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**LAW**  
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# 'It is a Forever Stigma'

**THE ROLE OF GENDER DISCRIMINATION IN THE SYRIAN  
GOVERNMENT'S DETENTION AND TORTURE SYSTEM**



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**RESEARCH REPORT**

JUNE 2024

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LEGAL ACTION WORLDWIDE  
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## Foreword



“Never has there been such an in-depth analysis of the discrimination underlying the Syrian government’s practice of mass arbitrary detention and torture. What makes this possible is the brave testimony of 69 former detainees, whose voices leap from the page as they describe their experiences in vivid detail - experiences that feel all too familiar to my own time in detention at the hands of the Syrian regime. It makes for a harrowing read at times, undoubtedly, but one that is essential for anyone seeking to hold the Syrian government to account.

I must congratulate the investigation and drafting teams, who have produced a report that is pioneering in its approach to gender and its intersections with the ill-treatment that is rampant in government-run detention centres. The step-by-step approach to the detention experience not only brings survivors’ narratives to the forefront, but also reveals the depth of the government’s discriminatory targeting in a way that has not yet been sufficiently addressed by existing documentation or accountability processes.

For over a decade, Syrian survivors have been sharing their stories to ensure that the world knows the truth about the Syrian regime. They have done so while gaining only a modest amount in their struggle for justice and accountability, particularly when it comes to Bashar Al Assad and those most responsible for violations. As the prospect of holding the Syrian government to account turns into a reality in courts throughout the world, their contribution should never be minimised. It is their evidence - their words, their memories, and the scars on their bodies - that has made the case against the regime. This report is dedicated to all those who suffered, including the many thousands who did not survive and can never speak for themselves.”

Anwar al-Bunni, Director of Syrian Centre for Legal Studies and Research

*Anwar Al-Bunni is a Syrian human rights lawyer. As a lawyer in Syria, al-Bunni was particularly involved in defending people who were prosecuted for expressing their opinions in non-violent ways, for which he was targeted by the regime and spent 5 years in Syrian government detention as a political prisoner. In 2011, he was released and became an exile in Germany, where he has continued to fight for justice for detainees. He participated in the universal jurisdiction trial of Anwar Raslan and Eyad al-Gharib. In June 2020, he provided testimony as a witness on "the horrors and the bureaucratic structures of Assad's jails and torture chambers", based on his five years as a prisoner in Syria and from his legal experience in representing victims.*

## Executive Summary

“I think they raped me because I was stubborn and proud of myself. They decided to make me shameful and embarrassed. Rape for a man means that you will have a stigma all of your life. Imagine you are talking to others, and you tell them you are raped. Especially in our communities. The majority of the people in our communities would think, ‘He should bury himself. It’s shameful how some military members could just fuck him.’ It is a forever stigma. They did it in order to put an end to my aggression.”

Since the start of the uprising and the outbreak of armed conflict more than 13 years ago, the government of the Syrian Arab Republic has terrorised its opponents with arbitrary detention and torture on an industrial scale. Approximately 155,604 individuals arrested since March 2011 remained detained as of mid-2023. Detainees suffer at the mercy of a detention regime characterised by extreme acts of torture and inhuman conditions, including widespread use of sexual and gender-based violence. The fate of tens of thousands of civilians inside Syria’s detention system remains unknown, while it is estimated that over 17,000 Syrians have died in detention centres since the conflict began.

It is well-recognised that people of all genders are among the victims of torture in Syria, and that women, girls, men, boys, and non-binary people suffer in distinct ways behind the walls of detention centres. However, the extent to which gender discrimination pervades the detention system, and animates the actions of individual perpetrators within it, has been insufficiently documented. Yet gender is one of the main factors determining the treatment that detainees receive at the hands of government officials. Understanding the role of gender discrimination unlocks a systematic approach for analysing – and indicting – the Syrian government’s actions.

This report explains the role of gender discrimination in the Syrian government’s detention and torture system by recreating the detention experience through the words of 69 former detainees – 33 male detainees and 36 female detainees, including 3 children – who were captured by the system and spent a combined total of approximately 15,285 days (more than 41 years) in detention. The survivors demonstrate how discrimination begins from the moment of arrest and continues throughout the detention period, influencing everything from the conditions in which detainees are held to the interrogation and torture methods inflicted upon them.

Legal Action Worldwide (LAW) and the Syrian Centre for Legal Studies and Research (SCLSR) prepared this report in collaboration. The investigation team is comprised of eleven Syrian and international lawyers and investigators of all genders, who worked in survivor communities in Syria and host countries in the Middle East. The whole team have extensive experience in trauma-informed interviewing and gender-competent approaches to human rights documentation. The investigation team gathered primary data for the report in three stages of interviews with survivors between March 2021 and January 2024. All survivors who requested were provided with support services, including mental and psychosocial care.

*An analysis of gender discrimination in Syrian government detention*

Men and boys are targeted for arrest and detention by the Syrian government based on their gender, with several male detainees reporting that they were swept up in mass raids, security sweeps, or at checkpoints. The consistent patterns with which men and boys are taken by security forces suggests that they were detained solely because they were perceived to be male members of opposition communities. In addition, it was found that men and boys are subjected to a rapid onset of violence from the first encounter with security forces, with such violence taking place at the point of arrest, during transportation to detention centres, and upon entry into detention.

During later stages of detention, men and boys are as likely as women and girls to be subjected to acts of sexual violence, particularly sexualised forms of torture such as beating while naked, beating on genitals, and electrocution of genitals. Four of 33 male detainees interviewed for this report were raped. The discriminatory treatment of men and boys indicates that the Syrian government pursued an objective of humiliating and dominating male detainees. Male-directed sexual violence weaponises the hierarchical construction of gender roles by seeking to deprive the opposition of a dominant, militarised male population that has been ‘feminised.’

Women and girls were arrested by security forces because they participated in the revolution themselves, or because they were associated with men who participated in the revolution. Security forces arrest women and girls for performing tasks required of them in accordance with strict gender roles, such as shopping and bringing food back to the family, cooking, nursing or otherwise assisting wounded persons, and caring for children. Although women and girls did not experience a rapid onset of violence from the moment of arrest in the same way as men and boys, they are in an extremely vulnerable position during later stages of detention, making them much more likely to be victims of rape. Notably, women and girls were held outside of the normal detention system, in places such as private dwellings or makeshift facilities.

Women and girls report that they were raped upon entry into detention centres, often in the context of illegal body cavity searches carried out by male security officers or other detainees. During later stages of detention, the sexual violence perpetrated against women and girls intensifies, and includes extreme acts of gang rape and mass rape, with at least one incident resulting in death. The testimonies of female victims suggest that rape and other forms of sexual violence were used to dishonour and dehumanise them and, through them, the communities to which they belong, as well to sow discord among the opposition.

### **Main Factual Findings**

- ❖ Detainees are rarely told the reasons for their arrest, regardless of gender, but are often targeted because of socially constructed gender roles. Men and boys are more likely to be targeted due to perpetrators’ perception that men and boys are potential opposition protestors or fighters, while women and girls are more likely to be arrested due to their associations with alleged male protesters or fighters, or for performing typical ‘feminine’ tasks assigned to them by strict gender roles, such as shopping and bringing food back to the family, cooking, nursing or otherwise assisting wounded persons, and caring for children.

- ❖ Arrests of men and boys are more likely to take place in the context of mass raids or security sweeps and are notable for their violence, including public displays of violence. Women and girls are mostly arrested at checkpoints or in the course of targeted arrests. 12 female detainees were arrested with their children and seven were held in detention with their children. Only two male detainees were arrested and held with their children.
- ❖ During transportation to detention centres, men and boys are subjected to a barrage of physical and verbal abuse, suggesting a desire to overwhelm the resistance of male detainees. Women and girls suffer less ill-treatment during their transportation, suggesting that domination and control is not a priority for security forces carrying out arrests of women.
- ❖ Women and girls are subjected to acts of sexual violence, including rape, from the moment they enter detention centres, with these acts occurring, most notably, as part of illegal body cavity searches. Men and boys are also subjected to sexual violence on entry, particularly prolonged forced nudity and beatings while naked.
- ❖ Detainees of all genders are held in broadly similar conditions that, in themselves, amount to a form of torture, characterised by severe overcrowding, lack of hygiene, disease and infestation, and starvation. However, women and girls are more likely to be held in makeshift locations outside of the conventional detention system, where they are raped. In addition, the specific health needs of female detainees are disregarded. Men and boys are held in torturous conditions at a larger scale and for longer periods of time.
- ❖ During later stages of investigation, detainees of all genders are equally vulnerable to acts of sexual violence, with 78% of men and 80% of women reporting that they are victims of sexual violence. However, female detainees are far more likely to be victims of rape, with 40% reporting that they were raped compared to 12% of male detainees. Men and boys, by comparison, are routinely subjected to sexualised forms of torture.

As the work of holding the Syrian government to account progresses, it is incumbent on judges, prosecutors, and practitioners at all levels to surface the gendered nature and impact of violations committed during the conflict. Such an approach is necessary to provide a broad spectrum of victims and survivors with recognition of the harms they have suffered, as well as to ensure that the fundamental aims of justice and accountability in a rules-based international order are achieved. A form of accountability that addresses the injuries and harms inflicted on victims yet fails to address for the discrimination that led to those harms falls short. A future Syria, founded on a complete reckoning with the past and a fundamental guarantee of non-repetition, demands more.

