

POLICY PAPER

Gone Without a Trace

Syria's Detained, Abducted,
and Forcibly Disappeared

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About ICTJ

The International Center for Transitional Justice works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, **visit www.ictj.org**

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Introduction

In most cases, to be imprisoned in Syria is to disappear. Whether detained by the regime or abducted by one of the many armed groups involved in the Syrian conflict, in many cases the result is the same. A person is suddenly taken from their home or place of business in secret or seized at a checkpoint, usually by one of Syria's security agencies or sometimes by an armed group of unknown affiliation. Occasionally, families can locate the place where they are being held and visit once or twice. Sometimes, a release is possible, perhaps after a payment or a prisoner swap. More often, the person is never heard from or seen again.

The use of enforced disappearance as a tool to oppress and silence is not a new strategy of the Syrian regime, although its use dramatically increased after the 2011 uprising.¹ Many armed opposition groups have adopted similar tactics. As a result, tens of thousands of people, if not more,² have been unlawfully taken prisoner or held incommunicado in the context of the Syrian conflict, many unacknowledged and without explanation. In most cases, their fate—and if alive, their whereabouts—remains unknown. Many have been extrajudicially executed. Others have died in detention as a result of brutal torture, dire conditions, or neglect. The number of detainees still alive today is unknown.

Answers and coordinated action are needed now. Time is of the essence as the COVID-19 pandemic sweeps the globe and its spread appears to be accelerating in Syria.³

While most parties to the Syrian conflict are complicit in carrying out arbitrary and incommunicado detentions, including both state and non-state actors, the vast majority of detention-related violations since 2011 have been carried out by the Syrian state. Repression and secrecy have long been a hallmark of both Assad regimes: Bashar, since 2000, and his father Hafez before him, from 1971 to 2000. During this long period, the regimes have employed arbitrary detention, torture, summary executions, and enforced disappearance as tools of repression and control.⁴

Yet, the magnitude of these abuses has only worsened over the course of what has effectively been total war in Syria. Prisoners have been detained in both official prisons and detention centers and across a maze of informal and secret custody facilities spread around the country. Whether official or makeshift, almost all are part of an impenetrable system that remains fully closed to everyone other than those who work there; each one is essentially an unknowable

1 Association of Detainees, *Detention in Sednaya*, 16.

2 Some estimate the number is over 100,000. Syrian Network for Human Rights, *72 Torture Methods*, 2.

3 At the time of this paper's publication, the number of reported cases of coronavirus disease was still low in Syria. However, concerns are mounting about the devastating impact the pandemic will have on vulnerable populations affected by war, refugee camps, and detention facilities.

4 For example, in the city of Hama, Hafez al-Assad ordered the killing of over 10,000 civilians in 1982, and Bashar al-Assad ordered a violent crackdown against peaceful protesters in 2011, killing approximately 100 civilians in one day. Amnesty International, "Syria: 30 Years On;" *Al Jazeera*, "Deadly Syrian Crackdown Continues."

black box for those trapped inside and those outside seeking the release of a family member. Armed with little or no information, the relatives of the detained are forced to hunt for their loved ones themselves, making their way door-to-door, most often alone, from one security facility to another. They face violence, including sexual and gender-based crimes, extortion, threats, and demands to help arrange prisoner swaps. The process is usually a disheartening one that leaves family members feeling even more helpless than when they began. In the rare instance when a family member is located alive, visits are rarely permitted.

Most families, though, remain stuck in the unbearable limbo of not knowing. The International Committee of the Red Cross (ICRC), for instance, after suspending visits to formal prisons from September 2016 to July 2017, has reported making limited progress on restoring family links.⁵ It is apparently still not visiting facilities within intelligence or military complexes.⁶ While there are occasional prisoner releases—often as a result of bribery, swaps, or presidential amnesties—the reality is that most detentions are not acknowledged, many detainees remain incommunicado, many have perished, and many more will die every day if the current dire situation is allowed to continue, especially now, as the coronavirus disease threatens to spread in already vastly overcrowded prisons.

Depending on the authorities or actors involved, in most detention cases there is no meaningful due process for the detained or respect for fundamental standards of fair trial before a competent, independent, and impartial court. Often, there is no accessible public record of the formal judicial processes or procedures being carried out, including in cases that have led to the imposition of the death penalty. Without a paper trail, it is nearly impossible for families of the missing and forcibly disappeared to find out what happened to their loved ones, why, and to recover their remains if deceased. For those abducted amid the anarchy of war by a confounding array of militias and groups, there is frequently not even a semblance of the bureaucratic protocols needed to ensure that an accused's rights are protected.

The task now is to develop ideas and strategies for shining light into this darkness and to help all of those affected, no matter who they supported during the conflict, to get the answers to which they are entitled. Given what is at stake, this is a matter of extreme urgency. The torture and killings must stop. Conditions across Syria's network of prisons and the makeshift detentions centers set up by various armed groups are notoriously vicious and inhumane. The health and well-being of those in detention, including the elderly, women, the disabled, and children, are very much at risk.⁷

Many families have been waiting for word of their spouses, children, and other relatives since mass protests first began in 2011. This prolonged state of uncertainty is paralyzing. Without knowing the status of their loved ones, who are often the heads of household, most families face enormous social, economic, legal, and administrative difficulties, including in accessing social welfare benefits, inheritance, and property. This situation is adversely affecting not only Syrians inside the country—including over 6.5 million who are internally displaced—but also many of the 5.6 million refugees who are likewise desperately seeking answers about family members from abroad, but who face additional challenges accessing the little available information.

At the same time, the trust deficit among victims, their families, and those in power in Syria (and other warring parties, including the Russian Federation, the Islamic Republic of Iran, and the forces of the United States-led international coalition formed in 2014) continues

⁵ Visits ceased so that the ICRC could “explain its working procedures to the authorities concerned.” ICRC, *Annual Report 2017*, 488.

⁶ The ICRC visited 14 places of detention in 2018, including some maintained by armed groups in the northeast, and eight central prisons in 2017 under the responsibility of the Interior Ministry. ICRC, *Annual Report 2018*, 523; ICRC, *Annual Report 2017*, 490.

⁷ Lawyers and Doctors for Human Rights, *Death Became a Daily Thing*.

to grow. In general, the international community has become the object of deep distrust for many Syrians, who have watched as foreign governments, international nongovernmental organizations, the United Nations (UN), and others have been unable to find an effective solution while their lives have been torn apart by armed conflict.

Any meaningful progress in Syria toward a political agreement will be dependent on more than a negotiated ceasefire or reduction in violence and urgent access to humanitarian assistance. It must consider the harsh realities Syrians are facing as Assad's security forces reestablish themselves in areas once under opposition control and seek vengeance against those who it assumes opposed them, including many refugees and internally displaced persons, who are being forced to return. As such, there will be little or no possibility of lasting peace without addressing critical issues, like the question of the missing, detained, abducted, and forcibly disappeared. Any proposal will need to take into account the ongoing nature of the issue and the reality that any meaningful accountability is unlikely to occur in the near future.

This policy paper recommends a set of urgent steps that should be taken to assist families in obtaining information about the whereabouts of their loved ones, gaining access to them, and achieving their prompt release. The information is drawn from a variety of sources, including the authoring organizations' longstanding work on Syria and engagement with Syrian victims, thorough desk research, inputs from interviews, and an expert roundtable discussion in The Hague, Netherlands, in October 2019 that was hosted by the Center on International Cooperation (CIC) at New York University and the International Center for Transitional Justice (ICTJ). Roundtable participants consisted of former political prisoners, families of the detained and forcibly disappeared, representatives from Syrian civil society organizations, and representatives from international organizations.

The Dark Reality of Detention in Syria: Arrest, Torture, and Death

Into the Maze: Responsibility for Arrests and Abductions

It is important to understand what systems have been set up—and by whom—to perpetrate enforced disappearances, abductions, and arbitrary detentions in Syria. As noted, the prevalence of such crimes skews heavily to the side of the Syrian government and its allies, with certain security agencies bearing particular responsibility. Non-state armed groups have also committed abductions and kidnappings throughout the conflict. Given the shifting numbers of non-state actors,⁸ and the chaos within which they operate, families seeking answers about their loved ones in the custody of armed groups face unique challenges.

The Syrian State

During the past nine years of conflict, Syrian government forces and affiliated militias have arbitrarily or unlawfully detained approximately 100,000 individuals in official and makeshift detention centers without due process, access to legal representation, or contact with their family.⁹ These detentions are part of a widespread and systematic policy of rounding up civilians, “dissidents, as well as those perceived to be sympathetic to armed groups.”¹⁰ In 2016, Amnesty International estimated the number of those who had been killed in state custody at more than 17,700.¹¹

The significant majority of conflict-related arbitrary arrests, detentions, and enforced disappearances by the Syrian regime have been carried out by the Syrian Arab Army and Syria's four main information and security services:¹²

- Political Security Directorate (PSD) (*Idarat al-Amn al-Siyassi*)
- General Intelligence Directorate (GID) (*Idarat al-Mukhabarat al'Ammeh*)¹³
- Military Intelligence Directorate (MID) (*Shu'bat al-Mukhabarat al-'Askariyya*)
- Air Force Intelligence Directorate (AFID) (*Idarat al-Mukhabarat al-Jawiiyya*)

8 Over the last nine years of conflict, some estimates of the number of armed opposition groups were as high as 1,000. *BBC*, “Guide to Syrian Rebels.”

9 UN, “Security Council Briefing on Detainees and Missing Persons.”

10 Independent International Commission of Inquiry on the Syrian Arab Republic, *A Way Forward*, 4.

11 Amnesty International USA, *Human Slaughterhouse*, 5.

12 See Annex for a chart of the structure of the state security agencies.

13 Also referred to as the Homeland Security Directorate (*Idarat Amn al-Dawlah*).

These four agencies comprise much of the vast security apparatus of the Syrian state, with broad reach into all aspects of people's lives. Nominally, each agency is organized under and receives its funding from a superior state ministry (for example, the PSD is under the Ministry of the Interior and the MID under the Ministry of Defense). Yet, in reality, as multiple sources reveal, all report to the president, who directly appoints the agency directors.¹⁴

Helping to oversee this vast network is the National Security Office (NSO) (Maktab al-Amn al-Watani), which was established in 1966, after the Ba'ath party took power. It reportedly provides broad guidance to the different intelligence agencies in Syria when necessary.¹⁵

Each security agency performs particular functions, although their mandates often overlap. They have similar structures,¹⁶ with multiple branches and commanders that respond directly to the agency director. There are three main organizational branches—investigation, information (processes information extracted during investigations and shares it with other directories and the NSO), and administration (consists of the secretariat, human resources, and financial management of the directorate). In addition to the three main branches, each agency has a set of specialized branches that implements its mission and goals. The agencies also have smaller operating branches in the provinces.¹⁷

In addition, each of the agency's known branches maintain official detention facilities as well as secret or makeshift detention centers, where detainees are often held incommunicado and usually undergo interrogation before being tried by the appropriate jurisdictional court.

