

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	947
Land:	Syrien
Kilde:	Human Rights Watch
Titel:	Al-Qaeda-linked armed group Hayat Tahrir al-Sham has detained hundreds in Aleppo and Idlib governorates in recent months; cases of torture reported
Udgivet:	28. januar 2019
Optaget på baggrundsmaterialet:	8. februar 2019

Document #1457241

HRW – Human Rights Watch

Syria: Arrests, Torture by Armed Group

(Beirut) – An armed group with links to al-Qaeda has in recent months arbitrarily arrested scores of residents in areas under their control in Idlib, Hama, and Aleppo governorates, Human Rights Watch said today.

Human Rights Watch documented 11 cases in which the group, Hay'et Tahrir al-Sham, detained Idlib residents, apparently because of their peaceful work documenting abuses or protesting the group's rule. Six of those detained were apparently tortured. Syrian (<http://www.hrw.org/middle-east/n-africa/syria>) rights groups have documented hundreds of other cases of detention by the group in Aleppo and Idlib governorates, including at least 184 in the last three months, according to one organization (<http://sn4hr.org/blog/2018/10/21/52779/>).

“Hay'et Tahrir al-Sham's crackdown on perceived opposition to their rule mirrors some of the same oppressive tactics used by the Syrian government,” said Lama Fakih (<https://www.hrw.org/about/people/lama-fakih>), deputy Middle East director at Human Rights Watch. “There is no legitimate excuse for rounding up opponents and arbitrarily detaining and torturing them.”

Human Rights Watch interviewed seven former detainees and relatives of four other men who are still detained by Hay'et Tahrir al-Sham, or whose whereabouts remain unknown. Eight of the men were detained between December 2017 and October 2018, while three others were arrested earlier, including a 16-year-old boy. Former detainees described being taken from their homes, at checkpoints, or at their workplace by men who identified themselves as members of or affiliated with Hay'et Tahrir al-Sham or who were recognized as members. They said they were taken to locations that served as detention facilities, where they were interrogated, and six of them, including the boy, were tortured.

Hay'et Tahrir al-Sham should immediately release all unlawfully held prisoners and stop arbitrarily arresting people and torturing and mistreating detainees, Human Rights Watch said. Turkey should use its leverage with the group to stop its abusive practices.

On September 17, 2018, Russia and Turkey brokered a cautious ceasefire. The agreement covered Idlib governorate and parts of Western Aleppo and Hama governorates still held by the anti-government groups (<https://www.nytimes.com/2018/09/17/world/middleeast/idlib-syria-russia-turkey.html>). Following a ceasefire agreement between the anti-government armed groups on January 10, 2019, Hay'et Tahrir al-Sham consolidated its control over the areas that remained outside its control in the governorate and surrounding areas. As Idlib remains under threat of attack by the Syrian-Russian military alliance, the presence of Hay'et Tahrir al-Sham should not be used as pretext to conduct an offensive on the estimated 3 million other people under the group's control, Human Rights Watch said.

On December 9, citing sources close to Hay'et Tahrir al-Sham, news media reported that journalist Amjad al-Maleh had been sentenced to death for collaborating with enemies, including Israel and the US-led coalition, to disclose locations of several armed groups (<http://www.shaam.org/news/syria-news/%25D9%2587%25D9%258A%25D8%25A6%25D8%25A9-%25D8%25AA%25D8%25AD%25D8%25B1%25D9%258A%25D8%25B1-%25D8%25A7%25D9%2584%25D8%25B4%25D8%25A7%25D9%2585-%25D8%25AA%25D8%25B4%25D9%2583%25D9%258A%25D9%2584%25D9%2587%25D8%25A7-%25D9%2588%25D9%2582%25D9%258A%25D8%25A7%25D8%25AF%25D8%25A7%25D8%25AA%25D9%2587%25D8%25A7-%25D9%2588%25D8%25B3%25D9%2584%25D8%25B3%25D9%2584%25D8%25A9-%25D8%25A7%25D9%2584%25D8%25A7%25D9%2586%25D8%25B6%25D9%2585%25D8%25A7%25D9%2585%25D8%25A7%25D8%25AA.html>). Al-Maleh had been displaced to Idlib from his home in Madaya and was detained by Hay'et Tahrir al-Sham in December 2017.

