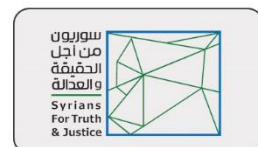


# Complaint to the United Nations Regarding the Crime of Arbitrary Detention and Torture in Northern Syria



September 2023

The failure to take actions and possible measures to address gross human rights violations perpetrated by the Turkish-led and funded factions of the Syrian National Army (SNA) in northern Syria implicitly permit them to continue their practises and forfeit victims' rights.



To the attention of mandate holders:

1. Working Group on arbitrary detention;
2. Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment;
3. Special Rapporteur on minority issues;
4. Special Rapporteur on the human rights of internally displaced persons;
5. Special Rapporteur on violence against women and girls, its causes and consequences.

## **1. Summary:**

We are writing to you in your capacities as the concerned mandate holders to draw your attention to what may amount to systematic practice of torture by the Turkish government-led and funded non-State armed groups (NSAGs) self-proclaimed as the Syrian National Army (SNA) against residents in the areas they controlled in northern Syria, following the Turkish military operation codenamed “Peace Spring”.

Our non-governmental organizations, jointly submitting this complaint, namely [Synergy Association for Victims](#), [Dar Association for Victims of Forced Displacement](#), and [Syrians for Truth and Justice](#) (STJ), and Monitoring and Documentation Department at [North Press Agency](#) have found that torture and inhuman treatment by the SNA’s factions, affiliated with the opposition Syrian Interim Government/National Coalition of Syrian Forces and Opposition Forces amount to be persistent practices not linked to the occurrence of specific events. Rather, they are committed merely because these forces have control on the areas and the civilian population living there.

Our organizations conducted 20 direct interviews with victims of arbitrary detention and torture, survivors, and their families. The analysis of these interviews was further verified by our years of work and extensive expertise in documenting and defending the victims’ rights, and through our field researchers and other sources, including UN reports and other reports from international human rights organizations.

## **2. Contextual Background:**

On October 9, 2019, Turkey launched its military operation codenamed “Peace Spring” by pounding airstrikes and artillery shelling on the areas spanning between Ras al-Ayn-Serê Kaniyê and Tall Abyad, in addition to targeting other areas, such as Kobani and Qamishlo/al-Qamishli, as the Turkish president Recep Tayyip Erdoğan [announced](#) launching the military operation with the participation of the Turkish-controlled NSAGs, calling themselves the

SNA, most prominently the Sultan Murad Division, the al-Hamza/al-Hamzat Division, and Tajammu Ahrar al-Sharqiya/Gathering of Free Men of the East.<sup>1</sup>

The Turkish assault has had dangerous repercussions on the population in the region, particularly the civilians. The invasion directly caused the [displacement](#) of more than 180,000 people from Ras al-Ayn/Serê Kaniyê and Tall Abyad areas during the first days, including thousands of women and children, in quick uncoordinated displacement waves, according to the United Nations.<sup>2</sup>

As a result of “Operation Peace Spring” that ended on October 22, 2019, Türkiye and its SNA-backed factions controlled on the border a strip of 120 km long and 30 km wide, between the areas of Ras al-Ayn/Serê Kaniyê, northwest al-Hasakah City, and Tall Abyad in northern Raqqqa. The operation also led to the displacement of more than 175,000 people from the region, according to the Independent International Commission of Inquiry on the Syrian Arab Republic (COI).<sup>3</sup>

Probably, the most significant aspect of this military operation, alongside the hostilities-related violations, some of which might be tantamount to war crimes,<sup>4</sup> is what the COI described as “civilians in and around Ras al-Ayn and Tall Abyad were subjected to myriad violations of human rights and international humanitarian law by Syrian National Army fighters consistent with the pattern documented in the Afrin District.”<sup>5</sup>