According to many of the ICTJ-CIC roundtable participants, the AFID and the MID are considered the most ruthless, while the PSD is the most pervasive within the population. Because all members of the security forces, including noncommissioned officers, members of the internal security forces, personnel with the Political Security Directorate, and members of the customs police during the course of the legal duties, are granted immunity under the law, they have little to fear in the way of prosecution.¹⁸ Impunity reigns supreme.

14 Abdullah Al-Ghadhawi, *New Configuration*, 28.

15 European Asylum Support Office, *Syria Actors*, 28; Syrian Justice and Accountability Centre, *Walls Have Ears*, 10, 13.

16 James T. Quinlivan, *Coup-Proofing*.

17 Depending on the agency, branches are often known by a number or a descriptive name, for example, Branch 215 or the Palestine Branch. For more information, see Syrian Network for Human Rights, *Syrian Security Branches*, 7.

18 See, for example, Syrian Arab Republic, Decree No. 61 of 1950, which gave members of intelligence agencies immunity from prosecution. Decree No. 69 of 30 September 2008 expanded that immunity by prohibiting the prosecution of political security, police, and customs officials for crimes committed on duty except in cases where a warrant was issued by the general leadership of the army and military forces.

Table 1: Government Security Agencies¹⁹

<p>Political Security Directorate (PSD)</p>	<p>The PSD is responsible for maintaining files on all Syrians gathered by undercover agents operating throughout society (including in markets, schools, and public transportation systems) and from mandatory reports submitted by public sector employees. Considering the “civilian” status of the agency’s officers—compared with the military background of other agencies’ officers—the PSD is responsible for investigating and dealing with party leaders, businessmen, opposition figures, and foreign nationals. It has the following main branches:</p> <ul style="list-style-type: none"> - The “City” Branch is the agency’s main branch in Damascus and carries out most of its work. Following the uprising, this branch was the leading security operation on the northeastern frontline in Damascus. - The Police Security Branch monitors the divisions of the police force and sends recommendations for promotions and demotions to the agency and the minister of internal affairs. - The Parties and Commissions Branch monitors political parties, charity organizations, opposition figures, and social and religious groups. It is also responsible for providing clearances for religious preachers and school and university teachers. - The Economic Security Branch monitors public and private economic activities in the country. It expanded following the uprising to stop money transfers into rebel-controlled territories. After the collapse of the Syrian pound, the branch became responsible for countering black market currency exchanges, to control the currency’s value. - The Arabic and Foreign Affairs Branch monitors the activities of Arab and foreign nationals visiting or living in Syria and issues foreign security clearances to conduct social and economic activities in Syria.
<p>General Intelligence Directorate (GID)</p>	<p>The GID was established in 1969 to be the main intelligence agency for carrying out general espionage and counter-espionage work and coordinating the flow of this information among the different agencies. In 2012, the director of the GID was appointed to run the NSO. The GID has approximately a dozen main branches and additional offices in the governorates.</p> <ul style="list-style-type: none"> - The Counter-Terrorism Branch (295) trains GID officers on the latest psychological and physical techniques. It is often tasked with leading major counter-terrorism and counter-insurgency operations, including security operations to counter the 2011 uprisings in Daraa and Banyas. - The Counter Espionage Branch (300) works both inside and outside of Syria to monitor foreigners in Syria. - The External Branch (279) manages espionage missions outside of the country, including against Syrian expatriates, Syrian diplomatic delegations, and those participating in exchange programs. - The Internal Branch (251) monitors officials in the public sector and generates recommendations for promotions, demotions, or assignments for public positions.

¹⁹ Information in this table was compiled from a variety of sources, including former detainees and the European Asylum Support Office, *Syria Actors*, 28–29; Syrian Network for Human Rights, *Syrian Security Branches*; Violations Documentation Center in Syria, Report on Branch 215; Omran Center for Strategic Studies, *Syrian Security Services*.

<p>Military Intelligence Directorate (MID)</p>	<p>The MID provides intelligence to the military in wartime and acts as the army's security apparatus, with responsibility for monitoring military officers and recommending their promotion, demotion, and assignment. It also manages the training of and provides support to multiple foreign paramilitary groups. Although primarily focused on military intelligence, it can also arrest and interrogate civilians. The MID maintains approximately 28 branches in Damascus and numerous others outside the capital.</p> <ul style="list-style-type: none"> - The Investigation Branch (248) is the MID's main investigative arm. Following the intensification of armed resistance in Syria, it has carried out most of the detention and investigation operations and sought to find links to counter the growing insurgencies. There have been numerous reports of killings by torture carried out by this branch. - The Officers Affairs Branch (293) supervises and monitors the performance and conduct of military officers and recommends their promotion, demotion, and assignment. - The Palestine Branch (235) was established to manage all espionage and paramilitary activities against Palestinian paramilitary groups. It was later expanded to monitor and infiltrate violent Islamic groups, including rebel groups. - The Raiding and Storming Branch (215) carries out special, dangerous, and high-skill operations. Following the uprising's violent turn in 2012, this branch expanded extensively. It started leading its own investigation operations against detainees and running multiple prison facilities in Damascus and gained responsibility for leading counter-insurgency operations in southern and eastern Syria. This branch is alleged to be responsible for torturing and killing a large number of detainees.
<p>Air Force Intelligence Directorate (AFID)</p>	<p>The AFID was established by Hafez al-Assad following the 1963 coup to protect himself and his closest circles. The agency is officially responsible for the security of the president and airport security when he travels abroad. The AFID has many branches, including the following:</p> <ul style="list-style-type: none"> - The Investigation Branch carries out all investigation operations undertaken by the AFID. It is notorious for carrying out acts of torture and killings in the Mazzeh Military Airport. - The Operations Branch responsible for the president's security abroad and has agents stationed in Syrian embassies. - The Special Operations Branch manages the elite troops who carry out high-skill operations. Known for using violent, repressive tactics, following the uprising's violent turn in 2012, it is said to have expanded significantly and led counterinsurgency military operations in northwestern Syria and to have carried out mass executions and killings in many areas.

Non-State Armed Groups

Non-state armed groups have also abducted and detained civilians, members of rival armed groups, and members of the Syrian military and its affiliates. The number of detainees they hold is unknown, although the Syrian government claims it could be as high as 16,000.²⁰ These groups have established makeshift and secret places of detention where detainees have been tortured, ill-treated, and in some cases summarily executed.

20 UN, "Security Council Failing Thousands."

Because these groups have operated in a fluid way since 2011, forming and disbanding, joining forces, and changing their names, it is very difficult to keep track of which group is holding whom and the fate of their abductees or detainees. As groups retreated and lost territory, tracking detainees became more difficult. Given these realities, this policy paper focuses primarily on detainees held by regime forces and agencies, although key findings from the roundtable and interviews regarding detainees in the custody of non-state actors are summarized. Ultimately, the Syrian government, other state parties, and the wider international community will need to take up this issue to help clarify the whereabouts and fate of those held by non-state armed groups, including anyone who was or is being held by the major actors.

Table 2: Non-State Armed Groups

Hay'at Tahrir al Sham (HTS)	HTS (previously known as Jabhat al-Nusra) set up detention facilities in Idlib (Abu al-Duhur, Kfr-Hamra, Harim, and Misrin) prior to the recent recapture of parts of the province by government forces. The Independent International Commission of Inquiry on the Syrian Arab Republic (COI) reported on torture and deaths and generally squalid conditions in their detention facilities, with forced prayer and little access to food. ²¹ The group is accused of conducting mass executions of captured government soldiers in Idlib. As of January 2020, around 63 female detainees, including the elderly and sick, remained in detention in the HTS-controlled Idlib Central Prison. ²²
Islamic State (IS)	Islamic State held large numbers of civilians in multiple locations in ar-Raqqa and Dayr al-Zawr governorates, routinely subjecting male, female, and child detainees to serious abuses, including torture and summary execution. Initial arrests were often carried out by its police force (al-Hisbah), and detainees were frequently executed after summary trials. Following its retreat, mass grave sites were discovered in its former territory; the families of IS victims are demanding action to identify who is buried there and bring those responsible to justice.
Jaysh al-Islam	For a number of years, Jaysh al-Islam controlled the Damascus suburb of Eastern Ghouta, where it ran numerous detention sites. It was known to use detainees as human shields and to force them to perform hard labor, such as digging tunnels and trenches. To date, there is no information about the whereabouts of those whom it held. There is great concern that these detainees are no longer alive, especially after Jaysh al-Islam evacuated Douma in April 2018.
Syrian Democratic Forces (SDF) and Asayish	In northeastern Syria, the SDF and the Kurdish-led internal security forces known as Asayish have been involved in carrying out arrests and detentions for a variety of reasons, including for attempts to evade forced conscription. In other cases documented by the COI, arbitrary arrests have been carried out for political reasons, such as perceived insufficient loyalty. Most recently, it was reported that the SDF is holding nearly 11,000 suspected IS fighters in a number of prisons and makeshift detention centers. Among those detained are children ages 9 years and up. In addition, more than 80,000 IDPs representing many families of IS members or suspected IS supporters are being held in IDP camps, such as al-Hol, Roj and 'Ain 'Issa. ²³

