

**At Least 2,221 Arbitrary Arrests/Detentions Documented in Syria in 2022, Including 148 Children and 457 Women (Adult Female), with 213 Cases Documented in December**

**The Syrian Regime Arrested at Least 228 IDPs/Refugees Who Returned to its Territories in 2022, Further Confirming Syria is Unsafe for the Return of Refugees**

**Tuesday 03 January 2023**

The Syrian Network for Human Rights (SNHR), founded in June 2011, is a non-governmental, independent group that is considered a primary source for the OHCHR on all death toll-related analyzes in Syria.

## Contents

I. Background and Methodology .....	<b>1</b>
II. The Laws and Texts Related to Torture in the Current Syrian Constitution and Law Have Not Ended or Reduced the Frequency of Torture in the Syrian Regime's Detention Centers.....	<b>4</b>
III. Brief on 2022's and December's Most Notable Developments Related to the Detainees Issue .....	<b>9</b>
IV. Toll of Arbitrary Arrests by the Parties to the Conflict .....	<b>17</b>
V. Most Notable Cases and Incidents of Arbitrary Arrest/Detention in December .....	<b>21</b>
VI. What is SNHR Doing About the Detainees Issue? .....	<b>23</b>
VII. The Syrian regime Issues Laws that Violate the Principles of Law and the Determinants of Arrest and Investigation as Specified by the Local Legislations .....	<b>24</b>
VIII. Filing Charges, Extracting Multiple Confessions under Torture, and Referring Detainees to Courts that are Effectively Security Branches .....	<b>28</b>
IX. Conclusions and Recommendations.....	<b>30</b>

## I. Background and Methodology

Arbitrary arrests and enforced disappearances have been amongst the most widespread violations since the earliest days of the popular uprising for democracy in Syria in March 2011.

As the most common and pervasive regime violations against Syrian citizens, these criminal acts affect hundreds of thousands of Syrians. The Syrian regime's apparatus of arrest and detention is run by its security services and military forces, as well as their affiliated militias, as part of a deliberate and planned strategy, often in a sweeping indiscriminate manner, for the purpose of instilling dread and terror into the largest possible number of Syrian people. Approximately eight months after the start of the popular uprising, other parties began to emerge in Syria, who also began carrying out arrests and abductions to the detriment of the Syrian people. The process of documenting the cases of detention and cataloging arrests, releases, and enforced disappearances has been one of the greatest challenges and difficulties faced by the Syrian Network for Human Rights (SNHR), as shown in our methodology.<sup>1</sup>

Most of the arrests in Syria are carried out without any judicial warrant being issued or presented, taking place while the victims are passing through regime checkpoints or during raids, with the security forces of the regime's four main intelligence services often responsible for extra-judicial detentions. Every detainee is tortured from the very first moment of their arrest and denied any opportunity to contact their family or to have access to a lawyer. The authorities also flatly deny the arbitrary arrests they have carried out and most of the detainees are subsequently forcibly disappeared.

The Syrian regime is responsible for nearly 88 percent of all the arbitrary arrests that we have documented and is the first and most prominent of all the parties to the conflict in systematically perpetrating this violation. In most cases, victims' families are unable to accurately identify the security body behind the arrest, given the vast array of forces affiliated with the Syrian regime, which include Iranian militias, the Lebanese group Hezbollah, and others, in addition to the four main regime security agencies and their many branches, all of which are authorized to arrest and torture detainees, and to commit the crime of enforced disappearance.

The other parties to the conflict and the controlling non-regime forces in Syria, such as the Kurdish-led Syrian Democratic Forces (SDF), extremist Islamist groups, and the various Armed Opposition factions, use similar strategies and practices to those of the Syrian regime, albeit at a lower rate than and in a less systematic manner compared to regime forces. These too constitute violations of International Human Rights Law, and, in those cases which take place on the basis of the armed conflict, they also constitute violations of International Humanitarian Law.

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<sup>1</sup> "Syrian Network for Human Rights Methodology", Syrian Network for Human Rights . <<[http://sn4hr.org/public\\_html/wp-content/pdf/english/SNHR\\_Methodology\\_en.pdf](http://sn4hr.org/public_html/wp-content/pdf/english/SNHR_Methodology_en.pdf)>>

None of the parties to the conflict and the controlling forces provide any public record for the community that shows the whereabouts of the arrested/detainees and the reasons for their arrest, nor do they provide any documentation of the judicial sentences issued against these detainees, including the death penalty, with the vast majority of the families not knowing the fate of their loved ones, since the vast majority, as we've indicated in all the reports we've issued about the detainees, have been forcibly disappeared. We have talked in detail about the phenomenon of enforced disappearance and the suffering of the detainees' families, especially the children, in [many reports](#).

### **Methodology:**

This report summarizes the record of arbitrary arrests by the parties to the conflict and the controlling forces in Syria documented in 2022, including December. In addition, it sheds light on the most notable individual cases and incidents of arbitrary arrest and detention that the SNHR's team documented during the last month, as well as categorizing cases and incidents of arrest according to the place where the incident took place.

In SNHR's database, we can categorize cases of arrest according to the governorate in which the incident occurred, and according to the governorate from which the detainee originally came. In this report and in most of our reports, we categorize the record of arrests according to the place where the arrest took place, rather than the detainee's place of origin. In some cases, nevertheless, we opt to categorize the cases of arrest according to the governorate from which the detainee originally came, in order to show the magnitude of loss and violence suffered by the people of that governorate compared to other governorates. We make a note when that is the case.

The record of the cases and incidents of arrests documented by the SNHR, including those documented in this report, do not include those kidnappings and abductions in which we were unable to identify the responsible party.

The report also documents arbitrary arrests that subsequently turned into enforced disappearances. A number of criteria must be met before SNHR will classify a case as an enforced disappearance: the individual must have been detained for at least 20 days without their family being able to obtain any information from the relevant authorities about their status or location, with those responsible for the disappearance denying any knowledge of their arrest or whereabouts.

The SNHR team implements strict standards in evaluating and assessing any incident of arbitrary arrest under the principles of international laws and the set of principles on arbitrary arrest and enforced disappearance. Our Detainee Department team constantly updates the database of detainees who were released as and when information becomes available; this data is added to the SNHR's databases which are retained securely, with several backup copies being stored in different locations. We have also created a special form, available on our website, [to document a detainee's case](#) to facilitate access and contact with victims' families.

The detainee figures included in this report do not include prisoners with a criminal background, but do include cases of arrest that are based on the internal armed conflict, mainly due to opposition activity against the ruling authorities, as well as cases of detention intended to suppress freedom of opinion and expression.

The ongoing daily process of documenting detainees also comes with other additional challenges for SNHR, which has been documenting detainees' cases since 2011. The most notable challenges amongst these are:

- The reluctance of victims' families to cooperate and reveal or provide details of any information on their family members' arrest, even confidentially, more especially if the arrested individual is female, due to a well-founded fear still prevalent in Syrian society that being discovered doing so would result in more torture and further danger for their loved ones and themselves. Instead, families try to negotiate with security forces, who usually blackmail these families and demand cash payments for help with securing their loved ones' release, effectively ransoms, that can amount to thousands of dollars in some cases.
- The failure of the international community and of all the organs of the United Nations to apply pressure on the Syrian regime authorities to secure the release of even one individual (including those whose sentences are completed), has affirmed the conviction of many within Syrian society that it is useless to cooperate in the documentation process.

## II. The Laws and Texts Related to Torture in the Current Syrian Constitution and Law Have Not Ended or Reduced the Frequency of Torture in the Syrian Regime's Detention Centers

The state's heavily centralized control of its detention centers means that it is highly unlikely that deaths due to torture could take place without the knowledge of the ruling regime. In recent years, hundreds of reports of deaths due to torture in the Syrian regime's detention centers have spread widely within Syrian society, and in local, Arab, and international media, in addition to the fact that the Syrian regime itself has informed dozens of families about the deaths of their family members in detention centers, often citing a wholly implausible cause of death, such as a "heart attack".

The Syrian regime bears responsibility for proving its claims that the deaths that occurred were not due to torture, although it hasn't conducted a single investigation into any of these deaths for 11 years, with this fact alone constituting clear and damning evidence of the regime's culpability. In addition to this, it should be emphasized that this systematic torture and the many associated deaths involve not just one of the Syrian regime's organs, but require the participation of several state institutions, the most prominent of which are: the Ministry of Interior, the Ministry of Defense, the security services, civil prisons, military hospitals, the judiciary, the Ministry of Awqaf, and the Office of Burial Services; this too indicates a high level of coordination and harmony between these institutions, which can only be achieved by senior-level management officials in the Syrian regime controlling all of these institutions.

On March 30, 2022, the Syrian regime's President issued Law No. 16 for 2022 criminalizing torture,<sup>2</sup> which claimed that the regime considers this crime a felony requiring severe punishment for its perpetrator, or for those who participated in inflicting it, as well as those who incited them to do so. In Syrian law, torture is characterized as a felony subject to a ten-year criminal statute of limitations if the perpetrator is not subjected to public prosecution immediately. SNHR issued a [report](#) previously in which we explained that there is a flaw in the Syrian regime's system of categorizing torture and creating the related legislation, in addition to a flaw in the text of the 'law' itself. The following are key points that demonstrate these flaws:

- The law does not include crimes of torture committed before the date of its issuance; rather, pre-existing provisions are applied, such as the provision of Article 391 of the Penal Code, which classifies torture as a misdemeanor, which shall be subject to a statute of limitations after three years. If torture results in a disability or death, however, it then becomes a felony, with the crime being subject to a statute of limitations which expires after ten years, meaning that all crimes of torture committed since March 2011 were not covered by Law No. 16/2022, though they are, of course, subject to a statute of limitations. The statute of limitations is related to the initiation of the public prosecution, which is a decision issued by the representative of the Public Prosecution Service to charge the perpetrator with the crime of torture. As for the investigations by the police, security authorities, or any public body, the initiation of a public lawsuit is not considered to and does not interrupt the statute of limitations.

<sup>2</sup> Syrian Arab News Agency, President al Assad issues a law criminalizing torture, March 30, 2022, <https://sana.sy/?p=1616786>

- The law omits to mention the inhuman and cruel conditions of detention in which detainees are held, as well as omitting any mention of the prison authorities' deliberate negligence towards detainees and deprivation of health care for them, which are classified as being among the torture methods practiced by the Syrian regime and among the causes leading to the high rates of prisoners' deaths in detention centers.

