

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	1929
Land:	Syrien
Kilde:	The Syrian Network for Human Rights
Titel:	At Least 197 Arbitrary Arrests/Detentions Documented in July 2023, Including 11 Children and Three Women
Udgivet:	2. august 2023
Optaget på baggrundsmaterialet:	8. september 2023

At Least 197 Arbitrary Arrests/Detentions Documented in July 2023, Including 11 Children and Three Women

Syrian Regime Forces Intensify Arbitrary Arrests of Civilians Over Criticism and Discussion of Worsening Services, the Deteriorating Economic Situation, and Corruption in Regime Areas

Wednesday 02 August 2023

The Syrian Network for Human Rights (SNHR), founded in June 2011, is a non-governmental, independent group that is considered a primary source for the OHCHR on all death toll-related analyzes in Syria.

Contents

I. Background and Methodology	1
II. Brief II. Brief Summary of the Most Notable Developments Related to the Detainees Issue in July 2023	3
III. Arbitrary Arrests by the Parties to the Conflict.....	7
IV. Most Notable Cases and Incidents of Arbitrary Arrest/Detention in July 2023	10
V. The Laws and Texts Related to Torture in the Current Syrian Constitution and Law Have Not Ended or Reduced the Frequency of Torture in the Syrian Regime's Detention Centers	13
VI. What is SNHR Doing About the Detainees Issue?.....	18
VII. The Syrian regime Issues Laws that Violate the Principles of Law and the Determinants of Arrest and Investigation as Specified by the Local Legislations	19
VIII. Filing and Extracting Multiple Charges under Torture and Referring Detainees to Courts that are Effectively Security Branches.....	23
IX. Conclusions and Recommendations	24
Acknowledgment.....	27

I. Background and Methodology

Arbitrary arrests and enforced disappearances have been amongst the most widespread violations since the earliest days of the popular uprising for democracy in Syria in March 2011.

As one of the most common and pervasive regime violations against Syrian citizens, these criminal acts affect hundreds of thousands of Syrians. The Syrian regime's apparatus of arrest and detention is run by its security services and military forces, as well as their affiliated militias, as part of a deliberate and planned strategy, often in a sweeping indiscriminate manner, for the purpose of instilling dread and terror into the largest possible number of Syrian people. Approximately eight months after the start of the popular uprising, other parties began to emerge in Syria, who also began carrying out arrests and abductions to the detriment of the Syrian people. The process of documenting detentions and cataloging arrests, releases, and enforced disappearances has been among the greatest challenges and difficulties faced by the Syrian Network for Human Rights (SNHR), as explained in greater depth in our methodology.¹

Most arrests in Syria are carried out without any judicial warrant being issued or presented, taking place while the victims are passing through regime checkpoints or during raids, with the security forces of the regime's four main intelligence services often responsible for extra-judicial detentions. Every detainee is tortured from the very first moment of their arrest and denied any opportunity to contact their family or to have access to a lawyer. The authorities also flatly deny the arbitrary arrests they have carried out, and most of the detainees are subsequently forcibly disappeared.

The Syrian regime is responsible for nearly 88 percent of all the arbitrary arrests that we have documented and is the first and most prominent of all the parties to the conflict in systematically perpetrating this violation. In most cases, victims' families are unable to accurately identify the security body behind the arrest, given the vast array of forces affiliated with the Syrian regime, which include Iranian militias, the Lebanese group Hezbollah, and others, in addition to the four main regime security agencies and their many branches, all of which are authorized to arrest and torture detainees, and to commit the crime of enforced disappearance.

The other parties to the conflict and the controlling non-regime forces in Syria, such as the Kurdish-led Syrian Democratic Forces (SDF), extremist Islamist groups, and the various Armed Opposition brigades, use similar strategies and practices to those of the Syrian regime, albeit at a far lower rate and in a less systematic manner compared to regime forces. Still, these too constitute violations of International Human Rights Law, and, in those cases where they take place in the context of the armed conflict, they also constitute violations of International Humanitarian Law.

1. Syrian Network for Human Rights, "[Syrian Network for Human Rights Methodology](#)"

None of the parties to the conflict and the controlling forces provide any public record for the community that shows the whereabouts of the arrested/detainees and the reasons for their arrest, nor do they provide any documentation of the judicial sentences issued against these detainees, including the death penalty, with the vast majority of the families not knowing the fate of their loved ones, since the vast majority, as we've indicated in all the reports we've issued about the detainees, have been forcibly disappeared. We have talked in detail about the phenomenon of enforced disappearance and the suffering of the detainees' families, especially the children, in [many reports](#).

Methodology

This report summarizes the record of arbitrary arrests by the parties to the conflict and the controlling forces in Syria documented in July 2023, as well as shedding light on the most notable individual cases and incidents of arbitrary arrest and detention documented by the SNHR team during that month, and categorizing arrest incidents according to their locations.

On SNHR's database, we can categorize cases of arrest according to the governorate in which the incident occurred, and according to the governorate from which the detainee originally came. In this report and in most of our reports, we categorize the record of arrests according to the location where the arrest took place, rather than the detainee's place of origin. In some cases, nevertheless, we opt to categorize the cases of arrest according to the governorate from which the detainee originally came, in order to show the magnitude of loss and violence suffered by the people of that governorate compared to other governorates. We notify readers in such cases.

The record of the cases and incidents of arrests documented by the SNHR, including those documented in this report, do not include those kidnappings and abductions in which we were unable to identify the responsible party.

The report also documents arbitrary arrests that subsequently turned into enforced disappearances. A number of criteria must be met before SNHR will classify a case as an enforced disappearance: the individual must have been detained for at least 20 days without their family being able to obtain any information from the relevant authorities about their status or location, and those responsible for the disappearance must deny any knowledge of their arrest or whereabouts.

The SNHR team implements strict standards in evaluating and assessing any incident of arbitrary arrest or enforced disappearance according to the principles of international laws and the set of principles on arbitrary arrest and enforced disappearance. Our Detainee Department team constantly updates the database of detainees who were released as and when information becomes available; this data is added to the SNHR's databases which are retained securely, with several backup copies being stored in different locations. We have also created a special form, available on our website, [to document a detainee's case](#) to facilitate access and contact with victims' families.

The detainee figures included in this report do not include prisoners with a criminal background, but do include cases of arrest that are based on the internal armed conflict, mainly due to opposition activity against the ruling authorities, as well as cases of detention intended to suppress freedom of opinion and expression.

The ongoing daily process of documenting detainees also comes with other additional challenges for SNHR, which has been documenting detainees' cases since 2011. The most notable challenges amongst these are:

- The reluctance of victims' families to cooperate and reveal or provide details of any information on their family members' arrest, even confidentially, more especially if the arrested individual is female, due to a well-founded fear still prevalent in Syrian society that being discovered doing so would result in more torture and further danger for their loved ones and themselves. Instead, families try to negotiate with security forces, who usually blackmail these families and demand cash payments for help with securing their loved ones' release, effectively ransoms, that can amount to thousands of dollars in some cases.
- The failure of the international community and of all the organs of the United Nations to apply pressure on the Syrian regime authorities to secure the release of even one individual (including those whose sentences are completed), has affirmed the conviction of many within Syrian society that it is useless to cooperate in the documentation process..

II. Brief Summary of the Most Notable Developments Related to the Detainees Issue in July 2023

A. Arbitrary arrests and detention

Something that must be emphasized in any report concerning the issue of arrests/detainees in Syria is the fact that Syrian regime forces have continued to persecute and target Syrian citizens in areas under regime control in connection with their political dissent and expression of opinions, despite the right to both being guaranteed by the Syrian constitution and international law. This once again confirms a crucial and inescapable truth which we have reiterated many times in the past: no Syrian citizen can feel safe from arrest since these are carried out without any legal grounds or any oversight by any independent judiciary, being administered by the regime's security services with no judicial involvement. Following these arrests, detainees routinely go on to be classified as forcibly disappeared persons, and thus the areas under the Syrian regime's control cannot be considered, even remotely, to be safe havens. A large proportion of those we talked with in regime-controlled Syria during our documentation of violations have expressed a strong desire to emigrate, flee and seek asylum in other countries, which surely further underlines the fact that regime-controlled Syria is in no way a safe place for the return of refugees. As long as the same security apparatus remains, there will be no stability or safety. The Syrian regime's security authorities have been committing crimes against humanity since and before 2011. We observed the following in the last month:

First: Syrian regime forces² continued to hunt down and arrest individuals who had agreed to security settlements in areas that saw settlements with the regime. These arrests have been concentrated in the governorates of Rural Damascus (Rif Dimshaq), Daraa, and Deir Ez-Zour, with most occurring during campaigns of mass raids and arrests, and at checkpoints.