21 Independent International Commission of Inquiry on the Syrian Arab Republic, *Out of Sight, Out of Mind*, 13.

22 Syrians for Truth and Justice, *HTS Did Not Spare Women Detention or Physical Abuse*.

23 Charlie Savage, "Kurds' Prisons."

Syrian National Army	The Turkish-backed Syrian National Army runs different detention facilities in police stations, military stations, and central prisons. Tens of arrests are reported every month in areas of Afrin, northern Aleppo, and northern Raqqa, which the National Army controls. Its arrests are mostly conducted by its civil police, military police, and political intelligence, as well as members of National Army factions. Most detainees are arrested for allegedly joining or communicating with the Kurdish-led Self Autonomous Administration, and most detainees are reportedly released after paying a ransom or bail of USD \$150 to \$400. Communities have reported several incidents of torture and sexual abuse committed by factions of the National Army, in addition to reports of summary executions by Syrian National Army fighters on the battlefield.
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Naming the Nameless: Understanding Who Is Affected

The criminal justice system of the Syrian Arab Republic encompasses an array of laws and institutions (including the penal and criminal procedure codes, state of emergency legislation, and ordinary and extraordinary courts, such as the counter-terrorism, military, and military field courts). This system gives the government absolute power to maintain control over the Syrian population behind a facade of legality. At every level, the system works in contravention of fundamental principles of human rights law designed to protect individuals from unlawful and arbitrary deprivation of liberty, including rights guaranteed in the international declarations and conventions to which Syria is a party.²⁴

Prior to 2011, the government used a longstanding state of emergency to arrest, detain, and hold individuals incommunicado without charges or a trial and to try civilians before the special state security court, military courts, and military field courts.²⁵ The death penalty was used extensively following summary and unfair trials. In cases where the government sent political detainees to civil courts, it frequently cited “political crimes,”²⁶ and vaguely defined offenses under the Penal Code such as “weakening national sentiment” and “awakening racial or sectarian tensions while Syria is at war or is expecting a war,” to justify prolonged sentences.²⁷

Under the Syrian Penal Code, individuals could also be incarcerated for exercising their right to peaceful expression. For instance, the following articles criminalized this freedom:

- Article 278 prohibits “acts, writings, or speech unauthorized by the government that expose Syria to the danger of belligerent acts or that disrupt Syria’s ties to foreign states.”
- Article 288 threatens to imprison any person who “take[s] part in a political or social association of international character or an organization of this kind in Syria.”
- Article 307 prohibits “acts, writings or speech intended to provoke or results in provoking sectarian or racial strife or inciting conflict between sects.”

24 These include the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights acceded to in 1969; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified in 2004.

25 A state of emergency was declared pursuant to military order in March 1963, after the Baathist coup, and continued for nearly five decades. Liam Stack, “Emergency Law.”

26 Syrian Arab Republic, Penal Code, Art. 195: “1. Political crimes are the intended crimes for which the actor was politically motivated. 2. They are also crimes against public and individual political rights unless the perpetrator has been driven into a sinister, selfish motive.”

27 Ibid, at Art. 285: “Anyone who, in time of war or when anticipating its outbreak, has made calls for weakening the national feeling or waking up racial or sectarian strife, is punishable by temporary detention.”

- Articles 335 and 336 prohibit seditious demonstrations and crowds and threaten imprisonment for “anyone who in a public place, open or exposed to the public, had uttered seditious cries or chants.” According to these articles, a “seditious crowd” can include a group of 20 or more with an “attitude susceptible of troubling public tranquility.”
- Article 376 imposes a one- to three-year sentence on anyone who criticizes or insults the president.²⁸

The human rights situation since 2011 has deteriorated further, and state powers have grown increasingly arbitrary. After the government lifted the state of emergency in April 2011,²⁹ following the start of the uprising, the regime continued justifying arrests and detentions under various provisions of the penal and military penal codes. During that period, demonstrators were charged with crimes such as destruction of public property, assault on the security of the state, and spreading false or exaggerated information.³⁰

In 2012, the issuance of the Counter-Terrorism Law largely shifted legal processes to the newly established Counter-Terrorism Court (CTC) under the guise of fighting terrorism. Most conflict-related detentions were then processed under the new law, which defines terrorism broadly.³¹ The government has used the law to target anyone perceived to stand in opposition to it, such as peaceful demonstrators, political opponents, and human rights activists. Many have been detained on the merest suspicion of disloyalty. Activities such as demonstrating and filming protests were characterized as providing “verbal support” to terrorist groups, while providing medical and humanitarian relief was considered as providing them with “material support.”

As a result, people of all ages and from all walks of life, both civilians and suspected insurgents, have been arrested and detained by the regime’s security agencies.³² This includes doctors who treated demonstrators, anyone seeking to avoid military service, those who remained in areas where armed groups took control, and displaced persons seeking to return but who were deemed disloyal simply for fleeing the conflict. Also at high risk of arrest are relatives of individuals wanted by the authorities, including boys, who are frequently targeted for arrest and detained on suspicion of working with the opposition.³³

Once detained, prisoners endure various forms of brutal torture and sexual and gender-based violence,³⁴ while forced to subsist in inhumane conditions, in contravention of minimum standards under international law for the treatment of prisoners.³⁵ Many have died as a result; others have been summarily executed outright. The bodies of the dead are rarely returned to their families, nor are families generally notified about the burial or the

28 Based on a sampling of 400 former detainees from Sednaya Prison, the Association of Detainees and the Missing in Sednaya Prison concluded that trials under the Syrian Penal Code were mainly carried out according to the following legal articles: membership of prohibited parties or associations (37.9 percent); weakening national sentiment or inciting racial or sectarian strife (21.2 percent); and broadcasting false news abroad (12.1 percent). See Association of Detainees and the Missing in Sednaya Prison. Detention in Sednaya, 10.

29 The government repealed the emergency law on April 21, 2011. Khaled Yacoub Oweis, “Assad ends state of emergency,” Tahrir Institute for Middle East Policy, *Law No.19 of 2012*; Presidential Decree nos. 9, 19, 20, 21, and 22 of 2012.

30 The Syrian Penal Code includes broadly defined crimes against the security of the state. See, for example, Syrian Arab Republic, Penal Code, Art. 261, for crimes against public property, Arts. 581 and 716, and for the crime of spreading false information, Art. 286.

31 Terrorism was defined as “every act that aims at creating a state of panic among the people, destabilizing public security or damaging the basic infrastructure of the country by using weapons, ammunition, explosives, flammable materials, toxic products, epidemiological or bacteriological factors or any method fulfilling the same purposes.”

32 All must be “treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial.” Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, Art. 5.

33 Independent International Commission of Inquiry on the Syrian Arab Republic, *Erased the Dreams*, 8.

34 Sema Nassar, *Detention of Women*.

35 UN Standard Minimum Rules for the Treatment of Prisoners (also known as the Nelson Mandela Rules). See also Independent International Commission of Inquiry on the Syrian Arab Republic, *Out of Sight, Out of Mind*; ECCHR, *Photographs and data from the Caesar-File Group*.

way in which the body was disposed. In the notorious Sednaya prison,³⁶ large numbers of bodies are reportedly incinerated on a weekly basis.³⁷

Significant numbers of civilians have also been detained or abducted by the police or security forces of non-state armed groups, like Asayish in the Autonomous Administration of North and East Syria, by IS's al-Hisbah, or by one of the many opportunistic criminal gangs that have proliferated during the conflict. For example, in 2014, the legislative council in the Autonomous Administration of North and East Syria enacted an anti-terrorism law criminalizing “acts that affect the life and future of society and affect security,”³⁸ which was used to justify arbitrary arrests and detentions.³⁹ At the height of its power, IS operated no fewer than 54 detention centers for individuals who opposed its rule or ran afoul of religious precepts.⁴⁰

In addition, many civilians, including children, have been kidnapped and held for ransom or used as bargaining chips in prisoner swaps between government forces (and their affiliated militias) and armed opposition groups. As a result, the fear of kidnappings and hostage taking is common among communities in both regime-held areas and areas still under the control of non-state forces.

Few, if any, populations remain unaffected by detentions and abductions. The status of foreign detainees has presented unique challenges throughout the conflict, but even more so since the fall of IS in 2018 and the SDF's subsequent detention of approximately 2,000 to 3,000 suspected foreign fighters (11,000 according to the COI's estimates) in northeastern Syria.⁴¹ Information regarding prison conditions and the treatment of these mostly men and boys remains sparse, given the very limited access granted to independent humanitarian actors.⁴²

No Way Out: The Lack of Due Process and Transparency

Formally, Syria's 2012 Constitution and Code of Criminal Procedure establish fundamental due process and fair trial guarantees and protections against unjustified arrest, cruel treatment, torture, and false imprisonment. Under the Constitution, for instance, no one may be investigated or arrested except by the order or decision of a judge. Defendants “must be informed of the reasons” for their arrest, they are entitled to legal aid if they cannot afford their own counsel, and they are presumed innocent until convicted by a court after a fair trial.⁴³

In practice, however, for those deprived of their liberty in Syria, guarantees within the nation's legal framework to ensure that those accused of a crime can exercise their rights consistent with international human rights law have been eviscerated by the issuance of decrees and the passage of laws establishing extraordinary courts and anti-terrorism or emergency measures.

36 Sednaya prison is managed by the Administration of Military Prisons under the military police that is part of the Ministry of Defense. This prison has two buildings: “the white facility” which holds criminals who are sentenced by the regular military court on non-conflict-related charges; and “the red facility” which is used by the field military courts and holds four types of detainees: (1) detainees awaiting trial after being transferred to the field military court (FMC) by one of the intelligence branches, (2) detainees who are sentenced to jail by the FMC, (3) detainees who are sentenced to death pending approval of the minister of defense and the president, and (4) a small number of detainees who an intelligence branch wants to punish or does not want in the same facility with other detainees.

37 United States Department of State, *2017 Country Reports: Syria*, 3.

38 Autonomous Administration of North and East Syria, Decree 20.

39 Amnesty International, “Syria: Arbitrary Detentions.”

40 Syrian Network for Human Rights, *ISIL's Torture and Detention Centers*.

41 Independent International Commission of Inquiry on the Syrian Arab Republic, *2020 Report*; Anthony Dworkin, *Beyond Good and Evil: L'Obs*, “Paris tente.”

42 Charlie Savage, “Kurds' Prisons.”

43 Syrian Arab Republic, Constitution, Arts. 50–54, 11. Under Article 69 of Syria's Code of Criminal Procedure, defendants are also entitled to be informed of the charges against them. However, the right to remain silent applies only when counsel is not present.

Due process and fair trial standards established under international law—including the right to be tried before an independent and impartial court, the right to a defense, the right to be presumed innocent, and the principle of equality of arms—are routinely violated, and the right of habeas corpus is consistently denied to those in custody.

