

Human Rights Situation in The Syrian Arab Republic: Submission to the Human Rights Committee regarding Syria's Fourth Periodic Review

**Human Rights Committee – 141st Session
June 3, 2024**

Table of Contents

Introduction	4
1- Response to Paragraph 1 – Legal and Constitutional Framework	4
A. Deficiencies in the New Anti-Torture Law	6
B. Abolition of the Military Field Courts Paves the Way for Further Impunity	8
C. Kidnapping Law Falls Short on Enforced Disappearance	10
2- Response to Paragraph 4 - Fight against Impunity and Accountability for Alleged Human Rights Violations	11
3- Response to Paragraph 7 – Counter-Terrorism Measures	14
4- Response to Paragraphs 19 and 20 - Access to Justice, Independence of the Judiciary and the Right to a Fair Trial	16
Suggested Concluding Observations	19

About the Submitting Organisation

*The Syrian Legal Development Programme (SLDP)*¹ is a UK-based Syrian organisation established in 2013 in response to the Syrian conflict after realising the importance of addressing complex legal needs triggered by the conflict. SLDP's scope of work embraces various services, projects, and activities implemented in Syria, neighbouring countries, and other states involved or have a stake in the conflict. SLDP's work includes but is not limited to legal consultations, training and workshops, policy recommendations, legal assessments and advocacy campaigns explicitly tailored for Syrian NGOs and victims and families' groups to help them with their work on the ground and their documentation and legal advocacy efforts.

*Lawyers and Doctors for Human Rights (LDHR)*² is a human rights organization that conducts expert medical documentation for legal proceedings relating to patients reporting torture, cruel and inhumane treatment and sexual violence. Its doctors and lawyers started working in 2012 but the organisation officially registered in Turkey as an NGO in 2016. Since then, LDHR operates in both Syria and Turkey and has previously operated in Jordan.

*The Syrian Center for Media and Freedom of Expression (SCM)*³ is an independent, non-governmental, and non-profit civil society organization registered in France in 2004, focusing on human rights and media development. It is governed by a non-remunerated board and has held a UN ECOSOC special consultative status since 2011. SCM seeks to build a society that guarantees freedom of expression and belief, human rights, and justice. Since its inception in 2004, SCM has been dedicated to safeguarding human rights defenders, advocating for human rights and fundamental freedoms, empowering civil society and victims' associations, and fostering the growth of an independent and professional media sector.

¹ <https://sldp.ngo/en/>

² <https://www.ldhr.org/>

³ <https://scm.bz/en/>

Introduction

The Syrian Arab Republic submitted its overdue fourth periodic report (initially due in 2009) under Article 40 of the International Covenant on Civil and Political Rights on December 29, 2021. The Human Rights Committee adopted its list of issues on April 5, 2023, and the Syrian Government responded to this list on January 8, 2024. This paper presents responses from a group of Syrian civil society organisations to the Syrian Government's responses to the list of issues relating to its fourth periodic report. While the paper does not address all the issues raised by the Committee and responded to by the Syrian Government, it focuses on several thematic areas:

- Constitutional and legal framework (para. 1)
- Fight against impunity and accountability for alleged human rights violations (para. 4)
- Counter-terrorism measures (para. 7)
- Access to Justice, Independence of the Judiciary and the Right to a Fair Trial (paras. 19 and 20)

It is important to note that the absence of discussion regarding other issues raised by the committee in this paper should not be interpreted as indicating that the Syrian Government has fulfilled its obligations under the Covenant in relation to those issues. The focus on specific issues in this report is primarily due to capacity constraints and alignment with the scope of work of the submitting organisations.

1- Response to Paragraph 1 – Legal and Constitutional Framework

1. To understand the potential effects of legislative reforms and laws promoted by the Syrian authorities as legislative reforms, it is crucial to look at the context in which such legislations are enacted. In recent years, the Syrian authorities have strategically utilised human rights discourse to demonstrate a commitment to reform and

international law. This approach aims to reshape their image before the international community, divert attention from their compliance with international obligations and address history of war crimes and crimes against humanity. This is evident from the Syrian authorities' response to the Committee, in which they refer to alleged legislative reforms despite the lack of any accountability for serious human rights violations amounting to war crimes and crimes against humanity over the past decade. Additionally, they refrain from providing any information or data on implementing these legislations and how they contribute to promoting and protecting human rights in Syria.

