

## Arbitrary Detention and Torture are a Systemic Oppression Policy in Northwestern Syria



This briefing paper documents a summary of 40 focused interviews conducted with male and female survivors as part of a joint project between “Human Rights in Afrin-Syria” and “Syrians for Truth and Justice”

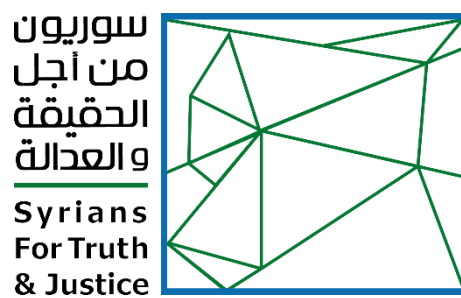
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## **Arbitrary Detention and Torture are a Systemic Oppression Policy in Northwestern Syria**

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## The Partner Organizations

**Syrians for Truth and Justice (STJ)** was conceived during the participation of its co-founder in the Middle-East Partnership Initiative (MEPI) Leaders for Democracy Fellowship program, who was driven by a will to contribute to Syria's future. Starting as a humble project to tell the stories of Syrians experiencing enforced disappearances and torture, it grew into an established organization committed to unveiling human rights violations of all sorts.



**Human Rights Organization-Afrin** is an independent, non-governmental, non-profit Syrian human rights organization consisting of members and activists in the field of human rights. The organization's scope of action focuses on protecting people and safeguarding their essential rights and freedoms within the frames of an ethical and democratic society while aiming at the betterment of humans and the promotion of human rights in keeping with international human rights agreements and conventions.



## 1. Executive Summary

In 2018, Turkey launched a military offensive into Syria's Kurdish-majority city of Afrin. The offensive, code-named 'Operation Olive Branch' in reference to a symbol of peace, brought no peace. The offensive resulted in serious human rights abuses including arbitrary arrest, torture, and ill-treatment. These abuses were verified by the testimonies of 40 victims who were arrested by Syrian armed opposition groups and Turkish forces.

The present paper is based on 40 testimonies we obtained in 2021 and early 2022 from witnesses in Afrin district. Witnesses shared their traumatic experiences of torture and ill-treatment during their visits to detention centres. They described arbitrary arrests, cruel torture, and acts of sexual violence. Most of the arrests were made in March 2018 by the Turkish Army and allied Syrian armed groups after Turkey's invasion of Afrin. Victims' prison terms ranged from days to months and many were released for large sums of money. The victims the organizations met with are all locals of Afrin, except for two who hail from A'zaz, which was taken by Turkey in Operation Euphrates Shield and which ended on 28 March 2017. After their release, most of the victims fled Afrin towards IDP camps and safe areas in Aleppo for fear of being rearrested, as has happened to survivors who remained in Afrin.

The arrest cases documented were of 25 young males, 15 young women, including a baby girl, as well as elderly men and women. Among those arrested were six Arabs. The rest were Kurds, among them Yazidis. According to the 40 testimonies we heard, several entities are responsible for the arrests made in Afrin:

- The Levant Front/al-Jabha al-Shamiya was accused of 12 arrests;<sup>1</sup>
- The Military Police was accused of 10 arrests;
- The Tajammu Ahrar al-Sharqiya/Gathering of Free Men of the East was accused of 7 arrests;
- The Turkish Intelligence was accused of 7 arrests;
- The Sham Legion/Faylaq al-Sham was accused of 6 arrests
- The Sultan Murad Division was accused of 5 arrests
- The Suleiman Shah Brigade (also known as al-Amshat) was accused of 2 arrests;
- Islamic Movement of the Free Men of the Levant/Harakat Ahrar al-Sham al-Islamiyya was accused of 2 arrests;
- Elite Army/Jaysh al-Nukhba was accused of 2 arrests;
- All-Fatah Brigade/Battalion of Conquest Brigade was accused of 1 arrest.

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<sup>1</sup> The Levant Front/al-Jabha al-Shamiya was formed in December 2014. It is the Syrian National Army's (SNA) largest faction, as it alone makes the 3<sup>rd</sup> Legion of the Army. The front is headed by Muhannad Khalaf, nicknamed Abu Ahmed Nour, who also leads the Unified Command Room (Azm), under which most of the SNA groups operate. The front is active in northern rural Aleppo and Ras al-Ayn/Serê Kaniyê.

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Notably, some of those interviewed for the purpose of this paper confirmed being arrested and tortured more than once by one or more of the abovementioned entities.<sup>2</sup> However, some victims could not identify those who arrested them nor the places where they were held. That was because they were blindfolded when they were kidnapped and arrested.

