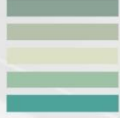


Recommendations to the Terms of References of the UN Independent Institution on Missing Persons in the Syrian Arab Republic

المركز السوري
للعدالة والمساءلة



سوريون
من أجل
الحقيقة
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Syrians
For Truth
& Justice



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Navenda Sūriyayî ya Ragihandinê û Azadiya Derbirinê
Syrian Center for Media and Freedom of Expression

رابطة معتقلي ومفقودي سجن صيدنايا
Association of Detainees & The Missing in Sednaya Prison



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LÊLÛN
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الثالثة
THE DAY AFTER
اليوم



جمعية المعتقلين اللبنانيين السياسيين في السجون السورية
Association of Lebanese Political Prisoners in Syrian Prisons

J F L

September 2023

**Recommendations to the Terms of References of the UN
Independent Institution on Missing Persons in the Syrian
Arab Republic**

On June 29, 2023, the United Nations General Assembly adopted Resolution [301/77](#), which established the “Independent Institution for Missing Persons” and was delegated the task of “to clarify the fate and whereabouts of all missing persons in the Syrian Arab Republic and to provide adequate support to victims, survivors and the families of those missing, in close cooperation and complementarity with all relevant actors.”

The General Assembly requested the Secretary-General of the United Nations, with the support of the Office of the High Commissioner for Human Rights and in consultation with all relevant actors – including the full and meaningful participation of victims, survivors, and families – to develop the terms of reference of the institution within 80 working days.

This paper presents some ideas and recommendations from a group of civil society organizations and human rights organizations to the Office of High Commissioner for Human Rights to contribute to the development of the terms of reference of the new institution.

1- Leadership of the institution:

Working to uncover the fate of missing persons in Syria requires diverse technical expertise from investigators to open-source investigation experts, satellite image experts, all the way to forensic specialists. Despite these technical challenges, the greatest dilemma for investigation of missing persons in Syria is fundamentally a political-will issue and the refusal by the Syrian government to release them. The practice of detention and the rejection to revealing the fate of missing persons in Syria is a political position taken by the parties involved in this crime, led by the Syrian government, which attacked the mechanism and condemned the decision to establish it.

The organizations signing this paper consider it necessary for the presidency of the new institution to have a high-level rank in the United Nations (Deputy or Assistant Secretary-General), and to be a well-known international figure with diplomatic weight appropriate to the magnitude of the challenges associated with the work of the institution. The success of the institution’s work requires building political will and political consensus between several international and regional parties, as well as negotiating with the parties to the Syrian conflict and with many countries on complex files, including international sanctions on Syria, reconstruction, and international accountability. The success of the institution cannot be imagined without a leadership role and clear diplomatic influence from the institution’s leadership.

2- The temporal mandate of the new institution:

The issue of enforced disappearance in Syria is as old as modern Syria and is not limited only to cases of enforced disappearance after 2011, nor does it affect Syrians alone. In Syria, thousands of political detainees went missing in the 1980s, including Palestinian and Lebanese political prisoners, some of whom were kidnapped from Lebanon and became missing.

The situation of missing persons in Syria after 2011 is more prominent for many reasons, including the intense media coverage that the “Caesar Photos” file received, the advocacy

efforts of the families of missing persons in Syria, as well as the large numbers who went missing after 2011 and the efforts of Syrian human rights organizations to document these cases. Nevertheless, the new institution's role shouldn't be confined to post-2011.

Likewise, the disappearances in Syria were not limited to Syrians alone, but included foreigners from neighboring countries, foreign fighters who arrived to fight in Syria, and a number of foreign hostages who worked in the media or as volunteers in international humanitarian institutions.

While the organizations signing this paper note that Resolution No. 301 suggests that the temporal mandate of the new institution be limited to those missing in Syria after 2011, they also see the necessity of searching and discovering the fate of those missing in previous years. Accordingly, we propose establishing a sub-team specialized in cases of missing persons before 2011. Thus, the mechanism maintains its jurisdiction in accordance with the UNGA resolution, but does not exclude cases of missing persons prior to 2011.

3- Comprehensive and diverse representation of the families of missing persons and victims

The General Assembly's decision to establish the independent institution indicates the inclusion of a "structural element that ensures the full and meaningful participation and representation of victims, survivors and the families of missing persons in the Syrian Arab Republic in its operationalization and work and that it shall engage with women's organizations and other civil society organizations in a regular and sustained manner".

