

## Input to the Human Rights Committee Regarding Syria's Compliance with the ICCPR



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1. Syrians for Truth and Justice ([STJ](#)), The Advocates for Human Rights ([The Advocates](#)), and The World Coalition Against the Death Penalty ([WCADP](#)) are submitting this piece to the Human Rights Committee in advance of its 141st session scheduled for 01 to 23 July 2024. This paper pertains to Syria's fourth periodic report on the International Covenant on Civil and Political Rights (ICCPR). Syria submitted the report on 27 May 2022, per Article 40 of the ICCPR. Additionally, the paper will reflect on the list of issues related to the report issued by the Committee on 5 April 2023 and Syria's response to it dated 2 February 2024.
2. The present submission points out Syria's disregard for the principles of fair trials and judicial independence (Article 14 of the Covenant), as well as its failure to meet its obligations in preventing torture and cruel, inhuman, or degrading treatment or punishment (Article 7 of the Covenant). Additionally, it addresses Syria's violation of the right to freedom and security and the prevention of enforced disappearance (Article 9 of the Covenant), and its violation of the right to life (Article 6 of the Covenant).

## Article 7 on the Prohibition of Torture and Cruel, Inhuman, or Degrading Treatment or Punishment

3. Despite Article No. 53 of [the Syrian Constitution of 2012](#) stating, "No one may be tortured or treated in a humiliating manner", the issuance [of Law No. 16 of 2022 criminalizing torture](#),<sup>1</sup> and Syria's ratification of [the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) on 19 August 2004, the Syrian government continues to practice torture and inhuman treatment against its opponents.<sup>2</sup> Furthermore, Syria has not committed to including the provisions of the treaty in its national legislation or amending any conflicting legal texts, even though it is essential to adopt the principle of the supremacy of international law over domestic law. Additionally, the Syrian government made reservations to Article 20 of the Convention, which authorizes the Committee against Torture – emanating from the Convention – to monitor the implementation of States Parties' obligations and submit periodic reports.
4. Here, it is relevant to recall that there is no oversight of the secret and unofficial prisons used by security branches or militias supporting the Syrian government. International and Syrian organizations have issued numerous documents and reports in recent years proving that detainees in Syrian security service facilities and both official and unofficial prisons are being mistreated.<sup>3</sup> Additionally, there have been many pictures of released detainees showing signs of torture on their bodies.<sup>4</sup> For instance, reports have been published by the [Association of Detainees and Missing Persons of Sednaya Prison](#), documenting the exertion of torture widely and systemically against the detainees.<sup>5</sup>

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<sup>1</sup> ["Syria: Anti-Torture Law Issued 35 Years After the Convention against Torture Went Effective"](#), STJ, 12 July 2022.

<sup>2</sup> ["No End in Sight": Torture and ill-treatment in the Syrian Arab Republic 2020-2023"](#), Independent International Commission of Inquiry on the Syrian Arab Republic (A/HRC/53/CRP.5), United Nations Human Rights Council, 10 July 2023.

<sup>3</sup> Ibid.

<sup>4</sup> ["Torture, Starvation, and Mass Graves...Pictures Exposing the Crimes of the Syrian Regime in Prisons"](#), Alaraby, 12 September 2022.

<sup>5</sup> ["Buried in Silence "Mechanisms of Homicide and Disappearance at Tishreen Military Hospital"](#), The Association of Detainees and Missing Persons of Sednaya Prison, 2 October 2023.