The CTC, military field courts, and military courts are exempted from following the same fundamental procedures as Syria's ordinary courts.⁴⁴ Consequently, they operate outside of the Syrian Code of Criminal Procedure and do not respect the basic rights guaranteed to suspects and defendants, including the imperative for a public trial, the right to an attorney, and the ban on incommunicado detention.⁴⁵ As such, detainees are not given the opportunity to challenge the legal basis of their detention, nor are they provided the assistance of counsel or the right to appeal. Their subversion of due process and rule of law norms afflicts the entire system, at each stage of the process (pre-trial, trial, and post-trial). Limitations on pre-trial detention are ignored,⁴⁶ as is the right to appeal.⁴⁷ Those convicted of crimes are often held after serving their sentence.

Although it is believed that the Syrian government keeps a detailed bureaucratic record of where it keeps its detainees and on what basis, the detained, their families, and human rights organizations have no access to these records. The little that is known about the detention system is based largely on the testimonies of former detainees and former government and intelligence employees who defected. According to the research conducted by the authors of this report and the testimonies of Syrians they met, many arrests are effectuated without a formal arrest warrant, akin to an abduction: Armed men show up in government-owned vehicles, ask for someone by name, and then take them away often with little or no explanation.⁴⁸ According to some testimonies, in rare cases the arresting force identifies the arresting agency; but in many cases, family members, even if present, may not be informed of the detaining authority. The police appear to play no role in these regime-initiated, conflict-related arrests and detentions.

According to a former detainee who spoke to ICTJ and CIC, most arrests lack basic protocols:

We have been working for 1.5 years on questions relating to the survivors of Sednaya prison. We are working on what happens when they are detained. Ninety percent report that no one introduces themselves when they are detained. They are not shown any paperwork when they are detained (99 percent say this). They are essentially abducted, maybe ambushed, and detained.⁴⁹

It appears that in most cases security forces themselves handle the arrests. Along with loyal militias, empowered by the regime, they act within a system that affords them free reign. Although many details of the arrest and detention process remain murky, former detainees offer a window into the overall process.

44 See, for example, Syrian Arab Republic, Decree 109(5), which exempts the Field Military Court from applying the rules and procedures in any legislation.

45 See, for example, Syrian Arab Republic, Law No. 22, July 25, 2012, Art. 7; Syrian Arab Republic, Legislative Decree 109 establishing the Field Military Court, Art. 5: "The court is not bound by the principles and procedures stipulated in existing legislation."

46 For instance, under Decree 55, dated April 21, 2011, the period of pre-trial detention was extended from 1 to 7 days and could be extended further by the attorney general up to a period of 60 days, a far cry from the prompt review required under international law. Even those purported limitations have been breached. At the CTC, detainees have "spent at least six months and sometimes up to two years in the security branches." Violations Documentation Center in Syria, *A Tool for War Crimes*, 13.

47 Under Article 5 of Decree 22 of 2012, rulings of the counter-terrorism court are subject to appeal before a special chamber formed by decree of the Court of Cassation. However, based on available information, it appears that no such appeals have been accepted. Interview of former detainee by ICTJ staff, February 2020.

48 See also Association of Detainees and the Missing in Sednaya Prison, *Detention in Sednaya*, 8.

49 Roundtable discussion notes, on file with ICTJ, October 29-30, 2019.

According to most accounts, once arrested, the detainee is transferred to the branch of the agency that carried out the arrest and is assigned to an officer, who carries out an investigation while periodically reporting to the branch commander. Once the commander decides that the investigation is over, the officer writes a report within the applicable legal framework and submits it to the branch commander, who reviews it and then forwards it to the directorate for approval. Once approved by the directorate, the detainee may be transferred to a different agency if they are wanted by that agency. If not, the directorate sends the report back to the branch with charging and sentencing recommendations, which the detainee signs, usually without the opportunity to read it.

Once signed, the report is forwarded to the court or the attorney general for implementation. This can take a few months or years, depending on how much useful information the agencies assume the detainee has and the time it takes for the directorate to process all related cases.

Because the system is not able to process the high volume of arrests initiated by the intelligence agencies and their branches in all the provinces, prisons are often stretched beyond their capacity. As a result, former detainees report high levels of overcrowding in detention centers. These conditions worsened after the conflict intensified, and the frequency of torture increased,⁵⁰ while standards of health services deteriorated inside the centers.

Those who survive torture, overcrowding, and epidemics in the detention centers are usually transferred to Damascus for trial. Little data is available on how many of those detained are actually brought before a court, because of the secretive nature of legal proceedings in Syria, the arbitrary actions of the security and intelligence services when conducting arrests, and the lack of access to or communication with those detained. Given the climate of prolonged incommunicado detention and enforced disappearance, it may be assumed that detainees are being held without any real due process in the vast majority of conflict-related cases.

Detainees who survived a formal military prison (such as Sednaya) or a civil prison (such as 'Adra) face trial before either a civil court or, more frequently, one of the exceptional courts. These systems operate with almost no procedural guarantees.

- **Civil Courts**, located in many of Syria's districts, with four civil courts in Damascus alone, have jurisdiction over cases under Syria's Penal Code involving activities that the regime deems dangerous, such as calling "for weakening the national feeling or waking up racial or sectarian strife" or engaging "in a political or social association of an international nature."⁵¹
- **Military Courts**, established under the Military Penal Code,⁵² can try cases involving members of the military and police and also civilians for "state security offences," as defined in the Military Penal Code, and for destruction of public property, among other crimes. Generally, military prosecutors decide on the charges; although for cases involving an active-duty soldier, approval is needed from the chief of command or minister of defense. Cases are presided over by civil and military judges selected by the security services.⁵³
- **Field Military Courts (FMC)**, established by Legislative Decree 109 of July 17, 1968, were initially created to try deserters and military defectors (so-called enemies of the state) after the Six-Day War, in 1967. It applied to military personnel who presented a risk to the state during war times or military operations. The law was modified in 1980, by Decree 32, to expand the court's

50 Human Rights Watch, "Syria: Torture Centers Revealed;" Human Rights Watch, *Torture Archipelago*.

51 Syrian Arab Republic, Penal Code 1949, Arts. 285 and 288.

52 Syrian Arab Republic, Legislative Decree 61 of March 6, 1950, Art. 2.

53 Mikael Ekman, *ILAC Rule of Law Assessment Report*, 44.

jurisdiction to cover periods of “domestic unrest.” Since then, the government has used the law to justify arresting civilians and military personnel in times of war and peace. These courts can be built by order of the minister of defense and are presided over solely by military personnel.⁵⁴ They do not follow Syria’s Code of Criminal Procedure and can impose sentences of life imprisonment and death. Only the president and the minister of defense can reduce or replace one of its sentences or withdraw a case.⁵⁵ Decisions made by the FMC may not be appealed.⁵⁶

- Although the **Supreme State Security Court (SSSC)**, established by Decree 47 of March 28, 1968,⁵⁷ no longer exists, as another form of extraordinary court, it likely adjudicated the cases of detainees and those forcibly disappeared prior to or early on in the 2011 uprising. After it was abolished by Decree 53 of April 21, 2011, the CTC (see below) was established.
- **The Counter-Terrorism Court (CTC)**, established by Law No. 22 of July 25, 2012,⁵⁸ has jurisdiction over crimes of terrorism and other crimes referred to it by the attorney general. It is an exceptional mixed court, with both civilian and military judges, that can try both civilians and military personnel. According to a 2015 report by the Violations Documentation Center in Syria, in January 2014 alone, it received over 1,200 cases (of at least one individual per case).⁵⁹ Under Law No. 22, the court is not mandated to follow regular trial and due process standards, and lawyers (if allowed) are frequently prohibited from meeting their clients before a trial begins.⁶⁰

In an August 2019 report, the Association of Detainees and the Missing in Sednaya Prison estimated that among the 400 former detainees of Sednaya prison whom they interviewed, 57.25 percent were brought before the FMC, 36.27 percent before the Supreme State Security Court (before it was abolished), and 6.48 percent before the CTC.⁶¹ While these figures may not reflect current statistics, they indicate that these courts continue to operate and try large numbers of detainees in Syria.

Numerous human rights reports assert that trials before these courts are manifestly unfair and often summary in nature. The extraordinary courts are particularly notorious given that they are exempt from the rules of criminal procedure that apply in Syria’s criminal courts and violate international standards. They often mete out harsh punishments, including the death penalty.

Generally, the accused are tried without a lawyer or denied the right to present a defense. In the field military courts, trials usually last a few minutes, with the judge reading out the charges and asking the accused persons if they are guilty and their answering “yes” or “no.”⁶² Although it is widely known that many confessions were made under torture, judges still follow the sentence recommended by the intelligence director, in contravention of human rights standards.

Reports indicate that rather than abide by due process requirements, the regime works to legalize the detention of the arrested persons, sometimes by inventing charges after arrests are made.

54 Ibid., at 46.

55 European Asylum Support Office, *Syria Actors*, 28; Syrian Justice and Accountability Centre, *Walls Have Ears*, 19.

56 Syrian Arab Republic, Legislative Decree 109 of July 17, 1968, Art. 6.

57 Ultimately, the SSSC was replaced by the CTC in accordance with Decree 53 of April 21, 2011.

58 Syrian Arab Republic, Counter-Terrorism Court Law No. 22, July 26, 2012.

59 Violations Documentation Center in Syria, *A Tool for War Crimes*.

60 Tahrir Institute for Middle East Policy, *Law No. 19 of 2012*, 1.

61 Association of Detainees and the Missing in Sednaya Prison, *Detention in Sednaya*.

62 Thousands have been executed in mass hangings following such summary trials in the military field court in the al-Qaboun neighborhood of Damascus. Amnesty International USA, *Human Slaughterhouse*, 6.