The Syrian regime brutally controls the issuance of death certificates, which are not made available to any of the families of its victims, whether they were killed at the hands of the Syrian regime or by other parties, or to the families of the missing and forcibly disappeared. The Syrian regime only allows death certificates to be issued for those who meet the narrow criteria set by the regime and its security services. [In many previous reports](#), we have discussed the phenomenon of the Syrian regime's forcing victims' families to make false statements s blackmailing them into signing reports prepared by the security services stating that 'armed terrorist gangs', rather than the Syrian regime, killed their loved ones by withholding death certificates until they sign these false statements. The Syrian regime has not only failed to launch any judicial investigations into the causes of death for hundreds of thousands of Syrians but has also failed to hold to account even one member of its security or military forces for their involvement in these killings. We note that the vast majority of victims' families are unable to obtain death certificates from the Syrian regime, for fear of linking their name with that of a person who was detained by the regime and killed under torture, meaning that he or she was a dissident who opposed the Syrian regime, or of their loved one being registered as a 'terrorist' if they were wanted by the security services; additionally, many victims' families have been forcibly displaced outside the areas controlled by the Syrian regime.

On August 10, 2022, the Syrian regime government's Minister of Justice issued [Circular No. 22](#) specifying the procedures for the conduct of proceedings related to registering deaths within Sharia courts. The circular included new conditions stipulating that five items of evidence must be submitted to and approved by the relevant judges in proceedings related to registering the death. It also requires that all relevant courts involved in death registration cases comply with the circular's content. We issued [a report](#) in which we outlined our analysis of the constitutional and legal violations contained in this circular's text and the consequences thereof. In this context, we at the SNHR note that the Syrian regime, in an additional move to restrict the families of the missing, imposed a security clearance requirement on them requiring that they obtain a judicial power of attorney for the absent and the missing, with Decision /30/ issued by the Ministry of Justice on September 16, 2021, requiring that anyone who has to obtain legal power of attorney for the absent or missing should first obtain 'security clearance'. The procedures required to obtain this clearance are accompanied by bargaining and material extortion; women are among the first victims of the circular's ruling, since wives and mothers are invariably the family members involved in the legal procedures to prove the absence or loss of their husbands, sons or other family members, and thus need to obtain the judicial power of attorney. In cases where wives or mothers are present in government-controlled areas and want to obtain the power of attorney, the 'new security clearance' increases their risk of being subjected to violence, extortion, or material, verbal and psychological abuse. If the judicial power of attorney for the absent person is not obtained because of the difficulty

of obtaining the security clearance, their interests will be severely restricted and they will not be able to carry out the transfer of inheritance, obtain identification documents or bank cards, or receive salaries and pensions on behalf of the missing and the absent, especially since some of the absentees are wanted by the security branches. This circular means that it is impossible to give absentees' family members and relatives the right to obtain the power of attorney to manage the funds of their absent loved ones. This circular is also considered a major legal violation due to its violation of the Syrian Personal Status Law, which does not require any clearance of any kind.

Finally, we, at the SNHR, stress that at least 14,475 individuals have died due to torture, as documented on our database, between March 2011 and September 2022, and we continue to document almost daily deaths among detainees or forcibly disappeared persons due to torture and neglect of healthcare in the Syrian regime's detention centers. There is no doubt that this law will remain meaningless ink on paper and will not contribute in any way to deterring the security services from practicing torture as long as the regime's other repressive laws are in force, which are the ones on which the regime relies, including:

#### **A. Texts that grant impunity to members of the security services from prosecution, conflicting with many articles of the General Penal Code and the current constitution**

The Syrian regime also legalized the crime of torture, despite the fact that the current Syrian constitution, issued in 2012 by Decree No. 94, prohibits arbitrary arrest and torture according to Article 53, and the General Penal Code in accordance with Article 391 which imposes a penalty of between three months and three years imprisonment for anyone who beats a person with a degree of severity during the investigation of crimes, and prohibits torture during investigation in accordance with Article 391; however, there are legal texts that explicitly oppose previous constitutional articles and Article 391, giving almost complete immunity and legalizing impunity, as officers, individuals, and employees of the security services enjoy near-complete impunity from prosecution before the judiciary, except with the approval of their superiors, as follows:

##### **1- For members of the General Intelligence Department (State Security Department):**

Article 16 of Legislative Decree No. 14 of 1969, which contains the law establishing the General Intelligence Department,<sup>3</sup> stipulates that intelligence department members may not be prosecuted for crimes they commit while carrying out the tasks assigned to them, except with the approval of their superiors. This was decided by the Syrian Court of Cassation<sup>4</sup> in Resolution No. 25, Basis 28 of 1979. Legislative Decree No. 14 of January 25, 1969, states that: "It is impermissible to pursue any workers in the State Security Administrations for crimes they have committed during the execution of the specified duties they were authorized to carry out, except by an order to pursue issued by the director." Article 74 of the Internal Security Law of the State Security Department and the rules of service for its employees, issued by Legislative Decree No. 549 of May 25, 1969, states that: "No legal action may be taken against any General Intelligence Department employees, those assigned or detailed to the department, or those contracted with it for crimes incurred on the job or in the course of performing the job before referral to a department disciplinary board and before an order is obtained from the director."

<sup>3</sup> Confidential law that is not published in the Official Gazette.

<sup>4</sup> Published in "The Lawyers" magazine in 1979, Rule 392.

It should further be noted that these texts are considered confidential and are not published in the official gazette for the public to read, which is inconsistent with the principle of the supremacy of constitutional law.

## **2- As for the members of the Intelligence Division (Military Security Department) and the Air Force Intelligence Department:**

These regime personnel enjoy similar, effectively total immunity as they are military personnel, with any prosecution being carried out before the military court, which does not prosecute military personnel except by a prosecution order issued by the Commander-in-Chief of the Army and the Armed Forces or the Chief of Staff according to the rank of the person to be prosecuted in accordance with the provisions of Article 53 of the Penal Code and Procedures of Procedure Military No. 61 of 1950.

## **3- As for the members of the Political Security Division:**

The Political Security Division is administratively affiliated with the Ministry of the Interior. In September 2008, [Legislative Decree No. 64 of 2008](#) was issued, which categorizes these personnel, along with members of the Internal Security Forces and members of the customs police, as falling under the jurisdiction of the military judiciary, and explicitly states that their prosecution may not take place without the prior issuance of an order for prosecution by the General Command of the Army and Armed Forces.

Legislative Decree No. 64 of 2008, by which an amendment to the Military Penal Code and Military Trial Procedure<sup>5</sup> gave immunity to police and political security personnel, who were previously amongst those who could be tried before the ordinary judiciary, limited the ability to take action against them or against the army and the armed forces. This prosecution is issued in wartime, according to the Penal Code and the Military Trial Procedure by the Commander-in-Chief of the Army and the Armed Forces, who is at the same time the President of the Republic. Consequently, such prosecution has been banned - if it had ever taken place - for regime officials at any level of leadership and particularly for the senior leadership.

At the beginning of 2012, Legislative Decree No. 1 of 2012 was issued containing the 'Law of Service for the Military of the Internal Security Forces', including members of the Political Security Division, which is considered an amendment to the aforementioned Legislative Decree 64/2008. Article 23 of this decree stipulated a requirement to establish a police disciplinary court specializing in investigating disciplinary matters concerning military police. This court shall be competent to decide on their referral to the judiciary, except in the case of their being detained in flagrante delicto or during the commission of an economic crime, in which cases these two types of offenses can be prosecuted before the ordinary judiciary directly. It should be borne in mind that the police disciplinary court is made up of police officers named by the Chief of the Republic and therefore is not a judicial court and does not belong to the judicial authority but is completely subordinate to the executive authority.

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<sup>5</sup> Promulgated by Legislative Decree No. 61 dated February 27, 1950.

Therefore, all members of the four security services enjoy immunity from prosecution unless their superiors allow it; prosecution conditional on obtaining the approval above is considered unconstitutional and intrudes on the judicial authority, undermining its independence by placing a limitation that does not allow it to exercise its constitutional mandate without the approval of an official of the executive authority as stated in the texts above.

These decrees, which are supposed to be legal texts but in reality constitute a violation of the law, are decrees and texts that legitimize crimes, violate even the 2012 Constitution, and violate fundamental tenets of human rights. For this reason, Syria under the rule of the current regime suffers from two major problems in this context, the first in terms of the legal texts themselves, and the second in terms of applying the law, which is far graver; without a doubt, these legal texts, which express a commitment to ensuring impunity, along with the Syrian regime's failure to carry out any investigation or pursue accountability for any member of the regime's security forces, no matter how low-ranking, in relation to acts of torture, have all contributed to increasing the rate of torture. Indeed, the regime's security services, in coordination with some doctors in military hospitals, are so sure of their impunity that they have invented new and horrific methods of torture that are even more brutal and savage than their usual methods and which have caused deaths due to torture to continue up to this day.

**B. The survival of the exceptional criminal courts (military field court, counter-terrorism court) in Damascus.**

**C. Authorization of regime security services to investigate citizens for a period that often exceeds two months.**

**D. The failure to reform the prison organization or subject it to judicial supervision.**

**E. The Executive Authority encroaching on the judiciary.**

### III. Brief on 2022's and December's Most Notable Developments Related to the Detainees Issue

Something that must be emphasized in any report concerning the issue of arrests/detainees in Syria is the fact that Syrian regime forces have continued to persecute and target Syrian citizens in areas under regime control in connection with their political dissent and expression of opinions, despite the right to both being guaranteed by the Syrian constitution and international law. This once again proves a crucial and inescapable truth which we have reiterated many times in the past: no Syrian citizen can feel safe from arrest since these are carried out without any legal grounds or any oversight by any independent judiciary, being administered by the regime's security services with no judicial involvement. Following these arrests, detainees are routinely classified as forcibly disappeared persons, and thus the areas under the control of the Syrian regime cannot be considered, even remotely, to be a safe haven. A large percentage of those we talked with during our documentation of violations have expressed a strong desire to emigrate, flee and seek asylum in other countries, which surely underlines that regime-controlled Syria is in no way a safe place for the return of refugees. As long as the same security apparatus exists, there will be no stability or safety. The Syrian regime's security authorities have been committing crimes against humanity since 2011. We have observed the following:

#### A. in 2022

Syrian regime forces have carried out mass arrest/detentions in the past year citing various causes, with some of these causes surfacing repeatedly and consistently, while others were related to specific contexts. Those include:

**First:** In 2022, Syrian regime forces<sup>6</sup> continued to pursue and arrest individuals who had agreed to security settlements. Those include civilians who were formerly activists in the medical and humanitarian relief fields. Such arrests were concentrated in 2022 in the governorates of Damascus suburbs, Daraa, Deir Ez-Zour, and Raqqa, with most occurring during campaigns of mass raids and arrests and at checkpoints. In 2022, SNHR documented no fewer than 407 cases of arbitrary arrest/detention involving individuals who had agreed to security settlements with the Syrian regime. Of these 407, three were women (adult females).

