



المركز السوري للإعلام وحرية التعبير

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Invisible Scars

Torture in Syria and its Legal and
Socio-Economic Implications



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Introduction:

Like many countries that are ruled by totalitarian regimes, torture in Syria has been conducted and carried out systematically in the security departments across the country during the last six decades, resulting in hundreds of thousands of deceased men and women and a similar number of people who survived with both physical and mental disabilities. It has been the main instrument to terrorise Syrians and seal the lips of those who show any minimal signs of dissatisfaction with the status quo.

Arguably, accumulated reasons had led to the popular movement in Syria that took place in the spring of 2011. The tipping point, however, was detaining and torturing school children in Dara'a, a southern city in Syria, which led to protests and demonstrations in the city. The human rights violations against the children sparked similar demonstrations across the rest of the country. Unfortunately, what started as peaceful demonstrations had become armed clashes by September 2011 and escalated to an armed conflict and civil war in July 2012.¹ The civil war resulted in millions of refugees and hundreds of thousands of casualties and caused enormous damage to the people of Syria and to the infrastructure of the country. It is unclear when this conflict will come to an end, but what is clear is that Syrians have been impacted for generations to come.

While this report does not intend to provide a historical background of torture in Syria, it should be noted that torture in the country was practiced way before the uprising. There is a plethora of evidence that details its methods and atrocities resulting from torture over decades before 2011.² Although to a less severe level than that practiced across security departments, torture is also used as a tool in the criminal justice system, presented in the body of police and its stations across the country.³ Violent behaviour by police was sometimes portrayed as funny and humorous. Syrians, by and large, are familiar with the 'Rule of Justice', a radio show which has been running since 1977⁴ on Radio Damascus. It features Warrant Officer Jamil, a brutal officer who is often summoned by his superiors to draw confessions from stubborn suspects. His name was sufficient to scare off the suspects and lead them to agree with the version of the investigating officers. Here, there is irony and a phenomenon. The phenomenon is that Syrians found Officer Jamil to be a humorous character, which was often used as a reference in slang and short sayings. The irony though is that this show was written by a prominent lawyer (and later on by his son, who too is a lawyer), who should be aware of the illegality of methods used by Officer Jamil and his commanders.

The experience of torture itself, its methods, and its physical, mental, and emotional implications resulted in a broad range of relevant studies. This report does not aim to re-state these valuable works and papers. It aims to explore beyond the torture experience itself, to reach its impact, and how it may complicate the lives of its survivors. Torture destroys lives and its long and short terms effects manifest themselves physically and psychologically. ⁵ These effects not only hamper the rehabilitation of torture survivors in Syria but also their social and economic opportunities by both formal and informal factors. The formal ones present themselves in the lack and/or the incapacitation of medical and social services and facilities that have a vital role in the restoration and the rehabilitation of torture survivors. This is complicated further by the lack of legal mechanisms that may safeguard, compensate, and/or restore the legal status and capacity of torture survivors. In terms of informal factors, the stigma surrounding the experience of torture survivors and community responses to their plea result in social and economic impediments that isolates them and drives them away from their society and communities.

While there is evidence that details the impact of torture on the social and economic mobility of its survivors, this report will demonstrate how this lack of mobility results from the legal status of torture victims following their release from detention. The report also establishes how Syria is not only in breach of international law and the international customary law, which prohibits torture and calls for the rehabilitation of its survivors, but also its own laws and legal provisions and how this impedes the social, medical, and economic restoration of torture victims in the country. The character of the conflict in Syria triggers the prohibition of torture under the Geneva Convention. Torture is prohibited under the Geneva Conventions by virtue of Article 50 of the First Convention, Article 51 of the Second Convention, Article 130 of the Third Convention, and Article 147 of the Fourth Convention. In addition, the prohibition of torture and other cruel or inhuman treatment is recognized as a customary rule in the ICRC's study 'Customary International Humanitarian Law (Rule 90)' and by the International Criminal Tribunal for the former Yugoslavia. ⁶

This report makes the case that in hindering the rehabilitation of torture victims, Syria is in breach of the following international conventions:

- 1- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Ratified in 2004)
- 2- Convention on the Rights of Persons with Disabilities (Ratified in 2009) with the Optional Protocol.
- 3- International Covenant on Civil and Political Rights (Ratified in 1969).
- 4- Convention on the Elimination of All Forms of Discrimination against Women (Ratified in 2003 with reservation).
- 5- International Convention on Economic, Social or Cultural Rights (Ratified in 1969).
- 6- Convention on the Rights of the Child (Ratified in 1993).

The report also makes the case that relevant Syrian legal provisions and laws are either ignored, breached or in some cases manipulated to inflict further punishment and pain on torture survivors. This not only hinders their medical, mental, social, and economic rehabilitation but also establishes what we may call an extended and exacerbated method of punishment. The role of the civil society organisations in helping and supporting the reintegration of torture survivors has featured in the course of the research. The report dwelt on this role from legal, organisational, and technical angles. The report ends with suggestions on moving forward and how to support torture victims, from their point of view.

This report was written and researched by the Syrian Centre for Media and Freedom of Expression (SCM) in cooperation with the Gulf Centre for Human Rights (GCHR) through a project funded by the European Union to address torture and accountability in the Gulf region and neighbouring conflict zones.

Methodology

A total of 15 torture survivors and six experts took part in this research, through semi-structured interviews by trained researchers who work for the Syrian Centre for Media and Freedom of Expression (SCM). While survivors' accounts provided insight on how their torture experience has impacted their social and economic potentials, social, health and legal experts supplemented these accounts by shedding light on how social factors and legal measures in Syria may hinder the social and economic rehabilitation of torture survivors. In addition, the report's authors reviewed previous data and reports that were either collected by or shared with the SCM. In this research, SCM has chosen not to name or identify any individuals named by the participants as perpetrators. They should be subject to due process and fair trial standards that are not feasible at the present time.