The courts of non-state armed groups are likewise not known for their adherence to due process norms. The People's Courts established by the Kurdish Democratic Union Party in 2012 come perhaps the closest to providing some basic due process and fair trial norms, although even they appear to fall short.⁶³ Within that system, political detainees are usually funneled through two types of courts: the criminal "Platform" Courts and the counter-terrorism People's Defense Court. In most cases, the Platform Courts issue their decisions in one session. The courts' decisions are not always appealable, and even when Syrian state laws are referenced, the courts' decisions are based on "social justice" standards, rather than law.⁶⁴ The People's Defense Court is an extrajudicial court established in 2014 following the issuance of decree 20 by the Autonomous Administration of North and East Syria to deter "terrorism."⁶⁵ According to sources, the court does not provide the right to a defense or appeal in order to "preserve the secrecy of the investigation and the identity of the prisoner." Additionally, judges, who are selected from the military ranks of the Syrian Democratic Forces, need not have a legal background, just basic knowledge of reading and writing.⁶⁶

Similarly, the COI has reported that makeshift Sharia courts formed by HTS (known then as Jabhat Al-Nusra) and local anti-government armed groups did not "abide by fair trial standards" and conducted summary executions of prisoners, including many captured government soldiers.⁶⁷

63 The Kurdish Democratic Union Party (PYD), for instance, established its "People's Courts" in 2012 in areas under its control. On July 1, 2016, the Kurdish-dominated regulatory committee of the Rojava-Northern Syria Democratic Federal System Constituent Assembly adopted an 85-article "social contract" that serves as a constitution for Syria's Kurdish regions. The document reflected the PYD's governing vision and paved the way for the establishment of the Self Administration Authority's judicial system through the "Justice Authority." Social Contract for the Democratic Federation of Northern, Arts. 67, 68, 69. See also Sardar Milla Drwish, "What's next for Syria's Kurds?"

64 Social justice is "represented only by the conscience of the judge and the people and their vision, there are no texts or laws that control the rulings." See Enab Baladi, *People's courts*.

65 Autonomous Administration of North and East Syria, Decree 20, Art. 1. The 2014 decree used very broad definitions of what constitutes a terrorist act, with exclusions for acts of free expression: "Every action that threatens national unity and peaceful coexistence between the components in the province and the safety of society and affects public security and stability and weakens the ability of the People's Protection and Asayish Authority to defend and maintain the security of citizens and their properties and the institutions of the province, whether by armed collision with the district forces or any form that is outside freedom of opinion and expression guaranteed by the law."

66 *Rok Online Newspaper*, "Judiciary in Rojava."

67 Independent International Commission of Inquiry on the Syrian Arab Republic, *Out of Sight, Out of Mind*, 13.

The Plight of Families Searching for Answers

For decades, there has been very little transparency for families seeking information about detained relatives. Most are shunted from one location to the next or from one agency to another looking for answers. Rarely are any answers provided.

Although the regime is believed to be keeping detailed records on its detainees, it seldom acknowledges detentions or conducts legal processes in public. Instead, the vast majority of those detained are held incommunicado, and their families do not know if they have been charged, tried, sentenced, or killed. Many are held in secret or makeshift detention centers. Given the lack of accessible records, families have little opportunity to question or appeal any part of the process. As a result, it is often unclear for families when they discover a relative has died in custody whether it was the result of capital punishment, torture, or inadequate detention conditions.

For years when detainees died in custody at branches of the intelligence directories, their deaths have been generally concealed from the public, despite a centralized government system for registering deaths in government-controlled detention facilities.⁶⁸ Starting in May 2018, some death records were released to the civil registry, which then advised families when they visited to file official paperwork, though even this notification occurred in a haphazard way. Most families are still awaiting any news, and many doubt that information will ever be given to them.

A family may also learn when a detainee is transferred from one of the intelligence branches for trial. In some instances, a record is available in Damascus for relatives at the Old Justice Palace for those transferred to a civil court, at the New Justice Palace for those transferred to the CTC, and at the headquarters of the military police for those transferred to a military or military field court.

Yet by and large, families have no access to information and only limited prison visitation privileges. For instance, detainees who are transferred to a civil court or the CTC are often held in one of the provincial central prisons or in Adra Prison in the Damascus countryside. In such cases, it is sometimes possible for detainees to pay police officers to set up family calls or visits. However, visits are not allowed if detainees are being held pending trial at the military police headquarters, an official military prison, or Sednaya Prison. Even phone calls are largely not permitted in such cases.

If sentenced by the FMC, detainees will often be kept at the military police headquarters or Sednaya Prison until the minister of defense and the president approves the sentence.

⁶⁸ COI learned that deaths are regularly reported in from security directorates to the military police corps of the Syrian Arab Army, which are the custodians of this information. However, that information has generally not been made publicly available. Independent International Commission of Inquiry on the Syrian Arab Republic, *Death Notifications*, 2 n.4.

If detainees get a jail sentence, their families can then request periodic visits through the military police headquarters; however, if detainees receive a death sentence, their records are kept under seal.

In the case of a detainee dying while in the military police's custody as a result of torture, poor conditions, or neglect, the record is sometimes accessible for families at the Military Police Headquarters in Qaboun. After requesting the record, families are informed of the death and referred to Tishreen Military Hospital for a death certificate, which is supposed to list the deceased's name, date of birth, and date and cause of death. In most cases, if a certificate is obtained, the cause of death is listed as heart attack, the place of detention is not specified, and the deceased's remains are not returned. In the vast majority of cases, however, families are provided with no information about their loved one's fate or whereabouts and are not offered a way to officially request information. Procedures within the agencies are notoriously inadequate. Even when families request information from authorities, no formal complaint or request is filed.⁶⁹

Prior to the conflict, the families of individuals who had been arrested often relied on relatives or connections within the police or security services to access information. Even when they did not know which detaining agency was holding their loved one, it was at least common practice for a member of one agency to call another to make inquiries. Since the start of the conflict, however, this informal practice has been exploited by officials seeking to extort bribes from families seeking information.

The lack of official acknowledgment of detentions in combination with incommunicado detention creates an environment where torture and other forms of ill-treatment can occur unchecked. Deaths in custody, whether as a result of torture, poor conditions, or neglect, take place out of sight and largely unacknowledged. Such secrecy facilitates abuse against not only the detained but also their family members, who are forced to seek meetings with prison authorities behind closed doors and without any outside independent or judicial oversight when seeking answers about their relatives. In such situations, family members, too, may be subjected to harassment, threats, acts of violence (including sexual violence), and threats of detention.

The desperation to find their loved ones has also made families vulnerable to financial crimes, such as blackmail and extortion. This can occur at the hands of personnel in state agencies who make false promises about finding information for a fee or third parties who take advantage of families by demanding money for information. In most cases, families are made to pay large sums, and then leads suddenly dry up.

In some cases, families have sought information from the office of Ali Haidar, Syria's Minister of National Reconciliation.⁷⁰ The government established a National Reconciliation Commission to follow up on cases of those imprisoned during the crisis, but apart from facilitating swaps, it has not managed to play the role that families had hoped it would.

Many families share the general sentiment of being completely alone, vulnerable, and abandoned in the search process, never receiving help from authorities or even organized support from a group or alliance of victims. The total lack of official mechanisms to facilitate or shorten the search is daunting for families. Many families of the missing, detained, and forcibly disappeared have also expressed the feeling that their plight is treated differently than, for example, that of family members of the confirmed dead, and that they receive lower levels of support, even from international organizations.⁷¹

69 Dawlaty and Women Now for Development, *Testimonies of Syrian Female Relatives*, 29.

70 In November 2018, the position of Minister of National Reconciliation was abolished, and the National Reconciliation Commission was established, still headed by Ali Haidar.

71 Dawlaty, *Testimonies of Syrian Female Relatives*, 28.

For families seeking answers about relatives who are or were once held by non-state actors, there are generally fewer options, given the loose bureaucratic capabilities of most groups and the breakup of many. The relatives of those once detained by IS, for instance, are working together to collect any available documentation left behind in former IS facilities, including orders of execution; they are compiling a list of names, pictures, and arrest dates.⁷² These efforts, though necessary and commendable, are just the beginning. They will require the assistance of not only local and regional authorities but also UN agencies and other international stakeholders.

72 Kareem Shaheen and Ahmad Haj Hamdo, "The missing of Raqqa."

'Save Us from This Bleak Existence:' Upholding Victims' Rights

The challenges ahead are undeniably vast and complex, and yet, the necessary steps are in many ways clear. Family associations, victims' groups, nongovernmental organizations, and others working on issues of enforced disappearance, arbitrary detention, and abduction in Syria know what must be done to begin addressing the rights of victims, which have been so seriously violated. The challenge lies in the feasibility of implementing necessary measures, particularly given the current political realities and the growing public health crisis caused by the COVID-19 pandemic. Continued impunity and the never-ending violations perpetrated by all parties to the conflict have left victims with little hope in the short term of achieving accountability, truth, justice, or reforms to prevent future violations.

The fight for victims' rights will likely continue for decades. Yet, there are four primary areas of action that must be considered urgent for Syrians: (1) official acknowledgment of detentions and the disclosure of information about the whereabouts and fate of the forcibly disappeared and abducted; (2) detainee releases; (3) access to detention facilities by monitoring groups; and (4) addressing the consequences of enforced disappearance on families.

Acknowledgment and Whereabouts

As part of a widespread system of terror against the civilian population, the Syrian government and numerous armed groups continue to carry out the practices of first detaining and then refusing to acknowledge detentions or to give information on the fate or whereabouts of those who were detained. In doing so, they clearly violate international law. Those who are forcibly disappeared and their families are entitled to truth and reparation.

Families desperately need formal confirmation or acknowledgment if their missing relatives are alive and in detention, and they need to know where to find them. Current state policies grant families no meaningful method for locating their detained relatives. Despite making inquiries at intelligence agencies and filing the required paperwork, they rarely receive answers. Instead, those undertaking searches often face outright hostility and violence.

Immediate steps should be taken to meet families' demands for acknowledgment of detentions and for information about detainees' whereabouts. The government should publish a list of the names and whereabouts of those being held in custody, including those detained by militias operating under the control of the government, and it should facilitate efforts to provide information about individuals previously held by armed groups, consistent with its responsibility to protect its population from threats, including those posed by armed groups.

These steps include establishing a baseline of information about who is detained (and thus, alive) and where, from which to move forward. The ICRC could begin this process and help to overcome the regime's opposition to sharing information and loosen its longstanding tactics for repressing the population. The ICRC could also gather records and identify gaps in detainee records among non-state actors.

