

Universal Periodic Review of the Syrian Arab Republic

26th Session of the Working Group - November 2016

Joint NGO Submission on Politic and Civic Rights

This joint report prepared by a group of civil society organizations in Syria aims at evaluating the achieved progress of the Politic and Civic Rights on the ground in the last four and a half years, on the basis of the recommendations accepted by the Syrian government that committed to implement them along with other recommendations requested by the Syrian civil society.

The report was prepared under the coordination of the Syrian Feminist Lobby.

Drafting NGOs

Free Syrian Lawyers Association
Maratous for Citizenship & Human Rights
Mussawa Organization
Musawa - Women's Studies Center
Syrian Female Journalist Network (SFJN)
Syrian Feminist Lobby (SFL)
Syrian Network for Human Rights
Syrian Women's Network
Violation Documentation Center in Syria

Supporting NGOs:

Amal Women Center
Euromed Feminist Initiative IFE-EFI
Geneva Institute for Human Rights
Human Rights Guardians
Lawyers for Syria
Lebanese Women Democratic Gathering
Women Now For Development

The Annex includes contact details of all Drafting and Supporting NGOs.

An electronic version of this report can be found at <http://www.efi-ife.org/publications>.



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Background and Context

During the first round of the Universal Periodic Review of the Syrian Arab Republic, civil and political rights were addressed, in addition to a number of related priority issues (torture, forced disappearances, and public freedom). Since 2011 the killing and displacement of millions, as well as the complete destruction of civilian structures and facilities, has continued, along with daily attacks and bombings, which all constitute outrageous violations to international human rights.

Despite Syria being a party to a number of international conventions and despite of accepting several recommendations in the first round of the UPR, the intensification of the conflict has widely contributed to the body of mass destruction and severe human rights violations.

Security and human rights reports have asserted that the Syrian regime has intentionally used systematic acts of violence and terror, including extermination, rape, forced disappearance, and torturing to death, which have left a countless many with permanent physical and/or psychological damages, and which constitute crimes against humanity.

This report, prepared by a consortium of Syrian human rights and women rights organizations, will address the key priorities related to civil and political rights within the framework of the universal periodic review to promote and implement human rights in practice.

A- The Right to Life, Liberty and Security of Person

1. The indiscriminate attacks of the Syrian government against both civilians and militants and the usage of all kinds of weapons, including the internationally forbidden (cluster bombs, explosive barrels, chlorine gas, and chemical weapons), and targeting the infrastructure (schools, hospitals, medical centers, places of worship, bakeries, popular markets and houses) caused the deaths and displacement of hundreds of thousands of civilians outside their towns and villages, as well as transforming a million others into refugees in many different countries around the world. Women have the main burden of this displacement as they are exposed to violence from all parties.
2. The Russian bombardment, which started on September 30, 2015, came to aggravate the humanitarian tragedy. The Russian interference alone caused the deaths of hundreds of civilians, as well as the massive destruction of civilian targets, using internationally banned weapons such as cluster munitions and non-directed bombs in densely populated areas. The Syrian Network for Human Rights, in a report titled “The Gronzy Holocaust in Aleppo” has documented that Russian forces shelled about 27 medical centers were shelled by Russian forces.
3. Syrian citizens are regularly and intentionally killed without reference to the provisions of the Syrian penal code, executions are carried out by special and military courts and sometimes even without fair trials and the systematic usage of forced coercion is applied as well to force prisoners to confess. Reasons for killing include beating to death at interrogations and in jails, serious injuries of torture and abuse, inhumane living conditions (overcrowding, lack of food and non-potable water and lack of medical care for prisoners). Such violations occurred to men, women and children who perished at a very young age as seven years old during custody in detention places.
4. Hunger was used as a war weapon. The long-term blockade prevented humanitarian aid to reach civilians; water, electricity, medicine, and communications were cut off, causing many deaths and the hunger of several thousands in cities like Madaya. Illnesses caused by malnutrition and

deprivation of health care, clean water, and safe food became very common. The Secretary-General of the United Nations, Ban Ki-moon, stated that the usage of starvation as a weapon of war is a war crime. He exerted pressure on all parties to deliver aid to the 4.5 million Syrians living in areas unreachable by humanitarian organizations.