## **I. Introduction**

1. The government of the Syrian Arab Republic has wielded a vast detention and torture system over its citizens for decades, the terror of which is felt by Syrians inside and outside the country to the present day. In 2011, the torture perpetrated by government officials was one of the sparks that ignited the Syrian revolution, with some of the earliest protests breaking out in response to the detention and torture of teenage boys in Dara'a.<sup>1</sup> Since that time, the government has ramped up its practice of arbitrary detention and torture to an industrial scale. As many as 155,604 people have been imprisoned since the start of the uprising and outbreak of armed conflict, and it is estimated that over 17,000 have been killed in government detention facilities.<sup>2</sup> The actual number of victims is impossible to calculate and many entities, including United Nations (UN) investigative mechanisms, do not even provide estimates.

2. It is well-recognised that people of all genders number among the victims of torture in Syria, and that women, girls, men, boys, and non-binary people suffer in distinct ways behind the walls of detention centres. However, the extent to which gender discrimination pervades the detention system, and animates the actions of individual perpetrators within it, has been insufficiently documented. Yet gender is one of the main factors determining the treatment that detainees receive at the hands of government officials. With the Syrian government coming under increasing scrutiny in courts throughout the world, including the International Court of Justice (ICJ), the role of gender discrimination in driving the government's actions cannot be neglected. In fact, understanding the role of gender discrimination unlocks a systematic approach for analysing – and indicting – the Syrian government's actions.

3. This report demonstrates the role of gender discrimination in the Syrian government's detention and torture system by recreating the detention experience through the words of 69 former detainees – 33 male detainees and 36 female detainees, including three children – who were captured by the system and spent a combined total of approximately 15,285 days (more than 41 years) in detention. The information provided by survivors shows that gender discrimination occurs from the moment of arrest and continues throughout the period of detention, influencing everything from the conditions in which detainees are held to the interrogation and torture methods inflicted upon them. The report concludes that gender discrimination is not peripheral to the way in which the system operates. It is central to the Syrian government's purpose, revealing some of the main objectives behind the terror campaign that has been waged against the Syrian people for the past 13 and a half years, namely domination, humiliation, dehumanisation, and discord.

## **II. Methodology**

4. Legal Action Worldwide (LAW) and the Syrian Centre for Legal Studies and Research (SCLSR) prepared this report in collaboration. LAW is an independent, non-profit organisation comprised of human rights lawyers and jurists who specialise in providing legal information, assistance, and representation in fragile and conflict-affected areas. LAW has represented thousands of victims globally and currently supports survivors in South Sudan, Somalia, Ethiopia, Uganda, Bangladesh/Myanmar, Sri Lanka, Lebanon, Syria, Ukraine, and occupied Palestine. SCLSR is an independent, non-profit organisation concerned with the dissemination and establishment of



principles of justice and the rebuilding of the legal structure of the Syrian state through the publication of research and legal studies. It also provides support and legal assistance to victims, defends prisoners of conscience in Syria, and works to hold human rights violators accountable by developing case files and submitting them to competent jurisdictions.

5. LAW has been working on the Syrian crisis since December 2017. LAW responds to the needs of Syrian survivors of international crimes and human rights violations through its field-based legal team, supported by LAW's senior management and Advisory Council comprised of world-renowned experts in the field of international human rights, international humanitarian law, and international criminal law.<sup>3</sup> LAW's work with Syrian survivors is enabled by local implementing partners such as SCLSR, as well as a network of community-based lawyers trained by LAW. Through consultations with survivors, survivors' associations, and community-based lawyers, LAW has developed tailored, survivor-led justice and accountability strategies to support survivor communities in Syria, Jordan, Turkey, Lebanon, and Iraq.

6. The investigation team for this report is comprised of two women, one an attorney and one a police investigator, and two men, both attorneys, with experience in investigations and documentation of international crimes and human rights violations in Bangladesh, Libya, Sudan, Syria, the Occupied Palestinian Territories, Democratic Republic of the Congo, Central African Republic, and Papua New Guinea. The investigators are specialised in sexual violence and abuse, including against children, and have interviewed survivors of sexual violence for national police authorities, UN fact-finding missions and commissions of inquiry, and the International Criminal Court (ICC). On-the-ground in survivor communities in Syria and host countries in the Middle East, the investigation team was supported by six Syrian lawyers, two men and four women, who have been trained in trauma-informed interviewing and gender-competent approaches to human rights documentation.

7. The investigation team gathered primary data for the report in three stages of interviews with survivors. Between March and May 2021, interviews were conducted with 20 Syrian survivors. Between March and May 2023, an additional 19 survivors were interviewed. Finally, between October 2023 and January 2024, interviews with 38 survivors were conducted. All survivors are in Syria or initially sought refuge from government conduct in one of Syria's neighbouring countries, with four later being relocated outside of the Middle East. Open-source evidence has been used to place the victims' individual experiences in context, particularly to establish patterns of violations relevant to the theme of gender discrimination.

8. The investigation team developed a comprehensive protocol to safeguard the interests and well-being of survivors during the interviewing process. The protocol included advice from a clinical psychologist who, since 2008, has specialised in trauma, survivors of gender-based violence, and victimology. The protocol contained detailed mitigation measures and contingencies to minimise the risks to survivors, their families, and their communities. Included in the protocol was a thorough referral network and interviewees who requested referrals had those requests met as appropriate in accordance with the network. The following standards were adopted and followed throughout the process:

- **Do No Harm:** the Do No Harm rule applied throughout the interviewing process, meaning that every effort was made to ensure that no participant or prospective participant was exposed to further harm because of the process. The investigation team took steps to avoid or minimise any adverse effects of their intervention, including the risk of exposing people to re-traumatisation. Every survivor who requested support services, including Mental Health and Psychosocial Support Services (MHPSS), was referred to a provider in their community and will continue to receive support as long as it is needed, including trauma-informed care;
- **Reliability and independence:** every effort was made to verify the information collected and conclusions arrived at through an array of sources;
- **Voluntary participation and informed consent:** all participants were informed about the purpose of the interview and how their evidence would be used, and then given a free choice about whether to participate. No interviewee was paid for their involvement in this research. All interviewees consented to having their accounts included in the report. All 69 survivors have executed Powers of Attorney to represent their interests in relevant international justice processes;
- **Confidentiality and anonymity:** the evidence presented in this report has been anonymised. All participants that were interviewed as part of this research have been assigned numbers for security reasons and to ensure confidentiality and anonymity.

9. “Gender” in this report refers to the constructed roles, behaviours, activities, and attributes that a given society considers appropriate for individuals based on the sex they were assigned at birth.<sup>4</sup> The gender of a person is based on a personal identification of being a man, a woman, or neither of these two, rather than on their biological sex. “Gender-based violence” is an umbrella term referring to the broad range of acts varying in nature, including sexual, physical, psychological, emotional, economic, and structural perpetrated against a person because of their actual or perceived gender.<sup>5</sup> “Sexual violence” is a form of gender-based violence that involves the commission or attempted commission of sexual acts. An act can be “sexual” even without physical contact, such as psychological violence that arises from threats of rape or genital mutilation. Sexual violence can be committed by and against any person regardless of sex or gender; it may also involve persons of the same sex.<sup>6</sup>

10. Arbitrary detention and torture form the exclusive subject-matter of this report. The authors note that the practice of arbitrary detention and torture in Syria implicates other serious violations of human rights, many of which have a gendered impact, such as enforced disappearances. However, the reality of enforced disappearance is distinct from confirmed cases of arbitrary detention and torture, and the harm caused to victims and family members affected by enforced disappearance is unique. For that reason, the authors felt that a report that tried to examine both sets of violations through a gender lens would do justice to neither. For more information on enforced disappearances in Syria, see LAW’s policy brief “[The Light Has Disappeared: Enforced Disappearances in Syria and Their Impact on Children and Young People](#)”, which explores the social, legal, and psychological consequences caused to family members by the disappearance of a loved one.<sup>7</sup>

11. None of the survivors interviewed for this report openly identified as LGBTQI+, and none of the LGBTQI+ victims identified by the investigation team in the past five years wished to give evidence for a public report. Conservative social norms in Syria and its bordering countries undoubtedly played a role in this outcome. As a result, the report does not explicitly address the experiences of LGBTQI+ persons. However, the investigation team observes from their past work with the Syrian LGBTQI+ community that the mistreatment suffered by LGBTQI+ individuals in Syrian government detention does not differ from the mistreatment described in this report other than in intensity of the targeting. This is consistent with other reporting on violations against LGBTQI+ individuals during the Syrian conflict.<sup>8</sup>

### *The survivors*

12. The survivors interviewed for this report (referred to as the “survivors” hereinafter) include 33 men that ranged in age from 16 to 62, including one boy that was 16, at the time of their detention. Today, they are aged between 29 and 73. They were detained from as little as a few hours to as long as three years and seven months between March 2011 and March 2021, with most being detained between 2011 and 2014. They originate from all over Syria but mainly Damascus, Rif-Damashq, Aleppo, Dara’a, Homs, and Hama. Before the events of 2011, they worked in a variety of jobs, from drivers, to mechanics, teachers, and even government employees. Most of the survivors did not view themselves as active members of the movement known as the Syrian revolution. Seven participated in protests or were otherwise involved in the movement.<sup>9</sup> One survivor served in the military for the first year of the Syrian uprising, although he was never deployed to respond to protests or to actively fight in the conflict.<sup>10</sup> Male survivors also include journalists who covered the initial uprising and subsequent conflict.<sup>11</sup>