The research process adhered to ethical guidelines set by SCM in its code of ethics, which governs its research projects. The research design ensured the diversity of the participants in terms of age, gender, and location. Consent procedures were discussed and agreed upon in advance by the project team and the lead researcher. Before each interview, an information sheet was provided to each participant. The sheet included the details of the research, its objectives, how the participant's contribution will enrich and advance the research project, and the nature of the questions being asked. This enabled the participants to decide whether the nature of the research is something they feel they can cope with. Also, consent forms were signed before any interview taking place.

Participants in this research are either in exile as refugees or asylum seekers or are torture survivors. This triggered various ethical issues that were taken into consideration. Necessary measures were taken to eliminate the trigger of emotional distress during the interviews and establish a balance of powers between participants and researchers.

Collected data were stored in accordance with the Data Protection Act 2018, and securely stored in line with the SCM's policy and relevant privacy and confidentiality measures. The findings were analysed against the elements required for international crimes in customary international law, where socio-economic and legal implications resulting from torture could amount to a breach of international conventions and treaties signed and ratified by the Syrian Arab Republic. Findings were also analysed against relevant law provisions and measures that are implemented in the Syrian Justice System, which may constitute a direct and indirect impact on the rehabilitation and the reintegration of torture survivors in their society.

Socio-Economic Impact of Torture



Source: Jared Rodriguez_Truthout_Flickr

The existing evidence showing and documenting torture in Syria provides sufficient ground to establish that Syria is in breach of its obligations set forth in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).

Article 1 defines torture as:

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.⁷

Torture's impact on the social and economic mobility of its survivors may manifest itself in many ways. This report will shed light on three main aspects -namely health, economic and social. The rehabilitation or recovery environment refers to the elements and conditions in the wider context, which is essential to the recovery process. The specific social, political, cultural, economic and legal contexts of the violations and the context in which reparation measures are made, can all shape, facilitate or impede recovery.⁸

The right to rehabilitation for survivors of torture is well-established in Article 14(1) of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which postulates that:

Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.⁹

The Article then highlights that nothing in it “shall affect any right of the victim or other persons to compensation which may exist under national law.” The UN Committee Against Torture, which oversees the implementation of the UN Convention against Torture, has emphasised that rehabilitation should aim to restore, as far as possible, survivors’ “independence, physical, mental, social and vocational ability; and full inclusion and participation in society” and should be holistic, covering not only medical and psychological care but also legal and social services.¹⁰ According to the Committee, specialist rehabilitation services must be “available, appropriate, and promptly accessible” to torture survivors.¹¹

Health Impact :

Health implications of torture are well-recorded and have been the subject of accumulated research and elaboration. The implications are multidimensional. They may impact the victim physically, mentally and emotionally. Their injuries may be temporary or permanent, which depends on the level of injuries caused and whether they were treated on spot or not. **Health complications resulting from torture are also a breach of the human rights of its victims.** The World Health Organisation (WHO) identifies the following examples of human rights violations resulting in ill-health: harmful traditional practices, slavery, violence against women, and torture.

Torture injuries differ according to the techniques used. Torture could be physical, which involves beating and the use of electric shocks, for example. It could also be psychological torture, which involves verbal assault and degradation. Interviewed experts explained that in short terms, torture may cause several symptoms such as distraction, insomnia, eating disorders, and problems communicating with others. In the long term, however, torture may cause depression, Post-Traumatic Stress Disorder, anxiety, nightmares, social withdrawal, a sense of alienation, and lack of self-confidence. These symptoms may develop into suicidal attempts.¹²

The physical impact of torture may be as severe, **and in many cases, it might lead to temporary or permanent disabilities.**¹³ Most of the survivors suffer from persistent muscle pain and pain in the back, neck, joints, and knees due to sitting positions, especially among female survivors. These physical effects remain with the survivor for a long time. Gynaecological infections among females and urinary tract infection among males are also common. Fractures resulting from torture techniques often require surgical interventions.¹⁴



Source: Koen Jacobs_flickr

Torture survivors that participated in this report advised that they continue to suffer the impact of injuries they developed while being tortured. One survivor said:

“ My health deteriorated. They used to add camphor to our food and drink in Adra prison, which developed into gynaecological problems. I continue to receive treatment until now and I became infertile, and I am being treated at my own expense.¹⁵ ”

When asked why they did not seek treatment in prison, participants reported their lack of trust in the medical staff that should provide them with medical services. One survivor reported that he had no choice but to believe that the tablet provided to him was indeed a paracetamol tablet because his foot injury was critical. He added:

“ Medical care is almost non-existent. They did not give any patient any medicine. As for the medical staff, they were basically executioners. They were soldiers and they were not doctors. They were inhuman and I had no confidence in this so-called medical staff.¹⁶ ”

Our report has also documented a situation where the medicine of one detainee, participating in this research, was stolen by the guards. To make it even worse, the guards offered to sell her her own medicine which was delivered by her family. She added:

“ There is no medical care in the security departments. There is medicine in Adra prison, but they [medical staff] used to deal with us with disgust and condescension. Once, I wanted to explain my situation to the dermatologist, that we had scabies. He asked me to move away and here I said to him: ‘Are you a doctor? Why are you working here?’ He reported me to the prison governor and I was punished for standing to that doctor. They did not give me the medicine, and I had to borrow it from other inmates.”¹⁷