5. The extreme usage of force resulted in the displacement of 7.6 million Syrians and turning another 4.6 million into refugees. These millions have lost their houses, properties, and became internally and externally displaced. The Syrian army destroyed entire neighborhoods, such as the Al-Razi groves and the Karm El Zaytoun in Bab Amr in Homs. The government also systematically displaced civilians in order to create demographic changes in some Syrian areas through the confiscation and destruction of properties and villages.
6. The self-management in regions dominated by the Democratic Union party illegally confiscated homes in the city of Qamishli under the pretext of landowner absence; it also carried out forced displacements, demolished houses, confiscated properties, and destroyed entire villages – all as an alleged revenge from the Turkish-Arab population against civilians suspected of supporting ISIS. The territories under control of the Democratic Union Party witnessed human rights violations such as arbitrary arrests, child labor, abuse during detention, disappearances/kidnappings, and killings.
7. The issuance of the acquisition law no. 20 in 1983 allowed state officials to seize personal control over lands without compensation to owners.
8. Displaced civilians suffer from serious housing problems since they have limited financial resources. Resultantly, many were forced to live in places where the basic conditions of adequate housing are not available, and tens of thousands were forced to live in camps – and especially in the northern regions of Syria.
9. Article 33 of the Syrian constitution states the right to travel to every citizen unless unauthorized by a judicial decision, the Syrian government obstructed many citizens from traveling abroad. And since leaving Syria without a travel document is a criminal offense, Kurds couldn't travel because they couldn't acquire passports. And since women are required to obtain travel documents from their original residences, they were prevented from travelling too, as well as prevented from escorting their own children due to the personal status law, which deprives them of their custody rights.
10. The Syrian government carried out arbitrary layoffs against a number of employees and opinion activists in Hama province, according to a special report.

Recommendations:

1. Join the Statute of Rome.
2. Apply the Security Council Resolution 2254 and all related conventions and apply resolution no. 2139 related to delivery of humanitarian aid issued by the Security Council in February 2014.
3. Establish a clear mechanism to facilitate the return of refugees and displaced persons to their regions and places of residence, and restore their property under the supervision of the United Nations or special committees operating under the auspices of the UN.
4. Ratify the Optional Protocol II of the Civil and Political Rights of the International Covenant.
5. End field executions, and eliminate counter-terrorism courts.
6. Withdraw reservations about Convention on the Elimination of All Forms of Discrimination against Women.

7. Ratify the optional protocol of the CEDAW Convention.
8. Allow the entrance of international investigation committees into areas attacked with cluster munitions and mines.
9. Allow the entrance of international commissions to investigate the conditions of prisons and detention facilities of all conflict parties.
10. Withdraw all agreements and treaties that allow foreign powers to build bases on Syrian territories and practice military activities against the Syrian people.
11. Full compliance to the recommendations of the United Nations High Commissioner for Human Rights in its report to the Human Rights Council, dated 15 September 2015, code A/HRC/18/53.
12. Release the properties of political opponents and activists, both men and women.
13. Cancel the acquisition Law No. 20 of 1983 and return expropriated lands to their owners or provide fair compensation.
14. Provide the right of instant access without impediments to independent observers, journalists, and human rights monitors – including the United Nations Special Rapporteur on extrajudicial or arbitrary executions.
15. Protect humanitarian actors, including medical staff, and facilitate the passage of relief supplies rapidly and without impediments.
16. Assist and protect all displaced persons with due consideration to gender-type and age.
17. Prohibit and prevent the use of internationally banned weapons, including chemical weapons.
18. Repeal article no. 346 of the Penal Code, which stipulates the lawful imposition of prison sentences on employees quitting their job or cutting off from work in public departments, institutions and bodies.
19. Release immediate blockades on conflict areas and respect civilian right to have access to shelter, food, water, and medical care.
20. Prohibit the recruitment and use of children in hostilities.
21. Abolish death penalties stated in Law no. 149 of 1980.
22. Return dismissed employees to their work and offer them a suitable compensation for the harm suffered as a result.
23. Immediately cease Russian attacks against civilians and civilian targets.
24. Expel all non-Syrian militants from Syria, including those summoned/enlisted by the Syrian government.