On December 20, Human Rights Watch sent a letter to Hay'et Tahrir al-Sham and the civilian government affiliated with it, the Salvation Government, requesting a response to the claims made in this report and calling on the group to immediately halt plans to execute al-Maleh. On January 11, a representative of the group responded to Human Rights Watch on behalf of the Hay'et Tahrir al-Sham judicial committee. He denied that Hay'et Tahrir al-Sham had used the torture methods that Human Rights Watch documented and said that al-Maleh, whose whereabouts remain unknown, had not been sentenced to death.

The representative also shared a draft law on prisoners and detainees with Human Rights Watch.

Hay'et Tahrir al-Sham and the Salvation Government should reform detention and judicial processes to ensure that detainees are not mistreated and are guaranteed all rights essential to a fair trial, including that they can obtain legal representation and appeal their sentences in a timely manner, if the reason for their arrest is valid.

When committed in the context of an armed conflict, cruel treatment, torture, and humiliating or degrading treatment of detainees are war crimes. Under international law, non-state armed actors with de facto control must refrain from torture and mistreatment of detainees and must allow them due process. Authorities should bring a suspect before a judge within 48 hours of arrest to review the legality and necessity of the continued detention and to ensure that the detainee's rights are respected. There should be a clear legal basis for all detentions, and detainees should promptly be taken before a judge to rule on the legality of their detention.

Under the laws of armed conflict and human rights law, no one may be convicted or sentenced except after a fair trial providing all essential judicial guarantees. These include that the courts should be independent, impartial, and “regularly constituted” according to the laws and procedures in force in the country.

“Solidifying power by spreading terror is never the answer,” Fakhri said. “Hay’et Tahrir al-Sham should cease the panic-induced frenzy of arrests, and instead prioritize protecting civilians in areas under their control.”

Hay’et Tahrir al-Sham

Formed in January 2017, Hay’et Tahrir al-Sham is a coalition of Islamist Sunni anti-government armed groups, led by the group previously known as Jabhat Fateh al-Sham or Jabhat al-Nusra. In March 2017, the group claimed a twin bombing in Damascus that killed at least 40 people, the majority of them Iraqi Shia pilgrims (<https://www.bbc.com/news/world-middle-east-39250040>). The US and Turkey in 2018 designated the group a foreign terrorist organization affiliated with al-Qaeda, while the United Nations sanctioned it the same year. Hay’et Tahrir al-Sham has denied affiliation with al-Qaeda.

Hay’et Tahrir al-Sham is widely acknowledged to be the main anti-government group operating in northwest Syria. The group defeated the other major anti-government group, Ahrar al-Sham, in July 2017, and thus cemented its territorial and military control over most of those parts of Idlib, Hama, and Aleppo governorates that had been under anti-government control. In January 2019, it established control over most remaining anti-government areas.

As of October 2018, Hay’et Tahrir al-Sham had a fighting force of 12,000 to 15,000, one-third of them non-Syrian, according to the CSIS Transnational Threats Project. The group is led by Abu Mohammed al-Joulani, a Syrian who played a leading role in the creation and leadership of Jabhat al-Nusra.

Hay’et Tahrir al-Sham apparently funds its activities primarily through taxes and tariffs on residents in areas under its control. It has also applied tariffs on incoming arms and other weaponry provided to other non-state armed actors, according to the Counter Extremism Project (<https://www.counterextremism.com/threat/nusra-front-jabhat-fateh-al-sham>). The project also reported that the group receives donations from private individuals in Saudi Arabia, Qatar, and Kuwait, and has received millions of dollars for releasing prisoners through Qatar-mediated negotiations (<https://www.hate-speech.org/jabhat-fateh-al-shams-income-and-resources-an-open-source-investigation/#fn-2879-45>).

Turkey has engaged with Hay’et Tahrir al-Sham on stabilizing the northwestern part of Syria. Hay’et Tahrir al-Sham has accepted observation points set up by Turkey near areas the group controls.

In addition to its militant front, Hay’et Tahrir al-Sham has attempted to create several civilian bodies, including the Syrian Salvation Government, a governance body formed in November 2017 that is responsible for its civilian functions. Hay’et Tahrir al-Sham also has an extensive prison system and has created its own court system.