These inputs correspond with the evidence collected from human rights organisations. For instance, Amnesty International reported, as early as 2011, that the Syrian government used hospitals as torture centres. Security forces were given free rein in Syrian hospitals and it was found that the Syrian government targets both injured individuals and health workers. Moreover, the report documents “how patients in at least four government-run hospitals have been subjected to torture and other ill-treatment.”¹⁸

Prison conditions in Syria are regulated under the Prison System Act of 1929 (and its amendments of 1933), and Law 496 of 1957,¹⁹ which is very outdated and should require urgent attention by the Syrian government. Yet, Article 90 provides that inmates are entitled to one bed, cotton mattress, pillow, and a duvet which changes from cotton to wool according to season. Article 92 indicates that heating, light, and health services should be organised and provided.²⁰ That being said, defining what constitutes a prison in Syria remains a challenge due to the fact that the Syrian government has turned schools, halls, playgrounds, and other unidentifiable premises into prisons²¹ during the current war. **In the context of this research, the Syrian government is in breach of its obligations under the Prison System Act of 1929 (and its amendments of 1933).**

Once released, medical facilities that are capable of dealing with the needs of torture survivors are either of limited capacity (to treat physical injuries), non-existent (to treat psychological injuries), or provide a low standard of care. Hence, survivors seek treatment at their own expense in the private sector.²² In the Syrian context, rehabilitation of victims who were subject to unlawful detention, rape, and torture in Syria is an essential approach to transitional justice. Rehabilitation should be based on both physical and psychological care. However, this approach is not without its challenges. For instance, due to a large number of victims of these atrocities, mobilising support at such a level may prove problematic. Also, further barriers may exist such as the struggle of Syrians, in general, to ask for help, the lack of appropriate expertise, and the devastation in the infrastructure.²³

In March 2017, the World Health Organisation (WHO) estimated that more than half of the Syrian population require mental health support and psychological intervention. Later in August, Ramadan Mahfouri, the head of the mental health department in the Ministry of Health in Syria, estimated that the war resulted in 300,000 individuals in need of psychological treatment.²⁴ Later in February 2018, Mahfouri increased the number of Syrians suffering from severe psychological disorders to one million. He attributed this rise to the destruction caused by the conflict and suffered by the health sector in general, and mental health services in particular, which are unable to cope with increased numbers of service users and lack of practitioners who fled the country.²⁵ Such arbitrary statements, coming from the highest authority concerning itself with the mental wellbeing of the Syrians, are deeply regrettable. This, if anything, shows the arbitrary attitude of the Syrian government toward the statistical and scientific approach to a serious issue such as society's mental health. It also shows the incredibility of the governmental data related to mental health in Syria and the absence of effective mental health and rehabilitative policy.

Moreover, the medical and psychological rehabilitation of torture survivors in Syria may be hindered by their security fears and precautions. According to a medical expert who participated in this research, medical facilities run by the state are akin to security departments. There is no regard for privacy and confidentiality in these facilities, which, if found, no survivor would trust. Also, survivors fear resorting to medical facilities in the areas controlled by the Syrian government. They fear crossing checkpoints or they might be detained all over again should they be wanted to some security department.²⁶ Another expert stated that:

Following their release, torture survivors seek physical treatment at private doctors. Now declaring the reason for their injuries is not possible, and this is because the doctors in the regime-controlled areas are afraid of treating detainees or survivors of torture. Doctors' fear stems from the fact that survivors may be detained again and they may provide the name of the doctor who treated them... Doctors who provide treatment for torture survivors are either relatives or those who operate in field hospitals.²⁷

Once outside Syria, torture survivors received and continue to receive medical support through humanitarian organisations, such as the Red Cross in Lebanon. Conversely, survivors who reside in Turkey illegally are unable to obtain the Kimlic (Turkish identity card). Hence they find it hard to receive the medical care they need.²⁸

From the evidence above, it could be concluded that torture survivors do not only suffer temporary and permanent injuries but also some may suffer from permanent disabilities, which is often triggered while they are in detention. In this regard, and by denying them treatment and support, Syria is in breach of the Convention on the Rights of Persons with Disabilities. Article 15(2) of the conventions provides that "States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment." Moreover, the convention emphasises that the State Party must ensure that habilitation and rehabilitation measures are availed to disabled individuals. Article 26(1) reads:

States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services

Chronic ill-health related to torture can profoundly affect the daily life of its survivors regarding their social and professional life. In many cases, this led to their inability to work or pursue any educational or vocational paths. In some extreme cases, this also led to a breakdown in family functioning and poverty.²⁹ In this sense, rehabilitation, according to WHO, should aim not only at training disabled and handicapped persons to adapt to their environment but also at intervening in their immediate environment and society as a whole to facilitate their social integration and that it is necessary to reduce to a minimum all handicapping conditions in all aspects of their environment.³⁰

Besides the lack of medical facilities and support, survivors favoured their privacy and social reputation over receiving treatment. They consider how society may look at their visit to the psychologist, the urologist, or gynaecologist.³¹ Consulting one of these specialists may be an indicator of mental health issues, rape, or sexual assault that might have taken place in detention.

One survivor shared the following:

“ It was difficult to go to a doctor in Syria because I could not tell him that I was detained and that my medical conditions resulted from my detention. Also, we do not have that culture to understand such cases and it was difficult for me to share my concerns and problems with people who are not detained because they will neither understand them nor support me. At the same time, those who were subject to prolonged detention would undermine my concerns because the period of my detention was significantly shorter than theirs.³²

The social stigmatisation of the male or the female who survive sexual violence results in numerous impacts on them such as isolation, avoidance of social relations, lack of engagement in the community, in addition to a sense of being unaccepted by their society.³³

Social Impact :

Many factors may preclude torture survivors to discuss detention and what might have happened during that time, particularly for women. These barriers may be social and/or cultural. Instead of meeting their expectations of care and support, survivors are often faced with stigma and shame in their communities.³⁴ In this sense, the stigma's impact is far-reaching. Families of torture survivors also become secondary victims of stigma. This does not distinguish between men or women who were subject to sexual violence in detention, although female survivors appear to be subject to drastic impacts. Some are and were abandoned by their families, divorced, and/or driven away from their communities.