5. Over the past few months, there have been several court rulings against Syrian officials accused of carrying out torture against detainees in Syria. This includes a ruling on 24 May 2024 by the French Criminal Court against three high-ranking Syrian officials who were found to be involved in the disappearance of two Syrian detainees before issuing them death certificates.<sup>6</sup> Additionally, the Koblenz Court in Germany convicted a former high-ranking Syrian government official of serious crimes, including supervision for torture, murder, and sexual assault. Another official was convicted in 2021 for aiding and abetting crimes against humanity.<sup>7</sup> It is important to mention [International Court of Justice Resolution](#) No. 2023/67 of 16 November 2023, which required Syria to take all measures within its power to prevent acts of torture and other violations. This was a result of the case brought by the Netherlands and Canada on 8 June 2023 due to Syria's violation of the Convention against Torture. All of this evidence highlights that the practice of torture has not been an isolated incident in Syrian prisons during the conflict but rather a systematic, ongoing practice against those who oppose the authority.
6. It is important to recall that the Syrian law protects the perpetrators of violations by granting immunity to security personnel who widely practice torture. According to Decree No. 14 of 1969 establishing the State Security Department (officially called the General Intelligence Directorate), public lawsuits cannot be initiated against security and intelligence personnel without permission from the Director of the State Security Department.<sup>8</sup> Additionally, officers, non-commissioned officers, members of the Internal Security Forces, and members of the Political Security Division cannot be prosecuted unless authorized by the General Command of the Army and Armed Forces.<sup>9</sup> This immunity entrenches impunity, the loss of victims' rights, and the continuation of torture in detention centers. It would be more beneficial for the Syrian government to abolish these arbitrary laws that prevent the judiciary from holding the perpetrators of these crimes accountable instead of responding to the aforementioned report with false information about its "prosecution of many of those who committed violations and referring them to justice," while the actual situation contradicts the accuracy of this information.

## Article 9 on the Right to Liberty and Security of Person and Prevention of Enforced Disappearance

7. The Syrian conflict is characterized by the disappearance and detention of individuals. Arbitrary detention is deliberately used to spread fear and suppress dissent.<sup>10</sup> Tens of thousands of civilians who were arbitrarily detained in Syria are still forcibly disappeared. Waves of arbitrary detention were committed by those in positions of responsibility and command, starting from the mass arrests of demonstrators at the

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["When Death Becomes A Wish... Testimonies from Sednaya Prison During Revolution"](#), The Association of Detainees and Missing Persons of Sednaya Prison, 27 July 2020.

<sup>6</sup> ["French court sentences three officials close to Bashar al-Assad to life imprisonment for crimes against humanity"](#), The Syrian Center for Media and Freedom of Expression, 27 May 2024.

<sup>7</sup> ["The World's First Trial on State Torture in Syria before the Higher Regional Court in Koblenz, Germany"](#), European Center for Constitutional and Human Rights (ECCHR), 12 January 2023.

<sup>8</sup> Article 16 of Decree No. 14 of 1969 on establishing the State Security Department.

<sup>9</sup> Article 1 of [Legislative Decree No. 64 of 2008](#).

<sup>10</sup> [Report of the Independent International Commission of Inquiry on the Syrian Arab Republic](#) (A/HRC/46/55), United Nations, 11 March 2021.

beginning of the Syrian movement to the collective and individual detentions of men, women, and children that continue today. Evidence indicates that the government registers detainees without investigating their alleged crimes, withholding their whereabouts from their families. This exacerbates the suffering of the families, particularly those headed by females.<sup>11</sup>

8. The fate of thousands of civilians who forcibly disappeared at the hands of Syrian government forces remains unknown, and most of them are believed to have died or been executed, while some are believed to be still detained in inhumane conditions.<sup>12</sup>
9. Syria has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, and Syrian law does not explicitly mention enforced disappearance. However, the current 2012 Syrian Constitution states, "Freedom shall be a sacred right and the state shall guarantee the personal freedom of citizens and preserve their dignity and security" (Article 33.1.). While Syrian law does not have specific legislation addressing enforced disappearance and missing persons, it includes scattered articles in the laws with provisions related to missing persons, such as defining a missing person, specifying periods for announcing the start or end of the loss and addressing the appointment of a legal representative for the missing person. No official mechanisms or government bodies are responsible for searching for missing persons and providing information to their families. Additionally, there is no explicit provision to prevent the denial of liberty or the refusal to report the location or fate of a detained person.
10. The [Code of Criminal Procedure](#) states that a person detained under a subpoena must be brought before an investigating judge within 24 hours for questioning.<sup>13</sup> If the detainee has not been questioned within 24 hours, they must be referred to the Public Prosecutor, who must order their immediate release if questioning is not feasible.<sup>14</sup> However, for reasons other than subpoenas, there are either no time restrictions on detention or the time limit is too long. For instance, Article 1 of [Legislative Decree No. 55 of 2011](#) allows the judicial police or authorized individuals to detain suspects for up to seven days, which can be extended by the Public Prosecutor for a total period of up to sixty days. This conflicts with the position of the Human Rights Committee, which holds that being brought before a judicial body must occur "promptly" within 48 hours, regardless of whether criminal charges have been filed<sup>15</sup>.
11. The existing scattered legal texts fail to provide justice for the victims of loss and their families. They do not help them access their rights, including the right to know the truth, and do not impose any obligation on the Syrian government and its institutions to reveal the fate of missing persons, despite the government's involvement in a significant number of these disappearances.<sup>16</sup> What the Syrian government stated in its response

