



Crimes against Humanity in Syria

Systematic Torture to Quell Public Dissent

**Report submitted to the Committee against Torture in the
context of the special review of the Syrian Arab Republic**

20 April 2012

Alkarama recalls that it concentrates its work on four priority areas: extrajudicial executions, enforced and involuntary disappearances, torture and arbitrary detention. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

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Introduction

1. Looking back on a year full of rising hopes and escalating violence since the first demonstrations erupted in the Syrian Arab Republic in March 2011, the conclusion one is forced to make is appalling. The crisis has pushed the country to the brink of civil war and large parts of the Syrian population continue to suffer from the brutal repression by the Syrian authorities' attempt to quell public dissent as well as the dire living conditions caused by this repression.

2. In view of recent reports about massive human rights violations taking place in Syria – including the wide-spread and systematic use of torture in an atmosphere of absolute impunity – the Committee against Torture decided at its 47th session to request the Government of Syria under article 19, paragraph 1 of the Convention against Torture to provide it with a special report by 9 March 2012 and announced it wanted to review the special report at its 48th session in May 2012. Since this decision was adopted in November 2011, the situation in Syria further deteriorated as described by the second report of the Independent International Commission of Inquiry on Syria, to whose work Alkarama has contributed by providing information on individual cases of disappearances and torture. In the aforementioned report, the Commission of Inquiry concludes that Syrian government forces "have committed widespread, systematic and gross human rights violations, amounting to crimes against humanity, with the apparent knowledge and consent of the highest levels of the State."¹

3. By submitting this report, Alkarama aims to inform on violations falling under the Convention against Torture and provide crucial recommendations the Committee could make to the State party. The report gives an overview of our main concerns with a particular focus on some of the points raised by the Syrian Arab Republic in its comments and follow-up responses to the concluding observations of the Committee dated 24 August 2011.² Sharing the observations of the Commission of Inquiry with regard to the occurrence of systematic and gross human rights violation amounting to crimes against humanity, we invite the Committee to also pronounce itself on the matter as torture, according to the Rome Statutes article 7, paragraph 1(f), is an act liable to amount to crimes against humanity.

4. For this purpose, the first section of the report will outline the **context** in which gross human rights violations have been committed over the past year. The second section elaborates on the **persistence of systematic impunity**, which constitutes the breeding ground for the Syrian security and military forces' rampant human rights abuses. The third section describes the widespread use of **torture**, whereas in the report's fourth section, we chose to focus on the subject of **enforced and involuntary disappearance** as a form of torture for the victims of disappearance, but also for the relatives of disappeared persons. The last section includes information on the **persecution of lawyers and human rights defenders**. Finally, we provide a set of recommendations we consider vital to improving the current situation in Syria with regard to torture, ill-treatment and other cruel, inhumane and degrading treatment or punishment.

1. Context

5. The present section will first seek to provide information on how the Syrian opposition movement began locally in mid-March 2011 and then evolved into a sustained nation-wide movement due to the excessive use of violence by the Syrian authorities. The second sub-section will then focus on strategies of collective repression employed by the Syrian security and military services to deal with the surge in demonstrations.

1.1 Eruption of Demonstrations and Excessive State Reaction

"I stood with a group of 15 young Syrians in front of the Tunisian Embassy for a few minutes in January 2011. I chanted outside the Egyptian Embassy the same month, with dozens of activists and intellectuals. After that, I held the banner against injustice up high in front of the Libyan Embassy in Damascus. On 15 March, I shouted in Souq Al Hamidiye and I then demonstrated for one day in Al Marje square [in front of the Ministry of

¹ Report of the Independent International Commission of Inquiry on the Syrian Arab Republic to the Human Rights Council at its nineteenth session, 22 February 2012, (A/HRC/19/69), para. 126.

² Comments and follow-up responses of the Syrian Arab Republic to the concluding observations of the Committee against Torture, 24 August 2011, (CAT/C/SYR/CO/1/Add.1).

Interior]. Out of these joyful celebrations for liberty the revolution was born.” - Rody Othman, Syrian journalist and producer

6. Encouraged by political change in other Arab countries, representatives of Syrian civil society from all parts of the country started to call for demonstrations to denounce a wide range of issues such as rural poverty, excessive limits to freedom of expression and prevalent corruption in February 2011. These first attempts to build up popular pressure on the Syrian government were immediately met with a campaign of arbitrary arrests and other intimidating measures, even though the mobilisation was not aimed at bringing about political change or radical reform.³ In fact, the first calls for demonstrations did not result in more than a few public gatherings. The barrier of fear deliberately built up during the decade-long state of emergency rule of the Al Assad family remained intact and prevented mass mobilisation in the image of Tunisia, Egypt or Yemen.

7. A major turning point was reached at the beginning of March 2011, when the Syrian authorities themselves created the focal point for larger demonstrations. This was when the local Political Security service under the command of General Atif Najib arrested a group of 10- to 15-year-old boys in Deraa, close to the border with Jordan, for having sprayed revolutionary slogans on the walls of a school building. Bearing in mind the detention conditions and the systematic use of torture in the security services' detention centres, the families of the incarcerated children started to call for their release. To this aim, peaceful demonstrations were organised in Deraa and several gatherings in solidarity with the families of Deraa also took place in Damascus and other cities by mid-March.

8. It was during one of the marches held in Deraa that the first shots were fired against the peacefully-demonstrating population. In subsequent demonstrations on 18 and 20 March, the security forces again used force against the unarmed demonstrators, causing the first deaths of the Syrian protest movement. Among them were **Wessam Ayash**, **Mahmoud Al Jawabera** and **Ayham Hariri**, who were all killed by gun shot on 18 March 2011; **Raeed Al Kerd** succumbed to bullet wounds on 19 March 2011 and 11-year-old **Moemen Monzer Al Masalma** died of suffocation from tear gas on 20 March 2011.⁴ The funeral processions for the deceased then triggered further protests and renewed State violence in response, leading to further casualties and additional funeral processions.

9. In an attempt to calm the situation, President Al Assad dispatched a delegation of high-ranking officials with family ties to the region in order to display personal commitment and resolve the situation of the children. They were commissioned to negotiate a solution to the unrest with representatives of the families in Deraa. After two weeks of detention, the boys were finally released but their bodies bore marks of hideous torture. This only further increased the grievances of the residents of Deraa, who were already caught up in a circle of demonstrations, brutal repression and funeral marches turning into new protests. Appalled by the level of violence used against the citizens of Deraa, people in other parts of the country started to organise demonstrations. By 25 March 2011, demonstrations in support of the citizens of Deraa were held in places such as Al Sanamain, Latakia and Baniyas as well as in Homs and Hama. It was less the desire for change, but rather sorrow over personal loss and rage against the regime's brutality that facilitated the birth of the Syrian protest movement, which then spread across the country.

10. Alkarama had the possibility to talk to a number of Syrian refugees in Northern Lebanon in May 2011, many of whom had fled Talkalakh, a city of a little over 30'000 inhabitants next to the Lebanese border in Homs Governorate.⁵ One of the refugees confirmed that a first demonstration in solidarity with those killed in Deraa with approximately 1'000 participants had taken place on 25 March 2011. Protesting injustice and oppression, they furthermore called for the release of prisoners and demanded information on the fate of people who had disappeared. The Syrian authorities did then release approximately 40 people, but at the same time, they "started arresting prominent figures (...) such as lawyers, doctors and engineers [while] the Syrian media distorted the truth and started calling them terrorists", a refugee reported.

³ Alkarama, *Syria: persecution of many peaceful demonstrators and bloggers for having exercised their right to the freedom of expression and association*, 7 March 2011, <http://bit.ly/HlHska> (accessed 3 April 2012).

⁴ Alkarama, *Syria: Six killed in Deraa protests, cases sent to UN*, 20 March 2011, <http://bit.ly/HUjOKv> (accessed 28 March 2012).

⁵ Alkarama, *Syria: Syrian Refugees in Lebanon testify of violent attacks taking place in Syria*, 8 July 2011, <http://bit.ly/mVxuq5> (accessed 30 March 2012).

11. A first nation-wide initiative to appease the population included the adoption of decrees to increase salaries and cut taxes on 24 March. As the demands of the opposition movement had moved away from socio-economic issues and now focused on political reform, the nature of the announced measures illustrates the extent to which the Syrian authorities misunderstood the situation. In a much-anticipated presidential speech on 30 March 2011, the Syrian President again failed again to refer to the abolishment of the state of emergency, which caused further disappointment among the growing protest movement. He instead chose to elaborate on the presence of armed gangs and terrorists as well as imperialist forces threatening the security of the country.

12. A second set of measures was announced on 31 March, when the President ordered the newly created National Independent Legal Commission to investigate crimes committed in the context of the growing opposition movement. He also established a board to examine the naturalisation of members of the Kurdish minority. By the middle of April, the President had also pledged to lift the state of emergency, to abolish the Supreme State Security Court, to grant broad amnesties and promised new regulations regarding the right to peaceful demonstrations. Most of these promises were fulfilled by way of several decrees issued on 21 April 2011, whose adverse effects will be discussed in more detail in section 2 regarding the persistence of systematic impunity.

13. While these steps for potential reform were announced as of the end of March 2011, reports from Deraa indicated that the city had been isolated by security and armed forces starting from early April 2011 and was *de facto* under siege. In addition, in places like Baniyas, a coastal city in Tartus Governorate, phone lines and water were reportedly cut off in the first half of April 2011⁶; food shortage was also looming. According to the first report of the Independent International Commission of Inquiry on Syria (hereafter referred to as the Commission of Inquiry), it was in this context that the first large-scale military operations were carried out in Deraa in particular, where snipers were ordered to target peaceful demonstrators and soldiers were forced to shoot at their own people. On 29 April 2011, inhabitants of villages and cities surrounding Deraa organised symbolic marches towards the encircled city to call for an end to the siege and many demonstrations were held in other parts of the country to protest the brutal crackdown on the residents of Deraa.

