

ARTICLES

Enforced Disappearances and Torture in the Syrian Conflict: Recent Contributions of the United Nations Working Group on Enforced or Involuntary Disappearances

Disparitions forcées et torture lors du conflit syrien: contributions récentes du groupe de travail des nations unies sur les disparitions forcées ou involontaires

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Abstract

Since its beginning in 2011, the armed conflict in Syria has been marked by a preoccupying number of enforced disappearances perpetrated by state officials as well as similar crimes attributed to non-state actors. This situation has been documented, in part, by the United Nations Working Group on Enforced Disappearances (WGEID) in its annual reports and cases. This article argues that, in certain circumstances, enforced disappearances constitute not only torture but also war crimes and crimes against humanity. It details how the WGEID and other institutions have documented such practices in the context of the Syrian conflict as well as the impacts that they have had on victims.

Keywords: Human rights; enforced disappearances; torture; Syrian armed conflict

Résumé

Depuis ses débuts en 2011, le conflit armé en Syrie a été marqué par un nombre préoccupant de disparitions forcées perpétrées par des représentants de l'État, ainsi que par des crimes similaires attribués à des acteurs non étatiques. Cette situation a été documentée, en partie, par le Groupe de travail des Nations Unies sur les disparitions forcées ou involontaires (GTDFI), dans le cadre de ses rapports annuels et des cas individuels traités par sa procédure

Certain elements of this article were presented in April 2024 by Bernard Duhaime in his expert testimony filed in *Obada Mzaik v Syrian Arab Republic*, Case No 1:22-cv-00042 (DDC). The opinions expressed here are expressed in Bernard Duhaime's personal capacity and in Madeleine McKenzie's personal capacity.

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régulière. La présente contribution soutient que, dans certaines circonstances, les disparitions forcées constituent non seulement des actes de torture, mais aussi des crimes de guerre et des crimes contre l'humanité. Elle détaille comment le GTDFI et d'autres institutions ont documenté ces pratiques ainsi que leurs conséquences pour les victimes dans le contexte du conflit syrien.

Mots-clés: Droits humains; disparitions forcées; torture; conflit armé en Syrie

1. Introduction

Since its beginning in 2011, the armed conflict in Syria has been marked by a preoccupying number of enforced disappearances perpetrated by state officials as well as similar crimes attributed to non-state actors. This situation has been documented, in part, by the United Nations (UN) Working Group on Enforced or Involuntary Disappearances (WGEID) in its annual reports and cases. The Syrian civil war began in early 2011 when Syrian adolescents across the country took to the streets to protest then president Bashar Assad's regime by scrawling anti-regime graffiti.¹ On 15 March 2011, protestors demanded democratic reforms and the release of political prisoners in major protests that took place in the cities of Deraa, Damascus, and Aleppo.² In July 2011, the conflict escalated further when military defectors announced the formation of the Free Syrian Army, which sought to overthrow the Assad regime.³ By 2012, the conflict had escalated into a full-scale civil war,⁴ and a number of other rebel groups had emerged across Syria, including Hay'at Tahrir al Sham and the Syrian Democratic Forces.⁵ Other actors, including the United States, Russia, and Turkey, also became involved around that time.⁶

Between the beginning of the armed conflict in Syria in March 2011 until the fall of the Assad regime in December 2024, the WGEID recorded an increasing number of enforced disappearances perpetrated across the country annually. In total, over the course of the civil war, an estimated 150,000 people were detained or disappeared in Syria — with the majority of these individuals having been detained by Assad's regime.⁷ The Human Rights Data Analysis Group estimates that approximately

¹UN Human Rights Council (HRC), *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, Doc A/HRC/S-17/2/Add.1 (23 November 2011) at para 27 [HRC, Doc A/HRC/S-17/2/Add.1]; Mona Yacoubian, *Syria Timeline: Since the Uprising against Assad* (1 January 2021), online: *United States Institute for Peace* <www.usip.org/syria-timeline-uprising-against-assad>.

²HRC, Doc A/HRC/S-17/2/Add.1, *supra* note 1 at para 27; "Twelve Years on from the Beginning of Syria's War," *Al Jazeera* (15 March 2023), online: <www.aljazeera.com/news/2023/3/15/twelve-years-on-from-the-beginning-of-syrias-war>.

³HRC, Doc A/HRC/S-17/2/Add.1, *supra* note 1 at para 29; "Twelve Years," *supra* note 2.

⁴Yacoubian, *supra* note 1.

⁵"Twelve Years," *supra* note 2.

⁶*Ibid.*

⁷Sarah El Deeb & Malak Harb, "Inside Bashar Assad's Detention Centers, Where 'Death Was the Least Bad Thing,'" *Associated Press* (7 January 2025), online: <apnews.com/article/syria-prisons-torture-assad-missing-ad4c676858c8016ea5fd4f7a4946353e>.

thirty-four thousand individuals were killed in custody, with 80 percent of those deaths being attributed to state actors.⁸

In late 2024, the Assad regime fell after a rebel offensive seized control of major regime-controlled cities throughout Syria.⁹ The country is currently governed by a patchwork of rebel groups, and a consensus regarding how Syria will be run going forward has yet to be reached.¹⁰ The fall of Assad's regime has created new opportunities to investigate the former regime's detention centres and to determine the fates of the missing and disappeared. Part of the discussion on this topic relates to whether enforced disappearances constitute a form of torture under international law, in general and in the specific context of Syria. This article argues that, in certain circumstances, enforced disappearances constitute not only torture but also war crimes and crimes against humanity. It details how the WGEID and other institutions have documented such practices in the context of the Syrian conflict as well as the impacts that they have had on victims.

2. Human rights law and enforced disappearances and torture

International human rights law addresses the issues of enforced disappearances and torture both from a normative and institutional point of view.¹¹

A. The legal concept of enforced disappearance

International human rights law defines enforced disappearances as

the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.¹²

⁸Maria Gargiulo, Tarak Shah & Megan Price, "Deaths in Custody during the Armed Conflict in Syria, 2011–2023" (10 December 2024), online: *Human Rights Data Analysis Group* <hrdag.org/report/20241210-deaths-in-custody.pdf>.

⁹Ben Hubbard et al, "Deception and Betrayal: Inside the Final Days of the Assad Regime," *New York Times* (21 December 2024); Zachary Laub, "Syria's Civil War: The Descent into Horror," *Council on Foreign Relations* (20 December 2024), online: <www.cfr.org/article/syrias-civil-war>.