## 2. Introduction

The present paper cites summaries of 40 interviews conducted in the context of a joint project between Human Rights Organization-Afrin and Syrians for Truth and Justice (STJ). The interviews were conducted in 2021 and early 2022 with arrest survivors and/or members of their families in the Syrian Kurdish-majority Afrin region, northwest Syria.

The project of the two partner organizations aims not only to collect evidence on the human rights violations committed against the interviewed victims but also to provide various forms of psychological, medical, and legal support to those victims through specialized experts.

The present paper sheds light on crimes and violations committed by Turkish-backed Syrian armed opposition groups in control of vast territories in northwest Syria.

United Nations committees as well as international and local organizations have documented systematic patterns of violations perpetrated against residents of Afrin and other Kurdish-majority areas. The documented violations include arbitrary deprivation of liberty, forcing people out of their home areas through threats, extortion, murder, kidnapping, torture and detention, and rape and sexual violence against women and girls.<sup>3</sup>

## 3. Methodology

For the purpose of the present paper, the two partner organizations analyzed in detail the 40 testimonies given by the survivors and their families. The victims were interviewed by field researchers present in the Shahba' IDP camp in northwest Syria, where many of Afrin's locals were displaced after Operation Olive Branch.

Ethnically, the interviewed victims were 34 Kurdish men and women, among them a Yazidi man and woman, as well as six Arabs, including a woman.

We will conceal the identities of the victims in the present paper since it is intended for public publication. Some of the victims agreed to share their testimonies with international entities, including the Independent International Commission of Inquiry on the Syrian Arab Republic, the International, Impartial and Independent Mechanism, and a number of special rapporteurs.

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<sup>2</sup> The witnesses reported cases of people who were arrested with them. However, our researchers managed to interview only 40 survivors of the reported cases.

<sup>3</sup> See, for example, the 21<sup>st</sup> report of the Commission of Inquiry on the Syrian Arab Republic - A/HRC/45/31, 15 September 2020, paras 46-64. The report is available at: <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/documentation>

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## 4. Detention Facilities

Places of detention where the witnesses were held varied according to the entity that made the arrest and the geographical area it controlled at the time.<sup>4</sup> According to testimonies, at least five of the victims were held in al-Masara Prison in Sajjo village of [A'zaz](#), which was under the control of the Levant Front/al-Jabha al-Shamiya.

Some of the victims were held in unofficial detention centers, which are buildings turned into prisons, following the Turkish occupation. Among these buildings was the [Amir Ghabari School](#), located in al-Siyasiah Street in Afrin al-Jadidah neighborhood; a victim confirmed being held there for 23 days in November 2019.

In the same context, two victims (a woman and a man) testified that they were arrested in the local administration building (formerly), located in an area of Afrin controlled by the Levant Front/al-Jabha al-Shamiya and the Sultan Murad Division.<sup>5</sup>

A surviving woman recounted that she was kidnapped by three gunmen and taken to the Turkish governor's building in Afrin where she was held for about an hour. In late April 2018, she was transferred to a prison in Turkey's Kilis,<sup>6</sup> along with two women and 37 men. According to the woman, they were all returned to Afrin later and kept in the military headquarters of the Sultan Murad Division, where she saw dozens of detained women.

Two victims from Jindires district testified that they were held and tortured in Eskan/Eska prison, run by the Sham Legion/Faylaq al-Sham.<sup>7</sup> One of the victims said that he was arrested more than once and held in the same prison; this was in March 2018, December 2020, and early 2021. The other victim was held there in September 2018.

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<sup>4</sup> STJ's field researcher reported that most of the SNA headquarters were used as detention centers.

<sup>5</sup> The Sultan Murad Division was formed in March 2015. It is heavily supported by Turkey and led by Fahim Eissa, who was granted Turkish nationality. The Division is part of the SNA's 2nd corps and is active in northern rural Aleppo, Ras al-Ayn/Serê Kaniyê, and Libya's Tripoli. What distinguished the Division from the other armed group is having Turkmen members. The Division participated in all of the Turkish military operations in Syria; Operation Euphrates Shield against the Islamic State, Operation Olive Branch and Operation Peace Spring against the People's Protection Units (YPG) and the Syrian Democratic Forces (SDF). Reportedly, the Turkish Minister of the Interior visited the Division headquarters in Syria several times.

<sup>6</sup> Kilis is locally referred to Kilis region, which includes [Kilis](#) city in Turkey and its neighboring [Hawar Kilis](#) village within the Syrian borders. STJ learned that both Syrian and Turkish Kilis have detention centers, where some Syrian prisoners were transferred. These detention centers are run by Turkish officers and the Turkish language is the only used there in speaking and writing.

<sup>7</sup> The Sham Legion/Faylaq al-Sham group was formed in March 2014 under the leadership of Mondher Saras, member of the Astana Delegation. The group is active in Idlib city and suburbs, northern and western rural Aleppo, Ras al-Ayn/Serê Kaniyê city, and Libya's Tripoli. The group has good links with the HTS, who backs it on Idlib fronts. It is known that the Sham Legion/Faylaq al-Sham shares with the HTS the weapons it receives from the Turkish Army deployed in Idlib.