Second: We recorded arrests by the Syrian regime's Criminal Security branch in the governorates of Latakia, Tartus, and Damascus, targeting civilians and media workers over their voicing criticism of the corruption and poor living conditions in regime-held areas. These media workers face charges related to the Counter-Cybercrime Law, which is used by the Syrian regime to justify the arrest of state employees and other citizens for expressing criticism of the poor living conditions in regime-controlled areas.

Third: We recorded random widespread arrests of citizens, including women and children, in the governorates of Rural Damascus, Damascus, Homs, and Hama most of which took place at checkpoints and as part of mass raid and arrest campaigns. We believe these arrests were carried out as a result of malicious security reports. Some of those arrested were detained on the pretext of failing to join reserve forces as part of their mandatory military service.

Fourth: We recorded arrests by Syrian regime forces targeting a number of civilians heading for the Syrian-Lebanese borders in an attempt to cross into Lebanon irregularly, as they were trying to flee the dire living conditions and lack of any services in their areas under regime control. These arrests were concentrated in Homs governorate.

Fifth: We recorded indiscriminate arrests of citizens by Syrian regime Military Security Intelligence personnel for their involvement in demonstrations protesting against the military parades held by Iranian militias in Deir Ez-Zour governorate, with these arrests concentrated in the cities of al-Ashara and al-Qouriya in eastern Deir Ez-Zour governorate.

Meanwhile, Syrian Democratic Forces (SDF) also continued enforcing the group's policies of arbitrary detention and enforced disappearance in July, resulting in increasing numbers of cases of detention and enforced-disappearance. SDF personnel continued carrying out campaigns of mass raids and detentions, targeting civilians on the pretext of fighting ISIS, with some of these arrest campaigns backed by US-led coalition helicopters. We also documented detentions targeting dozens of civilians carried out at checkpoints and during campaigns of mass raids and detentions, for the purpose of conscription. These arrests were concentrated in Aleppo governorate.

2. We generally use the term 'the Syrian regime' rather than 'the Syrian government', because the nature of the ruling power in Syria is a totalitarian dictatorship where power is concentrated in the hands of a small circle of individuals, namely the President of the Republic and the heads of the security apparatus. The ministers, including the Prime Minister and the Minister of Interior, play a restricted, largely ceremonial role, which is limited to implementing precisely what the ruling regime orders, with no real decision-making power or active role of their own. Syria is under autocratic, hereditary family rule, with no independent decision-making structure. Rather, the government is an empty façade created merely for show. In reality, the Minister of Interior receives orders from the security branches over which he supposedly presides, while the Minister of Justice cannot even summon a low-ranking security officer, let alone a security branch head. Syria is ruled by the president assisted by the heads of the security branches.

While we are aware that the United Nations and its agencies use the term 'the Syrian government', we believe that this is a completely inaccurate and misleading term in the Syrian context.

The SDF also continued to abduct children with the intention of conscripting them for military training and sending them to military training camps; the parents and families of these conscripted children are not allowed to contact them, while the SDF refuses to disclose their fate.

Hay'at Tahrir al Sham (HTS)³ also detained more civilians in July. These arrests were concentrated in Idlib governorate, and targeted media activists and politicians. Most of these arrests occurred due to the detainees expressing opinions critical of HTS's management of areas under its control. These detentions are routinely carried out arbitrarily in the form of raids in which HTS members storm their victims' homes, often breaking down the doors, or abducting their victims from the streets or while they're passing through temporary checkpoints. We also documented that HTS continued to target individuals who are either members or supporters of the anti-HTS Tahrir Party, which mostly took place in the form of raids and mass arrests, or at checkpoints.

All armed opposition factions/Syrian National Army (SNA) also continued carrying out arbitrary detentions and kidnappings in July, including of women. Most of these detentions were conducted on a mass scale, targeting individuals coming from areas controlled by the Syrian regime or the SDF. In addition, we documented detentions that exhibited an ethnic character, with these incidents concentrated in areas under the control of the armed opposition factions/SNA in Aleppo governorate. Most of these arrests occurred without judicial authorization and without the participation of the police force, which is the sole legitimate administrative authority responsible for arrests and detentions through the judiciary, with these arrests also carried out without any clear charges being presented against those being detained. Furthermore, we documented raids and arrests by SNA personnel targeting civilians who were accused of working with the SDF. Moreover, the SNA's civilian police arrested a number of activists and civilians over their objection to changing the names of schools in the SNA-controlled city of al-Bab in eastern rural Aleppo governorate.

B. Releases from detention centers

Syrian regime forces

Our monitoring of the developments on the ground in Syria includes documentation of the releases of detainees from various regime detention centers. We documented a total of 14 releases in July, all of which had different causes and contexts:

- We documented the release of one detainee in July in connection with Amnesty Decree 7/2022, which was promulgated by the Syrian regime on April 30, 2022. The detainee in question was released from a regime detention center based in Daraa governorate.
- In Damascus governorate, we also documented the regime's release of three individuals from the governorates of Rural Damascus and Daraa in July. Those three were released after they had served their arbitrary sentences. As such, those releases were not related to amnesty decree 7/2022, with these released detainees having been imprisoned for an average of one to three years.

3. Designated as a terrorist group by the UN.

- We also documented the release of 10 detainees who had been held without trial for brief periods of time, ranging from a few days to a few months. Most of these released detainees came from the governorates of Daraa and Hama, and all had spent the entire period of their detention in security branches.
- We documented no releases related to the amnesty decree issued by the Syrian regime on December 21, 2022 (Legislative Decree No. 24 of 2022).

SDF

In July 2023, we documented the release of 10 individuals from SDF detention centers where they had been held for various periods ranging from a few days to one year, with most of these detainees originating from the governorates of Hasaka and Deir Ez-Zour. Most of these releases were the result of mediation by tribal intermediaries or came after the detainees had served their arbitrary sentences.

HTS

In July 2023, we documented HTS' release of seven civilians from its detention centers in Idlib governorate, with the released detainees having been detained for a few days, without any clear charges being brought against them.

All armed opposition factions/SNA

In July 2023, all armed opposition factions/SNA released 12 civilians after detaining them for periods ranging from a few days to one year without bringing any clear charges against them or putting them on trial. Most of them were released only after their families were extorted into paying sums of money to secure their release.

III. Arbitrary Arrests by the Parties to the Conflict

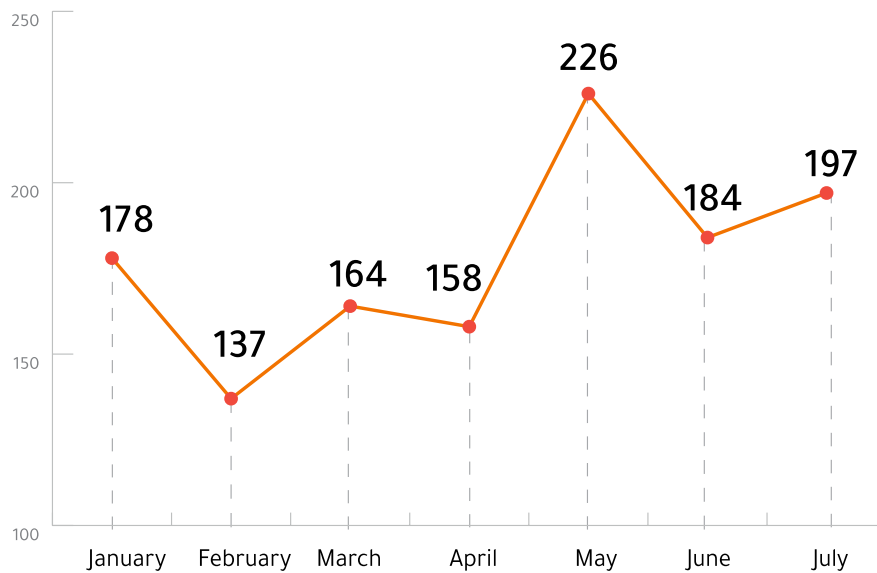
A. Arbitrary arrests since the beginning of 2023

Since the beginning of 2023, SNHR has documented no fewer than 1,244 cases of arbitrary arrest/detention, including 54 children and 40 women (adult females). Of those arrested, 1,036 have gone on to be classified as having been forcibly disappeared.