¹⁰"Syria in Maps: Who Controls the Country Now Assad Has Gone" (13 December 2024), online: *BBC* <www.bbc.com/news/articles/c2ex7ek9pyeo>.

¹¹On this issue, see generally Bernard Duhaime, Juan Méndez & Pau Pérez-Sales, "Current Debates, Developments and Challenges Regarding Torture, Enforced Disappearances and Human Rights in Enforced Disappearance as Torture" (2021) 31:2 *J Rehabilitation Torture Victims & Prevention Torture* (Torture Journal) 3.

¹²See *Declaration on the Protection of All Persons from Enforced Disappearances*, UN Doc A/RES/47/133 (18 December 1992), preamble [*Declaration on Disappearances*]. See also *International Convention for the Protection of All Persons from Enforced Disappearance*, Doc. A/RES/61/177 (20 December 2006), art 2 [*ICCPE*].

This legal concept¹³ is thus composed of three essential distinguishing features: an individual's deprivation of liberty, undertaken by agents of the state, followed by the denial or concealment of information regarding the abductee's fate or whereabouts.¹⁴

The *Declaration on the Protection of All Persons from Enforced Disappearances*, which was adopted by the UN General Assembly in 1992, sets out a state's obligations to prevent, sanction, and remedy this gross violation of human rights.¹⁵ These norms and principles were reiterated in the 2006 *International Convention for the Protection of All Persons from Enforced Disappearance (International Convention on Enforced Disappearance)*.¹⁶ While the convention only applies to countries that have ratified it, the declaration applies to all states.¹⁷ Both instruments provide that "no exceptional circumstances whatsoever ... can be invoked to justify enforced disappearance."¹⁸ Indeed, it is generally recognized that enforced disappearances are today prohibited by customary international law, recognized as a peremptory norm of international law and that they constitute a crime within the meaning of international criminal law.¹⁹

Numerous international legal instruments state that enforced disappearances can constitute a crime against humanity under certain circumstances, particularly when they occur as a widespread or systematic practice. For example, the *Rome Statute* sets forth that the enforced disappearance of persons constitutes a crime against humanity "when committed as part of a widespread or systematic attack directed against any

¹³The legal concept of enforced disappearances is distinct and more restrictive concept than that of "missing person" as defined in international humanitarian law (IHL). Indeed, under IHL, a missing person is someone whose whereabouts are unknown as a result of armed conflict. In this regard, *Additional Protocol I to the Geneva Conventions* provides that the parties to an international armed conflict must facilitate the search for persons reported missing in this context, as soon as circumstances permit. See *Additional Protocol I to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflict (Additional Protocol I)*, 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978), art 33 [*Additional Protocol I*]. See also Jean-Marie Henckaerts & Louise Doswald-Beck, *Customary International Humanitarian Law*, vol 1: *Rules* (Cambridge: Cambridge University Press, 2005), Rule 117 ("[e]ach party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate"); Andréanne Thibault, "Protection of Migrants from Enforced Disappearance: A Human Rights Perspective" (2017) 99 *Intl Rev Red Cross* 569.

¹⁴See generally Bernard Duhaime & Rhiannon Painter, "International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)" in Christina Binder et al, eds, *Elgar Encyclopedia of Human Rights* (Cheltenham, UK: Edward Elgar, 2021) 135.

¹⁵*Declaration on Disappearances*, *supra* note 12.

¹⁶ICPPED, *supra* note 12.

¹⁷While the *Declaration on Disappearances*, *supra* note 12, is a United Nations (UN) General Assembly resolution, and, thus, technically not a binding treaty, it does contain many norms that are considered today as norms of customary international law, binding on all states. The prohibition of enforced disappearances and the corresponding obligation to investigate and punish perpetrators have attained the status of *jus cogens* — that is, a principle of international law that cannot be set aside. See Human Rights Council (HRC), *Thirtieth Anniversary of the Declaration on the Protection of All Persons from Enforced Disappearance*, Doc A/HRC/51/31/Add.3 (31 August 2022) at paras 70–80 [HRC, Doc A/HRC/51/31/Add.3]. See also International Committee of the Red Cross (ICRC), "Customary IHL Database" (last accessed 3 December 2025), Rule 98, online: <ihl-databases.icrc.org/en/customary-ihl/v2/rule98>.

¹⁸*Declaration on Disappearances*, *supra* note 12, art 7; ICPPED, *supra* note 12, art 1.2.

¹⁹Bernard Duhaime, "Les disparitions forcées dans le monde contemporain: les contributions récentes du Groupe de Travail des Nations Unies sur les Disparitions Forcées ou Involontaires" (2024) 35:2 *RQDI* 234.

civilian population, with knowledge of the attack[.]”²⁰ Similarly, the *International Convention on Enforced Disappearance* sets forth that “[t]he widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.”²¹ In addition, while international humanitarian law does not explicitly refer to “enforced disappearances” as such, the International Committee of the Red Cross has found that enforced disappearances violate a number of customary rules of international law, including the prohibition of the arbitrary deprivation of liberty, the prohibition of torture and other cruel or inhuman treatment, and the prohibition of murder.²²

An enforced disappearance constitutes a composite violation of several human rights guaranteed by international law, including the right to liberty and security of person; the right to a fair trial; the right to judicial guarantees; the right to an effective remedy, including the right to reparation and compensation; the right to life; the right to physical and moral integrity of the person, including the right not to be subjected to torture and other cruel, inhuman, or degrading treatment or punishment; the right of everyone to recognition of their legal personality; the right to identity; and the right to the truth.²³

As a matter of international human rights law, “victim of enforced disappearance” means that the disappeared person and any individual has suffered harm as a direct result of an enforced disappearance. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation, and the fate of the disappeared person.²⁴ Within the UN human rights system, a special procedure mandate of the Human Rights Council has addressed the issue of enforced disappearances more extensively.

B. The UN Working Group on Enforced or Involuntary Disappearances

The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.²⁵ These experts are appointed by the Human Rights Council, and they act in their personal capacity and independently from any government or organization, on a voluntary basis, for a term of three-to-six years. Special procedures’ mandates cover all state members to the UN, irrespective of whether a state has ratified relevant international conventions. There are forty-six thematic mandates and fourteen country mandates, which include both individuals

²⁰Rome Statute of the International Criminal Court, 17 July 1998, Can TS 2002 No 13 (entered into force 1 July 2002), art 7.

²¹ICPPED, *supra* note 12, art 5.

²²ICRC, *supra* note 17.