13. 36 women provided evidence for this report. Like the men and boys, they come from a variety of backgrounds. They were aged between 10 and 56 at the time of their detention, including a girl who was 10 and another who was 17 during their imprisonment. Today, the survivors range in age from 21 to 65. Periods of detention ranged from as little as a few hours to two and a half years between April 2011 and January 2021, with most being detained between 2013 and 2016. The women come from across Syria but mainly from Damascus, Rif Damashq, Homs, Dara’a, Dayr Al-Zawr, and Qunaytirah. Most of the women were students, teachers, or worked in the home before their detention. Two women worked for the Syrian government.<sup>12</sup> In contrast to men and boys, the female survivors were more likely to have participated in or otherwise assisted the uprising against the Syrian government, or they had immediate relatives associated with the Free Syrian Army.<sup>13</sup>

14. Collectively, the survivors were held in approximately 74 different locations across Syria, many of which are in the Syrian government’s detention structure but some of which were makeshift facilities, including abandoned houses in Homs, a jail in Soumariyah, a secret prison in Najha, and Al Tadamon School.

15. All 69 survivors have conveyed powers of attorney instructing that their interests be represented in accountability processes that have been launched in response to the Syria crisis and their voices and demands for justice be amplified in international fora. For example, 37 of the 69 survivors are

represented by LAW in their yearslong struggle to secure an ICC investigation into the crimes against humanity of deportation, persecution, and other inhumane acts. For more information, see LAW's policy brief "[An Untapped Justice Opportunity for Syria: A State Party Referral to the International Criminal Court](#)."<sup>14</sup>

### III. Detention, Torture, and Gender: The International Legal Framework

16. Detention and ill-treatment are matters of grave concern in international human rights and humanitarian law. Detention, when not carried out in accordance with international legal standards, exposes detained individuals to the possibility of further violations. The risks inherent in situations of detention reach all the way to torture and cruel, inhuman, and degrading treatment, the prohibition of which is a peremptory norm of international law permitting no derogation. This section provides an overview of the international legal framework governing detention and the prohibition of torture, highlighting key definitions, provisions, and obligations. Particular attention will be paid to how this legal framework intersects with norms around gender and gender discrimination.

#### A. Detention

17. There are many lawful reasons for detaining individuals, including security concerns and conventional law enforcement. International human rights law and international humanitarian law impose clear obligations around detention outside of and during conflict. During conflict, for example, all parties to the conflict are required to provide for the humane treatment of persons within their custody. While an outbreak of armed conflict binds parties to norms of international humanitarian law, there is no rule that extinguishes their obligations under international human rights law. There is, therefore, an overlap in the scope of application of the two bodies of law.

18. The terms *lex generalis* and *lex specialis* are often employed to describe the interaction between the two bodies of law. International human rights law enjoys general applicability (*lex generalis*), while international humanitarian law is characterised by its more limited scope of application (*lex specialis*). When the two bodies of law come into conflict, "it is the norm with the more precise or narrower material and/or personal scope of application that prevails."<sup>15</sup> Traditionally, this principle was relied upon to preclude assessments of military conduct from a human rights perspective.<sup>16</sup> However, more recent ICJ jurisprudence recognises that the two bodies of law enjoy simultaneous applicability.<sup>17</sup> International human rights law and international humanitarian law obligations must be interpreted in a way which gives effect to both branches of law.<sup>18</sup> This report analyses the facts in a way that is consistent with both branches of law.

#### Arbitrary detention

19. Detaining an individual without a legal basis is prohibited by international human rights law, as well as the criminal laws of most States. Article 9 of the Universal Declaration of Human Rights (UDHR) provides that, "No one shall be subjected to arbitrary arrest, detention or exile."<sup>19</sup> "The term 'arrest' refers to any apprehension of a person that commences a deprivation of liberty, and the term 'detention' refers to the deprivation of liberty that begins with the arrest and continues in time from apprehension until release."<sup>20</sup> This definition is supplemented by the recognition that,

“arrest within the meaning of Article 9 need not involve a formal arrest as defined under domestic law.”<sup>21</sup>

20. Article 9 of International Covenant on Civil and Political Rights (ICCPR) stipulates that detention is arbitrary when the grounds for the arrest are illegal, the victim is not informed of the reasons for the arrest, the procedural rights of the victim are not upheld, or the victim was not brought before a judge within a reasonable amount of time.<sup>22</sup> Article 9 also sets out the obligations of States to prevent and remedy arbitrary detention as well as the role of domestic legal frameworks in ensuring compliance.<sup>23</sup>

21. The need for a valid reason for a deprivation of liberty, as well as satisfaction of certain procedural requirements, extends into situations of international armed conflict. In non-international armed conflicts, the laws of the affected country as well as norms of international human rights law continue to govern.<sup>24</sup> These norms establish an obligation to inform a person who is arrested of the reason for the arrest, to bring a person who is arrested promptly before a judge, and to provide a person deprived of liberty with an opportunity to challenge the lawfulness of detention.<sup>25</sup> If, however, the government of a State in a non-international armed conflict claims for itself belligerent rights, then prisoners of war do not enjoy a right to counsel or to be brought before a judge.<sup>26</sup> Under the Rome Statute of the International Criminal Court, arbitrary detention can constitute a war crime<sup>27</sup> as well as a crime against humanity.<sup>28</sup>

#### Incommunicado detention

22. Incommunicado detention is generally understood as a situation of detention in which an individual is denied access to family members, an attorney, or an independent physician.<sup>29</sup> In some cases, incommunicado detainees do not have the opportunity to notify anyone about their arrest. While there is no clearly articulated prohibition of incommunicado detention under international law, there is significant consensus among international human rights bodies that incommunicado detention can give rise to serious human rights violations and should thus be prohibited.

23. Prolonged incommunicado detention may lay a foundation for torture and can, in itself, constitute a form of cruel, inhuman or degrading treatment, or even torture.<sup>30</sup> For that reason, the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Special Rapporteur on Torture) has called for a total ban on incommunicado detention, stating that, “Torture is most frequently practiced during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay.”<sup>31</sup> The Special Rapporteur also noted that detainees should be given access to legal counsel within 24 hours of detention.<sup>32</sup>

24. Although, under exceptional circumstances, it may be permissible to temporarily delay notifying family members or limiting access to individuals chosen by the detainee, any such restriction must be for the shortest time possible and can only be imposed to safeguard evidence and prevent alerting potential suspects.<sup>33</sup> People arrested or detained on criminal charges must be permitted to contact their families “from the moment of apprehension.”<sup>34</sup> Where this is not possible, there is a requirement for “The mandatory notification of relatives of detainees without delay.”<sup>35</sup>

25. There is no precise rule of international humanitarian law prohibiting the practice of incommunicado detention, other than as an instance of arbitrary detention or enforced disappearance. However, several rules applicable in international and non-international armed conflicts establish recording and notification requirements and thus preserve the right of all detainees to be accounted for. In addition to the procedural safeguards against arbitrary detention discussed above, international humanitarian law establishes obligations in both international and non-international armed conflicts to record the personal details of detainees,<sup>36</sup> to allow correspondence with family members,<sup>37</sup> and to account for persons reported missing.<sup>38</sup>

#### Treatment of detainees

26. Standards of detention in international humanitarian law depend, to some extent, on the nature of the conflict. Detainees in non-international armed conflicts are entitled to minimum standards of treatment under Common Article 3, Additional Protocol II to the Geneva Conventions, and customary international law, which includes freedom from violence, humiliation, and degradation. Persons deprived of their liberty should also be segregated according to their sex.<sup>39</sup> Some important guarantees are not absolute, however - a distinction that is intended to reflect the fact that “some measures for improving living conditions in detention cannot always be executed because of lack of material possibilities.”<sup>40</sup> For example, detaining authorities must ensure detainees have access to medical examinations “within the limits of their capabilities,” and, likewise, wounded people are entitled to medical care and assistance “to the fullest extent practicable.”<sup>41</sup>

27. Given the simultaneous application of international human rights law and international humanitarian law, the minimum standards required by Common Article 3 and Additional Protocol II must be interpreted in light of relevant human rights norms.<sup>42</sup> While the UDHR does not specifically refer to prisoners, some rights contained therein – including the prohibition of torture, the right to a fair trial, and the presumption of innocence – offer protections to persons deprived of liberty.<sup>43</sup> Article 10 of the ICCPR provides that all persons deprived of liberty shall be treated humanely and with respect for the inherent dignity of the human person.

28. Numerous human rights soft law instruments have been adopted to regulate the treatment of detainees and conditions of detention, most notably the Mandela Rules, the Bangkok Rules, and the Havana Rules.<sup>44</sup> The Mandela Rules relate to detained individuals generally, while the Bangkok Rules provide specific protections for detained women and girls, and the Havana Rules address the needs of detained juveniles.