Releases

Syria is responsible for ensuring the humane treatment of persons deprived of liberty,⁷³ as well as for ensuring their release.⁷⁴ Since the start of the uprising, the government has periodically issued so-called amnesties and reductions in sentence for those in detention.⁷⁵ In March 2020, partly in response to the ongoing pandemic, Assad announced a general amnesty for certain listed crimes and reduced sentences for others, including some freedom of expression crimes (for example, “weakening of the national feeling” and “transmitting false or exaggerated news that weakens the nations’ psyche”),⁷⁶ while also offering amnesty to military deserters who surrendered within a given period of months.⁷⁷ However, based on sources, only a handful of conflict-related detainees are being released because the amnesty did not cover those sentenced by the CTC or FMC.⁷⁸

Previous amnesties granted similar reprieves, including one issued on June 9, 2014 (Decree 22), which covered numerous alleged crimes committed by civilians and military personnel, including many convicted by military field courts and the CTC. A decree issued on September 15, 2019, amnestied those convicted of political crimes under the Syrian Penal Code if no weapon had been used, while retroactively reducing the sentences for capital crimes.⁷⁹ For example, the decree stipulates that a death penalty be reduced to a life sentence of hard labor and that life sentences be reduced to 20 years in prison, among other provisions.

Military draft evaders have been the focus of a number of decrees, including one issued in October 2018. Legislative Decree No. 18 of 2018 granted a general amnesty for the crimes of army desertion or avoiding military service pursuant to Legislative Decrees No. 61 of 1950 (Penal Code and Essence of Military Trials) and No. 30 of 2007 (Conscription Law).⁸⁰ To qualify, individuals had to turn themselves in within four months if they were residing within Syria and within six months if living abroad. Under Decree 18, individuals were not relieved of their obligation to pay fines to the state and were still expected to complete the regime's compulsory military service requirement.⁸¹ In addition, the amnesty did not apply to those facing other possible charges, for example illegal protesting.

73 Syria has ratified a number of international human rights treaties that govern the treatment of persons deprived of their liberty, including the International Covenant on Civil and Political Rights (1966); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); and the Convention on the Rights of the Child (1989). It also ratified the Geneva Conventions (I–IV) of 12 August 1949, as well as Additional Protocol I relating to the Protection of Victims of International Armed Conflicts, which governs the proper treatment of wounded or captured military personnel, medical personnel, and non-military civilians during war or armed conflicts. Syria is also obligated under Common Article 3 of the Geneva Conventions and under customary international humanitarian law to guarantee “the humane treatment for all persons in enemy hands, without any adverse distinction.”

74 International Convention for the Protection of All Persons from Enforced Disappearance, Article 21: State parties are required to release persons deprived of liberty “in a manner permitting reliable verification that they have actually been released and to “take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release.” Syria has not yet ratified this convention.

75 For instance, amnesty decrees were issued in June 2011, January and October 2012, April and October 2013, and June 2014. Three amnesty decrees were issued in 2016 to pardon army deserters, and another in 2018.

76 Syrian Arab Republic, Penal Code, Arts. 285, 286, 293, 295, 305 and 306.

77 *New York Times*, “Syrian President Issues Amnesty.”

78 The timetable of releases needs to be accelerated, especially for vulnerable prisoners and those convicted of political and other conflict-related crimes.

79 Autonomous Administration of North and East Syria, Legislative Decree 20.

80 Tahrir Institute for Middle East Policy (TIMEP), Legislative Decree No. 18 of 2018 (Military Service Amnesty).

81 *Ibid.*

However, although tens of thousands of detainees were expected to be released under these amnesties, reports indicate that most remain in custody.⁸² Only a small percentage of those who should have been eligible have been documented as benefiting in any way from these measures, and an even smaller number have actually been released—and many of them were immediately conscripted. Moreover, political detainees are unlikely to benefit from these amnesties.

To many, these amnesties are merely a form of propaganda and cannot be trusted. As one activist stated, “The general amnesty is a propaganda routine that is repeatedly used by the regime during the revolution but will remain just for show for many Syrians. Those who were previously pardoned returned to Syria only to be killed or arrested by the Syrian regime.”⁸³

As the armed conflict now moves toward its conclusion, a comprehensive, verifiable, internationally coordinated approach is required. Families of the missing, detained, abducted, and forcibly disappeared are calling for the immediate and unconditional release of those detained by the Syrian regime and its affiliates (including those unfairly convicted by the various courts discussed above) and all persons abducted and held by an armed group. Many families consider this demand non-negotiable and are against linking releases with the peace process or political negotiations; they see current negotiations as treating detainees as commodities to be traded. In fact, the failure of the Astana peace talks to secure any meaningful prisoner releases beyond swaps of military personnel and opposition fighters is seen as a lesson in the risk that a settlement over detainees will not be part of the political process.⁸⁴

A negotiated agreement to facilitate the release of prisoners could present a path forward, but it is likely to face many challenges given the general lack of trust in the state's promises. When negotiating the terms of the releases, consideration would need to be given to the history and terms of past amnesty agreements into which the regime has already entered. As noted above, families have expressed concerns about calls for a general amnesty, based on their experience with other amnesties over the past eight years. Amnesties have often been issued as part of so-called local reconciliation (*musalaha*) agreements. Such agreements have been used to allegedly offer safe passage for opposition fighters out of rebel-controlled areas after they surrender. They have also been used to bring back into the fold fighters “who turn themselves in and lay down their weapons.”⁸⁵ Those who do so are promised no punishment for desertion or avoiding the draft, a grace period of several months to set their matters in order, and then expected to integrate into the armed forces (for example, conscription). However, what this conscription looks like in practice has varied: It has included options for joining local security forces; a paramilitary force, like the Fifth Corps (established by Russia); or the Syrian regular army.

As reported by the COI and other human rights groups, the state has often gone back on its commitments, and those who have turned themselves in, including former combatants as well as local council members and civil society activists, have been arrested or forcibly

82 Khaled al-Khateb, “Syrian Opposition Skeptical.”

83 Ibid.

84 The Astana process refers to a series of meetings in Astana, Kazakhstan, involving Iran, Russia, and Turkey aiming to broker a ceasefire between the Syrian army and rebel groups. In January 2017, they launched talks, bringing rebel and regime representatives to Astana. At the January 23–24 talks, the three sponsors agreed to bolster a fragile truce; however, the final declaration was not signed by the rebels, led by Mohammad Alloush, or the regime, led by Bashar Jaafari, and negotiators did not hold face-to-face talks. In May 2017, Iran, Russia, and Turkey adopted a Russian plan in Astana for four “de-escalation zones” across Syria to shore up local ceasefires. Only Idlib remains today. As part of the process, a committee was established to look at the issue of detainees and the missing, and several meetings took place involving these three states and representatives for the Syrian government and rebel groups. The UN and the ICRC attended as observers or facilitators. The talks failed to move the discussion of detainees beyond a few limited swaps involving mostly military personnel.

85 Syrian Arab Republic, Legislative Decree No. 15 of July 2016.

conscripted and sent to the frontlines.⁸⁶ As a result, families continue to express great wariness about the inclusion of similar conditions on prisoner release and fear that the regime will simply not keep its word.

Considering Syria's history of repression, many families have a deep lack of trust in state proposals and promises, and today they only support and believe in unconditional releases of everyone being held in the context of the conflict.

To address these concerns, a phased approach may provide the best way forward in Syria. This process could start with an immediate release by all sides of the most vulnerable—the sick, the elderly, the disabled, children, women, and others—as a goodwill gesture and first step toward achieving the release of everyone. These releases would be administered by the ICRC and implemented on an accelerated timetable to ensure that prisoners can be released as quickly as possible, particularly given the global health crisis now unfolding.

At the same time, an independent prisoner review mechanism should be established to define the terms and parameters for releases and then to implement them. These releases would take place in coordination with the ICRC. The independent prisoner review body could help to distinguish between those accused or convicted of minor crimes or political crimes—especially given that Syrian law criminalizes the exercise of civil and political rights, such as the right to free speech and the right to assemble)—and crimes considered very serious or not subject to amnesty under international law.⁸⁷

There are examples from previous conflicts for how such a release mechanism could be structured and implemented. In Northern Ireland, under the Good Friday Agreement, independent commissions were created to oversee and regulate the early release of prisoners.⁸⁸ In Myanmar, prisoner releases were carried out as part of a process that started when the president created a Prisoner Review Committee tasked with developing a definition of “political prisoners” and recommending prisoners for release.⁸⁹ The committee consisted of state ministers and representatives of groups of former political prisoners and opposition parties.

Given the complex and evolving nature of the situation in Syria, it will be difficult to separate any review process from larger issues that may be on the table for negotiations, including reconstruction and possible targeted sanctions relief. Given that drawing direct links between prisoner releases and these other issues could lead to troubling incentive structures, it is essential that the international community and all parties to the conflict take a rigorous look at whether and how a process for negotiating prisoner releases and for creating a mechanism to implement these releases could serve as a confidence-building measure and help to create a better environment that may further the political process.

86 Independent International Commission of Inquiry on the Syrian Arab Republic, *2020 Report*.

87 Under Additional Protocol II to the Geneva Conventions applicable to non-international armed conflicts, “the authorities in power” are to “endeavor to grant the broadest possible amnesty at the end of hostilities to those who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.” International treaties and customary law, however, require states to prosecute certain serious international crimes – such as genocide, war crimes, and crimes against humanity. Amnesties must therefore not extend to such crimes.

88 In Northern Ireland, the Sentence Review Commission was established under the terms of the Northern Ireland (Sentences) Act, which came into force in July 1998. The Republic of Ireland likewise created a Release of Prisoners Commission (in Gaelic, An Coimisiún um Scaoileadh Saor Príosúnach) under its 1998 Criminal Justice (Release of Prisoners) Act. In Northern Ireland, eligibility for the early release scheme established under the Good Friday Agreement was conditioned on a conviction of an offense enumerated in successive Northern Ireland (Emergency Provisions) Acts and defined as likely to be committed by terrorists. Here, “terrorism” was defined to mean “the use of violence for political ends” and included “any use of violence for the purpose of putting the public or any section of the public in fear.” As such, the relevant acts included murder, manslaughter, kidnapping, serious assaults, armed robbery, and a wide range of firearms and explosives offences.

89 Office of the President [Myanmar], “Committee to Be Formed.”

Access and Other Urgent Needs

The third area of primary concern for families is how to gain access to those still alive and in detention. In very limited cases, primarily at the main prisons, families are able to visit detainees at established hours, but such access is unheard of in most detention facilities run by the security services and certainly not granted in any of the secret or makeshift centers. Separately, families are demanding a mechanism that would enable them to, at a minimum, be in contact and exchange personal and family news with their detained relatives.

