

Combating Impunity for Crimes and Human Rights Abuse Against Journalists in Syria:

Domestic and International Mechanisms



Combating Impunity for Crimes and Human Rights Abuse Against Journalists in Syria

Domestic and International Mechanisms

By

TOBY MENDEL

Executive Director, Centre for Law and Democracy (CLD) On behalf of The Syrian
Center for Media and Freedom of Expression
October 2024

The **Syrian Center for Media and Freedom of Expression (SCM)** is an independent, non-governmental, and non-profit civil society organization registered in France in 2004, focusing on human rights and media development. It is governed by a non-remunerated board and has held a UN ECOSOC special consultative status since 2011.

SCM seeks to build a society that guarantees freedom of expression and belief, human rights, and justice. Since its inception in 2004, SCM has been dedicated to safeguarding human rights defenders, advocating for human rights and fundamental freedoms, empowering civil society and victims' associations, and fostering the growth of an independent and professional media sector.

Copyright © 2024 Syrian Center for Media and Freedom of Expression (SCM)

www.scm.bz/en

2024

Acronyms

ACHR	African Charter on Human Rights
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
COI	Independent International Commission of Inquiry on the Syrian Arab Republic
CPJ	Committee to Protect Journalists
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
HRC	Human Rights Council
HRCttee	Human Rights Committee
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ILA	International Legislation Atlas
IIIM	Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011
IIMP	Independent Institution on Missing Persons in the Syrian Arab Republic
NGO	Non-governmental Organisation
OHCHR	Office of the United Nations High Commissioner for Human Rights
PPT	Permanent Peoples' Tribunal
RSF	Reporters Without Borders
RTI	Right to Information
SANA	Syrian Arab News Agency
SNHR	Syrian Network for Human Rights
SYP	Syrian Pound
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UPR	Universal Periodic Review
USD	United States Dollar
YPG	People's Protection Units

Table of Content

Combating Impunity for Crimes and Human Rights Abuse Against Journalists in Syria: Domestic and International Mechanisms, By TOBY MENDEL	02
INTRODUCTION	03
1. THE SITUATION IN SYRIA	05
2. BASES FOR SYRIAN RESPONSIBILITY	17
3. INTERNATIONAL OPTIONS FOR REDRESS	20
3.1 Universal Periodic Review	20
3.2 Treaty Systems	23
3.3 Specialised Mechanisms for Syria	29
3.4 Other General UN Mechanisms	33
4. NATIONAL OPTIONS FOR REDRESS	35
5. CIVIL SOCIETY INITIATIVES	40
CONCLUSION	44
Judicial and non-judicial avenues for journalists to combat impunity for crimes against journalists and ways to ensure accountability in areas outside the control of the Syrian government. BY Ayman Monem	47
1. AREAS CONTROLLED BY THE DEMOCRATIC AUTONOMOUS ADMINISTRATION	49
1.1 Weak Legal Protections for Journalists	50
1.2 The Weakness of the Judicial System	52
2. AREAS CONTROLLED BY THE ARMED OPPOSITION	55
3. AREAS CONTROLLED BY THE TURKISH OCCUPATION AND THE INTERIM SYRIAN GOVERNMENT	57
4. AREAS CONTROLLED BY HAYAT TAHRIR AL-SHAM - THE SALVATION GOVERNMENT	60

Combating Impunity for Crimes and Human Rights Abuse Against Journalists in Syria

Domestic and International Mechanisms



Introduction

The al-Assad family has dominated Syrian politics since 16 November 1970, when Minister of Defence Hafez al-Assad seized power in a peaceful coup. Hafez al-Assad held the presidency of Syria for nearly 30 years until he died on 10 June 2000 and, a month later, his son, Bashar al-Assad, was elected president, garnering 97.29% of the vote, according to official statistics. The al-Assads both ruled the country with an iron hand, refusing to countenance any challenge to their political supremacy and demonstrating a willingness to resort to brutal force to maintain that status.

There were periodic incidents of violence in the 40 years between 1970 and 2011, both internal and due to conflict with Israel, but no serious challenges to the dominance of the al-Assad family. That all changed dramatically in March 2011 when, inspired by the Arab Spring which was sweeping the region, protests broke out in Damascus and other cities across the country.

This led to a complex civil war in which numerous foreign countries - including Iran, Russia, Turkey and the United States - and other foreign actors - including Al-Qaeda, the Islamic State and Hezbollah - have been involved. As of today, Syria is effectively fractured into numerous different parts. These include the rump Syrian Arab Republic, comprising nearly two-thirds of the country, still governed by al-Assad and defended by the Syrian Arab Armed Forces, the Autonomous Administration of North and East Syria, representing about one-quarter of the country and largely liberated by its military force, the Syrian Democratic Forces, and smaller pockets controlled by various Syrian opposition forces, comprising just over 10% of the country.

As of today, an uneasy ceasefire prevails in most of the country, albeit with regular flareups, including between the Turkish army and Syrian Democratic Forces, which are comprised of Kurdish, Arab and Assyrian fighters but are largely under the command of People's Protection Units (YPG), a Kurdish militia which Turkey views as a terrorist group. A report issued on 15 March 2024, on the 13th anniversary of the beginning of the uprisings, by the Syrian Network for Human Rights (SNHR), On the 13th Anniversary of the Start of the Popular Uprising, tracks a number of types of atrocities, such as extrajudicial killings, arbitrary arrests and forced disappearances, and deaths due to torture, among others. It shows dramatic improvements over the last four years, in particular, but with atrocities still at concerning levels, for example with 1054 civilian deaths in the year to March 2024, 1682 arbitrary arrests and forced disappearances, and 62 deaths due to torture.¹

A detailed report by the Syrian Center for Media and Freedom of Expression chronicles the atrocities committed against journalists and other media workers during the approximately ten years from March 2011 to December 2020, Syria: The Black Hole for Media Work: 10 Years of Violations.²

¹ See pp. 7, 11 and 15. Available at <https://snhr.org/blog/2024/03/18/on-the-13th-anniversary-of-the-start-of-the-popular-uprising-231278-syrian-civilians-have-been-documented-killed-including-15334-due-to-torture-156757-have-been-arrested-and-or-forcibly-disappea/>.

² May 2021, <https://scm.bz/en/syria-the-black-hole-for-media-work-eng/>.

It chronicles a total of 1670 violations by all parties over this period, including 720 extrajudicial killings (of which 375 were committed by the ruling regime), 434 arbitrary detentions (of which 430 were committed by the ruling regime), 140 enforced disappearances and kidnappings, 61 attacks on media premises and 222 cases of injuries caused by direct and indirect targeting³.

These introductory comments are provided merely to situate, very generally, readers vis-à-vis the wider context in Syria. This report focuses on crimes and human rights abuses against journalists and other media workers in Syria and, in particular, the various means to combat impunity for those acts from outside of the country. The focus is primarily on the part of the country, approximately two-thirds, which is still governed by al-Assad. The leaders of this part of the country still formally represent Syria within the UN system and most reports on Syria focus on this part as well.

This report covers actual crimes, i.e. the perpetration of criminal offences against journalists, and legal and other actions which breach the human rights of journalists, most obviously their right to freedom of expression but also contributing human rights breaches such as a lack of due process protections during criminal cases. Many of the mechanisms which exist and which might be used to combat impunity for these actions have their own focused mandates. For example, mechanisms which exist under the International Covenant on Civil and Political Rights (ICCPR)⁴ only cover actions which represented a breach of the rights it guarantees, namely a range of civil and political rights, while the Convention on the Elimination of Discrimination against Women (CEDAW)⁵ only covers breaches of those rights of women which it recognises.

For purposes of this report, the notion of combating impunity is understood broadly to cover not only direct, legal mechanisms to combat impunity, of which only very limited options exist in relation to Syria⁶. It also includes a wide range of mechanisms which allow for the highlighting and condemnation of crimes and human rights abuse against journalists, even if they do not provide for individual remedies or redress.

The first part of this report provides a brief overview of The Situation in Syria regarding illegitimate legal provisions, cases under them and other illegitimate actions against journalists and the media.

The aim is to provide readers with a sense of the scale and nature of the need for mechanisms to combat impunity by illustrating how abuses against journalists generally manifest themselves in Syria, as well as how widespread they are. The second part, which forms the main body of the report, looks at International Options for Redress, focusing mainly on a range of UN mechanisms for the protection of various human rights. The third part focuses on National Options for Redress, with a focus on systems of universal jurisdiction over international crimes, which are available in many countries around the world. The fourth and final part looks at Civil Society Initiatives, such as the People's Trials which some civil society organisations (CSOs) have conducted for Syria and other countries.

³ Ibid., pp. 3-4.

⁴ UN General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force 23 March 1976, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>. Syria ratified the ICCPR on 21 April 1969. See https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mtdsg_no=IV-4&src=IND.

⁵ UN General Assembly Resolution 34/180, 18 December 1979, entered into force 2 September 1981, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

⁶ Among other things, Syria has not ratified the (first) Optional Protocol to the International Covenant on Civil and Political Rights, UN General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force 23 March 1976, <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-international-covenant-civil-and-political>, which allows individuals to submit complaints about individual breaches of human rights to the UN Human Rights Committee, the body which oversees implementation of the ICCPR. See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4&clang=en.



1. The Situation in Syria

Overall, Syria ranks as one of the worst countries in the world for freedom of expression and media freedom. For example, in the 2024 Press Freedom Index compiled by Reporters Without Borders (RSF), it ranked in 179th place out of 180 countries, earning just 17.41 points out of a possible total of 100, just slightly ahead of Eritrea with 16.64 points. This was down significantly from 2023, when it ranked in 175th place, again out of 180 countries, and earned 27.22 points, and again down from 2022 when it ranked in 171st place with 28.94 points.⁷ More generally in terms of freedoms, it also ranks near the bottom of Freedom House's 2024 Freedom in the World assessment, earning just one point out of a possible total of 100 in 2023, tied with South Sudan and above only Tibet and Nagorno-Karabakh, which are both territories rather than States.⁸ Syria earned the same score on the 2023 and 2022 Freedom in the World assessments.⁹ These assessments, however, appear to relate only to the approximately two-thirds of the country which is still governed by al-Assad (and not to take into account the situation in the rest of the country).

Formally, freedom of expression and of the media are guaranteed in Articles 42(2) and 43 of the 2012 Constitution of the Syrian Arab Republic.¹⁰ However, these are not proper guarantees, i.e. in the sense of them constraining government behaviour, since they may be limited by law, with no conditions placed on such laws. Thus, Article 43 states:

The state shall guarantee freedom of the press, printing and publishing, the media and its independence in accordance with the law.

Prior to 2011, the government retained almost complete control over all media in the country, whether directly through control of media which were State or party organs, or indirectly, via licensing, control over distribution via the General Corporation for the Distribution of Publications (GCDP), control over printing via the official printing agency,¹¹ or control over news content via the central news agency, the Syrian Arab News Agency (SANA). As of 2016, however, there were reportedly 196 media outlets present throughout the country, representing a plurality of political viewpoints, albeit most operating outside of regime-held areas.¹²

⁷ See <https://rsf.org/en/index?year=2024>, <https://rsf.org/en/index?year=2023> and <https://rsf.org/en/index?year=2022>.

⁸ Available at <https://freedomhouse.org/countries/freedom-world/scores>.

⁹ See <https://freedomhouse.org/country/syria/freedom-world/2023> and <https://freedomhouse.org/country/syria/freedom-world/2022>.

¹⁰ Available at <https://www.voltairenet.org/article173033.html>.

¹¹ Created by Decree Law No. 15 of 2008.

¹² Antoun Issa, Syria's New Media Landscape: Independent Media Born Out of War, MEI Policy Paper 2016-9 (2016, Middle East Institute), Summary, https://www.mei.edu/sites/default/files/publications/PP9_Issa_Syrianmedia_web_0.pdf.

In its 2021 Compilation on the Syrian Arab Republic, the Office of the United Nations High Commissioner for Human Rights reported that UNESCO had indicated: “All publications and television and radio stations were controlled by the Government, as were most printed press institutions.”¹³ This presumably refers only to regime-controlled areas.

In terms of formal processes involving Syria, the most recent Universal Periodic Review for Syria held its hearing on 24 January 2022. The government of Syria “supported” a number of recommendations arising from that UPR process. These included three on the release of human rights defenders (which includes journalists), political prisoners and prisoners of conscience (namely recommendations 133.169, 133.170 and 133.171) and one general one on adopting measures to guarantee the cessation of persecution and harassment of human rights defenders (recommendation 133.165). One called generally for Syria to ensure respect for freedom of expression (recommendation 133.167). And the following one called somewhat more specifically for the adoption and implementation of access to information and press freedom legislation:

133.166 Adopt and implement legislation granting the rights to freedom of information and of the press aligned with international standards and revoke all the restrictions to those rights, including those in counter-terrorism laws (Portugal).¹⁴

In terms of its periodic reporting under the ICCPR, the last full reporting cycle was Syria’s third, which was completed in 2005. However, the fourth reporting cycle is currently underway, with Syria having submitted its State report in 2022, the UN having compiled its List of Issues in Relation to the Fourth Periodic Report of the Syrian Arab Republic in March 2023, and various civil society organisations having made submissions, mostly in June 2024.¹⁵ In the area of freedom of expression, the UN’s List of Issues document called on Syria, among other things, to respond to reports of media censorship, including through licence revocation, forcing journalists to reveal their sources, monitoring of broadcasting by the Ministry of Information, and “attacks against and harassment, intimidation, arbitrary arrests and detention, enforced disappearances and extrajudicial killings of activists, journalists and media professionals for exercising their right to freedom of expression, including online”, as well as to provide information about any protection being provided to journalists.¹⁶ It also called on Syria to report on measures taken to protect media independence, efforts to decriminalise defamation and to ensure that harsh penalties are not applied, and efforts to bring the Cybercrimes Law, the Penal Code, the Media Law and the Counter-terrorism Law into line with international standards.¹⁷

¹³ 17 November 2021, A/HRC/WG.6/40/SYR/2, para. 36. <https://documents.un.org/doc/undoc/gen/g21/338/46/pdf/g2133846.pdf>.

¹⁴ Available at <https://www.ohchr.org/en/hr-bodies/upr/sy-index>.

¹⁵ All of these documents are available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SYR&Lang=EN.

¹⁶ 5 April 2023, CCPR/C/SYR/Q/4, para. 22. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SYR&Lang=EN.

¹⁷ Ibid., para. 23.

In terms of national legislation, Syria has a number of laws which impose undue restrictions on media freedom. The Media Law¹⁸ was adopted in August 2011 in what was supposed to be an attempt to liberalise the media sector. It did improve the legal environment as compared to the regime under the highly repressive 2001 Publications Law,¹⁹ which it repealed, along with the Law on Communication with the Public on the Internet,²⁰ Legislative Decree relating to private commercial radio,²¹ and inconsistent provisions in the Radio Basic Law.²² However, it contains a number of illegitimate restrictions on content and, in any case, is largely ineffective in its liberalising impact due to its continued recognition of other, more repressive, rules.

In terms of its illegitimate content restrictions, Article 4(1) of the Media Law protects the right to freedom of expression, “as long as it is exercised consciously and responsibly”.²³ Article 3 provides that the work of the media must be based on certain values including “the national values of the Syrian society and the responsibility to spread knowledge and express the interests of the people and protect the national identity”.²⁴ According to The Tahrir Institute for Middle East Policy, the Media Law prohibits media outlets,

from publishing any content related to the armed forces unless they are official statements or have received approval for publication. It also bars outlets from publishing any information that harms “national unity,” “national security,” or “state symbols”; “incites sectarian strife”; “insults” religious beliefs; or incites others to commit crimes, acts of violence, or terrorism. ²⁵

Similarly, according to the International Legislation Atlas (ILA):

The Law also replicates the provisions contained in the earlier statute prohibiting journalists from reporting on several matters, including national security, the activities of the army and religious issues, especially insofar as it might incite sectarian strife or defame religions. The publication by media outlets of any content related to incitement to acts of violence or terrorism is prohibited alongside anything that might harm state’s symbols or might be in breach of an individual’s privacy.²⁶

¹⁸ Legislative Decree No. 108 of 2011, 28 August 2011, available in Arabic at <https://www.wipo.int/wipolex/en/legislation/details/20747>.

¹⁹ Legislative Decree No. 50 of 2001.

²⁰ Legislative Decree No. 26 of 2011.

²¹ No. 10 of 2002.

²² No. 68 of 1951.

²³ Syrian Center for Media and Freedom of Expression, Study: The Right of Access to Information and Protection of Sources in Syria, June 2022, p. 16, <https://scm.bz/en/right-to-know-and-protection-of-the-source-in-syria-en/>.

²⁴ Ibid., p. 24.

²⁵ Organizing in Syria: Legislative Fact Sheet, 26 March 2021, p. 1, <https://timep.org/2021/03/26/organizing-in-syria-legislative-fact-sheet/>.

²⁶ Syria: ILA Country Report, 2015, p. 2, <https://internetlegislationatlas.org/data/summaries/syria.pdf>.

There are a number of problems with these provisions from the perspective of freedom of expression. International law requires restrictions on freedom of expression to meet a three-part test, the first part of which is that they shall be “provided by law”. This requires not only that restrictions be set out in a law but also that they be sufficiently clear that it is possible to foresee in advance what is prohibited and what is not. Vague references to notions such as “consciously and responsibly”, “national values”, “the interests of the people” and protecting “national identity” manifestly fail to meet this standard. Indeed, they appear to be designed precisely to be flexible (“rubber laws”), such that they might be applied whenever the government does not like certain media reporting.

The second part of the test is that restrictions must aim to protect a legitimate interest. Those interests are listed in Article 19(3) of the ICCPR and are the rights or reputations of others, national security, or public order, health or morals. This list is exclusive and only restrictions which seek to protect one of those aims are legitimate. Many of the interests protected by the media law go beyond this. For example, interests or notions such as “national values”, “interests of the people”, “national identity” and “state symbols” do not correspond to the list in Article 19(3) and hence are not legitimate. Of course it is always open to the media to choose to respond to these values and aims, but it is not legitimate for the government to require them to do so.