2. This approach from the Syrian authorities continued during the UPR in 2022, where the Syrian national report highlighted legislative and administrative steps while ignoring the ongoing gross human rights violations and lack of accountability.⁴ Adopting the new Anti-Torture Law and the Law on the Abolition of the Military Field Court referred to in the Government's response aligns with this approach.⁵ The Government presents them as significant reforms in the field of human rights protection in Syria. However, a legal analysis of these laws reveals their inadequacy in addressing human rights violations in Syria.
3. Moreover, it is essential to emphasise that this legislative reform cannot be viewed in isolation from international developments related to accountability in Syria. In 2020, the Netherlands initiated an effort, which was later joined by Canada, to hold the Syrian authorities accountable for the ongoing violations of the Convention against Torture (CAT). This led to the Netherlands and Canada filing a case before the International Court of Justice (ICJ) against Syria, intending to compel it to adhere to its international obligations under the CAT.⁶ Additionally, in June 2023, the UN General Assembly

⁴ A/HRC/WG.6/40/SYR/1.

⁵ Law No.16 of 29 March 2022, Anti-Torture Law, available in Arabic at: <https://www.pministry.gov.sy/contents/22932/الرئيس-الأسد-يصدر-قانوناً-لتجريم-التعذيب>; Legislative Decree 32 of 03 September 2023, available in Arabic at: <https://www.pministry.gov.sy/contents/26160/الرئيس-الأسد-يصدر-مرسوماً-تشرعياً-ينهي-العمل-بمرسوم-إحداث-محاكم-الميدان-العسكرية> ;

⁶ Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic), available at: <https://www.icj-cij.org/case/188>

adopted a resolution establishing an independent institution for missing persons in Syria to clarify the fate and whereabouts of all missing persons and to provide adequate support to victims, survivors and their families.⁷ Therefore, enacting a law criminalising torture and the abolition of the Field Courts can also be perceived as a response to these developments, and the Syrian authorities are likely to present these laws as legislative measures taken to showcase their compliance with their international legal obligations.

4. The following provides an analysis of the legal issues and concerns raised by the new Anti-Torture Law, the abolition of the Military Field Courts and the law concerning kidnapping crimes.

A. Deficiencies in the New Anti-Torture Law

5. Despite the Syrian authorities' consistent claim in their national reports to the UPR that existing domestic legislation adequately criminalises torture, a new law, the Anti-Torture Law of 29 March 2022, has been introduced. In theory, this law may appear to be in line with the CAT as it provides a comprehensive definition of torture similar to that of the CAT and applies more severe penalties for perpetrators. The new law explicitly criminalises acts of torture committed by state officials, as well as acts of torture committed by individuals and non-state actors to achieve personal, material, or political ends or with the intent of revenge or retaliation. However, the minimum penalty for acts of torture committed by non-state actors (NSAs) is higher (8 years) than those penalties imposed on State actors for the same offence (6 years).⁸ This contradicts the logic of law and justice, as law enforcement officials have a greater responsibility to ensure they do not abuse their power. It is, therefore, reasonable that the punishment for any actions they commit in violation of this responsibility should be stricter than that of individuals who do not exercise such authority.

⁷ United Nations General Assembly, A/77/L.79, 29 June 2023.

⁸ Law No.16 of 29 March 2022, Anti-Torture Law, Article 2.

