

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

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On 29 June 2023, the UN [General Assembly](#) adopted [resolution](#) A/77/L.79 to create an Independent Institution on Missing Persons in the Syrian Arab Republic. This new Institution will have two aims: (1) to clarify the fate and whereabouts of all missing persons in Syria and (2) provide adequate support to victims, survivors and the families of those missing.

The adoption of the resolution and creation of the Institution is the result of long-lasting effort by survivors, families of missing and forcibly disappeared persons, [victims' associations](#), as well as local and international organizations. Further, the Institution's establishment was a response to a recommendation made by UN Secretary-General (SG) António Guterres in his [report](#) of August 2022 stating, "The cornerstone is the establishment by the General Assembly of a new international Institution to clarify the fate and whereabouts of the missing, and to provide support to victims and their families".

While welcoming this historic decision, Syrians for Truth and Justice (STJ) would like to refer to the challenges that the Institution may encounter and make relevant recommendations that would contribute to the development of the Institution's terms of reference,

1. Adopting a Comprehensive Definition of "Missing Persons"

Although the UN A/77/L.79 resolution that established the new Institution clearly specified its territorial mandate (The Syrian Arab Republic), there are challenges of the personal mandate of the Institution, especially regarding cases of missing related to Syria, but which occurred outside it. Examples of this include refugees who went missing during asylum journeys by land or sea. Many of those whose fate and whereabouts were known in Syria but went missing abroad. In addition to the question of the inclusion of those in the Institution's mandate, the challenge is whether the States in which the missing cases possibly took place are obliged to cooperate with the new Institution with respect to those cases. Paragraph 7 of the UN resolution "calls" upon all States as well as all parties to the conflict in the Syrian Arab Republic to cooperate fully with the Institution; however, the States have the discretion to decide upon the cooperation on the basis of their sovereign interests on one hand, and the applicable international law provisions on the other. Cooperation would be more complicated if the State is involved in one way or another in the Syrian conflict.

It is noted that the Institution's temporal mandate was simply alluded to in the resolution by recalling Resolution 2254 of 2015 and Resolution 2474 of 2019 issued during the Syrian conflict, which might suggest that the Institution is charged only with cases of missing occurred in Syria after 2011.

While it may seem reasonable that the new Institution's focus would primarily be on revealing the fate of those who went missing since the public protests in 2011, it should not, from an operational perspective and due to its humanitarian approach, ignore any information or facts relating to disappearances that occurred before 2011.

We believe that the new institution must adopt a comprehensive definition of missing persons in a way that is consistent with the wording of the resolution and with the humanitarian approach that covers all cases and forms of missing in Syria without discrimination, whether those who have been forcibly disappeared at the hands of all parties, or any other individuals whose families do not have information about their fate and whereabouts, regardless of the identity of the missing person or the circumstances of their disappearance.

2. Committing to Inclusiveness and Non-Discrimination

The inclusive approach called for in the UN A/77/L.79 resolution must cover the comprehensive definition of 'missing persons' the Institution shall adopt. This must go in tandem with a commitment to non-discrimination, which is a well-established principle of international law and is associated, no doubt, with the 'do no harm' principle; because discrimination of any kind between victims or their families causes harm to those who were discriminated against. For example, discrimination may be in prioritizing missing person cases in areas controlled by certain parties to the conflict over others or through a party's intervening in the process of receiving reports and data in a way that favours those of certain categories of missing persons over others. The Independent Institution must not take sides or exclude certain categories of missing persons over their political affiliation, participation in the conflict, or perpetration of violations.

STJ believes that there is a real opportunity for the new Institution to follow an approach based on **non-politicization** and inclusiveness in the documentation and research processes. Through such an approach, the Institution could communicate with all parties that are relevant to the Institution's mandate execution. However, in the process, the Institution must be constantly vigilant for potential attempts by conflict parties to exploit the communication to serve private agendas or gain legitimacy on the local or international level without providing benefits to the Institution.

The historic decision to establish the Institution came at a time when the Syrian conflict continues and enforced disappearance, kidnapping, and missing persons cases by all parties to the conflict persist. Moreover, the northern areas of the country are under constant threat of military attack by different actors. This poses unique challenges to the new Institution in dealing with missing person cases, including the current and the future ones.

