

SYRIAN ARAB REPUBLIC

Submission to the United Nations Human Rights Committee 130th Session, 12 October – 6 November 2020

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All Survivors Project (ASP) is an independent, impartial, international organisation that conducts research and advocacy and facilitates inter-disciplinary dialogue and learning to improve global responses for every victim/survivor of sexual violence including men and boys in situations of armed conflict and forced displacement. Through our work with governmental and non-governmental stakeholders and with male survivors of sexual violence, we seek to ensure that conflict-related sexual violence is prevented and that the rights of all victims/survivors, including men and boys, are fulfilled, and the dignity of all survivors is respected and protected.

The Syrian Network for Human Rights (SNHR) is a non-profit non-governmental human rights organisation founded in June 2011 in light of the systematic rise in human rights violations in Syria. SNHR aims to contribute to the protection and defense of victims' rights and consequently to aid in the accountability process, to attain justice and peace, to raise awareness amongst Syrians of their civil and political rights, and to mobilise efforts and capabilities towards limiting violations of human rights in Syria.

All Survivors Project and the Syrian Network for Human Rights make this submission to the United Nations (UN) Human Rights Committee in advance of its adoption of the list of issues on the Syrian Arab Republic at the 130th Session. This submission is based on published reports and it focuses on sexual violence against men, boys and persons of diverse sexual orientations, gender identities and/or expressions and sex characteristics (SOGIESC). It relates to Articles 2, 7, and 10 of the International Covenant on Civil and Political Rights (the Covenant).

Conflict-related sexual violence against men, boys and persons of diverse SOGIESC in the Syrian Arab Republic

During the ongoing armed conflict in the Syrian Arab Republic all parties to the conflict have committed serious violations of human rights and international humanitarian law.

Since the outbreak of the anti-government protests in March 2011, sexual violence has been used against women, men, girls and boys in house raids, checkpoints, and in detention centers as a widespread and systematic abuse by the state.¹ Sexual violence against all individuals has also been perpetrated by non-state armed groups.² In June 2012, the

¹ Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, "I Lost My Dignity": Sexual and Gender-Based Violence in the Syrian Arab Republic," UN Doc. A/HRC/37/CRP.3, 8 March 2018.

² Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, "I Lost My Dignity": Sexual and Gender-Based Violence in the Syrian Arab Republic," UN Doc. A/HRC/37/CRP.3, 8 March 2018.

Committee against Torture expressed its grave concern about the “extensive reports of sexual violence committed by public officers, including against male detainees and children.”³

Rape, sexual torture and sexual violence were perpetrated by government forces and militia against men, women and children. This conduct was committed as part of a widespread attack, where civilians were targeted for detention and systematically subjected to multiple violations.⁴ These acts constitute crimes against humanity, war crimes and violations of international human rights law.

Male detainees, including boys as young as 11 years, were subjected to a range of forms of sexual violence including rape, sexual torture and humiliation. Generally, rape of males took place during admissions to a facility—in these cases, the perpetrators were often pro-Government militias supporting the detention facility—during interrogations to force confessions, and occasionally even after detainees confessed to further humiliate or punish them. Upon arrival at detention facilities, men and boys were forced to strip, and often stand naked in front of others. In some instances, they described being submitted to unnecessarily intimate searches during which guards touched their genitals.

*The most common form of male rape occurred with objects, including batons, wooden sticks, pipes, and bottles, a tactic which has been used during interrogations since early in the conflict.*⁵

Male victims also suffer long-term physical and mental health issues including depression, many times compounded by an inability to admit to others what they experienced, in large part out of fear that perceived loss of masculinity would prevent them from fulfilling traditional gender roles.⁶ The report of the Independent Commission of Inquiry (COI) noted in August 2016:

*The trauma resulting from sexual violence, and the profound social stigma attached to being a victim, continue to deter female and male survivors from coming forward. Months, and often years, pass before a survivor may be willing to have her or his account documented. The consequent underreporting and delayed reporting of sexual violence has rendered any assessment of its magnitude challenging. The accounts below are representative of cases that have only recently been documented by the Commission as victims and witnesses have come forward during the reporting period.*⁷