6. The new law generally provides for the ability of victims and survivors to file complaints about torture and seek reparations and their right to be protected from reprisals.⁹ This, in principle, is in line with Syria's obligations under international law to investigate crimes of torture committed by both state agents and NSAGs. However, victims of torture in Syria will encounter a fundamental obstacle in their pursuit of justice and redress: the immunity from prosecution enjoyed by state agents involved in human rights violations, including torture. Under Syrian law, members of the army and its intelligence services, members of the Internal Security Forces, and the General Intelligence Directorate enjoy de facto effective immunity from prosecution for crimes committed during service, and they are prosecuted only with the approval of their superiors.¹⁰

7. It is also crucial to highlight that the new law is silent about the criminalisation of other forms of cruel, inhuman, or degrading treatment or punishment (ill-treatment). This could justify various forms of ill-treatment by claiming they do not meet the criteria for torture. The failure of the Syrian authorities to criminalise ill-treatment under the new law obstructs the victims' ability to access and enjoy their rights. The prerequisite for victims to exercise their right to remedy is the official recognition of them as victims through domestic legislative measures and procedures that criminalise violations against them, such as ill-treatment.¹¹

8. Moreover, the new law, like any criminal legislation, is not applied retroactively to crimes committed before its promulgation. This means that all crimes of torture committed before the new law will be subject to Article 391 of the Penal Code. In addition to its shortcomings in the definition of torture, the offence provided for by this Article is a misdemeanour and not a felony. Therefore, the possibility of prosecuting perpetrators of torture under this Article may be hindered by the statute of limitations. Under Articles 437 and 438 of the Syrian Criminal Procedure Law, the statute of

⁹ Ibid., Article 7.

¹⁰ For an in-depth legal analysis of the new Anti-torture Law, see SLDP & Diakonia report *"No Justice for Torture in Syria: A Victim Rights-Based Analysis of the 2022 Anti-Torture Law"* (November 2023), available at: <https://sldp.ngo/en/blog/1551>.

¹¹ Ibid.

limitations would be three years from the date of the misdemeanour's commission if no prosecution occurred during that period. This applies to both public and personal rights cases. Consequently, crimes of torture and ill-treatment committed by the Syrian authorities and NSAGs before the issuance of the new law, which may amount to war crimes and crimes against humanity, are likely to go unpunished, and, likely, victims will not be able to access justice and claim their rights before Syrian courts. It should be noted that the inapplicability of statutes of limitation to war crimes and crimes against humanity is an established norm of international law, and Syria is obligated to amend its national legislation to ensure the implementation of this rule.

9. If the Syrian Government genuinely intend to utilise this law to advance justice for acts of torture in Syria, the law should be complemented by broader accountability strategies capable of addressing the state policy behind the use of torture by state officials. These strategies should include, among others, the repeal of laws granting immunity to Syrian State officials and the enactment of laws criminalising crimes against humanity and war crimes to address the widespread and systematic nature of the violations fully. The new Anti-Torture Law should also be complemented by more comprehensive responses to ensure victims' rights. This includes allowing humanitarian actors to visit detention centres, releasing all individuals arbitrarily and unlawfully detained, providing information about the fate and whereabouts of all disappeared individuals to end the torture suffered by their family members, undertaking far-reaching institutional and security reforms, and taking concrete actions aimed at ceasing violations and ensuring their non-recurrence. However, the Syrian Government has not yet done this.

B. Abolition of the Military Field Courts Paves the Way for Further Impunity

10. While the abolition of the Military Field Courts can be seen as a positive step, given their historical role as a tool used by the Syrian Government to suppress human rights defenders and political opponents in Syria, there are legitimate concerns that the abolition could pave the way for further impunity by destroying the courts' archives

and records. Decree 32, consisting of only three articles, provides for the referral of all cases pending before the Military Field Courts in their current state to the military judiciary for trial under the provisions outlined in the Military Penal Code and Procedure promulgated by Decree-Law No. 61 of 1950 and its amendments. However, Decree 32 did not mention the fate of the previous cases considered by the court and the records and archives of the court. For years, the Military Field Courts have been extensively utilised by the Syrian Government to impose sanctions against human rights defenders and political opponents, including the death penalty. After 2011, these courts were responsible for the majority of mass executions and extrajudicial killings in Syrian prisons, particularly in the notorious Saydnaya Prison.¹² Thus, abolishing these courts without clarifying the fate of their archives and records or transferring them to another court raises concerns about the possibility of their destruction by the Syrian authorities. This signifies a significant loss of evidence regarding the court's involvement in human rights violations and crimes, including extrajudicial killings, torture, and enforced disappearances. It serves as a means for the Syrian authorities to shield themselves from potential external scrutiny or international accountability, especially in light of the case before the ICJ concerning violations by the Syrian Government of the CAT, which requires the Syrian Government, among other things, to preserve evidence related to torture and enforced disappearances.

