

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the independence of judges and lawyers; the Independent expert on the promotion of a democratic and equitable international order and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence**

Ref.: AL SYR 2/2023  
(Please use this reference in your reply)

18 October 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the independence of judges and lawyers; Independent expert on the promotion of a democratic and equitable international order and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 53/4, 51/8, 45/3, 53/12, 45/4 and 45/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations regarding the killing of over 280 civilians that occurred in Tadamon, in the Syrian Arab Republic in April 2013, which was brought to light in 2022, the lack of investigations and judicial processes in the aftermath of the atrocity, and the continued impunity granted to the alleged perpetrators.

Reference is made to previous allegations, reflected in communications including [SYR 1/2021](#), [SYR 5/2020](#), [SYR 4/2020](#), [SYR 1/2019](#), [SYR 3/2018](#), [SYR 2/2015](#), [SYR 8/2014](#) and [SYR 4/2014](#) sent by Special Procedures Mandate Holders to your Excellency's Government concerning a range of issues, including extra judicial killings, summary executions, enforced disappearance, arbitrary detention, torture and attacks on civilians. We thank your Excellency's Government for the responses provided for SYR 1/2021 and SYR 2/2015 despite them not substantially addressing the concerns raised. Regrettably, we have not received responses to the other communications cited above.

According to the information received:

On 16 April 2013, Military Branch 227, a unit affiliated with the Military Intelligence of the Syrian Army, allegedly conducted an operation in Tadamon, a neighbourhood in South Damascus, resulting in the killing of more than 280 civilians, including at least twelve children.

According to the information available, at the time of these events, the Syrian Government forces controlled two-thirds of the Tadamon neighbourhood, while the opposition-affiliated armed groups controlled the rest. The killings allegedly took place in the South-eastern part of the neighbourhood, in an area under the control and authority of the Syrian Government and close to the line of contact with the opposition on Daaboul Street, near the Othman Mosque.

It is reported that the victims' eyes were blindfolded with either duct tape or plastic wrap, their hands tied with a plastic strap usually used to collect and fix electric cables and that they were marched toward an execution pit. They were then ordered to run. As they were doing so they were executed by an individual in military uniform. The people extrajudicially killed were already deprived of their liberty before the execution. It is alleged that individuals who were previously subjected to enforced disappearance and those who were arrested at checkpoints in the vicinity of Tadamon, just before 16 April 2013, were found to be victims of this event.

Following the execution, the victims were left in a mass grave in the vicinity of the killings, and their bodies were burnt and hidden under rubble. The graves had already been dug before the killing.

One of the individuals responsible for the extrajudicial executions has been identified as [REDACTED]. He was the deputy leader of the Military Branch 227 at the time of the incident. Despite being directly implicated in the incident and publicly recognised and identified, [REDACTED] appears to enjoy impunity. It has been reported that Major [REDACTED] is now serving as a warrant officer for the Military Branch 227 in a detention centre operated by the Branch in the neighbourhood of Kafr Sousa, in Damascus. It is alleged that this detention centre is infamous as a centre utilized by the four intelligence agencies of the Syrian State to arbitrarily detain, torture, and forcibly disappear individuals perceived to be opposed to the government.

There are several legal and institutional obstacles ingrained in the Syrian legislation and institutional policies of the Government that prevent accountability for crimes, even those of the magnitude of the Tadamon incident. Pursuant to applicable provisions, such as article 53 of the Military Penal Code, intelligence and military officers who may have committed crimes can only be prosecuted following the approval of the Commander in Chief of the Army and Armed Forces. This amounts to a *de facto* immunity since the requirement of the approval of the Commander in Chief, *i.e* the President of Syria, for prosecution effectively forecloses any domestic accountability process.

Given the difficulty to monitor events on the ground, due to security restrictions, we do not wish to prejudge the accuracy and the veracity of these allegations. They appear, however, sufficiently reliable to indicate a matter that warrants the most serious attention on the part of your Excellency's Government. Should they be confirmed, these reported acts of violence appear to amount to violations of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), ratified by Syria on 21 April 1969, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment ratified by Syria on 19 August 2004, the Declaration on the Protection of All Persons from Enforced Disappearance of 18 December 1992, and International Humanitarian Law, among other instruments of international law.

We are concerned that the Tadamon incident and the impunity enjoyed by [REDACTED] and others, are emblematic examples of the systematic and widespread nature of the crimes committed in Syria and the impunity granted to alleged perpetrators. Extrajudicial executions and enforced disappearances are a

serious violation of international human rights law amounting to war crimes under international criminal law and are also violations of international humanitarian law. Further, the prohibition of extrajudicial killings and enforced disappearance, and the obligation to investigate such alleged violations, as well as the right to life are *jus cogens* norms that cannot be derogated under any circumstances.