By October 2017, in parallel with its military successes, Hay’et Tahrir al-Sham had taken control of all other courts in the region (<https://www.tandfonline.com/doi/pdf/10.1080/09592318.2018.1497290?needAccess=true>). Hay’et Tahrir al-Sham’s court system applies Sharia law. The judges who operate these courts do not have formal legal training, and in some cases may not even be trained in the application of Sharia law.

Hay’et Tahrir al-Sham’s Response to Human Rights Watch’s Letter

In the response to Human Rights Watch’s letter, Hay’et Tahrir al-Sham’s representative said that no one is sentenced without evidence, and that the security services and the Interior Ministry are not allowed to sentence prisoners, but instead are required to transfer them to the Justice Ministry. If there is no evidence of a crime, then the individual is acquitted, the representative said. If a judge issues a sentence, then that sentence is verified and confirmed by a committee of experts in law and Sharia.

The draft law that Hay’et Tahrir al-Sham provided to Human Rights Watch prohibits arrests without a judicial warrant, except where “a suspect is almost certainly guilty and there is no time to retrieve an arrest warrant.” It also requires taking a suspect before a judge within 48 hours of arrest, prohibits torture and mistreatment, and asserts that all prisoners should have access to health care, sufficient food, and family visits. It does not provide a prisoner with a right to legal representation nor does it refer to a right of appeal. It does not provide any special consideration or treatment for individuals under the age of 18. The draft law is based on Islamic law, according to the text.

Accounts by Detainees and Their Families

According to the detainees Human Rights Watch spoke to, Hay’et Tahrir al-Sham is known to control five or six detention facilities, including Okab, Harem, Idlib Central, Sinjar, and Aleppo. Media reports and activists say that there are several other unofficial detention facilities (<https://www.newsdeeply.com/syria/articles/2017/07/25/almost-as-bad-as-the-regime-inside-syrias-rebel-run-prisons>).

Of the detainees Human Rights Watch spoke to, four spent time in Okab prison, a notorious facility (<https://www.newsdeeply.com/syria/articles/2017/07/25/almost-as-bad-as-the-regime-inside-syrias-rebel-run-prisons>) where detainees described worse conditions and more aggressive torture or mistreatment than elsewhere. Three of the detainees were in Idlib central prison, and two in Harem prison. Investigators were either Syrian or Tunisian, three of the detainees said.

None of the detainees were able to see or consult a lawyer, and only two saw a *sharia* judge in one of Hay'et Tahrir al-Sham's courts. It is unlikely that these courts meet the test required under humanitarian law that no one should be convicted or sentenced except after a fair trial before courts that are “regularly constituted” by the laws in the country. All but one of the detainees interviewed said that prison officials had beaten, or otherwise physically mistreated them. In many cases the abuse amounted to torture.

One man described being hung from a pole upside down for hours during interrogation. Another described being taken into a very tight coffin-like, steel room for three hours. A third said that the interrogators would squeeze his entire body through a tire and beat him incessantly, a torture method called *dulab*, which Syrian security services have also used:

At night, they would begin beating me. They used *dulab*. These torture moments, I remember them in detail, every day. I have a hatred towards them and want to expose what they did. People died in front of my eyes. The maximum you can do is move your shoulders a bit. And scream for help. But on several occasions, they stuffed things in my mouth so I can't scream, like a ball. This happened six or seven times. Two or three days of rest in between. I used to lose my consciousness a lot.

A video shared on social media showed a man being tortured, reportedly in Harem prison, a detention facility under the control of Hay'et Tahrir al-Sham near the city of Harem, in Idlib governorate. While Human Rights Watch was unable to verify whether the video was taken in Harem prison, the torture practices shown, and information from activists, who said they could identify the man being tortured, matched statements from the people interviewed about of torture methods used by Hay'et Tahrir al-Sham in Idlib.

Three of those released said that their families or the public had to apply pressure or use a connection close to Hay'et Tahrir al-Sham to get them released. In four cases, the detainees had to sign or record declarations promising that they would not film or report on Hay'et Tahrir al-Sham or in their area anymore. Of the 11 cases investigated, four remain missing or in detention.