B- The Right to Personal Identity

1. Article 43 of the Syrian Constitution of 2012 and article no. 2 of the Nationality Law stipulate the right to nationality and parental descent.
2. Because of the Law no. 93 of 1962, about 120 thousand Kurds in Syria were stripped of their nationality and deprived of their right to claim it; those legally labeled “stateless” do not get passports or any other identity documents.
3. Many Syrian citizens face incredible obstacles before reaching the civilian registry offices and obtaining personal documentation. Thus, thousands of newborns were unregistered and stateless, not only in Syria but in some refugee countries as well, due to special administrative measures and procedures for them.

4. The war has led to the death, disappearance, and escape of many foreign men who are married to Syrian women, leaving the latter completely alone and without state protection. And since Syrian legislations do not allow women to pass nationality to their children, many children don't hold any nationality.
5. Women and men activists who went out or were forcibly driven out of the country are not allowed to ratify the mandate organized by the Syrian embassies in countries of residence, since the Syrian Foreign Ministry rejects the ratification of wanted activists by Syrian security units.

Recommendations:

1. Ensure the civil, political, economic, social, and cultural rights of the Kurdish people and enact a law to re-course to pre-1962 status quo. Provide reinstatement of nationality and provision of rights to Kurds.
2. Amend the national legislation on women rights to enable granting nationality to children/family.
3. Allow citizens to register and receive Civil Status documents inside and outside their home country.
4. Provide a database on personal status records with regular and constant updates. Allow citizens, women and men, living inside or outside the country, to obtain them.
5. Enable activists of residence inside and outside Syria the right to approve mandates from the Syrian Foreign Affairs.

C- Access to Justice

1. In the first round of the Universal Periodic Review, the government has committed to refer to justice whoever is responsible for acts of torture and murder, and to end impunity, to establish free and impartial judiciary system, and to make reforms in line with international standards for fair trials.
2. Although the Syrian Constitution provides due process guarantees and outlaws arbitrary detention, a large number of convictions in Syria were made by exceptional courts. The field military courts, which are supervised by officers from the army and security forces, are responsible for thousands of field execution provisions. Although military courts are supposed to deal with military lawsuits, a large number of civilians have been convicted in them. The trial sessions by state security courts are still confidential. Note that the legislative decree no. 53 issued on April 21, 2011 has abolished the Supreme State Security Court.
3. The judiciary system is not independent from executive and security authorities pursuant to the separation of powers.
4. The legislative decree no. 14 dated January 15, 1969, and the legislative decree no. 69, have guaranteed immunity for members of security forces and prevented prosecution for crimes committed during their duty.
5. While the Syrian constitution stipulates guarantees of due process and legal procedures and criminalizes arbitrary detention, the right of habeas corpus is consistently denied to those in custody, with prisoners being held for prolonged periods without an opportunity to recourse the legal basis of their detention.
6. Field Military Courts are spreading widely that do not take into account fair trials, and which are extensively used to issue punishments, including the death penalty. Proceedings in the field courts are not fair trials, and confessions obtained during torture are often submitted as the only evidence.

7. The Syrian government refuses to disclose the names of detainees and detention facilities, despite efforts made by human rights organizations. Documentation and updating of information about repression, persecution, and arrests is difficult. This has prevented Syrian and international human rights organizations to work, monitor, and document the violations; and the fear of the detainees' families from state oppression made that an even more difficult task.