We note that under the ICCPR everyone has the right to life and the right not to be arbitrarily deprived of his/her life. The State has responsibilities for protecting the lives of persons under any form of detention and for responding to deaths in custody. The right to life is the supreme right from which no derogation is permitted, and it is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed and infused by other human rights.

We wish to remind Your Excellency's Government that targeted killing of civilians also constitutes a breach of Common article 3 to the four Geneva Conventions, which establishes the minimum standards that all parties involved in a non-international armed conflict should observe concerning the treatment and protection of civilians. It provides that persons taking no active part in hostilities shall be treated humanely and should not be subject to violence to life and person, in particular murder of all kinds. The intentional killing of civilians represents a war crime in both international armed conflict and non-international armed conflict.

Those executed in Tadamon, who prior to the killing were allegedly subjected to ill-treatment, could also be victims of enforced disappearance, whereby their deprivation of liberty by State agents (or with tolerance, acquiescence or support) was followed by a denial that such a deprivation of liberty took place and concealment of their fate and whereabouts.

The absolute prohibition of enforced disappearance is also enshrined in customary international humanitarian law. Enforced disappearances violate numerous human rights, among them the right to security of the person, the right to be protected from torture and other cruel, inhuman, or degrading treatment or punishment, the right to be recognized as a person before the law and the right to an effective remedy. Enforced disappearance is a standalone, autonomous crime that is distinct from crimes such as abduction or kidnapping of a person by non-State actors.

We remind Your Excellency's Government of the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which established that States must ensure that an investigation is conducted wherever there are reasonable grounds to believe that an enforced disappearance has taken place, even if no formal complaint is made (article 13). Wherever there is sufficient evidence, States must prosecute and punish perpetrators. Victims of enforced disappearance, their relatives and others who have suffered harm as a direct result of an enforced disappearance, have a right to know the truth and to reparation, including compensation.

We note that the Tadamon killings may also amount to a crime against humanity given the apparently widespread scale and systematic practice of the acts, as well as the acts being targeted against the civilian population. As noted by the International Criminal Court, the term 'widespread' "refers to the large-scale nature of

the attack as well as to the number of victims, whereas the term ‘systematic’ pertains to the organized nature of the acts of violence and to the improbability of their random occurrence.”<sup>1</sup>

The Tadamon killings have evidently a multiplicity of victims, estimated to include at least 280 to more than 350 victims, according to different sources. The large-scale element is reinforced by the allegation that the extrajudicially killed victims were arrested at Government-controlled areas and checkpoints. The alleged systemic arrests, transport to execution site, digging of a mass grave prior to executions etc., indicate that the killings were premeditated.

We remind Your Excellency’s Government that according to international law allegations concerning an attack against civilians must be investigated, and where there is sufficient evidence, persons responsible for the commission of the offence or ordering of the offence must be prosecuted. These investigations must adhere to the standards articulated in the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions also referred to as the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016).<sup>2</sup>

We further note that families and dependents of the victims of the Tadamon killings and other similar violations are entitled to remedies and reparations, including fair and adequate compensation within a reasonable period of time.

We note that even though the Government of Syria formed its independent special legal commission to investigate all cases pertaining to events that had taken place since March 2011, there is no evidence of this mechanism being used for investigation, prosecution, conviction or acquittal of any Syrian military, security forces or Government personnel for any criminal violations of international human rights or humanitarian law. The Independent International Commission of Inquiry on the Syrian Arab Republic observed that the “Commission has yet to identify evidence that Syrian courts have either the will or the capacity to fulfil international obligations to prosecute the perpetrators of serious international crimes.”<sup>3</sup>

We are also concerned that the lack of independence of judges in the judicial system, including the military courts, would de facto shield perpetrators from accountability.<sup>4</sup>

Lastly, we note that under international law standards, particularly the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified by the Syrian Arab Republic on 19 August 2004, States are required to either prosecute or extradite perpetrators of acts of torture, cruel, inhuman and degrading treatment. We recall that not doing so is considered an internationally wrongful act, for which the Syrian Government could be considered responsible.

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<sup>1</sup> ICTR, Prosecutor v. Clement Kayishema and Obed Ruzindana, Judgement of 21 May 1999, Case No. ICTR-95-1-T, para. 123

<sup>2</sup> [Minnesota Protocol](#).

<sup>3</sup> [A/HRC/46/54](#) para. 75

<sup>4</sup> In AL SYR 4/2022, the Special Rapporteur on the independence of judges and lawyers expressed concern about the dominance of the Executive in the Supreme Judicial Council, and the Executive’s power over the appointment and dismissal of judges, as well as other decisions related to the judiciary.