While it is not possible to put a figure on the number of men and boys who have been subjected to sexual violence in government detention since the start of the armed conflict, it is possible that it could run into many hundreds, if not thousands, given the large number of people who have been detained and the apparently widespread nature of sexual violence in government detention facilities.⁸

According to the COI, the pattern of sexual violence by non-state armed groups differs from that of government security forces. Its investigations have found no evidence of a systematic

³ Concluding Observations of the Committee against Torture on the Syrian Arab Republic, UN Doc. CAT/C/SYR/CO/1/Add.2, 29 June 2012, para 2(c).

⁴ Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN Doc. A/HRC/25/65, 12 February 2014, para. 69.

⁵ Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, “I Lost My Dignity’: Sexual and Gender-Based Violence in the Syrian Arab Republic,” UN Doc. A/HRC/37/CRP.3, 8 March 2018, p. 11.

⁶ Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, “I Lost My Dignity’: Sexual and Gender-Based Violence in the Syrian Arab Republic,” UN Doc. A/HRC/37/CRP.3, 8 March 2018.

⁷ The Report of the Independent International Commission of Inquiry, UN Doc. A/HRC/33/55, 11 August 2016, para. 104.

⁸ According to the Syrian Observatory for Human Rights, at least 140,000 people were detained in Syrian government detention centres as of April 2018. See, ‘In the jam of agreements and negotiations, more than 140000 Syrian citizens are still at the mercy of regime’s torturers in its jails and prisons, and unknown fate chases tens of thousands more’, 14 April 2018, <http://www.syriahr.com/en/?p=89511>

practice or policy on the part of armed groups to use sexual violence to instill fear or extract information, but it has documented sexual violence that appears to be motivated by exploitation, religious affiliation and revenge. Most of these incidents involve women and girls. However, a few documented cases have involved males, including men and boys being raped while held in detention by the group Al-Nusra Front, and the torture of male detainees by Syrian Democratic Forces (SDF), including the burning of, and threats to burn, the genitals. The COI has also concluded that the treatment of sexual minorities in Syria by the armed group calling itself Islamic State in Iraq and the Levant (ISIL) constituted the crime against humanity of persecution.⁹

Since the Syrian conflict began in March 2011, men and boys and persons of diverse SOGIE have been subjected to rape and other forms of sexual violence by the Syrian government and non-state armed groups, including the extremist armed group Islamic State (also known as ISIS). Heterosexual men and boys are vulnerable to sexual violence in Syria, but men who are gay or bisexual—or perceived to be—and transgender women are particularly at risk. Evidence gathered by Human Rights Watch shows that Gay Bisexual and Transgender individuals in the military were specifically targeted on the basis of their sexual orientation and/or gender identity.¹⁰

In research published by ASP, interviewees spoke about human rights abuses against LGBTI people by armed actors and highlighted broader problems of harassment, discrimination and violence against them by their families and communities. This is consistent with previous research, which has highlighted the increased vulnerability of LGBTI persons to sexual violence in Syria as a result of the armed conflict. Yet the conflict has merely exacerbated a pre-existing problem of discrimination and persecution against LGBTI people.¹¹

Shortcomings in national criminal law

Syria has integrated the prohibition of torture into its national legal system via its constitution and penal code. Article 53 of the constitution states: “No one may be tortured or treated in a humiliating manner.”¹² According to Article 391 of the Syrian penal code, “those who unlawfully torture anyone for the sake of extracting confessions or information about a committed crime shall be imprisoned for a period between three months to three years.”¹³ Although both laws outlaw torture, the UN Committee Against Torture stated that the relevant provisions fail to ensure appropriate penalties applicable to these acts.¹⁴

Syria’s penal code defines rape as forcing sexual intercourse, by using violence or threatening words, on anyone other than their spouse.¹⁵ Rape is punishable with hard labour sentences,

⁹ Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, “‘I Lost My Dignity’: Sexual and Gender-Based Violence in the Syrian Arab Republic,” UN Doc. A/HRC/37/CRP.3, 8 March 2018.