In Syria, religion and social norms are fundamentally intertwined.³⁵ In this sense, certain social dynamics contribute to shaping the views of Syrians of the person and their relationship with their society and the world around them. Religion, ethnicity, tradition and history are the chief forces. Not only on a social level where concepts are formed and shaped, but these forces also contribute to the individual identity and the place the individual inhabits within their community.

Stigma remains an issue in Syria. Fear of stigmatisation deprived torture survivors of accessing and receiving critical health, social and psychological support. Stigma has been identified as one of the reasons that prevent people from receiving the necessary care and support they need. It manifests itself in social distancing, whereby people with mental health issues feel isolated and labelled. One survivor summarised her experience as follows:

From a social point of view, people's perception of me was harsh, awful, and negative. Sometimes they would say: 'you wouldn't have been treated [in detention] that way if you were involved in prostitution.' I was told in the military court 'it would have been better if you were convicted under prostitution charges.' Generally speaking, people show no mercy to no one. Some ask me 'why did they detain you?' while another asks whether I was sexually harassed in prison.³⁶



Source: Pixabay

Another survivor felt the burden when her daughter blamed her for the situation in which the family found itself.³⁷ Among many reasons, stigma originates from personal, social and family sources. It is further augmented by social factors such as lack of awareness, lack of education, lack of perception, and the nature and complications of the mental illness manifested in the individual. This was not without its impact on the survivors' social opportunity. Many torture survivors experience family break up, as well as the end of engagements and relationships.³⁸ One survivor explained:

“ Society's view was very harsh towards me as a woman who had entered prison and was subject to rape and harassment. They used to look at me as an independent woman, who is up to do what she wants. This had a significant impact on me, especially on an emotional level. I met someone who was happy to be in a relationship with me but refused to marry me or introduce me to his family.³⁹ ”

Torturing and detaining women in Syria has been the subject of accumulated reports.⁴⁰ Female detainees were of different ages, with or without their children. One survivor detailed what she saw as follows:

I witnessed the torture of other prisoners, and I remember that two girls under the age of 18 were hit against an iron door [the cell door] and blood flowed from their heads. They also detained a pregnant woman and detained a woman and her three-year-old daughter. They also detained elderly women who were over the age of fifty... I also saw a lot of children. In the cell opposite mine, there was a three-year-old girl, and they were intimidating her. They were beating her mother to force the child to tell on her. They were torturing the mother in front of her child to obtain information from the child, such as: Where did your father go? Where did your mother go?⁴¹

Survivors have also reported sighting children and minors in the detention centres. One survivor shared the following:

“ I saw many children during my move between prisons and security branches, and when I was alone in the Fayhaa department [security department] in Damascus, I saw a child who was about 14 years old at the time. He was serving food to detainees as «forced labour» and he is from Hama... I spoke to him once and he shared with me that his father is detained with him but he does not know his whereabouts at the time. In Al-Balloona prison in Homs, I saw many children, one of whom was about 12 years old. He was in fine spirits and he was encouraging us. In general, there were children in large numbers under the age of 18 years.⁴² ”

Moreover, deliveries and abortions were a common occurrence in prison and detention centres.

“ During my stay in prison, I saw many children with their mothers. One woman gave birth in prison and her son, aged three, was with her. She and her son were released five years later. Another woman gave birth in detention and her baby girl died in prison after 3 days due to lack of health care, as she needed an incubator. Many women gave birth inside the prison. There was no care for the children, and there were miscarriages and stillbirths.⁴³ ”

Another survivor shared the following:

“ I saw many children in Adra prison. There was one woman from Douma with her daughter, who was three years old. There was a woman who gave birth to twins in the ward in which I was detained. I also saw a ten-year-old girl and another one who was 14 years old. She was detained with her mother.⁴⁴ ”

Not only this experience will be traumatic to the mothers, but also the children. It leaves long-lasting emotional, mental and physical implications, which will eventually impact their development in these areas and consequently their opportunities in life. **In this context, Syria is in breach of Article 37 of the Convention on the Rights of the Child**, which provides that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.”⁴⁵ The article also stipulates that “no child shall be deprived of his or her liberty unlawfully or arbitrarily,”⁴⁶ and that every “child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority.”⁴⁷

Detaining and torturing youth and minors falls under relevant conventions to which Syria is a party. Even if these youth and minors were found guilty for crimes they might have committed, the Syrian government is also in breach of the **Juvenile Delinquents Act of 1974**. Within the Act, the Syrian legislature distinguished between three stages. Namely; the childhood stage, juveniles from seven to 15 years of age, and juveniles between the age of 15 and 18 as set out in the Juvenile Delinquents Act 1974.⁴⁸ The Act was amended in 2003 and set the age of criminal responsibility at 10 (Article 2). Article 3(a) stipulates that those who commit a criminal offence and are between 10 and 18 years of age are subject to rehabilitative measures. Furthermore, the Act ensured that the privacy and the confidentiality of the juvenile are protected during their detention and trial (Articles 49 and 54) and that their offences are not recorded in the justice records (Article 58). Article 3 provides that juveniles should be separated from adult offenders and detained in juvenile rehabilitation institutions.

