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The Day After:

Supporting Democratic Transition in Syria.

Our Vision:

Syrians' rights, peace, stability, and prosperity can only be pursued through democratic political transition and a national program of transitional justice that lays the foundations for justice and reconciliation.

Our mission:

To empower Syrian civil society and to influence policy-making to serve democratic transition and justice in Syria.

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Report to the Human Rights Council
Universal Periodic Review of the Syrian Arab Republic
40th Session of 2021

Human rights violations :

This report aims to shed light on the human rights violations that civilians, internally displaced people (IDPs) and refugees are subjected to upon returning to their areas of origin; especially women and children. Types of violations include, but are not limited to: arbitrary detention, torture, sexual violence and enforced disappearance. The effects of these violations are often exacerbated by the systematic lack and inaccessibility of identity and other types of documents.

Arbitrary Detention, Enforced Disappearance, and Cruel and Inhumane Treatment:

1- In the previous review cycle of the Universal Periodic Review (UPR) in 2016, Syria accepted a number of recommendations regarding the cessation of arbitrary detention and the release of detainees, to ensure accountability for the crimes the report outlines. (1) However, the reality on the ground indicates otherwise. Since the previous UPR review cycle in 2016, the Syrian authorities arbitrarily arrested and detained both men and women in the context of detention. They were not informed of the reason for their arrest. Women are often detained for their real or presumed male relatives' association with dissent or defection from military service. Some of them were arrested along with other relatives. Many detainees were physically assaulted while in detention¹.

2- The scale of the violations, their recurrence, the consistent patterns of perpetration across different places and times, and the detainees with whom The Day After (TDA) had met, strongly indicates that premeditated killings, slow deaths, torture, sexual violence and other forms of inhumane treatment are all part of a widespread and systematic attack on the civilian population by the Syrian authorities (official and unofficial, legally mandated or otherwise), amounting to crimes against humanity.

3- In the previous years, The Day After worked intensively with survivors of arrest, and conducted hundreds of interviews with them to identify the violations they were subjected to during the process of their arrest. Each interview with those survivors was a unique experience with its own peculiarities that TDA had published in many of its reports. The reports showed a systematic practice of committing these violations.

¹ This information refers to Recommendation No. 109.168 of Spain ("Stop arbitrary detention and release all unjust and indiscriminate detainees, as previously recommended"), and Recommendation No. 109.175 of Brazil ("Publish a list of all detainees in places under its control with information on the reasons for their detention." "). See Human Rights Council, Report of the Working Group on the Universal Periodic Review - Syrian Arab Republic, Views on Conclusions and/or Recommendations, Voluntary Commitments and Responses Provided by the State under Review, March 13, 2017, p. 7, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/055/86/PDF/G1705586.pdf?OpenElement>

Torture

4- TDA's findings confirm that torture within the security branches is a systematic policy used by the Syrian government to suppress voices who oppose it and call for change.

5- The purpose of the GoS' torture of civilians is to elicit information or confessions against the individual him/herself, or against a relative — or merely as a punishment.

The use of physical violence and psychological terror throughout interrogations to elicit information, force confessions and force detainees to fingerprint papers or sign statements, are all methods of torture carried out against civilians in Syria.

Many of the torture operations were carried out under the pictures of Hafez al-Assad or Bashar al-Assad.

6- There are only very rare cases of providing medical care to detainees who were severely affected by torture. And yet, even this rare case of care was punctuated by ill-treatment. The type of medical care offered was either refused or provided insufficiently, or it wasn't appropriate for the type of injury. Some detainees attempted to treat their injuries, which were sometimes life-threatening, on their own among each other.

In most branches of the security services, a large number of detainees were killed during or after torture sessions due to injuries resulting from torture.

7 - The bodies of detainees who die in detention are also treated inhumanely, and the rules of notifying families, and investigations related to their death are also violated.

8- Despite the severe physical effects and marks that remain with the detainees after their release from prison, and the massive damage inflicted on their bodies that prompts them to frequent doctors for treatment; yet the most significant and long-term repercussions for those survivors, especially women, is the psychological and social impact due to the dire state and conditions of detention, and the violence and fear that dominate them at all times and in all places².