**Second:** Mass arrests that targeted civilians, including women, over expressing critical views on social media of the deteriorating living situation or government corruption in the areas under the control of Syrian regime force, or over collaborating with/contacting foreign news outlets, with most of these arrests carried out by branches of the regime's Criminal Security division across Syria. The targets of these arrests included pro-regime media figures, university students, government employees, and lawyers, with individuals arrested in this context facing a series of charges related to the [Counter-Cybercrime Law](#). In 2022, SNHR documented the arrest of 124 individuals, including 19 women, on the grounds of the Counter-Cybercrime Law.

<sup>6</sup>We generally use the term 'the Syrian regime' rather than 'the Syrian government', because the nature of the ruling power in Syria is a totalitarian dictatorship where power is concentrated in the hands of a small circle of individuals, namely the President of the Republic and the heads of the security apparatus. Conversely, the ministers, including the Prime Minister and the Minister of Interior, play a restricted, largely ceremonial role, which is limited to implementing precisely what the ruling regime orders, with no real decision-making power or active role of their own. Syria is under a personalist/family rule, with no independent decision-making structure. Rather, the government is an empty façade merely for show, the Minister of Interior receives orders from the security branches over which he supposedly presides. The Minister of Justice cannot even summon a low-ranking security office, let alone a security branch head. Syria is ruled by the heads of the security branches with the president.

We are aware that the United Nations and its agencies use the term 'the Syrian government', however, we believe that this is a completely inaccurate and misleading term in the Syrian context.

**Third:** We documented random and widespread arrests, mostly as part of campaigns of raids and mass arrests, as well as at checkpoints, which did not spare children and women. We believe those arrests were the result of malicious security reports against citizens who were detained on the pretext that they had failed to join reserve military forces, as part of their mandatory military service. We also recorded cases in which civilians were arrested over making phone calls to individuals living in areas outside the regime's control, as well as over travelling between the regime's territories, and those controlled by other parties.

**Fourth:** We documented arrests targeting returnees, both refugees returning from other countries and internally displaced persons (IDPs), as they attempted to return to their original areas of residence under the control of the Syrian regime. These arrests were concentrated at crossings with Lebanon and Turkey, particularly in the latter case at the 'Kasab Crossing'. We also recorded arrests targeting refugees returning as part of the voluntary repatriation program [resumed](#) by Lebanon's General Security on September 5, 2022. Those arrests targeted children, women, and individuals who had previously agreed to security settlements with the regime. IN 2022, no fewer than 228 cases of arbitrary arrest/detention by Syrian regime forces of people returning to their original areas of residence under the control of regime forces, including eight children, six women (adult female), and 11 elderly people. The 228 cases are divided between 77 cases involving IDPs and 151 cases involving returning refugees, most of whom were returning from Lebanon.

**Fifth:** A number of arrests/detentions were carried out by regime security branches targeting civilians for the purpose of extorting ransom money from detainees' families. Some of those arrests involved civilians who had received money transfers from abroad on the pretext of dealing in a foreign currency. Those arrests were concentrated in several Syrian governorates - most notably Damascus suburbs, Damascus, Aleppo, and Hama. Those arrests also targeted civilians who had previously been released from regime detention, with many of the families telling us the arrests were carried out for the purpose of extortion and soliciting money in exchange for the former detainees' release.

**Sixth:** We documented arrests of civilians while they were visiting the Department of Passports and Immigration to obtain documents for travelling abroad.

**Seventh:** We recorded random abductions carried out by the Syrian regime's Military Security Forces targeting citizens in Suwayda governorate. Most of these abductions took place at temporary checkpoints in the governorate over allegations of the victims supposedly being affiliated with the Syrian al-Liwa Party and being in communication with foreign parties.

**Eighth:** We recorded arrests carried out by members of militias/informal forces affiliated with the Syrian regime that targeted civilians as they attempted to enter their areas of residence to check on their homes. Most of these arrests took place in Damascus governorate.

**Ninth:** Sporadic arrests were carried out on various different grounds such as suspicious communication, travelling between the territories of the Syrian regime and those controlled by other parties, blood relations with activists and dissidents, and military recruitment.

In terms of releases in 2022, the Syrian regime issued three amnesty decrees, with one of these being related to military crimes, while the other two were general amnesty decrees. On January 25, 2022, the Syrian regime issued Legislative Decree No. 3 for 2022 that granted amnesty for the crimes of internal and external absence from military service committed before January 25, 2022. SNHR did not record any releases pursuant to said decree, since most of those included in the amnesty are conscripted into military service anyway before their release.

On April 30, 2022, the Syrian regime issued Legislative Decree No. 7 for 2022, which granted a full pardon for terrorist crimes committed by Syrian nationals before April 30, 2022, except for those crimes that resulted in the death of a human being, and those stipulated in the Counterterrorism Law No. 19 for 2012 and the Public Penal Code promulgated through Legislative Decree No. 148 for 1949 and its amendments. Those two legal texts are the primary articles of legislation used in trying prisoners of conscience and defendants in cases tried by the regime's special courts - the Counterterrorism Court and the Field Military Court. Our detainees team works on monitoring releases from central and military prisons and the implementation of such decrees. In 2022, we recorded that the Syrian regime released 586 individuals, including 63 women and 17 individuals who were children at the time of their arrests, from its various civilian and military prisons and security branches across Syria. Of the 586 individuals released, 162 had previously agreed to security settlements before their arrests and had received assurances that they would not face prosecution by security branches, and 28, including four women, were refugees or otherwise returning to Syria from abroad.

On May 16, we released a report [that analyzed the text of the decree and the releases based on it](#). We also released a number of statements throughout 2022 through which we regularly updated the figures on releases that we were able to document. Despite the numerous amnesty decrees, the Syrian regime continues to detain no fewer than 135,000 Syrian citizens who are classified as detainees, forcibly disappeared, or fall into both categories. On November 16, 2022, we released a report entitled, '[Breaking Down the Amnesty Decrees Issued by the Syrian Regime Between March 2011 and October 2022](#)', in which we noted that all the regime's amnesty decrees have led to the release of only 7,351 arbitrarily arrested detainees, while the Syrian regime continues to hold around 135,253 detainees and/or forcibly disappeared persons. The report concludes that the regime's amnesty decrees only lead to the release of an extremely limited number of detainees, even as arbitrary arrests continue in a widespread and systematic manner. The Syrian regime, the report stresses, continues to carry out such arbitrary arrests and enforced disappearances regardless of all the amnesty decrees it may issue.

On December 21, 2022, the Syrian regime issued Legislative Decree No. 24 for the year 2022 which grants a full pardon for crimes committed before the date on which the decree was issued. We are currently working on a report analyzing this decree, to be published shortly. We, at SNHR, believe that Legislative Decree No. 24 was no different to the regime's previous 21 amnesty decrees. Indeed, it was actually worse

in terms of exclusions, to the point that it is completely redundant in regard to those detained and forcibly disappeared by the Syrian regime. In reality, this decree was released in an effort to ease popular discontent in areas under the regime's control by securing the release of defendants and convicts charged with minor crimes and offenses. We have pointed out previously how the high frequency with which the Syrian regime issues amnesty decrees that do not primarily target unjustly charged detainees, has undermined the penal policy of the Syrian state by securing the release of thousands of criminals. Moreover, in 2022, we recorded that the Syrian regime released approximately 141 individuals who were detained that year for an average of several weeks to a number of months, most of whom never faced trial. These cases occurred in various security branches across Syria.

Furthermore, around 124 individuals were released in 2022 from civilian prisons across Syria after serving their arbitrary sentences that ranged from one year to 11 years on average. Most of those released in these cases, which were not related to the regime's amnesty decrees, had been arrested in raids or at checkpoints without providing any cause or showing an arrest warrant. They were also held in extremely poor imprisonment conditions that involved both torture and an almost complete lack of healthcare, in heavily overcrowded regime detention centers. Some of the [photos](#) we have obtained clearly show the poor health of a number of detainees following their release.

Also in 2022, the SDF continued their policies of arbitrary arrest and enforced disappearance. Most of the raids and arrests carried out by the SDF were accompanied by indiscriminate shooting and physical assaults on civilians, as well as breaking into and looting homes. 2022 also saw a rise in the number of detentions and enforced disappearances of children by the SDF compared to 2021, with these arrests carried out in raids and mass detentions targeting civilians, activists, politicians, students, teachers, and workers at some of the SDF's own institutions. Some of these arrests were carried out on the pretext of combating ISIS, with international coalition forces taking part in some of these operations. We also documented random detentions involving a number of civilians in Hasaka city following the Ghwayran Prison events on January 20, 2022, in Hasaka city when dozens of detainees escaped. Moreover, we recorded the SDF's arrest of members of the Yekiti Party of Kurdistan (PYKS), with some being released after suffering brutal beating in Hasaka city. Others were arrested by the SDF over accusations of collaborating with Syrian regime forces. Meanwhile, the SDF also targeted individuals over their familial relation to activists, armed opposition fighters, or wanted fugitives in an attempt to use them to put pressure on these figures' families, taking these victims to undisclosed locations.

Additionally, a number of civilian medical workers were arrested by SDF personnel in a raid on al-Resala Hospital in Theyban city, eastern suburbs of Deir Ez-Zour governorate over accusations of providing shelter for armed individuals inside the hospital. The SDF also carried out arrests targeting civilians, including university students, as part of larger campaigns of raids and mass arrests, as well as at checkpoints, in order to take them to military recruitment camps. Those arrests were concentrated in the governorates of Deir Ez-Zour and Raqqqa.

Furthermore, we also documented detentions of civilians over their participation in anti-SDF demonstrations protesting against the poor living and service conditions in the areas under SDF control, as well as over the group's child recruitment practices. Other civilians, including teachers, were arrested for taking part in protests that criticized the curriculum adopted by the SDF at schools in its territories in place of the curriculum of the Syrian regime's Ministry of Education.

SDF personnel also continue to abduct children for the purpose of military conscription, taking these children to training and recruitment camps where they are not allowed to contact their families, who are not allowed to have any knowledge of their fate.

Hay'at Tahrir al-Sham (HTS) also continued its targeting of activists and workers with humanitarian groups in 2022. Most of these arrests were made over the detainees expressing views critical of the HTS's management of its territories, and other allegations such as charges of working with the SDF/international coalition or Syrian regime forces. Arrests are carried out in an arbitrary fashion, in the form of raids, with HTS members breaking down doors in victims' homes, or abducting them in the streets or at temporary checkpoints. We also documented HTS's arrest of members of the Tahrir Party over their criticism of the HTS. One incident also saw HTS arresting a religious figure inside a center for memorizing the Quran in Idlib city. HTS also arrested civilians over their involvement in anti-HTS protests, while HTS personnel also physically assaulted then arrested a number of women with their children over accusations of smuggling goods from areas under the control of the Syrian National Army (SNA) into the HTS-controlled western suburbs of Aleppo governorate. These women and children were subsequently released.