Moreover, the evidence above indicates that **Syria is in breach of its obligation under Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women, which provides that women** “are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field,” and these rights include the “right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.”⁴⁹

Economic Impact and Loss of Earning :

As a result of the changed circumstances of a victim arising from torture, the restoration of function, or the acquisition of new skills is required. This would eventually enable the maximum possible self-sufficiency and function for the individual concerned and may involve adjustments to the person's physical and social environment. Rehabilitation for victims should aim to restore, as far as possible, their independence; physical, mental, social and vocational ability; and full inclusion and participation in society.⁵⁰

Torture survivors participating in this report detailed their loss of earning and the legal implications that complicated their potential opportunities to move on with their lives.

 Before detention, I had my sewing workshop and my husband owned his gift shop. The experience of detention and torture left us drained, exhausted, and exposed on many levels. My husband is a cancer patient. He suffers from epilepsy fits, and he underwent heart surgery here in Turkey... Financially speaking, we lost everything. We lost our workshop and gift shop. We lost our house... Actually, the house was razed to the ground... They stripped me from my civil rights... The civil registry indicates that I have been 'stripped of my civil rights.' This means that I cannot travel, study or own properties.⁵¹



This overreaching influence could also impact the family of the torture survivor. One survivor reported how the family business was disrupted due to his detention.⁵² From experience, survivors who were detained are aware that they will be summoned soon to the department that detained them in the first place. One participant who survived torture in detention explained that he could not practice law following his release, and he was under financial pressure because he used all his money as expenses and bribes to secure his release from prisons. He added: 'I knew from experience that they would call me again sometime in the next 15 days... So I decided to flee the country to Turkey, leaving behind my community and my city.'⁵³

Moreover, torture survivors may experience discrimination in their workplace. Another torture survivor explained how she became unemployed following her release. Upon her release, her workplace reduced her tasks, and later on, her tasks were cancelled altogether.⁵⁴

In this sense, **Syria is in breach of the International Convention on Economic, Social and Cultural Rights**. Article 2(2) calls on the states parties to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or another status. Article 3 underlines that equal rights of men and women to the enjoyment of all economic, social and cultural rights should be ensured. Article 6(2) provides that these rights should include "technical and vocational guidance and training programmes, policies, and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual."⁵⁵

Likewise, the preamble to the International Covenant on Civil and Political Rights states that states parties to the Covenant recognise that:

In accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.⁵⁶

However, **this obligation is hampered by the Penal Code**, whereby deprivation of civil rights through criminal conviction and charges is postulated under Article 38(4).⁵⁷ Article 49 explains in detail what the deprivation entails. This includes revocation and exclusion from all public functions or employment and deprivation of all state pensions; revocation and exclusion from all functions or employment in community administration or corporations to which belongs to the sentenced person and deprivation of all pensions or retributions from any said community or corporation; deprivation of the right to be a state franchise holder or farmer; deprivation of the right to vote or eligibility, as well as all other civil, political, community, and corporate rights; incapacity from being a proprietor, publisher, or editor of a journal or other periodical publications; and deprivation of the right to teach and of any employment in public or private education.

Economic opportunities of torture survivors are also hampered by Law No. 19 of 2012 provided for the freezing and confiscation of movable and immovable assets under Article 11. This law establishes the official definition of a terrorist act, which is “every act intended to create panic among people, disturb public security, damage the infrastructural or institutional foundations of the state, that is committed via the use of weapons, ammunition, explosives, flammable materials, poisonous products, or epidemiological or microbial instruments ... or via the use of any tool that achieves the same purpose.”.⁵⁸ This law does not only use a broad language that could be used arbitrarily but also it was designed to be used as a weapon against Syrian dissidents that are tried under its provisions. The latter is applied in legal proceedings that interpret the definition of a terrorist to also include the exercise of constitutionally and internationally recognised rights like freedom of assembly and expression, that rely on confessions brought about as a result of torture, and that produce severe punishments including the death penalty.⁵⁹



Legal Implications

Syria, as existing evidence shows, has no regard for international law provisions while the subject of torture is explored and investigated. The propaganda generated by the Syrian government has systematically denied torture claims. This lack of accountability and responsibility flows from the head of the Syrian regime. In an interview with Russia Today in November 2019, the Syrian president Bashar Al Assad denied that there is torture in Syria.⁶⁰ In August 2013, a military defector code-named Caesar smuggled 53,275 photographs out of Syria.⁶¹ The photos show detainees who died in detention or after being transferred from detention to a military hospital. In 2017, Bashar Al Assad claimed that these photos were photoshopped.⁶² If anything, this denial and lack of responsibility indicate the absence of any formal and legal mechanisms that may provide rehabilitation and support for torture survivors in Syria.

What does the law say?

Syrian law fails to provide an absolute prohibition of torture as required under Article 1 of the Convention against Torture, although there are some provisions for protection from torture or other ill-treatment. **Article 53(2) of the new Syrian Constitution** approved by a referendum on 27 February 2012 states that “no one may be tortured or treated in a humiliating manner, and the law shall define the punishment for those who do so.”