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<sup>11</sup> ["Syria's Missing and Disappeared: Is There a Way Forward?"](#), The Independent International Commission of Inquiry on the Syrian Arab Republic, 17 June 2023.

<sup>12</sup> ["The Present Absentees... We Will not Stop Searching nor Will We Lose Hope"](#), STJ, 30 August 2023.

<sup>13</sup> Law No.112 of 1950, The Code of Criminal Procedure, Article 104.1.

<sup>14</sup> Law No.112 of 1950, The Code of Criminal Procedure, Article 104.2.

<sup>15</sup> [General comment No. 35 \(CCPR/C/GC/35\)](#), para. 33. Human Rights Committee, 16 December 2014.

<sup>16</sup> For more information on the legal frameworks and practices that may lead to enforced disappearance in Syria, see: ["Syria: Input to the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances' Joint Statement on the Notion of Short-Term Enforced Disappearance"](#), STJ, 24 July 2023.



to the report (paragraphs 37-38) is that the Syrian laws, especially Decree No. 20 of 2013, punish the crimes of kidnapping and deprivation of freedom. The government also claimed that it worked to receive requests from citizens to inquire about detainees and respond to them by mentioning the reason for the arrest, its place, and the judicial authority to which it was referred. However, this conflicts with laws that grant immunity to the security services and the army. Additionally, the International Commission of Inquiry's report refutes the government's allegations by confirming the ongoing enforced disappearance and torture in centers under the control of the Syrian state, including the Sednaya Military Prison, as well as the government's issuance of administrative notices of custody deaths without details about the circumstances of these deaths<sup>17</sup>.

12. According to the Human Rights Committee,<sup>18</sup> enforced disappearance, constitutes a unique and integrated series of acts and omissions representing a grave threat to life. The deprivation of liberty, followed by a refusal to acknowledge that deprivation of liberty or by concealment of the fate of the disappeared person, in effect removes that person from the protection of the law and places his or her life at serious and constant risk, for which the State is accountable. It thus results in a violation of the right to life as well as other rights recognized in the ICCPR. States parties must take adequate measures to prevent the enforced disappearance of individuals and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance. States parties should also ensure that the enforced disappearance of persons is punished with appropriate criminal sanctions and introduce prompt and effective procedures for cases of disappearance to be investigated thoroughly by independent and impartial bodies that operate, as a rule, within the ordinary criminal justice system. They should bring to justice the perpetrators of such acts and omissions and ensure that victims of enforced disappearance and their relatives are informed about the outcome of the investigation and are provided with full reparation. Under no circumstances should families of victims of enforced disappearance be obliged to declare them dead in order to be eligible for reparation. States parties should also provide families of victims of disappeared persons with the means to regularize their legal status in relation to the disappeared persons after an appropriate period of time, which the Syrian government has failed to do.
13. It should be noted that the [decision of the United Nations General Assembly](#) to establish the Independent Institution on Missing Persons in the Syrian Arab Republic indicates the widespread and systematic occurrence of this issue. Missing persons and their families are subjected to violations of international humanitarian law and human rights without proper access to detention facilities. It is important to highlight that we at STJ have received information from private sources confirming the lack of cooperation from the Syrian government with the Institution's founding team. This indicates the insincerity of the government's report about the absence of enforced disappearance cases.

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<sup>17</sup> [Report of the Independent International Commission of Inquiry on the Syrian Arab Republic](#) (A/HRC/46/55), United Nations, paras 56-57, 11 March 2021.