Cases of arbitrary arrest/detention at the hands of the parties to the conflict and the controlling forces in Syria since the beginning of 2023 are distributed as follows:

At least 1244 cases of arbitrary arrest in Syria since the start of 2023

From January to August



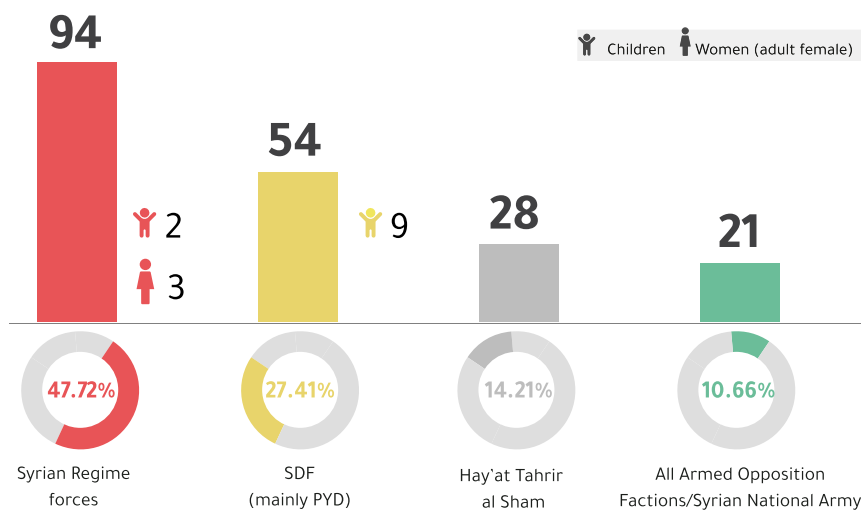
As shown in the graph above, May and July saw a significant rise in the number of arbitrary arrests. This was due to a number of reasons. First, the Syrian regime carried out mass arrests targeting Syrian refugees who were forcibly deported from Lebanon. Those arrests followed widespread raid and arrest crackdowns by the Lebanese army targeting Syrian refugees in Lebanon, who then were forcibly sent to the Syrian-Lebanese border area. Second, the Syrian regime targeted civilians on the basis of the Counter-Cybercrime Law.

B. Arbitrary arrests in July 2023

In July 2023, SNHR documented at least 197 arbitrary arrests/detentions, including of 11 children and three women (adult female), at the hands of the parties to the conflict and the controlling forces in Syria, with 167 of these detainees subsequently being categorized as forcibly disappeared.

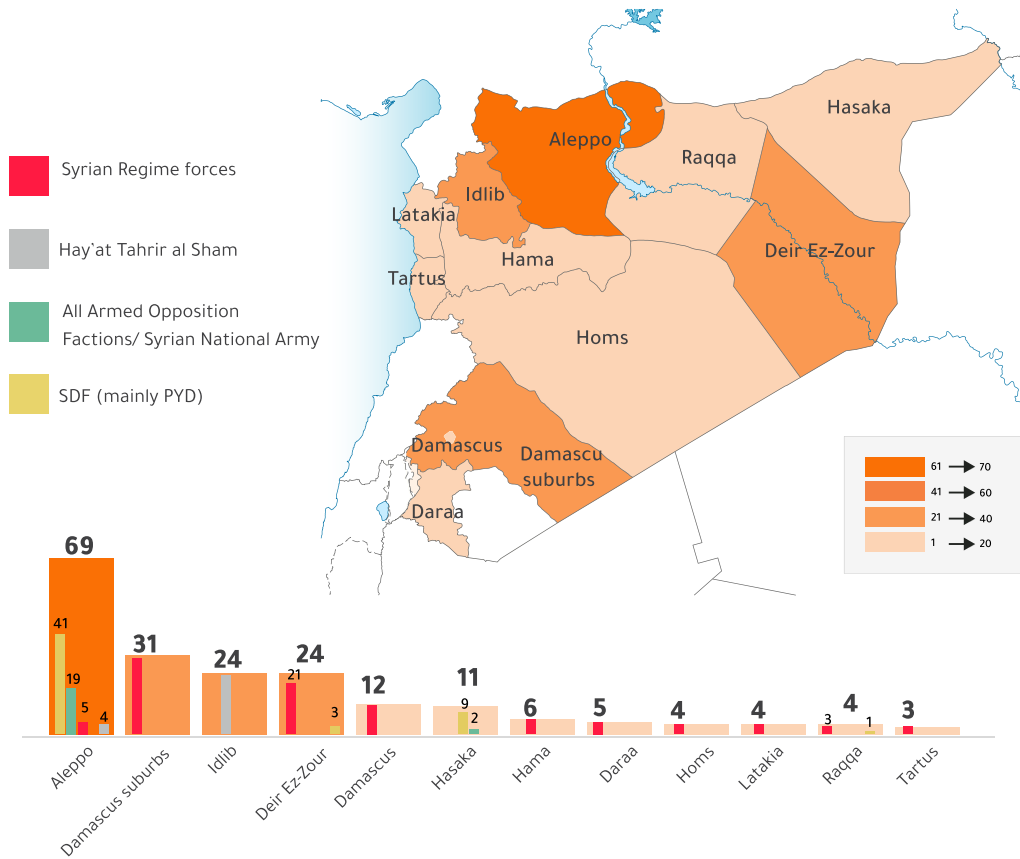
Cases of arbitrary arrest/detention documented in July were distributed according to the parties to the conflict and the controlling forces, as follows:

197 Cases of arbitrary arrest in Syria in July 2023



- A. **Syrian regime forces:** 94 individuals, including two children and three women. Of these, eight have been released, while the remaining 86 have subsequently been categorized as forcibly disappeared.
- B. **HTS:** 28 individuals. Of these, seven have been released, while the remaining 21 have subsequently been categorized as forcibly disappeared.
- C. **All Armed Opposition factions/SNA:** 21 individuals. Of these, nine have been released, while the remaining 12 have subsequently been categorized as forcibly disappeared.
- D. **SDF:** 54 individuals, including nine children. Of these, six have been released, while the remaining 48 have subsequently been categorized as forcibly disappeared.

Cases of arbitrary arrests/detentions documented in July at the hands of the parties to the conflict and the controlling forces were distributed across Syrian governorates as follows:



As shown on the map above, Aleppo governorate saw the highest number of cases of arbitrary arrests/detentions documented this month, followed by the governorates of Rural Damascus, then Idlib and Deir Ez-Zour, Damascus, Hasaka, Hama, and finally Daraa.

IV. Most Notable Cases and Incidents of Arbitrary Arrest/Detention in July 2023

A. Syrian regime forces:

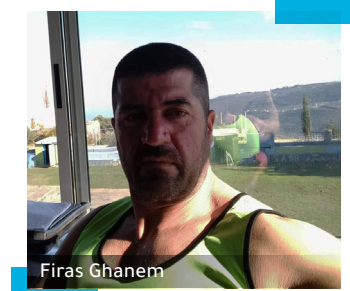
Most notable incidents

On Friday, July 21, 2023, personnel from the Syrian regime's Military Security Intelligence division carried out a raid and arrest campaign in the cities of al-Ashara and al-Qouriya in eastern Deir Ez-Zour governorate, following protests over a military parade staged by Iranian militias in the area. SNHR documented the arrest of 18 civilians in the campaign, with those arrested being taken to the Military Security Intelligence branch in Deir Ez-Zour city.

On Wednesday, July 26, 2023, personnel from the Syrian regime's Political Security Intelligence division carried out a raid and arrest campaign in Qedsayya city and al-Hama town in Rural Damascus governorate. SNHR documented the arrest of 18 civilians during the campaign on the pretext of their having failed to join the reserve forces and perform their mandatory military service. They were taken to an undisclosed location.

Most notable cases

[Firas Ghanem](#) from al-Annaza town, administratively a part of Banyas city in northern Tartus governorate, was arrested by personnel from the Syrian regime's Political Security Intelligence directorate after being summoned to a regime detention center in Tartus city on Monday, July 3, 2023. Firas was arrested for voicing criticism on his Facebook page of the dire living conditions and corruption in regime-held areas. He was taken to an undisclosed location.

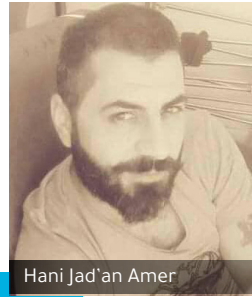


Firas faces charges based on the 'Counter-Cybercrime' Law which is used by the Syrian regime to arrest citizens and government employees for criticizing the poor living conditions and corruption in regime areas.

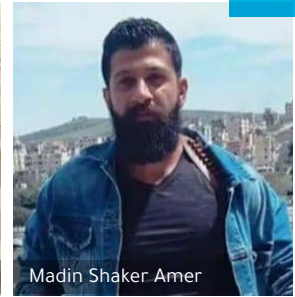
Khaled Farid Hassan, a 54-year-old man from al-Mazra'a town in rural Suwayda governorate, was arrested on Thursday, July 6, 2023, by Syrian regime forces personnel at a checkpoint, known as the 'Qasr al-Mu'tamarat' (Conference Hall) checkpoint at the entrance to Damascus city. He was taken to an Air Force Intelligence Directorate branch in Damascus city.