14. When the armed forces finally announced they would leave Deraa on 5 May 2011, tanks began to amass around Rastan, a city further north, between Hama and Homs, and the siege on Baniyas was reinforced. On 7 May, security and armed forces raided the coastal city and arrested an estimated 500 people. A similar campaign of mass arrests was carried out in Jisr Al Shughur, close to the Turkish border, on 13 May, after large demonstrations had been held the day before. The opposition movement in Jisr Al Shughur nonetheless maintained momentum until the village was surrounded by the armed forces and placed under the control the Army on 12 June. As a result, the numbers of Syrian refugees in Turkey coming from the area around Jisr Al Shughur reached close to 12'000 by 24 June. When a large demonstration took place in Hama on 1 July, tanks invaded the city less than 24 hours later, giving rise to days of bloody reprisals against the residents and targeted arrests of leading opponents. This pattern of surging demonstrations and subsequent punitive military and security services campaigns to quell dissent has been observed throughout the year since the first protests erupted in Deraa and will be examined more closely in the following sub-section.

1.2 Patterns of Collective Repression

15. From the onset of the growing opposition movement in mid-March 2011, the Syrian government showed no intention of dealing with the demonstrations as such. Instead of initiating an inclusive and honest political dialogue, the authorities attempted to disperse the peaceful protesters with violence, causing the first death in Deraa on 18 March 2011. Spreading demonstrations and persisting calls for democratic change were met with increasing brutality, which in turn nourished the determination and despair of the citizens in the streets. This led to the first large-scale military operations in places where the peaceful opposition was particularly active, including Deraa, Baniyas or Rastan.

16. This pattern of rising dissent triggering excessive and often indiscriminate use of force can be illustrated by the information obtained by Alkarama in May 2011 during interviews with Syrian refugees from Talkalakh, Homs Governorate. As mentioned above, the first large demonstrations in

⁶ Alkarama, *Syria: Army blockade port city of Baniyas*, 14 April 2011, <http://bit.ly/erEGpL> (accessed 28 March 2012).

solidarity with the residents of Deraa took place in Talkalakh on 25 March 2011. This initial surge of protests was followed by a campaign of arrests, targeting well-known individuals, such as lawyers, medical doctors and journalists. A refugee said that it was only thereafter that people started demanding the fall of the regime. Another witness recalled that subsequent to large demonstrations on 13 May, the army greatly increased its presence until it had one division and one regiment at hand, which is said to equal about 244 military vehicles, including tanks and armoured personnel carriers. "In addition, various supporting forces from the Military Security, the Political Security, the State Security as well as the *Shabbiha*⁷ were deployed. While they were all wearing the same military uniform, we managed to distinguish them by the special shoes that the respective force uses", a refugee informed our organisation. The city was cordoned off and the subsequent coordinated attack on Talkalakh included indiscriminate shelling of several districts of the city, targeted killings by snipers, large-scale arrests and violent raids. Many of the refugees told Alkarama that food and medical supplies grew scarce due to the blockade. The refugees had in fact left their houses fleeing to Lebanon in fear for their life, knowing that members of the *Shabbiha* were ordered to chase down citizens attempting to cross the border. Regardless, around 4'000 people sought refuge in the Lebanese district of Akkar within the first week after the army started the assault on Talkalakh and their numbers rose to around 6'000 in the beginning of July 2011.⁸

17. In the initial months following the start of the protests, a growing armed opposition was added to the picture, largely consisting of groups of army defectors and armed civilians. Most defectors stem from low ranks of the army divisions who were involved in attacks against peaceful protesters. Realising they were shooting at unarmed civilians considerably increased the likelihood of defection of these conscripts, which strengthened the armed opposition.

18. In order to overcome this problem, the Syrian armed forces seem to have adapted their strategy gradually. It can now be observed that a first phase of an assault on a given city or district is aimed at weakening resistance from afar by not only isolating but also indiscriminately shelling a certain area, without consideration for any of its residents. It is only in a second phase that army units with strong ties to the Syrian regime, as opposed to regular soldiers, are sent into close combat, penetrating into densely inhabited areas. It is these units that are subsequently ordered to hunt down so-called 'terrorist groups' and carry out arrest campaigns aimed at silencing dissidents and intimidating their families, friends and larger support networks.

19. Among the places that came under attack in this manner are Rastan in September 2011, Homs, Hama, Deraa and Deir Al Zur in November, several villages in Idlib Governorate in December and Al Zabadani in January 2012. Much international media attention was given to the shelling of Bab Amr district in Homs, where a Free Syrian Army group had established a base. The State forces' attack on Bab Amr had lasted for over three weeks when, on 1 March 2012, the Free Syrian Army group announced its withdrawal from the district. Members of the Fourth Armoured Division under the command of the President's brother Maher Al Assad had invaded the area the day before.

20. As a result of the army's indiscriminate assaults, residents of entire cities come under attack without being given the possibility of escaping the bombardments. The assaults on residential areas and the concurrent blockades often prevent them from leaving their houses, let alone moving to a safe place. The injured and ill are prevented from receiving appropriate medical care and families suffer from hunger and cold to the point that one of the main concerns of the international community is humanitarian access to the most affected parts of the Syrian population, as reflected in United Nations and the League of Arab States Joint Special Envoy's six-point plan.

21. During the months of excessive use of force by the Syrian authorities against civilians and a growing armed opposition, the international community has not been able to adopt a strong stance in response to the situation. This apparently encouraged the Syrian authorities to further escalate the violence. Even now, after the Syrian government accepted the Joint Special Envoy's six-point plan on 27 March 2012 and despite their formal commitment to a ceasefire enforceable as of 12 April 2012, further clashes were reported and the violence against the civilian population continues, which implies that the Syrian authorities have again not honoured their commitments.

⁷ The term *Shabbiha* refers to a militia loyal to the Syrian government and especially the presidential family. The militia is, according to the first report of the Commission of Inquiry "composed of an estimated 10,000 civilians, who are armed by the Government and are widely used to crush anti-Government demonstrations alongside national security forces."

⁸ Alkarama, *Syria: Syrian Refugees in Lebanon testify of violent attacks taking place in Syria*, 8 July 2011, <http://bit.ly/mVxuq5> (accessed 30 March 2012).

2. Persistence of Systematic Impunity

22. In Alkarama's last report to the Committee against Torture (hereafter referred to as the Committee) on the situation in the Syrian Arab Republic, submitted in view of the review of the State party's initial report in May 2010⁹, we pointed out a set of decrees and articles of the 1973 Constitution granting *de facto* immunity from judicial prosecution to state officials. Elements nourishing the lack of accountability for acts committed while on duty are the state of emergency, in force since 1963, the Supreme State Security Court (SSSC) responsible for trying political opponents and critics of the regime without basic fair trial guarantees, as well as the multitude of competing and largely autonomous security services. Gradually, an atmosphere of complete impunity for members of the security and military forces was established, which has constituted the backdrop for the rampant use of violence by State forces against the civilian population since March 2011.

23. The Syrian authorities claim to address systematic impunity as well as other subjects of concern and recommendations noted by the Committee in its concluding observations by way of a so-called 'comprehensive reform process'. Weeks after the first demonstrations erupted in Deraa and spread to other cities across the country, President Al Assad did in fact announce some initial measures designed to soothe growing popular anger against the government. Whereas some concessions to the Kurdish minority and the creation of a committee mandated to examine economic and social measures to raise living standards were made, this did not address the core demands of the young opposition movement. A number of decrees issued on 21 April 2011 drew more attention and deserve to be closer analysed for the purpose of this report. Among these decrees are presidential decree No. 161 of 2011 lifting the emergency law, legislative decree No. 53 of 2011 abolishing the SSSC as well as legislative decree No. 55 of 2011 regulating the competencies of the judicial police.¹⁰ Further core elements of the so-called comprehensive reform process are the creation of the National Independent Legal Commission and the National Dialogue Commission, a set of amnesties, new decrees relative to the regulation of media and political parties and, most notably, a new Constitution, which came into force on 27 February 2012.¹¹ In this section, we will discuss and analyse these measures to determine whether they merit recognition as a genuine reform process.

2.1 Legislative Changes

24. The **state of emergency**, based on legislative decree No. 51 of 22 December 1962, was in force for 48 years from 8 March 1963 until 21 April 2011. Article 4 of legislative decree No. 51 of 1962 on the establishment of the state of emergency contains an extensive list of measures the Military Governor or his deputy can adopt. In addition to seriously limiting citizens' freedom of expression and breaking down legal safeguards relating to privacy, the same article also allowed for the Military Governor or his deputy, respectively, to order the detention of suspects or individuals 'threatening public security'. This led, in practise, to the Minister of Interior in his capacity as Deputy Military Governor signing off on long lists of 'suspects' to be arrested without a judicial warrant. The provision further granted the security services leeway in handling detainees, resulting in high numbers of individuals secretly or arbitrarily detained, or both, deliberately deprived of the protection of the law and tortured.

25. Following the lifting of the state of emergency in line with presidential decree No. 161 of 21 April 2011, as well as the abolition of the SSSC according to legislative decree No. 53 of the same day, the practice of extensive or secret pre-trial detention, or both, without legal protection of the detainees should have disappeared. The Syrian authorities even implied in their reply to the Committee's recommendations regarding secret detention centres that legislative decree No. 55, also of 21 April 2011, provided for all detainees to be placed under the protection of the law. According to their response, the question of secret detention centres is settled because the aforementioned

⁹ Alkarama, *Syria: The Permanent State of Emergency – A Breeding Ground for Torture*, 9 April 2010, <http://bit.ly/HqdHMe> (accessed 1 April 2012).

¹⁰ The texts of presidential decree No. 161, legislative decree 53, 54 and 55 of 21 April 2011 can be found in Arabic at <http://www.sana.sy/ara/360/2011/04/22/342709.htm> (accessed on 2 April 2012) and the incomplete official translation into English is available at <http://www.sana.sy/eng/361/2011/04/22/342711.htm> (accessed on 2 April 2012).

