

# Military Field Courts in Syria: 55 Years of Arbitrary Decisions

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In September 2023, [Legislative Decree No. 32](#) was issued to repeal [Legislative Decree No. 109 of 1968](#) and its amendments, which was issued fifty five years ago to establish Military Field Courts that look into crimes committed “in wartime and during military operations”. In 1980, the phrase “when internal disturbances occurred” was added which expanded the courts’ jurisdiction to include civilians. As a result, Military Field Courts prosecuted individuals accused of belonging to the “Muslim Brotherhood” group in the 1980s, as well as everyone who was considered opponents of the ruling authority after 2011, and between these two periods.

Despite the importance of Decree No. 32 of 2023 in changing the reality that violates the laws and the constitution, there are several concerns on its implementation. In this brief report, Syrians for Truth and Justice (STJ) presents the conflict between Legislative Decree No. 109 of 1968 and the Syrian constitution, human rights principles, and other legislations. It also includes several testimonies on the violations committed by Military Field Courts including enforced disappearance.

### **1. Signs of an Attempt to Use Decree No. 32 of 2023 to Evade Accountability:**

There are several interpretations behind dissolving the Military Field Courts. This decision might be merely a formality to satisfy [the Jordanian Initiative on Syria’s return to the Arab League](#), especially with regard to the file of refugees’ return. Also, there is a fear that this decision can be attributed to the government’s strategy of handling enforced disappearances after the UN General Assembly adopted [resolution](#) establishing Independent Institution on Missing Persons in Syria.

It is also feared that Decree No. 32 is used as a tool to hide the crime of torture committed by the Syrian government, especially after Canada and the Netherlands jointly institute [proceedings](#) against Syria. Moreover, Decree No. 32 might be a way to evade accountability by disposing the record of the Military Field Courts and hiding evidence because the decree stipulates that only ongoing cases shall be transferred to the military judiciary, and it does not mention the archived cases.

### **2. Military Field Courts Violate the Syrian Constitution and Legislation:**

Exceptional courts are a method used by totalitarian regimes to fight their opponents. These courts rob the ordinary judiciary of its jurisdiction over certain crimes or a specific category of citizens, in accordance with a special law and procedures that differ from those followed in the ordinary judiciary. Consequently, defendants are deprived of their basic rights, especially the right to defense. These courts are composed of military officers who follow the executive authority and are not necessarily licensed to practice law, which violates the principle of separation of powers.

Since their formation, the exceptional Military Field Courts have been used as a tool to intimidate Syrian society, in violation of the principle of independence and impartiality of the judiciary stipulated in Article No. 132 of the [Syrian Constitution of 2012](#).

Moreover, Military Field Courts do not respect the principle of fair trial in contravention of Articles No. 10 and 11 of [the Universal Declaration of Human Rights](#), Article 14 of [the International Covenant on Civil and Political Rights](#), and [Goal 16 of the Sustainable Development](#). Moreover, Article No. 5 of the aforementioned Legislative Decree No. 109 stipulates that it is permissible not to adhere to the principles and procedures outlined in

existing legislation, and thus, defendants no longer have the right to appoint a lawyer under the pretext of the urgency of the crimes.

On the other hand, this contradicts Article No. 51 of the Constitution which stipulates that the right to defense before the judiciary shall be protected by the law, and the State shall guarantee legal aid to those who are incapable to do so. In the same context, the Military Field Courts deprive the accused of his right to a public trial despite Article No. 65 of [the Military Penal and Procedures Code No. 61 of 1950](#) which stipulates the right to public trial.

In addition, Article No. 4 of Legislative Decree No. 109 stipulates that the Public Prosecutor of the court (who exercises the function of an investigating judge, contrary to the Military Penal Code) has broad powers, as his decisions are final. Moreover, Article No. 6 stipulates that the rulings issued by these courts are not subject to any form of appeal. As a result, civilian defendants before these courts are deprived of their right to appeal.

Furthermore, Articles No. 7 and 8 of Decree No. 109 stipulate that death sentences require ratification from the President of the State, while other sentences are approved by the Defense Minister. As a result, the mentioned articles give the President and the Minister the authority to reduce, replace, or even vacate sentences, a power that is usually granted to a higher judiciary, not to the executive branch.