With respect to insulting religious beliefs, this could arguably fall within the scope of public morals, which is one of the interests listed in Article 19(3). However, the UN Human Rights Committee has made it clear in General Comment No. 34 that: “Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant.”²⁷ This means that it is not legitimate to protect religious beliefs, as such, which the Media Law does, while it is appropriate to protect those who hold religious beliefs against incitement to hatred against them based on those beliefs. Furthermore, the Committee also noted that “limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition”. Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination.”²⁸ This again means that it is not legitimate to protect the beliefs of specific religions.

It is legitimate to protect national security and to protect against incitement to sectarian hatred or to crimes or terrorism. However, the third part of the test is that restrictions must be “necessary” to protect the interest. This requires restrictions to be set out narrowly so that only speech which really does pose a threat to the protected interest is covered. National security is a concept which has often been interpreted significantly overbroadly in countries around the world and especially in the Arab World. It is thus important to define it clearly in legislation and not to prohibit all reporting which relates to national security, only that which specifically undermines it. In practice, while it may be legitimate to prohibit officials from disclosing national security secrets, media reporting very rarely poses a threat to national security.

²⁷ General Comment No. 34, Article 19: Freedoms of opinion and expression, 12 September 2011, para. 48. Available in all six UN languages at: <http://undocs.org/ccpr/c/gc/34>.

²⁸ Ibid., para. 32.

It is also legitimate to protect privacy, as long as appropriate limits to this are established, in particular that freedom of expression prevails over privacy when this is in the overall public interest. The Media Law does not appear to provide for such a public interest balancing. Indeed, Article 13 provides that “it does not violate personal privacy to criticise or publish information about those charged with a public service or service provided that the media content is closely related to their work and targeting the public interest”.²⁹

This is somewhat positive although it is cast too narrowly. The actions of officials which relate to their work generally do not fall within the scope of privacy, with the exception of certain privacy issues such as performance assessments. As such, when reporting on such actions, it should not be necessary additionally to show that the reporting was in the public interest.

When it comes to sanctions, it is positive that the Media Law does away with arrests and prison sentences for most media offences and provides only for fines.³⁰ Fines can extend up to SYP 1,000,000 (currently only approximately USD 77)³¹ but media outlets can be temporarily suspended and even, in some contexts, have their licences terminated for violating its provisions.³² In addition, the Media Law preserves punishments in other laws. Thus, Article 79 refers media professionals who violate the prohibitions contained in its Article 12 to “the laws in force”, while Article 99 states: “For every crime for which no text is stipulated in this Law, the Penal Code and the laws in force shall apply”.³³

Other apparently positive aspects of the Media Law are also ultimately undermined in practice. Thus, Article 4(2) protects, “[t]he right of media professionals to obtain and use information, subject to the provisions of this Law.”³⁴ However, Syria does not have a proper right to information (RTI) law, or law giving individuals the right to access information held by public authorities.³⁵ As such, this limited provision cannot deliver that right. Among other things, it fails to set out the scope of application of this right, the procedures for making requests, the exceptions to the right of access and the opportunities to lodge appeals against refusals to provide access. The report *Study: The Right of Access to Information and Protection of Sources in Syria*, by the Syrian Center for Media and Freedom of Expression, details clearly the failures of Syria in relation to RTI.

Another ostensibly positive provision in the Media Law is Article 7(b), which states that “no one may ask the media professional to disclose their sources of information except through the judiciary and in a secret session”. However, according to the Syrian Center for Media and Freedom of Expression, this has failed to be effective and Syrian journalists continue to be required to disclose their confidential sources of information.³⁶

²⁹ Syrian Center for Media and Freedom of Expression, *Legal Environment for Media in Syria*, p. 24.

³⁰ See, for example, The Tahrir Institute for Middle East Policy, *Organizing in Syria: Legislative Fact Sheet*, p. 1 and Syrian Center for Media and Freedom of Expression, *Legal Environment for Media in Syria*, p. 25.

³¹ *Media Landscapes: Expert Analysis of the State of Media: Syria*, <https://medialandscapes.org/country/syria/policies/media-legislation>.

³² The Tahrir Institute for Middle East Policy, *Organizing in Syria: Legislative Fact Sheet*, p. 1.

³³ Syrian Center for Media and Freedom of Expression, *Legal Environment for Media in Syria*, pp. 25-26.

³⁴ Syrian Center for Media and Freedom of Expression, *Study: The Right of Access to Information and Protection of Sources in Syria*, p. 16 and The Tahrir Institute for Middle East Policy, *Organizing in Syria: Legislative Fact Sheet*, p. 1.

³⁵ See RTI Rating, Country Page, <https://www.rti-rating.org/country-data/> (which does not list Syria as one of the 140 countries which have RTI laws).

³⁶ *Study: The Right of Access to Information and Protection of Sources in Syria*, p. 2.

The Media Law also introduced a number of repressive rules relating to funding for and ownership of the media. Article 15, for example, imposes strict limits on advertising revenues while the Law also limits individual ownership to a maximum of 25% for radio and 20% for television.³⁷ It is actually positive to impose certain restrictions on concentration of media ownership,³⁸ but these limits are too stringent and would impede the successful development of the sector.

Article 19 of the Media Law also established a new oversight body, the National Council of Information, which was nominally independent both financially and administratively. However, the Council did not have the power actually to issue licences to the media, merely to make recommendations to the Cabinet, which would make the final decision.³⁹ In any case, even that approach came to an end in 2016 when the National Media Council was abolished,⁴⁰ and its powers in relation to licensing were transferred to the Ministry of Information.⁴¹

It may be noted that a new, draft Media Law is currently before the parliament, which the Syrian Center for Media and Freedom of Expression suggests “constitutes a retreat even from Law 108 of 2011 [the current Media Law]”.⁴² Among other things, the draft Media Law imposes additional vague content restrictions on the media, expands licensing requirements, limits access to funding for the media and expands the extent of control of the Ministry of Information over the media.

A new law establishing the Ministry of Information was adopted in April 2024 which already significantly expands the powers of the Ministry.⁴³ Among other things, it provides for the Ministry to licence 13 different categories of information actors, including broadcasters, print media, online media, social media, media training centres, opinion polling centres and printing and publishing houses.⁴⁴

The Penal Code⁴⁵ also contains a large number of restrictions on the content of what may be disseminated. It is beyond the scope of this report to analyse these in detail, but some of the more problematical provisions are reviewed below. As noted above, where the Media Law is silent as to these issues, the provisions of the Penal Code continue to apply to the media.

For example, Article 285 of the Penal Code, as amended in 2022, criminalises the dissemination of statements which “undermine the civic or national identity, trigger racial or sectarian strife” while Article 286 criminalises anyone who “disseminates despair or weakness among the members of the society.”

³⁷ Syrian Center for Media and Freedom of Expression, *Legal Environment for Media in Syria*, p. 26.

³⁸ See, for example, Toby Mendel, Ángel García Castillejo and Gustavo Gómez, *Concentration of Ownership and Freedom of Expression: Global Standards and Implications for the Americas* (2017, Paris, UNESCO).

³⁹ Syria: ILA Country Report, 2015, p. 2 and Syrian Center for Media and Freedom of Expression, *Legal Environment for Media in Syria*, pp. 26-28.

⁴⁰ Legislative Decree No. 23 of 2016, 6 September 2016.

⁴¹ Syrian Center for Media and Freedom of Expression, *Legal Environment for Media in Syria*, p. 26.

⁴² The New Media Draft Law in Syria - 2024 Liberating the media from government control: One step back...two steps back, 2024, <https://scm.bz/en/the-new-media-draft-law-in-syria-2024/>.

⁴³ Law on Ministry of Information, No. 19 of 2024, 23 April 2024, <https://sana.sy/?p=2075689> (in Arabic).

⁴⁴ *Ibid.*, Article 12.

⁴⁵ Legislative Decree No. 148 of 1949, 1 August 1949, <https://www.wipo.int/wipolex/en/legislation/details/10918>.

Article 287 prohibits the broadcasting from abroad of false or exaggerated news which “undermines the prestige of the state or its financial status”, while a second paragraph was added prohibiting the dissemination of “news that would polish up the image of an enemy state with the aim of undermining the status of the Syrian State”. Breach of this provision may be sanctioned by fines and imprisonment for at least six months. Article 307 prohibits: “Every writing and every speech intended or provoking sectarian or racial strife or inciting conflict between sects and the various elements of the nation are punishable by imprisonment from six months to two years and by a fine of one hundred to two hundred pounds.”⁴⁶

Many of these provisions do not pass the provided by law part of the test for restrictions on freedom of expression due to the vague language they employ, including phrases like “national identity”, “prestige of the state”, “financial status” and “status of the Syrian State”. Most of them also do not correspond to legitimate interests, the second part of the test. And others fail the necessity part of the test. It is, for example, well established that general prohibitions on false news, let alone exaggerated news, are not legitimate. Prohibitions on incitement to hatred are not only allowed by also required by Article 20(2) of the ICCPR, but it is important to use clear and precise language in framing such rules, which the language of Article 307 fails to do.

A number of provisions in the Penal Code, including Articles 375-378, are criminal defamation rules. Among other things, these include special rules for defaming the president, courts, military or public authorities, and also provide for penalties of imprisonment of varying lengths.⁴⁷ It is now clear that criminal rules on defamation are not legitimate and that sentences of imprisonment are particularly problematical. As the UN Human Rights Committee has indicated: “States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.”⁴⁸ Providing special protection to the president is not legitimate; instead, public figures should be required to tolerate a greater degree of criticism than ordinary citizens. And public bodies such as the courts, military and other public authorities should not benefit from any protection in defamation at all.

The Law Regulating Communication on the Web and Countering Cybercrime (Cybercrimes Law),⁴⁹ adopted only in 2022, shows that the government has not resiled from its historic practice of using broad, flexible laws to control statements, including by the media, that are critical of it. The Cybercrimes Law replaces Legislative Decree No. 17 of 2012, but many commentators have criticised it for being broader, introducing new crimes and imposing harsher penalties.

⁴⁶ See, for example, Syria: ILA Country Report, 2015, p. 1 and Syrian Center for Media and Freedom of Expression, Legal Environment for Media in Syria, pp. 25-26.

⁴⁷ See, for example, Syria: ILA Country Report, 2015, p. 1, Syrian Center for Media and Freedom of Expression, Study: The Right of Access to Information and Protection of Sources in Syria, p. 18 and Syrian Center for Media and Freedom of Expression, Legal Environment for Media in Syria, p. 25.

⁴⁸ General Comment No. 34, Article 19: Freedoms of opinion and expression, 12 September 2011, para. 47.

⁴⁹ Legislative Decree No. 20 of 2022, 18 April 2022, <https://www.moct.gov.sy/sites/default/files/%202020م%20المعلوماتية%20الجريمة%20قانون.pdf>.

One of the problems with the earlier law was that it did not distinguish between original authors and others who merely promoted or even just liked a statement. While historically republication of a statement was deemed to attract the same penalties as the original publication, this is no longer legitimate in the digital era when very minor, thoughtless actions can be said to constitute republication. As the Syrian Center for Media and Freedom of Expression noted in relation to arrests under the earlier law:

Most of them had been arrested by security forces for minor activities on social media ranging from likes and comments on Facebook, condemning the increasingly difficult living conditions, and criticizing the government, to statements condemning corruption.⁵⁰

The Cybercrimes Law retains this problem, with Article 35 providing that online resharing of content shall be treated as a new post in terms of criminal responsibility and punishment.⁵¹

As with the Penal Code, the Cybercrimes Law contains a large number of prohibitions on content and it is beyond the scope of this report to detail them all. But a few are highlighted here to give a sense of the problematic nature of this Law. Article 23 generally prohibits the use of digital devices to take pictures of or record other people without their consent, subject to imprisonment of one to six months and a fine of between SYP 500,000 and 1,000,000 (approximately USD 37-77). The penalty is increased to imprisonment of 6-12 months and a fine of between SYP 1,000,000-2,0000 (approximately USD 77-153) if the wrong is committed against a civil servant.⁵² This is not inherently inappropriate but there need to be clear public interest overrides, as with all protections for privacy, including so that the media can discharge their role of reporting in the public interest. It is also illegitimate to provide for greater protections for officials who, as in the case of defamation, have to tolerate a lower degree of protection for their privacy than ordinary citizens.

Article 24 effectively provides for a parallel rule on digital defamation, providing for imprisonment of one to three months and a fine of between SYP 300,000 and 500,000 (approximately USD 22-37). Once again, the sanctions are increased for public servants with penalties of imprisonment of 3 to 12 months and a fine of between SYP 500,000 and 1,000,000 (approximately USD 37-77). As noted above, criminalisation of defamation, and especially imprisonment, is not legitimate and officials should never benefit from greater protection under defamation law than ordinary citizens. Article 25 also introduces the offence of “Electronic libel or disdain”, which appears to be even broader than Article 24.⁵³

⁵⁰ Legal Review of the Cybercrime Law No. 20 of 2022: Restriction of the right of expression and the right to access information, p. 8, <https://scm.bz/en/legal-review-of-the-cybercrime-law-no-20-of-2022/>.

⁵¹ Ibid., p. 21.

⁵² Ibid., p. 17.

⁵³ Ibid., pp. 17-18.

Article 27 of the Cybercrimes Law makes it a crime against Syria's constitution to "establish or manage a website or a webpage or publish any item of content on the web with the intention of instigating acts that aim to change or call for changing the constitution unlawfully; to strip any part of the Syrian territory away from the state's sovereignty; to instigate an insurrection against the authorities established in accordance with the constitution, preventing said authorities from discharging their duties as stipulated by the constitution, or to attempt to topple the ruling regime in the state." This shall be punished by imprisonment of between 7 and 15 years and a fine of SYP 10-15 million (approximately USD 770-1160).⁵⁴ Article 28 makes it a crime to "disseminate false news online that could undermine the prestige of the state or compromise national unity", and is punishable by imprisonment of between 3-5 years and a fine of SYP 5-10 million (approximately USD 385-770).⁵⁵ Article 29 provides for a crime of undermining the financial integrity of the State while Article 31 provides for a crime relating to offending religious sensibilities.⁵⁶

These provisions suffer from the same problems as their counterparts in the Media Law and Penal Code, with many failing to meet the standard of provided by law, many failing to protect legitimate interests and all failing the meet the standards of necessity as required under international law.

The Syrian Network for Human Rights had, as of 18 August 2023, i.e. just 15 months after the Cybercrimes Law came into force, documented no fewer than 146 cases of individuals who had been arrested/detained under this law. Of these, 17 were media workers and 13 were arrested in relation to their social media posts. At the time of that report, 59 had been released, one had died in custody, likely due to torture, and the remaining 86 were still being detained.⁵⁷ The Syrian Center for Media and Freedom of Expression has also highlighted a number of cases against journalists under this law.⁵⁸

In addition to these content restrictions, the Cybercrimes Law also requires online intermediaries to retain identifying personal data relating to individuals who send communications through their services.⁵⁹ This is in clear breach of international standards, which rule out indiscriminate official requirements to retain data.

Some other laws which were commonly cited as being used to criminalise media workers and others include the Counter-terrorism Law,⁶⁰ and the rule on the "Application of the provisions of the Law on Network Communication and Combating Information Crime".⁶¹

⁵⁴ Syrian Network for Human Rights, Law No. 20 of 2022, p. 4, <https://snhr.org/blog/2023/08/18/law-no-20-of-2022-promulgated-by-the-syrian-regime-further-perpetuates-the-oppression-of-freedom-of-opinion-and-expression-and-has-been-used-as-grounds-for-dozens-of-cases-of-arbitrary-arrest-and-to/>.

⁵⁵ See Syrian Center for Media and Freedom of Expression, Legal Review of the Cybercrime Law No. 20 of 2022: Restriction of the right of expression and the right to access information, p. 19 and RSF, Syria, <https://rsf.org/en/country/syria>.

⁵⁶ Syrian Network for Human Rights, Law No. 20 of 2022, pp. 5-6.

⁵⁷ Law No. 20 of 2022, pp. 11 and 13.

⁵⁸ Legal Review of the Cybercrime Law No. 20 of 2022: Restriction of the right of expression and the right to access information, pp. 22-24.

⁵⁹ Ibid., p. 13.

⁶⁰ Legislative Decree No. 19 of 2012.

⁶¹ Legislative Decree No. 17 of 2012.

The justice problem in Syria is not limited to the laws themselves but also extends to the courts, including the Military Field Court and the Counter-Terrorism Court.⁶² According to the Syrian Center for Media and Freedom of Expression, following the creation of the latter, in 2012:⁶³ “Most of peaceful activists, human rights defenders, media professionals, journalists and others are being tried since that time before the Anti-terrorism Court.”⁶⁴ It is obvious that, to the extent that a specialised anti-terrorism court is legitimate at all, it could only be appropriate for actual terrorism offences to be dealt with there. However, these courts often issue death penalties as final verdicts, which are then carried out forthwith.⁶⁵

More generally, many of the documents referred to in this report highlight the lack of independence of the Syrian judiciary and the whole of the system for the administrative of justice, the lack of respect for basic due process rights in criminal and other trials and other serious problems the with legal system.

It is beyond the scope of this report to analyse these failures deeply, but it is patently clear that the local legal system offers not possibility of redress against the abuses that have and are being suffered by journalists in Syria.

Further exacerbating these problems are laws granting impunity to various security actors for violations. For example, Article 16 of the Law establishing the General Intelligence Directorate provides: “The Directorate personnel shall not be prosecuted for any offenses committed while implementing their tasks unless upon a prosecution order issued by the director”.⁶⁶

Looking beyond the legal provisions, the Committee to Protect Journalists (CPJ) provides longitudinal information about journalists and other media workers who have been killed in Syria since 1992, listing 142 such cases with confirmed motives (i.e. directly due to their work as journalists), all of them since 2011, as shown in the chart immediately below. The largest number of deaths was in 2012, at 31, followed by 30 in 2013. CPJ also tracks the number of journalists and media workers who have been imprisoned.

⁶² Created, respectively, by Legislative Decrees No. 64 of 2008 and No. 55 of 2011.