As well as demanding immediate access for themselves, families have been asking for the government to grant an international humanitarian entity, such as the ICRC, regular access to detention facilities as a safeguard against ill-treatment, enforced disappearance, or both. At present, the ICRC is apparently not permitted to visit military prisons or detention centers operated by any branches of the security services, let alone secret or makeshift detention centers.

This is related to another major demand from families, which is that all detained persons be properly registered and provided access to adequate medical care and independent legal counsel. This is particularly urgent in light of the alarming number of reports of deaths in custody as a result of torture, dire conditions, and neglect. Visits by the ICRC personnel, medical professionals, or both are an essential humanitarian measure that will help to ensure detainees' immediate well-being while also offering a safeguard against future enforced disappearance.

As an interim step, the regime should move detainees to official, recognized places of detention. Once all detainees are held in formal prisons or detention centers, there should be no "security-related" restrictions on public access—particularly for family members, lawyers, and international actors.

Addressing the Consequences on Detainees and their Families

It is impossible to separate the original act of enforced disappearance, abduction, or detention from the extraordinary and longstanding emotional, psychological, social, legal, and economic impacts that families suffer when their loved ones go missing. The consequences on families and former detainees themselves have been well documented.⁹⁰

Often, the person who was disappeared had been the main breadwinner for their family, leaving their loved ones—typically their wife and children—with little income or means to cover their basic living expenses. Syrian law contributes to creating these legal and economic challenges for families. For example, Article 135 of Law 50 of 2004 stipulates that civil servants or government employees are automatically terminated after 15 days of absence without leave, rendering families unable to collect a salary or other benefits in their absence, and detainees are left jobless should they return after two weeks.

This burden is only made worse by the extraordinary costs associated with searching for the missing or forcibly disappeared, which include travel expenses and official fees as well as any money lost to extortion, blackmail, and demands for exorbitant sums by intermediaries who claim to have information about a relative and then, once paid, disappear without a trace. Many families have been forced to sell their homes and other assets or have fallen into debt by borrowing large amounts of money from relatives and neighbors, which also increases their vulnerability. Some have resorted to sending their children to work or forcing their daughters into child marriages to collect a dowry in order to survive. Still others are

⁹⁰ See, for example, Dawlaty, *Testimonies of Syrian Female Relatives*; and Independent International Commission of Inquiry on the Syrian Arab Republic, *Without a Trace*.

ultimately forcibly displaced from their homes and communities, sometimes because of fear that they, too, will be detained or because of the economic insecurity brought on by the enforced disappearance.

Women in Syria face particular legal challenges when a husband goes missing. They may lose their right to property held in their husband's name; they may not be able to access inheritance because of uncertainty about their husband's fate and their reluctance to obtain a death certificate without evidence of death; and they may face challenges accessing other benefits or even proving their marriage, especially once outside of the country.⁹¹

Additionally, families suffer acute emotional and psychological trauma as well as the negative social impacts associated with enforced disappearance. Family members of the detained and missing have reported symptoms such as depression, inability to sleep, anxiety, physical ailments, and behavioral problems in children due to the ambiguity and trauma of the loss. Moreover, it is not uncommon that wives of the disappeared face great social stigma, including alienation and mistreatment by their in-laws.⁹²

When detainees have been released and returned to their families, they face additional challenges arising from the psychological trauma of having been detained and likely tortured or otherwise severely mistreated in custody. Former detainees may have serious health issues, mental illness or emotional trauma, disabilities, or general problems reintegrating into ordinary life given what they survived. Some of these consequences are short-term harms, while others can become long-term and even permanent conditions if they are not addressed urgently.

For former detainees, now and in the future, it will be important to provide rehabilitative and psychosocial services, ensure opportunities for employment, facilitate their return to professional life, and allow them to resume their education if it was suspended. Measures could include an expedited, simplified, and independent process to certify schooling and recognize degrees obtained abroad and provide scholarships and accelerated programs for starting or completing university or technical degrees.⁹³ Security restrictions for public sector jobs, which are a significant source of employment in Syria, will also need to be eased;⁹⁴ otherwise, many will find it impossible to get a job or return to normal life after their release.

91 Norwegian Refugee Council and Institute on Statelessness and Inclusion, *Understanding Statelessness*. See also International Human Rights Clinic and Norwegian Refugee Council, *Registering Rights*.

92 Dawlaty, *Testimonies of Syrian Female Relatives*.

93 Such measures have been set in place for former political prisoners and their families by many societies transitioning from repressive rule or conflict. For instance, in Brazil, the government began by providing reparative relief in the form of political amnesties to those who had been dismissed for political reasons from their professional positions, many of whom were former political prisoners. That amnesty program restored political rights to those who had committed a "political crime" and contained measures for "return to service" or reinstatement to the same position and functions held at the time of dismissal or resignation. Additional measures were passed into law over time, expanding the scope of available reparation benefits and the categories of eligible beneficiaries covered. The benefits for former political prisoners in Brazil included pensions, economic compensation, restoration of political rights, continuation of educational courses, and validation of diplomas.

94 Public sector jobs in Syria are contingent on security sector approval, which former detainees and returning families may not be able to clear. See Omran Center for Strategic Studies, *Syrian Security Services*, 8.

Conclusions and Recommendations

Tens of thousands of Syrians are languishing today in detention, often held incommunicado, under inhumane living conditions. They face unspeakable torture and risk execution. Because the ICRC has not been given access to all detention sites in Syria, in violation of international humanitarian law, it has not been able to monitor detention conditions and guarantee families have contact with their detained relatives.

The families of detainees have suffered devastating consequences. With little-to-no information about where their loved ones are being held or if they have been charged, tried, or sentenced, or are even still alive, families are forced to navigate an inscrutable and often hostile security system alone. The search process leaves them vulnerable to harassment, abuse, detention, and financial exploitation, such as blackmail and extortion. Many families are left economically vulnerable without a primary breadwinner. They bear psychological, social, legal, and administrative burdens, which are often felt most intensely by the wives of the disappeared, who must take over the primary care of their family.

As the Syrian government has regained control of much of its territory, there has been a crescendo of appeals by families of the detained, abducted, and forcibly disappeared for information, access to detention facilities, and the release of prisoners. These voices are growing, not only among families of opponents but also among state loyalists. It has become clear that while political negotiations are faltering, the fate of the disappeared has become a priority issue in Syria.

The following recommendations are presented in the spirit of breaking the deadlock around the question of detainees, abductees, and the forcibly disappeared. The Syrian regime and other parties to the conflict must take urgent action on the recommendations set out below. International actors with influence on the Syrian state or on other parties to this conflict should also pay particular attention to these recommendations and help facilitate solutions, especially regarding initiatives that do not depend on the political will of the Syrian state.

General Recommendations

- **Conditions of detention.** The Syria government and all other parties to the conflict must ensure, consistent with international law and standards, that all persons deprived of their liberty are kept in decent conditions, treated with humanity and respect for the inherent dignity of the human person, and not subjected to torture or cruel, inhuman, or degrading treatment. In keeping with this responsibility, the Syrian government and all other parties to the conflict should immediately take steps to ensure that all persons deprived of their liberty are provided adequate food, water, clothing, shelter, personal hygiene, and

proper and qualified medical attention, including gender-appropriate services in connection with pregnancy, delivery, and the post-natal period.

- **Access.** The Syrian government and all other parties to the conflict must provide the ICRC on an accelerated timetable with unimpeded access to all places of detention, including official prisons, pretrial detention centers, intelligence service detention facilities, administrative detention areas, hospitals, psychiatric institutions, and informal or unofficial places where persons are detained or interned.
- **Access to information.** All parties to the conflict should disclose the locations of all official and detention facilities and undertake a mapping of temporary, unofficial, and makeshift detention centers and disclose their locations.

The Syrian government and all other parties to the conflict, including armed groups, should produce lists of their detainees, jointly with the ICRC, specifying the status and location of each prisoner, detainee, abducted person, and any other person deprived of their liberty, arrested, detained, or being held, whether accused, indicted, awaiting judgment, or sentenced.

The Syrian government and all parties to the conflict should transfer detainees without delay to official, recognized places of detention included in their mapping (mentioned above), or to medical facilities for treatment of any possible life-threatening conditions.

- **Urgent and humanitarian releases.** In accordance with UNSC Resolutions 2254 (2014)⁹⁵ and 2258 (2015),⁹⁶ the Syrian government and all parties to the conflict should move swiftly to immediately and unilaterally release detained persons who are vulnerable, such as the sick, the elderly, children, women, and the disabled.

All prisoners in Syria who are detained or serving sentences for nonviolent offenses related to the exercise of fundamental guarantees set out in the International Covenant on Civil and Political Rights (which was ratified by Syria on March 23, 1976), in particular freedom of thought, conscience, and religion, freedom of expression and information, and freedom of assembly and association, should be unconditionally released on an urgent basis.

Urgent and humanitarian releases should begin now before the coronavirus disease spreads in the prisons.⁹⁷

An organized process of release should be established by the Syrian government and all other parties to the conflict in coordination with the ICRC to ensure they receive humanitarian assistance, including a stipend sufficient to cover the costs of the journey to their destinations and any official documentation and identification required to travel, gain employment, and reestablish family contacts.

95 UNSC Resolution 2254, December 18, 2015, para. 12, calls on all parties to “release any arbitrarily detained persons, particularly women and children.”

96 UNSC Resolution 2258, December 22, 2015, Preamble: “Strongly condemning the arbitrary detention and torture of individuals in Syria, notably in prisons and detention facilities, as well as the kidnappings, abductions, hostage taking and forced disappearances, and demanding the immediate end of these practices and the release of all arbitrarily detained persons starting with women and children, as well as sick, wounded and elderly people including United Nations and humanitarian personnel and journalists.”

97 As emphasized by the UN Office of the High Commissioner for Human Rights, “the risk of mass infections in prisons is extremely high and...the situation in all official prisons and makeshift detention facilities is alarming.” Office of the United Nations High Commissioner for Human Rights, Press Briefing Note on COVID-19. Other nations are already releasing prisoners early to mitigate the potential loss of life. *Anadolu Agency*, “Indonesia Releases 22,000 Prisoners Over COVID-19 Fears;” *Al Jazeera*, “Libya Frees More Than 450 Prisoners to Stem Spread of Coronavirus.”