Houkar Mohammad Ali Habash, a pharmacist from al-Sheikh Maqsoud neighborhood in Aleppo city, was arrested on Tuesday, July 11, 2023, by Syrian regime forces personnel at a checkpoint set up at the entrance to the neighborhood over purchasing medications from regime-held areas and trying to transport them to his workplace in an area under the SDF's control. He was taken to a regime detention center in Damascus city. The arrest also involved seizing his car and the medications that he was trying to transport.

Two men, identified as [Hani Jad'an Amer](#) and [Madin Shaker Amer](#), from Hazm village in northern rural Suawyda governorate, aged 38 and 28 respectively, were arrested on Sunday, July 16, 2023, at a Syrian regime checkpoint in Homs governorate, while they were travelling towards the Syrian-Lebanese borders to cross into Lebanon. They were taken to an undisclosed location.



Hani Jad'an Amer



Madin Shaker Amer

[Sattam Wahid al-Rajab](#), a 13-year-old boy from Heymar Labda town, which is affiliated with Manbij city eastern rural Aleppo governorate, was arrested on Friday, July 21, 2023, by Syrian regime forces personnel at the Abaja Checkpoint near Abu Hanaya village in al-Salamiya area in eastern rural Hama governorate, while he was returning from Lebanon. He was taken to an undisclosed location.



Sattam Wahid al-Rajab

B. HTS

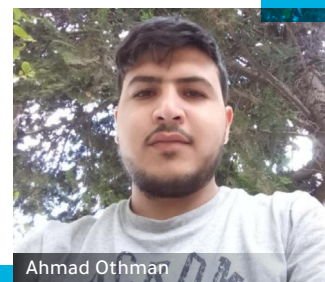
Most notable cases

[Salama Zaki al-Salama](#), a university student studying civil engineering at Aleppo Free University, from Jarjanaz town in eastern rural Idlib governorate, was arrested on Sunday, July 23, 2023, by HTS personnel at a checkpoint in Armanaz area in northern rural Idlib governorate while returning home from al-Andalus Hospital, where he was receiving treatment, in Sarmada city in rural Idlib governorate. He was taken to an HTS detention center in Kafr Takharim city in rural Idlib governorate.



Salama Zaki al-Salama

[Ahmad Othman](#), a civil activist known as Abu Bahr, was arrested on Thursday, July 27, 2023, by personnel from HTS' General Security agency near his house in his home city of Idlib. He was taken to an undisclosed location.



Ahmad Othman

C. All Armed Opposition factions/SNA

Most notable cases

[Redwan Ali Haji](#), a 55-year-old man from Ba'dina village, administratively a part of Afrin city in northwestern Aleppo governorate, was arrested on Monday, July 10, 2023, by the SNA's civilian police, after being summoned to an SNA detention center in Rajo town, also administratively a part of Afrin city. He was then taken to an undisclosed location.



Khalil Abdou Arif, a 35-year-old man from Afrin city in northwestern Aleppo governorate, was arrested on Tuesday, July 18, 2023, by SNA Military Police personnel over accusations of working with SDF. He was taken to an undisclosed location.

[Khalil Jawwal](#) from al-Bab city in eastern rural Aleppo governorate, was arrested on Monday, July 24, 2023, by personnel from the SNA's civilian police force after being summoned to the local police station in al-Bab city. Khalil was arrested for changing the name of a school from a Turkish-language name to an Arabic-language name. He was released on the next day.



D. Kurdish-led SDF (mainly PYD)

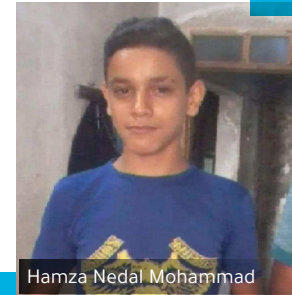
Most notable incidents:

On Wednesday, July 5, 2023, SDF personnel carried out an arrest and raid campaign in a number of neighborhoods in Hasaka city for the purpose of conscription. SNHR documented the arrest of nine civilians in the campaign, all of whom were taken to an undisclosed location.

On Thursday, July 6, 2023, SDF carried out an arrest and raid campaign in Manbij city and a number of villages that are administratively a part of Manbij city in eastern rural Aleppo governorate for the purpose of conscription. SNHR documented that 36 civilians were arrested, including three children. They were taken to an undisclosed location.

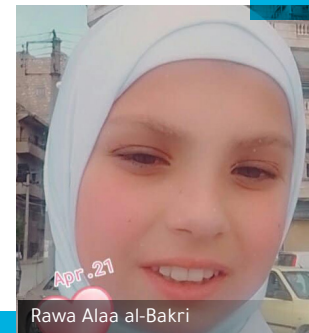
Most notable cases:

[Hamza Nedal Mohammad](#), a 16-year-old child from Deir Sawwan village, administratively a part of Afrin city in northwestern rural Aleppo governorate, who lives with his family in Aleppo city's al-Sheikh Maqsoud neighborhood, was abducted in the neighborhood for military conscription on Monday, July 10, 2023, by the SDF's al-Shabiba al-Thawriya, (Revolutionary Youth) faction, also known as the 'Joanne Schurchkar'. He was taken to an SDF recruitment center.



Rayys al-Rafdan, from Jdeed Ekidat town in eastern Deir Ez-Zour governorate, was arrested on Friday, July 21, 2023, by SDF personnel, backed by an international coalition jet, who raided his house in his hometown. He was taken to an undisclosed location.

[Rawa Alaa al-Bakri](#), a girl born in 2011 from Meryamin village, which is administratively a part of Afrin city in northwestern Aleppo governorate, was abducted for military conscription on Wednesday, July 26, 2023, by SDF's al-Shabiba al-Thawriya, (Revolutionary Youth) faction, also known as the 'Joanne Schurchkar', in al-Sheikh Maqsoud neighborhood in Aleppo city. She was taken to an SDF recruitment center.



V. The Laws and Texts Related to Torture in the Current Syrian Constitution and Law Have Not Ended or Reduced the Frequency of Torture in the Syrian Regime's Detention Centers

The Syrian state's heavily centralized control of its detention centers means that it is highly unlikely that deaths due to torture could take place without the knowledge of the ruling regime. In recent years, hundreds of reports of deaths due to torture in the Syrian regime's detention centers have spread widely within Syrian society, and in local, Arab, and international media, in addition to the fact that the Syrian regime itself has informed dozens of families about the deaths of their family members in detention centers, often citing a wholly implausible cause of death, such as a "heart attack".

The Syrian regime bears responsibility for proving its claims that the deaths that occurred were not due to torture, although it hasn't conducted a single investigation into any of these deaths for 12 years to date, with this fact alone constituting clear and damning evidence of the regime's culpability. In addition to this, it should be emphasized that this systematic torture and the many associated deaths involve not just one of the Syrian regime's organs, but require the participation of several state institutions, the most prominent of which are: the Ministry of Interior, the Ministry of Defense, the security services, civil prisons, military hospitals, the judiciary, the Ministry of Awqaf, and the Office of Burial Services; this too indicates a high level of coordination and synchronization between these institutions, which can only be achieved by senior-level management officials in the Syrian regime controlling all of these institutions.

On March 30, 2022, the Syrian regime's President issued Law No. 16 for 2022 criminalizing torture,⁴ which claimed that the regime considers this crime a felony requiring severe punishment for its perpetrator, or for those who participated in inflicting it, as well as for those who incited them to carry out these actions. According to Syrian law, torture is characterized as a felony subject to a ten-year criminal statute of limitations if the perpetrator is not subjected to public prosecution immediately. SNHR issued a [a report](#) previously in which we explained that there is a flaw in the Syrian regime's system of categorizing torture and creating the related legislation, in addition to a flaw in the text of the 'law' itself. The following are key points that demonstrate these flaws:

- The law does not apply to crimes of torture committed before the date of its issuance; rather, pre-existing provisions are applied, such as the provision of Article 391 of the Penal Code, which classifies torture as a misdemeanor, which shall be subject to a statute of limitations after three years. If torture results in a disability or death, however, it then becomes a felony, with the crime being subject to a statute of limitations which expires after ten years, meaning that all crimes of torture committed since March 2011 were not covered by Law No. 16/2022, though they are, of course, subject to a statute of limitations. The statute of limitations is related to the initiation of the public prosecution, which is a decision issued by the representative of the Public Prosecution Service to charge the perpetrator with the crime of torture. As for the investigations by the police, security authorities, or any public body, the initiation of a public lawsuit is not considered to and does not interrupt the statute of limitations.
- The law omits to mention the inhuman and cruel conditions of detention in which detainees are held, as well as omitting any mention of the prison authorities' deliberate negligence towards detainees and deprivation of health care for them, which are classified as being among the torture methods practiced by the Syrian regime and among the causes leading to the high rates of prisoners' deaths in detention centers.