It should be mentioned that in July 2021, the US Department of the Treasury’s Office of Foreign Assets Control (OFAC) designated several SNA’s factions and commanders due to their involvement in committing gross human rights violations in Syria, such as Tajammu Ahrar al-Sharqiya and its leader Ahmed Ihsan Feyyad al-Hays, known as Abo Hatem Shaqra, among others.<sup>6</sup> Moreover, the US Treasury has recently sanctioned al-Hamzat Division and its commander Sayf Boulad Abu Bakr, Suleiman Shah Brigade and its commander Mohammed al-Jasim, also known as Abu Amsa, in addition to his brother Walid al-Jasim, a senior commander in the armed group, for connections to committing serious human rights

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<sup>1</sup> Sirwan Kajjo, Which Syrian Groups Are Involved in Turkey’s Syria Offensive?, VOA, 09 October 2019 (Available at:

<https://www.voanews.com/a/extremism-watch-which-syrian-groups-are-involved-turkeys-syria-offensive/6177353.html>).

<sup>2</sup> [UNHCR](#): More than 10,000 Syrians crossed the Iraqi border since the onset of the Turkish campaign on Northeast Syria, the United Nations, 25 October 2019. (Last accessed on 25 July 2022).

<sup>3</sup> The Independent International Commission of Inquiry on the Syrian Arab Republic, 28 January 2020, para 45, Document NO A/HRC/34/57.

<sup>4</sup> Amnesty International, Syria: Damning evidence of war crimes and other violations by Turkish forces and their allies, 18 October 2019 (Available at: <https://www.amnesty.org/en/latest/press-release/2019/10/syria-damning-evidence-of-war-crimes-and-other-violations-by-turkish-forces-and-their-allies/>).

<sup>5</sup> The UN General Assembly, Human Rights Council, report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/34/57, 28 January 2020, para 54.

<sup>6</sup> U.S. Department of the Treasury, Treasury Sanctions Syrian Regime Prisons, Officials, and Syrian Armed Group, 28 July 2021 (Available at: <https://home.treasury.gov/news/press-releases/jy0292>).

violations against the Kurds residents in Afrin region in northern Syria, including abduction, detention, extortion, rape, torture, and property seizure.<sup>7</sup>

### **3. Facts:**

#### **3.1 Overview:**

Our organizations interviewed 20 victims of arbitrary detention, torture, and inhuman treatment by several SNA factions controlling Ras al-Ayn-Serê Kaniyê and Tall Abyad regions. All of the victims are of the original residents, some of whom were forced to leave during previous periods and are still displaced due to violations they were subjected to, or that they are fearful from experiencing similar violations once again if they return. The majority of the cases documented by our organizations occurred during the period those factions controlled the region in October 2019. However, there are other cases in which the violations occurred later between 2020 and 2022, leading us to firmly believe that the practice of arbitrary detention, torture and inhuman treatment is not only limited or linked to hostilities. Rather, they reflect a systematic practice and a consistent pattern perpetuated by those factions against the civilian residents of the region.

It is worth mentioning that the majority of victims were of Kurdish origin and often have been subjected to obscene language taunting their dignity, faith and ethnic affiliation, which intersects with the documentations of the COI.<sup>8</sup> All the interviewed victims prefer not to share their personal information with other parties for palpable reasons relating to their personal, family members and relative's safety as they fear the violent expected retaliation from the SNA's factions that were mentioned in their testimonies.

#### **3.2 Detention Circumstances and Accompanying Violations:**

None of the interviewed victims was promptly informed about the reasons and legal bases for their detention. Some were later informed that they were detained on charges of "cooperating and communicating with the Autonomous Administration", "being [SDF] fighters", or for reasons relating to explosions, or terrorist actions, as described by the detaining parties. Most of the interviewees were not brought before a court at any stage. Nonetheless, all the interviewees confirmed they were released for ransoms or after being forced to give up their properties. In addition, personal possessions of many victims were seized either at the time of searching them or from their houses during detention raids. The possessions included money, gold, mobile phones, and property documents.