²³Bernard Duhaime, “Enforced Disappearances in the Contemporary World: The Recent Contributions of the United Nations Working Group on Enforced or Involuntary Disappearances” in Maria Giovanna Bianchi & Monica Luci, eds, *The Crime of Enforced Disappearance: Between Law and Psyche* (London: Routledge, 2023) 19 [Duhaime, “Enforced Disappearances”].

²⁴ICPPED, *supra* note 12, art 24. See also HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/16/48 (26 January 2011) at para 39ff [HRC, Doc A/HRC/16/48].

²⁵See generally Bernard Duhaime, “Multilateral Human Rights in a Shifting World Order: Perspectives from a UN Special Procedure Mandate” (2018) 31:2 RQDI 213.

and groups of experts.²⁶ In carrying out their mandate, the special procedures: (1) transmit urgent appeals to governments and other actors on strategies, policies, and measures to address gross violations of human rights and serious violations of international humanitarian law; (2) conduct country visits to assess transitional justice measures that have been taken to address such violations, identify gaps and challenges, and make recommendations thereon; and (3) submit annual reports to the Human Rights Council and the UN General Assembly on the activities of the mandate and the above-mentioned measures. The special procedures work in close cooperation with governments, inter-governmental and non-governmental organizations, and civil society. This work includes participating in relevant workshops or other meetings, providing technical assistance when requested, writing reports and articles, issuing public statements, and making inquiries and responding to queries about issues pertaining to their mandate. Special procedures conduct their work with the support of the Office of the UN High Commissioner for Human Rights.

In 1980, the then United Nations Commission on Human Rights²⁷ created the WGEID, and the Human Rights Council has renewed its mandate ever since. The WGEID is made up of five independent experts. The WGEID is mainly responsible for assisting relatives of the disappeared to communicate with governments to establish the fate or whereabouts of their loved ones. The group also assists states in the implementation of the obligations arising from the 1992 *Declaration on Disappearances*.

The WGEID holds three sessions per year, during which it processes individual cases of alleged enforced disappearances, following its urgent procedure, which are registered in its database. The WGEID then asks states to supply information as to the fate or whereabouts of the victims as well as to the measures taken to investigate the crimes linked to the disappearance. It also adopts general allegations dealing with issues of a systemic nature on enforced disappearances in a given country and can also engage governments through urgent appeals or rapid interventions to avoid future disappearances and harassment of human rights defenders. It carries out approximately two country visits each year, which lead to reports on the situation of enforced disappearances in the specific countries, providing recommendations to the concerned authorities.²⁸ The WGEID is governed by the *Declaration of Disappearances*, its own methods of work,²⁹ as well as the *Code of Conduct of the Special Procedures*.³⁰ In accordance with its humanitarian mandate, the WGEID can look into allegations of disappearances committed by all states, irrespective of the human

²⁶See generally “Special Procedures of the Human Rights Council,” *UN Human Rights Office of the High Commissioner*, online: <www.ohchr.org/en/special-procedures-human-rights-council/special-procedures-human-rights-council>.

²⁷United Nations Commission on Human Rights, *Question of Missing and Disappeared Persons*, Resolution CDH 20 (XXXVI) (1980).

²⁸See generally Duhaime, “Enforced Disappearances,” *supra* note 23. See also Bernard Duhaime, “Les disparitions forcées dans les Amériques, la mémoire, la vérité et le droit international” in Leila Celis, ed, *Perspectives sociales et théoriques sur la vérité, la justice et la réconciliation dans les Amériques* (Quebec City: Presses de l’Université Laval, ethnicité et citoyenneté, 2020) 203.

²⁹HRC, *Revised Methods of Work of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/WGEID/1 (6 April 2023).

³⁰HRC, *Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council*, Doc A/HRC/RES/5/2 (18 June 2007).

rights treaties that have been ratified. Indeed, most of the norms contained in the *Declaration of Disappearances* are also norms of customary international law.³¹

In addition to the WGEID, the UN also counts on the Committee on Enforced Disappearances, created by the *International Convention on Enforced Disappearance*. It examines reports from state parties to the convention and makes recommendations on the implementation of the treaty, registers requests for urgent actions, receives individual complaints from victims of a violation of the convention by a state party, and processes so-called inter-state communications.³²

C. Enforced disappearances as a form of torture

Torture is also defined by international law as the intentional infliction of severe pain or suffering, by agents of the state, for a specific purpose, such as the extraction of information, a confession, intimidation, or punishment.³³ This legal concept is thus composed of three essential distinguishing features, in addition to actions attributable to state officials: intentionality, purpose, and severity of suffering. There are strong arguments to consider that enforced disappearance is a form of torture. Indeed, enforced disappearances have often been equated with torture, reflecting the severe human rights violations that they entail.

The Inter-American Court of Human Rights (IACtHR) has played a pivotal role in addressing enforced disappearances. In its landmark decision in *Velasquez Rodriguez v Honduras*, the Court highlighted that enforced disappearances aim to suppress activities deemed unlawful by radically disrupting legal guarantees of liberty and security.³⁴ The practice of enforced disappearance, as revealed through numerous testimonies, often involves interrogation methods without limits and usually leads to the victim's physical elimination and the concealment of their remains. The Court has consistently recognized enforced disappearances as violations of personal integrity and, in some cases, as a form of torture.³⁵ For instance, in the *Omeara Carrascal and Others v Colombia* case, the Court noted that the practice of enforced disappearance violates the right to personal integrity by subjecting detainees to repressive and abusive treatment, including torture and murder, even when specific acts cannot be proven. The Court also emphasized that prolonged isolation and coercive solitary

³¹See, *inter alia*, Henckaerts & Doswald-Beck, *supra* note 13, Rule 98.

³²ICPPED, *supra* note 12, arts 29–32. See generally Duhaime & Painter, *supra* note 14.

³³In accordance with the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, “the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.” *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, 1465 UNTS 85, Can TS 1987 no 36 (entered into force 26 June 1987), art 1.1.

³⁴*Velasquez Rodriguez v Honduras* (1988), Inter-Am Ct HR (Ser C) No 4.

