

To Permanent Representatives of Member and Observer States of the UN Human Rights Council

Geneva, 4 March, 2016

Re: Strengthening UN action towards the release of all arbitrarily detained persons and ensuring accountability for war crimes and crimes against humanity in Syria

Your Excellency,

We, the under-signed non-governmental organizations, write to reiterate the calls made by a group of civil society organizations¹ prior to the 30th session of the Human Rights Council. On 8 February, the Syria Commission of Inquiry (CoI) released its latest thematic report: "Out of Sight, Out of Mind: Deaths in Detention in the Syrian Arab Republic"² detailing how thousands of civilians in Syria have been arbitrarily arrested, unlawfully detained, taken hostage or kidnapped between March 2011 and November 2015. The CoI report also describes the systematic torture and inhumane and degrading treatment resulting in many occasions in the death of the detainees.

We call on your delegation to support action by the Human Rights Council towards ensuring that accountability for war crimes and crimes against humanity is realized and that all persons who are being arbitrarily or unlawfully deprived of liberty are released from official and informal or secret prisons and detention centers run by the Government and non-state armed groups.

March 2016 will mark the 5th anniversary of the conflict in Syria. In 2011, the Syrian people protested against a four-decade dictatorship to demand freedom and justice. The Syrian Government crushed the peaceful uprising triggering one of the worst conflicts in our modern history, with more than a quarter million deaths and millions of internally displaced persons (IDPs) and refugees.

The Government has consistently denied access to Syria to the CoI and independent human rights organizations and is manifestly failing to uphold its responsibility to protect. Sufficient evidence gathered suggests, however, that tens of thousands have disappeared after their arrest by Government forces³. The thousands of disappeared are believed to be held in detention centers controlled by the Syrian intelligence. The CoI believes that widespread and systematic torture and inhumane and degrading treatment have taken place in these detention centers. Furthermore, the CoI has gathered evidence based on testimonies of many deaths in custody as the detained were sometimes beaten to death while others died

¹ Joint letter on Syria addressed to the HRC 30. Available at:

https://www.fidh.org/IMG/pdf/syria_letter_hrc_30.pdf

² Available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/A-HRC-31-CRP1_en.pdf

³ *Ibid*, see Introduction, p.2 and 3

as a consequence of inhumane living conditions, including starvation, absence of medical care and over-crowding⁴.

According to the CoI, the practice of torture and/or medical neglect leading to death in detention centers happened under the knowledge of high ranking officials. The CoI believes that heads of branches and directorates in charge of the detention facilities as well as those in charge of the Military Police and their civilian superiors knew of the deaths and did not take any action to halt these violations⁵. In such circumstances, the high ranking officials are individually criminally liable for the crimes committed in the detention centers. The CoI concluded that such conduct amounts to "extermination" as a crime against humanity. Further, implicated officials in the Syrian Government are allegedly responsible for the "crimes against humanity of murder, rape, torture and imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law."⁶

Opposition armed groups and terrorist organizations with effective control over territory also held prisoners "under the most brutal conditions".⁷ Some armed groups have established detention centers to detain captured soldiers who, according to the CoI, were ill-treated and in a number of instances executed. Armed groups, such as Al-Nusra and ISIS, continue to commit abuses against detainees. The CoI has found that ISIS detainees, were more frequently executed after unauthorized courts issued death sentences.

We therefore call on your delegation to support a Human Rights Council resolution that:

- *Calls* on all parties taking part in the Geneva peace talks to immediately cease any attacks against civilians and civilian objects as such and civilian infrastructure; including attacks against medical facilities and personnel, and any indiscriminate use of weapons; in application of the partial-ceasefire and with the view to a declaration of a comprehensive one.
- *Urges* all parties taking part in the Geneva peace talks to grant immediate and unconditional access to all prisons and other places of detention, to the Commission of Inquiry, any established *ad hoc* institution under UN auspices, international humanitarian organizations and regional and local human rights organizations, as well as independent prison monitors. They must be allowed access to all places of detention under the control of the Government and opposition groups without notice and with the ability to review all formal records and to receive any scientific, technical or legal means necessary.
- *Ensures* that the CoI gathers and maintains evidence concerning international crimes that can be used in future criminal trials. The CoI should maintain evidence in a secure