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At least five testimonies prove the involvement of the Military Police in grave human rights violations.<sup>8</sup> A victim confirmed that he was held in the Military Police headquarters in al-Vellat neighborhood in Afrin al-Jadedah for 85 days, beginning from late July 2019. Furthermore, a female victim testified that she was arrested along with her daughter and granddaughter in the same headquarters from June 2019 until 27 April 2020. The victim added that this headquarters was a commercial secondary school before it was turned into a detention center where hundreds of Afrin locals were held and disappeared.

Furthermore, a witness confirmed that he was detained in the Military Police headquarters in Afrin (formerly a commercial secondary school) and then taken to Maratah Military Prison where he spent 22 days before being transferred to Maratah Civil Prison. Both prisons were run by the Military Police who tortured and mistreated detainees.

Victims' testimonies correspond in content to a [report](#) issued by Amnesty in August 2018 referring to Turkey's use of schools for military purposes, citing Amir Ghabari School. Amnesty stated in the report: "Under international humanitarian law, and particularly in situations of occupation, schools benefit from special protection and the education of children must be provided for."

Tajammu Ahrar al-Sharqiya/Gathering of Free Men of the East faction,<sup>9</sup> which was added to the U.S. sanctions list, converted al-Ashrafiyah School near Aisha gas station in Afrin's old neighborhood into a detention center. This is according to a testimony from a victim who confirmed being held there on 27 March 2018. The victim added that the Tajammu Ahrar al-Sharqiya/Gathering of Free Men of the East also uses the old Saraya building in the center of Afrin as a prison as well as the Maabatli building in the city's al-Vellat Street.

## 5. Converting Civilian Property to Detention Centers

Turkish-backed Syrian opposition armed groups illegally seized the real estate properties of locals and turned them into unofficial detention centers. A victim testified that he was arrested by the Levant Front/al-Jabha al-Shamiya and kept in a farm in the city of A'zaz for

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<sup>8</sup> The Military Police was established in March 2014 with direct support from Ankara. It operates under the SNA and has a countering terrorism office, a complaints office, a Divan section and an investigation section. Its principal functions are holding the SNA members accountable and pursuing SDF and Islamic State members. It is active in northern rural Aleppo and Ras al-Ayn/Serê Kaniyê city. the majority of its members are former fighters in the SNA.

<sup>9</sup> The Tajammu Ahrar al-Sharqiya/Gathering of Free Men of the East faction was formed in January 2016 under the leadership of Ahmed Ihsan Fayyad al-Hayes, nicknamed Abu Hatim Shaqra. However, the latter has disassociated himself from the faction, only officially, after the U.S. sanctions in July 2021. The faction is part of the SNA's 1st Corps and it is active in Afrin, al-Bab, Jarabulus and Ras al-Ayn/Serê Kaniyê. The faction united with other Syrian eastern factions in Liberation and Construction Movement, and it fought alongside the Turkish Army in Operation Olive Branch and Operation Peace Spring against the YPG and the SDF.

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20 days in July 2018. The victim could not precisely locate the farm, since he was blindfolded while entering and leaving it.<sup>10</sup>

Furthermore, the Elite Army/Jaysh al-Nukhba converted the home of the Kurdish local Muhammed Hanan in the Anbar village into a detention and torture center.<sup>11</sup> This is according to a testimony from a victim who confirmed being held in that home in October 2019.

Moreover, the Sultan Muhammad al-Fateh Brigade/Liwa Sultan Muhammad al-Fateh converted a cow barn in the village of Sajjo of A'zaz into an unofficial detention center. This is according to a testimony from a victim who confirmed being held at that center in late March for 45 days. The victim said that the armed group did not spare him detention despite his old age, 87 years at the time.

Additionally, the Sultan Murad Division converted the Zagros canteen, located near the junction of the Juwayq village on the road to Rajjo, into a detention and torture center. A victim confirmed that he was placed there on 15 April 2018, and he recalled with grief the constant screaming of detainees there because of the brutal torture they were subjected to.

The Sham Legion/Faylaq al-Sham converted the home of the local Muhammed Arabo into a military headquarters and a detention center. A Yazidi victim stated that members of the faction detained him in this home, where they tortured him, called him an "infidel" and insulted the Yazidi religion repeatedly.

A victim confirmed that al-Mu'tasim Billah faction detained him on 1 July 2018 in a home belonging to a civilian local,<sup>12</sup> located in al-Ashrafiyah neighborhood above Furun al-Ka'ack (breadstick bakery). On 5 August 2018, the same victim was arrested by the Levant Front/al-Jabha al-Shamiya and held in a home belonging to the forcibly displaced Kurdish local, Ali Sharbo, in al-Ashrafiyah neighborhood, Afrin.