11. Moreover, referring cases before the Military Field Courts to the military judiciary does not guarantee a fair trial. Legislative Decree No. 109/1968 on establishing Military Field Courts stipulates that the Public Prosecution in these courts shall have broad powers, and its decision shall be final and not subject to appeal.¹³ This deprives individuals whose cases have been referred to the military judiciary of the opportunity to challenge the decision of the Public Prosecution of the Field Court, which constitutes a violation of their right to defence. In addition, the military courts in Syria are fully subject to the executive authority and lack independence. Judges are appointed by decree on the recommendation of the Commander-in-Chief of the Army and Armed

¹² See, for example, Amnesty International, “*Human slaughterhouse: Mass hangings and extermination at Saydnaya Prison, Syria*”, (2017), available at: <https://www.amnesty.org/en/documents/mde24/5415/2017/en/>

¹³ Legislative Decree no. 109 of 1968, “Law Establishing the Military Field Court”, Article 4, available in Arabic at: <http://www.cdf-sy.org/low/midan.htm>

Forces,¹⁴ who is at the same time the president of the republic and the head of the executive authority.¹⁵

12. Nearly eight months have passed since the issuance of this decree, and up to the time of writing this paper, there has been no information about any cases being transferred from the Military Field Courts to the Military Judiciary. The Independent International Commission of Inquiry on the Syrian Arab Republic (COI) requested information from the Syrian authorities regarding the implementation of Legislative Decree No. 32 but did not receive any response. The COI highlighted a lack of clarity from the Syrian authorities regarding the fate of those sentenced by the Court, how detainees and their families will be informed of the impact of the abolition on their cases, and how to ensure the preservation of the archives of the Court.¹⁶

C. Kidnapping Law Falls Short on Enforced Disappearance

13. Despite a large number of victims of enforced disappearance in Syria, Syrian legislation does not recognise enforced disappearance as a crime under Syrian law. The Syrian authorities refuse to criminalise enforced disappearance as a standalone crime and explicitly assert that the term "enforced disappearance" does not exist in Syrian law. They argue that Legislative Decree 20/2013 has already addressed this crime concerning kidnapping crimes. Syrian authorities have reaffirmed this stance through multiple statements, including their response to the list of issues.
14. Significant disparities exist between the crime of kidnapping in Syrian law and enforced disappearance as a crime recognised under international law. While the crime of enforced disappearance necessitates the perpetrator's refusal to disclose the fate and whereabouts of the disappeared person, Syrian law does not require this element in the

¹⁴ Legislative Decree No. 61 of 1950, Military Penal Code and Procedures, Articles 34, 35 and 39.

¹⁵ Constitution of the Syrian Arab Republic, 26 February 2012, Art. 105. Available in English at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/91436/106031/F-931434246/constitution2.pdf>

¹⁶ A/HRC/55/64, Para. 66.

crime of kidnapping. Enforced disappearance can commence not only with kidnapping but also with arrest or detention, accompanied by a refusal to acknowledge a person's deprivation of liberty or to disclose the fate or whereabouts of the individual. This arrest may be initially lawful, but it may become unlawful later. The crime of kidnapping concludes with either the release or the killing of the victim. However, in contrast, the crime of enforced disappearance is continuous, persisting until the fate and whereabouts of the victim are disclosed, or the individual is released, or, in the case of death, their remains are located and returned to their family. This legal differentiation holds significant implications for victims' rights, particularly their entitlement to the truth as guaranteed by international law.