As such, STJ recommends creating a secure and encrypted mechanism via which families can send data of old, current and potential future cases of missing persons to the Institution. In parallel, families must be introduced to the reporting mechanisms.

The new Institution must address all actors in Syria to facilitate visits of the institution's representatives to Syrian territory and places of detention, including the unofficial, run by security forces.

STJ also recommends that the new Institution's terms of reference clearly define the overall scope of its work with all relevant parties in any location or context believed to contain

information about the fate and whereabouts of any missing person. The Institution's work should follow priority criteria based on available information and accessibility in all its forms. Furthermore, the Institution must allocate all necessary and available resources to deal with these priorities without any consideration of the scope and background of the missing person cases being dealt with.

3. Engaging Victims, Survivors, Families, Civil Society Organizations in Early Stages and Beyond

Paragraph 3 of the A/77/L.79 resolution states, "Also decides that the Independent Institution shall have 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;"

This paragraph is a precedent in the history of the UN resolutions as it is the first to acknowledge the structural participation of the victims and families. This could not have been achieved without the long-lasting struggle of survivors, families of the missing, and several local and international organizations. It is crucial now to maintain this achievement and invest in it effectively to ensure full inclusiveness in the Institution's work; meaning the real participation and representation of all survivors and victims' families without discrimination on any ground, including on political affiliation, areas of residence, and forms of disappearance.

Nonetheless, inclusive representation is very difficult to achieve given the complicated reality of the Syrian conflict and barriers facing access and participation. Among the key interventions, necessary to enhance representation is disseminating informed knowledge on the new Institution's mandate, goals, and role of its participants. In this context, the Institution is responsible for immediate planning to disseminate this knowledge, especially through reliable partnerships with specialized bodies.

STJ believes that after initiating the Institution's work, it is necessary to establish a participatory process, supported by effective and secure communication channels, to ensure a primary role for families of missing persons in designing and implementing measures related to the search. In parallel, the Institution must build trust with victims' families through transparency and periodic and continuous updates.

In this context, STJ recommends establishing an advisory council within the Institution, which will provide it with recommendations and suggestions while ensuring that those recommendations are implemented wherever possible and in accordance with the Institution's mandate. In the same connection, STJ recommends fair and balanced representation through a fair and transparent selection process of families of the missing and forcibly disappeared by all parties to the conflict in all Syrian regions.

4. Paying Particular Attention to Women, Children

The new Institution must pay special attention to women survivors as well as women in the families of the missing, who are, in particular, the most vulnerable to the impact of these violations, especially when left as the sole breadwinner. In this regard, STJ recommends designing gender-sensitive programs for women in the families of the missing to help them follow up on their legal affairs and their children's, especially since many missing cases of men led to women and children's deprivation of documentation and sometimes the Syrian nationality.

5. Complementary Support for Adjust Expectations

Paragraphs 1 and 2 of the A/77/L.79 resolution stress the right of families to know the fate and whereabouts of their missing loved ones and receive "adequate support". The resolution, however, did not expand on what this 'support' entails, leaving the precise determination of its forms and scale to the Secretary-General and the Office of the United Nations High Commissioner for Human Rights. Hostilities, displacement, and the loss of loved ones have multiplied the families' needs and challenges, including the economic, legal, and psychological needs. As such, the Institution must deeply study the definition and forms of this support in an objective and transparent manner; so that families do not lose their trust in the credibility of the Institution's main work on revealing the fate of missing persons. What support, how, and for whom shall be provided, must be decided after information coordination and verification to avoid exploitation, waste of resources, and harm to those who are really in need of this support.

STJ recommends identifying and determining the forms of support needed so the expectations of survivors, victims, and families of the missing will be managed and this requires efforts to disseminate informed knowledge about these forms of support as well as about the institution and its mandate in general. In this context, the experience of other countries shall be taken into account so efforts will not overlap. Drawing on previous projects, STJ recommends that the support to be provided should be tailored to suit the needs of each family and not be limited to one form over others. It is also necessary to seek integration between the different types of support to be provided, whether it is legal, psychological, medical, social, and even economic. In the event that the new Institution is unable to provide this support autonomously, we suggest the Institution build formal partnerships with reliable service providers and refer to them families in need of support.