³⁵*Ibid* at paras 156, 175, 187; *Gelman v Uruguay* (2011), Inter-Am Ct HR (Ser C) No 221 at paras 94–95; *Members of the Chichupac Village and Communities of Rabinal v Guatemala* (2016), Inter-Am Ct HR (Ser C) No 328 at para 158; *Terrones Silva et al v Peru* (2018), Inter-Am Ct HR (Ser C) No 360 at para 172.

confinement constitute cruel and inhuman treatment.³⁶ Regarding the impact on relatives, the Court's decision in *Chitay Nech v Guatemala* observed that the denial of justice and ongoing uncertainty about the whereabouts of the disappeared creates significant psychological trauma. This trauma alters family dynamics, impairs social relationships, and perpetuates suffering and fear, which have long-lasting effects on the relatives' sense of belonging and community.³⁷ This perspective aligns with findings in other cases such as *Anzualdo Castro v Peru* and *Trujillo-Oroza v Bolivia*.³⁸

Similar conclusions have been reached by other international human rights bodies. The UN Human Rights Committee,³⁹ the African Commission on Human and Peoples' Rights,⁴⁰ and the European Court of Human Rights⁴¹ have all acknowledged the severe impacts of enforced disappearances on both victims and their families. These bodies have highlighted that enforced disappearance facilitates the use of torture and inhumane treatment during interrogations. Even when direct evidence of such torture is absent, the prolonged and indefinite isolation of victims contributes to severe psychological distress and suffering that meet the criteria for torture under international law.

The WGEID's *General Comment on the Right to the Truth* emphasizes that the right of relatives to know the fate and whereabouts of disappeared persons is absolute and inalienable.⁴² The comment highlights that no legitimate state interest or exceptional circumstance can justify restricting this right. The continued lack of information about a loved one's fate adds to the enduring suffering of families, which is considered a form of torture itself. In its recent report on enforced disappearances in the context of migration, the WGEID further clarified that enforced disappearance constitutes multiple human rights violations and is a form of torture or inhuman treatment.⁴³ This is due not only to the direct suffering inflicted on the disappeared individuals but also to the psychological anguish endured by their relatives.

The overarching theme in these judicial decisions and reports is the recognition of enforced disappearances as not merely an administrative or legal failure but also as a grave violation of human rights. The practice of enforced disappearance inherently involves multiple forms of abuse, including torture, both of the disappeared

³⁶*Omeara Carrascal and Others v Colombia* (2018), Inter-Am Ct HR (Ser C) No 368 at para 194.

³⁷*Chitay Nech v Guatemala* (2010), Inter-Am Ct HR (Ser C) No 212 at paras 225–26.

³⁸*Anzualdo Castro v Peru* (2009), Inter-Am Ct HR (Ser C) No 202 at para 113; *Trujillo-Oroza v Bolivia* (2002), Inter-Am Ct HR (Ser C) No 92 at para 114

³⁹UN Office of the High Commissioner of Human Rights (OHCHR), *Sharma v Nepal*, Doc CCPR/C/94/D/1469/2006 (28 October 2008) at para 7.9; OHCHR, *Maria del Carmen Almeida de Quinteros et al v Uruguay*, Doc CCPR/C/19/D/107/1981 (21 July 1983) at para 14; OHCHR, *Mojica v Dominican Republic*, Doc CCPR/C/51/D/449/1991 (15 July 1994) at para 5.7; OHCHR, *General Comment No 36 on Article 6: Right to Life*, Doc CCPR/C/GC/36 (3 September 2019) at para 58.

⁴⁰African Commission on Human and Peoples' Rights, *Mouvement Burkinabé des Droits de l'Homme et des Peuples v Burkina Faso*, Doc 204/97 (2001) at para 44.

⁴¹ECtHR, *Aslakhanova v Russia*, Application No 2944/06 (18 December 2012) at paras 133, 215; ECtHR, *Varnava and Others v Turkey*, Application No 16064/90 et al (18 September 2009) at para 200; ECtHR, *Cyprus v Turkey*, Application No 25781/94 (10 May 2001) at para 155; ECtHR, *Tahsin Acar v Turkey*, Application No 26307/95 (6 May 2003) at para 238; ECtHR, *Umayevy v Russia*, Application No 47354/07 (12 June 2012) at paras 101–103; ECtHR, *Palić v Bosnia and Herzegovina*, Application No 4704/04 (15 September 2011) at paras 74–76.

⁴²HRC, Doc A/HRC/16/48, *supra* note 24 at para 4.

⁴³*Ibid* at para 61.

individuals and their families. The legal framework and judicial precedents continue to evolve to address these severe human rights abuses, underscoring the international community's commitment to combating such violations and upholding the rights and dignity of all individuals affected by enforced disappearances.

3. Enforced disappearances in Syria

In the Syrian context, thousands of enforced disappearances have occurred in recent years. Many have been denounced before the WGEID, which has addressed the issue in many of its reports. There are credible indications that, in many instances these occurrences constitute torture. In addition, the widespread nature of enforced disappearances in the Syrian context strongly suggests that they constitute a crime against humanity. Finally, the Syrian regime's failure to take steps to register all persons deprived of their liberty suggests that these enforced disappearances may constitute a violation of international humanitarian law.⁴⁴

A. The WGEID and enforced disappearances in Syria

Between March 2011 until the fall of the Assad regime in December 2024, the WGEID recorded an increasing number of enforced disappearances perpetrated across the country each year. For example, the total number of outstanding cases of enforced or involuntary disappearance in Syria reported to the WGEID has increased each year between 2014 and 2023.⁴⁵ The missing persons crisis in Syria ultimately grew so severe that, in June 2023, the UN General Assembly voted to create

⁴⁴"Customary IHL, Recording and Notification of Personal Details of Persons Deprived of Their Liberty" (last accessed 3 December 2025), online: ICRC <ihl-databases.icrc.org/en/customary-ihl/v1/rule123>.

⁴⁵HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/27/49 (4 August 2014) at 13 [HRC, Doc A/HRC/27/49] (reporting 102 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/30/38 (10 August 2015), at 13 (reporting 130 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/33/51 (28 July 2016) at 17 [HRC, Doc A/HRC/33/51] (reporting 179 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/36/39 (31 July 2017) at 15 (reporting 218 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/39/46 (30 July 2018) at 33 [HRC, Doc A/HRC/39/46] (reporting 287 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/42/40 (30 July 2019) at 13 [HRC, Doc A/HRC/42/40] (reporting 375 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/45/13 (7 August 2020) at 13 (reporting 487 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/48/57 (4 August 2021) at 11 (reporting 539 outstanding cases of enforced disappearance at the end of the reporting period); HRC, Doc A/HRC/51/31/Add.3, *supra* note 17 at 11 (reporting 605 outstanding cases of enforced disappearance at the end of the reporting period); HRC, *Report of the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/54/22 (8 August 2023) at 10 [HRC, Doc A/HRC/54/22] (reporting 644 outstanding cases of enforced disappearance at the end of the reporting period).