The Syrian regime brutally controls the issuance of death certificates, which are not made available to any of its victims' families, whether the victims were killed at the hands of the Syrian regime or by other parties. The Syrian regime only allows death certificates to be issued for those who meet the narrow criteria set by the regime and its security services. [In many previous reports](#), we have discussed the phenomenon of the regime's forcing victims' families to make false statements and blackmailing them into signing reports prepared by the security services stating that 'armed terrorist gangs', rather than the Syrian regime, killed their loved ones by withholding death certificates until they sign these false statements.

4. Syrian Arab News Agency, President al Assad issues a law criminalizing torture, March 30, 2022, <https://sana.sy/?p=1616786>

The Syrian regime has not only failed to launch any judicial investigations into the causes of death for hundreds of thousands of Syrians but has also failed to hold to account even one member of its security or military forces for their involvement in these killings. We note that the vast majority of victims' families are unable to obtain death certificates from the Syrian regime, for fear of linking their name with that of a person who was detained by the regime and killed under torture, meaning that he or she was a dissident who opposed the Syrian regime, or of their loved one being registered as a 'terrorist' if they were wanted by the security services; additionally, many victims' families have been forcibly displaced outside the areas controlled by the Syrian regime.

On August 10, 2022, the Minister of Justice in the Syrian regime government issued [Circular No. 22](#) specifying the procedures for the conduct of proceedings related to registering deaths within Sharia courts. The circular included new conditions stipulating that five items of evidence must be submitted to and approved by the relevant judges in proceedings related to registering the death. It also requires that all relevant courts involved in death registration cases comply with the circular's content. We issued [a report](#) summarizing our analysis of the constitutional and legal violations contained in this circular's text and the consequences thereof. In this context, we at the SNHR note that the Syrian regime, in an additional move to restrict the families of the missing, imposed a security clearance requirement on them requiring that they obtain a judicial power of attorney for the absent and the missing, with Decision /30/ issued by the Ministry of Justice on September 16, 2021, requiring that anyone who has to obtain legal power of attorney for the absent or missing should first obtain 'security clearance'. The procedures required to obtain this clearance are accompanied by bargaining and material extortion; women are among the first victims of the circular's ruling, since wives and mothers are invariably the family members involved in the legal procedures to prove the absence or loss of their husbands, sons or other family members, and thus need to obtain the judicial power of attorney. In cases where wives or mothers are present in government-controlled areas and want to obtain the power of attorney, the 'new security clearance' increases their risk of being subjected to violence, extortion, or material, verbal and psychological abuse. If the judicial power of attorney for the absent person is not obtained because of the difficulty of obtaining the security clearance, their interests will be severely restricted and they will not be able to carry out the transfer of inheritance, obtain identification documents or bank cards, or receive salaries and pensions on behalf of the missing and the absent, especially since some of the absentees are wanted by the security branches. This circular means that it is impossible to give absentees' family members and relatives the right to obtain the power of attorney to manage the funds of their absent loved ones. This circular is also considered a major legal violation due to its violation of the Syrian Personal Status Law, which does not require any clearance of any kind.

Finally, we, at the SNHR, stress that at least 15,039 individuals died due to torture, as documented on our database, between March 2011 and June 2023, and we continue to record almost daily deaths among detainees or forcibly disappeared persons due to torture and neglect of healthcare in the Syrian regime's detention centers. There is no doubt that this law will remain meaningless ink on paper and will not contribute in any way to deterring the security services from practicing torture as long as the regime's other repressive laws are in force, which are the ones on which the regime relies, including:

A. Texts that grant impunity to members of the security services from prosecution, conflicting with many articles of the General Penal Code and the current constitution

The Syrian regime also legalized the crime of torture, despite the fact that the current Syrian constitution, issued in 2012 by Decree No. 94, prohibits arbitrary arrest and torture according to Article 53, and the General Penal Code in accordance with Article 391 which imposes a penalty of between three months and three years imprisonment for anyone who beats a person with a degree of severity during the investigation of crimes, and prohibits torture during investigation in accordance with Article 391; however, there are legal texts that explicitly oppose previous constitutional articles and Article 391, giving almost complete immunity and legalizing impunity, as officers, individuals, and employees of the security services enjoy near-complete impunity from prosecution before the judiciary, except with the approval of their superiors, as follows:

1. For members of the General Intelligence Department (State Security Department)

Article 16 of Legislative Decree No. 14 of 1969, which contains the law establishing the General Intelligence Department,⁵ stipulates that intelligence department members may not be prosecuted for crimes they commit while carrying out the tasks assigned to them, except with the approval of their superiors. This was decided by the Syrian Court of Cassation⁶ in Resolution No. 25, Basis 28 of 1979. Legislative Decree No. 14 of January 25, 1969, states that: "It is impermissible to pursue any workers in the State Security Administrations for crimes they have committed during the execution of the specified duties they were authorized to carry out, except by an order to pursue issued by the director." Article 74 of the Internal Security Law of the State Security Department and the rules of service for its employees, issued by Legislative Decree No. 549 of May 25, 1969, states that: "No legal action may be taken against any General Intelligence Department employees, those assigned or detailed to the department, or those contracted with it for crimes incurred on the job or in the course of performing the job before referral to a department disciplinary board and before an order is obtained from the director."

It should further be noted that these texts are considered confidential and are not published in the official gazette for the public to read, which is inconsistent with the principle of the supremacy of constitutional law.

2. As for the members of the Intelligence Division (Military Security Department) and the Air Force Intelligence Department

These regime personnel enjoy similar, effectively total immunity as they are military personnel, with any prosecution being carried out before the military court, which does not prosecute military personnel except by a prosecution order issued by the Commander-in-Chief of the Army and the Armed Forces or the Chief of Staff according to the rank of the person to be prosecuted in accordance with the provisions of Article 53 of the Penal Code and Procedures of Procedure Military No. 61 of 1950.

5. Confidential law that is not published in the Official Gazette.

6. Published in "The Lawyers" magazine in 1979, Rule 392.

3. As for the members of the Political Security Division

The Political Security Division is administratively affiliated with the Ministry of the Interior. In September 2008, [Legislative Decree No. 64 of 2008](#) was issued, which categorizes these personnel, along with members of the Internal Security Forces and members of the customs police, as falling under the jurisdiction of the military judiciary, and explicitly states that their prosecution may not take place without the prior issuance of an order for prosecution by the General Command of the Army and Armed Forces.

Legislative Decree No. 64 of 2008 by which an amendment to the Military Penal Code and Military Trial Procedure⁷ gave immunity to police and political security personnel, who were previously amongst those who could be tried before the ordinary judiciary, limited the ability to take action against them or against the army and the armed forces. This prosecution is issued in wartime, according to the Penal Code and the Military Trial Procedure by the Commander-in-Chief of the Army and the Armed Forces, who is at the same time the President of the Republic. Consequently, such prosecution has been banned - if it had ever taken place - for regime officials at any level of leadership and particularly for the senior leadership.

At the beginning of 2012, Legislative Decree No. 1 of 2012 was issued containing the 'Law of Service for the Military of the Internal Security Forces', including members of the Political Security Division, which is considered an amendment to the aforementioned Legislative Decree 64/2008. Article 23 of this decree stipulated a requirement to establish a police disciplinary court specializing in investigating disciplinary matters concerning military police. This court shall be competent to decide on their referral to the judiciary, except in the case of their being detained in flagrante delicto or during the commission of an economic crime, in which cases these two types of offenses can be prosecuted before the ordinary judiciary directly. It should be borne in mind that the police disciplinary court is made up of police officers named by the Chief of the Republic and therefore is not a judicial court and does not belong to the judicial authority but is completely subordinate to the executive authority.

Therefore, all members of the four security services enjoy immunity from prosecution unless their superiors allow it; prosecution conditional on obtaining the aforementioned approval is considered unconstitutional and intrudes on the judicial authority, undermining its independence by placing a limitation that does not allow it to exercise its constitutional mandate without the approval of an official of the executive authority as stated in the texts above.