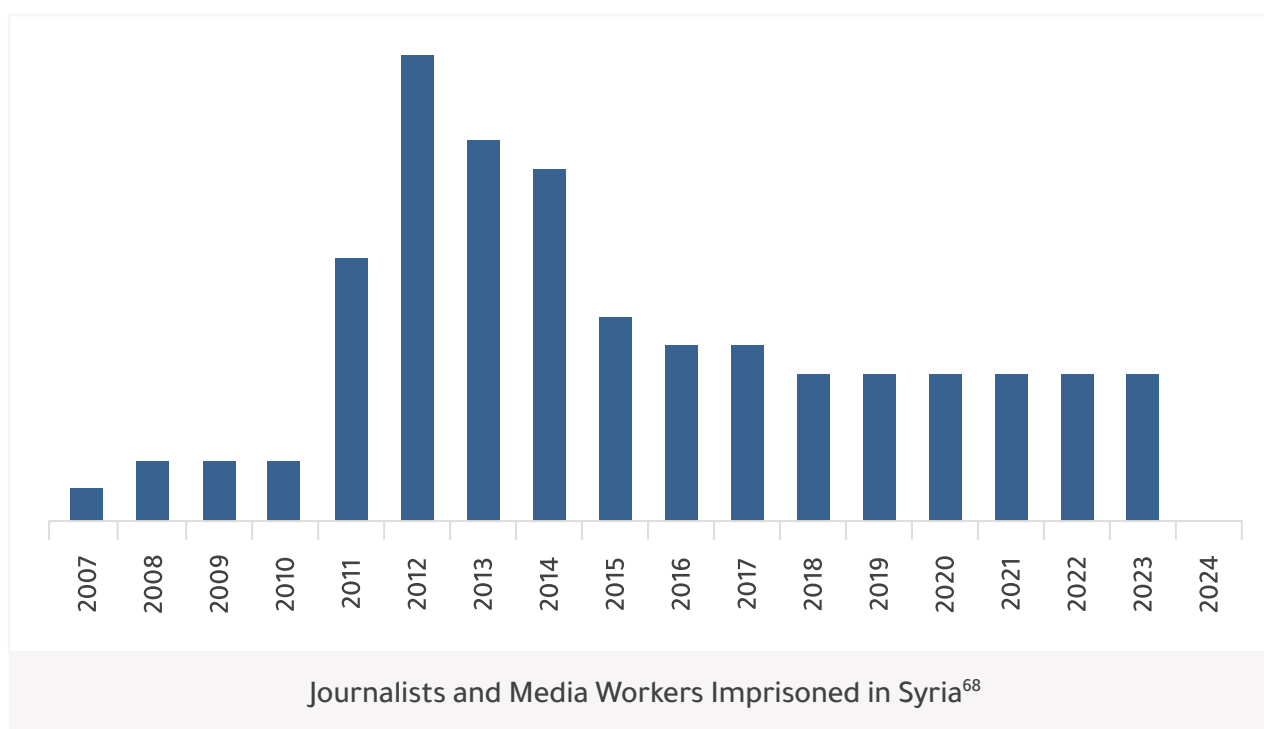
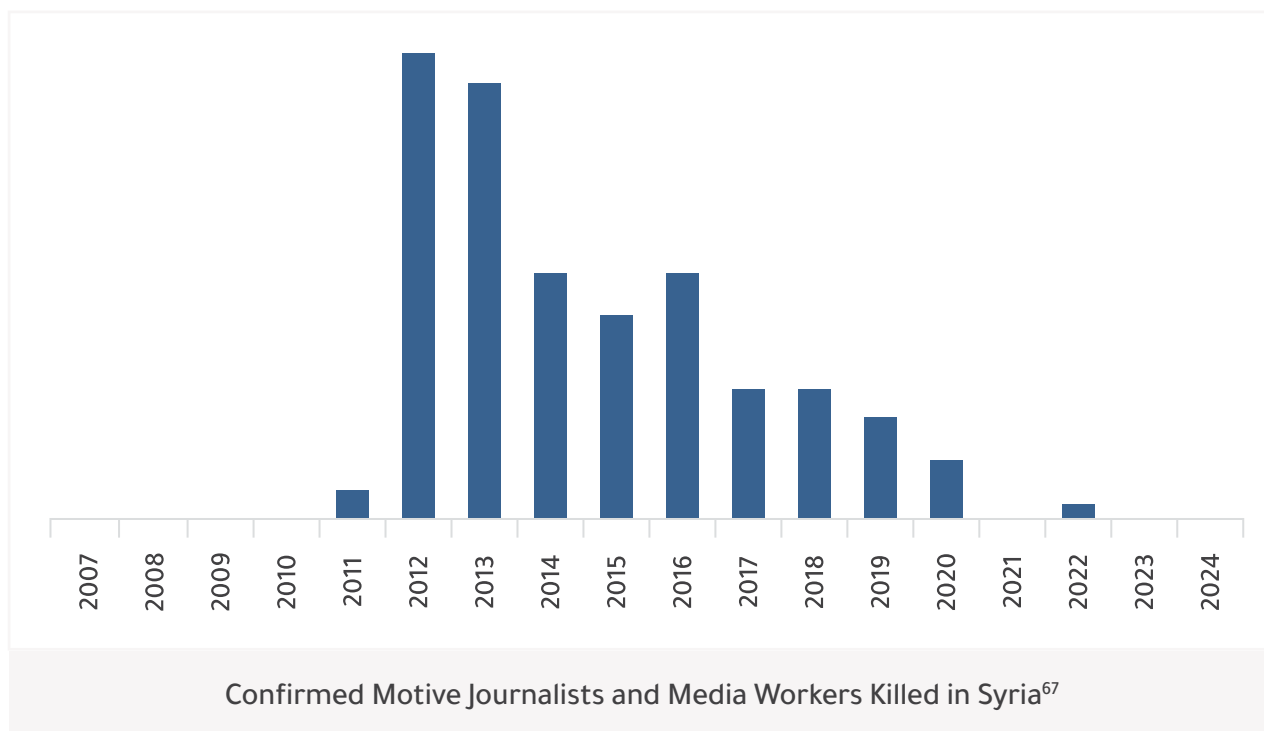
⁶³ Legislative Decree No. 22 of 2012, 26 July 2012.

⁶⁴ Syrian Arab Republic: Submission to the United Nations Human Rights Committee at its 130th Session for its List of Issues Prior to Reporting, 28 August 2020, p. 4, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SYR&Lang=EN.

⁶⁵ See Syrian Center for Media and Freedom of Expression, Syria: The Black Hole for Media Work: 10 Years of Violations, note 2, p. 47. The same report lists numerous examples of journalists who have been killed in that way.

⁶⁶ Legislative Decree No. 14 of 1969. This is backed up by Article 74 of Decree No. 549 of 1969 on the Internal Regulations of the General Intelligence (State Security) Directorate. See *ibid.*, p. 47.

Once again, 2012 was the worst year, with 16 journalists and media workers having been imprisoned, followed by 2013 with 13 (see second chart below).



⁶⁷ See https://cpj.org/data/killed/all/?status=Killed&motiveConfirmed%5B%5D=Confirmed&type%5B%5D=Journalist&type%5B%5D=Media%20Worker&cc_fips%5B%5D=SY&start_year=1992&end_year=2024&group_by=year.

⁶⁸ See https://cpj.org/data/location/?cc_fips=SY&start_year=1992&end_year=2024&report-builder-type=year&status%5B%5D=Imprisoned.

According to RSF, as of 2024, 25 journalists and other media workers remained in detention in Syria.⁶⁹

In a report released on 3 May 2024 (World Press Freedom Day), the Syrian Network for Human Rights recorded 717 journalists and media workers who had been killed between the beginning of the conflict in March 2011 and 3 May 2024, including 9 foreign journalists and 53 journalists who died due to torture.⁷⁰ The same report indicates that over the same period there were a total of 1,358 cases of “arrest and abduction involving journalists and media workers at the hands of the parties to the conflict and controlling forces in Syria”, of whom 486 remain in detention or have disappeared.⁷¹ Looking just at the year from May 2023 to May 2024, two journalists had been killed and there were 49 cases of arrest or abduction, of whom 34 had been released and 15 have now been listed as “forcibly disappeared”. A range of different parties are responsible for these violations.⁷² As noted above, the report Syria: The Black Hole for Media Work: 10 Years of Violations, by the Syrian Center for Media and Freedom of Expression, lists 720 extrajudicial killings of journalists between March 2011 and December 2020.⁷³ For its part, the People's Tribunal on the Murder of Journalists chronicles 426 journalists and other media workers who were killed in Syria between 2011 and 2020.⁷⁴

Foreign journalists are not spared. The Black Hole report documented 118 cases of violations against foreign journalists in Syria.⁷⁵ In January 2019, the US district court for the District of Columbia found that the Government of Syria deliberately targeted journalists and held it responsible for the 2012 death of American journalist Marie Colvin, ordering it to pay \$300 million in punitive damages due to the “outrageous” circumstances surrounding the attack. Colvin and French photojournalist Rémi Ochlik died when a rocket attack hit the temporary media centre they were working out of in the city of Homs in February 2012.⁷⁶

⁶⁹ RSF, Syria, <https://rsf.org/en/country/syria>.

⁷⁰ Statement on World Press Freedom Day, p. 4, <https://snhr.org/blog/2024/05/03/on-world-press-freedom-day-717-journalists-and-media-workers-have-been-documented-as-killed-by-the-parties-to-the-conflict-and-controlling-forces-in-syria-since-march-2011-including-53-who-died-due/>.

⁷¹ Ibid., p. 5.

⁷² Ibid., pp. 6-9.

⁷³ Note 2.

⁷⁴ See Judgment Session on the murder of Journalists: November 2021 to September 2022, pp. 80-92, https://ptmurderofjournalists.org/wp-content/uploads/2023/04/FPU_Permanent-Peoples-Tribunal_engels_online.pdf.

⁷⁵ See p. 3.

⁷⁶ Owen Bowcott, “US court finds Assad regime liable for Marie Colvin’s death in Syria”, 31 January 2019, The Guardian, <https://www.theguardian.com/media/2019/jan/31/us-court-finds-assad-regime-liable-marie-colvin-death-homs-syria>. The Syrian Center for Media and Freedom of Expression provided support in the case, presenting evidence, including testimonies from witnesses and defectors from the those suspected of bombing the media centre, as well as documentation from open sources.



2. Bases for Syrian Responsibility

It may be noted that, in part, freedom of expression requires States not to interfere with this right. One aspect of this is not to adopt and then prosecute journalists or other media workers under laws which go beyond the restrictions on freedom of expression which international law authorises. This right also imposes an obligation on States and State actors not to attack journalists or to engage in other actions or measures which constitute reprisals for exercising their right to freedom of expression. But this right even places a positive obligation on States to, among other things, provide protection to journalists who are at risk of being attacked for exercising their right to freedom of expression.⁷⁷

However, the attacks against journalists in Syria also raise concerns under other areas of both human rights and wider international law. In terms of human rights, everyone has a right not to be subjected to “torture or to cruel, inhuman or degrading treatment or punishment” (see Article 7 of the ICCPR and the whole of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or CAT).⁷⁸ The ICCPR and other human rights conventions also protect the right to life (see Article 6 of the ICCPR), the right to non-discrimination, including on the basis of gender (see Articles 2 and 3 of the ICCPR, the whole of the Convention on the Elimination of All Forms of Discrimination against Women or CEDAW⁷⁹ and the whole of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)),⁸⁰ the rights to liberty and security of the person (see Article 9 of the ICCPR), the right to be treated with humanity and respect even when deprived of liberty (see Article 10 of the ICCPR), the right to have any criminal charge determined through a “fair and public hearing by a competent, independent and impartial tribunal established by law” (see Article 14 of the ICCPR) and the right to peaceful assembly (see Article 21 of the ICCPR), among other things.

States also have obligations under international humanitarian law. The different conflicts in Syria are, variously, of an international or non-international nature, depending on the combatants. Syria has ratified the four main Geneva Conventions⁸¹ and well as Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I).⁸²

⁷⁷ See, for example, the 2012 Joint Declaration on Crimes Against Freedom of Expression of the special international mandates on freedom of expression, 25 June 2012, <https://www.law-democracy.org/live/legal-work/standard-setting/>.

⁷⁸ General Assembly Resolution 39/46, 10 December 1984, entered into force 26 June 1987, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

⁷⁹ General Assembly Resolution 34/180, 18 December 1979, entered into force 3 September 1981, <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf>.

⁸⁰ General Assembly Resolution 2106 (XX) of 21 December 1965, entered into force 4 January 1969, <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cerd.pdf>.

⁸¹ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Geneva), 12 August 1949, Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Geneva), 12 August 1949, Convention (III) Relative to the Treatment of Prisoners of War (Geneva), 12 August 1949, and Convention (IV) Relative to the Protection of Civilian Persons in Time of War (Geneva), 12 August 1949, all available at <https://www.icrc.org/en/law-and-policy/geneva-conventions-and-their-commentaries#text940076>. Syria ratified all of them on 2 November 1953, https://ihl-databases.icrc.org/public/refdocs/IHL_and_other_related_Treaties.pdf.

⁸² 8 June 1977, <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977>. Syria ratified this convention on 14 November 1983, https://ihl-databases.icrc.org/public/refdocs/IHL_and_other_related_Treaties.pdf.

These conventions place a number of obligations on States, mainly in relation to international armed conflicts, so these rules apply to those parts of the Syrian conflict which are international in nature. It is beyond the scope of this report to delve into detail into the details of the rules in these conventions. But Convention (IV) Relative to the Protection of Civilian Persons in Time of War sets out detailed rules relating to the treatment of civilians, which encompasses journalists and other media workers (as long as they do not become engaged directly in hostilities). These include, among many other things, prohibitions on “murder, torture, corporal punishment, mutilation and medical or scientific experiments”, as well as “any other measures of brutality” (Article 32).

Syria has not ratified the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II),⁸³ which deals specifically with non-international armed conflicts. However, Common Article 3 of the four main Conventions, titled “Conflicts not of an international character”, is applicable due to Syria’s ratification of those Conventions. Common Article 3 states, in part:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ‘hors de combat’ by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;**
- (b) taking of hostages;**
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;**
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.**

⁸³ 8 June 1977, <https://ihl-databases.icrc.org/en/ihl-treaties/apii-1977>.

This, then, applies to Syria as a party to those treaties in respect of areas experiencing non-international armed conflict.

The rules of international criminal law are also relevant here, in particular as set out in the Rome Statute of the International Criminal Court (Rome Statute).⁸⁴ This provides for individual criminal responsibility under international law for those who commit the crimes spelled out in the Statute. For current purposes, the key relevant crimes are war crimes and crimes against humanity. War crimes are serious violations of international humanitarian law norms (i.e. the norms found in the Geneva Conventions). Crimes against humanity are serious criminal acts, including murder, torture and persecution, committed as part of a widespread or systematic attack directed against a civilian population, of which the perpetrator had knowledge. Syria has not ratified the Rome Statute, so it cannot be applied to responsible actors in that country, but these crimes are relevant to the question of universal jurisdiction, addressed below.

⁸⁴ 17 July 1998, entered into force 1 July 2002, <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.



3. International Options for Redress

This section, the main body of this report, looks at a number of international options for redress for impunity for crimes and human rights abuse of journalists, other media workers and media outlets. There are a large number of different types of mechanisms and this section is broken down into sub-sections, namely the Universal Periodic Review, Treaty Systems (further sub-divided into different treaties), Specialised Mechanisms for Syria and Other General UN Mechanisms. Most of these different mechanisms focus exclusively or at least primarily on human rights issues, given that there are limited options for international humanitarian law review of State behaviour and that Syria has not signed onto the key international criminal law option, namely the International Criminal Court (ICC).

3.1 Universal Periodic Review

The Universal Periodic Review (UPR) is run directly by the UN Human Rights Council (HRC), the peak UN body for dealing with human rights. The HRC is comprised of 47 UN Member States, elected by majority vote from among the 193 UN Member States for three-year terms, renewable once. Terms are staggered and elections take place each year, with one-third of the members being renewed each year, and the seats being distributed equitably among the five UN regional groups.

Given its status as a direct HRC procedure, the UPR can be described as the leading global human rights review system. As the name suggests, it is universal in the sense that it applies in an equal manner to all 193 UN Member States, and it is periodic, taking place every 4½ years for each State. The UPR process is currently in its fourth cycle, with Syria due to be considered in January or February 2027.⁸⁵ The third cycle review of Syria was held on 24 January 2022.⁸⁶

⁸⁵ See <https://www.ohchr.org/en/hr-bodies/upr/upr-home>.

⁸⁶ Information about the third review of Syria is available at: <https://www.ohchr.org/en/hr-bodies/upr/sy-index>.

The UPR is, at heart, a peer review system whereby UN Member States review the human rights performance of each other, and it is styled as an interactive discussion between States. The reviews are conducted by the UPR Working Group, which is the 47 members of the HRC, but any State can participate and groups of three States, known as troikas, assist in each review. Three sets of documents feed into each review. First, the State under review provides a national report on its performance. Second, the review looks at official reports from different UN bodies such as treaty bodies, special procedures (like UN special rapporteurs) and other UN entities, which are brought together in what is called a Compilation of UN information. UNESCO normally contributes information on freedom of expression, media freedom and the right to information to this Compilation.

Third, other stakeholders - such as civil society organisations and national human rights institutions - can also make submissions to the UPR process, which is compiled into what is known as a Summary of stakeholders' information. Unfortunately, it is not always very easy to locate the different underlying submissions and while individual submissions are referred to by the acronym of the submitting body (such as SNHR for Syrian Network for Human Rights), the many joint submissions are just referred to by their number (as in JS1, JS2). Civil society organisations can submit one individual and one joint submission and participate in as many other joint submissions (i.e. led by other groups) as they wish. The word limit for submissions is 2815 words for an individual submission and 5630 words for a joint submission.⁸⁷

The scope of the review covers the extent to which States respect their human rights obligations set out in: (1) the UN Charter; (2) the Universal Declaration of Human Rights; (3) human rights treaties which the State has ratified; (4) voluntary pledges and commitments made by the State (such as national human rights policies and/or programmes); and (5) applicable international humanitarian law.