a new mechanism to address the issue.⁴⁶ The WGEID repeatedly denounced the pattern of enforced disappearances that was documented throughout the Syrian conflict.⁴⁷ WGEID sources documented a systematic pattern, in which men over the age of fifteen were arbitrarily arrested and detained by Syrian government authorities or militias at checkpoints or during house searches and later disappeared.⁴⁸ Available evidence suggests that many of those who disappeared were subsequently victims of mass executions.⁴⁹ On four occasions, the WGEID urged the UN Security Council to consider referring the crisis of enforced disappearances in Syria to the International Criminal Court.⁵⁰

According to the Syrian Network for Human Rights, as of August 2023, at least 112,713 of the individuals arrested in Syria between March 2011 and August 2023 remained forcibly disappeared.⁵¹ This number included 3,105 children and 6,698 women.⁵² According to these reports, the former Syrian regime was responsible for 85.26 percent of those disappearances, including the enforced disappearances of 2,327 children and 5,739 women.⁵³ These statistics are likely an under-estimate; throughout the conflict, there has been an issue of under-reporting of disappearances owing, in part, to a fear of reprisal on the part of family members for reporting the disappearance of their loved ones.⁵⁴ This fear of reprisal was often credible; as is discussed further below, many of those who have reported disappearances have faced reprisal by agents of the former Syrian government.⁵⁵ Due to issues of chronic under-reporting, the number of enforced disappearances in Syria that were reported to the WGEID annually likely represents a small fraction of the total number of people who were forcibly disappeared by the former Syrian government.⁵⁶

Syrian government actors often carried out mass arrests, particularly of men,⁵⁷ in a way that appeared random and indiscriminate.⁵⁸ In most cases, the precise reason for the arrest was not disclosed.⁵⁹ Disappeared persons were often abducted in public, in

⁴⁶UN General Assembly, *Independent Institution on Missing Persons in the Syrian Arab Republic*, Doc A/77/L.79 (26 June 2023).

⁴⁷Doc A/HRC/42/40, *supra* note 45 at paras 84–86.

⁴⁸HRC, *Communications, Cases Examined, Observations and Other Activities Conducted by the Working Group on Enforced or Involuntary Disappearances*, Doc A/HRC/WGEID/117/1 (20 May 2019) at para 131.

⁴⁹*Ibid* at para 18.

⁵⁰Doc A/HRC/42/40, *supra* note 45 at para 85; HRC, Doc A/HRC/39/46, *supra* note 45 at para 132b; HRC, Doc A/HRC/27/49, *supra* note 45 at para 99; HRC, Doc A/HRC/33/51, *supra* note 45 at para 103.

⁵¹Syrian Network for Human Rights, *SNHR's 12th Annual Report on Enforced Disappearance in Syria on the International Day of the Disappeared: Enforced Disappearance Is an Ongoing Crime in Syria* (30 August 2023) at 1.

⁵²*Ibid* at 10.

⁵³*Ibid* at 1.

⁵⁴HRC, Doc A/HRC/51/31, *supra* note 17 at para 74.

⁵⁵Working Group on Enforced or Involuntary Disappearances, *General Allegation: Syrian Arab Republic – February 2023* (February 2023) at para 8.

⁵⁶HRC, Doc A/HRC/51/31, *supra* note 17 at para 74.

⁵⁷Although men make up the majority of those arrested, available documentation indicates that many women have also been arbitrarily arrested and detained. See e.g. Joumana Seif & Wejdan Nassif, “Words Against Silence” (2020) at 16, online: <www.ecchr.eu/en/publication/words-against-silence/>.

⁵⁸Working Group on Enforced or Involuntary Disappearances (WGEID), *123rd Session: Syrian Arab Republic* (2021) at para 4 [WGEID, 123rd Session].

⁵⁹*Ibid*.

full view of family and neighbours.⁶⁰ In several cases, Syrian military officers arrested and physically beat the alleged victims while they stood in the street or while they were being taken to a car.⁶¹ Relatives of the disappeared believe that the intention behind the public mass arrests was to “incite terror in the local community.”⁶² The detainees’ deprivation of liberty was frequently followed “by a complete refusal on the part of the Syrian authorities to disclose information about the fate or whereabouts of the concerned person, or even to acknowledge their existence.”⁶³ Disappeared persons were often prevented from communicating with friends, family, and legal representatives.⁶⁴

There was never any official, up-to-date registry of all persons deprived of their liberty.⁶⁵ The mechanism that was mandated to inquire about the fate and whereabouts of disappeared persons, which was under the responsibility of the Syrian Ministries of Justice, Interior, and National Reconciliation, proved ineffective.⁶⁶ Death certificates were rarely issued when detainees died in custody.⁶⁷ When death certificates were issued, the standard practice of issuing death certificates for the disappeared (often years after the enforced disappearance began) — which was done without specifying the cause of death, whether or not there had been an investigation, and without handing over the body of the deceased to their family members — was not an effective means of establishing the fate and whereabouts of the disappeared.⁶⁸

Investigating the fate of disappeared persons in Syria was dangerous and difficult, and relatives who investigated their loved ones’ disappearance often faced reprisals.⁶⁹ Relatives often attempted to locate their loved ones through informal channels,⁷⁰ such as personal connections to members of the military and Syrian prison survivors and death certificates found at civil registry offices, or through the identification of their loved one among the 53,275 photographs that were smuggled out of Syria by a Syrian regime defector, code-named “Caesar,” which depicted at least 6,786 detainees who died in detention (the “Caesar photographs”).⁷¹ Families were subjected to harassment, arrests, and extortion while searching for their relatives.⁷² Women were often subjected to physical and emotional blackmail and sexual exploitation when inquiring about missing persons at state institutions.⁷³

⁶⁰*Ibid* at para 2.

⁶¹*Ibid.*

⁶²*Ibid.*

⁶³*Ibid* at para 4.

⁶⁴*Ibid* at para 7.

⁶⁵*Ibid* at para 6.

⁶⁶*Ibid.*

⁶⁷Independent International Commission of Inquiry on the Syrian Arab Republic (IICISAR), “No End in Sight”: Torture and Ill-Treatment in the Syrian Arab Republic 2020–2023, Doc A/HRC/53/CRP.5 (10 July 2023) at para 66 [IICISAR, *No End in Sight*].

⁶⁸WGEID, *General Allegation – Syrian Arab Republic – February 2023* (February 2023) at para 7 [WGEID, *General Allegation*].

⁶⁹*Ibid* at para 8.

⁷⁰*Ibid* at para 7.

