittently over the period from September 2020 to 10 October 2020.

Legal Texts Backing the Charges

As the text of the ministry's statement entails, the SG, in cooperation with affiliated judicial authorities, hinged some of the 24 execution verdicts on the Syrian Penal Code No. 48 of 1949 and the Counter-Terrorism Law No. 19 of 2012.

While the text clearly names the used laws and codes, it neglects to identify the exact articles applied to the cases or the charges they frame, which the SG applied to the alleged perpetrators.

Murder and Arsons in the Penal Code

To address the ambiguity, a legal expert with STJ studied the texts the ministry's statement cited, in an attempt to locate articles relevant to some of the executions.

While Article 535 of the Penal Code remains a key potential referential text,² since it applies the death penalty to several crimes, including premeditated murder, STJ's legal expert argues that the article is invalid in the context of the case under study.

The ministry's statement clearly highlights the aspect of deliberation central to the death penalty. It states that these individuals were executed because "they planned [the arsons]", which caused deaths.

However, STJ's legal expert rules out the use of Article 535 because it pertains to the immediate act of premeditated murder. Even if the perpetrators had committed the acts attributed to them, they did not plan murders, but instead committed arsons and inflicted damage on public assets. The expert adds that the perpetrators could have implemented the arsons without causing deaths.

Additionally, the legal expert proposed other articles that provide stronger grounds for the verdicts ratified by the Department of Criminal Cases of the Court of Cassation (Criminal Chamber) and enforced by the president of the republic. These articles are 574, 575, 576, 577 and 578 of the Penal Code.

² Article 535 of the Penal Code prescribes the death penalty for homicide if it is committed:

- (a) Wilfully;
- (b) In preparation for, or during the commission of, a felony or with a view to facilitating the flight of the instigators, perpetrators or abettors of a felony or enabling them to evade punishment;
- (c) Against any of the offender's ascendants or descendants.

Article 577 of the Penal Code prescribes the death penalty for an act of arson—in the circumstances specified in articles 574,³ 575,⁴ 576,⁵ 577, and 678,⁶ that leads to loss of life, permanent disability, material harm to others, setting fire to inhabited or uninhabited homes, woods or forests, or damages through using explosives.

The Counter-Terrorism Law No.19 of 2012

The law uses overly broad terms, which are liable to multiple interpretations, in referring to charges aggregated under acts of terrorism. The openness of application renders Syrians at the mercy of discretion in passing the death penalty against offenders, and the wide range of charges under the law a tool in the hands of the SG to eliminate detainees. With this, the SG grows capable of using the death penalty as a force for intimidation, especially because authorities are entitled to regard any act or behavior that criticizes their performance as a terrorist crime and a pretext to further oppress the populace and curtail already limited public freedoms.

In Article 1, the law defines as an act of terrorism “Every act intended to create panic among people, disturb public security, damage the infrastructural or institutional foundations of the State, that is committed via the use of weapons, ammunition, explosives, flammable materials, poisonous products, or epidemiological or microbial instruments or via the use of any tool that achieves the same purpose.”

Notably, the aspects highlighted in the justice ministry’s statement intersect with several of the grounds pointed out for charges of terrorism in Article 1. The statement highlights that the executions were implemented because the arson caused deaths and damages to State infrastructure, public facilities, and private property with incendiary materials.

The other sentences passed against alleged convicts in the case also fit into the terrorism law. Life imprisonment with hard labor, prescribed against 11 offenders, is likely framed with Article 7(1). The article prescribes, “Whoever commits a terrorist act that leads to human disability, partial or total destruction of a building or damage to the infrastructure or basic infrastructure of the State shall be punished with life imprisonment with hard labor and a fine twice the value of the damage.”

Additionally, Article 5 (1) of the law prescribes a penalty of 15 to 20 years of hard labor and a fine of twice the value of the seized items against anyone who smuggles, manufactures,

³ Article 574 of the code prescribes the same penalty should “arson target a building that is inhabited or ready for habitation outside populated areas, or in a forest, woodland, orchard or farmland before the crop has been harvested, regardless of whether or not the offender owns them”.