The Penal Code reads that “anyone who batters a person with a degree of force that is not permitted by law in a desire to obtain a confession for a crime or information regarding it” can be sentenced from three months to three years in prison». ⁶³ However, the Committee Against Torture in its 2010 concluding observations on Syria noted that “the absence of a definition of torture in accordance with article 1 of the Convention in the national legal system of the State party... seriously hampers the implementation of the Convention in the State party». ⁶⁴

As a state party to the International Covenant on Civil and Political Rights (ICCPR), Syria is also obliged to prevent arbitrary arrest and detention and to allow anyone deprived of their liberty an effective opportunity to challenge the lawfulness of their detention before a court. Article 7 of the International Covenant on Civil and Political Rights provides that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Article 9(1) indicates that “everyone has the right to liberty and security of person,” and that “no one shall be subjected to arbitrary arrest or detention.” Article 9(2) emphasises that “anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.” ⁶⁵

The Police Service Law issued by Resolution No. 1962 of 1930, imposes the duty on police personnel to avoid cruel treatment. It prohibits detention outside the framework of the law. Article 87 provides that in the course of their service, the police personnel must behave in a moral and gentle manner, without initiating any act that may be considered harm or abuse of the office. In a similar vein, the Court of Cassation had systematically affirmed that confessions made under torture are judicially null and irrelevant, as well as Article 180 of the Code of Criminal Procedure, which states that these statements are treated but as ordinary information without legal value. In addition, Articles 104(1) and 104(2) of the Syrian Code of Criminal Procedure sets 24 hours as the limit for bringing a suspect before a judicial authority. Failure to do so renders him or her legally entitled to immediate release. According to Article 105 of the same code, if the detainee is kept in custody for more than 24 hours without having appeared before a judge, the authority holding him or her would be deemed as acting arbitrarily and is liable to prosecution for the crime of deprivation of personal liberty, punishable by imprisonment for one to three years, as stipulated by Article 358 of the Penal Code. Similarly, according to Article 69 of the Code, suspects are guaranteed the right to contact their lawyers at any time and in private, except in cases of espionage. ⁶⁶



Source: Pixabay

In practice, the aforementioned provisions could be hindered by Legislative Decree no.55 of 2011 (amending the Code of Criminal Procedure issued by Legislative Decree no.112 of 1950) concerning the jurisdiction of the judicial police, which emphasised that the judicial police, or those delegated to its duties, have the competence to investigate the crimes stipulated in Articles 260 through 339 and Articles 221, 388, 392 and 393 of the Penal Code, collect their evidence and listen to suspects, provided that the period of keeping them in custody does not exceed seven days. This period is subject to renewal by the Attorney General and according to the merits of the case beforehand and it should not exceed sixty days. These provisions have a determining effect in prolonging the period in which detainees may be subject to torture since torture and other ill-treatment are generally most prevalent during pre-trial detention and especially in incommunicado detention. This is in line with accounts provided by survivors who participated in this research. One survivor reported that although he informed the interrogator that charges made against him were false, he was forced to sign a statement without the opportunity of reading it.⁶⁷ Another survivor reported that she was forced to sign blank papers in the department in which she was detained, just before her release.⁶⁸

Survivors have also reported that they resorted to bribing judges, which ensured their release.⁶⁹ One survivor shared the following:

“ My uncle paid money to the judge’s assistant. I stood before the judge in chains. I was in a miserable shape that even my mother could not recognise me. The judge asked me what I have been up to. I repeated everything I said in the interrogation. The judge then responded saying ‘but you confessed that you were involved with armed groups and that you attacked checkpoints [government checkpoints]’. I responded saying that beating would force you to admit any charge against you.”⁷⁰

Bribing officials and judges were not without its further impact on the financial capacity of torture survivors. One survivor said:

“ My husband paid a large sum. He borrowed it all from the people to pay the judge sitting in the 4th chamber of the Court of Terrorism. He promised my husband to add me to the amnesty list if he pays. This is what my husband did. He borrowed 1,700,000 Syrian Pounds and paid it as a bribe to the judge. This is how I was released and we are still struggling financially.”⁷¹

In this context, Syria is in breach of its obligations under the International Covenant on Civil and Political Rights and its own Code of Criminal Procedure.

Why do survivors not complain?

In theory, employees and personnel violating the provisions that were listed above could receive penalties, warnings, and possible dismissal from service and imprisonment. The criminal procedure may also be initiated against those involved by the public prosecution based on the victims' complaint.⁷² These laws and provisions were put to test in the past, especially in torture or ill-treatment cases that took place in police stations. In these cases, perpetrators were punished.⁷³ Technically though, making a complaint today may not be a straightforward case.

Before discussing the obstacles that may preclude torture victims from obtaining legal support and compensation, we should first distinguish between two categories: victims inside Syria, and those who are abroad. For those who are inside Syria, filing such a complaint is an impossible task due to the strict control that is imposed by Syrian intelligence over the justice system and its institutions. Moreover, there is confusion between victims of detention and torture and those convicted of a criminal offense, whereby detainees for a non-criminal offense are issued with arrest warrants from exceptional courts, (courts with security or security mandates), which tampers with the procedure. Some articles embedded in the Penal Code are often used to achieve that end.

For instance, Article 278 criminalises undertaking acts, writings, or speech unauthorised by the government that exposes Syria to the danger of belligerent acts or that disrupts Syria's ties to foreign states. Also, Article 285 criminalises issuing calls that 'weaken national sentiment', or, under Article 307, acts, writings or speech that incite sectarian, racial or religious strife.⁷⁴ The impact of this procedure could also be exacerbated by depriving detainees of their civil rights, which we have already discussed in this report.⁷⁵ This deprivation means that torture survivors were and are unable to secure employment, apply for a passport or buy and sell their properties without permission from the relevant security departments.