In addition, HTS arrested a number of IDPs on the pretext of their refusal to relocate to camps designated for the displaced, as well as arresting civilians for contacting family members living in regime-controlled areas.

We also documented HTS' arrest of dozens of civilians and SNA servicemen, with these arrests concentrated in Afrin city, in the suburbs of Aleppo governorate, following HTS's entry into the city in October 2022 which saw clashes between the group and SNA factions. Some of those detained in these arrests were released as part of prisoner exchange deals with SNA factions.

Additionally, the HTS-affiliated Salvation Government's Media Directorate summoned a number of media activists over posts published on their social media pages, or their participation in discussions on social media that were critical of HTS' practices. Many of those activists told us that they were forced to apologize and to sign pledges vowing to abstain from critiquing or accusing the HTS, and warned that if they failed to do so they would be prosecuted and tried.

On April 2, 2022, the Salvation's Government Ministry of Justice issued [an amnesty decree](#) that provided a full pardon for any sentences issued on the grounds of the public right, as well as pardoning half the sentence of any prisoners who had received a judicial ruling or similar sentences. As we determined through monitoring the situation, this amnesty decree did not include detainees who were arrested over expressing their views or disagreeing with the HTS, being limited to criminal cases.

In 2022, all armed opposition factions/SNA also continued carrying out arbitrary mass detentions and abductions that did not exclude women and children, with most of these taking place on a mass scale. These detentions primarily targeted people coming from the regime's territories on the pretext of vetting them. The detainees arrested in this context were held for several weeks to several months on average with no official charges or trial. We also documented detentions of an ethnic character being carried out by the armed opposition, which were concentrated in the territories under their control in Aleppo governorate. Most of these arrests occurred without judicial authorization and without the participation of the police force, which is the legitimate administrative authority responsible for arrests and detentions through the judiciary, with these arrests also carried out without presenting any clear charges against those detained. We also documented raids and detentions carried out by SNA servicemen, targeting civilians, including women and village mukhtars [headmen], on charges of collaborating with the SDF, as well as over their criticism of the poor living conditions and corruption in the SNA's territories. Furthermore, we documented raids and detentions by the SNA targeting civilians, including women, who took part in the festivities celebrating Nowruz on March 20, 2022. We also documented the arrests of dozens of civilians over their participation in the demonstrations held on the Friday of 'Lan Nusaleh' (We Shall Not Make Peace) in the suburbs of Aleppo governorate, in August 2022.

## **B. In December 2022**

**First:** In December, Syrian regime forces continued to pursue and arrest individuals who had agreed to security settlements. These arrests were concentrated in Damascus suburbs and Daraa governorates, with most carried out during campaigns of mass raids and arrests and at checkpoints.

**Second:** We documented arrests targeting returnees, both refugees returning from other countries and IDPs, as they attempted to return to their original areas of residence under the control of the Syrian regime. These arrests targeted refugees returning from Lebanon via the formal and informal crossings into Syria. We also documented arrests targeting civilians who returned previously from al-Rukban IDPs Camp in eastern Homs governorate.

**Third:** We documented random and widespread arrests of Syrian citizens in various governorates, including Damascus suburbs, Damascus, Homs, and Hama, as part of raids and mass arrest campaigns, as well as at checkpoints. We believe those arrests were the result of malicious security reports targeting citizens, who were arrested on the pretext that they had failed to join reserve military forces, as part of their mandatory military service. Those arrests occurred at cafes, where people gathered to watch the World Cup finals.

**Fourth:** We documented sporadic arrests made by the Syrian regime of a number of civilians over charges of dealing in a foreign currency (US dollar). Those arrests took place in a number of Syrian governorates, most notably Damascus suburbs. Many of the families of those arrested told us these arrests were carried out merely for the purpose of extorting money from the detainees in exchange for their release.

**Fifth:** We documented widespread arrests of civilians, including media figures, by the Syrian regime's Criminal Security division on charges of "undermining the spirit of the nation", in addition to other charges related to the Counter-Cybercrime Law, which is used by the Syrian regime as legal justification for arresting citizens and workers at state institutions over criticizing the dire living conditions in the regime-controlled territories.

In terms of releases, On December 21, 2022, the Syrian regime issued Legislative Decree No. 24 for 2022 granting amnesty for crimes committed before December 21, 2022. SNHR recorded no releases pursuant to the decree.

We documented that the Syrian regime released 13 individuals in the month of December, most of whom were from the governorates of Damascus and Daraa. These individuals were released from regime detention centers in Damascus governorates after serving their arbitrary sentences, meaning that their release was unrelated to Decrees 7/2022 or 24/2022. The duration of their detention ranged from one year to 10 years on average.

We also documented a number of cases in which detainees were released a few days or months after their arrest, without having been subject to trial. Most of these detainees were from Deir Ez-Zour and Homs governorates, with all of those released having spent the entire periods of their detention in regime security branches.

Meanwhile, the SDF also continued enforcing the group's policies of arbitrary detention and enforced disappearance in December, with the number detained and forcibly disappeared by the group increasing this month as SDF personnel continued carrying out campaigns of mass raids and detentions, targeting civilians on the pretext of fighting ISIS, with some of these campaigns backed by US-led coalition helicopters. We also documented detentions targeting a number of civilians, during campaigns of mass raids and detentions and at checkpoints over their having voiced criticism of the living conditions and services in SDF-held areas. Those arrests were concentrated in the two governorates of Deir Ez-Zour and Raqqa. We also recorded the detention of a number of civilians on charges of smuggling crude oil from the SDF's territories to those controlled by the Syrian regime.

The SDF also continued to abduct children with the intention of taking them to military training and recruitment camps. As these children have been forcibly conscripted, their families have not been allowed to contact them, while the SDF refuses to divulge any details of their fate.

December also saw HTS detaining more civilians, including media activists and politicians, with these arrests concentrated in Idlib governorate; most of these arrests occurred due to the detainees expressing opinions critical of the HTS's management of areas under its control. These detentions have been carried out arbitrarily in the form of raids in which HTS members stormed their victims' homes, often breaking down the doors, or abducting their victims while they were traveling or passing through temporary checkpoints. Those arrested were taken to undisclosed locations.

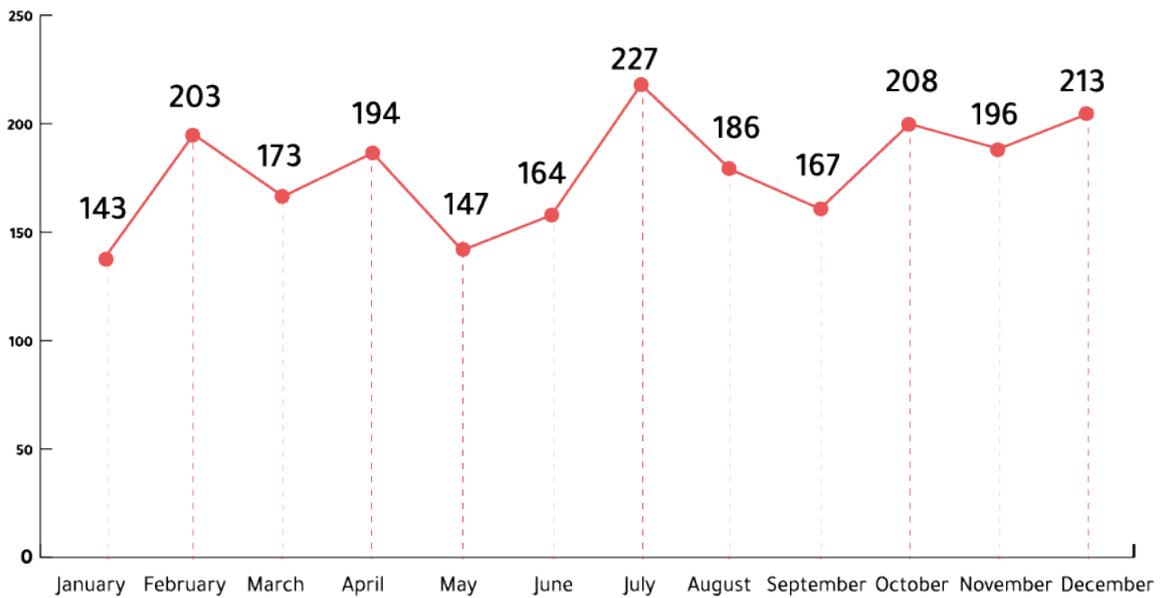
Meanwhile, all armed opposition factions/SNA also continued carrying out arbitrary detentions and kidnappings in December, most of which were carried out on a mass scale, targeting individuals coming from areas controlled by the Syrian regime. In addition, we documented detentions that exhibited an ethnic character, with these incidents being concentrated in areas under the control of the armed opposition factions/SNA in Aleppo governorate. Most of these arrests occurred without judicial authorization and without the participation of the police force, which is the sole legitimate administrative authority responsible for arrests and detentions through the judiciary, with these arrests also carried out without presenting any clear charges against those being detained. In addition to these cases, we also documented raids and detentions carried out by SNA servicemen, targeting civilians, on charges of collaborating with the SDF.

## IV. Toll of Arbitrary Arrests by the Parties to the Conflict

### A. Arbitrary arrests in 2022:

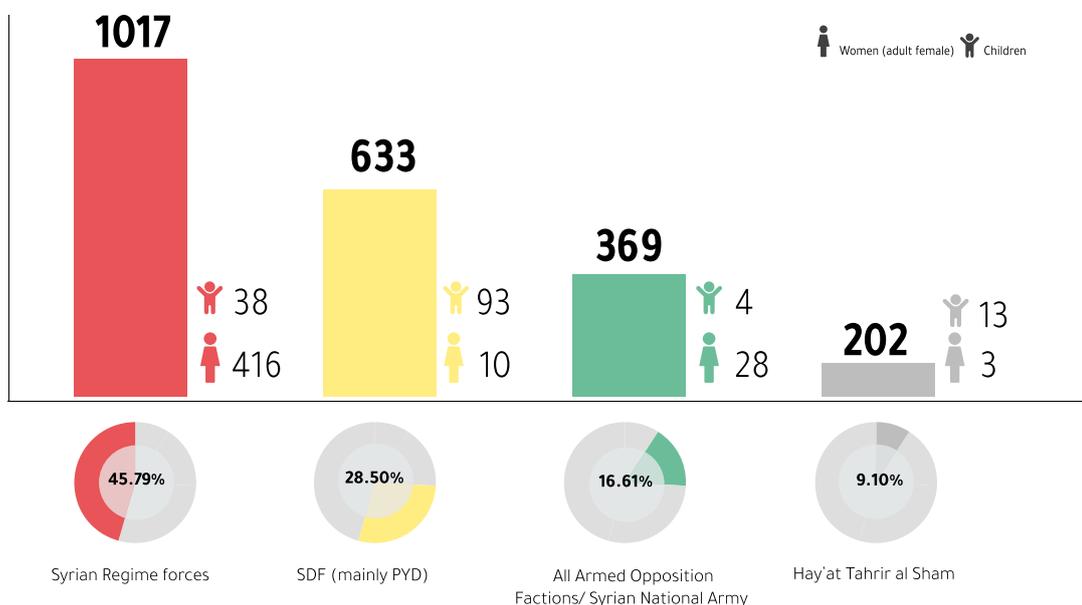
In 2022, SNHR documented at least 2,221 cases of arbitrary arrest/detention, including 148 children and 457 women (adult female). Among these cases were 1,698 cases that have subsequently been categorized as enforced disappearances.