¹¹ The text of the new Syrian Constitution is available at <http://www.sana.sy/eng/370/2012/02/28/401178.htm> (accessed on 2 April 2012).

decree sets out regulation on how law enforcement officers and those deputized to carry out their tasks are to proceed by amending article 17 of the Code of Criminal Procedure.¹²

26. However, some elements of the new Code of Criminal Procedure article 17, paragraph 3, give rise to concern. The article stipulates that the judicial police and those mandated by it, which is to say any of the security services or the *Shabbiha*, are competent to investigate offences against 'State security' and 'public safety'. This shows that the Syrian government had no intention of restricting the security services' autonomy and competencies when abolishing the state of emergency. Even though it is further noted that a suspect may not be held for more than seven days, renewable by the Public Prosecutor for up to 60 days, the lack of independence of the judiciary and its close collaboration with the security services ensures that the measures provided for by article 4 of the state of emergency law are carried over into decree No. 55 of 2011 when it comes to prolonged secret detention. The recommendations issued by the Committee with regard to the effective fundamental legal safeguards for detainees have therefore clearly not been implemented by the Syrian authorities.

27. In fact, the security services do not even seem to respect the sixty-day-period. Well-known 64-year-old political activist **Georges Sabra**¹³, for example, was arrested at his home in Qatana, Rif Damascus Governorate, on 10 April 2011, presented before a judge four days after his arrest and accused of spreading false information. After being transferred to Damascus Central Prison in Adraa, he was released on bail on 10 May 2011. Mr Sabra was, however, re-arrested on 21 June 2011 and the Damascus branch of the Military Intelligence held him in secret detention for the following 67 days. He was finally released on 19 September 2011. In the case of **Jwan Ayo**¹⁴, a 30-year-old human rights defender from Ras Al Ain, Al Hasakah Governorate, the secret detention even lasted for 87 days from 4 September 2011 until 30 November 2011. Others like the poet and writer **Deyaa Al Abdullah**¹⁵ from Al Thalath village west of Al Suweyda are arrested and remain disappeared until now. Mr Abdullah was abducted by agents of the Political Security on 29 June 2011 and his fate and whereabouts remain unknown.

28. Another set of new decrees, regulating subjects such as the right to demonstrate (legislative decree No. 54 of 21 April 2011) the work of journalists (legislative decree No. 108 of 28 August 2011), should be mentioned when discussing the perpetuation of measures previously provided for by the state of emergency. Legislative decree No. 54 of 21 April 2011 is supposed to protect citizens' right to freely express their opinion in peaceful demonstrations, but at the same time labels all unauthorised gathering as 'riots', punishable by a prison term of up to a year, according to article 335 of the Syrian Code of Criminal Procedure. The decree on the work of journalists emphasises the importance of protecting journalists' access to information or the protection of their sources, but it also severely restricts the range of topics journalists are allowed to report on. It stipulates that "any content that affects national security [or] content that has to do with inciting crimes, acts of violence and terrorism" as well as any "news and information related to the Army and the Armed Forces except those issued by the Army and the Armed Forces and permitted to be published".¹⁶

29. The second dimension of the so-called comprehensive reform process was the elaboration and adoption of a **new constitution**, which entered into force on 27 February 2012 after a popular referendum held amid growing armed violence in many parts of the country. It has to be said that the new text contains some improvements. This concerns in particular the new article 8, which breaks with the one-party-rule of the Baath party and allows for a multi-party-system. However, the essential principle of separation of powers is still not included into the 2012 Constitution; the articles relating to the pre-eminence of the executive power over the judiciary remain unchanged. Article 133, paragraph 1 namely states that "[t]he Supreme Judicial Council is headed by the President of the Republic" and, paradoxically, paragraph 2 of the same article continues in the same vein,

¹² *Comments and follow-up responses of the Syrian Arab Republic to the concluding observations of the Committee against Torture*, 24 August 2011, (CAT/C/SYR/CO/1/Add.1), para. 49.

¹³ Alkarama, *Syria: Leading member of the Syrian Democratic People's Party Georges Sabra disappeared for third time in 3 years*, 9 August 2011, <http://bit.ly/HPJ18w> (accessed 31 March 2012).

¹⁴ Alkarama, *Syria: Political Security disappear a young human rights defender from Al Hasakah*, 26 September 2011, <http://bit.ly/p5NJ3Z> (accessed 31 March 2012).

¹⁵ Alkarama, *Syria: Arrest and enforced disappearance of respected poet*, 27 September 2011, <http://bit.ly/I18mhP> (accessed 31 March 2012).

¹⁶ SANA, *Legislative Decree No. 108 of 2011*, 28 August 2012, <http://www.sana.sy/eng/361/2011/08/29/366490.htm> (accessed 26 March 2012).

stipulating that the same Supreme Judicial Council is the body mandated to guarantee the independence of the judiciary. Furthermore, the Syrian authorities affirm that “decisions on judicial appointments, promotions, transfers, discipline, dismissal, retirements, provisional retirements and resignations are all taken by presidential decree”¹⁷, which again endorses presidential control over the Syrian judiciary. This has resulted in the ongoing partiality of courts and tribunals, in violation of articles 2 and 11 of the Convention against Torture (hereafter referred to as the Convention).

30. With regard to torture itself, the provisions of the new constitution are identical to the text of 1973. Article 53, paragraph 2 of the 2012 constitution mentions the prohibition of torture and refers to the law for eventual sanctions. But the relevant passages of the Code of Criminal Procedure have not been amended or revised since the first exam of the State party before the Committee in 2010. The recommendations in this regard, first and foremost the incorporation of a definition of torture in full conformity with article 1 of the Convention, as well as the effective criminalisation of torture in accordance with article 4 of the Convention, have not been implemented.

2.2 Supposed Investigations

31. In its concluding observations regarding the consideration of the Syrian initial report, the Committee repeatedly recommended the State party should “[i]n order to combat impunity, immediately adopt all necessary measures to ensure, in practice, prompt, impartial and effective investigations into all allegations of torture”.¹⁸ Prosecution and appropriate punishment of those found responsible of acts in violation of the provisions of the Convention should follow these investigations. The Committee further recommended to urgently and effectively establish a fully independent complaint mechanism to support the State party’s efforts to combat impunity.¹⁹ However, the Syrian authorities failed to implement these recommendations.

32. President Assad established the **National Independent Legal Commission** in his function as chairperson of the Supreme Judicial Council following the first few weeks of violent repression against demonstrators in Deraa and Latakia. Its mandate was later extended “to carry out comprehensive investigations into crimes committed in the context of the crisis”²⁰ and sub-commissions of prosecutors as well as investigative judges in all governorates were constituted. A hotline and a website were supposedly set up to receive information and complaints²¹ and the Commission was formally granted access to all sources necessary to carry out its work. The Syrian government stated in its note verbale of 23 January 2012 to the International Independent Commission of Inquiry that within the ten months of its existence, the Commission had investigated over 4070 cases.²²

33. Sources close to the opposition movement, however, count 10,000 to 12,000 deaths, 20,000 disappearances and 120,000 arbitrary detentions as of mid-March 2012. Taking into consideration these numbers already indicates that the work of the National Independent Legal Commission cannot be considered exhaustive, leaving many crimes uninvestigated. Given the reservations formulated by international experts on the partiality of judges and lawyers in Syria, it is difficult to believe that the investigations carried out by the Commission and its branches were truly independent. Alkarama is in fact not aware of any investigations having led to the incrimination and persecution, let alone the punishment, of alleged perpetrators, more than a year after the first people were killed in Deraa on 18 March 2011.

34. By way of example, a complaint was filed by a collective of lawyers against General Atif Najib, cousin of the Syrian President, and responsible for the incarceration and savage torture of the minors in Deraa – events which set off the first notable demonstrations a year ago. However, despite the clearly established role of General Najib in this incident, he merely lost his job and was

¹⁷ *Comments and follow-up responses of the Syrian Arab Republic to the concluding observations of the Committee against Torture*, 24 August 2011, (CAT/C/SYR/CO/1/Add.1), para. 35.

¹⁸ Committee against Torture, 44th session, *Concluding observations of the Committee against Torture on the initial report of the Syrian Arab Republic*, (CAT/C/SYR/CO/1), 25 May 2011, para. 7.

¹⁹ Committee against Torture, 44th session, *Concluding observations of the Committee against Torture on the initial report of the Syrian Arab Republic*, (CAT/C/SYR/CO/1), 25 May 2011, para. 16.

²⁰ *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic to the Human Rights Council at its nineteenth session*, 22 February 2012, (A/HRC/19/69), para. 84.

²¹ *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Syrian Arab Republic to the Human Rights Council at its eighteenth session*, 15 September 2011, (A/HRC/18/53), annex II.

²² *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic to the Human Rights Council at its nineteenth session*, 22 February 2012, (A/HRC/19/69), annex XI.

never held accountable before a court of law. The collective of lawyers was not informed of the follow up given to their complaint, if any was carried out. Again, we conclude that the Syrian authorities clearly fail to effectively carry out prompt and impartial investigations.

35. Finally, the National Independent Legal Commission cannot be considered an effective complaint mechanism in the sense recommended by the Committee²³ as many citizens either do not know about the Commission or are afraid of filing a complaint with it. In fact, none of the 3229 cases from Syria Alkarama treated in 2011²⁴ had been brought to the attention of the Commission previously, in many cases because our sources feared reprisals. This report provides further information on this topic in section 4.2.

36. These points give rise to serious concerns over the willingness of the Syrian authorities to prosecute and appropriately punish the perpetrators of crimes – including torture – against the civilian population. Moreover, the reference to the aforementioned Commission is used on an international level to delay cooperation with international bodies such as the Commission of Inquiry²⁵ and effective international investigations into the crimes committed in the context of quelling popular dissent are thereby circumvented.

37. Therefore, the overall effectiveness of the measures taken in the context of ‘comprehensive reforms’ is highly questionable. Despite the veneer provided by the abolition of the state of emergency and the SSSC, the revision of the constitution as well as the creation of bodies such as the National Independent Legal Commission, the atmosphere of systematic impunity persists.