Participants in this research have also provided various other reasons for not filing complaints that address the way they were treated. One survivor reported that although she was released, her husband remained in detention and therefore she did not seek any remedies.⁷⁶ While another survivor revealed that she was still listed as 'wanted', although she was released from detention.⁷⁷ Another survivor had her identity card damaged, which meant that she could not move freely or apply for a passport.⁷⁸ Whether there is any point in filing a lawsuit or complaint, a survivor shared the following:



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“ there was no point in filing such a complaint. There were legal obstacles that I faced after my release from prison, especially in areas under the control of the Syrian government, where the perception was that I had resigned. In fact, I was dismissed from my work at the university. To restore my situation I would have to seek some document which proves that I am not wanted anymore, then follow up with the central agency for financial inspection. I did not do any of that. I did not go back to regime-controlled areas at all following my release.”⁷⁹

The applicability of the relevant laws is also hampered by the fact that Syrian law effectively grants immunity from prosecution to members of security forces. Namely Article 16 of Legislative Decree no. 14 1969, Article 74 of Legislative Decree no. 549 Date of 1969, and Legislative Decree no. 64 of 2008. According to the Code of Military Procedure issued by Decree 61 of 1950, military and security personnel are immune from prosecution, and the latter is subject to authorisation from the Minister of Defense. In 1969, immunity was granted to members of State Security for crimes committed while exercising their duties except in cases where its director issues a warrant. In 2008, immunity similar to that granted to members of the Military Intelligence and Air Force Intelligence was given to Political Security, as well as police and customs officials, with the same exception for cases where the “general leadership of the army and military forces” issued a warrant. **In other words, no cases can be brought against members of the security services except where special permission is given by their own or military leaders.**



Moving Forwards

Although this section risks stating the obvious, providing a remedy for the visible and the invisible scars of torture victims in Syria will require both domestic and international approaches. At the same time, it aims to provide practical and achievable solutions, remedies, and recommendations. For instance, calling on the Syrian government to adhere to its commitment to international law and provisions it signed. While this should be unconditional and unqualified, there is no evidence to suggest that it will be listened to by the government.



The voice of the survivors

The authors of this report find it appropriate to start the discussion in this section by providing a platform for the survivors who have gracefully and generously shared their perspectives. In this sense, survivors highlight the fact that they are not simply numbers to be added to reports here and there, and they should not be treated as such for a start. Moreover, survivors should not be treated as numbers in terms of the duration of their detention. Rather, each case should be approached for its unique needs and supported accordingly.⁸⁰

Survivors who participated in this research have also voiced their concern over the competition that erupts between Syrian humanitarian and relief organisations. One survivor called for the unity of Syrian organisations for the cause of fighting torture, which should be a cause of unity rather than a matter of competition.⁸¹ Fighting torture can only happen “when we stand together and stand for the cause of those in detention. And this will enable our voice to reach the United Nations.”⁸²

The role of the international community has also featured among the words of the survivors in this report. Remarkably, one survivor reported the following:



The issue of combating torture in Syria is not within our control as Syrians. However, pressure must be imposed by the international community to stop torture, as the international community can do so. I remember when a delegation came to visit Adra prison. The atmosphere in the prison changed. The executioners changed their course of action with us. They offered us milk, dates, and so on. We were spoiled. This indicates that they care what the delegation and the international community may think and report.⁸³



One survivor, who practiced law before his detention, observed the need to engage state institutions and raise awareness of the application of human rights law in security and military establishments. He shared the need to:



deliver awareness and education seminars in universities and schools on human rights, especially in the security and military institutions, whether those functioning now or those that will be built later on. Also, all persons who commit violations, especially [unlawful] detention and torture, must be subject to the principles of accountability through fair trials following international standards.⁸⁴



The need to empower torture survivors has also been featured in this research. There is a vital need to provide health and social services for the survivors and provide medicine and treatment for those who cannot afford them. There is also a need to provide them with the means, training and skills through which they can establish an independent career and professional life. Civil society organisations have a potentially prominent role, and many humanitarian and relief organisations are already involved.⁸⁵

The role of the civil society

The international support for torture survivors in Syria should shift from statements of condemnation to actual support for Syrian civil society organisations and suggest and apply specific solutions rather than blanket approaches that do not take into consideration the particularities of the Syrian scenario. Shared responsibility between the governing institutions, local communities, and civil society will be vital. In the Syrian scenario, the conflict has resulted in various social, economic, medical, and legal harms, and Syrian civil society organisations have a vital role in addressing these issues and contributing to the aspired roadmap which will empower devastated communities, including torture survivors. In this sense, Syrian civil society does not only have a vital role in spreading awareness against the stigma and prejudice but also providing vital health and technical support such as psychological and physical rehabilitation, training, and a roadmap for torture victims who suffered economic loss or a loss of their potential opportunities.

Having said that, civil society organisations in Syria are not without their problems. The 2012 Constitution guarantees the freedom of assembly and the freedom of forming associations and unions under Articles 44 and 45 respectively. Despite these provisions, the Syrian government uses its power to limit the work of Syrian civil society organisations, or prevent their creation altogether. Unless affiliated with the government and its apparatus, the humble attempts to establish independent civil society organisations in Syria were suppressed by the Syrian government systematically. Civil society activists were and are subject to arbitrary measures, leading to severe consequences. **Under the 1958 Law on Associations and Private Societies (Law 93)**, the Ministry of Social Affairs and Labour has broad powers to register, intervene in the operations and dissolve any association. Articles 7 and 9 of the Law provide that any group wishing to apply for registration has to submit the relevant forms to the Ministry, which will undertake an official inspection. The irony though is that Articles 3 and 6 grant the General Security the power to investigate the founders of the organisation.⁸⁶ **In other words, the security departments, where torture happens and takes place, are the authorised entities to investigate the activities and the founders of a potential civil society organisation that may be established to support torture survivors and victims.**

Furthermore, some reports indicate that Syrian civil society organisations suffer from internal corruption.⁸⁷ This raises many questions, along with the lack of technical and medical expertise, as to the effectiveness and the ability of those societies and organisations to help and provide meaningful support for torture survivors. Participants in this research reported similar findings, whereby favours and nepotism are determining factors on who may or may not receive the support needed. Filing formal complaints were not possible due to the lack of accountability and relevant mechanisms.⁸⁸ Participants were also sceptical about the ability of civil societies to provide support for torture survivors. They cited that civil societies should involve practitioners who are both qualified and experienced in dealing with torture survivors.⁸⁹ One participant suggested training survivors to work with other survivors.⁹⁰

Participants were somewhat hopeful in terms of what civil society organisations may provide. One survivor explained that there is some progression. Care and support are more available than before, especially for female survivors.⁹¹ However, there is still some room for improvement.