Arbitrary arrests/detentions at the hands of the parties to the conflict and the controlling forces in Syria, in 2022 were distributed as follows:



The table above shows a significant increase in the number of arrests in February and July 2022. This increase was due to widespread arrests carried out by Syrian regime forces, most of which occurred on a mass scale targeting civilians in regime-controlled areas for various reasons as well as due to the SDF carrying out arrests with the aim of forced conscription in SDF-controlled areas.

Cases of arbitrary arrest/detention documented in 2022 are distributed according to the parties to the conflict and controlling forces as follows:



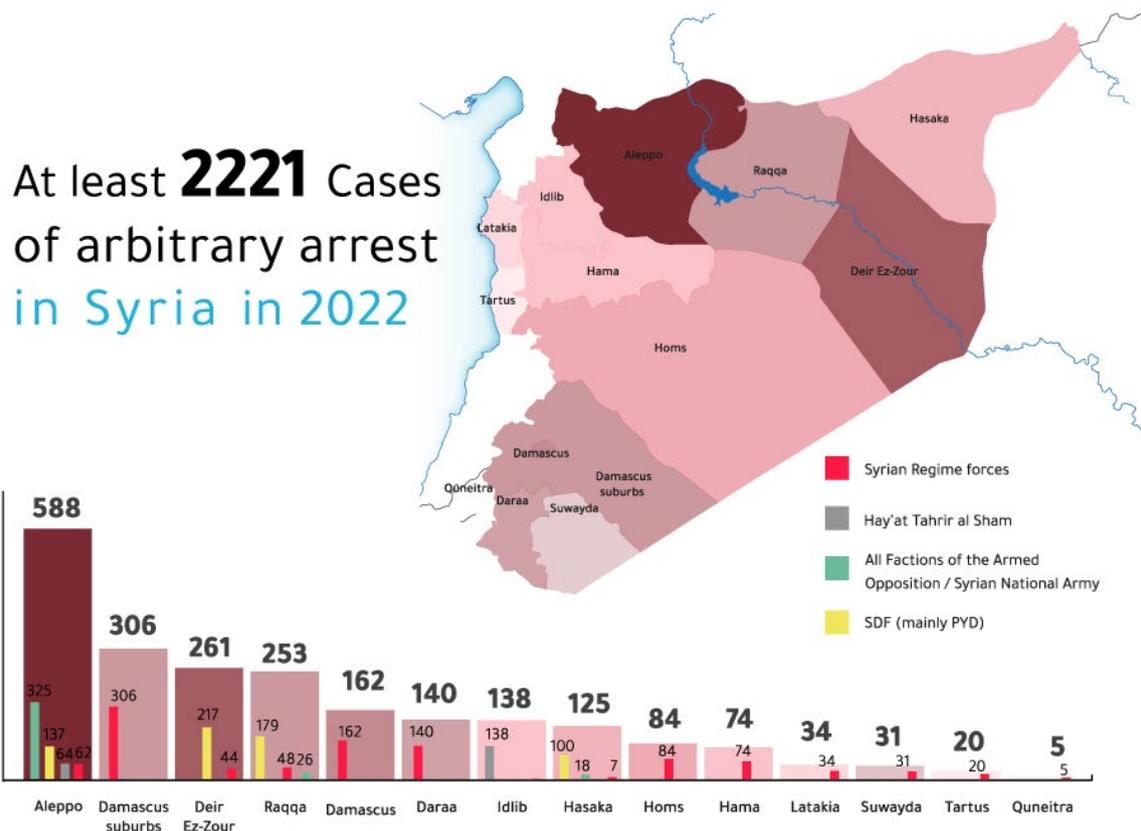
**A. Syrian regime forces:** 1,017 individuals, including 38 children and 416 women. Of these, 146 have been released, while 871 of the 1,017, have subsequently been categorized as cases of enforced disappearance.

**B. HTS:** 202 individuals, including 13 children and three women. Of these, 106 have been released, while 96 of the 202, have subsequently been categorized as cases of enforced disappearance.

**C. All armed opposition factions/SNA:** 369 individuals, including four children and 28 women. Of these, 142 have been released, while 227 of the 369, have subsequently been categorized as cases of enforced disappearance.

**D. SDF:** 633 individuals, including 93 children and 10 women. Of these, 129 have been released, while 504 of the 633, have subsequently been categorized as cases of enforced disappearance.

Cases of arbitrary arrest/detention by the parties to the conflict and controlling forces documented in 2022 are distributed by governorate as follows:



As shown in the table above, the governorates of Aleppo and Damascus suburbs saw the highest number of arrests in 2022, followed by Damascus, then Daraa, Idlib, Hasaka, Homs and Hama.

<sup>8</sup> Syrian People's Assembly. Law No. 19 of 2012. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=4306&RID=1&Last=112&First=0&CurrentPage=0&Vid=1&Mode=1&Service=1&Loc1=0&Key1=&SDate=&EDate=&Year=1&Country=&Num=19&Dep=1&>

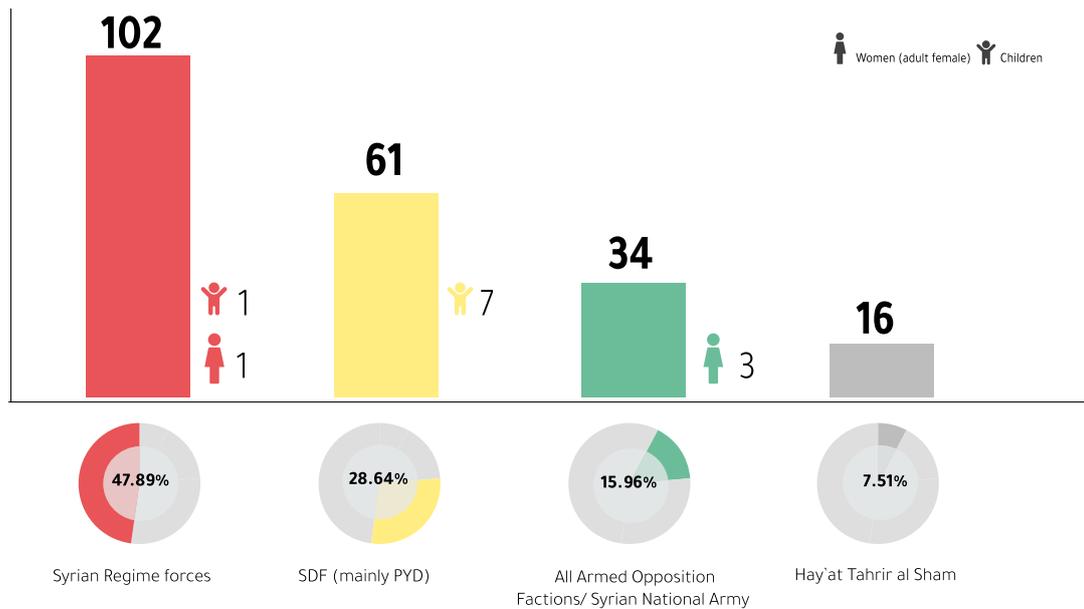
<sup>9</sup> Syrian People's Assembly. Law No. 148 of 1949. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=12278&RID=1&Last=20&First=0&CurrentPage=0&Vid=1&Mode=1&Service=1&Loc1=0&Key1=&SDate=&EDate=&Year=1&Country=&Num=148&Dep=1&>

<sup>10</sup> Syrian People's Assembly. Law No. 61 of 1950. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=11811&RID=1&Last=56&First=0&CurrentPage=0&Vid=1&Mode=1&Service=1&Loc1=0&Key1=&SDate=&EDate=&Year=1&Country=&Num=61&Dep=1&>

**B. Arbitrary arrests in December:**

In December 2022, SNHR documented at least 213 cases of arbitrary arrest/detention, including eight children and four women, at the hands of the parties to the conflict and the controlling forces in Syria, 171 of which have subsequently been categorized as cases of enforced disappearance.

Cases arbitrary arrest/detention documented in December were distributed according to the parties to the conflict and the controlling forces, as follows:



**Syrian regime forces:** 102 individuals, including one child and one woman. Of those, 13 have been released, while 89 cases, out of the 102, have subsequently been categorized as cases of enforced disappearance.

**HTS:** 16 individuals. Of these, four have been released, while the remaining 12 of the 16 have subsequently been categorized as cases of enforced disappearance.

**All Armed Opposition factions/SNA:** 34 individuals, including three women. Of these, 11 have been released, while the remaining 23 of the 34 have subsequently been categorized as cases of enforced disappearance.