3. Systematic and Widespread Use of Torture

38. The atmosphere of impunity described in section 2 – which results in an absolute lack of accountability of security personnel for crimes committed on duty – leads among others to the deliberate use of torture by all security forces across the country. Torture range from intimidation and insults upon arrest, over routine beatings with or without devices, whipping with cables, burning, pulling out finger nails to being forced to witnessing family or friends being tortured or even torture by sexual abuse. These acts are directed against all parts of society, including in particular human rights defenders, peaceful demonstrators and other individuals sympathising with the opposition movement. The present section will seek to identify certain security services and detention centres involved in the commission of torture. To this aim, we will first present a number of individual cases of torture, which Alkarama was informed of over the course of the last year, and then describe patterns of collective repression, which we consider to amount to torture as well.

39. As described in Alkarama’s report submitted in view of the review of the State party’s initial report in May 2010, many competing security services coexist in Syria.²⁶ Most of them are organised in local branches per governorate, with headquarters in Damascus, and they enjoy large autonomy with regard to arrest, detention and investigative powers against suspects and political opponents in and particular. In addition to the armed forces under the responsibility of the Ministry of Defence, the regular police forces controlled by the Ministry of Interior as well as the *Shabbiha*, the most important security services responsible for cases of torture Alkarama was informed of are:

- the State Security, overseen by the General Intelligence Directorate, which is headed by General Ali Mamluk and formally incorporated into the Ministry of Interior;
- the Political Security, overseen by the Political Security Directorate and headed by General Mohammed Dib Zaitoun;
- the Air Force Intelligence, headed by Major General Jamil Hassan;
- and the Military Intelligence, headed by General Abdul Fatah Qudsiya.

40. Every building of any given security service can potentially be used as a place of detention, which makes it hard for relatives to search for family members that have been arrested and are secretly detained. Frequent transfers of detainees across the country add a further degree of complication to establishing the whereabouts of an arrested individual. People who are arrested by

²³ Committee against Torture, 44th session, *Concluding observations of the Committee against Torture on the initial report of the Syrian Arab Republic*, (CAT/C/SYR/CO/1), 25 May 2011, para. 16.

²⁴ Alkarama, *Annual Report 2011*, 27 March 2012, <http://bit.ly/zu3dRY> (accessed 5 April 2012), map.

²⁵ *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic to the Human Rights Council at its nineteenth session*, 22 February 2012, (A/HRC/19/69), annex XI.

²⁶ Alkarama, *Syria: The Permanent State of Emergency – A Breeding Ground for Torture*, 9 April 2010, <http://bit.ly/HqdHMe> (accessed 1 April 2012), page 12.

the Air Force Intelligence in Qamishli, for example, seem to be transferred relatively quickly to a detention facility in Deir Al Zur where all detainees from the eastern region composed of Al Hasakah Governorate, Deir Al Zur Governorate and Al Raqqa Governorate are assembled until they reach a certain number. The whole group is then transferred to the Air Force Intelligence's Aleppo branch, to where all the detainees from the northern area are brought. From this Air Force Intelligence detention centre in Aleppo, less important individuals might be released, whereas more influential activists are again transferred, this time to the capital. Other security services also seem to have their principal detention facility in Damascus. Among these detention centres are, according to the information we have received while working on individual cases of torture:

- the State Security's Al Khatib prison in the centre of Damascus as well as its 'Centre 285' in the district of Kafar Souse of Damascus;
- the Political Security detention centre in Al Fayha district of Damascus;
- the Air Force Intelligence detention centre in Al Mazza military airport on the outskirts of Damascus;
- and the Military Intelligence's Palestine detention centre in Damascus.

41. During large arrest campaigns in which several security services and even members of the armed forces participate, public squares, sport stadiums or even schools are used as makeshift detention centres. Such arrest campaigns carried out jointly by several security services make it particularly difficult to establish the whereabouts of arrestees, as they could be held in any of the detention centres of the security services involved. This further facilitates secret detention and enforced disappearance, as described in more detail in section 4 of the present report.

42. With regard to irregular detention facilities and large-scale arrest campaigns, a Syrian refugee, interviewed by Alkarama's representative in Lebanon, reported in May 2011 that "in Talkalakh (...), a station of the traffic police on the main street to Homs is used as a detention centre. Dozens of people who were rounded up during the raids were detained there for a short period before being transferred to the Military Intelligence prison in Homs."²⁷ Alkarama was also informed of such arrest campaigns in villages near the besieged city of Baniyas in the first half of April 2011. Many of these arrested were released during the hours and days following the raid; some gave testimony of their experiences, indicating that the arrests had been carried out without the intention of questioning anyone. The sole aim, as described by the young men, seemed to be to intimidate and humiliate the local population.²⁸

43. Alkarama is concerned that the Syrian authorities have not undertaken the necessary steps to effectively monitor these countless places of detention. The International Committee of the Red Cross (ICRC) visit to Damascus Central Prison in Adraa, for example, was not followed up by further visits to the same or other institutions due to lack of cooperation by the Syrian authorities. This implies a lack of political will to monitor detention facilities or allow others to do so. Shortly after the ICRC delegation visited Damascus Central Prison, Alkarama was approached by a recently released detainee. He claims that the ICRC delegation had been shown most of Damascus Central Prison, with the exception of a facility in which individuals formerly detained at Sednaya Military Prison were held. This, again, underlines an apparent lack of political will to actively ensure the highest possible standard of detention conditions and to implement the Committee's recommendations concerning "urgent measures to bring the conditions of detention in police stations, prisons and other detention facilities into line with the Standard Minimum Rules for the Treatment of Prisoners."²⁹ This leaves further room for security personnel to torture and abuse detainees. Alkarama has been informed of many individual cases of torture, some of which we would like to provide as examples below.

3.1 Individual Cases of Torture

44. An especially shocking case of torture concerns dozens of **children from Daraya**³⁰, aged between 13 and 17 years, who were savagely tortured at the Air Force Intelligence detention centre in Al Mazza military airport on the outskirts of Damascus. Alkarama was informed that the minors

²⁷ Alkarama, *Syria: Syrian Refugees in Lebanon testify of violent attacks taking place in Syria*, 8 July 2011, <http://bit.ly/mVxuq5> (accessed 30 March 2012).

²⁸ Alkarama, سوريا: شهادات تثبت تعرض معتقلين للتعذيب في الأحداث الأخيرة (Syria: Testimonies of detainees tortured during the recent events), 18 April 2011, <http://bit.ly/fGZlCJ> (accessed 30 March 2012).

²⁹ Committee against Torture, 44th session, *Concluding observations of the Committee against Torture on the initial report of the Syrian Arab Republic*, (CAT/C/SYR/CO/1), 25 May 2011, para. 30.

³⁰ Alkarama, *Syria: 40 minors from Daraya tortured or detained at high risk of torture*, 17 October 2011, <http://bit.ly/HcOeev> (accessed 3 April 2012).

were subjected to a variety of torture methods. Some of them had been put in stress positions by being tied up and lifted off the floor, hung from sensitive parts of their bodies including their genitals. Others had slabs of damp concrete, which is particularly heavy, broken on top of their heads. Many were subjected to savage beatings. In addition, the detention conditions were deplorable, with, at times, 35 individuals sharing a 20m²-cell and limited access to sanitary facilities, if at all. The minors were in general treated like their fellow adult detainees, sharing the same facilities, food and being tortured in the same way. Currently, at least 57 minors from Daraya, who were arrested between 30 June 2011 and 13 April 2012, remain in custody or have disappeared.

45. Our sources confirm that not only these minors, but also many adult activists from the surrounding cities or from the rest of the country, are also held at the same Air Force Intelligence detention facility in Al Mazza military airport. They are usually held in secret detention and are severely tortured. As was the case with **Ghayath Mattar**³¹, this can have fatal consequences. Agents of the local Air Force Intelligence branch arrested 26-year-old Mr Mattar in Sahnaya, Rif Damascus Governorate, on 6 September. Four days later, his body was returned to his family, bearing clear marks of torture.

46. Another person killed as a result of torture is **Fahd Ali Adnan**³² who was arrested by State Security agents at Badran Printers in Duma, close to Damascus, on 31 July 2011. The same day, he was seen at Al Khatib prison in the centre of Damascus, a detention facility under the direct supervision of the State Security. Fellow detainees later reported that on 2 August 2011, Mr Adnan was brought back into his cell after having been subjected to severe torture. He started to have convulsions shortly thereafter and despite the efforts of other detainees, he passed away later the same day.

47. Further deaths under torture that caused outcry include the passing away of 13-year-old **Hamzeh Ali Al Khatib** and 15-year-old **Thamer Mohammed Al Shari**.³³ They participated in a march towards Deraa on 29 April 2011 to protest against the joint military and security forces' siege of the city. When the group of approximately a hundred people approached a barrier set up by the armed forces, they came under attack and many of the participants were arrested. Both of the boys' bodies were later returned to their families, carrying marks of the torture to which they had been subjected.

48. In mid-May, residents of Deraa made another horrifying discovery, when over ten bodies were found in what appeared to be a mass grave. Residents were able to identify some of them before security agents came to cordon the area off in an apparent effort to prevent information on the incident from being disseminated. Regardless, Syrian human rights organisations reported on the mass grave, saying that some of the bodies allegedly bore marks of torture and others seemed to have been executed. It was said that the individuals had been arrested by the Syrian authorities in late April 2011 when Deraa had been under siege.

49. As in the case above, the lack of effective investigations as well as the state-lead efforts to cover up facts and silence journalists and human rights activists make it difficult to quantify the deaths caused by torture since the beginning of the demonstrations in mid-March 2011. Sources differ considerably, but the Syrian Human Rights League, for example counted at least 524 deaths under torture until 7 March 2012, close to one year after the demonstrations started.³⁴

50. A security service known to directly target human rights activists and political opponents is the Political Security. Agents from this force arrested 29-year-old **Hanadi Zahlout**³⁵ on 4 August 2011, alongside a group of young men and women at a café in Jaramana, a city in Rif Damascus Governorate, approximately 10km southeast of Damascus. From there, she was brought to the Political Security detention centre at Al Fayha, Damascus. A person detained with Ms Zahlout was released a few days later and reported that Ms Zahlout had been put under severe pressure to provide the Political Security with information on her alleged role in organising demonstrations.