Enforced Disappearance:

9- The Syrian government uses enforced disappearance and arbitrary arrest, as methods to terrorize Syrian civilians, and to force its opponents to submit to it. Its main targets were, and still are, peaceful opponents, demonstrators and political activists, human rights defenders, media professionals, doctors, and humanitarian aid workers. In addition to the aforementioned groups, GoS military personnel and state employees with questionable loyalty, as well as family members of all those mentioned above, are also on the GoS' radar for arrests, who use the family members as bargaining chips in order for them to surrender themselves, or for the purpose of conducting

² TDA's report under the title (Survivors' Experiences in Syrian Regime Prisons)
<https://tda-sy.org/wp-content/uploads/2020/11/26-10-2020-Survivors-Experiences-in-Regime-Prisons-in-Syria.pdf>

exchanges.³

10- The journey of families searching for their missing relatives and loved ones is one of the most tragic stories in the Syrian conflict. Families spend years searching for their missing relative, and in most cases they only get conflicting news from various sources as the Syrian government deliberately does not provide any kind of information about the detainee to exacerbate the families' pain, and to exert the greatest possible pressure on the Syrian communities by making an example of the detainee and his/her arrest.

11- Even if families were able at some point to locate their children, they would have to return to the first cycle of arrest due to the Syrian government's ongoing transfer operations of detainees.

12- Some families had received communications regarding their disappeared children from members of the regime, or notable individuals affiliated with it, or even lawyers working as mediators between the families of the disappeared, and officials in the security services.

13- The families of the disappeared then have to go through a painful process that extends in most cases to years of searching for their children through official and unofficial channels, and often turn into fraudulent endeavors, and financial and emotional extortion and conflicting information that increases their suffering. Some families hold funerals for their children who are still alive in one of the security branches and military or secret prisons, while other families continue to pay bribes to security agents and officers years after their children were killed under torture without knowing it.

Sexual Violence

14- The Syrian government has used systematic sexual violence in Syria as a weapon of war. To destroy everyone who opposes power, to destroy families, and to destabilize societies.

15- Sexual violence carried out by the Syrian Government is not limited to women and girls only, but also includes men and boys, contrary to traditional assumptions.

16- The most common types of sexual violence observed for women are forced nudity on arrival, sexual harassment and insults are common in their cells, bathrooms and corridors. Both police and guards have torn off women's clothes, grabbed their breasts, put out cigarettes on their breasts, threatened rape and raped and forced women to watch the torture and rape of men.

17- As for the forms of sexual violence that were practiced against males, forced nudity upon arrival to detention centers, burning or electric shocks to the genitals, beatings on the genitals, tying the penis, collective sexual humiliation, coercion to practice or witness sexual violence, threats to engage in sexual violence against women, particularly from the families of the survivors (wives - daughters - mothers).

³ Despite the many recommendations regarding enforced disappearance that were recently reviewed and accepted by the Syrian government, some are still being reviewed, such as Recommendation No. 109-152 from the Government of Luxembourg, that recommends putting an end to enforced disappearance and deprivation of liberty in all places of deprivation of liberty, as well as extrajudicial executions (1): page 4 of the report of the team on the universal periodic review responses submitted by the State is still under review:

“ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/055/86/PDF/G1705586.pdf?OpenElement> ”

18- The adoption of specific methods of sexual violence in the various detention centers creates a form of coordination or central instructions. This leads to the conclusion that the officers and elements of the Syrian regime have committed the following international crimes through the use of sexual violence in Syrian government detention centers, and they are as follows:

19- Rape, forced sterilization and other forms of sexual violence of a similar nature (violence against the genitals - electrocution, burning, mutilation, binding, sexual humiliation, forced nudity, threats of sexual violence, forced witnessing of sexual violence), as well as torture and persecution, which are all crimes against humanity.

20- Rape, forced sterilization and other forms of sexual violence that constitute a serious violation of Common Article 3, such as outrages upon personal dignity, in particular humiliating and degrading treatment, are serious violations of the laws and customs of war in a non-international armed conflict⁴.

E: Arbitrary Detention:

21- People were arrested during protests on roads, at security checkpoints, or from their homes, and even from governmental public offices during routine screening. All of this was done without judicial warrants and without informing the detainee of the reason for his/her arrest. Furthermore, detainees were prevented from contacting their families or their lawyers before they were forcibly disappeared.

22- It is established according to international laws that no individual may be deprived of his or her liberty except on the grounds and in accordance with the procedures stipulated in the law. Local laws that allow arrest and detention and local laws that define arrest and detention procedures must comply with international standards. Arrest or detention without any legal basis, is arbitrary arrest.