For instance, in July 2020, one resident from the region was arrested by one of the leaders and members of Ahrar al-Sharqiya faction after he confronted them with property documents proving his ownership to the farmland they had already seized. After the farmer

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<sup>7</sup> U.S. Department of the Treasury, Treasury Sanctions Two Syria-Based Militias Responsible for Serious Human Rights Abuses in Northern Syria, 17 August 2023 (Available at: <https://home.treasury.gov/news/press-releases/jy1699>).

<sup>8</sup> The UN General Assembly, Human Rights Council, report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/45/31, 14 August 2020, para 54,

was transferred to one of their centres, one of the leaders ordered for his execution, but the subordinates fired bullets deliberately wanting not to kill him in order to scare him. After subjecting him to many types of torture, they informed him that the reason for his detention was that one of his brothers was an official in the Autonomous Administration and that the other brother was loyal to the Syrian government. The victim was released after his family contacted some of the dignitaries who meditated for his release for five million Syrian pounds as a ransom.

While in custody, many interviewees said they were allowed to use restrooms/toilets only once a day, and sometimes once in few days. They were provided one small meal daily, let alone depriving the victims from any hygiene measures. Women's health needs were not considered; three women victims were denied sanitary pads during the period of their detention that lasted for over a month, in addition to deliberately depriving them from the normal use of toilets and baths and forcing them to be escorted by male guards when using toilets, resulting in diseases in the reproductive system for these female victims.

The detaining parties did not meet any minimum standards that should be applied on the detainees. All the interviewees said they were kept in overcrowded cells or incommunicado for prolonged periods without justification. Women were interrogated by men and were subjected to multiple insults. All the victims said inhuman detention conditions were imposed on them in which the perpetrators aimed to either increase pressure on the victims to extract confessions, information, and ransoms from the family, or without any specific purpose just to cause more suffering to the victims. The majority of the victims underwent the same experience of sleep deprivation, exposure to freezing temperatures, depriving them from any means of warmth, the least of which were blankets. Nor did any victim state that they had access to adequate nutrition or clean drinking water. Furthermore, all the victims were subjected to insults, expressions and conducts that touch their honour according to the prevailing social norms. Victims of Kurdish origin were often described as pigs and infidels.

One of the victims who was subjected to torture and inhuman treatment for 18 days by members of the Sultan Murad Division reported one of the methods used to in torturing him was that one of the members was taking out his penis and put it on the victim's face saying: "you are the same as my penis" and insulting the victim by repeating he would damage his honour by bringing his wife and raping her, in addition to other insults such as "curse been upon your honour, son of a bitch, Pig."

The interviewees detailed different forms of torture and ill-treatment they were subjected to or witnessed during their detention. The alleged perpetrators used similar and diverse means and methods to cause severe pain and suffering to the victims. The victims were hit by sticks, water cannons, and electric wires in addition to slapping, punching and kicking.

Several victims were subjected to *shabah* (ghost) position/Blanco,<sup>9</sup> *Farouja* (chicken)<sup>10</sup> position, and putting out cigarettes on their flesh. Some other victims were suspended from the ceiling, beaten by the butts of guns and electrocuted. Other victims were subjected to a range of other patterns of torture, such as drowning, breaking of fingers, making wounds using sharp objects, pulling behind a military vehicle. Moreover, the victims were compelled to witness other individuals being severely beaten and were threatened with the same punishment in case they did not confess the information needed. The majority of the victims were threatened of killing and firearms were pointed towards the heads of some of them.