⁴ Article 575 of prescribes that “Whoever willingly sets fire to uninhabited buildings not used for housing outside inhabited areas, or to crops or straw stacks, or to harvest left in its place, or stacked or arranged firewood left in its place, shall be punished with temporary hard labor, regardless of whether or not the offender owns them, when the fire spreads or could have spread from [the burning property] to the property of others.”

⁵ Article 576 prescribes “Arson or attempted arson other than the aforementioned the perpetrator commits with the intent of causing material harm to others or obtaining unlawful material gains for himself or for another shall be punished by imprisonment and a fine.”

⁶ Article 578 prescribes “The previous provisions shall be applied in the same circumstances to anyone who destroys or attempts to damage, even partially, one of the things mentioned therein by using an explosive substance.”

possesses, steals or embezzles weapons, ammunition or explosives of any kind with the intent of using them in the execution of a terrorist act. The same article, in paragraph (2), prescribes the death penalty should these acts lead to the death of a person or incapacitate him/her.

Notably, although international law has not yet prohibited the death penalty, it is well established that this punishment, if imposed, must be limited to the “most serious crimes”, such as those that intentionally result in death.⁷ The death penalty should not be applied to crimes that are vaguely defined,⁸ including terrorism crimes, as is the case in Article (1) of the Counter-Terrorism Law. When the death penalty is applied in contravention of these restrictions – and the procedural safeguards that will be discussed below – the penalty may amount to an arbitrary deprivation of the right to life contained in Article VI of the [International Covenant on Civil and Political Rights](#), a right that is not subject to derogation or limitation.

Summary Wholesale Execution Verdicts

In the context of the studied case, the SG and the judiciary opted for maximum punishment by issuing arbitrary and rushed death sentences against 24 Syrians, for allegedly perpetrating acts of terrorism.

The SG, as usual, did not consider any mitigating circumstances, or even slow down the implementation of the death sentences. This indicates the tendency of the executive authorities to pursue a policy of collective punishment.

Notably, this case presents a first. *The Syrian courts have never before passed such a large number of death penalties or implemented them at once, and in such record time.*

It took the Syrian authorities no more than a year to arrest the offenders, refer them to the public prosecutor, study their files and highly sensitive charges, bring them before investigation and referral judges, and finally, refer them to “competent courts.”

The nearly one-year span began on 10 October 2020, the reported date of the crimes, and up to 21 October 2021, the date the justice ministry, published the executions statement. The period includes all official holidays and the judicial recess, which lasts for a month and a half.

Compared to the regular tempo of court proceedings, the timeline of the case of the fires strikes Syrian legal experts as very short, posing questions as to whether the courts that presided over the case truly adhered to due measures and legal intervals granted to offenders to review and appeal against the decisions they faced, or at least file pardon applications to the president of the republic.

Role of the Counter-Terrorism Court

On 26 July 2012, Syrian President Bashar al-Assad issued [Law No. 22 of 2012](#), establishing the exceptional Counter-Terrorism Court (CTC) to look into terrorism cases, based in Damascus.

⁷ Human Rights Committee, General comment No. 36: Article 6, Right to life (coded: CCPR/C/GC/36), 3 September 2019. Para. 35

⁸ Ibid: Para. 36.

One of the key controversies surrounding the CTC is its exceptional status. The CTC is exempted from adhering to due process governing trials in Syrian courts, which are established in the Syrian Code of Criminal Procedure.⁹

Article 7 of the CTC Founding Law states that “the court is exempt from adhering to due process enshrined by the legislation in force, which applies to all stages and procedures of prosecution and trial, except for the right to defense.”

However, in practice, the CTC has been denying defendants access to the right to fair trials, because its case proceedings do not observe the standards and rules of justice and fairness of fair trials.¹⁰

In addition to this obvious violation of the right to defense, Article 6 of the court’s Founding Law warrants the CTC to pass sentences in absentia, which do not grant the subjects to these sentences the chance to appeal verdicts by requesting a retrial, unless the defendant has handed himself/herself voluntarily to the authorities in charge. Once again, the law deprives the defendants of their right to review and appeal against the court ruling.¹¹

Arbitrary Deprivation of the Right to Life

Even though the concerned courts issued the death sentences based on the Penal Code or the Counter-Terrorism Law, the existence of the legal text that prescribes the death penalty is not sufficient to rule out the subjection of the alleged convicts to an arbitrary deprivation of life, especially given the exceptionalism and nonobservance of due procedures with which the executions were implemented.