23- The Human Rights Committee has made clear that the term “arbitrary” in Article 9 (1) of the International Covenant on Civil and Political Rights should be interpreted broadly to include elements of inappropriateness, injustice and mass arrests that often take place in the context of peaceful protests. They are arbitrary under international standards, and prolonged detention without charge or trial is also arbitrary.

24- The United Nations Security Council has repeatedly called for the “immediate release of all arbitrarily detained persons, starting with women and children, as well as the sick, wounded and elderly, including United Nations staff, humanitarian workers and journalists” (UN Security Council resolutions 2139, 2165, and 2191, 2258, and 2332) called on all states to use their influence to assist in the early release of any arbitrarily detained persons, including women and children (United Nations Security Council Resolution 2268), but the Syrian government did not comply with that.

⁴ TDA’s report on Gender-Based Violence

<https://tda-sy.org/wp-content/uploads/2020/11/Gender-Based-Violence-07-12-2020.pdf>

25- Article 3 common to the four Geneva Conventions of 1949, the Second Additional Protocol to the Geneva Conventions of 1977 (although Syria is not a party to this protocol, most of its provisions reflect customary international humanitarian law) clearly refers to the protection imposed on civilians during armed conflicts. However, we find that the Syrian government has violated all of that and continues to carry out arbitrary detentions and arrests in order to liquidate the leadership of its opponents.

26- Most detainees were not represented in courts during the period of their detention, although some cases were referred to exceptional courts such as the Military Field Court and the Terrorism Court, both of which are considered extrajudicial and unfair, as they do not take into account the legal principles of litigation, and accordingly, fail to present the detainee in a fair trial during a reasonable period, making the detention arbitrary.⁵

27- The arrested persons did not have any opportunity to hire a lawyer from the moment of arrest until their release. The right to a lawyer before the trial includes access to a lawyer and the presence of a lawyer during interrogation sessions, and this was confirmed by Amnesty International in the Guide to Fair Trials. The arrest process was accompanied by cuffing the detainees, and covering their eyes.⁶

28- No sole party in Syria makes arrests, but there are a number of parties that work with the knowledge and authorization of the Syrian government to arrest civilians without being authorized to do so, and this is what makes the arrest arbitrary.

29- A large number of people are arrested without having anything to do with the protests, but only because one of their relatives is wanted by the government, in order to exert pressure on the wanted persons, and this is considered arbitrary arrest.

30- The mass arrests practiced by the Syrian government during peaceful protests, prolonged detention without charge or trial, and the detention of relatives to pressure suspects, amount to arbitrary arrest.

The Syrian government has also held detainees in secret facilities and in solitary confinement, which are also considered arbitrary.

31- Other conditions of detention include torture or other forms of cruel, inhumane or degrading treatment, which also amount to arbitrary detention.

⁵ Amnesty International's Fair Trial Manual p. 57 states:

"International standards require that individuals are brought before a judge promptly after arrest or detention. While the promptness is determined according to the particular circumstances of each case, the European Court has clarified that the time constraint imposed by the promptness requirement "leaves little flexibility in interpretation" and the Human Rights Committee has stated that "delays must not exceed a few days". In most cases, delays of more than 48 hours following the arrest or detention have been considered excessive."

⁶ Amnesty International's Fair Trial Manual p. 192 states:

"The use of some restraint instruments and techniques is inherently cruel, inhuman and degrading. Electric stun body belts should never be used. Blindfolds should be expressly prohibited."

32- During arrests or inside prisons and detention facilities, there was no consideration for the special needs of women, but rather there was a deliberate humiliation of them. It was stated in Amnesty International's Fair Trial Manual, p. 93: "International standards underscore the duty of states to address the gender-specific needs of women deprived of their liberty. They require states to provide for women's particular hygiene and health care needs, including pre-natal and post-natal care. Whenever possible, arrangements should be made for children to be born in an outside hospital."⁷

Recommendations:

1. Immediately publish all information held by the Syrian government regarding places of detention and the name of all detainees in Syria, including those who have died in detention, and release to the public, including the United Nations, all detention records and footage in detention centers since March 2011.

Immediately and unconditionally comply with United Nations Security Council Resolutions 2139, 2165, 2191, 2258 and 2332 by "the release of all arbitrarily detained persons starting with women and children, as well as sick, wounded and elderly people and United Nations and humanitarian personnel and journalists" and allowing and allowing the International Commission of Inquiry on Syria to conduct impartial investigations into tens of thousands of enforced disappearances since 2011.

2. Priority must be given to the release of women and children and the implementation of Article 24 of the International Covenant on Civil and Political Rights and Articles 7-8 of the Convention on the Rights of the Child.