In this context, one of the female detainees reported that at first she was kept in custody for several days by members of the SNA but was unable to identify the faction. She said she was beaten by hoses and deprived of sleeping by throwing cold water on her and on other female detainees in the same cell to force her confess she was an SDF fighter and to give information about whereabouts of the SDF leaders and ammunition. After that, one member entered the cell to interrogate her; he was putting Ahrar al-Sham's brand on his shoulder and threatened her of execution if she did not confess. Then he ordered three young men to be brought into the cell and brutally tortured in front of the victim's eyes and the other female detainees. The young men were stripped, beaten with cables, kicked on the faces until they started bleeding from their noses and mouths.

At least six victims shared the experience of arrest and torture by members of the SNA's factions and sometimes with the participation of the Turkish Border Guards (Gendarmerie) because of their attempt to leave the region and cross into Türkiye. It should be noted that some of these victims were of the original residents of Ras al-Ayn/Serê Kaniyê, but they had displaced to other areas and were trying to cross the border due to the bad livelihood conditions and their inability to return to their places of original residence. Despite the main purported reason for arrest was attempting to cross international borders, all the victims underwent interrogation during detention on charges of affiliation to the SDF, dealing with the Autonomous Administration, or involvement in "terrorist" actions. In general, interrogation was accompanied by various types of torture and inhuman treatment; eventually some of the detainees agreed to sign confessions they did not confess. One of the victims reported he was arrested by members of the SNA in August in 2022 while attempting to enter Ras al-Ayn/Serê Kaniyê in order to cross the international border and then travel to Europe. The victim was handed over to the Civil Police and remained in solitary confinement for seven days without being interrogated during which he was allowed to use the toilet only once a day. After that, interrogation started on charges of terrorism in combination of beating on the face, body and foot whipping/*falaqa*: "beating

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<sup>9</sup> The Hanging Torture Method (also known as Blanco): the jailers suspend the detainees by the wrists to ropes dangling from the ceiling to force the detainee stand on the tip of their toes so they are exposed to huge pressure or they remained hanged in the air so that the weight of their bodies press on their wrists and lead to the swelling of the wrists causing intense pain. Detainees may remain in such situation for hours or sometimes days in combination with severe beatings.

<sup>10</sup> The *Farouja* Torture Method: the detainees' hands and legs are tied together and are suspended on a wooden or a metal bar. then, they are raised from above the ground to resemble the way of grilling a chicken in combination with beating on all over the detainees bodies.



on the soles of a bare feet”. The victim was handed over to the Military Police which in turn kept him in a solitary confinement for 15 days. After that, interrogation started with him on the same charge [terrorism] using multiple methods of torture, most prominently the *Farouja*/chicken. As a result of the torture that lasted over a month, the victim agreed to sign confessions drafted by the Military Police interrogators. He was then transferred to a military court in Tall Abyad. In January 2023, he was released after paying a bail of \$700.

### **3.3 Alleged Perpetrators:**

Many victims identified those who were directly involved in detaining and subjecting them to different forms of torture and ill-treatment. Other victims were not able to do the same due to the way they were “kidnapped”, blindfolded, and prevented from any information about the detaining power or the place of their detention. Some victims were detained and/or tortured several times either by the same actor or by different ones. Our organizations concluded from the analysis of the testimonies and cross-checking the information included, especially when the victims were transferred and/or handed over to other actors, that the whole system lies under the structure and leadership of the SNA with its various factions and entities, including the Civil Police, the Military Police, and the Judiciary.

Some victims were able to identify some alleged perpetrators through direct recognition of the persons and their affiliation. Other perpetrators informed the victims about the actors they belong to, while the rest were identified according to the detention facility and the actor known to be controlling it or the area they could locate. For instance, one of the arrested victims while attempting to enter Ras al-Ayn/Serê Kaniyê in July 2022 reported that the members who arrested him were driving vehicles that carried the slogans of al-Hamzat Division and they also told him [when arresting him] that they are waiting orders from one of the Division’s leaders who is known to the residents.