³¹ Alkarama, *Syria: Disappeared human rights defender Yahya Al Shurbaji at risk of torture*, 26 September 2011, <http://bit.ly/HhpkI3> (accessed 29 March 2012).

³² Alkarama, *Syria: A detainee killed in prison*, 19 August 2011, <http://bit.ly/HcMqlJ> (accessed 29 March 2012).

³³ Alkarama, *Syria: Extra-judicial killings continue in Syria*, 24 June 2011, <http://bit.ly/iUVizP> (accessed 31 March 2012).

³⁴ Syrian Human Rights League, *وفاة معتقلين تحت التعذيب في سجون المخابرات السورية* (*Death under torture of detainees in the prisons of the Syrian security services*), <http://bit.ly/I4CtII> (accessed 4 April 2012).

³⁵ Alkarama, *Syria: Hanadi Zahlout, young activist, detained by security forces*, 16 August 2011, <http://bit.ly/n43Ngc> (accessed 30 March 2012).

Among others, she had allegedly been forced to witness one of her fellow detainees being tortured in front of her. Regarding her detention conditions, Ms Zahlout later reported the following: "I spent 50 days in a dark 2x1m-cell, full of insects, empty except for a dirty blanket. I spent another ten days sharing a 2x3m-cell with **Malak Al Shanwani** and for the full 60 days, I slept on the floor. (...) I was prevented from contact with the outside world (...) and I did not see the sun and breath fresh air for the first month of my detention."

51. On 3 October 2011, Ms Zahlout was finally brought before a judge in the Damascus courthouse where she informed Judge Ahmad Al Sayed of the torture and ill-treatment she had suffered. She asked this information to be taken into consideration but was nonetheless charged of various crimes, including participation in 'riots'. Ms Zahlout was finally released on 1 December 2011 but her trial is still ongoing (also see paragraph 85 below).

52. The same security service are also responsible for the arrest and torture of many political activists in the northeastern Al Hasakah Governorate. Among them are a group of **13 human rights activists from the Assyrian Democratic Organisation**³⁶ who were arrested by agents of the Political Security and the Military Intelligence in Al Qamishli, Al Hasakah Governorate on 20 May 2011. Without being shown an arrest warrant, the group was taken to a building of the local Political Security branch where they were held until 26 May 2011. While in detention, they were severely beaten and subjected to humiliating treatment.

53. Another case of torture of a peaceful activist concerns 29-year-old **A.**³⁷, who was arrested in the Bab Sharqi area of the old city of Damascus while spraying anti-government slogans. He had participated in demonstrations since March 2011, "but as time passed and the suppression escalated, that wasn't satisfying for me anymore and I thought of doing something that is more expressive but yet peaceful, something that would spread the spirit of the revolution as well as encourage others to participate", he said. On the night of 8 to 9 July 2011, he and two friends decided to spray slogans such as "Down with the regime" or "Long live free Syria" on walls in different districts of the city. They had passed through the areas of Souq Saruja and Al Hariqa without problems but when spraying "Down with Bashar Al Assad" on a wall in the Bab Sharqi area, he noticed too late that the inhabitants of a house close by were observing him. Several men emerged from the house, at least one of them holding a knife, and Mr A. started to run. Finding shelter in a house in the Bab Tuma area first, he was nonetheless arrested by police officers who handcuffed him and drove him away in their car. It was in this car on their way to the Bab Tuma police station that Mr A. was beaten on his head, neck and back a first time. Stopping briefly at the police station, more police officers got into the car and started to hit him as well, mainly on his face, and spit at him. Upon arrival at the Bab Musala branch of the judicial police, he was handed over to Major Zine Al Abidin Mohammed. While mounting the stairs to the Major's office on the third floor, he was again physically assaulted by three *Shabbih*, before being beaten up, verbally assaulted and threatened with castration by the Major. Over the following days, Mr A. was repeatedly subjected to savage beatings while being held in a solitary confinement cell of a surface of 2 m², with only a dirty blanket in it, scarce food and water and with rare access to sanitary facilities. During interrogations, he was asked why he had sprayed the slogans, who had pushed him to do so and who had paid him for this.

54. On the third night of solitary confinement, Mr A. was not able to bear the detention conditions anymore. He decided to cut himself with a small piece of ceramic he had found, thinking that this would send a clear message to the Major and that he would be placed in a cell together with other people. "So I used [the sharp edge of the ceramic shard] and started making cuts in my forehead and hands; my intention was to make serious cuts that would draw lots of blood, cause I was fearing that in case it fails, I would be facing serious punishment, so I kept making deeper cuts in my forehead (...) while banging on the door, calling on the guards," he recalls. He was then brought to a doctor, less for medical treatment than to obtain a document proving that he had not been harmed. He was then placed in a cell with other protesters who had recently been arrested.

55. On 14 July, Mr A. was transferred to a branch of the Political Security, where he shared a 3x4m-cell with another detainee. Nine days of interrogations followed, mainly aimed at

³⁶ Alkarama, *Syria: Persecution of 13 Assyrian human rights activists*, 30 May 2011, <http://bit.ly/jnur6Y> (accessed 30 March 2012).

³⁷ Alkarama, *Syria: Systematic pattern of enforced disappearance*, 28 July 2011, <http://bit.ly/n67lAc> (accessed 4 April 2012).

understanding the motives and ideas behind his political activism. He was finally brought before a judge in the Damascus courthouse on 23 July. A day later, Mr A. was charged with incitement of riots, causing sectarian strife, weakening the national sentiment and inciting others to commit crimes. The judge issued an unlimited detention warrant against him. He was then placed in the first ward of Damascus Central Prison in Adraa which, he says, was heaven compared to the detention facilities of the security services. "[W]e were put in group chambers. Each one is designated for 32 prisoners, but the number could be as high as 50 or 60. I was even told that it reached 115 when the uprising started back in March. Most detainees at that time were from Deraa. Normally, you are entitled to a bed, but you would need to wait for your turn to get one since [the cell] is already over-crowded (...), so I had to wait for 20 detainees ahead of me before I could get a bed." Mr A. was released on bail on 11 August 2011; his trial is ongoing.

56. During his third detention period from 4 August to 30 November 2011, 25-year-old **Rody Othman**, a Syrian journalist and producer, was accused of similar crimes as Mr A. He was arrested a first time in spring 2004 when unrests took place in the Kurdish areas of Syria. Wearing a school uniform and holding nothing but his books, the then 17-year-old was abducted by members of the State Security. "I was thrown into a cell after being beaten (...). I was thrown into a strange world where my nails were pulled out and my body was whipped. But I was released after two months of daily suffering", adding that he had been on hunger strike for 25 days before he was freed.

57. In January 2011, Mr Othman was one of the activists to participate in the very first demonstrations. This is the context in which he was arrested a second time by State Security agents on 27 May 2011 while participating in a protest in Al Midan district in Damascus:

"In the streets, beautiful voices carry the dream of freedom and I love that my voice is one of them. But during a demonstration in the district of Al Midan in Damascus on 27 May, they took me away from the streets again. It was the same section [State Security] and the same cruelty. But this time it was shorter; it lasted only for three days. Afterwards, I went out again, free to find my voice once more."

58. Mr Othman continued to document the demonstrations, reporting to international media and producing a documentary on the protest movement in the Kurdish areas of the country. Shortly after the documentary was finished, he arrested by Political Security on 4 August 2011 and remained in custody for close to four months until 30 November 2011. Regardless, he then returned to the streets, tirelessly working to record and film 'the uprising'.

59. On 15 March 2012, Mr Othman was arrested a fourth time, again while participating in a demonstration, this time on Al Hamra Street, Damascus. Again arrested by agents of the State Security, he found himself back in the same cell where he had been held in 2004. He was again subjected to torture and then released on 27 March 2012.

3.2 Ill-treatment on a Collective Basis

60. Alkarama also wishes to draw the attention of the Committee to what we consider **collective cruel and inhumane treatment**. As described in section 1.2 on patterns of collective repression, the Syrian authorities systematically punish villages, districts or cities for increased public dissent in the form of demonstrations or the presence of armed Free Syrian Army groups. This was the case with the city of Talkalakh, close to the Lebanese border in Homs Governorate, which is also mentioned earlier in this report. After large demonstrations in Talkalakh on 13 May 2011, the Syrian armed forces, supported by members of the Military Intelligence, Political and State Security as well as the *Shabbiha*, greatly increased their presence, as reported by a Syrian refugee in northern Lebanon to whom Alkarama spoke.³⁸

61. In the following days, at least four districts of the 30'000-inhabitant city were subject to indiscriminate shelling and protesters were killed by snipers shooting from the roofs of buildings such as hospitals and even mosques. One of the refugees said that there were about 23 *Shabbihs* on the roof of the national hospital in Talkalakh, as well as on the trade school, the roof of Uthman bin Affan Mosque. There were also barricades for snipers on some street corners. Many other civilians were allegedly executed while in custody; others died on their way to the Syrian-Lebanese border when they came under fire from the Syrian side. It seems to be the *Shabbiha* who are largely

³⁸ Alkarama, *Syria: Syrian Refugees in Lebanon testify of violent attacks taking place in Syria*, 8 July 2011, <http://bit.ly/mVxuq5> (accessed 30 March 2012).

responsible for “pursuing and chasing those who are about to flee to Lebanon (...) in an attempt to conceal the truth of what is happening”, maintains another witness.

62. Asked about access to medical care, the refugees said that the national hospital in Talkalakh had been transformed into a centre used for detention and executions and had become a trap for the injured and wounded. “Many of those injured cannot leave the hospitals, except as corpses. (...) Some of the corpses are thrown out onto the streets so that no one can doubt that they were killed in the hospital.” This is why “no one dares take the injured to the hospitals, despite an urgent need for medical care” regardless of the fact that there is no other health care available.