Analysts have stated that parts of the population have resisted several attempts by Hay'et Tahrir al-Sham to translate its military dominance in parts of Idlib governorate and surrounding areas into political and governance power over the 3 million people living there. Former detainees and Syria analysts (<https://www.chathamhouse.org/sites/default/files/publications/research/2017-06-01-local-community-resistance-syria-atarib-haid.pdf>) say that this is primarily due to the abusive tactics it has employed in silencing dissent, including arbitrary detention, abduction, and in some cases, assassinations (<http://english.alarabiya.net/en/News/middle-east/2018/11/23/Two-Syrian-activists-assassinated-in-Idlib-s-Kafr-Nabl-HTS-accused.html>). Hay'et Tahrir al-Sham has also restricted humanitarian aid and access to civilians living in areas it controls (<https://www.irinnews.org/analysis/2018/09/26/shutdowns-suspensions-and-legal-threats-put-relief-world-s-troublespots-risk>).

Accusations Levelled by Hay'et Tahrir al-Sham

Most of the eight former detainees interviewed by Human Rights Watch said they believed from the accusations their interrogators leveled at them that they were arrested due to their criticism of Hay'et Tahrir al-Sham's rule. Seven of the eight were media activists or journalists who had participated in or covered protests or were working with foreign media outlets.

They said Hay'et Tahrir al-Sham appeared to equate criticism of their rule with collaboration with the Syrian government, the Turkish government, the US-led coalition, or other Syrian non-state armed actors such as Ahrar al-Sham or the National Liberation Front. All except one denied any affiliation to such entities.

All those interviewed said detainees were accused of multiple crimes during interrogation, including adultery, drinking alcohol, being members of the Islamic State group (also known as ISIS), being double-agents for the Syrian government, and working for “apostate” countries.

One detainee said Hay'et Tahrir al-Sham accessed his phone and found out he was a journalist: “I couldn't deny it – so they started asking me questions: ‘Who is pushing you to cover us? Who are you providing information to? If they didn't like the answer, they would beat me. At one point, they accused me of using a drone for Turkish intelligence.”

Another said Hay'et Tahrir al-Sham accused him of being with the FBI: “I kept telling them, you have the initials wrong, it is AFP (Agence France Press) not FBI (the US Federal Bureau of Investigations) [in Arabic, the initials are interchangeable].”

Detainee Accounts

All detainees' names have been changed for their protection. All interviewees were informed of the purpose of the interview and its voluntary nature, including their right to stop the interview at any point, and gave informed consent to be interviewed.

Samy S.

Samy S. told Human Rights Watch he was arrested by seven armed men whom he later found out were affiliated with Hay'et Tahrir al-Sham. He is a journalist and a peaceful activist, who moved to Idlib after the government re-took his hometown. He said he had no other choice.

In Idlib, he resumed his work as a journalist. A few months after he arrived, while filming with a friend, a group of armed men ambushed him. They took him to Idlib Central Prison, which he said is under the control of Hay'et Tahrir al-Sham.

His arrest came as part of a wave of arrests at that time.

He said he spent six months in detention and that investigators affiliated with Hay'et Tahrir al-Sham interrogated him over 10 times. At first the interrogations were about his camera and his phone. The interrogator, a Syrian, told him there was nothing on him and that he would be released in a few days, Samy S. said.

Three months into his captivity, the interrogator changed, and the captors' behavior toward Samy S. changed: “They beat me. They would place me upside down for hours, beat me, and interrogate me. It became tougher – physically and emotionally.”

Samy S. said he thought from the accent that the new investigator was Tunisian. Six months after he was detained, the prison authorities forced him to write a statement that he would not return to his work as a journalist. They also required a friend of his to guarantee that he would not return to work. If he did, both would be arrested.

“I am still under surveillance,” Samy S. said. “I tried to leave to Turkey twice already since I was released, but no luck. This is not my country anymore.”

Jamil J.

Jamil J., a journalist, said he was detained by four masked men on April 27, 2018, in Jisr al-Shugour, Idlib. He said he was with a friend, filming a water spring in the area for a report on nature in Idlib governorate.

He said the four masked men cuffed them and covered their heads, telling them that they would take them to inspect the footage. The men confiscated his phone and found out he was a reporter.