Notably, laws regulating death sentences should not detract from the rest of the rights, including the right to life, while trials must be specifically consistent with Article 14 of the International Covenant on Civil and Political Rights on procedural guarantees of trials. If

⁹ Article 69 of the Syrian Code of Criminal Procedure states:

1. When the defendant appears before the investigating judge, the judge must verify his/her identity, inform him/her of the charges attributed to him/her, and request his/her answer in their regard, warning him/her that he/she has the right not to answer except in the presence of a lawyer, and this warning is recorded in the investigation report. Should the defendant refuse to hire a lawyer, or should no lawyer advance within 24 hours, the investigation will be run regardless.
2. Should the defendant in a case of felony be unable to hire a lawyer and ask the investigative judge to appoint him/her a lawyer, the judge shall entrust the matter to the President of the Bar if a Bar Council is available in the geographical scope of the judge's authority, otherwise the judge would undertake the matter.
3. In the case of urgency for fear of loss of evidence, the defendant might be subjected to interrogation before the presence of his/her lawyer is requested.

¹⁰ Article 105 of the Code of Criminal Procedure states:

If the defendant was arrested with a warrant and remained in custody for over 24 hours without being interrogated, or taken to the Public Prosecutor, his/her arrest is considered an arbitrary act and the responsible official must be prosecuted for the crime of deprivation of liberty stipulated in Article 358 of the Penal Code.

¹¹ Article 6 of the CTC law states: “Court sentences issued in absentia are not subject to a retrial unless the convict surrenders voluntarily.”

verdicts fail to meet these two aspects, they are arbitrary and incompatible with Article 6 of the Covenant.¹²

Article 14 presents a wide range of essential guarantees, including that forced confessions are not used; the defendants must be able to question relevant witnesses; they must be offered confidential attorney-client meetings during all stages of the criminal proceedings, including criminal interrogation; they must be granted adequate time and facilities for the preparation of the defense; they are entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law and to the right to their conviction and sentence being reviewed by a higher tribunal according to law, establishing also respect for the presumption of innocence.¹³

Within this perspective, the CTC, both in its formation and operational measures, incarnates the lack of commitment to a minimum of the prior-listed procedural guarantees, which renders its verdicts arbitrary.

Operationally, the CTC is almost completely under the influence of the executive authority, because its members are primarily appointed by a decree based on the proposal of the Supreme Judicial Council,¹⁴ which is formed from the executive authority and is subordinate to the President of the Republic.¹⁵

This formation dynamic robs the CTC of the characteristics of independence and neutrality, which is a serious breach of Article 14 cited above.

The CTC does not only function against international instruments, but it also is not subject to due process in accordance with Article 7 of Law No. 22 of 2012. Therefore, against Article 14, the CTC deprives defendants of one level of appeal because it merges the powers of the investigating judge with those of the referral.¹⁶

The CTC's violations of international legal frames and exemption of due process established in national ones establish the hypothesis that the death sentences passed against the 24 individuals amount to arbitrary deprivation of the right to life.

Roles of the President and the SPC

In relation to the death penalty, Article 43 (1) of the Penal Code, and Article 454 (1) of the Code of Criminal Procedure ban the enforcement of execution sentences unless the SPC is asked to assess pertinent files and give an opinion, and the president of the republic ratifies the verdicts issued.

¹² Human Rights Committee, General comment No. 36: Article 6, Right to life (coded: CCPR/C/GC/36), 3 September 2019. Para. 41.

¹³ Ibid.

¹⁴ Law No. 22 of 2012, establishing the exceptional Counter-Terrorism Court (CTC) to look into terrorism cases, based in Damascus.