63. Regarding the situation in Talkalakh, two weeks after the first attack in mid-May 2011, witnesses confirm that the city was besieged and thus isolated from the rest of the world. Electricity and phone lines were cut; bakeries and water reservoirs were targeted during the shelling. Most residents refused to leave as they were afraid of being killed on their way to the border. The fact that many took the risk to flee the country, despite the possibility of being chased down and shot, shows the degree of anguish they must have been exposed to while living in the city.

64. Media reports and eyewitnesses have reported similar situations in other cities across the country, including Homs, Hama, Jisr Al Shughur, Rastan, Idlib, Baniyas, Deir Al Zur, Al Zabadani and Deraa. These attacks on entire cities, districts or villages seem to be carried out systematically as there appears to be a high level of organisation and coordination between different security services responsible. According to the report of the International Independent Commission of Inquiry on Syria, this establishes the responsibility of the Syrian State for the acts described above. In addition, the sieges, raids, targeted killings and summary executions, the isolation from the outside world as well as the scarcity of water, food and medical care cause anxiety, which Alkarama considers to be an intentionally created mental suffering inflicted upon the population of a given area as punishment. We therefore invite the Committee to examine whether these acts of collective repression should be considered cruel and inhumane treatment.

65. We submit that the torture and ill-treatment and cruel, inhumane and degrading treatment or punishment described above – both individual and collective – represent a pattern, and are of such regularity and frequency that they must result from orders handed down directly from the Syrian executive. This policy of targeting the civilian population is carried out either by members of government agencies or by persons from State-supported militia, the *Shabbiha*, in full knowledge and responsibility of the State. As part of a deliberate policy aimed at crushing public dissent and punishing or intimidating the population, the use of torture in Syria is systematic and – given the number and geographical distribution of victims and security service branches involved – widespread. We therefore consider these acts of torture to be of such nature as to constitute crime against humanity committed in Syria by the State party under review.

4. Enforced and Involuntary Disappearance³⁹

66. In its reply to paragraph 21 of the Committee’s concluding observations, the State party refused to provide information on the implementation of the recommendations adopted by the Committee with regard to the subject of enforced disappearances. It motivates this response by stating that the Committee’s mandate does not cover the aforementioned subject.⁴⁰ Alkarama reads this, along with the fact that the Syrian authorities have not provided clarifying information to the Working Group on Enforced or Involuntary Disappearances about the situation of persons disappeared in the context of a growing opposition movement, as a regrettable lack of will of the State party to cooperate with the UN human rights bodies on questions of enforced and involuntary disappearances.

³⁹ Regretting that the Syrian authorities have not acceded to the Convention for the Protection of all Persons from Enforced Disappearance, we refer to the Declaration on the Protection of All Persons from Enforced Disappearance (A/RES/47/133) for the established definition of enforced disappearance, which notes that enforced disappearance occurs when “persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty.”

⁴⁰ *Comments and follow-up responses of the Syrian Arab Republic to the concluding observations of the Committee against Torture*, 24 August 2011, (CAT/C/SYR/CO/1/Add.1), para. 63.

67. In the present section of the report, we respond to the Syrian authorities' blunt refusal to acknowledge acts of enforced disappearance as constituting a violation of the Convention, as well as the complete lack of investigations into alleged cases of enforced disappearances despite the appalling scale of the phenomenon in Syria and the suffering this inflicts on the victim's families.

4.1 Disappearance as a Violation of Victim's Rights under the Convention

68. Several UN bodies have stated that enforced disappearance in itself amounts to torture and other forms of ill-treatment, noting that for a disappeared person being in this situation, isolated from his or her family, inflicts severe suffering on this person. The Declaration on the Protection of All Persons from Enforced Disappearance, for example, notes that "[a]ny act of enforced disappearance [...] constitutes a violation of the rules of international law guaranteeing, inter alia, [...] the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment."⁴¹ Resorting to enforced disappearance on a large scale, among others as a means of reprisal aimed at quelling public dissent, the Syrian authorities therefore display complete disregard of their obligations under the Convention against Torture.

69. In addition, the fact that victims of enforced disappearance are placed outside the protection of the law⁴², makes them particularly liable to be subjected to acts of torture or other acts of cruel, inhumane or degrading treatment or punishment. Persons detained by any of the Syrian security services are rarely arrested in accordance with provisions of the law, they are often held in secret detention and few are ever brought before a judge. They are therefore *de facto* deprived of all fundamental legal safeguards from the moment of arrest on, which is in stark contrast to the provisions of the Convention, in particular to article two.

70. Alkarama has been informed of many cases of persons abducted by Syrian security forces and subsequently disappeared. This happened to 38-year-old **Mohammad Al Ashtar**⁴³, who was arrested in Al Rastan police station on 13 May 2011. His wife and his seven children have never heard of him since. In other cases, former co-detainees provide information on the possible whereabouts of a disappeared person to their families. It was in this way that the family of **Omar Raad**⁴⁴, who was abducted by State Security agents near his home in Al Zabadani on 14 September 2011, learned that he might have been handed over to agents of the Air Force Intelligence. A former detainee had allegedly met the doctor on the compound of a sugar factory in Adraa, which had been transformed into a detention facility under the supervision of the Air Force Intelligence.

71. **Hussein Toma**, in turn, was abducted by agents of the Political Security on 21 June 2011. The 43-year-old agricultural engineer was on his way home in the presence of a wanted activist when they were both knocked off their motorcycles and arrested. Mr Toma was then taken to an unknown location and his family has not had any news of him since. In a similar case, 22-year-old **Anas Al Shugri**⁴⁵ has been missing since his arrest on 14 May 2011. He is believed to have been organising peaceful demonstrations in the city of Baniyas and had been in hiding since early April 2011. Agents of the Military Intelligence eventually arrested him from his hiding place on and sources indicate that they brought him to the Military Intelligence's Palestine detention centre in Damascus, notorious for secret detention and torture. However, the Syrian authorities have not yet acknowledged his detention and his fate and whereabouts remain unknown.

72. Later in the year, Alkarama was informed of the situation of **Kamel Hamda**⁴⁶, aged 45 and father of six, living in Harasta close to Damascus. On 10 November 2011, he was arrested by agents of the Syrian State Security after he came under fire close to the Sheikh Mousa mosque in Harasta, Rif Damascus Governorate. Video material shows that he was seriously wounded in one leg and lay in the street for around 15 minutes before State Security agents came and dragged him to a van

⁴¹ General Assembly, 47th session, Resolution 47/133 of 12 February 1993, (A/RES/47/133), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/091/18/IMG/N9309118.pdf?OpenElement> (accessed 2 April 2012), art. 1, para. 2.

⁴² General Assembly, 47th session, Resolution 47/133 of 12 February 1993, (A/RES/47/133), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/091/18/IMG/N9309118.pdf?OpenElement> (accessed 2 April 2012), art. 1, para. 2.

⁴³ Alkarama, *Syria: Enforced disappearance of Mr Mohammad Al Ashtar since 13 May 2011*, 22 July 2011, <http://bit.ly/p0qoJr> (accessed 30 March 2012).

⁴⁴ Alkarama, *Syria: Disappearance of Syrian Doctor last seen in irregular detention centre*, 23 December 2011, <http://bit.ly/A0tchr> (accessed 30 March 2012).

⁴⁵ Alkarama, *Syria: Enforced disappearance of young activist since 14 May 2011*, 18 July 2011, <http://bit.ly/n6TTCP> (accessed 30 March 2012).

⁴⁶ Alkarama, *Syria: Seriously wounded father of six remains disappeared*, 20 December 2011, <http://bit.ly/wIEXzY> (accessed 29 March 2012).

close by. Mr Hamda was later seen in the aforementioned Al Khatib prison in Damascus and co-detainees report that he was still bleeding profusely and could not move his lower limbs. As was the case with Mr Adnan, he did not receive medical care and the last time our sources heard about him, he was suffering from extreme pain caused by inflammation. His fate and whereabouts remain unknown and we fear he may have passed away since we last had news of him.

73. On 4 February 2012, security and military forces conducted a joint raid in Daraya, Rif Damascus Governorate. Many were arrested; 17-year-old **Omar Shafik Khashroom** was one of them. His family tried to reach him on his cell phone the same day, but the call was taken by a man saying "We shot him as a redemption for Assad." The family later learned from released detainees that Mr Khashroom had first been seen in a tank on the way to the Air Force Intelligence detention facility in Al Mazza military airport and he was reportedly badly injured at this point already. Other detainees said they had seen him later at Al Mazza military airport, still heavily bleeding. He was not seen after this day and there are fears that Mr Khashroom may have succumbed to his injuries.

74. Bearing responsibility for enforced disappearances and thereby placing its citizens outside the protection of the law, the Syrian authorities cannot claim to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction" and therefore violate Article 2 of the Convention against Torture. A forcibly disappeared person is further deprived of the possibility of complaining against the way he or she is treated, which constitutes, among others, a violation of the Syrian authorities' obligations under Articles 13 and 14 of the Convention.

4.2 Disappearance as a Violation of the Relatives' Rights under the Convention

75. Alkarama's working methods and our focus on individual cases allow us to foster relationships with many families whose loved ones are arbitrarily detained, subjected to torture, summarily executed or enforcedly disappeared. We are therefore well placed to say that not only the direct victim of human rights abuse, but also their relatives are subject to severe mental suffering and pain, especially when the fate and whereabouts of a family member are unknown.