29. Under the Mandela Rules, detainees must be treated humanely and protected from violence or life-threatening conditions, including from any form of torture or ill treatment, and sufficient food, water, and medical care must be provided.<sup>45</sup> The Mandela Rules comprehensively regulate the way in which searches are conducted, requiring that they are undertaken in a manner that is respectful of human dignity and the privacy of the person being searched, and subjecting them to principles of proportionality, legality, and necessity.<sup>46</sup> Importantly, detaining authorities are permitted to undertake “intrusive searches” - strip and body cavity searches - only when they are absolutely

necessary.<sup>47</sup> The Mandela Rules require detainees to be kept in separate institutions, or separate parts of institutions, based on sex, age, and legal reason for detention.<sup>48</sup>

30. The Bangkok Rules add to this framework a requirement that all searches of women must be carried out by women staff who have been properly trained. Women also have the right to request medical examination and treatment by a female medical specialist, or to have such a member of staff present to help prevent harassment and reassure the detainee concerned.<sup>49</sup> In the event of sexual abuse in detention, detainees must be informed of their right to seek recourse from judicial authorities, be able to access to psychological care, and special measures must be in place to avoid retaliation against making reports or taking action.<sup>50</sup>

#### Detention and sexual violence

31. Detention is the “most common” space where torture occurs due to detainees’ lack of power and the control exerted by detaining authorities.<sup>51</sup> For that reason, detention has also been described as a red-flag indicator of sexual violence against women, girls, men, and boys.<sup>52</sup> The International Committee of the Red Cross has confirmed that detained persons of all genders are vulnerable to ill-treatment including sexual violence, with women and LGBTIQ+ persons having a particular high risk.<sup>53</sup> Unstructured, arbitrary, and incommunicado detention increase the risk of sexual violence by placing victims outside of systems of due process without access to external checks.<sup>54</sup> The UN Committee Against Torture (CAT) has drawn specific attention to the employment of sexual violence and rape in detention centres, particularly against vulnerable populations.<sup>55</sup>

32. The obligation to prevent sexual violence prevails throughout international law. The UN Security Council has recognised that prevention contributes to the maintenance of international peace and security, demanding that all parties to conflict take appropriate measures to protect civilians from all forms of sexual violence.<sup>56</sup> In both international and non-international armed conflict, rape and sexual violence are prohibited,<sup>57</sup> and prevention of sexual violence is further implied by the obligation to ensure respect for international humanitarian law.<sup>58</sup> Additionally, international criminal law has long outlawed sexual violence as a crime against humanity and war crime. The Rome Statute prohibits, as a crime against humanity, “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity.”<sup>59</sup> Similarly, these actions are criminalised as war crimes in both international armed conflict<sup>60</sup> and non-international armed conflict.<sup>61</sup> The Rome Statute’s recognition of sexual violence stems from a rich tapestry of case law at the *ad hoc* tribunals.<sup>62</sup>

33. Whether in peacetime or during conflict, protection from sexual violence reflects the overarching duty to prevent acts of torture and cruel, inhuman, and degrading treatment. To the extent that norms governing detention secure transparency and accountability, and thereby prevent abuses of power in detention settings, they can be seen as necessary protections against sexual violence. To the extent that they are disregarded, the detaining power has failed in its obligation to take legal and practical measures to prevent acts of sexual violence.

#### *B. Torture*

34. The prohibition of torture and cruel, inhuman, and degrading treatment is absolute. It is an international norm *jus cogens*, which means that no State can derogate from it and no exceptional circumstance such, as war, terrorism, or similar public emergency threatening the life of the nation can be invoked to justify it.<sup>63</sup> As noted by the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY),

“Because of the importance of the values it protects, this principle has evolved into a peremptory norm or *jus cogens* that is a norm that enjoys a higher rank in the international hierarchy than treaty law and even ‘ordinary’ customary rules.”<sup>64</sup>

The ICJ has also recognised that the prohibition of torture forms part of international customary law and is *jus cogens*.<sup>65</sup>

35. The protection offered by the prohibition requires the satisfaction of a high threshold. The preeminent definition of “torture” in international law, which forms the core understanding of torture across international human rights law, international humanitarian law, and international criminal law, is contained in Article 1 of UN Convention Against Torture (UNCAT). That provision reads as follows:

“‘Torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>66</sup>

Acts of torture and cruel, inhuman, and degrading treatment constitute grave breaches of the Geneva Conventions in international armed conflicts and, in non-international armed conflicts, violations of Common Article 3.<sup>67</sup> Under the Rome Statute framework, torture can be a war crime,<sup>68</sup> a crime against humanity,<sup>69</sup> or act of genocide.<sup>70</sup> At the International Criminal Court, torture as a war crime, crime against humanity, or genocide is differentiated on the basis of contextual requirements, the status of the victim, the perpetrator’s control over the victim, and the purpose of the conduct amounting to torture.<sup>71</sup>

36. Torture as an international legal standard can be broken down into four constitutive elements: (1) the *severity* of the suffering caused; (2) the *intentionality* of the perpetrator; (3) the *official* status of those involved; and (4) the *specific purpose* of the infliction of suffering.<sup>72</sup> The involvement of the State, whether through instigation, consent, or acquiescence, is not a requirement under the prevailing definition of torture in international criminal law. However, the crime against humanity of torture within the Rome Statute framework does include a requirement that the victim be under the custody or control of the perpetrator, an element that does not arise under international human rights law.<sup>73</sup>



## Severity

37. Severity requires an assessment of an act of ill-treatment and its impact on the victim. UNCAT specifies that the conduct in question must cause “severe pain or suffering, whether physical or mental.”<sup>74</sup> The level of severity is usually determined on a case-by-case basis taking into account a range of factors, including the duration of the treatment, the physical effects of the treatment, the mental effects of the treatment, and the sex, age, and health of the victim.<sup>75</sup> As this list implies, the assessment involves both an objective and subjective standard.<sup>76</sup> Severe pain or suffering can be caused through acts or omissions and, under UNCAT, includes situations where a State fails to exercise “due diligence” in preventing, investigating, prosecuting, or punishing the commission of torture.<sup>77</sup>

38. Various rulings have established that rape and sexual violence meet the threshold of severe pain or suffering. CAT has consistently observed that acts of rape and sexual violence amount to torture,<sup>78</sup> including when such acts are motivated by gender-related factors.<sup>79</sup> The Special Rapporteur on Torture has reinforced this view, finding that acts of sexual violence like “touching, ‘virginity testing,’ being stripped naked, invasive body searches, insults and humiliations of a sexual nature, etc.” constitute torture.<sup>80</sup> The European Court of Human Rights (ECtHR) has held that forced sexual acts amount to torture,<sup>81</sup> including rape and forced nudity coupled with beatings and threats.<sup>82</sup> The Inter-American Court of Human Rights has held that sexual violence, including rape, forced nudity, prolonged nudity, and being forced to watch pornography, amount to torture.<sup>83</sup> International criminal tribunals have made similar holdings.<sup>84</sup>

39. It is therefore well-established that rape and other forms of sexual violence reach the threshold of “severe pain or suffering” required by UNCAT. As is illustrated below, many of the acts of sexual violence that took place in Syrian detention centres reflect forms of ill-treatment that have already been categorised as torture. The survivors represented in this report also describe horrific acts that have not yet been considered by international courts and tribunals, such as being forced to masturbate dead bodies. Having regard to the mental and physical effects on the victim, these acts meet or exceed the minimum level of severity found in other cases.

## Intentionality

40. The second factor that must be considered is whether an act of ill-treatment was carried out intentionally.<sup>85</sup> Perpetrators must intend to act, or intend to omit an action, for their conduct to satisfy the definition of torture. This standard is reflected in international criminal law, where the ICC has found that individual criminal responsibility depends on whether the perpetrator intended to engage in or withhold action that led to “severe pain or suffering.”<sup>86</sup> The consequence of the intentionality requirement is that torture cannot be committed negligently. However, some authorities have suggested that a recklessness standard could suffice.<sup>87</sup>

## Official Involvement

41. Torture requires instigation by, or the consent or acquiescence of, a public official or other person acting in an official capacity.<sup>88</sup> UNCAT imposes positive obligations on signatories to “take

effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory under its jurisdiction”.<sup>89</sup> States must also ensure that public authorities and other persons acting in an official capacity do not engage in acts that violate the treaty.<sup>90</sup> Those “acting in an official capacity” can include any individuals operating under the colour or authority of the law.<sup>91</sup>

42. The requirement of official involvement has been interpreted broadly.<sup>92</sup> Official involvement can include consent or acquiescence in acts of torture, language that CAT has interpreted as placing a “due diligence” standard on States where private actors are engaged in acts of torture.<sup>93</sup> Under due diligence, where State authorities, individuals acting in an official capacity, or persons operating under the colour of law have reasonable grounds to believe that torture is being committed by private actors, they must act to prevent it, and to investigate, prosecute, and punish those responsible.<sup>94</sup> Failure to exercise due diligence gives rise to responsibility for torture.