During a 3½-hour review, which is at the centre of the whole process, any State may ask questions or make comments or recommendations to the State under review. Following this, an outcome report is prepared setting out the comments and recommendations of States and the response of the State being reviewed, which is either to accept (support) a recommendation or to note it. This report is then formally adopted by the HRC, during a session at which not only HRC members but also other States, national human rights institutions and civil society organisations can make comments. This is the key outcome document of the UPR review.

⁸⁷ See Universal Periodic Review: A Guide For Civil Society For The Fourth Cycle, <https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/2022-10-24/UPR-4th-cycle-civil-society-guide.pdf>.

States are expected to take action to implement the recommendations they support, while other States can offer to provide assistance to this end. And States are expected to report at their next UPR session on the progress they have made.⁸⁸ The UPR also has a voluntary mid-term reporting system, whereby States report on progress in between UPR reviews. To date, Syria has not made a mid-term report.

A strength of the UPR process is that since it is universal and run by the HRC, most States collaborate with it in a reasonably timely fashion. Thus, Syria had its first review on 7 October 2011, its second on 31 October 2016 and its third on 24 January 2022. In contrast (see below), Syria simply failed to cooperate with the ICCPR reporting system between 2005 and 2022. All States can make recommendations to States under review and the latter needs either to support or merely note those recommendations, all of which will appear in the final report. Often, these recommendations are very general in nature, such as to review laws restricting freedom of expression and to bring them into line with international standards. It is very easy for States under review to agree to such recommendations, since any law reform efforts they make can be counted towards this.

However, where civil society organisations prepare clear and specific submissions on reform needs, and have also made sure that these get distributed to those States which are likely to make strong recommendations on freedom of expression, the quality of State recommendations on freedom of expression has generally been much better.

As noted above, the 2022 UPR for Syria contained a number of recommendations relating to freedom of expression, including three on the release of human rights defenders, one on ending persecution and harassment of human rights defenders, one on respecting freedom of expression generally and one on adopting right to information and press freedom legislation. Although these are all very general, they do at least focus on the subject matter of this report and, as such, it would be useful to try to get States to focus on progress on implementing these recommendations at the next UPR. Since the last Syrian UPR was completed just two years ago, it will be another three years until there is another one.

⁸⁸ See <https://www.ohchr.org/en/hr-bodies/upr/upr-implementation>.

3.2 Treaty Systems

International Covenant on Civil and Political Rights

Syria has ratified a number of global human rights treaties which are relevant to the protection of freedom of expression and media freedom. Key among these is the ICCPR, which Syria ratified in 1969. The ICCPR is the key international treaty guaranteeing freedom of expression.

For our purposes, there are two main mechanisms of enforcement under the ICCPR. Both are overseen by the UN Human Rights Committee (HRCttee), the body of 18 independent experts who are elected by States Parties to the ICCPR in accordance with the terms of that treaty.

The first, which enables individual complaints about human rights abuses, is unfortunately not applicable to Syria, since that country has not ratified the (first) Optional Protocol to the International Covenant on Civil and Political Rights,⁸⁹ which is necessary to enable this mechanism. Briefly, for States covered by this system, anyone can submit a communication claiming a breach by that State of their human rights. This is screened for admissibility (for which there are a number of conditions) and the matter is then referred to the State concerned for its response. The procedure, which is conducted entirely in written form, without any hearing, allows for some responses by both complainant and State before it goes for consideration by the HRCttee. The HRCttee then adopts what are called Observations, setting out the facts that it has determined for the case, the matters at issue in the case, the various submissions by the parties, and then the decision of the HRCttee, often divided into its views on admissibility and then the merits of the case.⁹⁰

For countries like Syria, which do not fall under the jurisdiction of one of the regional systems of human rights in Europe, the Americas and Africa, the ICCPR individual complaints system represents virtually the only option for individual consideration of human rights matters at the international level. As such, it is a very important mechanism. 117 States have ratified the (first) Optional Protocol, including a number of States in North Africa but none in the Middle East.⁹¹

The second ICCPR mechanism is the regular reporting cycle pursuant to which all States are expected to report on “the measures they have adopted which give effect to the rights recognized” in the ICCPR (Article 40(1)). Syria’s first cycle was completed in 1977, its second in 2001, its third in 2005 and it is currently in the midst of its fourth reporting cycle. According to Article 40(1) of the ICCPR, which mandates these periodic reports, the first shall be submitted within one year of the entry into force of the ICCPR for the State and thereafter “whenever the Committee so requests”. Since the ICCPR only entered into force in 1976, Syria’s first cycle was timely. The HRCttee traditionally operated on a five-year cycle for these periodic reports but there was a 24-year gap between Syria’s first and second cycle, presumably based on the failure of Syria to present a report.

⁸⁹ See https://www.ohchr.org/Documents/HRBodies/CCPR/OHCHR_Map_ICCPR-OP1.pdf.

⁹⁰ Information about individual complaints under the ICCPR is available at <https://www.ohchr.org/en/treaty-bodies/ccpr/individual-communications>.

⁹¹ See <https://indicators.ohchr.org> for a list of States which have ratified the main UN human rights treaties.

The second and third cycles were appropriately gapped but there was then a 17-year gap before Syria presented its fourth report in 2022.

Under the traditional five-year cycle approach, States would present their reports, the HRCttee would prepare a list of issues, the State would respond and the Committee would then prepare its Concluding Observations, highlighting successes and concerns and making recommendations. The HRCttee has now moved to what it calls the Predictable Review Cycle or simplified reporting procedure,⁹² which is an eight-year cycle starting with the HRCttee preparing a list of issues, the State preparing responses, a periodic review if necessary and then the preparation of Concluding Observations.

Since Syria had not prepared a report for a long time, its current (fourth) cycle is following the traditional approach, i.e. starting with the State report, which was published on 27 May 2022. The List of issues in relation to the fourth periodic report of the Syrian Arab Republic was published in March 2023.⁹³ As noted above, it listed a number of freedom of expression issues such as media censorship, forcing journalists to reveal their sources, monitoring of broadcasting, attacks against journalists, measures taken to protect media independence, efforts to decriminalise defamation, and efforts to bring the Cybercrimes Law, the Penal Code, the Media Law and the Counter-terrorism Law into line with international standards.⁹⁴ The deadline for submissions by civil society organisations was 3 June 2024 and Syria will be considered at the 141st Session of the Committee, to be held from 1 to 23 July 2024.⁹⁵

Concluding Observations are typically less than 15 pages, covering all of the rights protected in the ICCPR, such that only a short section of the Observations is normally focused on freedom of expression and media freedom, of course depending on the Committee's view of the hierarchy of human rights challenges for the country in question.

Civil society organisations are encouraged to make submissions to the HRCttee as part of the periodic reporting process. There is a schedule for this, which is published on the country page of the review process, and the Committee has a brief guide on the process.⁹⁶ Submissions are limited to 10,000 words or approximately 15 pages. Organisations can also make oral submissions during the consideration of the State's report by the Committee.

The HRCttee has a follow-up procedure through which it identifies two to four specific recommendations from the Concluding Observations which require immediate attention which it considers can be implemented within a year. The State concerned is requested to report on the measures it has taken to implement these recommendations one year after the adoption of the Concluding Observations.

⁹² See <https://www.ohchr.org/en/treaty-bodies/ccpr/predictable-review-cycle>.

⁹³ See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SYR&Lang=EN.

⁹⁴ Ibid., para. 23.

⁹⁵ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2734&Lang=en and the NGO Information Note on that page.

⁹⁶ Available at: <https://documents.un.org/doc/undoc/gen/g12/431/82/pdf/g1243182.pdf>.

A person who has been designated as the “Follow-up Rapporteur” reviews the State report and the HRCttee decides on appropriate follow-up measures, after determining whether the State has addressed the issue, has made progress but needs to do more, has not moved forward or has exacerbated the problem (which decision will be communicated to the State concerned).

CAT, CRC, CEDAW and CERD

Syria has ratified each of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (19 August 2004), the Convention on the Rights of the Child (CRC)⁹⁷ (15 July 1993), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (28 March 2003) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (21 April 1969).

Each of these has a similar structure for implementation, each overseen by a committee of experts (with 18 experts, like the HRCttee, for the CRC and the CERD, 10 for the CAT and 23 for the CEDAW). Each envisages a similar regular reporting system as under the ICCPR and each also provides for individual complaints in relation to States which have ratified the procedure for this. Syria has not ratified any of the individual complaints procedures.

In terms of the periodic reporting system, all of these mechanisms allow civil society organisations to submit parallel reports and most also allow civil society organisations to make oral presentations during the consideration of the matter before the relevant body. Each also has a similar approach to reporting, calling on States bodies to present their initial reports within one or two years of the treaty coming into force for that State and thereafter periodically, every two, four or five years.

Specifically, under the CAT, reports should be submitted after one year and thereafter every four years (Article 19(1)). For the CRC, the first report needs to be submitted within two years and thereafter every five years (Article 44). The CEDAW mandates a first report within one year and thereafter every four years or whenever the CEDAW Committee so requests (Article 18(1)). Finally, under the CERD, a first report should be provided within one year and thereafter every two years or, like the CEDAW, whenever the CERD Committee so requests (Article 9(1)).

Each of these different treaties protect different rights which may be relevant to the question of impunity for crimes and human rights abuse against journalists, other media workers and media outlets in Syria. The focus of the CAT, as the name implies, is on torture, so this is very relevant to the issue of impunity given how widespread torture is in Syria.

⁹⁷ General Assembly Resolution 44/25, 20 November 1989, entered into force 2 September 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

The CRC protects a number of rights of children, defined as those under 18 years of age, unless a different age is stipulated in the relevant national legislation. These include the right to freedom of expression which is guaranteed, in Article 13, in almost identical terms to Article 19(2) and (3) of the ICCPR (see also Articles 12 and 15, the latter of which guarantees children the right to access information from diverse sources, including the media). The CRC also guarantees the rights of children to be free of discrimination (Article 2), to peaceful assembly (Article 15), not to be sexually abused (Article 34), to be free of torture and other cruel, inhuman or degrading treatment or punishment (Article 37), to respect for the rules of international humanitarian law (Article 38) and to criminal due process rights (Article 40).

The CEDAW protects a number of rights of women, with a strong focus, as the name of the Convention suggests, on combatting discrimination. One specific area addressed by the CEDAW which may be more relevant to the issue of impunity which is the subject of this report is ending trafficking in and sexual exploitation of women (Article 6). The CERD is, like the CEDAW, primarily focused on ending discrimination. However, given the strong ethnic overtones of the various conflicts in Syria, it may well be relevant to the issue of impunity for crimes and human rights abuses against journalists and other media workers.

The last full reporting cycle for Syria under the CAT, the second, was completed with the adoption of Concluding Observations in June 2012.⁹⁸ Syria was then supposed to provide a State party report in May 2014 but this has not yet happened.⁹⁹ A couple of civil society organisations provided parallel reports for the second cycle.

In the 2012 Concluding Observations, the CAT Committee expressed “grave concern” about “widespread use of torture and cruel and inhuman treatment of detainees, individuals suspected of having participated in demonstrations, journalists, web bloggers”, as well as “killings of journalists, lawyers, human rights defenders and activists”.¹⁰⁰ It then called on Syria to:

Immediately cease all attacks against journalists and human rights defenders and advocates, and take all necessary steps to ensure that all persons, including those monitoring human rights, are protected from any intimidation or violence as a result of their activities and exercise of human rights guarantees, to ensure the prompt, impartial and effective investigation into such acts, and to prosecute and punish perpetrators and provide redress including compensation to victims.¹⁰¹

⁹⁸ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FSYR%2FCO%2F12FAAdd.2&Lang=en.

⁹⁹ See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SYR&Lang=EN.

¹⁰⁰ Paras. 20(a) and (l).

¹⁰¹ Para. 22(f).

Given that Syria has effectively ceased to report under this mechanism, it is not clear when the next cycle might take place. However, once it does, it is clearly important for civil society organisations and others to provide relevant information to the CAT Committee about relevant abuses against journalists and other media workers.

The last reporting cycle for Syria under the CRC, the fifth, concluded in 2019 with the adoption of Concluding Observations by the CRC Committee on 6 March 2019, with the previous cycle having been concluded in 2012. The next State report was due on 13 February 2024 but it appears that it has not yet been submitted. A few civil society organisations provided parallel reports in the fifth cycle.¹⁰²

The fifth cycle Concluding Observations included a couple of comments on freedom of expression and access to information, calling generally on Syria to “ensure the full respect for the child’s rights to freedom of expression and to freedom of association and peaceful assembly” and to “ensure children’s access to information and material from a diversity of national and international sources of all forms, including the Internet”.¹⁰³

The CRC Committee made references to attacks on, sexual abuse of and other harms to children as a result of the conflict.¹⁰⁴ It also decried the presence of widespread torture and cruel and inhuman punishment of children who had been detained and called on Syria to investigate all allegations of these sorts of human rights abuses.¹⁰⁵ These are just some of the relevant references in the Concluding Observations. None of these references specifically alluded to the issue of child journalists or other media workers. However, if evidence of such atrocities were presented to the CRC Committee, this might quite likely warrant a reference. Given that the upcoming cycle for Syria under the CRC should be relatively soon, depending on when Syria provides its State report, this might represent an interesting opportunity for civil society engagement in this area.

The last completed reporting cycle for Syria under the CEDAW, like the CAT just the second, concluded with the adoption of Concluding Observations in July 2014.¹⁰⁶ It is not clear from the UN records what happened after that as no date for a third cycle report appears to have been established. A few civil society organisations provided parallel reports for the second cycle. In the 2014 Concluding Observations, the CEDAW Committee did not refer specifically to journalists but it did call on Syria to “guarantee the human rights of women activists, in particular freedom of movement, expression, assembly and association, nationality, liberty and integrity of the person and access to justice”¹⁰⁷ and to ensure “that women are able to participate freely in political and public life, independent of the Government, and in an enabling environment in full respect of their freedoms of expression, association and assembly”.¹⁰⁸

¹⁰² All of these documents are available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SYR&Lang=EN.

¹⁰³ Paras. 25-26, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FCO%2F5&Lang=en.

¹⁰⁴ Ibid., para. 19.

¹⁰⁵ Ibid., paras. 27-28.

¹⁰⁶ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FCO%2F1%2FAdd.2&Lang=en.

¹⁰⁷ Para. 30(b). The report is available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FCO%2F2&Lang=en.

¹⁰⁸ Para. 36(c).

Syria regularly participated in the CERD periodic reporting process between 1971 and 1992, providing ten reports and going through ten full cycles. However, the following State party report, due in May 2000, was never provided and there has been no cooperation with the mechanism since then.¹⁰⁹

Arab Charter on Human Rights

A first version of the Arab Charter on Human Rights (ACHR)¹¹⁰ was adopted on 15 September 1994 but no State ended up ratifying it. An updated version was then adopted in 2004, and came into force in 2008, following ratification by seven States. Syria is among the States which have ratified the ACHR.¹¹¹

The ACHR guarantees a number of rights, including freedom of expression, in Article 32, as follows:

1. The present Charter guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.

2. Such rights and freedoms shall be exercised in conformity with the fundamental values of society and shall be subject only to such limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals.

This guarantee is positive inasmuch as it protects both the right to freedom of expression and the right to information. However, it is limited by the condition that it be exercised in conformity with the “fundamental values of society”, a vague formulation which is not subject to any constraints. The test for restrictions also lacks a requirement for such restrictions to be provided by law. The list of grounds for restricting freedom of expression is the same as in Article 19(3) of the ICCPR. Instead of the necessity test, the ACHR refers to the idea of being “required”, which, depending on interpretation, could amount to pretty much the same thing.

Unlike all of the other regional systems for the protection of human rights - i.e. within Europe, the Americas and Africa - the ACHR does not enable individual complaints. Instead, like the various UN treaties, Article 48 simply provides for a reporting mechanism, initially within one year of the Charter coming into force for a State Party and thereafter every three years.

¹⁰⁹ See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SYR&Lang=EN.

¹¹⁰ 22 May 2004, entered into force 15 March 2008, <https://www.ohchr.org/sites/default/files/Documents/Issues/Judiciary/Arab-Charter-on-Human-Rights-2005.pdf>.

¹¹¹ See <https://carnegieendowment.org/sada/2009/10/the-arab-charter-on-human-rights?lang=en>.

A separate Statute of the Arab Court of Human Rights¹¹² was adopted in 2014. However, according to Article 19(1) of the Statute, only the State whose citizen claims to be a victim of human rights abuse may bring a case before the Court, while States may also, pursuant to Article 19(2), accept that accredited NGOs may bring cases on behalf of individuals. The Court and the systems under the Statute have been strongly criticised by a range of human rights actors.¹¹³ In any case, as of 29 May 2024, no State had yet ratified the Statute.¹¹⁴

3.3 Specialised Mechanisms for Syria

The UN has provided for four specialised mechanisms for Syria, all of which are relevant to the issue of combatting impunity for crimes and human rights abuses against journalists, other media workers and media outlets. The first is the Independent International Commission of Inquiry on the Syrian Arab Republic (COI).¹¹⁵ The COI was first created on 22 August 2011 by Human Rights Council Resolution S-17/1.¹¹⁶ The resolution tasked the COI with investigating “all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic” and with establishing “the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those responsible with a view to ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable”.¹¹⁷ The mandate of the IIC has continuously been extended since it was first created, most recently through Resolution 55/22, adopted on 4 April 2024.¹¹⁸ The COI presents both written and oral reports to the HRC. In addition to its general mandate, the COI has also been asked to look into specific situations in Syria, such as the events in EI-Houleh in 2012¹¹⁹ and the events in Aleppo in 2016.¹²⁰

The most recent Report of the COI was issued on 9 February 2024.¹²¹ The recent versions of these reports are broken down into sections covering the different parts of the country (focused on the main actors who are responsible for each area).

They focus on the overall military situation, breaches of international humanitarian law, and also breaches of fundamental rights. In the February 2024 report, this latter section in the government-controlled areas part of the report focused on a violent response to a protest, as well as on attacks on freedom of expression, including via arbitrary detentions and arrests, including for posts on social media.¹²²

¹¹² 7 September 2014, https://acihr.org/texts.htm?article_id=44&lang=ar-SA.