In connection with the above alleged facts and concerns, please further refer to the Annex on Reference to international law attached to this letter which cites instruments found in international human rights law and international humanitarian law, as well as international standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on investigations or judicial processes carried out into the Tadamon incident, including search and investigation activities into the mass grave reportedly associated with the atrocity. If there have not been any investigations or judicial processes in this regard, explain why.
3. Please inform whether investigations have adhered to the standards set by the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016). If not, explain why.
4. Please provide the factual and legal grounds justifying the arrest and detention of the individuals deprived of their liberty and who were subsequently executed, and how this conforms with international human rights standards.
5. Please provide detailed information on the investigations and search activities carried out to determine whether among the victims of the Tadamon killings there were persons registered as missing or disappeared and to identify and return their mortal remains to their loved ones, informing them on the circumstances of the crimes. In case no such measures were undertaken, please explain why.
6. Please provide clarification regarding the legislation that grants *de facto* immunity to members of the military and other State officials.
7. Please clarify as to whether [REDACTED], one of the alleged perpetrators, has been granted immunity under any provisions. If not, please explain if investigations have been conducted into the culpability of [REDACTED] in the Tadamon killings and which measures have been put in place to ensure that, while the said investigations are ongoing, he is not in a position to influence the progress of the investigations by means of pressure or acts of intimidation.
8. Please inform if the Government of Syria would take measures to recognise the autonomous crime of enforced disappearance.
9. Please inform if the Government of Syria is considering acceding to the International Convention for the Protection of All Persons from Enforced Disappearance. If so, what measures have been taken in this

regard.

10. Please inform of any policy decisions, reforms, legislative actions etc., taken by the Syrian government to ensure the independence of judges and lawyers in the Syrian judiciary.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

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## Annex

### Reference to international law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the Universal Declaration of Human Rights UDHR and the International Covenant on Civil and Political Rights (ICCPR) ratified by the Syrian Arab Republic on 21 April 1969 and to the four Geneva Conventions of 1949 and their additional Protocols and, in general, to customary international humanitarian law.

According to Common article 3 of the Geneva Conventions, civilians are persons who are not members of the armed forces of a party to the conflict. Civilians enjoy protection under international humanitarian law. The wilful killing or murder of civilians occurs where a party to an armed conflict, in the context of and associated with the conflict, intentionally kills one or more persons; and such persons are civilians who are taking no direct part in hostilities; and the perpetrator is aware of the factual circumstances establishing this civilian status.

Common article 3 of the Geneva Conventions, further stipulates that it is a violation to carry out the death penalty on a civilian or person not taking an active part in hostilities (including persons who are *hors de combat*, those who have surrendered and protected medical/religious personnel) who has not been afforded all fair trial procedural guarantees. According to the above provisions, it is also a violation to execute a prisoner of war. Other serious violations of Common article 3, such as torture, cruel, inhuman and degrading treatment are also considered war crimes.

Still against the background of international humanitarian law, we refer to the report on mass graves, highlighting the multitude of sites of mass killings and unlawful deaths across history and the world (A/75/384) by the Special rapporteur on extrajudicial, summary or arbitrary executions, which defines mass graves as "A burial site where the circumstances surrounding the death and/or the body-disposal method warrant an investigation as to their lawfulness." The report also recalls that the degrading treatment of the dead is included within the war crime of outrages upon personal dignity, in particular humiliating and degrading treatment. Such a war crime regarding the treatment of the dead is also crystallised in customary international law.

Allegations concerning an attack against civilians and non-combatants must be investigated, and where there is sufficient evidence, the persons responsible for the commission of the offence or ordering of the offence must be prosecuted. A State responsible for such violations must make full reparation for the loss suffered.

Article 6 (1) of the ICCPR provides that every individual has the right to life and that no person shall be arbitrarily deprived of his or her life. We refer to the Human Rights Committee's General Comment No. 36 which notes that the right to life is the supreme right from which no derogation is permitted (paragraph 2). It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed and infused by other human rights. We also make reference to paras. 57 and 58 which state that extreme forms of arbitrary detention that are themselves life-threatening, in particular

enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life (para. 57), and that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life, and States parties must take adequate measures to prevent the enforced disappearance of individuals and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance (para. 58). Additionally, in its General Comment No. 31, the Human Rights Committee recalls the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non-State actors (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). General Comment No. 36 makes clear that the right to life must be respected and ensured without distinction of any kind. It also notes that relatives of individuals deprived of their life by the State must be able to receive the remains, if they so wish and to dispose of those remains according to their own tradition, religion or culture.

We would also like to refer to your Excellency's Government to article 9 of the UDHR, prohibiting arbitrary arrest, detention or exile, and article 9 of the ICCPR, enshrining the right to liberty and security of person. In particular, article 9 of the ICCPR provides that any arrest or detention shall be carried out in accordance with the grounds and procedures established by law. In addition, in accordance with article 9 (3) and (4) of the Covenant, anyone deprived of their liberty shall be entitled to challenge the legality of such detention before a court or judicial authority; this is a self-standing human right, the absence of which constitutes a human rights violation (A/HRC/30/37).