43. Without exclusion, the acts of ill-treatment documented in this report involve perpetrators acting in an official capacity or under the colour or authority of the law, primarily members of the military and intelligence forces of the Syrian government. Even if that were not the case, the systematic nature of violations in government-run detention facilities would suggest a high level of complicity or acquiescence in acts of torture by the Syrian government. This contention is supported by findings of the Independent International Commission of Inquiry on the Syrian Arab Republic (CoI), which, in July 2023, concluded:

“The continuing involvement of multiple State actors, including intelligence directorates, police, military and the judiciary, in those acts, coupled with the complete lack of accountability among the intelligence or security apparatus, indicates that the attack against the civilian population remains ongoing, widespread, systematic, and carried out in furtherance of Government policy.”<sup>95</sup>

The survivors have described an environment of extreme impunity in government detention. In fact, ill-treatment of detainees seems to be encouraged, as evidenced by the involvement of senior military officials, intelligence officers, and prison management.<sup>96</sup> Some survivors reported their treatment to judicial authorities.<sup>97</sup> The complaints were ignored.

#### Purpose

44. To fall within the definition of torture in Article 1 UNCAT, an act of ill-treatment must be carried out for a specific purpose, such as extracting a confession, obtaining information, punishment, intimidation and coercion, or any discriminatory purpose.<sup>98</sup> The list is representative, not exhaustive.<sup>99</sup> The Rome Statute incorporates the purposive element into the war crime of torture.<sup>100</sup> There is no requirement of purpose in the crime against humanity of torture.

45. The final element in the definition of torture is a decisive factor. This is because the so-called “purposive element” distinguishes between torture and other forms of ill-treatment. CAT has recognised that proof of a specific purpose is dispositive in torture cases.<sup>101</sup> Adopting the UNCAT definition and its interpretation, regional human rights courts use the purpose requirement to draw the dividing line between torture, and cruel, inhuman, or degrading treatment.<sup>102</sup> Lack of specific

purpose is the main reason that inadequate conditions of detention, no matter how unsanitary or deplorable, and no matter how much physical and mental suffering they cause, are invariably categorised as inhuman or degrading, while falling short of the threshold for torture.<sup>103</sup>

46. This emphasis on the purposive element can result in victims receiving less than full recognition of their suffering. For example, in *Denizci and Others v Cyprus*, the ECtHR refused to accept that the ill-treatment suffered by the applicants amounted to torture, despite evidence that at least one applicant had been beaten sufficiently severely to cause the presence of large amounts of blood in his urine, because it had not been established that the police officers' aim was to extract a confession.<sup>104</sup> In *Al-Nashiri v Romania*, the Court had evidence before it of the extremely harsh detention regime at a blacksite run by the United States Central Intelligence Agency (CIA), which included a virtually complete sensory isolation from the world. At one point, in response to a hunger strike, the applicant was force-fed rectally by CIA agents. In the end, the ECtHR found that the regime fell within the notion of inhuman treatment, but not torture.<sup>105</sup>

47. During a 1995 visit to Russia, the Special Rapporteur on Torture found conditions in prisons that fell well below humane treatment, including severe overcrowding that left prisoners with swollen legs and feet due to extensive periods of standing, inmates stripped to their undershorts, cells that were disease incubators resulting in rampant tuberculosis and various forms of skin disease, insect infestations, and air that had turned to a hot, stinking gas from sweat, urine, and faeces. Although the Special Rapporteur described the conditions as "torturous," he concluded that they could only be classified as torture to the extent that prisoners were confined for the purpose of breaking their will with a view to eliciting confessions.<sup>106</sup>

48. When assessing an entire detention system, the nuances of the purpose requirement can be avoided by showing that the system operates on the basis of discrimination. CAT has emphasised that "the discriminatory use of mental or physical violence or abuse is an important factor in determining whether an act constitutes torture."<sup>107</sup> Gender can be a "key factor" for establishing discriminatory purpose and is one that often intersects with other vulnerable characteristics.<sup>108</sup> For men and women alike, detention settings entail a high risk of gender-based violence, due to the powerlessness of victims and the impunity enjoyed by perpetrators.<sup>109</sup> Indeed, CAT has repeatedly raised concerns about gendered violence committed in detention centres.<sup>110</sup> While female detainees are especially vulnerable, the high incidence of male-directed sexual violence in prison settings speaks to the stark reality that no one is immune to sexual violence, particularly in situations of armed conflict.<sup>111</sup>

49. This legal framework is particularly relevant to the Syrian context where the government arbitrarily detains and brutally tortures victims of all genders. As detailed below, Syrian survivors can provide evidence that they were targeted for ill-treatment on discriminatory political, religious, and gender grounds. Syrian men have indicated that security officers used sexualised forms of torture out of a desire to dominate and humiliate them. Women and girls have provided harrowing accounts that suggest rape and other forms of sexual violence were used to dishonor and dehumanise them and, through them, the religious communities to which they belong. Such discriminatory targeting pervades the detention system and animates the acts of individual perpetrators operating

within the system. Understanding the role of gender discrimination thus unlocks a systematic approach for analysing – and indicting - the Syrian government’s actions.

#### **IV. Arbitrary Detention, Torture and Cruel, Inhuman and Degrading Treatment in Syria**

50. The scale of arbitrary detention, torture, and cruel, inhuman, and degrading treatment in the Syrian conflict is staggering. The Syrian Network for Human Rights has documented 155,604 individuals arrested since March 2011 that remain detained as of mid-2023.<sup>112</sup> The number of missing and disappeared is so vast, the UN General Assembly has established a novel independent mechanism to determine their fate and whereabouts.<sup>113</sup> The CoI has determined that, “Government forces have committed torture and ill-treatment on a massive scale since 2011.”<sup>114</sup> It is estimated that over 17,000 Syrians have died in detention centres since the conflict began.<sup>115</sup>

51. The Syrian government’s network of detention centres is extensive, amounting to what has been described as a “torture archipelago.”<sup>116</sup> Some of the most notorious detention centres include Quiris Airbase and Mezzeh Airbase, controlled by Air Force Intelligence; the “Palestine Branch” controlled by Military Intelligence; the Political Security Branches at Homs and Al Fahya; and, the Military prisons at Sednaya and Al Balooni.<sup>117</sup> The survivors who provided information for this report were subjected to periods of detention at all these facilities, many at more than one of them.<sup>118</sup>

52. Detention centres are run by military or intelligence forces, with the four main intelligence directorates of Military Intelligence, Air Force Intelligence, Political Security, and General Intelligence overseeing some of the worst.<sup>119</sup> Structurally, the General Intelligence Directorate is a stand-alone agency that reports directly to the National Security Bureau.<sup>120</sup> The Air Force Intelligence and Military Intelligence Directorates report to the Ministry of Defence, while the Political Security Directorate falls under to the Ministry of the Interior.<sup>121</sup> However, it is reported that in practice, all intelligence agencies report to the National Security Bureau,<sup>122</sup> an entity sanctioned by the United States, United Kingdom, and European Union and formerly led by Ali Mamlouk, who has an arrest warrant against him in Germany and has been convicted of war crimes and crimes against humanity in France.<sup>123</sup> The National Security Bureau has played the central role in responding to anti-government activity in Syria and reports directly to President Bashar Al-Assad.<sup>124</sup>

53. Civil prisons also exist, with the largest being Adra Central Prison in Damascus. These prisons lay outside the structure of the intelligence directorates and Ministry of Defence.<sup>125</sup> The survivors who provided evidence for this report also spent periods of detention in civil prisons, usually prior to their release. Compared to detention centres run by military and intelligence forces, there are far fewer allegations of torture and ill-treatment within these facilities.

54. The prisons administered by the Ministry of Defence and intelligence services engage in torture on a systematic basis. It begins at the point of arrest and transfer to a detention centre, where a “welcome” beating meets detainees.<sup>126</sup> Once taken to their cells, detainees face disastrous conditions, including overcrowding and “people stacking,”<sup>127</sup> lack of access to food, showers, toilets, clothes, beds, blankets, and medical treatment, and unsanitary conditions such as living with

dead bodies for days at a time, lice and other insect infestations, faeces and urine, and the spread of untreated diseases, especially skin diseases.<sup>128</sup> Detainees can stay in these cells, without ever leaving, for period of time ranging from a few hours to a few years.

55. Detainees are taken from their cells to be interrogated by military and intelligence officers. Interrogations incorporate acts of torture for the purpose of coercing information from detainees, obtaining confessions, or breaking their will.<sup>129</sup> One report identifies at least 72 commonly employed methods of torture in Syria.<sup>130</sup> These include:

- “Dulab,” which involves immobilising detainees in a tyre and then beating them.
- “Shabeh,” which involves suspending detainees by their hands, often with their hands tied behind their back.
- “Bisat al Rih,” which translates to “flying carpet” and involves tying detainees to a board which is hinged in the middle and bending it, so that the victim’s head and feet are brought closer and closer together, causing immense pain in the lower back.
- “Falqa,” which is the excessive beating of a prisoner’s legs and feet, rendering them unable to sit, stand, or walk.<sup>131</sup>

During interrogations, investigators also resort to electrocution and the use of makeshift torture techniques like burning, poisoning, and pouring acid on detainees.<sup>132</sup>

56. Sexual violence is pervasive in Syrian government detention. Forced nudity, prolonged nudity, and beatings while the detainee is naked, including beatings targeting genitalia, are common.<sup>133</sup> Other torture targeting sexual characteristics has been reported, such as sexual assault, electrocution of testicles and nipples, and the tying of penises with plastic ties and sometimes weights.<sup>134</sup> Rape has been used as a weapon, targeting both men and women. Acts of rape include digital penetration and penetration with instruments such as pipes, batons, wooden sticks, glass bottles, and smoking pipes.<sup>135</sup> Penetration with genitalia and forcing prisoners to rape each other has also been reported.<sup>136</sup> Threats of rape and gendered insults are commonplace.