United Nations bodies, international, and local organizations have previously documented systematic patterns of violations against the population in areas under the control of the SNA’s factions in Afrin, and in also the so-called “Peace Spring” areas, ranging from arbitrary deprivation of liberty committed on a large scale by various SNA’s factions, and forcing the population, most of whom are of Kurdish origin, to leave their homes through threats, extortion, murder, kidnapping, torture, and detention. In addition to documenting sexual violence against women and girls.<sup>11</sup>

Possible violations of the International Humanitarian Law (IHL) and the International Humanitarian Rights Law (IHRL) committed by the SNA, that this letter show, are only an episode of a systematic and wide scale series of similar practices that may amount to be an official policy adopted by those factions. The approach documented in the so-called “Olive Branch” areas continue by the same alleged actors and has broadened after tightening

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<sup>11</sup> See e.g. the UN General Assembly, Human rights Council, report of the Independent, International Commission of Inquiry report A/HRC/45/31, August 14, 2020, paras. 46-64.

control on what are called “Peace Spring” areas. By reviewing the adopted approach, we notice the sequence of adopted patterns against the original residents- especially of Kurdish origin- with a view to persecute and force them to leave the area and not to return ever. The practices started in the cases of “Olive Branch” and “Peace Spring” with violations of IHL with respect to hostilities, followed by unprecedented and systematic looting.<sup>12</sup> All this coincides with human rights violations documented by UN bodies against the civilians in the region.

#### **4. Legal Framework:**

##### **4.1 Obligations of Non-State Armed Groups According to International Law:**

In the context of IHL applicable on all areas included in this letter, this law regulates issues sufficiently related to the existing armed conflict. NSAGs exercise control on the civilian population by virtue of an armed conflict in which these groups have engaged in against the state. Accordingly, the IHL is applicable for the protection of those populations from exercising arbitrary authority by parties to the conflict in the absence or disruption of the protection supposed to be granted to them by national laws.<sup>13</sup> Therefore, NSAGs are obligated to apply a set of legal conventional and customary laws in dealing with civilians during armed conflicts, including at least “protection provided to the wounded and sick, protection of hospitals, principle of human treatment, prohibition of collective punishment, pillage, retaliation, and hostage-taking, prohibition of forced displacement and deportation, and the right to due process and judicial guarantees.”<sup>14</sup>

On the other hand, despite states have the primary responsibility for the respect, protection, and fulfilment of human rights under international law, there is a growing support for the approach saying that NSAGs in control of territories, and thus populations, assume obligations of IHRL to avoid a protection gap.<sup>15</sup> The UN endorsed this approach.<sup>16</sup> Furthermore, the Human Rights Council noted that “it is increasingly considered that under certain circumstances non-State actors can also be bound by international human rights law.”<sup>17</sup> Also, in their joint statement, human rights experts of the Special Procedures of the Human Rights Council concluded that “at a minimum, non-state armed actors exercising

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<sup>12</sup> See for instance: [Where is My Home: Property Rights Violations in Northern Syria Perpetuate Demographic Change](#), Synergy Association for Victims, January 19, 2023.

<sup>13</sup> Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts, Vol. 8, CDDH/I/SR.22, Geneva, 1974–77, p. 201.

<sup>14</sup> Sivakumaran, *The Law of Non-International Armed Conflict*, (Oxford University Press, 2012), p 530.

<sup>15</sup> Committee Against Torture, 20th Sess., *GRB. v Sweden*, Communication No. 83/ 1997, UN. Doc. CAT/C/20/D/83/1997 (19 June 1998); *Sheekh v Netherlands*, App. No. 1948/04, HUDOC at 45 (11 January 2007); UN Secretary-General, Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka, 243 (31 March 2011), p 188; Darragh Murray, *Human Rights Obligations of Non-state Armed Groups* (Hart Publishing, 2016).

<sup>16</sup> OHCHR, ‘International Legal Protection of Human Rights in Armed Conflict’, Geneva and New-York (2011), pp 23-27 (Available at: [https://www.ohchr.org/sites/default/files/Documents/Publications/HR\\_in\\_armed\\_conflict.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf)).