These decrees, which are supposed to be legal texts but in reality constitute blatant violations of the law, are legislative articles designed to legitimize crimes, violating even the 2012 Constitution, and violating fundamental tenets of human rights. For this reason, Syria under the current Syrian regime suffers from two problems; the first in terms of the legal texts themselves, and the second in terms of applying the law, which is far graver; without a doubt, these legal texts, which express a commitment to ensuring impunity for the Syrian regime, along with the regime's failure to carry out any investigation or pursue accountability for any member of the regime's security forces, no matter how low-ranking, in relation to acts of torture, have all contributed to increasing the rate of torture. Indeed, the regime's security services, in coordination with some doctors in military hospitals, are so sure of their impunity that they have invented new and horrific methods of torture that are even more brutal and savage than their usual methods and which have caused deaths due to torture to continue up to this day.

7. Promulgated by Legislative Decree No. 61 dated February 27, 1950.

8. Syrian People's Assembly, Law No. 19 of 2012, <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=4306&RID=-1&Last=112&First=0&Current->

- B. The survival of the exceptional criminal courts (military field court, counter-terrorism court) in Damascus.**
- C. Authorization of regime security services to investigate citizens for a period that often exceeds two months.**
- D. The failure to reform the prison organization or subject it to judicial supervision.**
- E. The Executive Authority encroaching on the judiciary.**

VI. What is SNHR Doing About the Detainees Issue?

Since 2011, the SNHR has created complex electronic programs to archive and categorize the data on detainees, which the team collects and verifies; this enables us to catalogue the detainees according to gender, the location where each was arrested, the governorate from which each detainee originally came, and the party responsible for their arrest. These programs also enable us to make comparisons between these parties, as well as identifying the governorates from which the largest proportion of residents have been arrested and disappeared.

Over the years, we have published periodic [news](#) reports on arrest incidents, as well as publishing a [monthly](#) report that monitors the record of cases of arrest, enforced disappearance, or release that occurred in the past month, as well as semi-annual and annual reports, in addition to dozens of additional reports that provide information on the various detention centers of the parties to the conflict, and other [special reports](#) related to detainees. We also periodically submit special forms to the United Nations Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Arbitrary Detention and the Special Rapporteur on Torture.

VII. The Syrian regime Issues Laws that Violate the Principles of Law and the Determinants of Arrest and Investigation as Specified by the Local Legislations

The Counter-Terrorism Law,⁸ the General Penal Code,⁹ and the Military Penal Code¹⁰ are among the most prominent laws under which detainees are tried. In most cases, the exceptional courts at which the detainees are tried use a range of main charges which are particularized according to the detainees' cases. For example, one of the charges contained in the Penal Code, such as weakening national sentiment, will be brought against a detainee along with another charge from the Counter-Terrorism Law, such as financing terrorism; this means the detainee is not charged with a single charge, but rather a set of charges, none of which are based on evidence or facts.

On March 28, 2022, the regime issued Law No. 15, amending the General Penal Code.¹¹ We list the following main amendments concerning detainees based on their expressions of opinion or the basis of the conflict:

- A. Terminological amendment to distinguish between a felony and a misdemeanor
- B. Terminological amendment of the crime of 'weakening national sentiment' in Article 285
- C. Terminological amendment of the crime of 'weakening the psyche of the nation' in Article 286
- D. Expanding the crime of 'undermining the state's financial position' in Article 287
- E. Adding a new crime of 'improving the image of an enemy state', now punishable by law
- F. Adding a new crime punishable by law: The call for the deduction of part of the Syrian territory
- G. Abolishing the broad and vague crime of 'inciting contempt for national conditions'¹²

We at SNHR note that the amendments issued by the Syrian regime regarding the General Penal Code in accordance with Law 15/2022 have been expanded with the introduction of new crimes even more vaguely defined than previously, capable of subjecting an even wider range of civilians to prosecution for exercising the slightest form of expression of opinion or the mildest criticism of the state's authority. We also believe that these amendments were issued by the regime in an effort to quell the increasing incidence of popular tension prevailing in the areas under regime control, even by regime loyalists, due to the deterioration in economic and living conditions suffered by civilians. Consequently, anyone who criticizes almost anything is arrested, which further strengthens the authority's iron grip and legitimizes arrests.

[Page=0&Vld=-1&Mode=-1&Service=-1&Loc1=0&Key1=&SDate=&EDate=&Year=-1&Country=&Num=19&Dep=-1&](#)

9. Syrian People's Assembly, Law No. 148 of 1949, <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=12278&RID=-1&Last=20&First=0&Current-Page=0&Vld=-1&Mode=-1&Service=-1&Loc1=0&Key1=&SDate=&EDate=&Year=-1&Country=&Num=148&Dep=-1&>

10. Syrian People's Assembly, Law No. 61 of 1950, <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=11811&RID=-1&Last=56&First=0&Current-Page=0&Vld=-1&Mode=-1&Service=-1&Loc1=0&Key1=&SDate=&EDate=&Year=-1&Country=&Num=61&Dep=-1&>

11. Syrian People's Assembly, Law No. 15 of 2022, <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=22937&RID=-1&Last=120&First=0&Current-Page=0&Vld=-1&Mode=-1&Service=-1&Loc1=0&Key1=&SDate=&EDate=&Year=-1&Country=&Num=15&Dep=-1&>

12. The crime of inciting contempt of the laws includes the perpetrator only if he is an employee, a clergyman, or a teacher in the public or private sector.

Over the past 12 years, the Syrian regime has issued nearly 21 amnesty decrees, many of which are similar to one another and focus on securing the release of perpetrators of crimes, felonies and offences, while including only a very small number of detainees referred to exceptional courts such as the Counter-Terrorism Court and the military field courts, and excluding the largest proportion of detainees who were not subjected to any trial during the years of their detention, who have been classified as forcibly disappeared. We previously [issued a report](#) in which we monitored the detention and torture incidents that we recorded since the issuance of the two amnesty decrees, Decree No. 20 of 2019, and Decree No. 6 of 2020. We also issued [a special report](#) in which we outlined our follow-up work regarding the implementation of the latest decree No. 6, nearly two months after its issuance, and the record of arrests, torture and releases recorded by the SNHR between the issuance of Decree No. 6 on March 22, 2020, and May 15, 2020. In July 2021, we also issued [a special report](#) summarizing the cases and incidents of arrest and releases documented by SNHR in the period since Amnesty Decree No. 13 was issued on May 2, 2021, up to July 15, 2021. The report distinguished between the record of releases that took place related to the amnesty and those not related to it, which took place within the context of sentences' expiry, and finally a report on the amnesty decree of the Legislative [Decree No. 7 for 2022](#), issued on April 30, 2022. Despite all the amnesty decrees issued, at least 135,000 citizens in the categories of detainees and forcibly disappeared persons are still detained by the Syrian regime. On November 16, 2022, we released a report entitled, "[Breaking Down the Amnesty Decrees Issued by the Syrian Regime Between March 2011 and October 2022](#)", noting that all the amnesty decrees have led to the release of no more than 7,351 arbitrarily arrested detainees, while the Syrian regime is still holding roughly 135,253 detainee/forcibly disappeared persons. The report concluded that amnesty decrees only lead to the release of a very limited number of detainees, while arbitrary arrests are being carried out in a systematic and widespread manner. The Syrian regime is still carrying out arbitrary arrests and enforced disappearance regardless of the amnesty decree it may issue.

According to the constitution and the legislation in force in the state, the Syrian government is committed to serving its citizens in issues regarding freedoms, arrest and investigation of criminal acts, with a system of procedural rules that guarantee all human rights guarantees that preserve their freedom, rights and dignity stipulated in international covenants.

The 2012 constitution affirms that the rule of law is the basis of governance in the state, that every accused person is presumed innocent until convicted by a court ruling in a fair trial, and that the punishment is limited to that individual, so it is not permissible for family members of a perpetrator of criminal acts such as his wife, forebears and descendants to be detained for his crime, or held as hostages until his arrest, with the constitution forbidding searching or arresting a person except in accordance with an order or decision issued by the competent judiciary. When arresting a person, the constitution requires that the individual be informed of the reasons for his arrest and his rights, and also forbids the continuation of his detention before the administrative authority except by order of the competent judiciary, and categorically prohibits torture or subjecting anyone to humiliating treatment. Every attack on personal freedom, the sanctity of private life, or other public rights and freedoms guaranteed by the Constitution is prohibited, with any such abuse classified as a crime punishable by law.¹³

13. People's Assembly of Syria, Legislative Decree 94/2012. The Constitution of the Syrian Arab Republic (2012), Article 50; Article 51, Paragraph 1 & 7, Article 53, Article 54. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=15740&ref=tree&>

The constitution also guarantees the right of defense for the accused before the court and the right to appeal against the judgments issued by it¹⁴, which the field court is not bound by.