Socially speaking, civil society organisations have a great role to play [in supporting torture victims], through training that addresses community integration, rehabilitation and empowerment. Psychological, counselling and mental health support could also be provided by civil society organisations working in the field.⁹²

Empowerment, according to the research participants, could also start from:

- Providing empowerment and education workshops. It could also be about providing help to open small projects.
- To pursue education and so on. I have not heard of projects as such.
- And if they exist, they are small projects which lack adequate support.⁹³

Besides the importance of supporting young victims,⁹⁴ participants also noted that civil societies could play a vital role in spreading awareness and educate the society to stand up for torture survivors and reduce stigma surrounding their experience and conditions.⁹⁵



Recommendations

 In order to ensure that actions of torture and ill-treatment are monitored and eliminated, and to bring justice to torture victims in Syria, the Syrian Centre for Media and Freedom of Expression (SCM) and the Gulf Centre for Human Rights (GCHR) call for:

The Syrian government:

-  To immediately and unconditionally release all detainees and individuals subject to enforced disappearance.
-  To adhere and commit to the provisions of international human rights law and international humanitarian law that stipulate the prohibition of arbitrary arrest, torture, enforced disappearance, and ill-treatment of prisoners as well as cruel, inhuman, or degrading treatment.
-  To repeal legislation and law provisions that provide immunity to the security and police forces from any accountability. In this regard, the Syrian government should acknowledge that some provisions in its domestic law hamper its commitment to international conventions to which Syria is a member.
-  To annul sentences handed down by the special courts and to remove the verdicts from the criminal record of the survivors.
-  To acknowledge the plea of torture survivors and put in place mechanisms and provisions which provide them with the medical care according to their needs, and ensure their rehabilitation and reintegration in their society and local communities.
-  To facilitate the role of civil society organisations in Syria in general, and those which work with torture survivors in particular and eradicate any bureaucratic and procedural hurdles that may hamper their work.

The International community:

- ▶ To pressure the Syrian government to declare its full commitment to the international conventions it signed and ratified.
- ▶ To shoulder their responsibilities (including as United Nations bodies) in protecting civilians by all available means at their disposal, and to pressure the Syrian government to treat Syrians according to international conventions to which Syria is a party.
- ▶ To pursue the Syrian government by all available means to declare its full commitment to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to withdraw its reservation on Article 20 of the said convention, to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and to grant international and human rights observers the right to access all detention centers, including the UN Special Rapporteur on extrajudicial executions, the Office of the High Commissioner for Human Rights, the Commission of Inquiry on Syria of the United Nations Human Rights Council, and the Special Rapporteur on Syria.
- ▶ To shift international support for torture survivors in Syria from statements of condemnation to actual support for Syrian civil society organisations and to suggest and apply specific solutions rather than blanket approaches that do not take into consideration the particularities of the Syrian scenario.
- ▶ To provide financial and technical support to civil society and humanitarian organisations that are involved in the rehabilitation of torture victims and empowering them socially and economically.
- ▶ While the focus of the international community is on fighting and prohibiting torture, there is more that needs to be done to realise the extended impact of torture which may change the course of the livelihood and potentials of torture victims.
- ▶ The international community and nearby countries hosting Syrian refugees should also halt their programmes that aim to deport Syrian refugees, who may be detained and tortured upon their return as happened in many documented cases.

Syrian Civil society organisations:

- ▶ When working directly or indirectly with torture victims, assume responsibility and combine advocacy of torture prohibition with practical solutions and programmes that may enable and empower torture survivors to reintegrate into their society and local communities. In this regard, Syrian civil society has a vital role in tackling issues such as stigma and mental health, as well as designing and delivering workshops and training that may empower torture survivors to earn their living and move on.
- ▶ To be transparent regarding their programmes that provide support to torture survivors. They should also establish a transparent, accountable, and clear mechanism through which survivors may receive the support they need without any discrimination based on gender, age, religion, ethnicity, sexual orientation, or connections. Service users should also be able to report violations or breaches.
- ▶ To live up to the expectations of torture survivors and end the competition between organisations that support torture victims and work together on a one agreed agenda that places torture survivors, their wellbeing, their rehabilitation, and their welfare as a priority and above any narrow aims resulting from competition.
- ▶ To provide training and qualifications for practitioners working with torture survivors, which would eventually enhance their capacity to provide informed and professional support where needed. In this regard, designing empowerment programmes and workshops should be conducted in consultation with torture victims and survivors who experience the social and economic reality of being a torture survivor on daily basis.
- ▶ To initiate the formation of legal committees to work on drafting studies and proposals to review the prison, clarify procedures and methods of their administration, unify them under the administration of the Ministry of Justice, and conduct a comprehensive assessment of prison infrastructure and improve conditions to ensure that they meet basic human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners, The Nelson Mandela Rules, and the United Nations Rules for the Treatment of Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules).
- ▶ To initiate the formation of legal committees to prepare an action plan on the national level to reform the security institutions in Syria in line with the provisions of international human rights law, and to formulate training curricula for security personnel and the judicial police on standards and rules related to universal freedoms and rights, and how to exercise law enforcement powers.
- ▶ To work actively to establish a national fund to support victims of torture, and to search for permanent and stable sources of funding to ensure medical, psychological, social, economic, legal, humanitarian, and/or other forms of assistance to the survivors.

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المركز السوري للإعلام وحرية التعبير

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