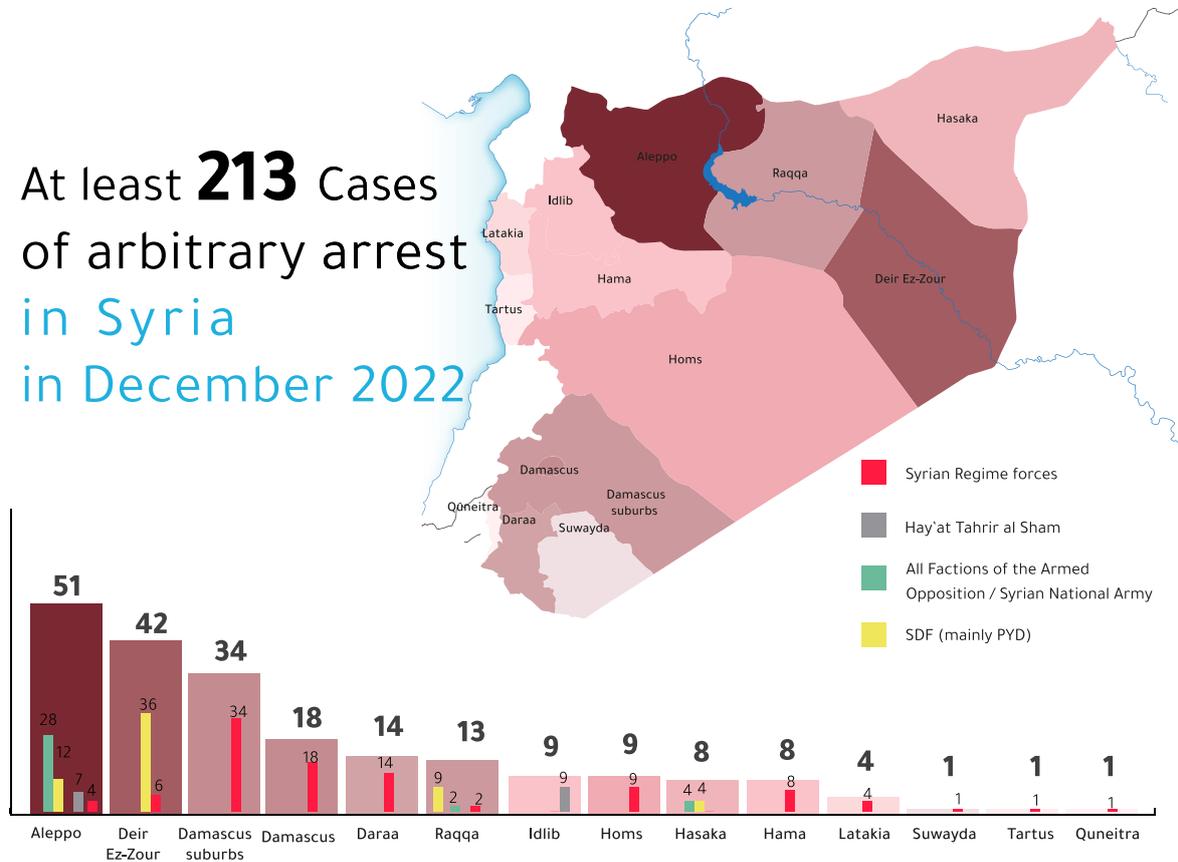
**SDF:** 61 individuals, including seven children. Of these, 14 have been released, while the remaining 47 of the 61 have subsequently been categorized as cases of enforced disappearance.

<sup>11</sup> Syrian People’s Assembly. Law No. 15 of 2022. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=22937&RID=-1&Last=120&First=0&CurrentPage=0&Vid=-1&Mode=-1&Service=-1&Loc1=0&Key1=&SDate=&EDate=&Year=-1&Country=&Num=15&Dep=-1&>

<sup>12</sup> The crime of inciting contempt of the laws includes the perpetrator only if he is an employee, a clergyman, or a teacher in the public or private sector.

Cases of arbitrary arrests/detentions documented in November at the hands of the parties to the conflict and the controlling forces were distributed across Syrian governorates as follows:

At least **213** Cases of arbitrary arrest in Syria in December 2022



As shown on the table above, Aleppo and Deir Ez-Zour governorates saw the highest number of arbitrary arrests/detentions documented this month, followed by the governorates of Damascus suburbs, Damascus, Daraa, Raqqqa, Homs, Idlib, Hama and Hasaka.

## V. Most Notable Cases and Incidents of Arbitrary Arrest/Detention in December

### A. Syrian regime forces:

#### - Most notable incidents:

On Saturday, December 10, 2022, Syrian regime forces carried out an arrest campaign at all regime checkpoints in Qedsayya city, Damascus suburbs governorate. SNHR documented the arrest of six civilians in this operation, who were taken to an undisclosed location.

#### - Most notable cases:

Mohammad Jasim al-Jasim, a 75-year-old man from Tadmur city in the eastern suburbs of Homs governorate, was arrested on Thursday, December 1, 2022 by Syrian regime forces at the Homs City National Hospital while he was receiving treatment there. He had agreed previously to a security settlement in October 2022, after he returned from al-Rukban IDPs Camp in eastern Homs governorate. He was taken to an undisclosed location.

Ahmad al-Ali, a 59-year-old man from al-Istiqlal neighborhood in al-Hajar al-Aswad city in southern Damascus governorate, who's been living in al-Kiswa city in southern Damascus suburbs governorate, was arrested on Tuesday, December 20, 2022 by servicemen from the Iranian Abu al-Fadl al-Abbas Brigade, a pro-regime militia, at a temporary checkpoint in Tishreen neighborhood in al-Hajar al-Aswad city, as he attempted to enter al-Istiqlal neighborhood to check on his house there. He was taken to an undisclosed location.

### B. HTS:

#### - Most notable cases:

Mustafa Suleiman, a member of the al-Tahrir Paty, from Ma'aret al-Atareb village in the western suburbs of Aleppo, was arrested/detained on Saturday, December 10, 2022, by HTS servicemen following a pursuit, when he attempted to flee using his motorbike. The arrest took place near his house in Ma'aret al-Atareb village. After he'd been beaten and tortured in HTS' custody, he was released in an area near the village.



### C. All Armed Opposition factions/SNA:

#### - Most notable cases:

Omar Rashid Jilou, from Sarya village, administratively affiliated with Afrin city in northwestern Aleppo governorate, was arrested/detained on Wednesday, December 7, 2022, by SNA servicemen in Sarya village on charges of working with SDF institutions in the past. He was taken to an undisclosed location.



Sayhem Osou, from Janjala village, administratively affiliated with the Nahiyat Rajou in the northern suburbs of Aleppo governorate, was arrested/detained on Thursday, December 8, 2022, by SNA servicemen at his place of work at an agricultural pharmacy in Afrin city in the northern suburbs of Aleppo governorate. He was taken to an undisclosed location.



Sheikhmous Hussein Dudik, from Midan Ikbis village, administratively affiliated with the Nahiyat Rajo in the suburbs of Afrin, northwestern Aleppo, was arrested/detained on Wednesday, December 21, 2022, by officers from the Military Police, which is affiliated with the General Staff of the SNA, in Midan Ikbis village. He was taken to an undisclosed location.

#### **D. Kurdish-led Syrian Democratic forces (mainly PYD)**

##### **- Most notable incidents:**

On Monday, December 5, 2022, SDF personnel carried out an arrest/detention campaign in al-Fakka village in the eastern suburbs of Hasaka governorate. SNHR documented the arrest/detention of three civilians who were taken to an undisclosed location.

On Wednesday, December 14, 2022, SDF personnel carried out an arrest/detention campaign in Jazrat Milat village, administratively affiliated with the Nahiyat al-Kasra in the western suburbs of Deir Ez-Zour governorate. SNHR documented the arrest/detention of five civilians in the operation, who were taken to an undisclosed location.

On Wednesday, December 21, 2022, SDF personnel, backed by an international coalition helicopter, carried out an arrest/detention campaign in al-Soor city in the northern suburbs of Deir Ez-Zour governorate. SNHR documented the arrest/detention of four civilians in the operation, who were taken to an undisclosed location.

##### **- Most notable cases:**

Sameh al-Sayyid, from Tal Hmais city in the northeastern suburbs of Hasaka governorate, was arrested/detained on Saturday, December 3, 2022, by SDF servicemen who raided his house in the city. He was taken to an undisclosed location.

Osama Mohammad al-Nawwaf, from al-Fakka village in the eastern suburbs of Hasaka governorate, was arrested on Monday, December 5, 2022, by SDF servicemen who raided his house in the village. He was taken to an undisclosed location.

Lam'en Mahmoud Othman, a female child born in 2008 from Karzeleih village, administratively affiliated with Afrin city in northern Aleppo governorate, lives in al-Sheikh Maqsood neighborhood in Aleppo city, was abducted in the east of the neighbourhood on Saturday, December 10, 2022, by the SDF's al-Shabiba al-Thawriya, 'Joanne Schurchkar' group for the purpose of military conscription. She was taken to an SDF recruitment center.



Ibrahim Jneid al-Faraj, a male child born in 2007 from lbed village in the eastern suburbs of Aleppo governorate, lives in Manbej city, in the eastern suburbs of Aleppo governorate. He was recruited on Tuesday, December 20, 2022, by the SDF's al-Shabiba al-Thawriya, 'Joanne Schurchkar' group, who took him from his place of work in Manbej city. He was taken to an SDF recruitment center.



## VI. What is SNHR Doing About the Detainees Issue?

Since 2011, the SNHR has created complex electronic programs to archive and categorize the data on detainees, which the team collects and verifies; this enables us to catalogue the detainees according to gender, the location where each was arrested, the governorate from which each detainee originally came, and the party responsible for their arrest. These programs also enable us to make comparisons between these parties, as well as identifying the governorates from which the largest proportion of residents have been arrested and disappeared.

Over the years, we have published periodic [news](#) reports on arrest incidents, as well as publishing a [monthly report](#) that monitors the record of cases of arrest, enforced disappearance, or release that occurred in the past month, as well as semi-annual and annual reports, in addition to dozens of additional reports that provide information on the various detention centers of the parties to the conflict, and other [special reports](#) related to detainees. We also periodically submit special forms to the United Nations Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Arbitrary Detention and the Special Rapporteur on Torture.

## VII. The Syrian regime Issues Laws that Violate the Principles of Law and the Determinants of Arrest and Investigation as Specified by the Local Legislations

The Counter-Terrorism Law,<sup>7</sup> the General Penal Code,<sup>8</sup> and the Military Penal Code<sup>9</sup> are among the most prominent laws under which detainees are tried. In most cases, the exceptional courts at which the detainees are tried use a range of main charges which are particularized according to the detainees' cases. For example, one of the charges contained in the Penal Code, such as weakening national sentiment, will be brought against a detainee along with another charge from the Counter-Terrorism Law, such as financing terrorism; this means the detainee is not charged with a single charge, but rather a set of charges, none of which are based on evidence or facts.

On March 28, 2022, the regime issued Law No. 15, amending the General Penal Code.<sup>10</sup> We list the following main amendments concerning detainees based on their expressions of opinion or the basis of the conflict:

- A. Terminological amendment to distinguish between a felony and a misdemeanor
- B. Terminological amendment of the crime of 'weakening national sentiment' in Article 285
- C. Terminological amendment of the crime of 'weakening the psyche of the nation' in Article 286
- D. Expanding the crime of 'undermining the state's financial position' in Article 287
- E. Adding a new crime of 'improving the image of an enemy state', now punishable by law
- F. Adding a new crime punishable by law: The call for the deduction of part of the Syrian territory
- G. Abolishing the broad and vague crime of 'inciting contempt for national conditions'<sup>11</sup>

We at SNHR note that the amendments issued by the Syrian regime regarding the General Penal Code in accordance with Law 15/2022 have been expanded with the introduction of new crimes even more vaguely defined than previously, capable of subjecting an even wider range of civilians to prosecution for exercising the slightest form of expression of opinion or the mildest criticism of the state's authority. We also believe that these amendments were issued by the regime in an effort to quell the increasing incidence of popular tension prevailing in the areas under regime control, even by regime loyalists, due to the deterioration in economic and living conditions suffered by civilians. Consequently, anyone who criticizes almost anything is arrested, which further strengthens the authority's iron grip and legitimizes arrests.