3. Allow unconditional and unrestricted access for international monitors, such as the International Committee of the Red Cross and the International Committee of Syria, health care professionals and sexual violence experts to any place where anyone is deprived of their liberties and freedoms.

4. Disclose the locations of all official and unofficial places of detention, and provide complete lists of the names of people who are still in detention, with complete and comprehensive information about their conditions, and the sentences issued against them.

5. Establish a DNA database of all families of missing people, and take appropriate measures to protect potential mass graves in order to preserve information that may be vital in any future truth-seeking process to ensure accountability.

⁷ The Day After's report 'Survivors Experiences in Regime Prisons in Syria'
<https://tda-sy.org/wp-content/uploads/2020/11/26-10-2020-Survivors-Experiences-in-Regime-Prisons-in-Syria.pdf>

6. Provide serious and clear guarantees that returning refugees/IDPs of conscription age will not face detention, enforced disappearance, and forced conscription.
7. Immediate and unconditional release of political detainees regardless of any political solution to the conflict.
8. Immediately stop the targeting and arbitrary detention of women and girls, including the detention of females to force them to surrender or put pressure on their male relatives.
9. Immediately release all detained children, especially those arrested in connection with the armed conflict.
10. Ensure that released survivors of enforced disappearance and arbitrary detention and families of deceased victims obtain justice, truth and reparations, including in the forms of financial compensation, rehabilitation, compensation and guarantees of non-repetition.
11. Lifting immunities and thoroughly and impartially investigating and prosecuting all those responsible for such violations.
12. Abolition of all laws that conflict with human rights recognized by international covenants, especially the death penalty.
13. Abolishing exceptional courts, and reducing the role of the military judiciary to ensure that civilians will not be tried before such courts, and subordinating the military judiciary under the judicial authority.
14. Adoption of a new prison law in line with minimum standards for the treatment of prisoners.
15. Ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, without delay and without reservations, and recognizing the competence of the Committee on Enforced Disappearances to receive individual communications.
16. Ratifying the Optional Protocol to the Convention against Torture.
17. The criminalization of enforced disappearance in the Syrian Penal Code, in accordance with the criteria set forth in the International Convention for the Protection of All Persons from Enforced Disappearance, with regard to the definition of the crime and the appropriate penalties for it.

18. Cooperating with the Working Group on Enforced and Involuntary Disappearances and allowing the Working Group to enter Syria.

19. Limiting the decision to arrest persons to the judicial authority only, and under its supervision, and preventing the security authorities from intervening except by order of the judicial authority, and canceling any immunity bestowed upon the security forces.

20. Ensuring that no further executions of human rights defenders take place and their trials before any military courts, including the Anti-Terrorism Court, be suspended.

21. Take effective and concrete measures to ensure that those involved in the search for victims of enforced disappearance, in particular family members and relatives of victims, are safe and protected from abuse, reprisal and violations of their fundamental human rights.

22. Reform and rehabilitate detention facilities to ensure the fulfillment of the necessary conditions for the treatment of prisoners, including ensuring non-overcrowding, health conditions, and other rights of prisoners, and working immediately to close the most dire of detention centers in which detainees are subjected to the most severe methods of torture. Reforming the administrative system of prisons, and introducing modern technologies to address issues of bribery, corruption and crime, in addition to addressing issues of human and drug trafficking in the prison system.

Appendix and final notes

This information refers to Recommendation No. 109.168 of Spain ("Stop arbitrary detention and release all unjust and indiscriminate detainees, as previously recommended"), and Recommendation No. 109.175 of Brazil ("Publish a list of all detainees in places under its control with information on the reasons for their detention." "). See Human Rights Council, Report of the Working Group on the Universal Periodic Review - Syrian Arab Republic, Views on Conclusions and/or Recommendations, Voluntary Commitments and Responses Provided by the State under Review, March 13, 2017, p. 7, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/055/86/PDF/G1705586.pdf?OpenElement>

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References:

Reports of the International Commission of Inquiry on Syria, which was issued in December 2013 under the title Without a Trace: Enforced Disappearances in Syria, especially paragraph 55.

The report of the International Commission of Inquiry issued on March 1, 2021, that the Syrian government has committed war crimes and crimes against humanity in the context of detention. Guide to Fair Trials issued by Amnesty International.

Reports submitted by the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes According to the International Law Committed in the Syrian Arab Republic since March 2011 - Human Rights Watch reports.