57. The open-source record, spanning over 13 years of civil unrest, uprising, and conflict, shows that the Syrian government has employed torture across its detention centres in a highly consistent – even choreographed – manner. Torture and ill-treatment are part of the course of conduct that make up the widespread and systematic attack against the civilian population in Syria, which has been observed by the CoI, national courts, and other entities.<sup>137</sup>

## **V. Gender Discrimination in Syrian Government Detention**

58. Discrimination is a pervasive force in the Syrian government’s detention and torture system. Although this report focuses on the role of gender discrimination within the system, it is by no means the only form of significant discrimination. Syrian survivors suffer on numerous other grounds, particularly political and religious grounds. Intersecting grounds of discrimination form a construct that gives meaning to the Syrian government’s actions, explaining both the targeting of individuals for arrest and detention, and their treatment at the hands of government officials.

59. The need to root out opposition has been the central rationale behind the Syrian government's actions since 2011. In other words, discrimination due to political affiliation or belief is the primary motivation for arrest and detention. That much is clear from the many forms of torture involving demonstrations of loyalty to President Assad and his government.<sup>138</sup> What is also clear is that the end of the Assad government is equated with the overthrow of Alawite minority rule by the Sunni majority, introducing a religious dimension to the government's targeting. As a result, political affiliations are often assumed based on religious identity. The fact that perpetrators described in this report are primarily Alawite, and the survivors are almost exclusively Sunni Muslim, allows for a strong inference that acts of torture and cruel, inhuman, and degrading treatment are discriminatory in fact. In addition, the survivors have provided evidence that government officials denigrated their most deeply held religious convictions and beliefs, indicating that religious hatred and intolerance is endemic in the minds of perpetrators.

60. Gender discrimination fits into this framework as one of the main causal factors in the treatment of detainees. The overall context, including the meaning and significance given to the social construction of gender through traditional gender roles, is relevant. In fact, the government weaponises the violation of traditional gender roles in order to attack the opposing side.<sup>139</sup> Gender and religious discrimination often go hand in hand, with survivors reporting that perpetrators made derogatory comments about their faith during the commission of acts of sexual violence, indicating that it had an "otherising," or dehumanising, aspect to it.<sup>140</sup> Gender discrimination permeates the targeting used by the Syrian government and the officers who run the detention system. It occurs from the moment of arrest and continues throughout the period of detention, determining the treatment received by men, boys, women, and girls, including the acts of violence inflicted upon them.

### *Men and Boys*

61. Men and boys are the main victims of arbitrary arrest, detention, and torture in Syria. In 2023, men and boys accounted for 1,014 of the 1,063 (95%) arbitrary arrests carried out by the Syrian government.<sup>141</sup> According to one estimate, male victims represent 99% of confirmed deaths in Syrian government detention since 2011.<sup>142</sup> While in detention, the ill-treatment to which men and boys are subjected is extreme, including: cell overcrowding and "people stacking;" unsanitary and unhygienic conditions leading to rampant disease; starvation; stress positions; hanging; forced nudity; beatings while naked; beatings on genitalia; electrocution of genitals; rape with various implements; and, forcing detainees to witness or participate in sexual acts, including acts involving corpses.

### Reasons for Detention

62. The reasons that male survivors are detained vary depending on individual circumstances but include leaving the country and re-entering,<sup>143</sup> participating in the revolution by protesting, or providing support to protesters in some way.<sup>144</sup> For the most part, survivors can only guess why they ended up in detention, because they were rarely told the reasons for their arrest. As outlined above, arrest and detention without proper procedural safeguards, including providing the person

deprived of liberty with the reasons for the deprivation, are arbitrary within the meaning of international human rights and humanitarian law.

63. One notable feature of arrests involving men and boys is the number of cases that appear to be motivated by socially constructed ideas about gender, in particular, that men and boys represent potential fighters.<sup>145</sup> A typical example is the case of one man, aged 56, who reported of the first interrogation after his arrest, “[The interrogator] took my name and looked it up. He said, ‘Why are you here? I have nothing against you.’”<sup>146</sup> Another man, aged 37, recounts, “He checked the ID and said, ‘He is not wanted.’ ... [But another guard said], ‘Even if he is not wanted, let’s take him.’”<sup>147</sup> Another survivor, aged 73, emphasises the targeting of men and boys when he shared the following account of how his son was killed:

“They then took [me and my son] out to a yard and said, ‘What’s your name? What’s your name?’ We responded. The guy with the beard waved his arm and a security officer with them shot my son right in front of me. I later learned they probably shot him because his name was Omar. They were trying to kill all the Omars. They killed 30,000 Omars.”<sup>148</sup>

64. This experience is consistent with that of women and girls, as detailed below, who were also detained because of traditional gender roles. It reflects a social construction of gender, not uncommon in situations of armed conflict, that regards men, and “fighting age” men in particular, as naturally belligerent and distinctly threatening.<sup>149</sup> Male-directed violence is justified on this basis by reducing male bodies, precisely because they are male, to the instruments of aggression needed to sustain an uprising, insurgency, or civil war. Although the information provided by survivors is not conclusive in this regard, it is notable that 75% of civilians killed during the Syrian conflict have been men and the vast majority of those reportedly killed in detention are men.<sup>150</sup>

#### Arrest

65. Arrests of men and boys are conducted in different ways. Male survivors report that they were detained during mass raids or sweeps of certain neighbourhoods by the security forces,<sup>151</sup> at checkpoints,<sup>152</sup> and through individual, targeted arrests.<sup>153</sup> The information provided by survivors suggests that there is a correlation between the nature of the arrest and the treatment that detainees receive in the course of the arrest. Mass raids often involve high levels of violence. One man, aged 35, described his arrest during a mass raid:

“They began raiding the house and messing things up, breaking things, and insulting me. My dad had the money on him so that they could not take our money, which they usually did ... They put my family in one room and searched us. That day, there were six of my family there and probably 20 soldiers. They were very insulting. They would try to find any excuse to take me ... They started cursing me a lot like, ‘I want to fuck your sisters.’ Cursing a lot. One of them said, ‘You son of a bitch.’ I said it back to him, ‘You’re a son of a bitch.’ When I said this, a soldier hit me in the head with the butt of a gun. I felt dizzy and was pushed towards the wall. Then they all started beating me.”<sup>154</sup>

66. During targeted arrests, the brutality of the violence perpetrated against men and boys attains an even higher level of intensity. One man, aged 38, provided the following account:

“A few seconds later, more than two military trucks came up behind us. They started shooting at us, just like the movies. I was holding my family to protect them. They started crying ... Bullets hit the car, but no bullets hit anyone. Bullets went into the tyres and so the car could not keep going ... Once they saw that we did not have weapons, they attacked me. My wife was holding the baby and they were both crying ... I was beaten there, in front of my wife. I wanted a weapon to fight back. One of them took the spare tyre from the car and dropped it on my head. I still have a mark on my head from this. I was paralysed. I could not move.”<sup>155</sup>

67. Arrests at checkpoints typically involved less violent treatment.<sup>156</sup> This difference seems to be explained by the fact that checkpoint officials are more distant from the repressive apparatus of intelligence investigations. In fact, checkpoint officials are often unaware of the reasons that a person is “wanted,” when they are “wanted.” A typical account describing a checkpoint arrest was provided by a 56-year-old survivor:

“They took my ID to check if I was wanted. This time, they were taking a long time, like 10 to 15 minutes ... The commander told me, ‘You do not look like a troublemaker.’ He then looked at my ID and asked, ‘Is your brother ...?’ I said, ‘Yes, that is my brother.’ The commander said, ‘Okay, they’ll take you to the brigade, it will only be 30 minutes and then you’ll be released.’”<sup>157</sup>

He went on to spend two months in detention in five different centres, where he was cruelly mistreated.<sup>158</sup>

68. Compared to the experiences of women and girls, arrests of men and boys are notable for being far more violent. The rapid onset of violence is suggestive of an imperative to overwhelm and dominate male victims, who are seen as naturally threatening and aggressive. This imperative lies at an intersection between masculinities, as a tactic that emanates from militarised notions of masculinity valorising domination, and one that reproduces constructs of masculinity by setting male victims up as leaders, fighters, and protectors. Within this framework, overwhelming the male population becomes synonymous with overwhelming the enemy. The fact that so many instances of arrest in Syria involve public displays of violence against men and boys suggests that the utility of such violence lies not only in its physical and mental effects on the victim, but in the signalling that it sends to spouses, parents, children, and other community members.