<sup>18</sup> [General comment No. 36 \(CCPR/C/GC/36\)](#), Human Rights Committee, para. 58, 3 September 2019.

## Article 14 on the Right to a Fair Trial Before an Independent Tribunal

14. The principle of separation of powers and independence of the judiciary is fundamental for ensuring a fair trial and upholding the rule of law. Judges should have security, freedom, and independence when making decisions based on facts and per the law, without any interference, restrictions, or inappropriate influence from any party. This is because judicial bodies must be entirely independent of the executive and legislative branches.<sup>19</sup>
15. The Syrian state is obligated to uphold the independence of the judiciary. However, in the decades following the Arab Socialist Ba'ath Party's rise to power in Syria, the executive branch has exerted significant control over the judiciary, especially after the emergency law enforcement. This goes against the current 2012 Syrian Constitution, which establishes Syria as a democratic republic,<sup>20</sup> where the rule of law is fundamental to governance.<sup>21</sup> The Constitution also outlines the roles and powers of the three branches of government (legislative, executive, and judicial) in a way that suggests adopting the principle of separation of powers. Nevertheless, the extensive powers granted to the executive branch, particularly the President of the Republic, undermine this principle. Additionally, the security services have been granted almost absolute powers, which were not mentioned in the Constitution, and come with non-judicial accountability privileges.
16. The illegal interference of the executive authority in the work of the judicial authority, especially through the presidency of the Supreme Judicial Council by the President of the Republic and the Minister of Justice on his behalf, is a violation of the fundamental principles of judicial independence established by the United Nations General Assembly in 1985. It also violates the principles of a fair trial, which affirm that the right to appear before an independent, impartial, and competent court is an absolute right not subject to any exceptions. This principle is a general customary international law that binds all states, even those that have not ratified international treaties, at all times, including during states of emergency and armed conflict.<sup>22</sup> Depriving people of their right to a fair trial due to interference and influence of the executive authority over the judiciary undermines the legal protection framework granted to them by the Constitution and international law to enjoy their fundamental rights and freedoms.
17. The special courts in Syria are a clear example of denying defendants their right to a fair trial. These include the exceptional military courts of 1965, the Supreme State Security Court of 1968,<sup>23</sup> the military field courts of 1968,<sup>24</sup> and the Counter-Terrorism Court of 2012. These courts have been used to intimidate Syrian society, contradicting the judiciary's role in protecting rights, freedoms, and democracy. It is important to note

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<sup>19</sup> [General Comment No. 32 \(CCPR/C/GC/32\)](#), Human Rights Committee, para. 19, 23 August 2007.

<sup>20</sup> Article 1 of the 2012 Syrian Constitution.

<sup>21</sup> Article 50 of the 2012 Syrian Constitution.

<sup>22</sup> ["Fair Trial Manual – Second Edition"](#), Amnesty International, 9 April 2014.

<sup>23</sup> It was abolished by [Legislative Decree No. 53 of 2011](#).

<sup>24</sup> It was abolished by [Legislative Decree No. 32 of 2023](#).

that these courts are made up of army officers who may not be licensed in law,<sup>25</sup> or judges appointed by the President of the Republic.

18. According to the law, exceptional courts are not required to follow the rules and procedures outlined in the applicable legislation during all prosecution and trial stages.<sup>26</sup> As a result, the accused no longer has the right to appoint a lawyer on the grounds of the seriousness of the crimes and the need for prompt decisions, even though the right to defense is a constitutional right to ensure a fair trial, as stated in Article 51 of the current Syrian Constitution. Similarly, these courts deny defendants their right to a public trial. Additionally, the exceptional courts are completely under the control of the executive authority. For instance, judges of the Counter-Terrorism Court are appointed by decree of the President of the Republic,<sup>27</sup> and rulings issued by the court are subject to appeal before a special chamber in the Court of Cassation formed by presidential decree.<sup>28</sup>
19. The Syrian military judiciary, as it currently stands, is an exceptional judicial system affiliated with the Ministry of Defense. Military judges are governed by military regulations and have jurisdiction over both civilians and military personnel. Orders for prosecution against the accused are issued by decree or by decision of the Commander-in-Chief of the Army and Armed Forces or by order of the Chief of General Staff,<sup>29</sup> which violates the principles of fair trial and judicial independence and leads to the denial of victims' fundamental human rights.