Recommendations:

1. Carry out reforms in The Judicial System that establish an independent judiciary.
2. Fulfill obligations under the International Covenant on Civil and Political Rights, particularly articles no. 14 and 19.
3. Abolish legislative decree no. 14, dated January 15, 1969, and legislative decree no. 69, which confer immunity to members of the security forces and prevent prosecution for crimes committed during their duty.
4. Abolish the legislative decree no. 19, issued on August 17, 1968, which stipulates to develop field military courts, and abolish relevant resolutions of the Council of Ministers.
5. Amend the Criminal Procedure Code to explicitly prohibit the use of any statements obtained under torture as evidence.
6. Ensure the non-prosecution and imprisonment of minors and children, neither to be treated as adults, nor detained with adults.
7. Commit the first four clauses of the third common article of the four Geneva agreements related to issuing sentences and making penalties without previous trials before a legally constituted court.
8. Amend the code of criminal procedure and accreditation of international standards for fair trial. Comply with all international and local laws in all stages of detention, arrest, and trial until appeal.
9. Suspend the execution of all the death sentences issued by all courts.
10. Allow all detainees, men and women, in varied detention locations, to communicate with their families and lawyers for legal representation before the relevant authorities.
11. Join the optional protocol II to the International Covenant on Civil and Political Rights.
12. Publish the official lists for all prisoners and detainees who died in detention facilities and prisons of the Syrian government, including the security units operated by Syrian intelligence bodies.
13. Issue death certificates for all detained men and women who died during imprisonment, based on adequate forensic examination that are easy to access by their family members.

D- Torture

1. Syria has ratified the Convention Against Torture in 2004, and in the first round of the Universal Periodic Review it committed to take all necessary steps to prevent all forms of torture and other cruel, inhuman, and degrading treatments against civilians, and to cease torture acts, ensure transparent and effective investigations and bring those responsible to justice. Nevertheless, governmental security units and intelligence agencies in prisons, detention facilities, and military hospitals, still systematically ignore the text of article no. 28 of the constitution, which bans torture.
2. An increase in systematic torture was recognized since the beginning of the revolution in March 2011, as documented by local human rights organizations in Syria. More than 15,000 civilians, including women and children, died within four years due to torture. 4500 Syrian citizens died in security units.

3. The decline in monitoring and accountability of those responsible for torture under decree no. 5409 dated May 15, 1969, the insecurity and corruption of judicial power, and the lack of commitment to judicial proceedings, resulted in the detention of a large number of citizens for long periods.
4. Variety of torture techniques against men, women and children were documented, such as detention in overcrowded prisons with terrible conditions that led to several health-related problems and, in some cases, death. The worst practices of torture, cruel, and inhuman treatment are however committed against citizens suspected of being involved in demonstrations, or journalists, bloggers, dissidents from the army and security units, injured people, or common women and children, which is a violation of articles no. 2, 11, 13 and 16 of the Convention Against Torture. Not only political prisoners were tortured upon security backgrounds; torture is rather extended to ordinary prisoners.
5. Terrifying techniques of torture and killing of detainees were used, including rape, genital distortion and leaving the victim to bleed to death. Due to overcrowded prisons, prisoners had to take shifts in sleeping and standing, naked except for underwear. The lack of clean water and sanitary facilities accompanied with lice infestations led to prevalence of diseases; many prisoners were obliged to use toilets as a source to drink water, and suffered from scabies and skin diseases. In other incidents where prisoners were kept in dungeons, military officers used to put cold water on the floor and force the prisoners to lie down for a long time at low temperatures.
6. Torture is not limited to security institutions and the army; many governmental institutions are involved.
7. We have evidence of the extensive use of rape and other forms of sexual torture against women who have been detained for political reasons in the Government detention facilities, as well as the use of other torture methods like beating, burning and psychological distress.
8. Of the most prominent issues which have exacerbated during the previous five years, the increase of physical and sexual violence against women in detention facilities is first, but also including arrest, torture, and killing of women. In December 2012, a woman who was detained in the Mezzeh in Damascus described how rape was practiced against all detainees in her cell, and how rape threats were used as an intimidating method to extract confessions under duress.
9. The Syrian authorities have consistently taken citizens as hostages instead of their relatives to put pressure on them to surrender.
10. Detention facilities remain closed in the face of national and international monitoring bodies; thus detention facilities in the Military Intelligence, The Political Security Directorate, The General Directorate of Intelligence, and Air Force Intelligence Agency, remain inaccessible. In addition, new detention facilities have emerged that are run by the National Defense Militia (Shabiha), such as the detention facility of Deir Shamil in Masyaf area.
11. The different methods of torture that are used in the areas controlled by Islamic State cannot be ignored as well, among which are beating, flogging, amputation, stoning, selling and re-selling of women and girls, sexual slavery, and the death penalty.