A victim stated that The Levant Front/al-Jabha al-Shamiya arrested him on 25 March 2018 over participation in a demonstration against the Turkish occupation of Afrin. The victim confirmed that he was held in a basement of a building in Afrin, which he could not locate because he was blindfolded.

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<sup>10</sup> The Levant Front/al-Jabha al-Shamiya faction has the greatest military influence on A'zaz, where it seized dozens of farms and converted them into military headquarters and detention centers.

<sup>11</sup> The Elite Army/Jaysh al-Nukhba (formerly the Liberation Army/Jaysh al-Tahrir) was formed in January 2017. It is part of the SNA's 1<sup>st</sup> corps and they both are currently led by Moutaz Arslan. The Army is operating in northern rural Aleppo, Libya's Tripoli and it deployed in Ras al-Ayn/Serê Kaniyê after its participation in Operation Peace Spring.

<sup>12</sup> Al-Mu'tasim Billah faction was formed in December 2015 under the leadership of al-Mu'tasim Abbas. It operates mainly in Marea city and has a presence in northern rural Aleppo, Ras al-Ayn/Serê Kaniyê, and Libya's Tripoli. The faction participated in the Turkish military intervention in Syria as it fought alongside the Turkish Army in Operation Euphrates Shield against the Islamic State, Operation Olive Branch, and Operation Peace Spring against the YPG and the SDF. The al-Mu'tasim Billah faction used to receive support from the Military Operations Command (MOC) (Turkish: Müşterek Operasyon Merkezi (MOM) and that was the reason why the HTS (formerly the al-Nusra Front) attacked it in Kurd Mountains and expelled it to northern rural Aleppo.

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The victims' inability to define the places they were held means that there are many more unofficial detention centers than those cited.



Image 1- A map locates the detention centers witnesses mentioned as in Afrin city.

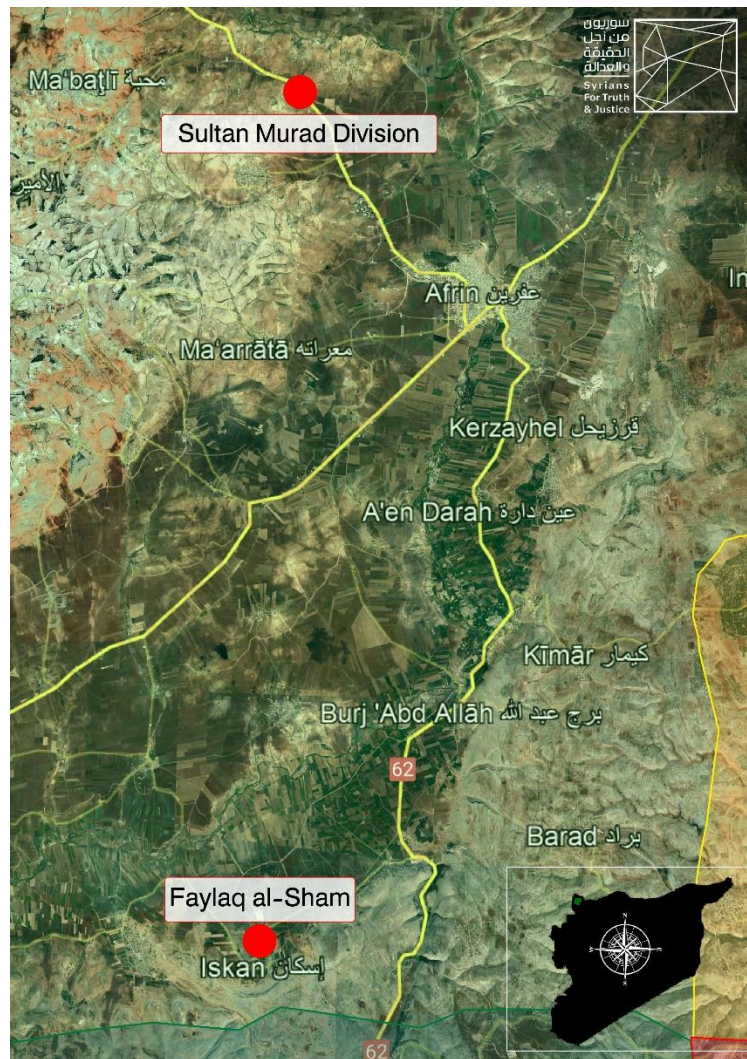


Image 2- A map locates the detention centers the witnesses identified as located outside Afrin city.