⁴ *Ibid*, see Section IV, p. 5 - 7

⁵ *Ibid*, see Attribution of Individual Responsibility of Deaths, p.12

⁶ *Ibid*, see Paragraph 98, p.17

⁷ *Ibid*, see Introduction, p.2

location, with a clear chain of custody and should publish chain of command structures of all parties to the conflict.

- *Urges* the Syrian Government to impose a moratorium on all death sentences. This should extend to all sentences including those handed by the First and Second Military Field Courts, the Damascus Counterterrorism Court and all forms of military and extraordinary tribunals and all forms of Sharia courts⁸.
- *Demands* that anti-Government groups, especially those participating in the peace talks, put an end to unfair or otherwise unlawful trials, torture or other ill-treatment, and summary executions of persons deprived of their liberty in accordance with human rights and humanitarian law standards; and to provide the ICRC and family members information on the whereabouts of all detained persons.
- *Immediately refers* the information gathered by the Col to the UN General Assembly and recommends it to refer this information to the UN Security Council (UNSC) with a view to ensuring accountability for these crimes, including through a referral of the situation to the International Criminal Court (ICC) or through the creation of an *ad hoc* tribunal mandated to carry out this task.
- *Urges* States to comply with their obligations under international law through the opening of national investigations of those suspected of war crimes and crimes against humanity in Syria; to prosecute or extradite any individuals implicated in the carrying out of such crimes that are present on their territory under the principle of personal or universal jurisdiction.⁹ Moreover, the HRC should *encourage* states to ensure the availability of legal procedures for victims of these crimes to seek effective remedies and reparations.
- *Recommends* the convening of a high level panel at the Council's 33rd Session that would feature Syrian victims or eyewitnesses to crimes committed in Syria, including the crime of enforced disappearances, indiscriminate attacks on civilians and/or torture. The panel should be able to deliver credible testimonials before the HRC in order to ensure a victim oriented approach by the HRC towards the Syrian conflict.
- *Encourages* the Envoy of the United Nations and the Arab League to Syria to engage with all the relevant parties on the recommendations detailed in the latest report of the Commission.

⁸ On February 5, 2016, Syrian lawyer, journalist and Director of the Syrian Center for Media and Freedom of Expression, Mazen Darwish, addressed the Envoy of the United Nations and the Arab League, Staffan de Mistura, with a number of recommendations. Available at: <https://www.fidh.org/en/region/north-africa-middle-east/syria/message-delivered-by-mazen-darwish-to-staffan-de-mistura-special>

⁹ Report of the Col, see Recommendation (b), p.20

Sincerely,

1. Arab Center for the Promotion of Human Rights (ACPHR)
2. Asian Forum for Human Rights and Development (FORUM-ASIA)
3. Bridge of Peace Syria
4. Cairo Institute for Human Rights Studies (CIHRS)
5. Caabu (Council for Arab-British Understanding)
6. CIVICUS
7. EuroMed Rights (EMHRN)
8. International Federation for Human Rights (FIDH)
9. Global Center for the Responsibility to Protect
10. Human Rights Watch (HRW)
11. International Commission of Jurists (ICJ)
12. International Service for Human Rights (ISHR)
13. Karam Foundation
14. Kurds House
15. Montreal Institute for Genocide and Human Rights Studies
16. Pax Christi International
17. Physicians for Human Rights
18. Rethink Rebuild Society
19. The Syria Campaign
20. The Student-Led Movement to End Mass Atrocities
21. Syria Relief and Development
22. Syria Solidarity UK
23. West African Human Rights Defenders' Network
24. The Voice of the Syrian Community of Manchester
25. 11.11.11