76. This appraisal is shared by several views adopted by the Human Rights Committee on individual communications, including the case of Dr Mohamed Hassan Aboussedra and his family, which was brought to the attention of the Human Rights Committee by our organisation. In its consideration of merits, it "notes the anguish and distress that [the family] suffered as a result of the disappearance of Mohamed Hassan Aboussedra" and states that "the facts before it reveal a violation of article 7 of the Covenant [relating to torture and cruel, inhuman or degrading treatment or punishment], read in conjunction with article 2, paragraph 3 [relating to the right to effective remedy], with regard to the victim's wife and his two children."⁴⁷

77. In Alkarama's previous report to the Committee regarding the issue of torture in Syria, we mentioned the case of **Nizar Rastanawi**⁴⁸, a member of the Arab Organisation for Human Rights in Syria, who had been arrested by Military Intelligence agents in the village of Moriki near Hama on 18 April 2005. Sources report that he had been heavily tortured and on 19 November 2006, he was sentenced by the Supreme State Security Court (SSSC) to four years of imprisonment for "spreading false information" following a grossly unfair trial. Serving his term in Sednaya prison, a detention facility under the supervision of the Ministry of Defense approximately 30km north of Damascus, his family lost contact with him after the riots which took place in the prison in early July 2008. The day on which he should have been released according to the SSSC sentence, 18 April 2009, passed without him being released and his family are still uncertain about his fate and whereabouts. They therefore addressed an open letter to the Syrian president on 2 November 2009, in which they describe that "because of the unfortunate events in Sednaya prison last year, we live in a chronic anxiety about Nizar".⁴⁹

⁴⁷ Human Rights Committee, *Aboussedra v. Libyan Arab Jamahiriya*, Communication No. 1751/2008, 2010 (CCPR/C/100/D/1751/2008), para. 7.5.

⁴⁸ Alkarama, *Syria: The Permanent State of Emergency – A Breeding Ground for Torture*, 9 April 2010, <http://bit.ly/HqdHMe> (accessed 4 April 2012), p. 17.

⁴⁹ Family of Nizar Rastanawi, *Message from the family of human rights activist Nizar Ristnawi to the President to demand the disclosure of his fate*, 2 November 2009, <http://www.shril-sy.info/modules/news/article.php?storyid=4994> (accessed 2 April 2012).

78. Alkarama has knowledge of a number of cases indicating that the Syrian security forces are aware of the suffering a disappearance causes to the victim's relatives and consciously use this pain to silence, punish or coerce them into surrendering themselves to the authorities.

79. Among these is 22-year-old **Abdulrahman Al Hamada**⁵⁰, who is studying economics and happens to be the brother of **Wael Al Hamada** who, in turn, is married to **Razan Zaitouneh**, both well-known human rights activists. The couple went into hiding in the early days of the Syrian opposition movement and Mr Al Hamada was in contact with them when security agents surrounded his home in Duma, close to Damascus, on 30 April 2011. After breaking into the house, the security agents forced Abdulrahman Al Hamada to call his brother again and demand he surrender himself to the Syrian authorities. Abdulrahman Al Hamada was then abducted and his family had no news of him for 46 days. He was later released following two months in custody. Currently, Mr Al Hamada is again being held in secret detention, most likely at the Air Force Intelligence detention centre at Al Mazza military airport, since 16 February 2012, when he was arrested together with a larger group of human rights activists.⁵¹ "I feel profound anguish regarding the future of Abdulrahman Al Hamada and those arrested with him", said a relative of Mr Al Hamada, adding "because until now, we have no information about them, except for the forces detaining them, which are the Air Force Intelligence who have a bad reputation. We consider those who enter their jails to be lost and those who emerge from their custody to be reborn", indicating the severe risk to a detainee's physical and mental integrity, and even his life, in the Air Force Intelligence's detention centres.

80. In other cases, whole groups of activists or families of activists are targets of arbitrary arrests and abduction. This happened to many members of a group called *Shabab Daraya*, based in Daraya on the outskirts of Damascus, who had since 1989 organised different actions such as awareness-raising campaigns to fight bribery and littering or a silent march against the US invasion in Iraq in May 2003. On 6 September 2011, members of the Air Force Intelligence raided a house where some of the peaceful activists affiliated with the group were hiding. Witnesses said there was heavy shooting and when **Mohamed 'Maan' Al Shurbaji**, aged 41 years, called his younger brother **Yahya Al Shurbaji**⁵², aged 33, later that day, leading him to believe that he had been wounded during the raid, the latter rushed to pick him up at a agreed-upon spot. Mohamed Al Shurbaji had, however, been arrested during the raid together with 43-year-old **Muhammad Tayseer Khulani**⁵³, and agents of the Air Force Intelligence had forced him to lure his brother into an ambush. Following this ambush, Yahya Al Shurbaji was abducted together with **Ghayath Mattar**, who had accompanied him to pick Mohamed Al Shurbaji up. Mr Mattar's corpse was returned to his family four days later, as mentioned earlier in this report (see paragraph 45). Another relative, journalist and blogger **Nabil Al Shurbaji**⁵⁴, aged 27 and also residing in Daraya, had gone into hiding soon after the arrest of his family members. But he, too, was eventually arrested by agents of the Air Force Intelligence at a checkpoint in Daraya on 26 February 2011. With the exception of Mr Mattar, whose death is confirmed, all the men remain disappeared to this day, leaving many families in despair.

81. These cases clearly indicate that the Syrian security forces are aware of the suffering a disappearance causes to the victim's family members and consciously use this pain to silence, punish or coerce them into surrendering themselves to the authorities. In many cases, this proves to be effective, leaving many families fearful of conducting inquiries regarding the fate and whereabouts of the disappeared, let alone filing complaints against the responsible or talking about the disappearance in public.

82. Enforced disappearance of persons is, according to the Rome Statutes article 7, paragraph 1(i), in itself an act liable to constitute, under certain circumstances, crimes against humanity. In addition, Alkarama submits that the phenomenon as outlined above – enforced disappearance as torture of the direct victim as well as the victim's family – is of such scale and scope as to fall under

⁵⁰ Alkarama, *Syria: Disappearance of Abdulrahman Al Hamada, abducted on 30 April 2011*, 5 May 2011, <http://bit.ly/HfOmuF> (accessed 3 April 2012).

⁵¹ Joint NGO statement, *The Syrian authorities must reveal the fate of Mazen Darwish and SCM staff*, 14 March 2012, <http://bit.ly/w7e82S> (accessed 31 March 2012).

⁵² Alkarama, *Syria: Disappeared human rights defender Yahya Al Shurbaji at risk of torture*, 26 September 2011, <http://bit.ly/HhpkI3> (accessed 29 March 2012).

⁵³ Alkarama, *Syria: Enforced disappearance and risk of torture of eight Syrian nationals*, 21 October 2011, <http://bit.ly/HhgyTM> (accessed 3 April 2012).

⁵⁴ Alkarama, *Syria: Ongoing Use of Enforced Disappearance*, 5 March 2012, <http://bit.ly/wMrRUZ> (accessed 31 March 2012).

the definition of crimes against humanity committed by Syrian State forces, in addition to the widespread and systematic use of torture described in section 3 of the present report.

5. Persecution of Lawyers and Human Rights Defenders

83. The UN General Assembly acknowledged in its resolution 53/144 of 9 December 1998 “the valuable work of individuals, groups and associations in contributing to the effective elimination of all violations of human rights violations (...), including in relation to mass, flagrant or systematic violations.”⁵⁵ Acts of reprisals such as arbitrary arrests, torture, disappearances and summary executions as well as other forms of intimidation targeting human rights defenders and legal practitioners in particular thus give rise to serious concerns. By actively impeding the work of these individuals, the Syrian government further hampers the possibility of carrying out effective, prompt and impartial investigations. In addition, these acts of repression often amount to torture in themselves and therefore also a violation of the Convention.

84. As mentioned in the first section, repression began as early as February 2011 after the Syrian authorities detected the first stirrings of a growing opposition. One of the first sit-ins organised in support of the Egyptian protest movement was held in Bab Tuma Square in Damascus on 2 February 2011. This sit-in was brutally attacked by thugs without apparent affiliation to any of the Syrian security services. Among the assaulted protesters was **Soheir Attassi**, a human rights activist and president of the Attassi Forum, a political think-tank. She and other activists went to Bab Tuma police station to file a complaint against the thugs. While most of the activists were immediately expelled from the police station, Ms Attassi was taken into custody by the police for a number of hours, repeatedly beaten and insulted at length before being released the same day. Other activists arrested in the month leading up to the first large-scale demonstrations are **Abdennasser Al Ayed**, a 27-year-old poet from Deir Al Zur who was detained and beaten by agents of the State Security from 4 to 10 February 2011, and **Ahmed Mohamed Hozeifa**, a 29-year-old blogger who was on his way from Baniyas to Damascus when he was arrested by Military Intelligence on 19 February 2011 and held incommunicado until 24 February 2011.⁵⁶

85. Other cases of arrest and persecution of human rights defenders are mentioned in previous sections of the present report. We recall in particular the case of women’s rights activist **Hanadi Zahlout** (also see paragraph 50), who was abducted on 4 August 2011 and subjected to severe torture in the Political Security detention centre at Al Fayha, Damascus. She was finally presented to a judge on 3 October 2011 and charges were laid against her, based on articles 285, 286, 306, 335 and 336 of the Syrian Criminal Code. These article relate among others to the crimes of ‘spreading false or exaggerated news or allegations that weaken national sentiment or during times of war’ and ‘being a member of an association founded with the purpose of changing the economic or social foundation of the State or the essential condition of society’. They are commonly invoked to incriminate human rights defenders, journalists and political activists. Ms Zahlout was then brought to the women’s wing of Damascus Central prison in Adraa, where she spent one and a half months before she was released on 1 December 2011. She was, however, again arrested on 16 February 2012 and released two days later, but is now obliged to report to the Air Force Intelligence at Al Mazza military airport once a day.

86. This last arrest happened in the context of an Air Force Intelligence raid on the Syrian Center for Media and Expression (SCM) offices. All 14 staff members present as well as two visitors, one of whom was Hanadi Zahlout, were arrested. The seven women were released within the two days following the arrest, and another visitor was also released on 12 March 2012. None of them was subjected to legal procedures in relation to this detention. The remaining eight men, including **Mazen Darwish**, a well-known journalist and president of the SCM, as well as aforementioned **Abdulrahman Al Hamada** and longstanding blogger **Hussein Ghrer**, are kept in secret detention to this day.⁵⁷

⁵⁵ General Assembly, 53rd session, Resolution 53/144 of 9 December 1998, (A/RES/53/144), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement> (accessed 2 April 2012), preamble.

⁵⁶ Alkarama, *Syria: persecution of many peaceful demonstrators and bloggers for having exercised their right to the freedom of expression and association*, 7 March 2011, <http://bit.ly/HlHska> (accessed 3 April 2012).