The organizations endorsing this document appreciate the General Assembly's resolution, which emphasizes the vital and clear inclusion of victims, survivors, and families of missing persons. We further emphasize the necessity of representing the diverse communities of missing Syrians, encompassing a range of victims and their families from different geographical, religious, national, and political backgrounds. We demand comprehensive and equitable representation for these groups, including the voices of victims and their foreign relatives who went missing on Syrian territory.

The organizations signing this paper see the need to establish an "advisory council" that allows victim groups to participate effectively in the operation of the institution, while ensuring the diversity and plurality of victim groups participating in this council. The signatory organizations also see the need to establish clear criteria for selecting representatives from the victim communities to ensure transparency and clarity. The organizations also demand that the role of victim representatives be voluntary to ensure no conflict of interest and stress the need to respect the principles of confidentiality and informed consent related to sharing data of missing persons by families or by organizations working in documentation and gathering evidence.

4- A technical track dedicated to organizations working in documentation and evidence collection and women's organizations

The significant role played by Syrian organizations involved in documentation, evidence gathering, and certain international bodies in documenting detentions and cases of enforced disappearance in Syria is evident. They conduct contextual investigations, uncovering numerous crimes where victims were hidden, burned, or buried in mass graves in some instances.

The organizations signing this paper appreciate the inclusion in the General Assembly's resolution of the need for the independent institution to work "with women's organizations and other civil society organizations in a regular and sustained manner" and see the need to establish a dedicated, specialized technical track, separate from the other tracks of the institution's work, that allows organizations working in documentation and evidence collection to share data and evidence directly with the institution and respects the rules of confidentiality, security and informed consent, and allows organizations to discuss work methodology, investigations and assist the institution by collecting specific evidence, each organization according to its work and technical or geographical specialization, and this path includes both international and Syrian specialized organizations. It also allows women's organizations to provide the necessary technical support to ensure that the organization's work is a gender-sensitive to the missing and the disproportionate impact of the crime of enforced disappearance on women.

5- Managing expectations regarding the support for victims, survivors, and families of missing persons, and preventing economic support from affecting the credibility of documentation.

The suffering of missing persons is not limited to periods of detention and disappearance endured. Some Syrian men and women who survived the darkness of enforced disappearance committed by various parties inside Syria succeeded in reaching safe third countries where access to medical and psychological support is more available than those who remained in Syria or in neighboring countries.

The suffering of the families of the missing is not limited to the disappearance of their loved ones and relatives, but rather extends to families being left without adequate support, including legal support, which may include registering births of children born to a missing parent, all the way to issuing identification papers, and authorizing legal travel outside the country for minors, to complex legal procedures related to property, inheritance and transfer of real estate ownership.

The organizations endorsing this document appreciate the clarity of the General Assembly's resolution concerning the institution's role in providing adequate support to victims, survivors, and the families of the missing. They emphasize the need to specify the support available to these groups during the early stages of the institution's work and to manage the expectations of eligible parties seeking assistance. Furthermore, they stress the necessity of designing support programs that target the groups most in need, including those with limited access, such as those in refugee camps, displaced individuals, those within Syria, and those in neighboring countries.

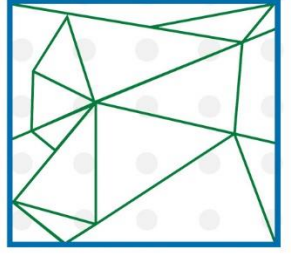
The organizations signing this paper are concerned about the impact that forms of economic support, if any, will have on the credibility of the documentation and collection of information about missing persons. It is no secret to anyone that the economic situation in Syria is deteriorating, but the provision of economic support by the institution will constitute a financial incentive for some to come forward and document a person in their family as missing to become eligible to receiving economic support.

The signatory organizations believe that limiting support to technical, psychological, medical, and legal support may be a safer path for the work of the new institution and avoid any impact that the financial factor could cause. However, if the institution decides to proceed in providing economic support, it is possible to do so through partner mechanisms and organizations that provide economic assistance without affecting the course of documentation processes. Additionally, the institution must be clear that obtaining such temporary support does not constitute a reparations program, nor does it enshrine the recognition of forced disappearance that a national reparations program might provide.

The Signatory Organizations:

1. Syrian Justice and Accountability Center (SJAC)
2. Syrians from the truth (STJ)
3. Justice for Life (JFL)
4. Urnammu
5. The Association of Detainees and Missing Prisoners of Seydnaya (ADMSP)
6. Syrian Center for Media and Expression (SCM)
7. The Day After
8. Association of Lebanese Political Prisoners in Syrian Prisons
9. The Association of Detainees in Adra Prison
10. Lilon Association for Victims

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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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