15. In light of this, for the Syrian authorities to genuinely address enforced disappearance and deliver justice for its victims, they must enact laws explicitly aligned with international human rights law and international humanitarian law. This is imperative because the current Syrian law falls short in addressing enforced disappearance and safeguarding the rights of victims and their families, including their fundamental right to know the truth regarding the circumstances of the disappearance.

2- Response to Paragraph 4 - Fight against Impunity and Accountability for Alleged Human Rights Violations

16. The Syrian authorities' response to this paragraph is vague. It lacks specific details regarding the measures taken to combat impunity, prosecute perpetrators, and ensure truth and reparation for victims and their families. As of the time of writing this paper, no investigations or prosecutions have been initiated by the Syrian authorities into alleged cases of war crimes and crimes against humanity, including forced starvation, arbitrary detention, enforced disappearance, extrajudicial killing, sexual slavery, torture, rape, and other human rights violations.
17. It is important to note that the immunity provisions in Syrian legislation remain in force and have not been repealed by the Syrian Government. As outlined in our submission to the Committee dated December 29, 2022, under Syrian law, members of the army

and its intelligence services and members of the Internal Security Forces and the General Intelligence Department enjoy immunity from prosecution for crimes committed during their service. Prosecution of these individuals is subject to the approval of their superiors.¹⁷ This means that victims of gross human rights violations in Syria still face a fundamental obstacle in their pursuit of accountability and redress, which is the immunity from prosecution enjoyed by state agents involved in human rights violations such as torture, enforced disappearances, sexual violence, and other violations.

18. The COI has confirmed that the Syrian Government has not conducted any investigations into serious human rights violations and international crimes. The COI, for example, documented numerous cases in which the Syrian authorities issued death certificates to detainees without providing details about the circumstances of the death and without conducting any investigation, as families were unable to retrieve the bodies for funerals. In its report on torture issued in 2023, the COI explicitly referred to the failure of Syrian institutions to consistently investigate allegations of torture and deaths inside prisons and during interrogations.¹⁸ The report concluded that despite the large number of enforced disappearances, the Syrian Government was neglecting the rights of victims' families to truth and to access information. Moreover, in this report, the COI noted that the insufficient details provided in official records when issuing death certificates to detainees and the forcibly disappeared indicate deliberate attempts to conceal deaths that occur while individuals are in custody. This reflects ongoing cooperation between State institutions aimed at committing and concealing acts of torture and deaths in custody, as noted by COI.¹⁹

19. A documented example of the lack of accountability and persistence of impunity enjoyed by State officials is the Tadamon massacre. In April 2022, The Guardian

¹⁷ See also, *SLDP & Diakonia report "No Justice for Torture in Syria: A Victim Rights-Based Analysis of the 2022 Anti-Torture Law"* (November 2023), available at: <https://sldp.ngo/en/blog/1551>.

¹⁸ *A/HRC/53/CRP.5*, Para. 118.

¹⁹ *Ibid.*,

published a shocking video recorded in Syria, which shows a member of the Syrian Government forces executing more than 40 people in handcuffs and blindfolds and leaving their bodies in mass graves that were dug beforehand. This video relates to a massacre that took place in the Al-Tadamon neighbourhood and was committed in April 2013, in which members of the Military Intelligence Branch 227 executed more than 280 civilians, including at least seven women and twelve children. The majority of victims had been deprived of their liberty prior to their execution and had been considered disappeared by their families until the day the video was published. In the video, one person is identified as being directly responsible for extrajudicial executions, and he is a Major working at Branch 227. Despite his direct involvement in the massacre and his identification, he currently enjoys impunity. He remains an officer in the detention branch of Branch 227.

20. On 18 October 2023, several Special Rapporteurs, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, sent a communication to the Syrian Government about the Tadamon massacre and explicitly expressed their concern about the incident and the impunity enjoyed by the perpetrator of the massacre and others.²⁰ They considered the Al Tadamon massacre an example of the systematic and widespread nature of crimes committed in Syria and the impunity accorded to perpetrators.²¹ In the same communication, the Special Rapporteurs requested the Syrian Government, among other things, to provide information on the investigations or judicial proceedings undertaken into the Tadamon massacre, including the inspection and investigation activities around the mass grave associated with the atrocities. Still, the Syrian Government, as usual, did not respond to the communication.