⁵⁷ Joint NGO statement, *The Syrian authorities must reveal the fate of Mazen Darwish and SCM staff*, 14 March 2011, <http://bit.ly/w7e82S> (accessed 31 March 2012).

87. Another target group of State repression are lawyers whose capacity to exercise their profession is significantly reduced by various means of intimidation directed against them by the security services. This, in turn, hampers the process of documenting human rights violations and hinders potential incrimination of those responsible for the crimes currently committed, including alleged breaches of the Convention.

88. Thirty-four-year-old human rights lawyer **Razan Zaitouneh**⁵⁸, specialised in the defence of political prisoners before civilian and military courts, is one such example. In addition to a travel ban imposed on Ms Zaitouneh earlier, harassment of her and her husband increased considerably in parallel with the growing of the Syrian opposition movement. The couple therefore decided to go into hiding already in April 2011. In order to force them to surrender to the Syrian authorities, agents of the security services arrested her brother-in-law, Mr Abdulrahman Al Hamada, on 30 April 2011. He was released after two months but is now again placed in custody, causing great mental suffering to his family, including Ms Zaitouneh (also see paragraph 79).

89. One of the lawyers who has been arrested and detained over the last year is 31-year-old **Muhammad Ibrahim Issa**⁵⁹, who was arrested on 5 March 2011 and subsequently disappeared. It was only two months later that he was released. He then left the country and now lives abroad. **Mustafa Osso**⁶⁰, a 48-year-old human rights lawyer living in Al Hasakah in the northeast of the country, was called for questioning by the local branch of the Syrian Bar Association a first time on 1 August 2011. In addition to having a long record of representing defendants before the SSSC and other military courts, Mr Osso is the chairperson of the Kurdish Committee for the Defence of Human Rights and Public Freedoms in Syria (DAD). During the questioning at the Syrian Bar Association building in Al Hasakah, he was in particular interrogated regarding statements seen by the Syrian authorities as undermining national prestige, which he had made before international media. Fearing that these proceedings might result in criminal charges laid against Mr Osso, Alkarama had informed the Special Rapporteur on the Independence of Judges and Lawyers of his case. The investigations against him before the Syrian Bar Association were only recently closed at the end of January 2012.

90. Other lawyers who had suffered persecution earlier and who retained the special attention of the Committee in its initial review of the Syrian Arab Republic include **Haitham Al Maleh**⁶¹, laureate of the Alkarama Award 2010, and **Muhannad Al Hassani**. Both were released on 8 March 2011 and 2 June 2011, respectively. Both felt compelled to leave Syria and currently live in exile.

91. The cases described above support our argument that the Syrian authorities are not taking "all necessary steps to ensure that all persons, including those monitoring human rights, are protected from any intimidation or violence as a result of their activities" as recommended by the Committee.⁶² This further hinders prompt, impartial and effective investigations into alleged human rights violations, including torture, as required by article 12 of the Convention and therefore constitutes a breach of its provisions.

Conclusion

92. Caught up in a maelstrom of aspiration for more civil liberties, increasing State violence and deteriorating economical conditions, the Syrian population has lived through a year of growing uncertainty, in particular as to the future solution to the current crisis. The Syrian authorities responded to the rise of public dissent and, to a certain extent, armed opposition with excessive and widespread use of force and other forms of violent repression, aimed at intimidating the population and silencing outspoken critics. Throughout the year, the government promised far-reaching reforms and gave the impression of adopting a certain number of measures, but these were, in practice, either not implemented, or intentionally thwarted, as happened in the case of the abolition of the state of emergency.

⁵⁸ Alkarama, *Syria: Human rights defenders arrested in recent crackdown, others in hiding*, 6 May 2011, <http://bit.ly/kUfhZu> (accessed 1 April 2012).

⁵⁹ Alkarama, *Syria: Arrest of 3 human rights lawyers in the context of peaceful demonstrators and the major crackdown by the authorities*, 7 April 2011, <http://bit.ly/HnQSbV> (accessed 3 April 2012).

⁶⁰ Alkarama, *Syria: Leading member of the Syrian Democratic People's Party George Sabra disappeared for third time in 3 years*, 9 August 2011, <http://bit.ly/HPJ18w> (accessed 2 April 2012).

⁶¹ Alkarama, *Syria: Haitham Al Maleh released*, 8 March 2011, <http://bit.ly/dVLXaq> (accessed 3 April 2012).

⁶² Committee against Torture, 44th session, *Concluding observations of the Committee against Torture on the initial report of the Syrian Arab Republic*, (CAT/C/SYR/CO/1), 25 May 2011, para. 34.

93. These reforms manqué, the persisting systematic impunity, the rampant occurrence of torture and attacks on the civilian population as well as the persecution of political activist and human rights defenders – ranging from intimidation and torture to disappearance or even extrajudicial execution – leads Alkarama to conclude that the Syrian authorities have failed to observe their responsibilities under international law. With regard to the effective implementation of its obligations under the Convention against Torture, the State party has displayed a manifest lack of political will to do so and did not, in practice, comply with the Committee's recommendations adopted in May 2010 following the initial review of the Syrian Arab Republic.

94. As set forth in sections 3 to 5 of the present report, Alkarama furthermore considers the use of torture to be widespread and systematic. The cases of torture brought to our attention over the past year have sharply risen in number, involve all military and security agencies throughout the territory of the Syrian Arab Republic and are carried out with a pattern indicating a deliberate governmental policy. As they are carried out by State agencies or with apparent knowledge and consent of the Syrian authorities and are part of a wider attack on the civilian population, we consider these acts of torture to be of such scope and scale as to amount to crimes against humanity, in line with article 7, paragraph 1(f) of the Rome Statutes.

95. We therefore conclude by inviting the Committee to examine this matter and pronounce itself on whether it considers the violations of the Convention committed by the State party under review to be of such nature as to amount to crimes against humanity.

"The last time I was arrested was on 15 March 2012, while participating in a demonstration on Al Hamra Street in the centre of Damascus. I entered the same cell as during my first detention in 2004. And I was subjected to severe torture again. I emerged after 12 days, and I still have faith in freedom as the only solution to ensure the future of the Syrian people." - Rody Othman, Syrian journalist and producer

Recommendations

96. Alkarama considers it necessary for any solution to the crisis in Syria to be based on a human rights approach, which would include in particular combating impunity to ensure the Syrian population's right to truth, justice, reparation and guarantees on non-recurrence. In this section, Alkarama will list some of its key recommendation to the Government of Syria, which we view as being urgent and essential to the fulfilment of its obligations under the Convention.

97. First, as most of the Committee's recommendations issued in the context of the initial review of the Syrian Arab Republic in of May 2010 have not been implemented, we invite the Committee to reiterate the recommendations it considers to remain topical, including the recommendations contained in paragraph 5 (definition of torture) and 6 (criminalisation of torture). In addition, we ask the Committee to determine in its concluding observation a set limit in time accorded to the State party for the implementation of its recommendation. We further recommend the following:

98. Systematic and widespread use of torture:

- Give, as a matter of urgency, unambiguous orders to all State agencies as well as agencies acting in an official capacity or with the State's acquiescence to halt all acts of torture, ill-treatment and other cruel, inhumane and degrading treatment or punishment as defined by article 1 of the Convention and adopt indiscriminate and effective measures to ensure the aforementioned orders are implemented without delay;
- Give, as a matter of urgency, unambiguous orders to end all attacks against civilians, which can be considered a form of punishment or of intimidation and which cause a wide atmosphere of anxiety among the population – including sieges on entire cities, districts and villages, the indiscriminate shelling of populated areas or unlawful arrest campaigns.

99. Enforced disappearance and secret detention:

- Give, as a matter of urgency, unambiguous orders to end all acts of enforced disappearance by any State agency, agencies acting in an official capacity or with the State's acquiescence;
- Undertake concrete action to establish the fate and whereabouts of the missing and disappeared and promptly provide this information to their relatives and ensure the relatives can file complaints regarding cases of disappearance without fear of reprisal or persecution of any kind;

- Take prompt and effective measures to provide all detainees with the possibility to freely communicate with their family and legal counsel and ensure that, in practice, all detainees are provided with all fundamental legal safeguards from the very outset of detention;
- Adopt concrete and effective measures to ensure the monitoring of all detention facilities under the control of any State agency, agencies acting in official capacity or with the State's acquiescence and ensure that the treatment of detainees complies with international detention standards, especially with regard to the provisions of the Convention.

100. Ensure the flawless functioning of the judiciary:

- Review national legislation, including the 2012 Constitution, which provide the legal basis for the pre-eminence of the executive power over the judiciary;
- Ensure, in practice, the independence of judges, lawyers, courts and tribunals from the executive branch of the government, including the President, and effectively undertake to protect the latter from all forms of intimidation or other acts infringing upon their impartiality.

101. Establish criminal responsibility and accountability in view of fighting impunity:

- Actively initiate prompt, effective, thorough and impartial investigations into allegations of crimes committed by State or State-affiliated forces in respect of the Syrian population's right to truth, justice, reparation and guarantees on non-recurrence;
- Undertake to promptly, impartially and effectively prosecute alleged perpetrators of crimes committed in the context of the growing opposition movement – including torture, deaths in custody and other forms of extrajudicial executions as well as disappearances – in order to establish accountability and implement appropriate punishment for all crimes committed on duty;

102. End persecution of human rights defenders and political activists

- Release all prisoners whose detention is based solely on acts linked to their political or human rights activity;
- Refrain from all acts aimed at oppressing, punishing or intimidating human rights defenders, political activists and peaceful demonstrators as well as their larger support networks;
- Respect and protect the right to freedom of expression and opinion as well as the right to freedom of peaceful assembly and association and revise the national legislation in this regard, including legislative decree No. 54 of 21 April 2011 as to abide to internationally recognised standards on the matter.

103. International Law:

- Take all necessary steps to ensure prompt, full and effective cooperation with international bodies and particularly those established to investigate and monitor the human rights situation in the State party such as the Commission of Inquiry and the UN observer mission;
- Ratify the Rome Statute of the International Criminal Court.