¹¹³ See, for example, International Commission of Jurists, *The Arab Court of Human Rights: A Flawed Statute for an Ineffective Court*, 2015, <https://www.icj.org/wp-content/uploads/2015/04/MENA-Arab-Court-of-Human-Rights-Publications-Report-2015-ENG.pdf>

¹¹⁴ See University of Melbourne, *Emerging Arab States Human Rights Mechanisms*, <https://unimelb.libguides.com/c.php?g=928011&p=6704321>.

¹¹⁵ See <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/independent-international-commission>.

¹¹⁶ 22 August 2011, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ColSyria/ResS17_1.pdf.

¹¹⁷ *Ibid.*, para. 13.

¹¹⁸ See <https://undocs.org/A/HRC/RES/55/22>.

¹¹⁹ Resolution S/19-1, 4 June 2012, <https://documents.un.org/doc/resolution/gen/g12/137/73/pdf/g1213773.pdf>.

¹²⁰ Resolution S-25/1, 25 October 2016, <https://documents.un.org/doc/undoc/gen/g16/238/14/pdf/g1623814.pdf>.

¹²¹ A/HRC/55/64. All of the reports, which are issued semi-annually, can be found at <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/documentation#statements>.

¹²² See paras. 52-55 of the report.

This, then, provides a fairly detailed and granular official report on attacks on journalists and others. The COI welcomes submissions from individuals and civil society organisations and even has a very specific and fixed schedule for the filing of such submissions, namely by 1 June for the September report (covering events from January-June) and 1 December for the March report (covering events from July-December), along with contact details.¹²³

Another specialised mechanism for Syria is the Special Rapporteur on the situation of human rights in Syrian Arab Republic. As of November 2023, the HRC had established 46 thematic and 14 country mandates, of which the Special Rapporteur for Syria is one of the latter. The UN describes these mandates as “independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective”.¹²⁴ In general, these mandates may undertake country visits to assess the situation (focusing on the relevant thematic issue for thematic mandates), act on individual complaints by engaging in dialogue with States about them and raise awareness about human rights situations.

The Special Rapporteur for Syria was originally provided for in HRC Resolution S-18/1 of 2 December 2011.¹²⁵ The Resolution gives a mandate to the Special Rapporteur to:

[M]onitor the situation of human rights in the Syrian Arab Republic as well as the implementation of the recommendations made by the commission of inquiry addressed to the authorities of the Syrian Arab Republic and of the resolutions of the Human Rights Council on the situation of human rights in the Syrian Arab Republic.

However, the mandate will only be created in practice “once the mandate of the commission of inquiry ends”.¹²⁶ Furthermore, the person tagged to be the mandate holder - Mr. Paulo Sérgio Pinheiro (from Brazil) - is currently the Chair of the COI.¹²⁷

Another important mechanism for current purposes is the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011 (IIIM), established by a 21 December 2016 United Nations General Assembly resolution.¹²⁸ This was established after vetoes in the UN Security Council prevented the situation in Syria from being referred to the International Criminal Court.

¹²³ See <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/independent-international-commission>.

¹²⁴ See <https://www.ohchr.org/en/special-procedures-human-rights-council>.

¹²⁵ A/HRC/RES/S-18/1, <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/SpecialSession/Session18/A-HRC-RES-S-18-1-en.pdf>.

¹²⁶ Ibid., para. 10.

¹²⁷ Ibid.

¹²⁸ See <https://www.ohchr.org/en/special-procedures-human-rights-council/current-and-former-mandate-holders-existing-mandates/>.

The IIIM does not have the power to launch prosecutions of its own. Instead, it aims to provide support to jurisdictions which have launched or may launch investigations and prosecutions against suspected perpetrators of crimes in Syria. To do this, it collects evidence from a wide range of sources, including civil society organisations.

The evidence it collects is stored in a Central Repository of Information and Evidence, which is governed by strict confidentiality rules and which has in place rigorous information security measures. This information is then shared with relevant official authorities (i.e. those with a formal mandate to investigate and prosecute crimes) in target jurisdictions, either upon request or proactively when the IIIM sees a need for its evidence. The IIIM does not report publicly on its work, given the nature of that work, but it does submit an annual report to the UN General Assembly on “its activities, priorities and funding requirements”.

The formal mandate of the IIIM is captured in paragraph 4 of Resolution 71/248, which established it, as follows:

[T]o collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.

The IIIM has a special note on its engagement with civil society organisations on its website, which states:

The IIIM is mandated to establish two-way dialogue with Syrian civil society organisations (CSOs) and engage with them via regular consultations, targeted outreach events, biannual dialogue meetings along with distributing regular newsletters providing updates on its work.¹²⁹ The IIIM formalised its operational engagement with Syrian CSOs by signing a Protocol of Cooperation in 2018 to provide a general framework for engaging with the IIIM. When appropriate, the IIIM also enters into individual MoUs with specific CSOs setting out practical and individualised details with those seeking to share material.¹³⁰

¹²⁹ Resolution A/71/248, <https://undocs.org/A/RES/71/248>.

¹³⁰ See <https://iiim.un.org/who-we-are/at-a-glance/>.

Although the IIIM may be less high-profile than some of the other mechanisms which are profiled in this report, in fact it is a very important one for groups which wish to see accountability for crimes committed by different actors in Syria. Ultimately, there are very few hard, legal avenues for such accountability, of which the exercise of universal jurisdiction by national courts is proving to be the main avenue in practice (see below under National Options for Redress). The IIIM can serve as a practical means to route valuable information which has been collected by individuals or civil society organisations to those jurisdictions which are in fact either engaged in or contemplating investigations or prosecutions. Absent this facilitation, it would normally be very difficult for civil society organisations holding such information to know how to get that information to criminal justice actors in relevant jurisdictions. It is thus very important for civil society organisations which do have such information to collaborate with the IIIM.¹³¹

The fourth, and most recent specialised UN mechanism for Syria is the Independent Institution on Missing Persons in the Syrian Arab Republic (IIMP), established by the United Nations General Assembly in a 29 June 2023 resolution.¹³² The primary mandate of the IIMP is “to clarify the fate and whereabouts of all missing persons in the Syrian Arab Republic and to provide adequate support to victims, survivors and the families of those missing”.¹³³ Civil society advocacy played a key role in getting the IIMP established.¹³⁴ In a briefing to the UN General Assembly on 25 April 2024, Volker Türk, UN High Commissioner for Human Rights, indicated that his Office had recruited staff for the IIMP. With the budget having been approved just the day before, they were expecting a director for the IIMP to be recruited in the coming months. As of the anniversary of the adoption of the resolution creating it, on 29 June 2024, however, no director had yet been appointed.¹³⁵

¹³¹ It may be noted, as a separate matter, that it is important for civil society organisations which are collecting such information to do so in a manner that preserves it properly such that it might ultimately be accepted by courts as evidence, taking into account the strict rules for such evidence that apply in all legal system. This is a complex topic which is beyond the scope of this report but the Centre for Law and Democracy has produced a Manual for Journalists on Collecting and Preserving Information About International Crimes which may be useful reading for civil society organisations working in this area. Available at <https://www.law-democracy.org/live/wp-content/uploads/2023/09/Manual.War-Crimes.Final-1.pdf>.

¹³² Resolution 77/301, <https://documents.un.org/doc/undoc/gen/n23/190/47/pdf/n2319047.pdf>.

¹³³ Ibid., para. 2.

¹³⁴ See, for example, Civil Society Organizations Urge UN Member States to Vote in Favor of Independent Institution on Missing Persons in Syria, 23 June 2023, <https://www.hrw.org/news/2023/06/23/civil-society-organizations-urge-un-member-states-vote-favor-independent>.

¹³⁵ See Synergy Hevdesti, Statement on the First Anniversary of the Resolution to Establish the Independent Institution on Missing Persons in Syria, 29 June 2024, <https://hevdesti.org/en/statement-on-first-anniversary-of-the-resolution-to-establish-the-independent-institution-on-missing-persons-in-syria/>.

3.4 Other General UN Mechanisms

There are a number of thematic mandates which are relevant to the issue under consideration in this report, namely impunity for crimes and human rights abuse against journalists and other media workers. The first, and most important, is the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, whose mandate covers, as the title indicates, freedom of expression.

Like all special mandates, this Special Rapporteur can, among other things, issue communications to Syria regarding specific human rights situations, including attacks on freedom of expression. The Rapporteur has issued at least 26 such communications since 2011.¹³⁶ The most recent, issued on 30 June 2023,¹³⁷ jointly with the Special Rapporteur on the situation of human rights defenders, the Working Group on Arbitrary Detention, and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, focused on a physical attack against and intimidation of Mr. Jde'a Abdullah Nawfal, Director of the Centre for Democracy and Civil Rights in Syria, which appears to be related to his human rights work. The previous one, issued on 17 March 2021,¹³⁸ jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on the situation of human rights defenders, focused on the killing of journalist and human rights defender Mr. Hussain Khattab.

The aim with such communications is to enter into some sort of dialogue with the State concerned, ideally so as to reach a resolution of the matter. But these communications, which are made public in due course, also serve to provide official status to reports of human rights abuse and also to publicise the actions involved. It is not clear whether Syria responds to such communications.

The special mandates rely heavily on civil society actors for information about events on the ground which may warrant the issuance of a communication. It is thus very important for civil society organisations to provide relevant information to the mandates. As the two communications mentioned above highlight, thematic mandates often join together with other relevant mandate holders when issuing such communications. In the context of attacks and human rights abuse directed at journalists, the mandate of the Special Rapporteur on the situation of human rights defenders will almost always be engaged and then, depending on the facts, so might other mandates.

The special thematic mandates also undertake country visits, as noted above. No country visit by the Special Rapporteur on freedom of expression is currently envisaged for Syria (these visits need to be distributed among all 193 UN Member States).¹³⁹

¹³⁶ A wealth of information about UN human rights bodies and Syria can be found at: <https://www.ohchr.org/en/countries/syrian-arab-republic>. The dedicated webpage for the Special Rapporteur on freedom of expression is at <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression>.

¹³⁷ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28192>.

¹³⁸ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26164>.

¹³⁹ A list of all country visits to Syria, whether they took place or were just envisaged, since 1998 is available at <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=SYR&Lang=en>.

However, since 2011, country visits which are relevant to this report were conducted by the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, in 2023 and also 2018, and by the Special Rapporteur on the human rights of internally displaced persons, in 2016. It may be noted that visits by mandates to countries other than Syria may also be relevant to the situation in Syria.

For example, a visit by the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to Austria in 2019 looked at, among other things, “the motivational factors that prompted individuals to travel [from Austria] to conflict areas such as those in Iraq and the Syrian Arab Republic”.¹⁴⁰

The Preliminary findings of the visit to the Syrian Arab Republic by the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights Prof. Dr. Alena Douhan (2023 visit)¹⁴¹ do not refer directly to journalists but did include the following statement: “I also request all interlocutors to ensure access of Syrian nationals to information and to exercise freedom of expression online, and to withdraw limitations on their use of online instruments.”¹⁴² The 2018 report did not include references to either journalists or freedom of expression.¹⁴³ However, all UN special rapporteurs are open to receiving information and inputs from civil society organisations so it is possible that had groups working on media freedom submitted information to this Special Rapporteur, that information would have been reflected in the reports. The reason this mandate is important is that it has been able to visit Syria twice since 2011. The same applies to the 2016 report of the Special Rapporteur on the human rights of internally displaced persons¹⁴⁴ (i.e. it did not include references to journalists or freedom of expression but it might have had relevant information been provided to the Special Rapporteur).

Finally, it should not be overlooked that more regular UN actors also issue reports which may be relevant to the issue of attacks or human rights abuse against journalists and other media workers. For example, in August 2022, the UN Secretary General issued a report on Missing people in the Syrian Arab Republic.¹⁴⁵ In June 2022, the United Nations High Commissioner for Human Rights issued a report on Civilian Deaths in the Syrian Arab Republic.¹⁴⁶ Such reports are highly visible and attract a lot of attention. Civil society organisations focusing on impunity for attacks and human rights abuse against journalists and other media workers should, to the extent possible, also consider providing information to inform these processes.

¹⁴⁰ Available at <https://www.ohchr.org/en/documents/country-reports/ahrc4242add2-visit-austria-report-working-group-use-mercenaries-means>.

¹⁴¹ Available at <https://www.ohchr.org/en/documents/country-reports/ahrc5423add1-visit-syrian-arab-republic-report-special-rapporteur>.

¹⁴² Ibid., p. 16.

¹⁴³ Available at <https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F39%2F54%2FAdd.2&Language=E&DeviceType=Desktop&LangRequested=False>.

¹⁴⁴ Available at <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F32%2F35%2FAdd.2&Language=E&DeviceType=Desktop&LangRequested=False>.

¹⁴⁵ A/76/890, available at <https://www.ohchr.org/en/documents/reports/a76890-missing-people-syrian-arab-republic-report-secretary-general>.

¹⁴⁶ A/HRC/50/68, available at <https://www.ohchr.org/en/documents/reports/ahrc5068-civilian-deaths-syrian-arab-republic-report-united-nations-high>.



4. National Options for Redress

This part of the report focuses on national options for redress, albeit looking at nations other than Syria, i.e. options from outside of the country. Normally, States only prosecute crimes which take place on their territory, which involve their citizens as perpetrators or victims, or which involve important interests of the State, normally its security. The principle of universal jurisdiction provides for States to prosecute crimes regardless of where they occurred or who was involved. The core underlying notion behind this principle is that certain crimes are so grave that they affect the international community as a whole. Put differently, one might say that these crimes harm the international community as a whole, or even international order. A supplementary rationale for such jurisdiction is to avoid impunity for such crimes.

The idea of universal jurisdiction has reasonably ancient historical roots and can be traced, for example, to the prosecution of the crime of piracy.¹⁴⁷ An early basis for such universal jurisdiction was a common article found in each of the 1949 Geneva Conventions, namely Articles 49, 50, 129 and 146, respectively, provides, in relevant part:

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

¹⁴⁷ See, for example, Xavier Philippe, "The principles of universal jurisdiction and complementarity: how do the two principles intermesh?" (2006), 88(862) *International Review of the Red Cross* 375, p. 377.

For its part, Article 50 of Convention I, spelling out the crimes which are subject to such universal jurisdiction, states:

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

This then requires States Parties to enact legislation so as to enable them to exercise jurisdiction over individuals who have committed such crimes, to make an effort to locate those individuals and to prosecute those individuals before their own courts or, if another country has made out a prima facie case against those individuals, and if it prefers, to hand those individuals over to that country.

The crimes listed in Article 50 represent a fairly limited list of very serious crimes. Article 85 of Additional Protocol I to the Geneva Conventions extends the substantive basis for universal jurisdiction to all grave breaches relating to the conduct of hostilities.

It is fairly clear from the language of Article 49 that the intention is that jurisdiction shall be exercised only when the individual in question is subject to the physical jurisdiction of the State Party (i.e. only when they have actual custody of the person). This is signalled, for example, by the reference to searching for the person and handing them over to another State.

This is a binding commitment for every State which is a party to any of the Geneva Conventions or to Additional Protocol I.

The CAT separately establishes a form of universal jurisdiction for the crimes it covers (i.e. torture and related offences), with its Articles 5(2) and 7(1) stating, respectively:

5(2) Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

7(1) The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

This is somewhat similar to the rule in the Geneva Conventions, albeit limited in scope to the crime of torture. First, it requires States to establish jurisdiction over such offences for individuals who are present in their territory. Then, it requires States either to extradite the person or to prosecute him or her.

Paragraph 6 of the Preamble to the Rome Statute also refers to the idea of universal jurisdiction although, as part of the preamble, it does not create legally binding obligations for States. Paragraph 6 states:

Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.

This is the broadest statement of universal jurisdiction as a duty for States referring, as it does, broadly to the idea of “exercising” criminal jurisdiction and in relation to all international crimes, presumably meaning the ones defined by its own text. These include the crime of genocide, crimes against humanity, war crimes and the crime of aggression.¹⁴⁸

It may be noted that while the Geneva Conventions and CAT require States Parties to exercise universal jurisdiction, there is a separate question as to the extent to which States may establish such jurisdiction beyond what is provided for in the treaties without unduly intruding into the sovereignty of other States. The Preamble to the Rome Statute suggests that this extends at least as far as the scope of international crimes defined by that treaty.

As a practical matter, universal jurisdiction must be established through legislation at the national level. This is true even if national constitutions provide for the direct applicability of international law, given that the provisions described above are not “self-executing” (i.e. they cannot function directly as operative legal rules). This is explicitly recognised in the treaty provisions, with them calling on States to enact legislation or take the necessary measures to provide for jurisdiction.

¹⁴⁸ See Article 5 of the Rome Statute.

Broadly speaking, national legislation must establish three conditions for exercising universal jurisdiction: the existence of a ground for universal jurisdiction (or the circumstances in which it will be asserted); a clear definition of the offences covered and their constituent elements; and a national means of enforcement (or the grant of power to a court or courts to try these cases and impose punishments). As a matter of practice, the precise nature of these rules varies from country to country, such that despite the existence of minimum international obligations, one cannot talk of a uniform global system of universal jurisdiction.

One important issue is the question of whether jurisdiction should be asserted only when the individual in question is present in the territory of a State. The international rules, described above, are generally limited to this. However, in practice, many States have adopted laws which give them the power to prosecute even when the individual concerned is not present in their territory.¹⁴⁹

Two other key and related principles must govern universal jurisdiction. The first is the principle of non bis in idem, according to which a person cannot be tried twice for the same crime. This means that if another court has already exercised or is already exercising jurisdiction over a certain crime, another national court should not assert jurisdiction.

The second is the principle of complementarity, which is a functional principle which asserts that the main or more appropriate system should assert jurisdiction over a crime. This takes concrete form in Article 17(1)(a) of the Rome Statute, which precludes the International Criminal Court from admitting a case where it is being dealt with by a State which has jurisdiction over it, unless that State “is unwilling or unable genuinely to carry out the investigation or prosecution”. Thus, the ICC allows States, normally the State with regular jurisdiction over the offence, to proceed, subject to them being willing and able to do so. At the national level, complementarity, like primary jurisdiction, varies, such that there is no uniform global system for this.