⁷¹International Commission on Missing Persons (ICMP), *Syrian Legislation Related to Missing Persons: Towards the Adoption of a Law on Missing and Disappeared Persons in Syria* (11 March 2022) at para 4.

⁷²WGEID, *General Allegation*, *supra* note 68 at para 8.

⁷³ICMP, *supra* note 71 at para 7.

The families of disappeared persons frequently paid large amounts of money (often during a period of severe economic difficulty) to brokers in exchange for information about their loved ones.⁷⁴ The individuals involved in brokering this information sometimes engaged in deception, accepting large sums of money and then cutting off all communication with the relatives.⁷⁵ Some relatives have stated that “brokers have gone so far as to mislead them about their loved one’s death.”⁷⁶ In many instances, fears of reprisals have prevented relatives from inquiring further into the fate and whereabouts of their loved ones.⁷⁷ Because male family members were often particularly fearful, “it [was] often female family members who put themselves at risk to uncover the fate or whereabouts of their missing relatives.”⁷⁸ When relatives did manage to obtain information regarding the fate of the disappeared, it was usually through informal sources, such as personal connections to members of the military.⁷⁹ Often, relatives were only able to obtain information by paying informal sources enormous sums of money.⁸⁰ When relatives have attempted to follow up on leads obtained through these channels, “they have come up against the state’s refusal to verify the hard-won information by acknowledging the disappearance.”⁸¹

Available documentation shows that many of those individuals forcibly disappeared by the Syrian government were subjected to torture and cruel, inhuman, or degrading treatment, which could occur from the moment of arrest and continue throughout the disappearance.⁸² The Independent International Commission of Inquiry on the Syrian Arab Republic (IICISAR), which is the UN body tasked with investigating and reporting on alleged violations of international human rights law in Syria, reported that many of the former detainees held in government facilities that they interviewed were subjected to torture or ill-treatment using a range of methods, including beatings,⁸³ electric shocks,⁸⁴ burning of body parts,⁸⁵ sexual violence,⁸⁶ and various psychological torture techniques, including threats,⁸⁷ humiliation, food deprivation,⁸⁸ and inhumane and unhygienic conditions.⁸⁹ One released detainee

⁷⁴WGEID, 123rd Session, *supra* note 58 at para 12.

⁷⁵*Ibid* at para 12.

⁷⁶*Ibid.*

⁷⁷*Ibid* at para 7.

⁷⁸*Ibid.*

⁷⁹*Ibid.*

⁸⁰*Ibid.*

⁸¹*Ibid* at para 8.

⁸²*Ibid* at para 9.

⁸³IICISAR, *No End in Sight*, *supra* note 67 at para 4.

⁸⁴*Ibid.*

⁸⁵*Ibid.*

⁸⁶*Ibid.*

⁸⁷See e.g. Amnesty International, *It Breaks the Human: Torture, Disease and Death in Syria’s Prisons* (18 August 2016) at 21–22, online: <www.amnesty.org/en/documents/mde24/4508/2016/en> (“[i]n several cases documented in this report, it appeared that persons were detained as a result of ‘confessions’ obtained through the torture of their friends, family or acquaintances. ... Following [a Damascus journalist’s] detention, intelligence forces forced her to participate in the arrest of her colleagues by tricking her into thinking that her children had been arrested and their safety was at stake after they pretended to arrest her son in front of her”).

⁸⁸IICISAR, *No End in Sight*, *supra* note 67 at para 4.

⁸⁹*Ibid.*

told the IICISAR that his torture was so extreme that he could not walk for seven months after he was released.⁹⁰ Another told the IICISAR that, on one occasion, he was interrogated and beaten for three continuous days and nights.⁹¹ Interviewees from many facilities recounted listening to the torture, crying, and screaming of other detainees in government prisons.⁹²

Many of the forcibly disappeared ultimately died in detention. As noted above, the Caesar photographs depict at least 6,786 detainees who died in detention.⁹³ The team of forensic pathologists from Physicians for Human Rights reviewed a subset of the Caesar photographs for evidence of torture and identified signs of violent blunt-force trauma, suffocation, and starvation, and, in one instance, they identified the cause of death as a gunshot wound to the head.⁹⁴

Accountability mechanisms for enforced disappearance did not exist in Syria, and enforced disappearance was not codified as an autonomous offence under the applicable criminal legislation.⁹⁵ Concerns over enforced disappearances were addressed in an “*ad hoc*” fashion through ... legal articles spread across several laws, including the Personal Status Law and the Civil Code,” both of which were issued decades before the missing persons crisis began.⁹⁶ Between 2011 and 2024, almost twenty amnesty laws were enacted, having the effect of exempting those alleged to have committed human rights violations, including enforced disappearances, from any criminal proceedings or sanctions.⁹⁷ Additionally, applicable Syrian legislation under the former Syrian government did not permit the prosecution of members of the army, its intelligence branches, the Internal Security Forces, or the General Intelligence Department.⁹⁸ These individuals could be prosecuted only pursuant to a prosecution order issued by the commander-in-chief of the army and armed forces or the chief of staff.⁹⁹

Further, pursuant to Legislative Decree no. 55 and its amendments, the judicial police and its delegates were empowered to investigate a range of crimes, including state security crimes, and to detain individuals for a period of seven days without access to any judicial review.¹⁰⁰ This seven-day period was renewable for up to sixty days with permission from the public prosecutor.¹⁰¹ Sources from the WGEID have stated that the provisions articulated in Legislative Decree no. 55 and its amendments were often used to detain political opponents.¹⁰² During this period, these individuals

⁹⁰*Ibid* at para 19.

⁹¹*Ibid* at para 20.

⁹²IICISAR, *No End in Sight*, *supra* note 67 at para 20 (“[y]ou would hear screaming detainees everyday”).

⁹³Human Rights Watch, *If the Dead Could Speak: Mass Deaths and Torture in Syria’s Detention Facilities* (16 December 2015), online: <www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities>.

⁹⁴*Ibid*.

⁹⁵WGEID, *General Allegation*, *supra* note 68 at para 4.

⁹⁶ICMP, *supra* note 71 at para 8.

⁹⁷WGEID, *General Allegation*, *supra* note 68 at para 9.

⁹⁸*Ibid* at para 10.

⁹⁹*Ibid*.

¹⁰⁰Legislative Decree no 55 of 2011, amending Article 17 of the Code of Criminal Procedure (24 April 2011), online: <groups.google.com/g/syrianlaw/c/XjhkLTJEgY>.

¹⁰¹WGEID, *General Allegation*, *supra* note 68.