²⁰ AL SYR 2/2023, 18 October 2023, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28380> (Accessed 10 May 2024)

²¹ Ibid, p. 2-3.

21. Finally, it is important to highlight that Syrian authorities not only fail to actively investigate human rights violations, including arbitrary detention, enforced disappearance, extrajudicial killing, sexual slavery, torture, rape, and other abuses, but they also demonstrate a deliberate pattern of exacerbating the suffering of families. This is achieved through actions such as withholding information, issuing false death certificates, destroying evidence and mass grave sites, preventing families from performing funeral rituals or retrieving their loved ones' remains. The latest report from the COI, published in February 2024, reaffirms the continuation of this disturbing practice.²²
22. In a recent instance, the Syrian authorities engaged in the destruction of evidence related to torture, enforced disappearances, and extrajudicial killings by dismantling a mass grave site in Qatifa, located on the outskirts of Damascus. According to a report from the Association of Detainees and Missing in Saidnaya Prison in January 2024, the Syrian authorities conducted operations in January 2023 to dredge and level the mass grave site in Qatifa. This site is believed to contain the remains of numerous political detainees who either faced execution or perished due to torture in detention facilities run by the authorities. Through this act of destruction and failure to preserve the mass grave, the Syrian authorities have severely hindered the chances of effectively recovering and identifying the buried bodies, thereby inflicting irreparable damage to families' right to truth and exacerbating their suffering.²³

3- Response to Paragraph 7 – Counter-Terrorism Measures

23. The Syrian authorities' response to paragraph 7 of the list of issues did not address any of the questions and concerns raised by the Committee regarding the counter-terrorism measures in Syria. The Syrian authorities failed to provide information on the number

²² A/HRC/55/64, (February 2024), Para. 56-66.

²³ Association of Detainees and Missing in Saidnaya Prison, "Recent Satellite Images Expose Land Alterations at Qatifa's Mass Grave in Syria", January 2024, available at: <https://www.admsp.org/en/demolition-of-evidence/> (accessed 10 May 2024),

of persons arrested and tried before the Counter-Terrorism Court and the sentences issued against them. Additionally, they did not address inquiries regarding measures taken to guarantee fair trials before the Counter-Terrorism Court in accordance with the ICCPR. Regarding the commission's inquiry about potential initiatives to review the ambiguous definitions outlined in Legislative Decree No. 19/2012 concerning counterterrorism, including elucidating the elements constituting the crimes of "terrorist act," "terrorist financing," and "promotion of terrorist acts," the Syrian authorities simply stated that the definitions are clear, without providing any elaboration.

24. We reaffirm the information provided in our responses submitted to you on March 17, 2023, after we participated in the informal briefing regarding the absence of a fair trial before the Counter-Terrorism Court (Established by Decree No. 22 of 2012) and the utilisation of broad definitions and terms in the Terrorism Law. In addition, we would like to bring to the attention of the Committee that the Special Rapporteur on Counter-Terrorism and Human Rights sent a letter to the Syrian authorities on 31 October 2023 regarding the illegal nature of counter-terrorism measures in Syria, including the Counter-Terrorism Law and the Counter-Terrorism Court.²⁴ In her communication with the Syrian authorities, the Special Rapporteur emphasised that despite the official termination of the state of emergency in Syria, Counter-Terrorism Law No. 19 of 2012 bestows extensive and exceptional powers reminiscent of those previously conferred during the state of emergency. The Special Rapporteur has voiced concerns regarding the broad definitions outlined in the Counter-terrorism Law and the lack of a fair trial before the court. Additionally, concerns were raised about the harsh penalties prescribed by the law, which encompass, among others, the confiscation of property. Despite the Special Rapporteur's inquiries in his communication, the Syrian authorities did not provide any responses regarding the Counter-Terrorism Law and the legislation establishing the Counter-Terrorism Court.