In a 2012 study, Amnesty International found that 147 States exercise universal jurisdiction over international crimes and another 16 exercised universal jurisdiction over what amounted to international crimes but which were defined only as domestic (national) crimes, so that 166 of the 193 UN Member States had legal rules providing for some sort of universal jurisdiction.¹⁵⁰ At the same time, the rate of prosecutions for these crimes, while it continues to grow, remains small, with only 13 countries opening 36 new investigations (not all of which will necessarily proceed to prosecutions) in 2023, according to one study.¹⁵¹

Part of the low rate of prosecutions can be explained by the fact that there are a number of problems with prosecuting crimes which took place outside of your jurisdiction, especially where the accused and victims also lack any connection to your jurisdiction.

¹⁴⁹ See, for example, section 8(1)(c) of New Zealand’s International Crimes and International Criminal Court Act 2000. <http://www.legislation.govt.nz/act/public/2000/0026/28.0/DLM63091.html> and section 9(1) of Canada’s Crimes Against Humanity and War Crimes Act, 2000. <http://canlii.ca/t/j0th>.

¹⁵⁰ Universal Jurisdiction: A Preliminary Survey of Legislation Around the World - 2012 Update, p. 2, <https://www.amnesty.org/en/documents/ior53/019/2012/en/>.

¹⁵¹ Trial International, Universal Jurisdiction Annual Review 2024, p. 16, https://trialinternational.org/wp-content/uploads/2024/04/UJAR-2024_digital.pdf.

The first is securing evidence, including the presence of witnesses to testify. Both the primary evidence and the witnesses who can attest to it are likely to be present mainly in the country in which the crime actually took place. Where this is a repressive country, which is probable in the circumstances in which universal jurisdiction is likely to be exercised (including Syria), there are additional risks, such as securing the protection of witnesses and even victims. It is also essential that robust protection be provided for the rights of the accused, including the presumption of innocence and respect for the due process rights of criminal defendants.

Despite the challenges, national prosecution of Syrians for crimes under universal jurisdiction remains an important potential route for accountability. According to a 2024 report by Trial International, investigations into several cases against Syrians were opened in 2023, including:

- Austria: an investigation opened into Khaled H. and other Syrian intelligence officers;
- France: a case sent to trial against Ali Mamluk, Jamil Hassan and Abdel Salam Mahmoud for complicity in crimes against humanity and war crimes in Syria; arrest warrants issued against Bashar al-Assad, Maher al-Assad, Ghassan Abbas and Bassam al-Hassan for war crimes and crimes against humanity through chemical attacks; arrest warrants issued against Fahed Jassem al-Fraij, Ali Abdallah Ayoub, Ahmad Balloul and Ali Safetli for complicity in war crimes; a case against Majdi Nema (alias Islam Alloush) sent to trial;
- Germany: ongoing trial against Syrian doctor Alaa M. for crimes against humanity; arrest of alleged former Hezbollah member Ammar A. on suspicion of crimes against humanity and war crimes in Syria; arrest of alleged member of Syrian regime-affiliated militia Ahmad H. on suspicion of crimes against humanity and war crimes; and life sentence imposed on Syrian Moafak D., member of the Free Palestine armed group, for an indiscriminate grenade attack on civilians in Damascus;
- Netherlands: conviction of a Syrian pro-regime fighter, Mustafa A.; war crimes conviction for Dutch former member of ISIS, Yusra Lemouesset; sexual violence charges brought against a Syrian former member of the NDF paramilitary group;
- Switzerland: arrest warrant issued against former Syrian vice-president Rifaat al-Assad for war crimes; and
- United Kingdom: Syrian national arrested over torture allegedly committed in 2011.¹⁵²

Civil society organisations can play an important role in promoting these sorts of prosecutions. The Syrian Center for Media and Freedom of Expression, for example, has been active in promoting these sorts of prosecutions in a number of countries.¹⁵³

Continuing and expanding these initiatives represents one of the only practical ways to promote individual legal accountability for crimes against journalists in Syria.

¹⁵² Universal Jurisdiction Annual Review 2024.

¹⁵³ See, for example, the page on their website about this: <https://scm.bz/en/accountability-and-transitional-justice/>.



5. Civil Society Initiatives

This part of the report focuses on one important and legally-focused initiative by civil society to hold States responsible for their failure to respect the rights of journalists. A key aim of this particular initiative is to highlight the fact that justice is not being done. It is also important to mention the many other civil society initiatives that seek to raise awareness about the crimes and human rights abuses suffered by journalists working in Syria, whether local or international. There are many of these but, as an example of this, we point to the example of Freedom Forum's Journalists Memorial, to which the names of Syrian journalists Saad Ahmad (a reporter for the Kurdish Hawar News Agency (ANHA)) and Mohamed Hussein Rasho (a reporter for Çira TV) were added on 4 May 2020. The two were killed when Turkish forces bombed a convoy of civilians accompanied by Kurdish soldiers and journalists in North Eastern Syria on 13 October 2019.¹⁵⁴ The Memorial lists the names of 2,355 reporters, editors, photographers and broadcasters who died covering the news between 1837 and 2019.¹⁵⁵

Work by civil society can also contribute to more formal statements about attacks on journalists. For example, advocacy by the Syrian Center for Media and Freedom of Expression, as part of its response to the detention of members of its team, contributed to the adoption, by the UN General Assembly, of a Resolution on The situation in the Syrian Arab Republic, which included a call to "release all persons arbitrarily detained, including the members of the Syrian Centre for Media and Freedom of Expression".¹⁵⁶

In terms of the main focus on this part of the report, civil society actors do not have the power to establish binding legal bodies to hear cases against States or individuals, whether for human rights abuse or international crimes. However, there are a number of initiatives by civil society to establish informal tribunals, which to all extents and purposes look and act like formally binding bodies, to hear cases about human rights and breaches of the laws of war.

One of the more important such initiatives is the Permanent Peoples' Tribunal (PPT),¹⁵⁷ established in 1979, based in Rome and currently operating under its 2018 Statute.¹⁵⁸ The PPT describes its aim as being to establish tribunals,

¹⁵⁴ See <https://www.freedomforum.org/journalists-memorial/2020-keynote-remarks/>.

¹⁵⁵ See <https://www.freedomforum.org/journalists-memorial/>.

¹⁵⁶ Resolution 67/262, 4 June 2013, para. 5, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F67%2F262&Language=E&DeviceType=Desktop&LangRequested=False>.

¹⁵⁷ See <https://permanentpeopletribunal.org/?lang=en>.

¹⁵⁸ The Statute is available at <https://permanentpeopletribunal.org/statute/?lang=en>.

to shed light on unheard cases of human rights violations and are activated at the request of social forces who, in the absence of national, regional, or international tribunal initiatives, promote the establishment of entities considered to be more accessible forms of justice.¹⁵⁹

The Preamble to the Statute of the PPT describes it as:

[A] tribune of visibility, of the right to speak, of the affirmation of the rights of peoples exposed to severe and systematic violations by public and private actors, at national and international levels, who have no possibility of referring and having access to competent organs of the organised international community.

In November 2020, the PTT accepted a request by the press freedom organisations Free Press Unlimited, Committee to Protect Journalists and Reporters Without Borders, in cooperation with the Syrian Center for Media and Freedom of Expression and the Center for Justice and Accountability, to create a special tribunal to investigate murders of journalists in relation to their work, namely the People's Tribunal on the Murder of Journalists (Tribunal). The Tribunal ultimately agreed to focus on specific murders which took place in Mexico, Sri Lanka and Syria. In the case of Syria, the murder in question was that of Nabil Walid Al-Sharbaji, who was killed on 25 May 2015. These cases were "selected as representative of the global scenario of human rights violations and impunity in which many journalists around the world operate".¹⁶⁰

An opening hearing, held on 2 November 2021 in the Hague, provided an opportunity to set the scene, establishing the nature of the problem of impunity for crimes and human rights abuses against journalists globally and the impact of the problem. Focused hearings for the Sri Lankan and Syrian cases were then held on 12-13 May 2022 and 16-17 May 2022 in The Hague. In accordance with its Statute, the General Secretariat of the PPT invited the three States to present their defence although, in practice, none of the States participated in this way with the Tribunal. The Tribunal assembled an impressive panel of nine judges from around the world with backgrounds mainly in law and journalism, including some who had specific experience sitting as judges.¹⁶¹

¹⁵⁹ See <https://permanentpeopletribunal.org/the-tribunal/?lang=en>.

¹⁶⁰ Judgment Session on the murder of Journalists: November 2021 to September 2022, p. 4.

¹⁶¹ Ibid., p. 5.

The Tribunal appears to have operated functionally somewhere between a criminal trial and a human rights hearing, with a prosecutor, judges and witnesses but with findings based on a breach of human rights obligations (which bind States and are not criminal in nature). Article 1 of the Statute of the PPT lists the “crimes” falling within its competence, but the Tribunal ultimately found Syria guilty instead of human rights breaches.

The Judgement of the Tribunal sets out clearly why press freedom is important, the obligation on States to protect the safety and freedom of journalists and other media workers, and why this is important for everyone.¹⁶² The part of the Judgement focusing specifically on Syria encompasses pages 73 to 92. It describes the historical context of Syria and the rise of repression against freedom of expression and other rights under the regimes of the al-Assads, as well as the specific story of the victim, Nabil Walid Al-Sharbaji.

The section on Syria is followed by a section titled Analysis of the situation in the light of the opening session and the three cases, which provides an analysis of the structures of violence across the three countries, as well as specific comments on each country. In respect of Syria, the Judgement notes:

In Syria, there has been a tragic continuity between the repression of fundamental freedoms and human rights in the period before the outbreak of the Arab Springs and the violent and criminal methods with which the Syrian people have been viciously repressed during the civil war.¹⁶³

The following section, Insufficiency of existing framework of international and regional initiatives, describes the global and regional framework of rules and standards in this area, concludes: “Despite all of the above, the safety of journalists is far from secure.”¹⁶⁴

The findings, in respect of Syria, are stated as follows:

That “The Prosecutor ... holds the Syrian Arab Republic responsible for grave violations of the international human rights of journalist Nabil Walid Al-Sharbaji, specifically the right to freedom from torture [Art. 7 ICCPR], the right to life [Art. 6 ICCPR], the right to freedom of expression [Art. 19 ICCPR], and the right to an effective remedy [Art. 2 ICCPR].

¹⁶² Ibid., pp. 9-12.

¹⁶³ Ibid., p. 96.

¹⁶⁴ Ibid., p. 106.

Further, that the government violated Nabil Walid Al-Sharbaji's right to freedom from discrimination based on political opinion [Art. 26 ICCPR] and his right to a fair trial [Art. 14 ICCPR].¹⁶⁵

It is not entirely clear why these findings are presented as a conclusion of the prosecutor rather than of the judges who presided over the case.¹⁶⁶

These civil society initiatives provide a very important opportunity to highlight the key types of human rights, humanitarian law and international criminal law abuses that are being perpetrated on journalists. The evidence and conclusions of the Tribunal, as set out in the final Judgement, are an invaluable contribution to the body of knowledge on these heinous acts. And these initiatives also provide an important means of drawing public attention to the abuses and, in that way, to providing an indirect means of accountability, even if they do not directly combat impunity. This is especially the case if the civil society organisations who are involved with the operation make sure to disseminate it widely.

The more formal, including in the sense of adhering to legal standards, these tribunals can be, the more powerful their findings and conclusions will be. Ideally, it would be positive to have the States involved represented somehow, even if they themselves cannot be persuaded to participate (for example via tribunal appointed defence lawyers). It would also have been preferable for the findings to have followed the judicial format of the Tribunal and to have been presented in the form of a decision reached by the judges.

Such initiatives take an enormous amount of time, effort and money. It is not clear whether another such initiative focusing on attacks on journalists and other media workers will take place. If it does, it will, in a similar way to this initiative, represent a powerful way of highlighting the nature and scale of abuse against journalists, media workers and media outlets. Consideration might also be given to conducting more modest initiatives along these lines, perhaps focusing just on key cases from Syria, and involving less grand sets of hearings and collections of witnesses, but still extracting key facts about the cases and allowing for clear findings to be adopted and then disseminated widely.

¹⁶⁵ Ibid., p. 107.

¹⁶⁶ The findings for Mexico and Sri Lanka were also presented as holdings of the prosecutor.



Conclusion

- The crimes and other attacks against journalists, other media workers and media outlets which have and are taking place in Syria are attacks not only on those individuals and entities. They represent attacks on all Syrians, since they have the effect of denying everyone the right to access information, often information which is crucial for key personal and public interests such as safety, health and indeed democracy itself. The broader impact of what have been termed “crimes against freedom of expression” has been well documented by human rights actors in relation to both Syria and other contexts.¹⁶⁷
- The primary obligation to prevent these sorts of attacks and human rights abuses falls on the State where these acts take place. But where that State is not only failing to address the problem but is indeed a major instigator of those crimes, as is the case in Syria, the international community has a responsibility to step in and do what it can to remedy the situation. There has been a lot of debate about whether the international community has done enough in the context of Syria and the basic facts relating to the situation there on their own somehow bear testimony to the fact that it has not. Despite that, there are at least a number of mechanisms that can be used to combat impunity for these attacks, understood in the broader sense of that term.
- There are ultimately very few direct means for asserting legal responsibility of either the Syrian State or individual Syrian officials for the crimes and human rights abuses they have perpetrated. A key one is prosecutions in the national courts of other countries, via the doctrine of universal jurisdiction. While such prosecutions are relatively rare, the pace of them is increasing internationally. And it is helpful that the UN has established the IIIM to support criminal investigations and then prosecutions relating to the situation in Syria, and which can provide an invaluable link between sources of information about crimes, including civil society organisations, and criminal processes that are taking place or being considered in countries around the world.

¹⁶⁷ This term featured, for example, in the title of the 2012 Joint Declaration on Crimes Against Freedom of Expression of the special international mandates on freedom of expression, which also set out clearly the harms such crimes cause. 25 June 2012, <https://www.law-democracy.org/live/legal-work/standard-setting/>.

- There are a lot more mechanisms which serve to highlight and somehow hold Syria and individual Syrians morally and socially accountable for especially human rights abuses. These include treaty mechanisms, the COI which has been established for Syria, other formal UN processes like the UPR and the reporting systems of the special mandates. The more civil society organisations engage with all of these mechanisms in terms of feeding them information about crimes and human rights abuses against journalists and other media workers, the more impact all of these systems will have. Further supplementing this with civil society initiatives, like the People's Tribunal on the Murder of Journalists, will also increase the impact.
- The situation in Syria is not only complex but it is also firmly entrenched and presents an intractable challenge for the international community. It would be naïve to suggest that we have solutions to the grave abuses that are taking place in Syria or that we can hope to bring them to an end. At the same time, it is incumbent upon us to do what we can to at least mitigate the situation. This report aims to provide especially civil society organisations but also others with some options for engaging to that end.

Judicial and non-judicial avenues for journalists to combat impunity for crimes against journalists and ways to ensure accountability in areas outside the control of the Syrian government

By Dr. **AYMAN MONEIM**, Director of the Legal Office, SCM

The extent to which rights and freedoms are upheld varies in the areas controlled by the Autonomous Administration, the Turkish occupation-the Interim Government, and Hayat Tahrir Al-Sham-the Salvation Government. However, the three controlling parties share a common failure to adhere to international human rights standards, including media rights and freedoms, the right to freedom of expression, and the right to fair trial. They are like each other when it comes to using violence, lawlessness, and the prevailing state of impunity,¹ which refers to situations in which there are no effective procedures to punish violators, or when such procedures are not effective as a result of a political decision or the nature of the judicial system, which suffers from poor performance. In international law,² impunity most of the time results from the absence of judicial mechanisms capable of adjudicating non-compliance with established provisions.