### **3. The Syrian Government Uses Military Field Courts to Fight its Opponents:**

Military Field Courts have been used as a means to intimidate opponents of the government. Since the 1980s, the government has carried out a large number of executions, which was announced by former Defense Minister, Mustafa Tlass, in 2005 in [an interview with the German newspaper Der Spiegel](#), when he spoke about the brutal military attack on Hama in 1982, noting that 150 death sentences had been carried out weekly in Damascus alone at that time.

On the other hand, since the start of the movement in 2011, Military Field Courts have issued thousands of extrajudicial death sentences. A [report](#) of Amnesty International estimated that between 5,000 and 13,000 people were executed between September 2011 and December 2015. According to the aforementioned report, the first execution related to the Syrian conflict took place in September 2011 in Saydnaya Military Prison. Moreover, the report states that there is no evidence that death sentences were stopped any time before the issuance of Legislative Decree No. 32 of 2023.

### **4. Unfair Trials, Ready-Made Accusations, and Secret Decisions:**

According to Amnesty International, detainees are transported to and from the Military Field Courts in delivery trucks known as “meat fridges” or in minibuses. They are usually blindfolded and handcuffed throughout their journey to and from the court, though their blindfolds are sometimes removed when they are brought in front of the judge. This was confirmed by several recent testimonies obtained by STJ for the purpose of this report. According to the sources, all trials are secret and usually last for a few minutes. The judge uses the forced confession provided by detainees under torture to determine their sentence. Detainees tried by Military Field Courts are not informed of their sentence or given access to lawyers. Moreover, most of them are subjected to short- or long-term enforced disappearance.

Ahmed Youssef,<sup>1</sup> from Damascus, was arrested in 2012 after participating in a peaceful demonstration. He was charged with financing terrorism, providing training on terrorist acts, inciting sedition, and cooperating with the enemy. He was released in 2020 by presidential pardon after being detained for about eight years, including two months in the Military Intelligence branch in the city of Damascus. He spent the rest of the period in Saydnaya Military Prison. Ahmed described what happened to him during his trial before the Military Field Court as follows:

**“I did not have a lawyer or the ability to defend myself. In addition, I was not allowed to contact anyone throughout the period of detention, and no witnesses were heard in my case. The duration of the trial was about five minutes, and my head was covered. I did not have the opportunity to speak or listen to the ruling. I was forced to confess under torture, beating, and humiliation. My trial was not public, and I did not have access to information about my sentence. All I knew was that I was detained in Saydnaya Prison because of financing terrorism”.**

In another testimony, STJ spoke to the wife of a detainee from Daraa Governorate. She did not know anything about the fate of her husband from the time of his arrest in 2013 until 2019. The detainee’s wife explained some of the procedures that she later learned about her husband’s trial before the Military Field Court. She narrated:

**“Members of the Military Security branch came to our house in the city of Daraa to arrest my son. However, when they did not find him, they arrested his father instead. We do not know the charges, and we could not obtain any official document in that regard. I learned later that my husband did not have the right to defend himself. Further, he did not contact me or our children, and of course we did not attend the hearing because it was not public. In 2019, I learned from a lawyer that my husband was detained in Saydnaya Prison and that he had been sentenced to twenty years in prison”.**

STJ met the sister of Imad Muhammad, from Homs Governorate. Imad was arrested in 2016, on charges of joining an armed group and trespassing on public and private property. He was sentenced to death by the Military Field Court and the execution took place without informing his family. The victim’s sister disclosed:

**“My brother was arrested in Homs because he assisted the injured and displaced in the besieged areas. He spent five months in detention, including three in branch No. 262, and two in the al-Balouna Military Prison in Homs. Then the Military Field Court sentenced him to death without informing us of the charges, and we were not able to obtain any official document of the ruling even after his execution. My brother did not have the right to appoint a lawyer to defend him, and he did not contact me or our parents throughout his detention... We did not learn of my brother’s execution until December 2022”.**

The Military Field Court does not have its own headquarters. Rather, its sessions are held in the Military Police building in the Qaboun neighborhood in Damascus. Moreover, there is no sign on the building that mentions the Court. STJ spoke with a detainee from al-Hasakah Governorate, who was arrested in 2011 on charges of military defection and not following