As for national legislation, it is in keeping with these constitutional principles, as the Code of Criminal Procedure¹⁵ was clear in Article 17/1 that the Public Prosecutor is the only body authorized to investigate crimes and track down their perpetrators, making it clear that such duties can certainly never be undertaken by one of the intelligence services! As for Article 25, this explicitly states that every official authority or employee who became aware during the performance of his job of the occurrence of a felony or misdemeanor should immediately report the matter to the competent Public Prosecutor, and submit all the information, records and papers related to the crime to him, a duty further underscored by Article 49 of the same law regarding police officials The Public Prosecutor's assistants in the judiciary may deposit with him without delay any intimations and seizure records that they issue regarding the cases in which their involvement is authorized, along with all other relevant documents. While the security services are the main parties responsible for arrests and enforced disappearances, their actions blatantly contradict these clearly defined texts, meaning that they hold people for many years with no recourse to the authority of the judiciary and free from any oversight.

In the matter of arrest, detention of liberty, the Code of Criminal Procedure is extremely strict. In Article 104, it obliges the investigating judge to interrogate the defendant within twenty-four hours of his detention in police custody. The investigating judge must be asked to interrogate him or her. If the investigating judge refuses, is absent, or is prevented by a legal impediment, he or she should request another investigative judge, the head of the first instance court, or the conciliation judge to question the defendant.

Article 105 of the law rules that if the defendant has been arrested under a subpoena and remained in custody for more than twenty-four hours without being questioned or taken to the Public Prosecutor, this arrest would be classified as an arbitrary act, and the responsible official would be prosecuted for the crime of deprivation of personal freedom stipulated in Article 358 of the Penal Code.

According to the above points, we find that most of the legal texts have preserved the freedom of the Syrian citizen, which only the judge can limit with an arrest warrant, to the extent that if no judge is available to interrogate the defendant within twenty-four hours, the defendant must be released, even if the individual is suspected of murder, under pain of the arresting officers being classified as perpetrators involved in the crime of depriving an individual liberty; this confirms that the problem is not always with the legal text itself, but with the security services and official institutions who ignore these texts and fail to respect or abide by them.

It is worth noting here that Legislative Decree No. 55 issued on April 21, 2011, allowed the judicial police or their delegates (security services) to detain suspects for seven days, subject to renewal by the Public Prosecutor, provided that this period does not exceed sixty days.¹⁶ The security services have never complied with this legislation on two accounts:

-
14. People's Assembly of Syria, Legislative Decree 94/2012, Constitution of the Syrian Arab Republic, Article 51, Paragraph 3 <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=15740&ref=tree&>
 15. Legislative Decree 112 of March 13, 1950 (Code of Criminal Procedure), <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=11810&RID=1&Last=30&First=0&CurrentPage=0>
 16. People's Assembly of Syria, Legislative Decree No. 55 of 2011 (Amendment to the Code of Criminal Procedure/Legislative Decree 112 of 1950 With Regard to the Jurisdiction of the Police), <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=4443&RID=1&Last=61&First=0&CurrentPage=0>

1. These authorities do not observe the legal period of detention without trial, which is a maximum of sixty days. Cases of people being brought by the security services before all branches of the judiciary (terrorism court, military judiciary, ordinary judiciary) have repeatedly exceeded this period without any authorization from the Public Prosecutor.
2. This exceptional legislative mandate was limited to the crimes stipulated in Part One and Two of Book Two of the Penal Code (Articles 260 to 339) which are crimes against the internal and external security of the state and crimes against public safety, in addition to crimes of concealment of criminals and concealment of felonies and misdemeanors. The offense against the security of the state and the fabrication of crimes and slander only, meaning that the crimes stipulated in the Anti-Terrorism Law are not covered by this text that gave it that exceptional authority, and therefore, along with the rest of the crimes, are subject to the general rules that the suspect is presented to the Public Prosecution within twenty-four hours of his arrest. It is noted that these security services detain people for long periods of time, even if their crime is a criminal offense such as drug smuggling, for example.

Consequently, this legislation that gave the security services (as the main cause of people's disappearance) the power to arrest and investigate exceptionally up to sixty days before the suspect is presented to the judiciary as an ineffectual legislative article for them.

As for the Penal Code¹⁷, a portion of this is dedicated to listing the penalties for crimes of infringement of freedom, with Article 357 penalizing these with terms of temporary imprisonment ranging from three to fifteen years for any employee who arrests or imprisons a person in cases other than those stipulated by law. This legislation is also severe in regard to the penalties mandated for the director and guards of any prison who accept the imprisonment of a person against whom a judicial warrant has not been served, with Article 358 stipulating that the directors and guards of prisons, disciplinary institutes or correctional facilities and all employees who have abused their powers if they accepted the imprisonment of a person without a judicial warrant or judicial decision or kept him beyond the term, are punished for such infringements with periods of imprisonment ranging from one to three years, and should be punished with a term of imprisonment of between one month and one year if they refuse to bring or delay bringing an arrested person or a prisoner before the competent judge (Article 359).

Thus, we find that the Syrian constitution and national legislation clearly guarantee the rights and freedom of the suspect, and mandate that he should not be arrested except with a judicial warrant, which means that there should be a case file with the judiciary that the Public Prosecution has brought against the defendant, and thus it should be easy to know the location of the person's detention, the offense attributed to him and other details; despite all these facts, these texts have done nothing to prevent the existence of the problem of detainees and forcibly disappeared persons. . This confirms that the principle of the supremacy of constitutional law has remained wholly theoretical and without any practical value and has been completely undermined by official government institutions and a judiciary that is incapable of oversight and accountability due to the loss of its independence and the encroachment of the executive and legislative authority on it. Based on the foregoing, it is not possible to talk about respect for the rule of law in a state whose institutions do not respect even the laws issued by itself, wholly disregarding the rule of law domestically as it does international human rights and humanitarian law, and whose judiciary is unable to hold accountable and accountable.

17. Legislative Decree No. 148 issued on June 22, 1949 (Public Penal Code), amended by Legislative Decree No. 1/2011 <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=12278&RID=-1&Last=20&First=0&CurrentPage=0>

VIII. Filing and Extracting Multiple Charges under Torture and Referring Detainees to Courts that are Effectively Security Branches

We, at SNHR, would like to emphasize that the detainees imprisoned for participating in the popular movement for democracy in Syria have mostly been held for activities related to political dissent, human rights, or media activism, humanitarian relief work, and other peaceful activities similar to these. In the vast majority of cases the regime's security branches extract wholly false 'confessions' to multiple offences from these detainees through coercion, intimidation and torture, with the most prominent of the charges against them being: inciting sectarian strife, threatening the ruling system, weakening/hindering national sentiment, collusion with external and enemy forces, supporting and financing terrorism, weakening the nation's psyche, and 'spreading despair or weakness among the members of society'. These are the charges which appear in the written records, and any detainee may be referred to another security branch if he or she is wanted by more than one security branch. The detainee's fingerprints are generally placed on these records in lieu of a signature, again through use of coercion and torture. We note here that the personnel at these security branches rarely allow detainees to read and sign their 'confessions', but rather order them to place their fingerprint on the documents instead of signing them, doing so in most cases while they are blindfolded with a strip of cloth covering their eyes. These security records are referred to the Public Prosecution service, with the majority of them being transferred to either the Counter-Terrorism Court or the Military Field Court (these stages may take months or years, during which the detainees are exposed to the worst methods of torture, which are often lethal).

We briefly define the [Counter-Terrorism Court](#), which was established in accordance with Presidential Decree No. 22 of 2012 as serving as a substitute for the exceptional Supreme State Security Court, examining detainees' cases according to the Counter-Terrorism Law No. 19 of 2012, an article of legislation similar to the legislation on 'counter-revolutionary goals' issued in 1964, which violates the most basic principles and rules of law and human rights, under which a person can be arrested simply because he or she is suspected of not supporting the Syrian regime, with the court ruling on most cases of arrest carried out by Syrian regime forces. The Counter-Terrorism Court consists of three judges appointed by the President of the Republic, according to the proposal submitted by the Supreme Judicial Council, which is also chaired by the President of the Republic, who try civilians, military personnel, and juveniles, and issue sentences in absentia. In addition, these sentences may not be appealed except in the case of those who surrender themselves voluntarily. Although the body's official name is the Counter-Terrorism Court, it tries all types of crimes and can therefore be called an exceptional court; it is, in fact, part of the regime's security apparatus.