69. The emphasis on domination perhaps finds its most extreme expression when it comes to acts of sexual violence. One Syrian man, aged 35, initially tried to hide from security forces when they came looking for him. After being found, he reports:

“In front of the building, they started to beat me with an electric stick. They electrocuted my genitals. They beat me heavily all over my body. So bad that I peed myself. I was screaming in pain.”<sup>159</sup>



This account highlights the readiness with which security forces resort to the use of sexual violence as a means of domination and control. The survivor was subjected to an act of sexual violence in public, in front of his home, at the moment of arrest. The public display weaponises the hierarchical construction of gender in Syrian society to achieve military advantage, by removing from the victim the dominance traditionally associated with masculinity and reassigning it to his attackers, while sending a clear message to the community about who is in control.

### Transportation

70. Men and boys are subjected to physical and verbal abuse during their transportation to detention centres following their arrest. Victims may be transported as a group in minibuses or trucks, which is typically the case in the event of mass raids,<sup>160</sup> or they may be transported individually in cars, jeeps, or vans, as typically occurs following arrests at checkpoints<sup>161</sup> or during targeted arrests.<sup>162</sup> Sometimes, detainees are put in the trunks of cars.<sup>163</sup>

71. Male detainees are usually beaten during their transportation to detention. Beatings included the use of hands and feet, police sticks, belts, and the butts of rifles.<sup>164</sup> One survivor, aged 50, had this recollection of his journey to detention:

“Me and the detainees were falling on each other because we were beaten as we tried to walk, and we were blindfolded. Some were walking on each other. Some ran into the truck. They then put me in the back of the truck and because I was blindfolded, they took my legs and flipped me into the back of the truck. We were piled on each other in the truck. Then, they made everyone kneel in the truck, close together. They were beating us the whole time. They were using their boots and the butts of their guns. They were all around us in the back of the truck and we were in the middle. They were beating all of us.”<sup>165</sup>

72. Security forces verbally abused detainees during the journey, frequently using gendered language and insults to attack female family members. One survivor, aged 38, provided the following account of the insults he received:

“They walked me about 200 meters to a bus. It was a 24-seat bus with maybe 50 people inside it. The bus drove. They beat us and shouted at us the whole way ... They were insulting us, our family, and our religion. They knew insulting our religion really offended us. They were saying things like, ‘Fuck your brothers, sisters, religion. You son of a bitch, asking for freedom? You brothers of whores, you want freedom? Fuck your god, we will burn you, we will kill you.’ ... We drove for two hours and we heard so many insults for these two hours. We were beaten the whole time.”<sup>166</sup>

73. The continuous beating and barrage of insults seems calculated to shock detainees and overcome their resistance. As the same survivor notes, “This was a shock for me, to hear this. I would have preferred to fight them than to have heard these insults.”<sup>167</sup> The shock factor is attenuated by the rush to break strict societal taboos, particularly around gender, as evidenced by the incessant use of gendered insults such as “son of a bitch” and “brother of whores.” This sort of language is forbidden in a culture that ties a man’s honour to the modesty and sexual propriety of

the women in his life. Threats against female members are similarly used to pacify male detainees and induce feelings of powerlessness in the victims, who feel impotent to play the traditional male role of protector.

#### Entry into Detention Centres

74. The situation facing men and boys continues to deteriorate on entry into detention centres. Arrival at a security branch is usually accompanied by physical beatings and strip searches. Mass beatings of male detainees, sometimes characterised as a “welcome party,” are common. The beatings include the use of rifle butts, cables, belts, and police sticks.<sup>168</sup> As one man, aged 35, describes:

“When the bus stopped, everyone got off and right away they started beating us. It felt like 20 people were beating us. It was an even more intense beating [than the arrest]. They beat us with their hands and feet like killing was okay. I was hit in the nose and started bleeding. I fell to the ground, but they continued to beat me. Then we were all pulled into the Branch.”<sup>169</sup>

Sometimes, detainees were also put in stress positions for long periods of time upon entering a detention centre.<sup>170</sup>

75. Searches on arrival take a variety of forms. Some survivors were simply patted down,<sup>171</sup> others were stripped to their underwear or completely naked and forced to squat,<sup>172</sup> and some were stripped, searched, and forced to squat while being beaten.<sup>173</sup> Survivors report that during strip searches, security forces intentionally beat them on their genitals.<sup>174</sup> As usual, violence was accompanied by gendered insults. One man, aged 32, provided the following account of a search in the State Security Branch, Homs:

“They beat me with a *karbage* (cable) while I stripped. Two were beating me. They made me do squats. They were insulting me, my honor: ‘Son of a bitch,’ ‘Traitor,’ ‘I am going to fuck your sister.’ They were focusing on hitting me on the back and genitals while I was naked. They would hit me in the same place over and over.”<sup>175</sup>

One detainee reports that he was photographed for a mugshot while naked, though he is unsure if the photo captured his whole body.<sup>176</sup>

76. After being “welcomed” into detention centres and searched, and also between interrogations, some male survivors were paraded naked.<sup>177</sup> As a 37-year-old survivor explains:

“[The guard] made me strip completely in the corridor. He said, ‘Take off all your clothes and put them aside.’ I did. He made me squat, naked, twice. He checked my clothes. I was facing the wall. This whole time, I was being beaten with hands at random by people in the hallway. They insulted me the same way as before. [The guard] asked if I was married and I said, ‘Yes.’ Then they started saying, ‘We’re going to fuck your wife.’ They took me, naked holding my clothes, to a cell. At the cell, they opened the door and someone kicked me into the cell.”<sup>178</sup>

Another detainee, aged 35, explains that he thinks he was taken naked to his cell, “to embarrass me. They wanted other prisoners to see that I was naked to teach them a lesson. To scare them.”<sup>179</sup> Many strip searches were conducted in open spaces, such as courtyards and corridors, in front of other detainees.<sup>180</sup>

77. Security officers may use sexual violence as part of the repertoire to “welcome” detainees into detention centres. One man, aged 35, reports:

“Then, they made me walk naked to the cell. They enjoyed this. They enjoyed watching me, looking at us naked, to embarrass me ... They were saying things like, ‘Look at this whore, where did you bring him from? What a nice ass. What a nice body.’ They were also beating me with police sticks and a plastic hose on my back, legs, and butt. One was poking me with his police stick, like he was trying to insert it into my butt, but he did not actually insert it. He was putting the stick between my bottom cheeks, but he was not focused on inserting it into my bottom hole.”<sup>181</sup>

In some cases, detainees continue to be beaten while moving to their cells.<sup>182</sup> Survivors also reported being taken directly to interrogation upon entry into a detention centre.<sup>183</sup>

78. The accounts provided by male survivors indicate the importance placed on humiliation by overseers of the detention regime through their subversion of traditional gender roles. The humiliation experienced by male detainees arises from harmful gender stereotypes that stigmatise deviations from heteronormative ideals of masculinity and the socially constructed roles men are expected to play in Syria. In a culture in which it is forbidden for men to expose their intimate parts – the ‘awrah’, for men, comprising the part of the body from the naval to the knees – to others, particularly members of the same sex, the techniques employed by the Syrian government place male detainees in a state of profound indignity. The combined use of nudity, public shaming, gendered insults, and sexual violence reduces the mostly Sunni inmate population to a lower status vis-à-vis their captors, whose heteronormativity remains untouched – and is even enhanced – in the encounter. Threats and simulations of sexual acts against male detainees push the deviation from the norm even further, by forcing male detainees into distinctly “feminine” roles. Security officers turn a heteronormative lens onto male detainees, one that represents them as sexual objects for the pleasure of male guards, by calling them “whores”, commenting on their bodies, and assaulting them. In this way, the humiliating acts perpetrated against men and boys both emanate from, and reinforce, misogyny.

#### Conditions of Detention

79. The conditions inside detention, as described by male detainees, are torturous. Men and boys are packed into overcrowded cells so lacking in space that prisoners can only stand or sit with their knees tucked into their chest.<sup>184</sup> As one man, aged 53, describes, “We sat in the cell in a train between each other’s legs. And even sitting in a train, about 40 people still had to stand.”<sup>185</sup> Cells with enough space for detainees to lie down flat are the exception rather than the norm.