¹⁵ Decree 98 of 1961, Law of the Judicial Authority and its Amendments, Article 65.

¹⁶ Law No. 22 of 2012, establishing the exceptional Counter-Terrorism Court (CTC) to look into terrorism cases, based in Damascus. Article 2(b).

In its statement, the justice ministry does not cite the approval of the president; however, it marks the contribution of the SPC to the enforcement of 24 death sentences.

According to Article 461 of the Syrian Code of Criminal Procedure, the SPC mandate is that “When the verdict of the death penalty is issued, the Minister of Justice shall immediately refer the papers of the case enclosed with the report of the prosecutor of the court which issued the verdict to the Pardon Committee. It will consider the case and give its opinion on the necessity of the execution of the death penalty or replace it with another penalty during five days at most.”

The conditions regulating the operations of the SPC thus raise doubts in relation to the case of the fires, and whether the SPC did actually assess 24 highly sensitive convict files in the short span of less than a year. Such files include numerous documents, statements of the accused and witnesses, evidence, and proceedings of sessions in all the followed stages, in addition to the procedures applicable to the case, including the preliminary investigation, the referral of court rulings, and appeal.

Executions

In the legal text, death sentences are enforced after the sentences are ratified by the Syrian Court of Cassation. Verdict files are then sent to the SPC, which is formed by the president of the Republic by decree. The SPC assesses the files and submits a proposal to the president, either to enforce sentences or to propose a pardon.

Notably, the SPC’s opinion on the files is not binding to the president, who has the final say on the death sentences, which must bear his signature in line with Article 43 of the Penal Code.

In addition to granting the president these powers, Article 43 provides regulations for implementing the death penalty, whereby:

- The person sentenced to death shall be hanged inside the prison building or in another place specified by the decree ordering the enforcement of the penalty;
- It is prohibited to carry out executions on national holidays and religious days [Fridays, Sundays, Muslim and Christian holidays];
- The execution of the death sentence against a pregnant woman must be delayed until she gives birth.

Additionally, the convict must be asked if he wants to make a statement, which is to be recorded in the death sentence’s execution report.

Article 455 of the Code of Criminal Procedure mandates an additional regulation; namely, the presence of a set of figures during executions, while stressing that executions must not be carried out secretly. The figures listed are:

- The head of the body that issued the verdict, and in the event that he is unable to attend, a judge chosen by the first president;
- The Attorney General or one of his assistants;
- The President of the Court of First Instance with which the location of execution is affiliated;
- The reporter of the court that issued the verdict;

- The lawyer of the convict;
- A clergyman from the sect to which the convict belongs;
- The prison director;
- The police officer or the Police Force commander of the department with which the location of execution is affiliated;
- The prison doctor or district forensic doctor.

STJ sought to verify the SG's adherence to the conditions governing the enforcement of execution provided across several laws, even though it has reservations about a few of these laws, particularly the Counter-Terrorism Law. However, there was no evidence corroborating that the 24 executions were enforced under these conditions. Obtaining evidence is especially difficult, given the SG's secrecy, ambiguity, and speed in issuing and implementing the sentences, while the SG did not allow independent and impartial organizations or bodies to monitor the proper application of fair trials standards and mechanisms of execution in order to determine whether these mechanisms are compatible with Syrian laws.



About Us:

Syrians for Truth and Justice (STJ) is a nonprofit, nongovernmental organization monitoring human rights violations in Syria. Founded in 2015, STJ has been based in France since 2019.

STJ is an impartial and independent Syrian human rights organization operating across Syria. Our network of field researchers monitor and report human rights violations occurring on the ground in Syria, while our international team of human rights experts, lawyers, and journalists gather evidence, examine emerging patterns of violations, and analyze how violations break domestic Syrian and international law.

We are committed to documenting violations of human rights committed by all parties in the Syrian conflict and elevating the voices of all Syrians victimized by human rights violations, regardless of their ethnicity, religion, political affiliation, class, and/or gender. Our commitment to human rights monitoring is founded on the idea that professional human rights documentation meeting international standards is the first step to uncovering the truth and achieving justice in Syria.



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