## 6. Conditions in Detention Centers

The 40 victim accounts used in this paper unanimously confirmed that the detention centers they were held in do not meet the international minimum standards for the treatment of prisoners. The victims cited that the various forms of ill-treatment and torture they underwent led in many cases to the death of detainees.

Victims said that they were allowed to use the restroom only once a day and that they did not have access to showers; a victim testified that he did not shower during the forty days of his detention. Furthermore, victims stated that they were starved as they were offered only one tiny meal per day.

According to the obtained testimonies, most of the detention centers were tight and overcrowded. A victim confirmed that he was detained with 60 people in a place no more than 20 square meters.

Another victim testified that the detention centers lack a healthy environment and that they were forced to sleep on the ground. Moreover, female victims complained that those who run the detention centers do not take into account gender sensitivity. They said that they were held with men in very tight places and investigated by male officers who openly insulted them.

## 7. Methods of Torture used in Detention Centers

The witnesses (male and female) spoke of the cruel torture they underwent or witnessed during their detention periods, some of which lasted months or even years.

Most of the victims testified that they were beaten with sticks, cables, and water hoses, known in northern Syria as “Lakhdar Brahim”. Additionally, victims confirmed being subjected to the torture technique known as “al-Shabeh position” (Blanco),<sup>13</sup> and that they were beaten with rifles’ buttstocks, and given electric shocks. According to testimonies, the torture was always accompanied by a torrent of profanity and insults.

An elderly victim who was detained by the Sultan Muhammad al-Fateh Brigade/Liwa Sultan Muhammad al-Fateh in the village of Sajjo of A’zaz in April 2018 recounted:

“They beat me brutally with the buttstocks of their rifles. Then, they blindfolded me, tied my feet and hands and took me to the village of Sajjo, where they tortured me with various means. They put a sharp instrument between my fingers and squeezed them. They pulled off some of my fingernails and beat me on sensitive parts of my body. They forced me to strip down to my underwear. They would give me only a little food to keep me alive.”

Another victim recounted that she was detained by the Sultan Murad Division in April 2018. She said that she was taken to a prison in Turkey’s Kilis, where Turkish soldiers beat her along with other detained women with their hands and feet and insulted them without respecting their age. The victim added that the Turkish prison officials handed her over to a Syrian armed group, who held her in a tight place. During her detention she was investigated with a severe beating and heard the screams of other detainees being tortured.

A victim confirmed being tortured by members of the Suleiman Shah Brigade (also known as al-Amshat) in September 2018. The victim recounted that members of the brigade attacked him in his home in Shaykh Al-Hadid District, tied his hands and feet with a rope, and whipped him with a hose. Then, they waterboarded him in a water well.

A victim testified that he was arrested several times by the three factions the Mu'tasim Division, the Levant Front/al-Jabha al-Shamiya and Tajammu Ahrar al-Sharqiya/Gathering of Free Men of the East. The victim confirmed that during his detention he was subjected to “al-Shabeh” (Blanco) position and tortured with a metal skewer which was heated to the highest possible temperature and pressed against his body.

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<sup>13</sup> It involves the victim being suspended by their wrists, which are usually manacled to a hook or over a door or pipes in the ceiling, often for several hours.

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In addition to physical violence, perpetrators exercised psychological torture against detainees. A victim testified that she was initially arrested by the Levant Front/al-Jabha al-Shamiya before being transferred to the prison of Marea, run by the Sultan Murad Division, where she spent three months in May 2019. She recounted:

“They put me in a communal cell and interrogated me repeatedly over five days in the presence of three soldiers: a Turkish soldier, a Kurdish soldier, and an Arab soldier. They tortured me brutally by beating me with a four-conductor cable and gave me electric shocks. There were more than 20 women in the room, some of whom had their children with them. The prisoners insulted me and called me an “infidel” because I am Yazidi and forced me to convert to Islam.”

The victim’s account was consistent with a testimony provided by a Yazidi witness who was arrested by the Sham Legion/Faylaq al-Sham faction twice in March 2018 and December 2020. The Yazidi witness said members of the faction insulted the Yazidi religion and described its adherents as infidels.

Moreover, witnesses confirmed that a number of female detainees had been subjected to sexual violence. A female victim who was arrested by the Levant Front/al-Jabha al-Shamiya on 13 April 2018 and held in al-Masara Prison in Sajjo village said:

“Male members of the faction interrogated us, female detainees. The members blindfolded me, beat me with hoses, and shouted insults at me. I was also subjected to harassment and acts of indecency by several members.”

Another victim who was arrested by the al-Hamza/al-Hamzat Division in August 2018,<sup>14</sup> and held in one of its headquarters near the automated bakery in al-Mahmudiyah neighborhood of Afrin stated that during her detention she was repeatedly raped and underwent sexual violence as well as psychological and physical abuse. Furthermore, the victim confirmed that she was forced to sign a blank paper and filmed giving a forced confession of having links with the Autonomous Administration and conducting explosions in Afrin district. The witness added that she and other women were photographed half-naked.