Recommendations:

1. Join the optional protocol to the Convention Against Torture.
2. Amend Syrian law to be defined in accordance with the Convention Against Torture.
3. Withdraw the state's reservation on article no. 20 of the Convention Against Torture and other forms of cruel, inhuman or degrading treatment that Syria ratified in 2004.

4. Allow independent international committees to access detention facilities and courts which including state security and exceptional courts.
5. Allow special rapporteur on torture to visit prisons and detention facilities in Syrian territories.
6. The Syrian Government submits periodic reports to the Committee Against Torture.
7. Apply recommendations of the Committee Against Torture.
8. Instant fulfillment of Syria's obligations under the Convention Against Torture and the inadmissibility of invoking exceptional circumstances.
9. Ensure that independent and transparent courts that meet international fair trial standards hold the investigations on acts of torture.
10. Issuance of declaration as stipulated in articles no. 21 and 22 of the Convention Against Torture.
11. Establish a national system to highly monitor and inspect detention facilities to prevent torture and inhuman or cruel or degrading treatment under the supervision of international experts and within international standards.
12. Investigate immediately all cases of death in detention. Systematic and impartial investigation and prosecution of those responsible for these crimes.
13. Ensure that all detainees are afforded all fundamental safeguards since the outset of their detention, including the right to have prompt access to a lawyer, an independent medical examination, and the right to notify their relatives.
14. Reveal the locations of secret detention facilities.
15. Compliance of detention circumstances with international standards.
16. Annulment of judicial immunity enjoyed by law enforcements.
17. Abolish all articles and degrees that facilitate torture and provide immunity for law enforcements.
18. Stop detention and arrest of citizens taken hostages instead of their parents and relatives to pressure them to surrender.

E- Disappeared and Forcibly Hidden

1. Although Syria has vowed to provide information on the whereabouts of disappeared persons and to take measures to address allegations of involuntary disappearances and arbitrary arrests, the Syrian regime still continues to violate the general rules of the international humanitarian law and the text of article no. 28, paragraph 2, of the Syrian Constitution of 2012, and article no. 358 of the Penal Code and articles no. 104 and 105 of the Criminal Procedure Code.
2. The regime prevents detecting or giving any information about detainees and denies them contact with lawyers or members of their families; it also refuses to hand over the bodies of the deceased. Entire families were forcibly hidden by the regime, including Dr. Rania Al Aabasi and her husband Abdel Rehman Yassin in March 2016, Mohammad Zaza and many others.
3. According to the common report by the Syrian Network for Human Rights and the Euro-Mediterranean Observatory for Human Rights on 30 August 2015, the cases of enforced disappearances of Syria have increased during the past four years to 67 thousand cases, of which nearly 65 thousand cases were taken by the regime's forces, which represents 96% of the total number of cases – while around 2,400 other cases were taken by other state-related armed parties.