²⁴ OL SYR 4/2023, 31 October 2023, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28596> (Accessed 10 May 2024)

4- Response to Paragraphs 19 and 20 - Access to Justice, Independence of the Judiciary and the Right to a Fair Trial

25. The lack of fair trial and judicial independence persists in Syria due to the extensive control the executive branch exercises over the legislative and judicial branches. This issue was thoroughly detailed in our submission to the Committee on December 29, 2022, and further addressed in our response following the informal meeting in March 2023.

26. The Syrian authorities have yet to make any efforts to review the 2012 constitution to guarantee the independence of the Supreme Judicial Council and the judiciary. Additionally, they have not repealed or amended provisions in Syrian legislation that provide immunity to state officials, such as Article 53 of Legislative Decree 61 of 1950 (Military Penal Code and Procedure), Article 16 of Decree 14 of 1969 (establishing the General Intelligence Directorate) and Article 23 of Legislative Decree No.1 of 2012 (the Internal Security Forces Service Law). Moreover, Law 55 of 2011 extended the maximum period of detention without charges to 60 days (The practice showed the arrests usually exceed 60 days). It also allows the regular police to delegate their powers of arrest and detention to any other agency they see suitable to do so.²⁵ This gives more power to the intelligence services to arrest and interrogate political opponents and human rights defenders. Thus, Law 55/2011 permits exceptions to the safeguards on pre-trial detention, effectively undermining the right not to be arbitrarily detained and the right to a fair trial. Consequently, all concerns and issues detailed in our previous submissions persist.

27. The President of the Republic retains exceptional powers that render the separation of powers between the executive, legislative, and judicial branches meaningless. Besides being the Commander-in-Chief of the Army and Armed Forces, the President is also the Head of the Executive and presides over the Supreme Judicial Council, which is the

²⁵ Legislative Decree No. 55 of 21 April 2011.

main body responsible for the organisation of the judiciary and the courts. The powers of the Supreme Judicial Council include appointing, dismissing, and transferring judges and advising the President to issue a presidential decree to dismiss judges. The President also has the authority to issue legislative decrees and appoint judges to the Supreme Constitutional Court. This results in significant control over both the legislative and judicial branches (Articles 83-150 of the 2012 constitution).

28. Moreover, concerns about vague charges in Syrian legislation persist, as the authorities have not repealed or amended such legislation to comply with the standards of legal precision and clarity under the ICCPR. As mentioned earlier, the Special Rapporteur on counterterrorism and human rights raised this issue and expressed concerns regarding the broad definitions outlined in the Counter-Terrorism Law and the lack of fair trials before the Counterterrorism Court (See above, Response to Paragraph 7—Counterterrorism Measures).
29. On December 17, 2023, the Syrian authorities issued Law No. 29 of 2023, amending Article 50 of Legislative Decree 61 of 1950 (Military Penal Code and Procedure). According to the authorities' response to the Committee, this amendment stipulates that civilians covered by this article will be tried before the ordinary criminal judiciary instead of the military judiciary unless the crime arose from their job. The authorities also alleged that the jurisdiction of the military courts is limited to examining purely military crimes committed by soldiers, crimes that occur within camps, military institutions, or army sites, crimes that directly harm the interests of the army, and crimes committed through publications that harm the army's reputation and morale. However, military courts can still exercise jurisdiction over civilians. In addition to the personal jurisdiction of the military courts under Article 50, military courts have subject matter jurisdiction over various acts, whether committed by civilians or military personnel, pursuant to Article 47 of Legislative Decree 61 of 1950.
30. Regarding the abolition of Military Field Courts following Law No. 32 of 2023, presented in the Government response as a reform in the field of human rights protection in Syria, it does not guarantee the right to a fair trial. The military judiciary

in Syria is fully subject to the executive and lacks independence. Additionally, the abolition of these courts will pave the way for further impunity by destroying the archives and records of the court, as Law No. 32 is silent about their fate. The concerns about the abolition of the courts are outlined in detail earlier in this paper (Response to Paragraph 1 - Constitutional and Legal Framework).