<sup>17</sup> *Ibid.* p. 24



either government-like functions or de facto control over territory and population must respect and protect the human rights of individuals and groups.”<sup>18</sup>

#### **4.2 Torture and Inhuman Treatment:**

The prohibition of torture, cruel, brutal, degrading treatment or punishment is a peremptory norm of international law (*jus cogens*). Prohibition, in this context, is not subjected to any justifications, limitations or pretexts related to the legal status of the concerned party. Prohibition is absolute in times of peace and war and is applicable to all actors without exception.

Within this context, Common Article 3 to the Geneva Convention applicable during non-international armed conflicts prohibits torture, cruel treatment and outrages upon personal dignity (inhuman treatment), in particular humiliating and degrading treatment; this prohibition is considered a reflection to Customary IHL.<sup>19</sup> It is important to note that the two terms of torture and inhuman treatment prohibited during armed conflicts do not require the participation or presence of a state official or of any other authority-wielding person in the torture process<sup>20</sup>, as required by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) . Accordingly, leaders and members of armed groups, in their capacity, assume legal liability for committing acts amount to torture or inhuman treatment without the need to argue the liability of the state in such acts. Commission of torture or inhuman treatment during non-international armed conflict entails individual criminal responsibility in case it fulfils elements of the crime of torture or inhuman treatment enshrined in the statutes of international criminal courts.<sup>21</sup> It is worth mentioning that the duty of human treatment is applicable in all circumstances and military necessity, or reciprocity may not be invoked as arguments against fulfilling this obligation by the opposing party to the conflict.<sup>22</sup>

Article 5 of the Universal Declaration on Human Rights (UDHR) provides that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Similarly, Article 2 of the CAT obliges state parties to refrain from acts of torture and to take effective legislative, judicial, and administrative measures to prevent acts of torture on their territories. Article 16 of the CAT obliges state parties to prohibit and prevent other acts of cruel, inhuman, or degrading treatment or punishment that does not amount to torture under their jurisdiction. Article 7 of the International Covenant on Civil and Political Rights

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<sup>18</sup> OHCHR, Joint Statement by independent United Nations human rights experts on human rights responsibilities of armed non-State actors, 25 February 2021 (Available at: <https://www.ohchr.org/en/press-releases/2021/02/joint-statement-independent-united-nations-human-rights-experts-human-rights?LangID=E&NewsID=26797>).

<sup>19</sup> Rule 90 of International Committee of the Red Cross (ICRC) regarding Customary International Humanitarian Law.

<sup>20</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.

<sup>21</sup> Rome Statue, Article 8, C, (i) and (ii), statute of the international criminal tribunal for the former Yugoslavia, Article 2 (b), statute of the international tribunal for Rwanda, Article 4.

<sup>22</sup> ICRC 2020 Commentary on Common Article 3, para 596.

(ICCPR) provides that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Article 2 (2) of the CAT provides that “no exceptional circumstances, 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.” Likewise, Article 4 (2) of the ICCPR clarifies that the obligation under Article 7 (prohibition of torture) cannot be derogated from in times of war or any kind of public emergency.

#### **4.3 Arbitrary Deprivation of Liberty:**

As a rule of the Customary IHL<sup>23</sup>, arbitrary deprivation of liberty is prohibited. This is applied by analogy to its application to international armed conflict and also under IHRL. Accordingly, deprivation of liberty must be legitimate in the applicable law and comply with the essential procedures, most importantly: the arrested person must be informed of any charges, the person arrested or detained on a criminal charge shall be brought promptly before a judge, anyone who is deprived of liberty by arrest or detention has the right to take proceedings before a court to decide the lawfulness of the detention.<sup>24</sup> With respect to the legitimacy of deprivation of liberty, imperative reasons imposed during international armed conflict for an actor are limited to this deprivation only for utmost necessities if not for criminal causes are cited generally.<sup>25</sup> In addition, regardless of the causes of deprivation of liberty, all parties to the conflict are obligated to treat all persons under their control humanely and without discrimination in accordance with the first paragraph of the Common Article 3.