Over the past 11 years, the Syrian regime has issued nearly 21 amnesty decrees, many of which are similar to one another and focus on securing the release of perpetrators of crimes, felonies and offences, while including only a very small number of detainees referred to exceptional courts such as the Counter-Terrorism Court and the military field courts, and excluding the largest proportion of detainees who were not subjected to any trial during the years of their detention, who have been classified as forcibly disappeared. We previously [issued a report](#) in which we monitored the detention and torture incidents that we recorded since the issuance of the two amnesty decrees, Decree No. 20 of 2019, and Decree No. 6 of

<sup>7</sup> Syrian People's Assembly, Law No. 19 of 2012. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=4306&RID=1&Last=112&First=0&CurrentPage=0&Vid=1&Mode=1&Service=1&Loc1=0&Key1=&SDate=&EDate=&Year=1&Country=&Num=19&Dep=1&>

<sup>8</sup> Syrian People's Assembly, Law No. 148 of 1949. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=12278&RID=1&Last=20&First=0&CurrentPage=0&Vid=1&Mode=1&Service=1&Loc1=0&Key1=&SDate=&EDate=&Year=1&Country=&Num=148&Dep=1&>

<sup>9</sup> Syrian People's Assembly, Law No. 61 of 1950. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=11811&RID=1&Last=56&First=0&CurrentPage=0&Vid=1&Mode=1&Service=1&Loc1=0&Key1=&SDate=&EDate=&Year=1&Country=&Num=61&Dep=1&>

<sup>10</sup> Syrian People's Assembly, Law No. 15 of 2022. <http://www.parliament.gov.sy/arabic/index.php?node=201&nid=22937&RID=1&Last=120&First=0&CurrentPage=0&Vid=1&Mode=1&Service=1&Loc1=0&Key1=&SDate=&EDate=&Year=1&Country=&Num=15&Dep=1&>

<sup>11</sup> The crime of inciting contempt of the laws includes the perpetrator only if he is an employee, a clergyman, or a teacher in the public or private sector.

2020. We also issued [a special report](#) in which we outlined our follow-up work regarding the implementation of the latest decree No. 6, nearly two months after its issuance, and the record of arrests, torture and releases recorded by the SNHR between the issuance of Decree No. 6 on March 22, 2020, and May 15, 2020. In July 2021, we also issued [a special report](#) summarizing the cases and incidents of arrest and releases documented by SNHR in the period since Amnesty Decree No. 13 was issued on May 2, 2021, up to July 15, 2021. The report distinguished between the record of releases that took place related to the amnesty and those not related to it, which took place within the context of sentences' expiry, and finally a report on the amnesty decree of the [Legislative Decree No. 7 for 2022](#), issued on April 30, 2022. Despite all the amnesty decrees issued, at least 135,000 citizens in the categories of detainees and forcibly disappeared persons are still detained by the Syrian regime. On November 16, 2022, we released a report entitled, "[Breaking Down the Amnesty Decrees Issued by the Syrian Regime Between March 2011 and October 2022](#)", noting that all the amnesty decrees have led to the release of no more than 7,531 arbitrarily arrested detainees, while the Syrian regime is still holding roughly 135,253 detainee/forcibly disappeared persons. The report concluded that amnesty decrees only lead to the release of a very limited number of detainees, while arbitrary arrests are being carried out in a systematic and widespread manner. The Syrian regime is still carrying out arbitrary arrests and enforced disappearance regardless of the amnesty decree it may issue.

According to the constitution and the legislation in force in the state, the Syrian government is committed to serving its citizens in issues regarding freedoms, arrest and investigation of criminal acts, with a system of procedural rules that guarantee all human rights guarantees that preserve their freedom, rights and dignity stipulated in international covenants.

The 2012 constitution affirms that the rule of law is the basis of governance in the state, that every accused person is innocent until convicted by a court ruling in a fair trial, and that the punishment is limited to that individual, so it is not permissible for family members of a perpetrator of criminal acts such as his wife, forebears and descendants to be detained for his crime, or held as hostages until his arrest, with the constitution forbidding searching or arresting a person except in accordance with an order or decision issued by the competent judiciary. When arresting a person, the constitution requires that the individual be informed of the reasons for his arrest and his rights, and also forbids the continuation of his detention before the administrative authority except by order of the competent judiciary, and categorically prohibits torture or subjecting anyone to humiliating treatment. Every attack on personal freedom, the sanctity of private life, or other public rights and freedoms guaranteed by the Constitution is prohibited, with any such abuse classified as a crime punishable by law.<sup>12</sup>

The constitution also guarantees the right of defense for the accused before the court and the right to appeal against the judgments issued by it<sup>13</sup>, which the field court is not bound by.

As for national legislation, it accompanied these constitutional principles, as the Code of Criminal Procedure<sup>14</sup> was clear in Article 17/1 that the Public Prosecutor is the only body charged with investigating crimes and tracking down their perpetrators, and that such duties can certainly never be undertaken

<sup>12</sup> Syria Constitution 2012, Article 50, Article 51 (1-2), Article 53, Article 54.

<sup>13</sup> Syria Constitution 2012, Article 51 (3).

<sup>14</sup> Legislative Decree 112 of March 13, 1950.

by one of the intelligence services! As for Article 25, this explicitly states that every official authority or employee who became aware during the performance of his job of the occurrence of a felony or misdemeanor should immediately report the matter to the competent Public Prosecutor, and send him all the information, records and papers related to the crime, a duty emphasized in Article 49 of the same law regarding police officials. The Public Prosecutor's assistants in the judiciary may deposit with him without delay any intimation and seizure records that they issue regarding the cases in which their involvement is authorized, along with all other relevant documents. While the security services are the main parties responsible for arrests and enforced disappearances, their actions blatantly contradict these clearly defined texts, meaning that they hold people for many years with no recourse to the authority of the judiciary and free from any oversight.

In the matter of arrest, detention of liberty, the Code of Criminal Procedure is extremely strict. In Article 104, it obliges the investigating judge to interrogate the defendant within twenty-four hours of his detention in police custody. The investigating judge must be asked to interrogate him. If he refuses, is absent, or is prevented by a legal impediment, the investigating judge should request another investigative judge, the head of the first instance court, or the conciliation judge to question him.

Article 105 of the law rules that if the defendant has been arrested under a subpoena and remained in custody for more than twenty-four hours without being questioned or taken to the Public Prosecutor, his arrest would be considered an arbitrary act, and the responsible official would be prosecuted for the crime of deprivation of personal freedom stipulated in Article 358 of the Penal Code.

According to the above, we find that most of the legal texts have preserved the freedom of the Syrian citizen, which only the judge can limit with an arrest warrant, to the extent that if there is no judge to interrogate the defendant within twenty-four hours, he must be released, even if he was a murderer, under pain of the arresting officers being classified as perpetrators involved in the crime of depriving an individual liberty; this confirms that the problem is not always with the legal text itself, but with the security services and official institutions who ignore these texts and fail to respect or abide by them.

It is worth noting here that Legislative Decree No. 55 issued on April 21, 2011, allowed the judicial police or its delegates (security services) to detain suspects for seven days, subject to renewal by the Public Prosecutor, provided that this period does not exceed sixty days. The security services have never complied with this legislation on two accounts:

- These authorities do not observe the legal period of detention without trial, which is a maximum of sixty days. Cases of people being brought by the security services to all kinds of judiciary (terrorism court, military judiciary, ordinary judiciary) have repeatedly exceeded this period without any authorization from the Public Prosecutor.

- This exceptional legislative mandate was limited to the crimes stipulated in Part One and Two of Book Two of the Penal Code (Articles 260 to 339) which are crimes against the internal and external security of the state and crimes against public safety, in addition to crimes of concealment of criminals and concealment of felonies and misdemeanors. The offense against the security of the state and the fabrication of crimes and slander only, meaning that the crimes stipulated in the Anti-Terrorism Law are not covered by this text that gave it that exceptional authority, and therefore, along with the rest of the crimes, are subject to the general rules that the suspect is presented to the Public Prosecution within twenty-four hours of his arrest. It is noted that these security services keep people for long periods of time, even if their crime is a criminal offense such as drug smuggling, for example.

Consequently, this legislation that gave the security services (as the main cause of people's disappearance) the power to arrest and investigate exceptionally up to sixty days before the suspect is presented to the judiciary as a dead letter for them.

As for the Penal Code<sup>15</sup>, this dedicates a portion of it to crimes of infringement of freedom, and in Article 357 it punishes with temporary imprisonment ranging from three to fifteen years every employee who arrests or imprisons a person in cases other than those stipulated by law. This legislation is also severe in the punishments cited for the director and guards of any prison if they accepted a person without a judicial warrant, with Article 358 stipulating that the directors and guards of prisons, disciplinary institutes or correction facilities and all employees who have abused their powers if they accepted a person without a judicial warrant or judicial decision or kept him beyond the term, are punished for this with periods of imprisonment from one to three years, and should be punished with imprisonment from one month to one year if they refuse or delay bringing an arrested person or a prisoner before the competent judge (Article 359).

Thus, we find that the constitution and national legislation clearly guarantee the rights and freedom of the suspect, and that he should not be arrested except with a judicial warrant, which means that there should be a case file with the judiciary that the Public Prosecution has brought against the defendant, and thus it is easy to know the location of the person's detention, the offense attributed to him and other details; despite all these facts, these texts have not done any good in preventing the existence of the problem of detainees and forcibly disappeared persons. . This confirms that the principle of the supremacy of constitutional law has remained wholly nominal and without any practical value and has been completely undermined by official government institutions and a judiciary that is incapable of oversight and accountability due to the loss of its independence and the encroachment of the executive and legislative authority on it. Based on the foregoing, it is not possible to talk about respect for the rule of law in a state whose institutions do not respect even the laws issued by it, disregarding the rule of law domestically as it does international human rights and humanitarian law, and whose judiciary is unable to hold accountable and accountable.

<sup>15</sup> Legislative Decree No. 148 issued on June 22, 1949.