In some cases, violators intended to torture detainees psychologically by beating and insulting their relatives before their eyes. This was what happened to a female victim who was detained by the Military Police and held in the commercial secondary school in Afrin al-Jadedah neighborhood in June 2019. The victim mourned that her daughter was tortured before her eyes and described her experience saying:

“They put me with my daughter and her infant girl in a solitary cell. They interrogated us on a daily basis and shouted insults at us. They beat my daughter in front of my eyes.

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<sup>14</sup> The al-Hamza/al-Hamzat Division was formed in April 2016. It is part of the SNA’s 2<sup>nd</sup> corps and led by Sayf Abu Bakr. It is active in northern rural Aleppo, Ras al-Ayn/Serê Kaniyê, and Libya’s Tripoli. The Division participated in the Turkish military intervention in Syria, as it fought alongside the Turkish Army in Operation Euphrates Shield against the Islamic State as well as Operation Olive Branch and Operation Peace Spring against the YPG and the SDF.

They also forced us to see young men being tortured with a taser. Afterwards, they took my daughter and her infant girl away from me.”

Almost all of the interviewed victims confirmed that intentional intimidation was a pattern in the detention centers they were held in. A victim who was detained twice by the Levant Front/al-Jabha al-Shamiya and Tajammu Ahrar al-Sharqiya/Gathering of Free Men of the East respectively stated:

“I witnessed the torture of a man called Waleed H., almost 70, as well as a man called Muhammed J., about 40 years old. The two men were subjected to various forms of torture; they were suspended from their wrists by a rope on a track connected to a pulley (Blanco), had their faces cut and bled with sharp objects like razors and also got stepped on.”

A victim who was detained in the commercial secondary school in Afrin al-Jadedah neighborhood after being arrested by the Military Police in July 2019, stated that during his detention, he witnessed the repeated rape of a minor girl, aged about 16, by a group of officers.

In some cases, torture led to the death of detainees, as in the case of the victim Muhammed Ibrahim Ibrahim, who was arrested by the Sultan Murad Division on 14 June 2018. Ibrahim was held in a Kurdish local's home, which was turned into a military headquarters, in Khaliloco village. Ibrahim underwent cruel torture that left him with fractures in his spine and ribs and put him into a coma for two months. Ibrahim was bedridden for several months before he died, as stated by his relative.

In some other cases, torture caused the victims permanent and lifelong disabilities. This was what happened to a victim with special needs who stated that members of the Levant Front/al-Jabha al-Shamiya broke into his home in al-Ashrafiyah neighborhood in April 2018 and beat him severely, causing retinal detachment in his right eye.

Severe torture and beating left a major psychological impact on the victims and their families. Sadly, a victim committed suicide after being detained and extorted by Turkish intelligence to inform on locals. The victim was held in Amir Ghabari School in Afrin al-Jadedah neighborhood.

## 8. Pretexts for the Victims' Arrests

Most of the victims interviewed, both Arabs and Kurds, were arrested over alleged accusations of having links with the Autonomous Administration/the Democratic Union Party (PYD) or working in its institutions. However, the real reason for the arrests is to extort large sums from the victims in exchange for their release or to force them waive their property and leave their homes.

Having links with the Autonomous Administration is not a punishable crime according to Syrian law. Nevertheless, if the occupation authorities criminalize such an action, why did they not organize trials for those detained under this accusation? The victims were all released in

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exchange for large payments, most of which were in U.S. dollars, some in Turkish lira, and a few in Syrian pounds. This proves that the accusations against the victims were likely false.

## 9. Torture in Syrian Law

Successive Syrian constitutions have prohibited torture. Article 28.3 of the 1973 Syrian constitution states: “No one may be tortured physically or mentally or be treated in a humiliating manner. The law defines the punishment of whoever commits such an act.”

In a similar vein, Article 53.2 of the 2012 Syrian constitution in force states: “No one may be tortured or treated in a humiliating manner, and the law shall define the punishment for those who do so.”

Additionally, Article 391 of the Syrian Penal Code stipulates that:

“Anyone who subjects a person to illegal acts of violence with a view to obtaining from him a confession to an offense or information pertaining thereto shall be liable to a penalty of detention for a term of three months to three years. If such acts of violence cause sickness or wounds, the minimum penalty shall be one year’s detention.”

Even though the Arabic legal text does not reference the word ta’athib (torture), and uses the word al-shidah (violence) instead, the Syrian judiciary treats al-Shidah as implying ta’athib. This article has been criticized for its limited scope because it applies exclusively to crimes of torture committed during interrogation, which are perpetrated against a defendant to coerce him/her to confess or provide information. With this, the article does not cover acts committed with the aim of humiliating, inflicting suffering on, or retaliating against a person, acts that are legally defined as cruel, degrading, or inhumane. The article is also widely criticized for classifying the act of torture as a misdemeanor, not a felony.