There is a duty to conduct thorough, prompt, independent and impartial investigations of all suspected cases of extra-legal, arbitrary or summary executions and the obligation to bring to justice all persons identified by the investigation as having participated in those executions, as laid down in the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989. The United Nations Revised Manual for the Effective Investigation of Extra-Legal, Arbitrary and Summary Executions (The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)) provides detail on the duty to investigate potential unlawful deaths "promptly, effectively and thoroughly, with independence, impartiality and transparency." It notes the authorities must conduct an investigation as soon as possible and proceed without unreasonable delays. We remind that amongst other things, investigations into alleged unlawful killings should seek to determine who was involved in the death and their individual responsibility for the death and seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death and identify patterns where they exist.

We also refer to the report on Medico-legal Death Investigations (MLDIs) (A/HRC/50/34) by the Special Rapporteur on extrajudicial, summary or arbitrary executions. It indicates that the bereaved families and next of kin should be informed in a timely and appropriate manner about the investigation into the death of their loved one, its progress and its findings and that they should be protected from any threat resulting from their participation in the investigation.

According to the Declaration on the Protection of all Persons from Enforced Disappearance of 1992, an enforced disappearance occurs, whenever persons are,

against their will or otherwise, deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law. Enforced disappearance will usually involve the commission of a number of acts which constitute war crimes in both international and non-international armed conflict under customary international humanitarian law, such as torture, cruel or inhuman treatment, murder or denial of fair trial rights. Where committed as part of a widespread or systematic attack directed against a civilian population, it can constitute a crime against humanity. We would like to recall that enforced disappearance is prohibited under customary international law (rule 98) and no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7 of the Declaration). Allegations of enforced disappearances must be investigated, and where there is sufficient evidence, persons responsible for the commission or the ordering of the offence must be prosecuted. A State responsible for such violations must make full reparation for the loss suffered.

We recall that international law imposes limits on the use of benefits such as amnesties, pardons and immunities, which impede accountability of perpetrators of serious human rights violations and are incompatible with the obligation to prosecute crimes under international law (E/CN.4/Sub.2/1997/20/Rev.1). The provision of such benefits could involve hidden forms of impunity that contravene international human rights obligations. In this regard, Human Rights Committee's General Comment No. 31 establishes that States may not relieve perpetrators from personal responsibility, through amnesties and prior legal immunities and indemnities. Furthermore, no official status justifies persons who may be accused of responsibility for such violations being held immune from legal responsibility. Similarly, in General Comment No. 36, the Committee held that "Immunities and amnesties provided to perpetrators of intentional killings and to their superiors, and comparable measures leading to de facto or de jure impunity, are, as a rule, incompatible with the duty to respect and ensure the right to life, and to provide victims with an effective remedy" (para. 27).

Article 14 of the ICCPR states that 'all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law'. In its General Comment Number 32, the Human Rights Committee notes that article 14, paragraph 1, guarantees access tribunals to all who have criminal charges brought against them. These tribunals should be established by law, be independent of the executive and legislative branches of government or should enjoy, in specific cases, judicial independence in deciding legal matters in proceedings that are judicial in nature. This right cannot be limited, and any criminal conviction by a body not constituting a tribunal is incompatible with this provision. Furthermore, whenever rights and obligations in a lawsuit are determined, this must be done at least at one stage of the proceedings by a tribunal within the meaning of this sentence. The failure of a State party to establish a competent tribunal to determine such rights and obligations or to allow access to such a tribunal in specific cases would amount to a violation of article 14 (paragraph 18).

Moreover, the right to a fair trial and due process is also recognized in the Arab Charter on Human Rights, in particular, in articles 13 (1) and (16).

Art. 5 of UDHR; art. 7 of ICCPR; and arts. 1 and 2 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified by Syria on 19 August 2004, establish the absolute prohibition of torture or other cruel, inhuman, or degrading treatment or punishment. Torture of persons in custody or otherwise under the control of the perpetrator constitutes a crime against humanity if the other elements required for a crime against humanity are present, including that the act be part of a widespread or systematic attack against a civilian population. Attached to such prohibition are obligations to criminalise and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute or extradite suspects, to punish those responsible and to provide remedies to victims. States parties to the CAT have explicit treaty duties to establish all acts of torture as offences under domestic law (art. 4), to exercise jurisdiction over said offences (art. 5), to receive complaints and examine them promptly and impartially (art. 13), and to investigate those allegations promptly and impartially (art. 12). Under international humanitarian law, torture and related ill-treatment is likewise absolutely prohibited.