In the context of the IHRL, Article 9 of the UDHR prohibits acts of arbitrary arrest, detention, or exile. Article 9 of the ICCPR protects the right of individuals to liberty and security. Additionally, in paragraph 4, it provides that that anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

In General Comment No. 35, the Human Rights Committee addressed the applicability of Article 9 of the ICCPR to situations of armed conflict, given that IHL regulates the detention of enemy fighters and civilians differently. The Human Rights Committee clarified that “article 9 [of the ICCPR] applies also in situations of armed conflict” and that IHL and IHRL are complementary spheres of law, not mutually exclusive.

Furthermore, while Article 9 is not included as a non-derogable clause under Article 4(2) of the ICCPR, there is a limit on state’s power to derogate. Any exception to Article 9 (which has not been done in the situation of Syria) must be “strictly required by the exigencies of the actual situation.” Lastly, “If, under the most exceptional circumstances, a present, direct,

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<sup>23</sup> Rule 99 of the ICRC regarding Customary International Humanitarian Law.

<sup>24</sup> See for instance, Human Rights Committee, General Comment No. 35, 2014.

<sup>25</sup> For instance, articles 42 and 78 of the Fourth Geneva Convention.

and imperative threat is invoked to justify the detention of persons considered to present such a threat, the burden of proof lies on states parties to show that the individual poses such a threat and that it cannot be addressed by alternative measures, and that burden increases with the length of the detention. States parties also need to prove that detention does not last longer than absolutely necessary, that the overall length of possible detention is limited and that they fully respect the guarantees provided for by article 9 in all cases.

By the growing consensus on the responsibility of NSAGs to respect and protect human rights in the areas they control, above-mentioned provisions are applicable to the SNA's factions due to the fact that they continue to control the so-called "Peace Spring" and "Olive Branch" areas and perform functions similar to those of the Government.

## **5: Recommendations:**

We urge the respectful mandate holders to prioritize this matter and give it their utmost attention, given the outrageous of violations perpetuated and the absence of legal protection for hundreds of thousands of civilians and actual and potential victims over a prolonged period. NSAGs in control of areas in northern Syria must not feel they have impunity or that they are not concerned to respect and protect human rights of the residents under their control.

Failure to take actions and possible measures to address what the victims are continuously subjected to at the hands of those factions represent an implicit permit for them to continue their practises and forfeit of victims' rights. Sanctioning some of these factions by the US Treasury for their documented record of committing human rights violation is an indication of the credibility of what we have included in this letter and also indicates the atrocity they commit against the civilian population.

We, therefore, urge the mandate holders to:

1. Communicate with all concerned actors/authorities, particularly the SNA with its different military and political leadership frameworks, and affirm their legal responsibility, urge them to conduct transparent and effective investigations and announce the results, and hold accountable the perpetrators of the violations regardless of their position.
2. Communicate with the Turkish government given it has effective and direct control over the SNA and on Afrin areas located under the so-called "Olive Branch" and also Ras al-Ayn/Serê Kaniyê and Tall Abyad areas which are called "Peace Spring", as well as urge it to conduct an effective and transparent investigation, in addition to clarify the available remedial mechanisms available to the victims.
3. Issue a statement on this topic and link it to proven stances of the UN regarding obligations of NSAGs to respect and protect human rights in the areas under their control.

4. Release a call for the contributions of non-governmental human rights organizations working on the issue to provide the mandate holders with the available data on the situation of human rights in the areas under the control of the SNA and build upon that in the abovementioned statement.
5. Include this issue in the mandate holders' annual reports submitted to the Human Rights Council and/or to the UN General Assembly.