Although Article 391 criminalizes acts of torture committed over the course of an investigation into a crime, several subsequent laws and decrees have rendered the article meaningless and ineffective. Decree No. 14 of 1969, which provides for establishing the State Security Department, officially called the General Intelligence Directorate, allows the directorate’s employees to use torture with impunity. Security members can commit violations while carrying out their duties without being persecuted. There is also Decree No. 69 of 2008, which expanded the range of Syrian government employees warranted impunity, who are exclusively persecuted under an order issued by the General Command of the Army and Armed Forces.

With the exception of Article 391, torture is not addressed as a criminal act per se. It is often treated as an aggravating circumstance when accompanying another crime. For instance, Article 545 of the Penal Code imposes a harsher penalty against murderers, when accompanied by acts of torture or cruelty. Similarly, Article 556 of the code pushes for a greater penalty for the crime of deprivation of liberty when the victim is also subjected to physical or mental torture.

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Furthermore, the Syrian Penal Code states:

Article 540: “Anyone intentionally beating, injuring, or harming another without causing his or her work to be disrupted for more than ten days shall be punished following the complaint of the victim and sentenced to six months’ imprisonment.”

Article 541: “In case the harm caused to the person prevents him or her from working for ten days, the perpetrator shall be sentenced to one year or less.”

Article 542: “If the suspension from work exceeds 20 days, the perpetrator is sentenced to three months’ to three years’ imprisonment.”

Article 543: “If the acts lead to cutting or removing a human body organ, or amputation or disabling a limb, disabling one of the senses, or causing serious deformation or any other permanent disability, or having the appearance of permanent impairment, the perpetrator shall be punished by temporary hard labor for ten years at most.”<sup>15</sup>

## 10. Torture in International Law

The prohibition of torture and cruel, inhuman, or degrading treatment or punishment is one of the peremptory (*jus cogens*) norms of international law. This prohibition is absolute and applicable to all without exception in times of peace or war. International law does not justify these acts by any pretext including those related to the legal personality of the violators.

With regard to the current legal framework applicable to the addressed armed groups, Common Article 3 of the Geneva Conventions applicable to conflicts not of an international character, prohibits murder, mutilation, torture, cruel, humiliating, and degrading treatment, the taking of hostages and unfair trial, in reflection of [customary international law](#). International law does not condition the involvement of an official entity or individual in torture and other inhuman acts to punish perpetrators, as provided in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).<sup>16</sup> Thereby, members and leaders of the addressed armed groups are liable for acts that amount to torture or inhuman treatment without arguing the involvement of the state. Committing torture and other inhuman acts

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<sup>15</sup> On 30 March 2022, Syrian President Bashar al-Assad issued Law [No. 16 of 2022](#), criminalizing torture. According to the Syrian Presidency’s [Facebook account](#), the Anti-Torture law has been issued in compliance with the “Constitutional obligations of the Syrian State, which prohibit torture” and with the [Convention](#) against Torture of 1984, to which the government of the Syrian Arab Republic acceded on 19 August 2004—the Syrian Government (SG) is compelled to abide by all the Convention’s provisions owing to its status as a signatory State.

<sup>16</sup> ICTY, Kunarac Trial Judgment, 2001, para. 496, confirmed in Appeal Judgment, 2002, para. 148. See also Simić Trial Judgment, 2003, para. 82; Brđanin Trial Judgment, 2004, para. 488; Kvočka Appeal Judgment, 2005, para. 284; Limaj Trial Judgment, 2005, para. 240; Mrkšić Trial Judgment, 2007, para. 514; Haradinaj Retrial Judgment, 2012, para. 419; and Stanišić and Župljanin Trial Judgment, 2013, para. 49.

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during a non-international armed conflict raises individual criminal responsibility under covenants of international criminal courts.<sup>17</sup>

It can be concluded from the testimonies contained in this report that the practices committed against victims/witnesses meet the conditions of torture or inhuman treatment, as stipulated by international humanitarian law. Torture means any act which causes severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind.<sup>18</sup>

It is clear that acts of torture and other inhuman treatment practiced against detainees were intended to coerce confessions from them, humiliate them and practice religious and racial discrimination against them. However, according to international humanitarian law and international criminal law, the intended purpose of torture and ill-treatment do not determine the gravity of the crime. Whatever the purpose behind any act of torture or ill-treatment, this act will be considered a crime if meeting conditions defining the offence.

Actually, the acts of arbitrary detention and ill-treatment in detention involve a series of violations/crimes, which are the arbitrary deprivation of liberty and forced displacement, sexual violence and extrajudicial killing. [Rule 99](#) of the Customary IHL states: “Arbitrary deprivation of liberty is prohibited.”