In the three areas of control, the de facto authorities exercise strict control over media work, whether through granting licenses or not, or through direct intervention to stop the issuance or publication of media materials that may contain an opinion contrary to theirs. Journalist M. Kh. in his testimony to Syrian Center for Media and Freedom of Expression said:

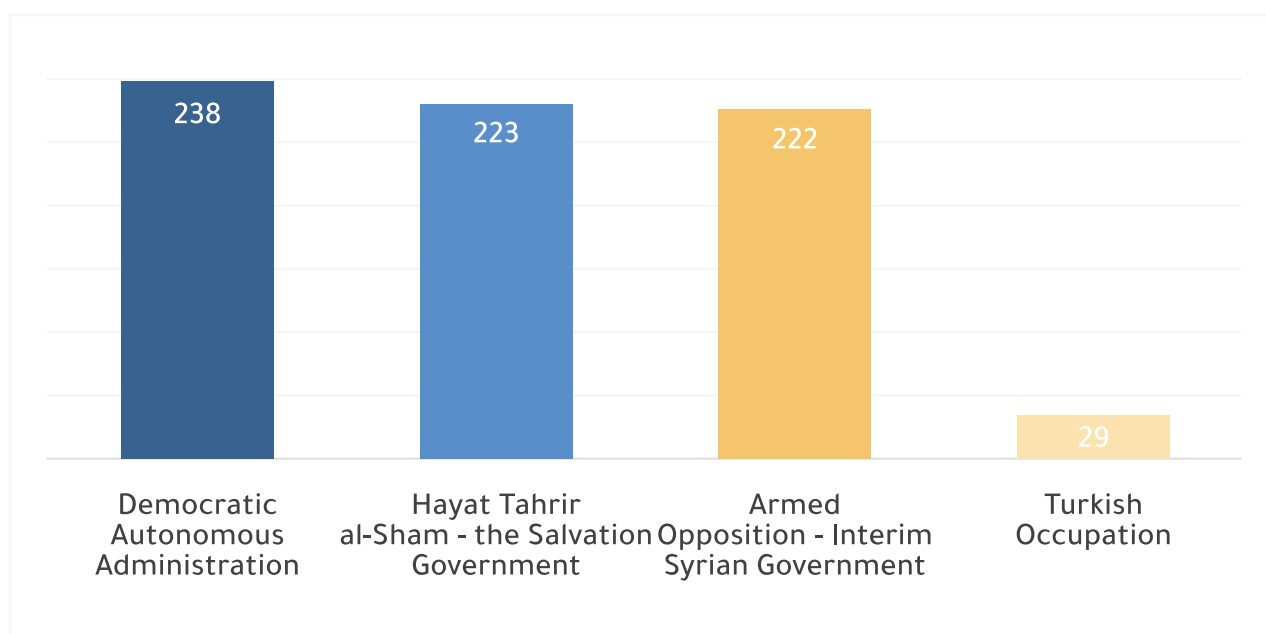
The authority in the areas under the control of the National Army is strict with the media professionals to the point that there are people who oversaw tracking and monitoring the media professionals. One time there was a person standing behind us during the coverage of an event, where he photographed the “media professionals” and then left. We checked with the Media Union and asked it about those people who were monitoring us. They told us that they were affiliated with intelligence. There is also a constant danger that we feel. For example, when traveling at night, we must be very careful with our eyes open, and if you want to get into your car, you must inspect it carefully for explosive devices.³

¹ <https://guide-humanitarian-law.org/content/article/3/impunity/>

² <https://www.frontlinedefenders.org/en/right/impunity-justice>

³ Database of Syrian Center for Media and Freedom of Expression, Record Number- SCM_VDC_OPR_22-0019

Violations against media professionals continue, with the violators knowing that they will not be held accountable for their actions, due to the absence of the rule of law, the structural weakness of the judicial systems in those areas and their inability to protect the rights of media professionals and hold those responsible for violations accountable if they occur, and due to the shortcomings of the laws and their lack of legitimacy. These laws fail to secure any protection for journalists and workers in the media field and do not meet the requirements of international human rights law, specifically the requirements of the International Covenant on Civil and Political Rights regarding rights and freedoms,⁴ so that the possibilities for confronting the state of impunity appear narrower than those available in confronting the violations of the Syrian government due to the paths of justice and international accountability. Which can contribute to addressing the state of impunity and which deals exclusively with governments and does not consider complaints against de facto forces or armed groups.⁵



⁴ <https://scm.bz/en/syria-the-black-hole-for-media-work-eng/>

⁵ Database of Violations Documentation Center at Syrian Center for Media and Freedom of Expression - and Journalists' House at the Syrian Center for Media and Freedom of Expression - Under Verification.

Areas controlled by the Democratic Autonomous Administration

The Democratic Autonomous Administration with a Kurdish majority controls⁶ large parts of Raqqa Governorate, and the strip of villages on the southern bank of the Euphrates River extending from Shuaib Al-Zikr village in the west, to Sheikh Al-Juma village in the east. It also controls the entire eastern countryside of Deir ez-Zor, north of the Euphrates River, most of Al-Hasakah Governorate, the Manbij area west of the Euphrates River, and Tal Rifaat area and its surroundings in the northern Aleppo countryside.

The Administration provided a level of security, economy, and autonomy that was relatively better than in other areas of control in Syria, benefiting from the state of relative calm it experienced, as these regions witnessed a media renaissance through emerging media institutions in the region. However, for internal and external reasons, the administration adopted policies⁷ that focused on security at the expense of human rights⁸ and undermining the prospects for any effective governance in the region, its relationship with the media was characterized by continuous attempts at control and direction by requiring administrative licenses for media work, and restrictions on media professionals and the media, as the Protection Units, the Syrian Democratic Forces, and other agencies affiliated with the administration committed violations against them.

It specifically targeted groups opposed to the Democratic Union Party, including arresting journalists, suspending them from work, and not renewing their journalistic assignments under the pretext of violating laws or supporting media outlets that the Syrian Democratic Forces consider prohibited. Although the Media Law stipulates penalties ranging from a warning, a fine, and suspension from work for a period of one week, the administration suspended media professionals for a period of up to two years and permanently withdrew the licenses of the channels they work for. On November 6, 2023, the Autonomous Administration issued a circular threatening journalists with legal accountability if they prepared reports for unlicensed media organizations or without obtaining prior permission.⁹

⁶ The autonomous administration was declared in 2013, but since mid-2012, the control had been in the hands of the Democratic Union Party (PYD) and its political umbrella, the Democratic Society Movement.

⁷ [Syria: Kurdish-led Administration Jails Rivals](#), Human Rights Watch. Syria: Aftermath: Injustice, torture and death in detention in north-east Syria. Amnesty International.

⁸ [Crimes in limbo: SDF commits horrific crimes against Syrians under the cover of the international coalition](#), Euro-Med Human Rights Monitor.

⁹ [2023 Country Reports on Human Rights Practices: Syria](#), US Department of State, Bureau of Democracy, Human Rights, and Labor.

Journalist B.M. Described to Syrian Center for Media and Freedom of Expression, his arbitrary arrest in 2022:

In solitary confinement, I was overcome with fear. I was afraid that my family members or I would be targeted by assassination. I did not know the fate of my family members after I was kidnapped from before their eyes. This is what I felt throughout that period, and every time I was taken to the investigation, two masked, armed people would blindfold me and handcuff me, then take me to the investigation. The investigation always focused on my media work and accusations that I was “working for hostile agendas, whether with Turkish intelligence or the authorities of the Kurdistan Region of Iraq, and it was accompanied by physical torture. One day I was taken five to six times to the investigation room, each time often lasting two hours.

Despite the above, the areas controlled by the Administration enjoy a wider margin of rights and freedoms, but they do not differ from other areas of control regarding the culture of impunity and the absence of effective procedures for holding accountable for violations against media professionals, due to weak legal protection and a weak judicial system.

Weak legal protections for journalists

The new social contract of the Democratic Autonomous Administration ratified in December 2023¹⁰ theoretically guarantees freedom of the media, press and publishing, and the right to freedom of expression,¹¹ but it restricts it to a specific framework drawn by the authority (in the commune, the council, cooperatives, academies, autonomous administrations), which contradicts the nature of the right and the obligation of any authority to ensure its respect and protection. As the special constitution of the Northeastern Syria region, the new social contract lacks decisive texts that protect the right to freedom of expression, like international texts, in contrast to the retreat from full commitment¹² to international human rights treaties.

¹⁰ The New Social Contract for the Regions of Northeast Syria, 2023 Article 65: Guarantees the freedom of the press, publishing, and media. This shall be regulated by law. Article 66: Everyone has the right to access and obtain information. This shall be regulated by law.

¹¹ Article 44: Peoples and components have the right to organize and express themselves freely in communes, councils, cooperatives, academies, and self-administrations.

¹² Article 37: The Democratic Self-Administration of North and East Syria is committed to the Universal Declaration of Human Rights and all relevant human rights instruments.

Article 37 included an ambiguous reference to the commitment to (relevant human rights regulations) instead of the clear provisions included in the social contract ratified in 2014.¹³

As for Law No. 3 of the Media Law of 2021, although it included advanced provisions than its predecessor, Law No. 1 of 2016, it remained incapable of providing protection for journalists or guaranteeing their rights, as it provides a narrow definition of a journalist that excludes the majority of media professionals and journalists from its provisions, for not meeting the requirements for defining a media professional as stated in Article 1:

Persons who works on preparing, collecting, publishing and commenting on news and general information through the media (printed, electronic, audio, visual) and have the capabilities and abilities that qualify them to practice this profession, such as knowledge, academic specialization or experience gained in the field of media and writing, and that they obtain the largest part of their financial income through working in this profession.

The law also does not provide guarantees for media work and does not include texts that would limit, even partially, the state of impunity, such as considering an assault on a media professional an aggravating circumstance for punishment, or an obstacle to the statute of limitations that nullifies punishments, as the law in Article 10 referred to the freedom of media professionals protected by law, while considering an assault on or insulting a media professional a crime that requires accountability,

Paragraph 2: The freedom of the media professionals is protected by law, and the information or opinion they publish should not be a reason for their arrest or infringement of their freedom.

Paragraph 9: Any person, regardless of their status, shall be punished according to the general penal code of the Autonomous Administration of North and East Syria, if they insult or assault a journalist because of their work or during it.

¹³ The Social Contract for the Regions of North and East Syria, 2014 Article 20: International covenants and conventions on human rights are considered an essential and complementary part of this contract. Article 21: The administration guarantees human rights and its supreme values according to international covenants and conventions and considers freedom the most precious possession of individuals and groups. Article 22: The administration adopts the Charter of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other relevant conventions, and considers them an integral part of this charter.

The weakness of the judicial system

In addition to the inability of the legal framework to provide any guarantees to hold accountable violations against journalists, the weakness of the judicial system is highlighted,¹⁴ as the courts established within the framework of the social justice system did not meet the requirements of a fair trial, and it is not possible to talk about the independence of the judiciary affiliated with the authority - the Democratic Union Party,¹⁵ as the reality on the ground in northeastern Syria reveals that decision-making is still concentrated in the hands of the cadres, i.e. the senior members of the Kurdistan Workers' Party,¹⁶ according to the testimony of journalist B. M¹⁷ to SCM:

I was kidnapped by a masked armed group affiliated with the Autonomous Administration authorities and the Internal Security Forces (Asayish), and I was subjected to beating and assault. They raided my house violently and assaulted me in front of my wife and young daughters, and inside the closed car they threatened me, saying: "We are the ones who run this area, and anyone who stands in our way, we will remove them from the face of the earth, and if you want to who we are, we are the cadres of the Kurdistan Workers' Party (PKK) which controls all aspects of life in northeastern Syria.

Since its establishment in 2014, the Autonomous Administration has founded People's Courts¹⁸ to resolve disputes and disagreements between people. Later, the Autonomous Administration changed the name of People's Courts to Social Justice Bureaus.

¹⁴ The Democratic Administration drew the concepts of democratic confederalism and social justice from the writings of the American leftist philosopher Murray Bookchin (1921-2006) who exchanged letters with the Kurdish leader Abdullah Öcalan. His book 'The Rise of Civilization and the Decline of Citizenship' had the greatest impact on shaping the legal and judicial aspects of the administration's political theory, http://dwardmac.pitzer.edu/Anarchist_Archives/bookchin/bio1.html. Turkish language letters between Öcalan and Bookchin, <https://anarsizm.org/ocalan-ile-murray-bookchin-arasindaki-yazismalar/>. The Social Contract of the Democratic Self-Administration for the Region of North and East Syria

Article 114: This is a system of social justice grounded in the moral and political principles of society. Its aim is to construct a community based on democratic, ecological, and feminist principles, taking societal life as its foundation. It safeguards individual rights within the social context, adhering to the principles of the social contract, and is rooted in universal principles of justice and human rights. It addresses justice-related issues through its own institutions, where justice is achieved through popular participation and the organization of democratically structured local units. Article 115: Principles of Justice: 1-The social justice system is structured in accordance with the organization of society, resolving social issues at the level of communes, villages, neighborhoods, towns, cities, districts, and regions based on principles of morality, social justice, reconciliation, and consensus. 2- Actions that harm individuals, society, or the environment are considered crimes. Victims of such crimes have the right to seek redress, and the community is empowered to evaluate the situation, offer critiques, make suggestions, and participate in decision-making processes. This is all subject to legal regulations. 3-The purpose of penalties is to educate offenders and rehabilitate them for reintegration into society. 4- Communities, groups, and social segments have the right to resolve their internal issues through reconciliation committees, provided that these actions do not contravene the overall social contract. 5- Matters pertaining to the public interest and the overall security of all peoples and groups are handled by justice institutions that represent the entire society. 6- The justice system is committed to ensuring equal and fair representation for both genders. 7- Women have dedicated justice councils to address issues specifically affecting them.

¹⁵ [Syrian Kurdish Areas Under the Rule of Law?](#) - Malcolm H. Kerr Carnegie Middle East Center

¹⁶ [The PKK's Fateful Choice in Northern Syria.](#) International Crisis Group, May 2017. - The PKK's Fateful Choice in Northern Syria | Crisis Group Database of Syrian Center for Media and Freedom of Expression.

¹⁸ [The Democratic Autonomous Administration of North and East Syria \(Rojava\).](#)

Each court has four bodies: the Public Prosecution Authority, the Justice Bureau "first degree", the Implementation Authority, and the Cassation Authority "second degree", where the Public Prosecution Authority undertakes the tasks of investigation and prosecution, and each bureau contains reconciliation committees whose task is to initially consider cases and attempt to adjudicate them, while the jury in the Justice Bureau undertakes to consider the most complex cases, while the Cassation Authority is the highest judicial authority in cases subject to appeal.

The current system is characterized¹⁹ by complexity, overlapping descriptions and laws regulating the work of the judiciary and their lack of clarity, in addition to the disparity in the level of the judicial structure and the qualification of its staff and the laws applied, as the courts apply the laws enacted by the Judicial Council of the Administration and Syrian law to cover the deficiency in the laws.

As for cases that affect the community, the court applies the standard of social justice²⁰ by involving the community in issuing judgments through justice platforms or 'platform courts'. According to Article 3 of Decree No. 2 of 2016, the Law of Procedures for the Social Justice System in Al-Jazira Canton²¹, the justice departments are committed to two interconnected principles for the application of social justice: involving the community in issuing judgments through juries, platforms, arbitration, and other methods of community involvement in decision-making; and resolving problems at their source and as quickly as possible.

Platform courts are used to perpetuate impunity and manipulate or distort judicial rulings. These courts, at their core, rely on presenting issues of public interest to community representatives at the regional, town, or city level who have no legal expertise or understanding of trial procedures. These representatives then issue a final ruling on the matter after a hearing that lasts only a few hours. This unique nature of the court exempts the authority from direct intervention in its work and allows it to influence the formulation of judgments by classifying certain cases as "matters of public opinion" and referring them to the platform court. The authority can also manipulate the nature of attendance by mobilizing supporters of the Democratic Union Party to vote in order to divert or derail the case. Alternatively, some members of the Workers' Party may request a "platform" for cases involving the interests of their associates, to prevent them from facing serious trials and to divert the course of the judicial decision.²²

Exceptional courts also contribute to violations of media rights and the perpetuation of impunity. The People's Defense Court,²³ established during the confrontation with the "terrorist" Islamic State organization, in violation of Article 70 of the Social Contract, which prohibits the trial of civilians before military courts and does not permit the establishment of exceptional or special courts,²⁴ has issued verdicts against those accused of terrorism, including politicians and media activists, on charges of threatening national unity, peaceful coexistence among the components of the canton, and the safety and stability of society.

¹⁹ [Legal Challenges Hindering Judicial Integrity in Northeastern Syria](#) - Enab Baladi

²⁰ [Full article: Democratic Confederalist Approaches to Addressing Patriarchal Violence Within the Justice System](#)

²¹ [Decree No. 2 of 2016, Including the Procedural Law for the Social Justice System in Al- Jazira Canton](#)

²² [Democratic Confederalist Approaches to Addressing Patriarchal Violence Within the Justice System.](#)

²³ Jisr newspaper: People's Defense Units Courts Try 8000 Syrians

[1] Record Number - SCM_VDC_OPR_21-0007 Syrian Center for Media and Freedom of Expression Database

²⁴ The mentioned article has been deleted from the amended Social Contract of 2023.

These verdicts are final and do not allow for any form of appeal.

They also violate the requirements of the judicial body in terms of its composition, as it relies on advisors from the Kurdistan Workers' Party and does not allow for the defense of the accused. Its judges are military officers from the Syrian Democratic Forces without requiring any legal knowledge, only literacy.

Thousands have been tried before the People's Defense Court on terrorism charges, in trials marred by human rights violations, including the use of confessions extracted under torture or other forms of ill-treatment, and the absence of lawyers at all stages of the trial.²⁵

The media professional T.A.²⁶ said to the Center about the assault she suffered due to her attempt to produce a media report on the recruitment of underage girls:

On 27 March 2021, a group of YPG members entered my house in their military uniforms, fully armed, accompanied by a leader in the Syrian Democratic Forces responsible for the recruitment of underage girls, and two Kurdish women. They beat me severely with a stick and a whip, resulting in severe physical disfigurement and a miscarriage as I was in the early stages of pregnancy. They did not stop at beating me but also smashed all my equipment: my mobile phone, internet network, camera, and laptop. The leader threatened to kill me if I published or talked about it.

The witness continued:

After the assault, I was unable to move for 20 days. I even considered quitting my job due to the very poor living conditions and my need for a monthly income. I informed the organization I work for about the incident but did not allow anyone to publish or disclose the matter to the media, due to threats from the leader who assaulted me if I spoke about it. Because the leader has strong connections with the officials in the area, I did not file a formal complaint against her, fearing that I might be harmed, arrested, or even assassinated. Moreover, I cannot predict what repercussions I might face because of this.

²⁵ [Syria: Mass death, torture and other violations against people detained in aftermath of Islamic State defeat](#)- Amnesty International.

²⁶ Database of Syrian Center for Media and Freedom of Expression, Record Number - SCM_VDC_OPR_21-0007.



Areas Controlled by the Armed Opposition

Over the years of the conflict, areas controlled by the armed opposition, with all their differences, have been environments hostile to media freedoms and the right to freedom of expression. It is sufficient to mention the burning of four alternative media projects, "Souritna, Enab Baladi, Sada Al-Sham, and Tamadun," in neighborhoods under the control of factions in Aleppo in early 2015, in solidarity with the French Charlie Hebdo in the battle for freedom of expression, by a decision of the information branch in cooperation with Ahrar al-Sham,²⁷ and the banning of all of them in areas under their control. Similarly, Syria TV was banned from operating in July 2018 in Azaz area and city by a decision of the local council in Azaz, on the pretext that the council is committed to revolutionary principles and rejects the news that Syria TV publishes.^{28 29}

These areas also witness a widespread culture of impunity for violations against media professionals. This study cannot delve into the numerous violations committed years ago without any criminal or judicial investigations or any form of accountability, such as the murder of the media activist and photojournalist Khaled al-Aisa,³⁰ who died on 24 June 2016, after his home was targeted with an explosive device on 17 June of the same year. Similar cases include the murders of media activists³¹ Raed al-Faris and Hamoud Jneid, who were killed in broad daylight in Kafranbel city in Idlib countryside on 22 January 2018, and the murder of media activist Hussein Khattab³² in Al-Bab city on 12 December 2020. Additionally, the closure of Rising for Freedom magazine and Tayara newspaper and the persecution of their staff by Jaysh al-Islam in Douma in 2017.