## Article 6 on the Right to Life

20. The Committee in paragraph 11 of the List of Issues requested information on “steps taken to revise the current legislation to ensure that the death penalty is authorized only for the most serious crimes, is never mandatory and that pardon or commutation of the sentence is available in all cases.” The Committee further requested “statistical information during the reporting period, disaggregated by sex, age and ethnic origin,” on Syria’s death penalty practices. Syria’s reply to the List of Issues (paragraph 36) asserts that Syria limits the death penalty to the most serious crimes but fails to provide the requested statistical information.
21. Syria continues to carry out executions and sentence people to death,<sup>30</sup> but according to Amnesty International either specific figures are not available or it is not possible to estimate a credible number of people sentenced to death or executed.<sup>31</sup> As presented in greater detail in the reports at the List of Issues stage, Syria fails to limit the death penalty to the most serious crimes and fails to uphold the rights to fair trial and due

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<sup>25</sup> For more information on exceptional Military Field Courts, see: [“Military Field Courts in Syria: 55 Years of Arbitrary Decisions”](#), STJ, 13 October 2023.

<sup>26</sup> Article 7 of Law No.22 of 2012 on the establishment of the Counter-Terrorism Court, Article 7 of Legislative Decree No.47 of 1968 on the establishment of the Supreme State Security Court, and Article 5 of Legislative Decree No.109 of 1968 on the establishment of the military field courts.

<sup>27</sup> Article 2 of [Law No.22 of 2012 on the establishment of the Counter-Terrorism Court](#).

<sup>28</sup> Article 5 of Law No.22 of 2012 on the establishment of the Counter-Terrorism Court.

<sup>29</sup> Articles 39, 50, 51 and 53 of the Military Penal and Procedures Code No. 61 of 1950.

<sup>30</sup> [Death Sentences and Executions in 2023](#) at 9, 12. Amnesty International. 29 May 2024.

<sup>31</sup> *Id.* at 12 n.5.



process in capital cases, and authorities often carry out trials and executions swiftly and secretly.<sup>32</sup>

## Recommendations:

### 22. The Syrian State to:

- A. Include the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the national legislation, amend any conflicting legal texts., and withdraw the reservations to Article 20.
- B. Revoke Legislative Decrees No. 14 of 1969 and No. 64 of 2008 which grants immunity to security services.
- C. Review and amend the Constitution of 2012 and applied laws to limit the power of the executive authority according to the principle of the separation of powers.
- D. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and to adopt a special law on missing and disappeared persons in Syria.
- E. Revoke Law No. 55 of 2011 that allows the security services to exercise power over civilians by extending the maximum period of detention without charges to 60 days.
- F. Abolish all special courts and the laws that established them due to their violation of basic and fundamental human rights, ensure that military courts do not have jurisdiction over civilians, review all the sentences of these courts in the courts that guarantee the right to a fair trial and judicial independence, and immediately stop the execution of capital punishment.
- G. Close all secret prisons, transfer all detainees to known and recognized detention centers, and allow visits to prisons by their families and lawyers. Also, ensure that all families of victims of enforced disappearance are protected from ill-treatment, smuggling, retaliation, arrests, and enforced disappearance.

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<sup>32</sup> [The Advocates for Human Rights, and the World Coalition Against the Death Penalty](#). Syrians for Truth and Justice. 3 January 2023.



**Syrians for Truth and Justice (STJ)** started as an idea in a co-founder's mind while attending the U.S. Middle-East Partnership Initiative's (MEPI) Leaders for Democracy Fellowship program (LDF) in 2015. The idea became a reality and flourished into an independent, non-profit, impartial, non-governmental human rights organization.

Convinced that Syria's diversity is a wealth, our researchers and volunteers serve with unfailing dedication to monitor, expose, and document human rights violations that continue unabated in Syria since 2011, regardless of the affiliation of the victims or perpetrators.



**The Advocates for Human Rights (The Advocates)** is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.



**The World Coalition Against the Death Penalty (WCADP)**, an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.