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<sup>1</sup> Syrians for Truth and Justice reserves the right to mention the identity of the victims and witnesses for their safety.

orders. He was released in 2014 by presidential pardon. The released detainee explained his experience to STJ:

**“I was arrested in the Military Intelligence branch where I was subjected to various forms of beatings and torture, which forced me to confess to whatever they wanted. Then I went to several security branches in Damascus. Finally, I arrived at the Military Police in the Qaboun neighborhood in Damascus, before I was transferred to the red building of Saydnaya Prison without a trial, without being informed of anything, and without being allowed to communicate with my family. After about a month, they took me to the Military Police building where I was tried. It was not like a normal trial. I remained blindfolded until they brought me into a room where a major general was sitting, in addition to three people, one of whom was a clerk, and the other two were officers whose duties I did not know, but at the time I thought they were representatives of Military Intelligence. The duration of the trial did not exceed five minutes, and of course they did not inform me in advance what was happening. There was no discussion, and I did not know the ruling. They took me back to Saydnaya Prison where I remained for about three years”.**

Another detainee from al-Hasakah Governorate spoke about his experience to STJ. He was arrested in 2012 in the city of Qamishli/Qamishlo by the Air Force Intelligence branch, on charges of incitement to terrorism. He was arrested for a year and eight months. The victim narrated:

**“In February 2013, I was transferred to Saydnaya Prison after being detained in several security branches for about five months. I was tried at the Military Police building in the Qaboun neighborhood in Damascus in the presence of two persons who appeared to be judges. They asked me if I was a founder of the Youth Coordination, I said no. There were no regular procedures; The hearing was not public, I did not have a lawyer, I did not see anything that indicated it was a trial, and I did not have the chance to meet my family. In the hearing, my hands were cuffed, and my interrogation lasted for two minutes, then I was sentenced to 15 years of hard labor. However, I did not learn of the ruling until I was released”.**

The violations and abuses committed by the Military Field Courts are not recent or just a reaction to the Syrian movement. When Hafez al-Assad was the President of Syria, he used these courts as a systematic tool to suppress his opponents. Since the exceptional Military Field Courts were used to fight the Muslim Brotherhood group, they have practiced the same methods and committed the same violations. Nevertheless, the frequency with which they have been carried out has varied from time to time.

STJ interviewed the former detainee, Khaldoun Ahmar, seventy years old, from Daraa Governorate. He was arrested in 1981 on charges of belonging to the Muslim Brotherhood and promoting terrorism. He was released by a presidential pardon after 35 years of imprisonment. Khaldoun stated:

**“I confessed under torture, and I was tried in the Military Field Court where I had no right to defend myself. I had no access to lawyers or to information about my sentence, but I learned later that it was life imprisonment. The duration of my trial was only 3 minutes, and it was not public. During the past years I was unable to communicate with my family; Therefore, they thought I was dead. After 15 years of my arrest, I was transferred to Saydnaya Prison. In 2016, I was released by presidential pardon. When I left the prison, I found that the world had completely changed; My parents and sisters had died, and our house had been destroyed”.**

## **5. Inevitable Measures:**

Finally, STJ emphasizes the importance of abolishing all exceptional courts in Syria (including the Counter-Terrorism Court), transferring the cases to the regular judiciary for urgent decision, halting executions, releasing those arbitrarily detained, and revealing the records of Military Field Courts to enable families to know the fate of detainees and forcibly disappeared persons, their whereabouts, and their burial location if they were dead. Moreover, STJ calls for the necessity of applying the principle of separation of powers, ensuring the effective independence of the judiciary, and abolishing the immunity granted to the security services for the crimes they commit. Furthermore, STJ emphasizes the criminal responsibility of the judges of the Military Field Courts, the Defense Minister, and the President of the State for the rulings issued or ratified by them.

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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.



[WWW.STJ-SY.ORG](http://WWW.STJ-SY.ORG)



[STJ\\_SYRIA\\_ENG](https://twitter.com/STJ_SYRIA_ENG)



[EDITOR@STJ-SY.ORG](mailto:EDITOR@STJ-SY.ORG)