¹⁰²*Ibid*.

were exposed to heightened risks of enforced disappearance, torture, and other forms of ill-treatment.¹⁰³

B. Effects of enforced disappearances on Syrian victims

For the disappeared person, an enforced disappearance necessarily implies extreme anguish and psychological harm. Disappeared persons experience “the violence of the abduction, [and] the anguish of being held defenceless in an unknown place.”¹⁰⁴ As discussed above, individuals who were disappeared by the former Syrian government were subjected to torture and cruel, inhuman, or degrading treatment during their time in detention.¹⁰⁵ Enforced disappearances also cause relatives and loved ones immense anguish and suffering. Relatives of disappeared persons often struggle to deal with grief and mourning in light of the uncertainty regarding the fate of the disappeared person. Enforced disappearances can cause family members to experience challenges to identity and dignity, including the questioning of social and political values, humiliation and brokenness, blame, and stigma and shame.¹⁰⁶

The disappearance can cause suffering linked to traditional cultural dynamics.¹⁰⁷ For example, the spouses of the disappeared may have new obligations or duties towards their in-laws and may experience the possibility of losing offspring or the ownership of land or property.¹⁰⁸ Housing, land, and property documents in Syria often exclude the names of women so that female-headed households may face challenges proving inheritance rights.¹⁰⁹ For the children of the disappeared, the enforced disappearance often results in “the loss of not one parental relationship, but two, as the remaining caregiver struggles to deal with the psychological harm caused by the disappearance, while shouldering the new [economic and familial] responsibilities that have been thrust on them.”¹¹⁰ Under the former government, enforced disappearances could also disrupt families, given that Syrian women are subject to discrimination under Syrian law. In Syria, the guardianship of a minor is entrusted to the father.¹¹¹ Under Article 172 of the *Syrian Personal Status Law*, if the father dies or is absent, guardianship goes to the paternal grandfather or to one of the father’s other relatives.¹¹² The mother’s guardianship rights come last.¹¹³

¹⁰³ *Ibid.*

¹⁰⁴ Bernard Duhaime, Juan E Méndez & Pau Pérez-Sales, “Current Debates, Developments and Challenges Regarding Enforced Disappearances as Torture” 3:4 *Torture Journal* (2022) 31.

¹⁰⁵ WGEID, 123rd Session, *supra* note 58 at para 9.

¹⁰⁶ Duhaime, Méndez & Pérez-Sales, *supra* note 104.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

¹⁰⁹ Independent International Commission of Inquiry, *Death Notifications in the Syrian Arab Republic* (November 2018) at para 6, online: <www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coi_syria/DeathNotificationsSyrianArabRepublic_Nov2018.pdf>.

¹¹⁰ WGEID, *General Allegation*, *supra* note 68 at para 13.

¹¹¹ ICMP, *supra* note 71 at para 7.

¹¹² *Syrian Personal Status Law*, Legislative Decree 59 (1953), art 172, online: <urbanlex.unhabitat.org/laws/syria/law-59-of-1953-personal-status-law-73579>.

¹¹³ *Ibid.*

As indicated by the WGEID,¹¹⁴ enforced disappearances can cause families to fall into extreme poverty, particularly when the family breadwinner is abducted. As indicated by the organization Women Now for Development, in Syria, men are typically the main breadwinners in the family, and, when a breadwinner is disappeared, their wives may struggle to afford basic necessities as these women are often only able to access low-wage work.¹¹⁵ Further, working women often become responsible for both household labour and paid employment simultaneously, thus taking on an enormous amount of labour.¹¹⁶ As is the case all over the world, women must assume all of these responsibilities while they pursue actions to obtain truth and justice regarding their loved ones' disappearance.¹¹⁷

Families of disappeared persons often face challenges managing the assets and property of disappeared persons. Judges sometimes refuse to assign legal representatives or agents to missing persons.¹¹⁸ The challenges related to managing assets increased after the Syrian Ministry of Justice issued Circular no. 30 in September 2019.¹¹⁹ This law required an individual to obtain a security clearance before applying for a power of attorney for an absent or missing person.¹²⁰ The financial uncertainty caused by the disappearance of the family breadwinner acutely harms children. It puts young women and girls at risk of forced and child marriage.¹²¹ Following the disappearance of a family breadwinner, young men and boys in Syria often "step into stereotypically male adult roles, including by becoming income earners, to meet the needs of the family."¹²² As a result, the forcible disappearance of a male breadwinner increases the risk that young men and boys will be forced into child labor.¹²³ In Syria, young men and boys whose parent is disappeared start to work from around the age of ten years old.¹²⁴ Although the WGEID's sources suggest that young men and boys in Syria are more likely to be forced into child labour as a result of a forced disappearance, young women and girls are also sometimes affected.¹²⁵

The enforced disappearance of a family member, and particularly of a family breadwinner, has been shown to cause a reduction in children's educational development. Young Syrian women and girls have expressed the feeling that "losing their father has meant losing a pillar of support for their education."¹²⁶ They were often

¹¹⁴See HRC, *General Comment on Women Affected by Enforced Disappearances Adopted by the Working Group on Enforced or Involuntary Disappearances at Its Ninety-Eighth Session*, Doc A/HRC/WGEID/98/2 (14 February 2013) [HRC, Doc A/HRC/WGEID/98/2].

¹¹⁵Women Now for Development, *Shadows of the Disappeared* (15 November 2018) at 32, online: <women-now.org/wp-content/uploads/CS4_Eng_InDesign.pdf>.

¹¹⁶*Ibid.*

¹¹⁷See HRC, Doc A/HRC/WGEID/98/2, *supra* note 114.

¹¹⁸ICMP, *supra* note 71 at para 6.

¹¹⁹*Circular no. 30* (16 September 2021) at 6, online: *Syrians for Truth and Justice* online: <stj-sy.org/wp-content/uploads/2021/10/The-Ministry-of-Justice-Newly-Requires-Security-Clearances-for-Receiving-Powers-of-Attorney-for-Missing-and-Absent-Persons.pdf>.

¹²⁰ICMP, *supra* note 71.

¹²¹WGEID, *General Allegation*, *supra* note 68 at para 15.

¹²²*Ibid* at para 16.

¹²³*Ibid* at para 17.

¹²⁴*Ibid.*

¹²⁵*Ibid* at para 18.