While the masked men never indicated who they were, Jamil J. said he knew they were from Hay'et Tahrir al-Sham once they took him to Harem Prison, which is under their control. He said that in the 40 days he was detained, Hay'et Tahrir al-Sham transferred him from Harem to Okab prison, where they interrogated him, placed him in solitary confinement, and beat him with a water pipe. He said the interrogator told him that the main accusation against him was that he covered a protest in Ma'ret al-Nu'man, a town in Idlib.

He said that his parents were not allowed to visit, but that he was allowed to let them know where he was:

We spoke with the warden begging him to let us inform our parents, send them a message just so they are relieved. We told him we'll just tell them you're investigating us. As much as it was dangerous to end up with them [HTS], it was better for our parents to know, given all the assassinations and all the kidnappings taking place in the area. We just wanted to reassure our parents. And he let us.

Jamil J. said he was released after his parents used their connections to get him out.

“Most people in their prisons were detained arbitrarily. I got to know people who were there for two or three, even six months, without being questioned,” he said. “When you end up in their prison, it's as if you're forgotten.”

Mounir M.

His friends and relatives said that Mounir M., a media activist, was arrested in October 2018. On the day of his arrest, his friend said, he and Mounir M. were attending one of the many anti-Hay'et Tahrir al-Sham protests, in a town under the control of another anti-government group in Aleppo governorate. His friend said that there was shelling, and the day before, two members of Hay'et Tahrir al-Sham had been killed “so tensions were high.”

Four hours later, the friend said Mounir M. and his uncle were taken from their home by a group of armed men in vehicles. His parents, the friend said, recognized a few of the men as being affiliated with Hay'et Tahrir al-Sham. Both Mounir's friends and his relatives believe that the reason for his arrest was a perceived association with the National Liberation Front because his cousins were members, but said that they did not believe he was a member. Mounir remains detained, and his family does not know his whereabouts.

Yahya Y.

Yahya Y. said he was taken from his home in Jabal al-Zawiya, Idlib, in front of his parents by a group of masked men at dawn in January 2016. He was 16 at the time and working as a freelance reporter. Yahya said the men who arrested him did not identify themselves but said that he was transported to a detention facility where the interrogator told him he was in Okab prison. For a week after that, Yahya said, no one spoke to him:

They used to pull me out [of the cell], beat me, and return me. No one asked me a single question. No one asked me what my name was.

Yahya said he was detained for 100 days. He said Jabhat al-Nusra, which had operated the facility at first, and then Hay’et Tahrir al-Sham tortured him using a number of techniques. They included *shabah* (hung upside down from his feet, then beaten and sprayed with water), the “steel bed” (tied to a freezing metal bed with cold water thrown on him), *dulab*, or “tire” (body squeezed into a tire and then beaten), and *beit al-kalb*, or “dog house” (forced to spend hours inside a 1-by-1-by-1.5-meter cell).

He also described torture methods he saw or heard used against the foreigners inside the prison, including electric shocks and *al-tabout*, or “coffin,” in which the interrogators would put the detainee in an electronically-controlled, vertical steel coffin-shaped box and then press on their chests, causing some people to lose consciousness and in other cases breaking their bones.

Yahya said the main allegation Jabhat al-Nusra/Hay’et Tahrir al-Sham made against him was collaboration with foreign entities and that before they released him they forced him to read a pre-written false confession on video, admitting that he worked with the US-led coalition.

While Yahya said his family was not initially aware of his whereabouts, through personal connections and help from his friends, they managed to exert pressure to arrange a visit to see him and eventually to secure his release. “When I think about it today, I wonder how it happened that I was released,” he said. “I knew that whoever ends up in Okab, never leaves.”

ecoi.net summary:

Al-Qaeda-linked armed group Hayat Tahrir al-Sham has detained hundreds in Aleppo and Idlib governorates in recent months; cases of torture reported 

Country:

Syrian Arab Republic

Source:

HRW – Human Rights Watch [\(/en/source/11207.html\)](/en/source/11207.html)

Original link:

<https://www.hrw.org/news/2019/01/28/syria-arrests-torture-armed-group> (<https://www.hrw.org/news/2019/01/28/syria-arrests-torture-armed-group>)

Document type:

Appeal or News Release

Language:

English

Published:

28 January 2019

Document ID:

1457241 (former ID [376097 \(/en/document/376097\)](/en/document/376097))

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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