As for the Military Field Court, again briefly, this was established by Decree No. 109 of August 17, 1968, with its jurisdiction originally specified as being only for crimes committed in wartime; its remit was expanded in 1980, however, to allow it to operate in both war and peace times and to try civilians, military personnel and juveniles. This court was also formed by the executive authority through the Minister of Defense, and consists of a president and two members who are not required to be law graduates. The rulings issued by this court are not open to appeal, being endorsed by the Minister of Defense. Regarding the death sentences issued by this court, these are ratified by the President of the Republic, with both the Minister of Defense and the President of the Republic able to manipulate the rulings issued according to their personal whims. The Military Field Court is wholly managed by the executive authority that dominates the judicial authority, and therefore the most fundamental conditions of fair trial are not met in this court, which is also closer to a military-security branch than to a court of law.

According to the SNHR database, the vast majority of detainees have been arrested in connection with their participation in activities connected with opposition to the Syrian regime, no matter how innocuous, such as attending demonstrations, being involved in media or humanitarian relief activism, or even as a result of their kinship ties with an activist; this means that the vast majority of detainees are arrested in connection with their political activism, meaning that they are political prisoners.

Other parties to the conflict have also established courts to try detainees they are holding in accordance with procedures that are, to a great extent, similar to the courts affiliated with the Syrian regime. Extremist Islamist groups have established Sharia courts made up of sharia judges or security personnel who issue sentences according to these groups' extremist ideology. As for the areas under opposition control, these have established courts which operate according to amended forms of existing Syrian laws. The Syrian Democratic Forces, meanwhile, have established so-called 'people's courts' and implemented their own laws and legislation derived from Syrian laws, with all these courts following the policy of exceptional courts by holding brief court proceedings, essentially amounting to kangaroo trials, to try the cases before them without any considerations of the fundamental standards of fair trials, and relying mainly on the jurisprudence of judges, most of whom are unqualified or illegal.

IX. Conclusions and Recommendations

Conclusions

- The issue of detainees and forcibly disappeared persons is one of the most crucial human rights issues in Syria which there has been no progress in resolving despite its inclusion in several resolutions of the UN Security Council, as well as in UN General Assembly resolutions, in Kofi Annan's plan, and finally in the statement of cessation of hostilities issued in February 2016, which states that "*all parties undertake to work for an early release of any arbitrarily detained persons, particularly women and children*", and in Security Council resolution 2254 of December 2015, article 12, which states that all detainees, especially women and children, must be released immediately. Despite all these resolutions and other official statements, no progress has been made on the issue of securing the release of detainees in any of the rounds of negotiations sponsored by international parties regarding the conflict in Syria. The International Committee of the Red Cross has been unable to conduct any periodic visits to any of these detention centers, constituting a violation of International Humanitarian Law.
- The SNHR believes that the Syrian regime has not fulfilled any of its obligations under any of the international treaties and conventions which it has ratified. We refer specifically to the International Covenant on Civil and Political Rights. The regime has also violated several articles of the Syrian Constitution itself, with thousands of detainees detained without any arrest warrant, held for many years, without charges, and prevented from appointing a lawyer and from receiving family visits. 68.25 percent of all detentions documented have subsequently been categorized as cases of enforced disappearance, with detainees' families being denied any information on their loved ones' whereabouts, while anyone making inquiries about the detainees faces the risk of being arrested themselves for doing so. The Syrian regime has also violated the right to liberty enshrined in article 9 of the ICCPR through the widespread practice of arbitrary and unlawful detentions.

- Hay'at Tahrir al Sham imposes absolute authority over the large areas it controls and the residents therein. The group, which has a political entity and has developed a highly hierarchical structure, is therefore obliged to implement the provisions of international human rights law. Hay'at Tahrir al Sham has committed widespread violations through arrests and enforced disappearances.
- All Armed Opposition factions/Syrian National Army have carried out arrests and torture against a number of residents in areas under their control.
- Kurdish-led Syrian Syrian Democratic Forces have violated many basic rights and practiced numerous violations such as torture and enforced disappearance. They also have a political entity with a largely hierarchical structure and are, therefore, also obliged to apply the provisions of international human rights law.

Recommendations

UN Security Council

- The Security Council should monitor the implementation of Resolution 2042, adopted on April 14, 2012, Resolution 2043, adopted on April 21, 2012, and Resolution 2139, adopted on February 22, 2014, which demand immediate cessation of the crime of enforced disappearance.
- In light of the spread of the coronavirus, it is vital to put pressure on the Syrian regime to release tens of thousands of arbitrarily detained persons, primarily medical personnel whose professional skills and services the Syrian people are in dire need of.
- Take action under Chapter VII of the Charter of the United Nations to protect detainees from certain death inside detention centers, and to put an end to the pandemic of enforced disappearance that continues to plague Syria, posing a threat to the security and stability of society, act to end torture and deaths due to torture inside Syrian regime detention centers, and save whoever is left among the detainees as quickly as possible.

Human Rights Council

- Follow up on the issue of detainees and forcibly disappeared persons in Syria and highlight this issue in all annual meetings.
- Cooperate and coordinate with all active local human rights groups in Syria.

Independent International Commission of Inquiry (COI)

- Launch investigations into the cases included in this report and previous reports. SNHR is willing to cooperate and provide more evidence and data.

International, Impartial, and Independent Mechanism (IIIM)

- Address the cases mentioned in this report and previous reports. SNHR is willing to cooperate and provide more evidence and data.

United Nations, the international community, and the guarantors of the Astana talks:

- An impartial special committee should be formed to monitor cases of enforced disappearance, and to make progress in revealing the fate of the nearly 102,000 documented missing persons in Syria, approximately 85 percent of whom are detained by the Syrian regime.
- Immediately begin applying pressure on all parties to ensure that they immediately reveal their detention records according to a timetable. In the meantime, detention places should be revealed immediately, and humanitarian organizations and the International Committee of the Red Cross should be allowed to visit them directly.
- We call on the official appointed to take charge of the detainee file at the UN Special Envoy's office to include the issue of the detainees during the upcoming round of Geneva talks, as this issue is of far greater importance to the Syrian people than other longer-term issues which can be jointly addressed later by the parties after a political settlement is reached, such as the constitution.
- Stop any forcible return of Syrian refugees, since the situation in Syria continues to be unsafe, and put pressure to achieve a political transition that would ensure the automatic return of millions of refugees.
- Support organizations working to document cases of arbitrary arrest, enforced disappearance, and torture, support the course of accountability and its mechanisms, and support organizations working in victim rehabilitation programs.

The Russian regime

- Must demand that its ally, the Syrian regime, disclose the fate of nearly 87,000 forcibly disappeared persons and immediately release tens of thousands of arbitrarily detained persons and detainees whose sentences ended, before demanding that those states which imposed sanctions on the Syrian regime lift them.
- Must provide the Syrian regime with the necessary medical supplies and equipment to examine tens of thousands of detainees and ensure that they are not infected with the COVID-19.
- Must support a genuine political transition away from the dynastic dictatorship of one family and its brutal security services is the only way to achieve security, stability, and reconstruction.

All parties to the conflict and the controlling forces

- The arbitrary arrests and enforced disappearances, which are still ongoing, as detailed in this SNHR monthly report, must be ended immediately, the fate of all detainees and the forcibly disappeared persons must be revealed, their families should be allowed to visit them immediately, and the bodies of detainees who were killed as a result of torture should be handed over to their families.
- Unconditionally release all detainees who have been imprisoned merely for exercising their political and civil rights, release women and children, people with special needs, the sick, and the elderly, and stop using any detainees as prisoners of war.
- Allow the independent international monitors of the Independent International Commission of Inquiry and the International Committee of the Red Cross to access all official and unofficial detention centers without establishing any prior arrangements or any restrictions or conditions, and improve the conditions of places of detention to meet the legal standards of detention centers.
- A UN committee should be formed to monitor and periodically assess the release of the detainees according to a timetable that must be presented by all the detaining parties, primarily the Syrian regime forces that are responsible for 89 percent of all detentions.
- Publish a register containing the detainees' data together with the reasons for detention, current locations, and sentences issued.
- All sentences issued by the regime's field military courts and Counter-Terrorism courts should be suspended or repealed, since they fail to comply with domestic and international legislation, as well as failing to provide guarantees of a fair trial.
- End the policy of carrying out arrests without legal warrants, release all detainees imprisoned by them without judicial charges, and emphasize that individuals should also be detained only briefly before being presented in a court of law, and that such trials do not take weeks or months.

Acknowledgment

We wish to extend our most sincere thanks to victims' family members and friends, as well as to eyewitnesses and local activists, for their significant and valuable contribution to this report, in collecting and verifying data. We stand in solidarity with the detainees and the forcibly disappeared persons and their families.



www.snhr.org - info@snhr.org