- **Review of legal files.** An independent review mechanism should be created to review all remaining conflict-related cases of detention not subject to urgent and humanitarian release. The mechanism should consist of independent experts tasked with reassessing the status of remaining prisoners and reviewing the charges against them, in order to identify cases of arbitrary detention and convictions resulting from unfair processes or that were politically motivated.

The independent review mechanism should recommend releases, unconditional releases, conditional amnesties, or pardons for prisoners who were arrested or detained in connection with the conflict and who are not accused of or serving a sentence for war crimes, genocide, or crimes against humanity.

The Syrian government should fully honor and implement existing amnesty decrees, including in relation to military conscription.

- **Right to truth and redress.** The Syrian government and all other parties to the conflict bear the legal, moral, and humanitarian obligation to clarify the fate and whereabouts of the missing and forcibly disappeared. To this effect, the Syrian government and other parties to the conflict should cooperate with the ICRC to transmit information on the whereabouts and fate of all persons in custody to their family or in the event of death to their next of kin.

The Syrian government should establish safe centers where families can request information about the fate and whereabouts of their loved ones. These safe centers should be operated or monitored by an independent entity unaffiliated with the Syrian government or any other party to the conflict, and the government should guarantee the security, integrity, and dignity of the families and the protection and confidentiality of their data.

The Syrian government should also make public its centralized system that records information about the deaths of detainees in government-controlled detention facilities, provide families with information about the causes and circumstances of the death of their relative, and make provisions for the return of the remains of those who died in detention.

An urgent rehabilitation program for released individuals should be established for the purpose of (a) providing physical and mental health care to those with physical injuries, impaired mobility, mental trauma, and other needs requiring immediate specialized or sustained medical attention; and (b) enabling released prisoners to exercise their civil, political, economic, social, and cultural rights, including the right to vote, travel, leave and return to their country, freely choose their domicile, and work in the profession of their choice.

Ideally, such a program should be funded by the Syrian government; as a more feasible alternative, the international community should commit to financing such a program as an incentive for the government to release detainees. In the case of the latter, the program should be implemented in coordination with Syrian civil society.

- **Due process standards.** The Syrian government should repeal or revise all laws that are incompatible with international law and amend them accordingly, whether totally or partially, including Counter-Terrorism Law No. 19 of 2012.

The Syrian government should ensure that all persons arrested, detained, or accused of a crime are informed of the reasons for their detention and provided with access to effective legal counsel and, where needed, free legal aid.

The Syrian government should ensure that the processes leading to the criminal prosecution of those arrested and detained meet international standards and principles of a fair and free trial. Among these principles are equality before the courts; the right to be judged by competent, independent, and impartial courts pre-established by law; the right to an effective appeal; and the principle of legality.

The Syrian government should ensure that the right to be presumed innocent, to be provided with access to legal counsel, and to effectively challenge the evidence is guaranteed to all accused, in accordance with international standards, as well as with the rights enshrined in Syria's Constitution.

The Syrian government should urgently reform the military court system by removing civilians and children from the jurisdiction of the military courts and military field courts.

- **The rights of former detainees and their families.** The governments of Syria and any states where Syrians have resettled or sought asylum should put in place enforceable measures to protect family members who are searching for detained relatives against intimidation and reprisals, including ill-treatment, extortion, arrests, and enforced disappearance.

The Syrian government and other states should cooperate with new and ongoing efforts to assess the long-term material and nonmaterial needs of released political prisoners and their families. These assessments should help to determine the economic, material, legal, and symbolic measures that could be implemented in order to acknowledge the status and experiences of and harms suffered by former political prisoners and their families as part of a series of reparations measures or a comprehensive reparations program.

The Syrian government should adopt all necessary measures (administrative, legal, regulatory, budgetary, etc.) to allow families of the forcibly disappeared to continue with their lives, including the creation of a special framework for regulating the legal status of persons whose fate is unknown (for example, a legal category such as "absence by reason of disappearance") to ensure that the relatives of the missing or forcibly disappeared can access their bank accounts and property, etc.

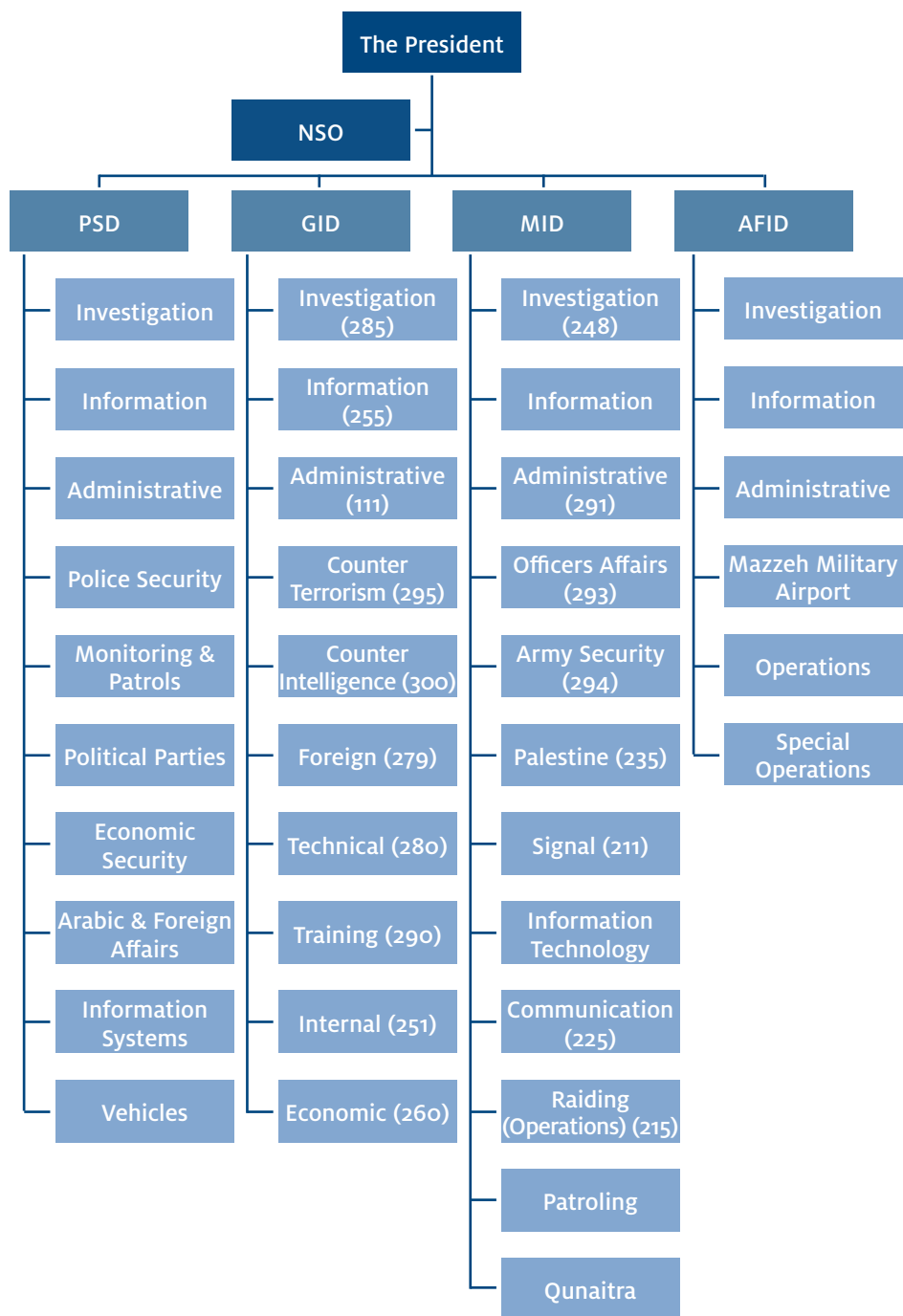
While a comprehensive reparations policy should eventually address these issues, families and former detainees should not be forced to wait longer to receive support. Their needs and rights are of utmost and immediate importance. Urgent relief programs should be implemented now to provide much-needed support—financial, legal, psychological, health, and logistical—to victims. The ultimate responsibility for implementing such measures lies with the Syrian state, but given the current reality, nongovernmental organizations, the UN and other multilateral agencies, foreign governments, donors, and other stakeholders should increase their relief efforts. Governments and international agencies, in particular, should provide ample resources to local grassroots organizations supporting families suffering the innumerable consequences of enforced disappearance, abduction, or detention of a loved one.

Recommended Steps the International Community Should Take:

- Prioritize the issue of detainees and the forcibly disappeared within the international agenda.

- Ensure that any discussions about possible future finance reconstruction projects or about the targeted and gradual lifting of sanctions are contingent on the Syrian government releasing prisoners, as well as on broader political and legal reforms and guarantees for ending repressive practices such as arbitrary detention.
- Continue to support different accountability mechanisms at the international level, such as the Independent International Commission of Inquiry, the International Impartial and Independent Mechanisms to Assist in the Investigation and Prosecution of Those Responsible for the Most Serious Crimes under International Law Committed in Syria since March 2011, the International Criminal Court, and universal jurisdiction.
- Abide by the legal obligation not to expel, return (“refouler”), or extradite persons to Syria, given the substantial likelihood that they would be arrested and tortured by Syrian authorities on their return.
- Commit to providing support and funding for a rehabilitation program for released prisoners should the Syrian government begin releasing prisoners and implementing the recommendations made above.
- Provide ample resources to civil society organizations at the international, national, and local levels, including victims’ and grassroots organizations supporting families who have suffered the innumerable consequences of enforced disappearance, abduction, and detention.
- Call on the permanent members of the UN Security Council to implement all of the related resolutions that address this issue, including UNSC Resolution 2474 (2019), on missing persons in armed conflict and UNSC Resolutions 2139 (2014), 2191 (2014), and 2258 (2015), demanding the immediate end of arbitrary detention and torture of civilians and the release of all arbitrarily detained persons starting with women and children, as well as the sick, wounded, the elderly, and UN personnel.
- Call on the permanent members of the UN Security Council, particularly the Russian Federation and the People’s Republic of China, not to veto or obstruct measures in support of the arbitrarily detained, forcibly disappeared, and missing in Syria.

Annex: Structure of State Security Agencies



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