6. Coordination, Reporting, and Verification Mechanisms

As is well known, the Syrian conflict has been accompanied by an intensive documentation process in which local and international civil society organizations, victims and families' associations as well as States and UN bodies, including the CoI Syria, have contributed to. What is certain is that data on missing persons is huge but uncoordinated. Thus, a coordinating mechanism is needed to ensure the effective use of this data in the

processes of searching and uncovering the fate of the missing. Notably, lack of coordination was among the reasons on which the UNSG based his [report](#) to recommend the establishment of this Independent Institution.

The Institution shall develop a proper and effective coordination mechanism that allows receiving data from all relevant stakeholders, verifying and crosschecking it to eventually get consolidated and reliable information on missing person cases that will effectively help in revealing fates. In parallel, the Institution must create a central database to register verified data, including that of unidentified persons, and develop a rigorous methodology to verify data collected to avoid disinformation from parties involved in missing and disappearance cases.

STJ recommends that periodic technical sessions be held between the body tasked with drafting executive regulations, victims' associations, and Syrian and international civil society organizations, especially those working in documentation and collecting evidence. Memorandums of understanding should be signed between these organizations and the new Institution. Under these memorandums, the organizations should send all materials related to the interests and competencies of the Institution, and the latter, in turn, should give feedback on the evidence collected by Syrian and international organizations so as to help unify the methodologies of documentation and information collection.

Establishing a DNA laboratory that can be moved to Syria in the future may be an idea worthy of discussion and adoption; experiences of other states such as Bosnia can be benefited from in this context. On another hand, STJ believes that it is critical to involve victims' families in drafting the executive regulations and in future consultations. That shall be accessible not only to families residing in the European Union but also to those in Lebanon, Jordan, Turkey, Iraq, Kurdistan – through regional consultation – and even Syria, albeit online.

7. Including Foreigners Missing in Syria, Syrians Missing Abroad

The Syrian conflict is unique in its complexity, it involved dozens of foreign-armed groups, hundreds of internally formed armed groups, and a handful of transnational hardline groups. These groups fought alongside the Syrian government, the opposition, and other actors such as the Syrian Democratic Forces (SDF).

All the aforementioned parties were involved, in varying degrees, in kidnappings and disappearances, while the Syrian government and Islamic State (IS) were proved to be behind the bulk of the disappearances.

Disappearances of non-Syrian persons were also reported in Syria. These cases were of Lebanese, Jordanians, and Iraqis, including thousands of Yazidi women and children brought by IS during its control over vast swathes in Syria and Iraq. Reportedly, hundreds and possibly thousands of those who went missing in Syria were transferred to Iraq by the IS.

Similar acts were reported in northeast Syria, where Türkiye and Syrian allies [illegally transferred](#) dozens or hundreds of Syrians to Türkiye following Operation Peace Spring.

That said, STJ believes in the importance of engaging Lebanese, Jordanian, Palestinian, Iraqi, and Turkish organizations concerned with missing persons issues in drafting the new Institution's executive regulations and the later periodic consultations. The new Institution must not ignore missing person cases of IS families, especially those of women and children.

8. Dealing with Mass Graves

With numerous controlling actors on the ground and the absence of the rule of law, dealing with the issue of mass graves and other places of burial is sensitive and futile. The illegal and unprofessional dealing with these sites has negative consequences that outweigh the positive intentions of some actors who indeed want to help families discover the fate of loved ones. Changing the features of these sites amid the lack of official documentation and coordination processes complicates the issue even further and thus increases the suffering of families. Any efforts to deal with these sites must comply with international standards, foremost of which is the [Minnesota Protocol](#), taking into account the effective participation of families in decisions affecting them.

STJ believes that the new Institution must be the legal reference in cases related to the identified mass graves. For this, the Institution should receive reports related to these graves, provide the necessary guidance to deal with them and allocate a body for excavations and research, which contributes to reducing tampering in these graves.



I 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.