

Impunity in Syria

Written statement to the Human Rights Council, submitted by:

Cairo Institute for Human Rights Studies

Euro-Mediterranean Human Rights Network

Assyrian Human Rights Network

Damascus Center for Human Rights Studies

Kurdish Syrian Center for documentation

Kurdish Committee for Human Rights (Rased)

Kurdish Organization for defense of Human rights and public freedoms in Syria (DAD)

Syrian Network for Human Rights

Syrian Center for Human Rights

Syrian Organization for Human Rights (Sawasyah)

Violations Documentation Center in Syria (VDC)

The rise of the Baath Party to power in Syria in 1963 was accompanied by serious human rights violations, particularly as a result of the implementation of a state of emergency which granted state security services de facto impunity for nearly fifty years before it was finally formally lifted in 2011. In February 1982, Syrian military forces, specifically the Saraya Defense Brigades, committed massacres and other serious violations amounting to crimes against humanity in the cities of Hama, Jisr Shoughour and Aleppo; none of those responsible have ever been held accountable. After Bashar al-Assad replaced his father as president in 2000, human rights violations continued to be perpetrated in a climate of impunity, including the crackdown on the Damascus Spring, arbitrarily imprisoning a number of intellectuals and Syrian dissidents, and using military courts to try civilians. Activists were prevented from travelling abroad, and the government heavily censored media. In 2004, an uprising carried out by the Kurdish minority was met with bloody repression, leaving dozens dead and hundreds arbitrarily imprisoned.

In March 2011, popular protests against the arbitrary and often violent policies of the government swept Syria, only to be met with brutal repression. Months of peaceful demonstrations and sit-ins calling for freedom and dignity followed, with protestors continuing to be mowed down by live bullets. The protest movement spread to almost all Syrian territory, with hundreds of thousands of Syrians taking to the streets and chanting slogans of freedom and calling for the “fall of the regime”. The authorities continued using excessive force against peaceful protesters, arbitrarily arresting tens of thousands of Syrians and systematically practicing torture on a wide scale. Through its indiscriminate and massive use of force against its civilian population, the Syrian government again committed grave human rights violations amounting to crimes against humanity.

In this context, large numbers of soldiers and officers in the Syrian army and security forces started defecting and joining the peaceful demonstrators. At first, these combatants organized to protect demonstrators; they later came together and were joined by civilians in what became known as the “Free Syrian Army” (FSA), which began to wage battles against the government’s forces. As clashes between the FSA and governmental forces increased, the armed opposition was able to take over several regions of the country, drawing on the support of a large portion of the population. In response, the government increasingly used lethal

weapons, including against civilian-populated areas, which led to massive destruction and large numbers of casualties, as seen in the Homs areas of Bab Amr and in the Idlib Province in the spring of 2012. In July 2012, the ICRC declared that the situation in Syria had devolved into an internal armed conflict and that all parties in the conflict were therefore compelled to abide by the principles of international humanitarian law; violations of these principles by any side could possibly constitute a war crime.

By the end of 2012, Syrian human rights activists had documented more than 60,000 deaths in the context of the repression of the uprising and subsequent armed conflict. Recurring patterns include the shooting of peaceful demonstrations, indiscriminate bombings and the use of explosives and missiles on civilian areas, killings with knives, summary executions, torture (leading to death in many cases), and the reported use of toxic gases in civilian-populated areas. Since the militarization of the conflict, non-state actors are increasingly responsible for committing international crimes as well, among them pro-government forces, “Shabiha”, the Lebanese Hezbollah, and a number of armed opposition groups.

Moreover, tens of thousands of Syrians, including protestors and opposition members and hundreds of women and children, have been arbitrarily arrested by the Syrian government following the beginning of the uprising in 2011. Detainees are not only held at different branches of the security services but also in secret detention centers. The fundamental rights of detainees have been consistently violated, as they are exposed to brutal acts of torture, even leading to death, and several thousand detainees have been forcibly disappeared. In addition, a number of armed opposition groups have also started to carry out kidnappings and to use abductees for prisoner exchanges with the government. Severe violations are also committed in this context.

These atrocities have been committed amidst a culture of impunity which has continued since the takeover of the Baath party. The lifting of the state of emergency in 2011 did not result in any positive development in this area, as it was accompanied by the adoption of new laws, such as a counter-terrorism law which effectively enabled members of the security forces to pursue any and all means of repressing the uprising without limits or fear of accountability.

As has been noted, the Syrian government and its security forces, including the General Intelligence, Political Security, Air Force Intelligence, and Military Intelligence, as well as the armed forces and the Republican Guard, are responsible for gross violations in Syria and should be held accountable. In addition, pro-government non-state actors, such as the Shabiha militias, the People's Committees (pro-governmental armed civilian groups), and forces of the Popular Front for the Liberation of Palestine-General Command (operating from Palestinian refugee camps) have also committed abuses such as murder, kidnapping and detention. In some areas in northern Syria, militias linked to the Democratic Union Party (PYD, linked to the Turkish-based PKK) have benefited from the partial withdrawal of state security forces to impose their authority; they are also responsible for violations against civilians.

The opposition, also responsible for violations for which it should be held accountable, is also made up of diverse actors. The FSA does not control all opposition actors in Syria, particularly as foreign groups have entered the Syrian context and begun fighting the government in order to promote their own agendas, as with “Jabhat Al Nusra”. Moreover, the diversity of the opposition makes it difficult to identify chains of command and establish responsibility for crimes.

Until now, the international community has failed to adequately respond to the tragedy experienced by the Syrian people. No steps have been taken to ensure that genuine mechanisms of accountability are put in place that would allow for the prosecution of the perpetrators of the gravest violations and international crimes. The inability of the Security Council to address this situation, due to the constant veto of the Russian and Chinese governments, has until now provided protection and political cover for the perpetrators of gross human rights violations in Syria, including by preventing the Council from referring Syria to the International Criminal Court (ICC). This inability of the international community to address the issue of impunity in Syria, due to pressures exerted by regional and international actors, is one of the main factors that contributes to the repetition and increase of human rights violations in the country.

We therefore urge that the following recommendations be urgently implemented.

To the Syrian government:

1. Immediately release all arbitrarily detained persons.
2. Immediately cease all use of torture and refer for those responsible for its practice to trial.
3. Immediately cease all armed aggression against civilian areas.
4. Abide by the principles of international humanitarian and human rights law.

To the Lebanese and Iraqi governments:

1. Distance themselves from the conflict in Syria. The government of Lebanon should also take necessary steps to prevent elements of Hezbollah from participating in fighting - directly or indirectly - in Syria.

To the International Commission of Inquiry:

1. Explicitly and firmly call upon the UN Human Rights Council to demand that the Security Council refer Syria to the ICC.
2. Refuse to be drawn into politicization in relation to its analysis of human rights violations in Syria, carry out its duty to defend the interests of the victims of human rights violations, and support efforts aimed at combating impunity for all perpetrators of international crimes in Syria.

To the Security Council:

1. Refer the Syrian case to the ICC as a first step towards ensuring accountability for grave violations of international human rights law and international humanitarian law committed by all parties.
2. Impose an arms embargo on Syria.