## VIII. Filing Charges, Extracting Multiple Confessions under Torture, and Referring Detainees to Courts that are Effectively Security Branches

We, at SNHR, would like to emphasize that the detainees imprisoned for participating in the popular movement towards democracy in Syria have mostly been jailed for activities related to political, human rights, or media activism, humanitarian relief work, and similar activities. In the vast majority of the cases the regime's security branches extract multiple confessions from these detainees under coercion, intimidation and torture, with the most prominent of the charges against them being: inciting sectarian strife, threatening the ruling system, weakening/hindering national sentiment, collusion with external and enemy forces, supporting and financing terrorism, and weakening the nation's psyche, and 'spreading despair or weakness among the members of society'. These are the charges which appear in the written records, and each detainee may be referred to another security branch if he or she is wanted by more than one security branch. The detainee's fingerprints are generally placed on these records in lieu of a signature under coercion and torture in general. We note here that the security branches rarely allow the detainee to read and sign his or her confessions, but rather order them to place their fingerprint on the documents instead of signing, doing so in most cases while the detainees are blindfolded with a piece of cloth over their eyes. These security records are referred to the Public Prosecution, with the majority of them transferred to either the Counter-Terrorism Court or the Military Field Court (these stages may take months or years to pass, during which the detainee is exposed to the worst methods of torture, which are often lethal).

We briefly define the [Counter-Terrorism Court](#), which was established in accordance with Presidential Decree No. 22 of 2012 as serving as a substitute for the exceptional Supreme State Security Court, examining detainees' cases according to the Counter-Terrorism Law No. 19 of 2012, an article of legislation similar to the legislation on 'counter-revolutionary goals' issued in 1964, which violates the most basic principles and rules of law and human rights, under which a person can be arrested simply because he or she is suspected of not supporting the Syrian regime, with the court ruling on most cases of arrest carried out by Syrian Regime forces. The Counter-Terrorism Court consists of three judges appointed by the President of the Republic, according to the proposal submitted by the Supreme Judicial Council, which is also chaired by the President of the Republic, who try civilians, military personnel, and juveniles, and issue sentences in absentia. In addition, these sentences may not be appealed except in the case of those who surrender themselves voluntarily. Although the body's official name is the Counter-Terrorism Court, it tries all types of crimes and can therefore be called an exceptional court; it is, in fact, part of the regime's security apparatus.

As for the Military Field Court, again briefly, this was established by Decree No. 109 of August 17, 1968, with its jurisdiction originally specified as being only for crimes committed in wartime; its remit was expanded in 1980, however, to allow it to operate in both war and peace times and to try civilians, military personnel and juveniles. This court is also formed by the executive authority through the Minister of Defense, and consists of a president and two members who are not required to be law graduates. The rulings issued by this court are not open to appeal, being endorsed by the Minister of Defense. Regarding the death sentences issued by this court, they are ratified by the President of the Republic, with both the Minister of Defense and the President of the Republic able to manipulate the rulings issued according to their personal whims. The Military Field Court is wholly managed by the executive authority that dominates the judicial authority, and therefore the most fundamental conditions of fair trial are not met in this court, which is also closer to a military-security branch than to a court of law.

According to the SNHR's database, the vast majority of detainees were arrested in connection with their participation in activities opposed to the Syrian regime, no matter how innocuous, such as attending demonstrations, being involved in media or humanitarian relief activism, or even as a result of their kinship ties with an activist; this means that the vast majority of detainees are arrested in connection with their political activism, meaning that they are political detainees.

Other parties to the conflict have also established courts to try their detainees in accordance with procedures that are, to a great extent, similar to the courts affiliated with the Syrian regime. Extremist Islamist groups have established Sharia courts made up of sharia judges or security personnel and issued sentences according to their extremist ideology. As for the areas under opposition control, these have established courts which operate according to amended forms of existing Syrian laws. Syrian Democratic Forces, meanwhile, have established the 'people's courts' and established their own laws and legislation derived from the Syrian laws, with all these courts following the policy of exceptional courts by holding brief proceedings, essentially amounting to kangaroo trials, to try the cases before them without any considerations of the fundamental standards of fair trials, and relying mainly on the jurisprudence of judges, most of whom are unqualified or illegal.

## IX. Conclusions and Recommendations

- The issue of detainees and forcibly disappeared persons is one of the most crucial human rights issues in Syria which there has been no progress in resolving despite its inclusion in several resolutions of the UN Security Council, as well as in UN General Assembly resolutions, in Kofi Annan's plan, and finally in the statement of cessation of hostilities issued in February 2016, which states that "*all parties undertake to work for an early release of any arbitrarily detained persons, particularly women and children*", and in Security Council resolution 2254 of December 2015, article 12, which states that all detainees, especially women and children, must be released immediately. Despite all these resolutions and other official statements, no progress has been made on the issue of securing the release of detainees in any of the rounds of negotiations sponsored by international parties regarding the conflict in Syria. The International Committee of the Red Cross has been unable to conduct any periodic visits to any of these detention centers, constituting a violation of International Humanitarian Law.
- The SNHR believes that the Syrian regime has not fulfilled any of its obligations under any of the international treaties and conventions which it has ratified. We refer specifically to the International Covenant on Civil and Political Rights. The regime has also violated several articles of the Syrian Constitution itself, with thousands of detainees detained without any arrest warrant, held for many years, without charges, and prevented from appointing a lawyer and from receiving family visits. 68.25 percent of all detentions documented have subsequently been categorized as cases of enforced disappearance, with detainees' families being denied any information on their loved ones' whereabouts, while anyone making inquiries about the detainees faces the risk of being arrested themselves for doing so. The Syrian regime has also violated the right to liberty enshrined in article 9 of the ICCPR through the widespread practice of arbitrary and unlawful detentions.
- Hay'at Tahrir al Sham imposes absolute authority over the large areas it controls and the residents there. The group which has a political entity, and has developed a highly hierarchical structure, is therefore obliged to implement the provisions of international human rights law. Hay'at Tahrir al Sham has committed widespread violations through arrests and enforced disappearances.
- All Armed Opposition factions/Syrian National Army have carried out arrests and torture against a number of residents in areas under their control.
- Kurdish-led Syrian Democratic Forces have violated many basic rights and practiced numerous violations such as torture and enforced disappearance. They also have a political entity with a largely hierarchical structure and are, therefore, also obliged to apply the provisions of international human rights law.

## **Recommendations:**

### **UN Security Council**

- The Security Council should monitor the implementation of Resolution 2042, adopted on April 14, 2012, Resolution 2043, adopted on April 21, 2012, and Resolution 2139, adopted on February 22, 2014, which demand immediate cessation of the crime of enforced disappearance.
- In light of the spread of the coronavirus, it is vital to put pressure on the Syrian regime to release tens of thousands of arbitrarily detained persons, primarily medical personnel whose professional skills and services the Syrian people are in dire need of.
- Take action under Chapter VII of the Charter of the United Nations to protect detainees from certain death inside detention centers, and to put an end to the pandemic of enforced disappearance that continues to plague Syria, posing a threat to the security and stability of society, act to end torture and deaths due to torture inside Syrian regime detention centers, and save whoever is left among the detainees as quickly as possible.

### **Human Rights Council:**

- Follow up on the issue of detainees and forcibly disappeared persons in Syria and highlight this issue in all annual meetings.
- Cooperate and coordinate with all active local human rights groups in Syria.

### **Independent International Commission of Inquiry (COI)**

- Launch investigations into the cases included in this report and previous reports. SNHR is willing to cooperate and provide more evidence and data.

### **International, Impartial, and Independent Mechanism (IIIM)**

- Address the cases mentioned in this report and previous reports. SNHR is willing to cooperate and provide more evidence and data.

### **United Nations, the international community, and the guarantors of the Astana talks**

- An impartial special committee should be formed to monitor cases of enforced disappearance, and to make progress in revealing the fate of the nearly 102,000 documented missing persons in Syria, approximately 85 percent of whom are detained by the Syrian regime.
- Immediately begin applying pressure on all parties to ensure that they immediately reveal their detention records according to a timetable. In the meantime, detention places should be revealed immediately, and humanitarian organizations and the International Committee of the Red Cross should be allowed to visit them directly.

- We call on the official appointed to take charge of the detainee file at the UN Special Envoy's office to include the issue of the detainees during the upcoming round of Geneva talks, as this issue is of far greater importance to the Syrian people than other longer-term issues which can be jointly addressed later by the parties after a political settlement is reached, such as the constitution.
- Stop any forcible return of Syrian refugees, since the situation in Syria continues to be unsafe, and put pressure to achieve a political transition that would ensure the automatic return of millions of refugees.
- Support organizations working to document cases of arbitrary arrest, enforced disappearance, and torture, support the course of accountability and its mechanisms, and support organizations working in victim rehabilitation programs.

### **The Russian regime**

- Must demand that its ally, the Syrian regime, disclose the fate of nearly 87,000 forcibly disappeared persons and immediately release tens of thousands of arbitrarily detained persons and detainees whose sentences ended, before demanding that those states which imposed sanctions on the Syrian regime lift them.
- Must provide the Syrian regime with the necessary medical supplies and equipment to examine tens of thousands of detainees and ensure that they are not infected with the COVID-19.
- Supporting a genuine political transition away from the dynastic dictatorship of one family and its brutal security services is the only way to achieve security, stability, and reconstruction.

### **All parties to the conflict and the controlling forces**

- The arbitrary arrests and enforced disappearances, which are still ongoing, as detailed in this SNHR monthly report, must be ended immediately, the fate of all detainees and the forcibly disappeared persons must be revealed, their families should be allowed to visit them immediately, and the bodies of detainees who were killed as a result of torture should be handed over to their families.
- Unconditionally release all detainees who have been imprisoned merely for exercising their political and civil rights, release women and children, people with special needs, the sick, and the elderly, and stop using any detainees as prisoners of war.
- Allow the independent international monitors of the Independent International Commission of Inquiry and the International Committee of the Red Cross to access all official and unofficial detention centers without establishing any prior arrangements or any restrictions or conditions, and improve the conditions of places of detention to meet the legal standards of detention centers.
- A UN committee should be formed to monitor and periodically assess the release of the detainees according to a timetable that must be presented by all the detaining parties, primarily the Syrian regime forces that are responsible for 89 percent of all detentions.

- Publish a register containing the detainees' data together with the reasons, locations, and sentences issued.
- All sentences issued by the regime's field military courts and Counter-Terrorism courts should be suspended or repealed, since they are non-compliant with domestic and international legislation, as well as failing to provide guarantees of a fair trial.
- End the policy of carrying out arrests without legal warrants, release all detainees imprisoned by them without judicial charges, and emphasize that individuals should also be detained only briefly before being presented in a court of law, and that such trials do not take weeks or months.

### **Acknowledgment**

We wish to extend our most sincere thanks to victims' family members and friends, as well as to eyewitnesses and local activists, for their significant and valuable contribution to this report, in collecting and verifying data. We stand with the detainees and the forcibly disappeared persons and their families.



[www.snhr.org](http://www.snhr.org) - [info@snhr.org](mailto:info@snhr.org)