The deprivation of liberty must be lawful in the law in force and fulfill the basic procedures, the most important of which are: the obligation to inform the person who is arrested of the reasons for his arrest, the obligation to bring the person arrested on a criminal charge before a judge, without delay, and the obligation to provide an opportunity for the person deprived of his liberty to challenge the legality of the detention.<sup>19</sup>

With respect to the deprivation of liberty in international armed conflict, it is lawful to be used when strictly necessary or for criminal causes.<sup>20</sup> However, all parties to the conflict are obligated to treat all persons under their control humanely and without discrimination on any grounds in accordance with the first paragraph of Common Article 3.

In addition to torture and other inhuman acts, testimonies cited in this paper prove the occurrence of the hostage-taking crime. According to Article 1.1 of the International Convention against the Taking of Hostages, the perpetrator of hostage-taking is: “Any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party to do or abstain from doing any act as an explicit or implicit

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<sup>17</sup> Rome Statute, Article 8(c) (1) and (2); International Criminal Tribunal for the Former Yugoslavia (ICTY); International Criminal Tribunal for Rwanda, Article 4.

<sup>18</sup> See e.g., ICTY, Kunarac Trial Judgment, 2001, para. 497; Brđanin Trial Judgment, 2004, para. 487; Limaj Trial Judgment, 2005, para. 235; and Mrkšić Trial Judgment, 2007, para. 513.

<sup>19</sup> See for example, UN Treaty Body Database, general comment No.35 of 2014. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11)

<sup>20</sup> For example, Articles 42 and 78 of the Fourth Geneva Convention.

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condition for the release of the hostage commits the offence of taking of hostages within the meaning of this convention.<sup>21</sup>

The act of hostage-taking is considered a crime if it is proven that the perpetrators made an advantage out of it.<sup>22</sup> The criminalization of hostage-taking does not require the prior intention of the perpetrator to gain this advantage; in other words, the act of detention would be considered hostage-taking if the perpetrators attempted to use the detainees to access an advantage,<sup>23</sup> even if the detention was legal. Telling the detainee himself/herself or a third person to pay amounts in exchange for his/her release proves a hostage-taking crime.<sup>24</sup> Thus, the armed groups' compelling the detainees and/or their relatives to pay amounts in exchange for their release incriminates them of hostage-taking.

International Human Rights Law (IHRL) explicitly prohibits torture; Article 5 of the Universal Declaration of Human Rights states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 7 of the International Covenant on Civil and Political Rights of 1966 (ICCPR) states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 came to absolutely prohibit torture, as it stipulates in its Article 2:

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Some special procedures and investigative mechanisms of the Human Rights Council have argued that armed groups have human rights obligations, for instance [derived from their capacities](#). Given the addressed armed groups have effective authority in the areas they control, their human rights violations must be no longer justified under the pretext of them being non-state entities, to whom the IHRL is not applicable. Since these armed groups have the ability to establish detention centers as well as administrative and/or judicial systems, they have to respect human rights, and even protect them from potential interference and violations by other parties to the conflict, both individuals and groups.

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<sup>21</sup> The International Convention against the Taking of Hostages, Article 1, Statute of the International Criminal Court, Article 8(2) (a) (8") and (c) (3).

<sup>22</sup> ICTY, Blaškić Trial Judgment, 2000, para. 158

<sup>23</sup> SCSL, Sesay Appeal Judgment, 2009, para. 597

<sup>24</sup> Ibid. paras. 582-583.

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## An overview of the two partner organizations

- **Syrians for Truth and Justice:** The idea of establishing “Syrians for Truth and Justice-STJ” was born to one of its founders, while participating in the LDF Fellowship Program by the American Middle East Partnership Initiative (MEPI), motivated by his desire to Contribute to building the future of his country, Syria.

The project started with modest possibilities, as it was limited to publishing stories of Syrians who were subjected to enforced disappearance and torture, and later grew into a well-established organization committed to revealing all human rights violations in Syria.

Based on the conviction of Syrians for Truth and Justice that the diversity and diversity that characterized Syria throughout history is a blessing for the country, our team of researchers and volunteers works diligently to uncover human rights violations committed in Syria, regardless of the party responsible for these violations or the category they were subjected to. With the aim of strengthening the principle of inclusiveness, ensuring the organization's representation of all groups of the Syrian people, and ensuring that everyone enjoys their full rights.

- **Human Rights Organization in Afrin - Syria:** An independent, non-governmental, non-profit Syrian human rights organization, consisting of members and activists in the field of human rights, focusing in its work on protecting human beings and ensuring their basic rights and freedoms within the framework of a democratic and moral society, with the aim of elevating people and raising standards Human rights law for the general public, in line with international human rights covenants and covenants.