¹⁰ Human Rights Watch, “They treated us in monstrous ways” Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict, July 29, 2020.

¹¹ The Williams Institute, UCLA, Health and Human Rights Law Project, All Survivors Project, “Destroyed from within”, Sexual Violence against men and boys in Syria and Turkey, September 2018.

¹² *Syrian Arab Republic: Constitution, 2012*, February 26, 2012, art. 53(2), <https://www.refworld.org/docid/5100f02a2.html> (accessed August 11, 2020),

¹³ The Syrian Penal Code – Legislative Decree No.148 of 1949, art. 391 (i), <https://wipolex.wipo.int/en/text/243237>.

¹⁴ Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, “‘I Lost My Dignity’: Sexual and Gender-Based Violence in the Syrian Arab Republic,” UN Doc. A/HRC/37/CRP.3, 8 March 2018, p. 4.

¹⁵ The Syrian Penal Code – Legislative Decree No.148 of 1949, arts. 489 – 497, <https://wipolex.wipo.int/en/text/243237>; Conference room paper of the Independent International Commission of

with the punishment increasing to hard labour not to be less than 21 years, if rape is committed against a minor.¹⁶

Criminalisation of same-sex relationships

Another significant obstacle to justice for survivors of conflict-related sexual violence is the criminalisation of same-sex relationships, despite clear obligations under international human rights law to decriminalise it.

Syrian law reinforces discrimination and violence against LGBTI people. Article 520 of the Syrian Penal Code 1949 states that “any unnatural sexual intercourse shall be punished with a term of imprisonment of up to three years.”¹⁷ Article 517 of the code punishes crimes “against public decency” that are carried out in public with imprisonment of three months to three years.¹⁸ Terms such as “indecent,” “immoral acts,” and “acts against public decency” may be arbitrarily interpreted to prosecute LGBTI people for consensual sexual conduct between adults. Therefore, while article 517 does not specifically mention homosexual conduct, it may be used to imprison LGBTI people in Syria. ASP and SNHR do not have evidence that these articles of the Syrian penal code have been used to prosecute same-sex sexual acts.

Conclusion

In light of the above, ASP and SNHR encourage the Human Rights Committee to include the following issues in the List of Issues for Syria:

- Provide information on all arbitrarily detained persons, in line with Syria’s commitment under point 4 of the Anan plan, “including especially vulnerable categories of persons, and persons involved in peaceful political activities”;
- Provide information on investigations into allegations of arbitrary detention, use of torture, enforced disappearances, and deaths in custody, and on steps taken to bring the perpetrators to justice;
- Provide information on relevant health and mental health and psychosocial services being provided to on a confidential basis to survivors of torture and sexual violence.

Inquiry on the Syrian Arab Republic, “‘I Lost My Dignity’: Sexual and Gender-Based Violence in the Syrian Arab Republic,” UN Doc. A/HRC/37/CRP.3, 8 March 2018, p. 25.

¹⁶ The Syrian Penal Code – Legislative Decree No.148 of 1949, art. 489, <https://wipolex.wipo.int/en/text/243237>.

¹⁷ Graeme Reid (Human Rights Watch), “The Double Threat for Gay Men in Syria,” commentary, *Washington Post*, April 28, 2014, <https://www.hrw.org/news/2014/04/28/double-threat-gay-men-syria>; The Syrian Penal Code – Legislative Decree No.148 of 1949, <https://wipolex.wipo.int/en/text/243237>; International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), Lucas Ramon Mendos, *State-Sponsored Homophobia*, March 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019_light.pdf.

¹⁸ The Syrian Penal Code – Legislative Decree No.148 of 1949, <https://wipolex.wipo.int/en/text/243237>; International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), Lucas Ramon Mendos, *State-Sponsored Homophobia*, March 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019_light.pdf.