31. In conclusion, the Syrian authorities have not addressed the deficiencies in the Syrian constitution and legislation that lead to a lack of judicial independence and the inability to ensure fair trials. The executive branch maintains control over the other branches, and immunity provisions that hinder prosecution remain in effect. The alleged legislative reforms do not address the root causes of the problem, which are the lack of separation of powers and the existence of laws and courts that contradict international standards outlined in the ICCPR.

Suggested Concluding Observations

The submitting organisations suggest the following non-exhaustive list of concluding observations for the State Party to be raised by the Committee:

- ❖ Develop and implement a comprehensive plan to enforce Anti-Torture Law No. 16 of 2022 effectively. This plan should specifically address the long-standing and systematic use of torture in Syria, which amounts to crimes against humanity and war crimes, and address the ongoing immunity enjoyed by state officials likely responsible for torture. It should include measures to ensure accountability for past violations, prevent future abuses, and provide redress to victims.
- ❖ Enact legislation that criminalises cruel, inhuman, or degrading treatment or punishment (ill-treatment). The new Anti-Torture Law is silent on the criminalisation of ill-treatment, which could allow various forms of ill-treatment to be justified by claiming they do not meet the criteria for torture. This hinders the ability of ill-treatment victims to access and enjoy their rights.
- ❖ Publicly disclose the records and archives of the abolished Military Field Courts. These records are crucial for documenting evidence of torture, enforced disappearances, extrajudicial killings, and other violations and are essential for ensuring accountability, providing redress for victims, and delivering truth to affected families.
- ❖ Enact legislation to criminalise enforced disappearance as an autonomous crime in accordance with the UN Declaration on the Protection of All Persons from Enforced Disappearance.
- ❖ Release all arbitrarily detained individuals, improve detention conditions and ensure access to independent monitoring and humanitarian organisations in all detention facilities, particularly in places like Saydnaya Prison and those under the control of intelligence services.
- ❖ Provide statistics on individuals deprived of liberty disaggregated by age, sex, and nationality. This data should include the number of individuals in pretrial detention, instances of death in detention facilities, the causes of death, and the outcomes of any investigations into these deaths.

- ❖ Take active steps to prevent and investigate human rights violations and crimes and publicly detail its efforts to conduct investigations, prosecute perpetrators, and impose penalties.
- ❖ Take active steps to facilitate complaints by victims' families and ensure effective remedies and reparations for them.
- ❖ Repeal all immunity provisions in the Syrian Legislation that prevent the prosecution of state officials responsible for human rights violations and implement comprehensive institutional and security reforms.
- ❖ Revoke Legislative Decree No. 19/2012 on counter-terrorism due to its ambiguous definitions and broad criminalisation, which limit the enjoyment of other rights and fail to meet the standards of legal precision and clarity outlined in the ICCPR.
- ❖ Revoke Decree No. 22, establishing the Counter-terrorism Court. This court fails to guarantee fair trial and due process, including the defendants' rights to access a lawyer, protection against self-incrimination, and communication with the outside world.
- ❖ Transfer all ongoing and previous cases, along with the records and archives of the Counter-Terrorism Court, to the ordinary judiciary and ensure that the right to a fair trial is fully guaranteed for all individuals involved in such cases.
- ❖ Ensure that all measures taken to combat terrorism are adopted and implemented in compliance with its obligations under international law, particularly international human rights and humanitarian law.
- ❖ Ensure that military courts do not have jurisdiction over civilians. All cases involving civilians should be transferred to civilian courts that guarantee the right to a fair trial and judicial independence in accordance with standards outlined in the ICCPR.
- ❖ Review and amend the 2012 Syrian Constitution to limit the extraordinary powers granted to the President of the Republic and establish the separation of powers between

the executive, legislative, and judicial branches. Additionally, constitutional guarantees must be provided to ensure the independence of the judiciary and the Supreme Judicial Council from the executive branch.

- ❖ Abolish Law 55/2011, which extends the maximum period of detention without charges to 60 days and allows the intelligence services to exercise power over human rights defenders and political opponents.