The incident of closing the magazine Rising for Freedom in Douma,³³ Eastern Ghouta, on 8 March 2017, serves as an example of the entrenched culture of impunity, the manipulation of the judiciary and military, and the coordination between factions to control the public sphere and stifle freedom of expression and media freedoms. Under the pretext of dissatisfaction caused by an opinion piece published in the magazine, which was subsequently deleted and apologized for multiple times by the editorial staff, the public prosecution issued a decision³⁴ ordering "the closure of all offices belonging to the Rising for Freedom magazine, the Child Guardians Network, and any institution or magazine associated with them, pending their trial before the judiciary." The decision also included "sending a letter to the Douma district directorate to close and seal the offices and issue a receipt for this."

²⁷ [Syrian Newspapers Attacked for Standing with Charlie Hebdo Victims](#) | Syria Untold

²⁸ [Two Local Councils in Rural Aleppo Ban Syria TV from Operating in their Areas.](#)

²⁹ [Circular from the local council of Azaz city prohibiting any dealings, interviews, or filming within Azaz city with Syria TV correspondents and employees.](#)

³⁰ [Khaled al-Eis: An Obituary on the Last Page](#) | Al Jazeera Media Institute.

³¹ [Assassination of Two Prominent Media Activists in Kafranbel, Syria](#) - Syrian Center for Media and Freedom of Expression.

³² [Regarding the Assassination of Journalist Hussein Khattab in Bab](#) - Syrian National Coalition for the Forces of the Revolution and Opposition.

³³ [Statement: Rising for Freedom \(We Have Come to Freedom\) Suspends its Activities Inside Syria.](#)

³⁴ [Public Prosecution Decisions in Douma Against Rising for Freedom Magazine, the Children's Guardians Network, and All Affiliated Institutions or Magazines.](#)

On the same day, 8 March 2017, an administrative decision was issued by Bab al-Hawa crossing³⁵ prohibiting the entry of Rising for Freedom magazine through Bab al-Hawa crossing into the areas controlled by the armed opposition in the north.

The clear hostility towards media and the lack of recognition of media freedoms have taken on a structural and institutional character in areas controlled by Jaysh al-Islam. This has reached the point of using civilians and inciting them against media professionals, as evidenced by the coverage of civilian attacks on the offices of Rising for Freedom, the Child Guardians Network, Local Development and Small Projects Office, Tomorrow Organization", and Violations Documentation Center in Syria. There has also been incitement or collusion in the publication of posters bearing images of the magazine's editorial staff, calling for their expulsion from Ghouta. This constituted incitement to violence and a violation of the fundamental principles of the right to a fair trial, considering every accused innocent until proven guilty by a final court judgment.

Since its founding in 2013 until its loss and the withdrawal of its elements towards the north in a settlement with the government in March 2018, Jaysh al-Islam has presented a model of suppressing media freedoms and the absence of accountability. With its complete control over Douma city and parts of Ghouta, it established a totalitarian authority that intervened in all aspects of daily life, including health, education, services, and relief, marginalized civil society organizations³⁶ in the region, and adopted a discourse that was hostile to democracy and pluralism. It practiced policies of coercion and domination through the systematic repression of dissidents. By controlling the unified judiciary council, which was established in 2014, and overseeing the courts in the cities of Douma and Marj, its leadership³⁷ engaged in mass incitement and mobilization practices, implemented policies of arbitrary arrest, disappearance, and liquidation, and directly targeted media professionals and anyone who attempted to document the human rights situation in the region. It is the prime suspect in the disappearance of human rights defenders Razan Zeitouneh, her husband, the political activist Wael Hamada, the political activist Samira Khalil, and the poet and lawyer Nazim Hamadi from the office of the Violations Documentation Center in the center of Douma in 2013.

The mentioned institutions and their employees were attacked.

Currently, as the Syrian opposition's control wanes in favor of government forces and Russian troops, the armed opposition holds sway over northwest Syria. This region is divided between areas controlled by the National Army and Turkish occupation, and those controlled by Hayat Tahrir al-Sham.

³⁵ [Bab al-Hawa Administration Issues a Decision Banning the Entry of Rising for Freedom Magazine into Syria, and Douma Prosecution Closes its Offices.](#)

³⁶ Ghouta, and Douma in particular, were distinguished during the peaceful uprising by wide-spread participation from the city's residents and the diversity of civil society initiatives.

The Douma Coordination Committee, the Douma Women's Coordination, the Free Douma Women's Coordination, then the local council, the civil defense general body, the service affairs administration, the unified medical office for Douma and its surroundings, the Douma media office, a Douma youth lens, the Naba' Al-Hayah Childhood Center, the Violations Documentation Center in Syria, and others."

³⁷ [Questions & Answers: Details on the Majdi Nema \(Isalm Alloush\) Case in France Case.](#)

Areas controlled by the Turkish Occupation and the Interim Syrian Government

Turkish forces and their allied factions control a border strip stretching from Jarablus in northeastern Aleppo countryside to Afrin in its western countryside, passing through major cities such as Al-Bab and Azaz. They also control a separate 120-kilometer border area between the border cities of Ras al-Ain and Tal Abyad, following a large-scale military operation codenamed Olive Branch in 2018, during which Turkish forces and the National Army³⁸ seized control of the Afrin region. This was followed by Operation Peace Spring in October 2019 in areas under the influence of the Syrian Democratic Forces, where Turkish forces and the armed groups supported by them showed disregard for the principles of international humanitarian law and committed serious human rights violations.³⁹

Despite the presence of the Interim Syrian Government affiliated with the National Coalition of Syrian Revolutionary and Opposition Forces and the deployment of Syrian opposition factions supported by Turkey administratively, security-wise, and militarily - the Syrian National Army which forms the direct authority on the ground and is affiliated with the Ministry of Defense in the Interim Government - the decision-making and policies of managing the region are in the hands of Turkish forces, intelligence, and administration. Turkey manages the region in line with its "national security" needs in confronting the Kurdistan Workers' Party and in efforts to undermine the Kurdish presence demographically, politically, and security-wise near the Turkish-Syrian border.

According to a report by the Independent International Commission of Inquiry on the Syrian Arab Republic,⁴⁰ Turkish authorities monitor the administrative, judicial, and executive structures and coordinate and finance them. They also select and train members of the civil police, although they are Syrian citizens. However, according to the Commission, these structures are ineffective and unable to address grievances related to the unlawful conduct of armed group members.

³⁸ The Syrian National Army is a military force composed of factions of the Free Syrian Army, reorganized by Turkey since May 30, 2017. It officially falls under the Syrian Interim Government, under the Ministry of Defense, and is structured into corps and factions. The commanders of the three main army corps are responsible for the factions under each corps, while the other corps, the fourth, fifth, sixth, and seventh, fall under the National Liberation Front. The Syrian National Army includes eight additional departments: the media office, military court, military police, moral guidance, financial office, administration and organization office, operations, and training. [The Syrian National Army: Structure, Functions, and Three Scenarios for Its Relationship with Damascus](#).

³⁹ [Syria: Turkey must stop serious violations by allied groups and its own forces in Afrin](#), Amnesty International.

⁴⁰ Paragraphs 71, 72, and 70 of the report of the Independent International Commission of Inquiry on the Syrian Arab Republic [a/hrc/40/70](#).

Media professional M.K. said in his testimony⁴¹ to the Syrian Center for Media and Freedom of Expression:

On Saturday, 30 July 2022, the manager of a news page H. R. was arrested and assaulted along with his family on charges of publishing a post attacking the Turkish foreign minister, as well as the accusation that he was the admin of the page on Telegram and WhatsApp and that this page greatly attacked the police, military, and factions in general. The manager had copied a post from Al-Bab News group and posted it on a WhatsApp group, which was the main reason for his arrest. The police officers also beat his elderly father and his brother in a humiliating and degrading manner during their interrogation at the police station in Al-Bab city.

Areas under Turkish occupation continue to witness a state of impunity⁴² and the absence of any accountability for violations against media professionals and media freedoms due to the fragile legal structure and the absence of any, even formal, protection for media work. Factions engage in violations against civilians in general and media professionals in particular, in the absence of accountability, especially since the authority responsible for holding faction members accountable is the military judiciary, which means that it is practically impossible to file a complaint or appeal with a court that is affiliated with the party responsible for the violation.

In addition to the weakness of the judicial system, which appears to be a hybrid and non-homogeneous system due to the fundamental flaws that accompanied the formation of courts in the region since 2012, which did not meet the requirements of legally constituted courts,⁴³ whether revolutionary courts that did not deviate from affiliation with factions or Sharia courts that were established with the emergence of Islamic factions to resolve internal problems among their members and whose authority later extended to include military and civilians in the region and which did not follow any legal system and whose judgments were issued based on the personal interpretation of judges, in violation of the established principle that there is no crime or punishment without a legal text.⁴⁴

The same applies to the courts that were formed in mid-2017 with Turkish support and under the supervision of the Ministry of Justice in the interim government in coordination with the Syrian Islamic Council. These courts have not provided better alternatives to their predecessors and have not gained the trust of citizens. They have issued numerous verdicts against media activists who expressed their opinions on social media, sentencing them to imprisonment and fines, while failing to hold accountable or prosecute armed elements who have committed abuses, violations, kidnappings, and murders.

⁴¹ Database of Syrian Center for Media and Freedom of Expression, Record Number- SCM_VDC_OPR_22-0019.

⁴² [“Everything is by the Power of the Weapon”](#) Abuses and Impunity in Turkish-Occupied Northern Syria, Human Rights Watch.

⁴³ [The establishment of courts by armed groups: what is the legal basis?](#) - Humanitarian Law & Policy Blog

⁴⁴ [Legal Environment for Media in Syria](#), Syrian Center for Media and Freedom of Expression.

Instead of the judiciary playing its role as a guarantor of rights, freedoms, and redress for those whose rights are violated, the interim Syrian government continues to exploit the judiciary in its areas by filing lawsuits against dissenting activists, demonstrators, and others. They are prosecuted by government employees for commenting on Facebook or demonstrating against the coalition and the interim government, which poses a direct threat to these individuals and limits their activities for fear of arrest. The accusing party (the interim Syrian government) is the same party that will judge these individuals and the same party that will arrest them.

Finally, despite the difficulty or impossibility of practical implementation, the areas of Turkish occupation provide a way to address impunity and seek redress and accountability before the Turkish judiciary to prosecute those suspected of committing violations against media professionals by Turkish forces or the local forces affiliated with them. As an occupying power, Turkey is obligated to respect international humanitarian law and the legal protection guaranteed to journalists and the due respect owed to them during armed conflicts, as stipulated in the four Geneva Conventions and the Additional Protocol I thereto. According to Article 51 of the UN Charter, the use of force and the threat thereof - including the state of occupation - in cases where states are required to exercise their right of self-defense, does not preclude the applicability of international humanitarian law in this case as the law governing the obligations and rights of belligerents, regardless of the legality or illegality of their use of force.

International humanitarian law obliges the Turkish government to provide general protection to the population from some of the consequences of war. It is also obligated to ensure respect for and protection of human rights in areas under its control pursuant to the European Convention, which clarified that the states parties to the European Convention on Human Rights are obliged to apply the Convention outside their national territory to protect foreign individuals under their jurisdiction or control when they exercise effective control over a territory other than their own territories.⁴⁵

Turkey is also obligated to ensure that its officials and persons under their command do not commit violations of international humanitarian law or international human rights law, particularly with regard to their treatment of civilians and others who are not actively participating in the hostilities, such as detainees. The Turkish authorities are also obligated to investigate alleged violations of international human rights law and international humanitarian law, ensuring that those responsible are punished.

⁴⁵ [HUDOC - European Court of Human Rights](#) -Loizidou op. cit., Al Skeini et al. V. the UK, judgement of July 7, 2011.

Areas controlled by Hayat Tahrir al-Sham - the Salvation Government

Hayat Tahrir al-Sham (HTS) controls the remaining part of northwestern Syria, which includes at least half of Idlib Governorate, including its center, and limited parts of the neighboring governorates of Aleppo, Hama, and Latakia. The boundaries of the area have changed in recent years, with HTS's control declining as government forces expanded, and extending eastward in attempts to expand into areas controlled by the National Army.⁴⁶

Despite the announcement of the formation of the Salvation Government in 2017⁴⁷ and the election of the Shura Council in 2019, HTS remains the de facto authority, controlling all sectors of governance and the judiciary.⁴⁸ Through its security apparatus, it controls all aspects of life in the region. HTS has consistently adopted a policy of restricting media professionals and media activities.

In early 2019, the Salvation Government announced the establishment of the General Directorate of Media, which became the primary tool for suppressing activists and media workers. In early 2023, the head of the Salvation Government, Ali Kiddah, announced the formation of his government, which included a Ministry of Information for the first time.⁴⁹ This ministry was established without any coordination or consultation with media bodies in the region, and it oversees the Directorate of Press Affairs and Media of Institutions, as well as the departments of public relations, propaganda and advertising, marketing, and planning.

Despite the ongoing violations against media professionals, there is a prevailing culture of impunity. This can be attributed to HTS's ideology, which is at odds with media freedoms, the absence of legislation guaranteeing press freedom, and the delay in passing a media law. SCM obtained a copy of this draft law, which largely replicates the provisions of Law No. 108 on the media, enacted by the People's Assembly in Damascus in 2011, but with more stringent additions and ambiguous wording that allows for multiple interpretations. The draft also disregards international law provisions guaranteeing press freedom and relies solely on Islamic law principles in Article 2. Article 7 states that "the freedom of the media professional is protected, and the opinion published by the media professional shall not be a reason to infringe upon this freedom except within the limits of the law." The draft law includes a list of prohibited content,⁵⁰ which is drafted in ambiguous language and open to multiple interpretations, placing any media product at risk of legal violation.

⁴⁶ [HTS Strategy Beyond Idlib: Patterns, Ambitions, and Limitations.](#)

⁴⁷ [Salvation Government - A Miserable Attempt to Save Hayat Tahrir al-Sham](#)

⁴⁸ [Insurgent courts in civil wars: the three pathways of \(trans\)formation in today's Syria \(2012-2017\)](#)

⁴⁹ Muhammad al-Omar, born in 1992, was appointed to the ministry. He is the eldest son of Sheikh Yaqub al-Omar, a judge in Jabhat al-Nusra. He worked in media for 'al-Manara al-Bayda,' the media platform of Jabhat al-Nusra, and then for 'Ibaa Agency' and 'Amjad Network' for producing visual content for Hayat Tahrir al-Sham."

⁵⁰ Article 12: Media personnel and media outlets are prohibited from:

- Anything that could harm Islamic sharia or Islamic symbols.
- Any content that could harm the social fabric or incite strife, confusion, or unrest in society.
- Any content that could incite crimes or acts of violence or incite hatred.
- Dealing with or cooperating with entities hostile to the revolution that support the regime militarily, politically, economically, or media-wise, or whose work is not desired in the liberated area.
- Anything prohibited from being published in Islamic sharia and current legislation, and anything that courts prohibit from being published.
- Aerial photography in military areas under any circumstances, except with the approval of military operations and prior coordination.
- Transmitting news of military losses and the names and photos of martyrs from the factions, except with the approval of their families and faction.
- Filming slogans and banners that contradict the revolution or the administration of the liberated area.
- Conducting opinion polls comparing life in all its aspects between the liberated areas and the regime's areas, except in a way that shows the superiority of the liberated areas over the regime's areas.

Article 13: The Media Directorate of the Salvation Government shall issue a list of prohibited or undesirable channels.

The judiciary, while numerous courts exist in areas under the Salvation Government's control (ordinary, administrative, military, security, organizational, and internal within HTS), fails to meet the minimum requirements for a fair trial.⁵¹ Their judgments are theoretically based on Islamic law principles and parts of Syrian legislation but lack specific and known judicial rules and regulations.

In the absence of a code of criminal procedure, they rely primarily on circulars and ministerial instructions. Most judges are appointed from among religious or legal students affiliated with HTS.⁵² The judiciary lacks independence, as it is subordinate to various government ministries or directly to the HTS leadership. The security judiciary is linked to the security apparatus without a clear chain of command.

Journalist B. Sh. in his testimony⁵³ to the Syrian Center for Media and Freedom of Expression said:

I was held in the 77 Prison in Sarmada for three months for interrogation. In the interrogation room, I was ordered to lie on the ground - face down - and raise my feet. Then they started beating me. I asked them: What did I do and what is my charge? The interrogator told me: You will find out later. Then they returned me to solitary confinement. The next afternoon, they took me to be suspended, where I was suspended for about four hours, and those hours felt like years. There were two ways of suspension: the first was with my hands up, and the second was with my hands behind my back. After they finished suspending me, they released me, but they would take me for interrogation from time to time and then return me. After the interrogation ended, they made me sign three papers. I don't know what they contained because my eyes were covered, and they held my hand and made me sign.

Journalist B. Sh. continues:

The judge interrogated me, and he was the only one who revealed his face during the interrogation. There was a room inside the prison that they called a 'court'. After the judge finished his questions, I said to him, 'Your Honor, may I say something?' He said, 'Yes.' I told him, 'I have a heart condition and a narrowed artery. I had a heart attack inside the prison, and I was screaming and asking the guards for medicine, but they told me to shut up or they would put me on a wheel and beat my feet with an iron bar. They actually did that, and my feet were swollen from the beating and pain. I also asked them for a blood thinner but to no avail. They would punish us by cutting off our food or taking away our blankets, and the weather was cold, and there were no answers to my questions from the judge. The judge made me fingerprint five papers without letting me see what was written on them. After appearing before the judge and signing those papers, they took me back to the cell. I remained detained for seven months without knowing what I had done.

⁵¹ [Syria: Arrests, Torture by Armed Group](#), Human Rights Watch.

⁵² [Crossroads in Idlib: HTS navigating internal divisions amid popular discontent](#).

⁵³ Database of Syrian Center for Media and Freedom of Expression, record number- SCM_VDC_OPR_24-0041.