Recommendations:

1. Ratify the International Convention on the Protection of all Persons from Enforced Disappearance.

2. Investigate enforced disappearance cases to ensure the rights of victims and their families to knowing the truth; provide compensation to victims and ensure the accountability of those responsible for the disappearances.
3. Immediately reveal the fate of the forcibly disappeared people and release them.
4. Disclose personal records of people who have died under torture.
5. Disclose the locations of mass graves.
6. Establish a national database of DNA; and compare the DNAs of victims to identify the lineage and identity.
7. Allow the access of international organizations, inquiry commissions and fact-finding missions to Syria in order to perform their functions unconditionally.
8. Allow a special working team on enforced disappearance to visit the Syrian republic.
9. Include the criminalization of enforced disappearances in the Syrian Penal Code.
10. Ensure keeping precise detention records in all locations and make such information available to relatives and international organizations that collect information on the disappeared persons.

F- Freedom of Speech, Belief and Peaceful Assembly

1. Although the Syrian government vowed to respect the freedom of expression, to allow freedom of assembly, to let media function without impediment, to provide spaces for civil society members to meet and establish civil organizations, to release opinion prisoners, civilian activists continue to be subjected to all forms of repression for expressing their views, and continue to be systematically tortured in prisons.
2. Tens of human rights defenders, journalists and bloggers were jailed just for the peaceful expression of their opinions and prosecuted before the State Security Court. Tens of them were killed during the conflict.
3. Despite the issuance of degree no. 108 in 2011, which regulates all media and censorship of books, publications, and websites, no clear standards for censorship exist. Similar is the case for the licensing of non-governmental organizations and the establishment of independent political parties.
4. In the regions under its control, ISIS practices repression on civilians on the basis of religion and belief. This repression has reached the worst extent (murder and restrictions on public freedoms; preventing women from travel unless accompanied by their maharam; enforced wearing of clothes covering the entire body; deprivation of women's rights to employment, education, and participation in the public sphere; applying unfair and inhumane provisions such as stoning).

Recommendations:

1. The immediate release of all prisoners of opinion.
2. Lift travelling bans from bloggers, journalists, civil society activists, and political opponents.
3. Abolish all regulations related to the prevention of civilians from traveling outside Syria unless a judicial order has been issued.
4. Develop a new law related to the freedom of press, which would cancel the penalties on defamation and libel.
5. Take clear measures for registration for non-governmental organizations.
6. Allow Internet accessibility.
7. Amend all regulations that allow censorship on books, publications, and media channels

References:

* Article no. 28 of the Syrian Constitution, 2012: “No one may be investigated or detained except in accordance with the law”.

* Article 358 provides that any governor, guard, or designated official in a prison, a correctional facility or a reform institution who admits a prisoner without a court warrant or order or holds a prisoner for longer than the term imposed in the sentence will face a penalty of from 1 to 3 years’ imprisonment.

* Article 104 of the Code of Criminal Procedures states that accused persons brought in on a writ of summons must be examined by an investigating judge without delay; those brought in on a warrant must be examined within 24 hours of being taken into custody. Once the 24-hour time limit expires, the custody officer (at the police station), acting on his own initiative, must bring the accused to the Office of the Public Prosecutor. The latter must ask the investigating judge to interview the person. If the investigating judge refuses to question the person or is absent, the Office may ask another investigating judge, the president of a first instance court or a justice of the peace to conduct the interview. If the accused cannot be interviewed, the public prosecutor must order his/her immediate release.

*Article 117 of the Code states: “If an accused person is arrested pursuant to a warrant and is held in custody for over 24 hours without being questioned or presented to a public prosecutor in accordance with the preceding article, his/her arrest shall be deemed an arbitrary act and the official responsible for it shall be prosecuted for deprivation of liberty under article 358 of the Criminal Code.”

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ANNEX

I. LIST OF RESEARCHING AND DRAFTING NGOs

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