¹²⁶*Ibid* at para 15.

forced to pause their education in order to work or provide additional domestic support.¹²⁷ Young men and boys have also stated that, following the disappearance of a family breadwinner, “education was incompatible with their new role within the family, as they took on responsibilities including earning to support the family and the care of younger siblings.”¹²⁸

4. Conclusion

Since the fall of the Assad regime in Syria, further details of the horrors that took place in the state-run detention centres have been brought to light. More details are likely to emerge in the months to come as the work of the WGEID and other UN bodies unfolds. On 19 September 2011, the WGEID requested an invitation to visit Syria to investigate reports of enforced disappearances.¹²⁹ Despite several reminders, the WGEID never received a response from the former government of Syria.¹³⁰ In 2021, the WGEID sent a general allegation (that is, a summary of complaints received or gathered from states, reliable sources such as the relatives of disappeared persons, and credible non-governmental organizations) to Syria regarding “the widespread practice of enforced disappearance against Sunni Muslims in Aleppo, Damascus, Homs, Idlib, Latakia and Rif-Dimashq.”¹³¹ As of February 2023, the WGEID had not received a response.¹³² That month, the WGEID sent Syria a second general allegation, in which the WGEID expressed concern regarding Syria’s failure to adopt preventative measures, to effectively investigate enforced disappearances, and to hold perpetrators to account.¹³³

In addition, as indicated above, the IICISAR was established in 2011 by the Human Rights Council¹³⁴ with the mandate to investigate all alleged violations of international human rights law in Syria since March 2011 and to establish the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those individuals responsible with a view to ensuring that the perpetrators of such violations, including those that may constitute crimes against humanity and war crimes, are held accountable.¹³⁵ Both the IICISAR and the WGEID recommended to the UN Security Council the referral of the situation in Syria to the International Criminal Court, considering that enforced disappearances that occurred during the conflict could amount to crimes against humanity.¹³⁶

Similarly, an International, Impartial and Independent Mechanism (IIIM) was established by the UN General Assembly to assist in the investigation and

¹²⁷WGEID, *General Allegation*, *supra* note 68 at para 15.

¹²⁸*Ibid* at para 18.

¹²⁹HRC, Doc A/HRC/51/31/Add.3, *supra* note 17 at para 77.

¹³⁰*Ibid*.

¹³¹WGEID, *General Allegation*, *supra* note 68 at para 2.

¹³²*Ibid*.

¹³³*Ibid* at para 3.

¹³⁴HRC, *Situation of Human Rights in the Syrian Arab Republic*, Doc A/HRC/S-17/2 (8 August 2011).

¹³⁵The HRC has since repeatedly extended the Commission’s mandate. See HRC, *Situation of Human Rights in the Syrian Arab Republic*, Doc A/HRC/RES/55/22 (4 April 2024).

¹³⁶See OHCHR, *Syria: Group of Experts Call for Action into Enforced Disappearances as Crimes against Humanity* (20 March 2014), online: <www.ohchr.org/en/press-releases/2014/03/syria-group-experts-call-action-enforced-disappearances-crimes-against>.

prosecution of persons responsible for the most serious crimes under international law committed in Syria since March 2011,¹³⁷ including of enforced disappearances. The IIIM is currently working alongside the IICISAR to enter Syria and investigate the disappeared.¹³⁸ In addition, the WGEID has actively recommended the creation of a specific UN agency charged with the issue of enforced disappearances in Syria, including to the UN Security Council.¹³⁹ In June 2023, the UN General Assembly also established the Independent Institution on Missing Persons in the Syrian Arab Republic (IIMPSAR) with the specific mandate to clarify the fate and whereabouts of all missing persons in Syria and to provide adequate support to victims, including survivors and the families of those missing.¹⁴⁰ The creation of this new body was welcomed by the WGEID, and their future collaboration is promising.¹⁴¹

Similarly, on 23 December 2024, the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, the WGEID, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Special Rapporteur on Counter-Terrorism and Human Rights, and the Working Group on Arbitrary Detention all indicated that “documentation and preservation of evidence of gross violations of human rights and international humanitarian law committed during years of conflict and authoritarianism are critical to ensure truth and accountability in this pivotal moment of early transition in Syria.”¹⁴² They recalled that the prompt and thorough documentation and investigation of past and present gross human rights violations is an obligation under international law and a crucial guarantee of non-recurrence, and they called for comprehensive mapping, collection, registration, and preservation of evidence and testimonies. They indicated that investigations must be performed in line with international standards and that all concerned stakeholders must prevent the loss of vital information for the search of disappeared persons. Inaction today can affect prospects of success tomorrow. They urged caretaker authorities to establish a system for preserving mass graves, to create protocols for exhumations of gravesites, and to set and oversee the implementation of priorities for exhumations of mass gravesites that balance the needs of families to identify victims and evidentiary requirements for criminal proceedings. They also required all relevant actors to cooperate with the IICISAR, the IIIM, and the IIMPSAR.¹⁴³

¹³⁷UN General Assembly, *International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011*, Doc A/RES/71/248 (21 December 2016).

¹³⁸Statement from the International, Impartial and Independent Mechanism (8 December 2024), online: <iiim.un.org/statement-from-the-international-impartial-and-independent-mechanism/>.

¹³⁹See, *inter alia*, Bernard Duhaime (Working Group on Enforced Disappearances) on the Situation in the Middle East (Syria) – Security Council VTC Briefing (15 March 2021), online: <cdnapisec.kaltura.com/index.php/extwidget/preview/partner_id/2503451/uiconf_id/43914941/entry_id/1_j8lzqkbc/embed/dynamic>.

¹⁴⁰UN General Assembly, *Independent Institution on Missing Persons in the Syrian Arab Republic*, Doc A/RES/77/301 (29 June 2023).

¹⁴¹HRC, Doc A/HRC/54/22, *supra* note 45 at para 103.

¹⁴²HRC, *Syria: Evidence of Gross Human Rights Violations and International Crimes Must Be Preserved, Say Experts* (23 December 2024), online: <www.ohchr.org/en/press-releases/2024/12/syria-evidence-gross-human-rights-violations-and-international-crimes-must?sub-site=HRC>.

¹⁴³*Ibid.*

Hopes are high that the work of the WGEID and the investigations carried by the IICISAR, the IIM and the IIMPSAR on the ground in Syria, including in detention facilities, will present new opportunities to bring closure to the families whose loved ones were detained and disappeared and support the complex transition ahead, ensuring a comprehensive transitional justice process that encompasses measures in the field of truth seeking, criminal accountability, reparation for victims, memorialization, and guarantees of non-recurrence. These investigations and the continued quest for justice in Syria also present an opportunity to solidify the legal contours of torture as it pertains to enforced disappearances. The Syrian context demonstrates that the suffering experienced by both the disappeared and their loved ones often may meet the legal definition of torture under international law.

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