80. Male survivors provide the following estimates regarding cell occupancy rates: one person held in a 70-by-80-centimetre cell;<sup>186</sup> 10 people in a one-metre-by-90-centimetre cell;<sup>187</sup> 19 people in a

one-and-a-half-by-three-metre cell;<sup>188</sup> 50 people in a three-by-three-metre cell;<sup>189</sup> 120 people in a five-by-five-metre cell;<sup>190</sup> and, 120 people in a four-by-four-metre cell.<sup>191</sup> One man, aged 46, summarised the lack of space by saying, “These cells are not even suitable for animals, let alone humans.”<sup>192</sup>

81. Every male detainee described unsanitary conditions in their cells, ranging from inadequate ventilation, to lack of toilet facilities, and dangerous levels of hygiene. Ventilation is a widely reported issue, and one which poses a serious problem for the health of male detainees due to the excessive overcrowding.<sup>193</sup> One man, aged 33, explained:

“When I entered [the cell] there was five to seven centimetres of water in it. It wasn’t water from the guards. The ceiling was leaking. There were no windows in the room. There was nothing in the room to ventilate it. So, because of the crowd in the room, there was condensation on the ceiling. It was hot in the room and there was so much pressure”<sup>194</sup>

Another detainee, aged 37, complained, “The soldiers would punish us by shutting the ventilation and suffocating us for hours.”<sup>195</sup>

82. All male survivors were restricted from using the toilet or were given inadequate bathroom facilities. As one man, aged 36, explained, “[It] was one floor underground. It did not have a window. It did not have a toilet. There was a bucket and all the detainees were urinating in that bucket. The smell was terrible.”<sup>196</sup> Many survivors reported urinating in plastic bottles.<sup>197</sup> Other survivors were not so lucky, being forced to urinate or defecate on themselves or on the floor of the cell.<sup>198</sup> One man, aged 38, described a particularly shocking scene following mass food poisoning in a cell that only had access to one toilet:

“I woke up to a lot of commotion. It was an earthquake. People were rushing for the toilet. Seven people were trying to use it at once. People were shitting on themselves. Everyone had stomach aches. It was a mess. Everything stunk. The guards cut the water. The prisoners in charge decided to cut the room in half and said, ‘Everyone on one side of the room, you can just use the floor as a toilet.’ So, half the cell was just a toilet. My stomach was hurting so much. I was trying to hold in my diarrhoea. Finally, I went to the side of the room we were using for the toilet and I started to shit. I was bleeding while I shit ... This went on for days.”<sup>199</sup>

Generally, when detainees do not have toilets in their cells, they are given limited access to an external toilet.<sup>200</sup> Permission to use showers is also sparingly granted, with access usually only provided upon entry into or exit from security branches.<sup>201</sup>

83. The lack of adequate ventilation and access to hygiene facilities contributes to the spread of disease. Skin diseases, in particular, are rampant in detention centres. One man, aged 52, reports, “Everyone in the cell was naked. Even if we wouldn’t have been stripped, we would have taken our clothes off because bugs would get into your clothes and eat your skin.”<sup>202</sup> Another man, aged 35, shares, “I started to have skin problems. It was so dirty ... We were all suffering from skin problems. From lice. I still have scars today.”<sup>203</sup> A similar story was shared by a 53-year-old man, who adds,

“Everyone had a lot of skin problems. The only way we could wash was with water from the tap in the toilet.”<sup>204</sup> One survivor, aged 38, described his first shower after months in detention, saying, “I stayed an hour showering. I remember the lice coming off my clothes and swimming.”<sup>205</sup>

84. Starvation is a central component of the Syrian government’s torture system. Most survivors reported a deprivation of food. The extent of the starvation is captured in the words of one man, aged 38, who reports, “Sometimes, I thought of biting my own skin off and eating it because I was so hungry. I ate any insects that I found in the cell.”<sup>206</sup> Another man, aged 38, emphasised his constant struggle with starvation during approximately 400 days in detention:

“I was so hungry all the time. One time, I woke up and I was biting my fingers as I woke up. We were talking about food all the time ... I was so exhausted and so hungry. I was starving. Imagine, I had been eating half a loaf of bread every 12 hours. I was like a phone that was only charged 30% ... Hunger was a systematic weapon they used against prisoners. To this day, I still remember the hunger.”<sup>207</sup>

Another survivor reported losing so much weight that he had to tie his pants with a plastic bag.<sup>208</sup> The man, aged 37, says, “I was so skinny I couldn’t walk without holding my pants, so they didn’t need to handcuff me.”<sup>209</sup>

85. The conditions inside detention centres are part of the torture system inflicted on detainees, carried on for the purpose of breaking their will and extinguishing their ability to resist. Many survivors report thoughts of suicide or attempts to act upon suicidal ideation.<sup>210</sup> Although women and girls experienced broadly similar conditions, there is a notable difference when it comes to the scale at which men are packed into overcrowded and unsanitary cells, and the length of time for which they have to endure such conditions.<sup>211</sup>

#### Interrogation and Methods of Torture

86. The most intense acts of torture occurred during interrogations, with some random acts of torture occurring inside cells or in corridors. The conduct of interrogations varies widely depending on the detention centre, the security branch in charge, the social and military status of the detainee, and the reason for detention. Male survivors were subjected to torture methods commonly used by the Syrian government, such as Dulab,<sup>212</sup> Shabeh,<sup>213</sup> Bisat al Rih,<sup>214</sup> electrocution,<sup>215</sup> stress positions,<sup>216</sup> poisoning and acid burning,<sup>217</sup> and beatings with various implements including belts, cables, hoses, electric sticks, chains, an iron lock, etc.<sup>218</sup> 26 of the 33 (78%) male detainees interviewed for this report are victims of sexual violence.

87. The most common acts of sexual violence perpetrated against men and boys are sexualised forms of torture, such as beating of the genitals, prolonged forced nudity, and beating while the detainee is naked.<sup>219</sup> For example, a 42-year-old man reports, “Every night, there were interrogations. They took me the same way. They called my name, made me strip, and tied my hands. Then they took me to the investigator ... They beat me at random. It was not associated with the questions. They were beating me ... with plastic hoses.”<sup>220</sup> Another man, aged 37, states, “[The investigator] started beating me with a plastic hose. He beat me everywhere from my kidneys down, including my genitals. He told me, ‘I will beat you until you piss blood.’”<sup>221</sup> Yet another, aged 32,

says, “They continued to beat us. They targeted our genitals, private parts. It was clear that they were focusing on that because they were hitting us over-and-over in the same place.”<sup>222</sup> One male detainee reports that guards bound his penis with a plastic zip tie for two hours and forced him to drink water.<sup>223</sup> Prison guards urinated on detainees,<sup>224</sup> and forced detainees to urinate on one another.<sup>225</sup>

88. Electrocuting of sexual organs is common, with eight male survivors reporting that they were electrocuted in this manner.<sup>226</sup> One man, aged 35, provides the following account:

“They stripped me completely naked. I was blindfolded. They took a clip and connected it to a battery. I was made to kneel on my knees. Then someone put a clip on the back of my neck, and one clip on each of my testicles, in the prostate area. He said, ‘I’ll ask you one question and you need to listen to it. What FSA division were you in?’ I said, ‘I was not associated with the Free Army.’ He turned the electricity on. I felt my whole-body shake. I said, ‘Okay. Stop. I’ll admit to it.’ Once he stopped, I said, ‘I swear, I was not a member of the FSA.’ He turned the electricity on again but worse this time. He turned it up. He said, ‘Either you tell me the truth now or I will kill you.’”<sup>227</sup>

The survivor has continuing loss of sensation in his penis and has trouble having erections.<sup>228</sup> Similarly, another male detainee, aged 33, reports that he was electrocuted while he was urinating, causing lasting medical problems with his testicles.<sup>229</sup>

89. Security forces went to extreme degrees in subjecting male detainees to sexualised forms of torture, demonstrating an intent to break ultimate taboos and force male victims to engage in performances of sexual deviancy. In one particularly disturbing account, a male detainee was forced to simulate masturbation on a corpse. In the words of the survivor, aged 38:

“One time, we were putting the [dead] bodies into the truck. There were three people standing outside. They were laughing ... The one dressed in military clothes said to me, ‘Strip the boxers off the body.’ He said, ‘Take his boxers off and play with his penis. Give him an erection.’ I told him, ‘This is a sin.’ He yelled, ‘Start!’ I was in shock. He said, ‘Play with his penis or I will make you sit on his penis.’ I did it. They made the other person with me do it as well ... I was saying to the body, ‘Lucky you. You are dead. You aren’t tortured anymore.’”<sup>230</sup>

Although this is the only reported incident of sexual violence involving a corpse reported by these survivors, the use of male prisoners to stockpile dead bodies and to move them was reported by others.<sup>231</sup>

90. Four male survivors were raped.<sup>232</sup> Incidents of rape against male detainees are extremely violent, as the following account from a 45-year-old man illustrates:

[An interrogator] took the Ibrahim, the [two] plastic pipes tied together, and he started jabbing me hard in the anus. Each pipe was about one-and-a-half inches in diameter. He did this twice. On the third time, the pipes went inside my anus. They withdrew it quick, but it

was like a hammer blow. It felt like they were taking the guts out of me, like there was an explosion inside of me. I started bleeding from my anus. I started screaming so loud. ... [The interrogator] took the same pipe that he put in my anus and put it into my mouth. He shoved it into my throat. My mouth started bleeding ... After I started bleeding, I was moving right to left and trying to stand up, trying to get away. [The interrogator] kept jabbing me with the Ibrahimi. He was targeting my ass hole. He wanted to shove it into my anus again. At one point, he jammed the pipe into my right ass-cheek really hard. So hard that it made a wound. It was like a cave. He smashed the area between my anus and my testicles, and I was bleeding from that area too. I was bleeding from these holes for a week after this.”<sup>233</sup>

Male-directed rape included penetration with a sexual organ. One man, aged 38, reports that “They inserted metal sticks into my anus. The soldiers put their penises in my anus. They ejaculated on my face and in my mouth. They urinated on me. They put their penises in my mouth as well ... That was the worst torture that I ever experienced.”<sup>234</sup> Another male detainee witnessed men being raped, though he himself was not.<sup>235</sup>

91. The high incidence of sexual violence against men and boys, and the severity of the acts perpetrated against them, must be understood against the backdrop of the insurgency and armed conflict. It is an adversarial context in which perpetrators prioritise the achievement of hyper-masculine objectives such as humiliation, subordination, and submission. These are the ends for which rape and other forms of sexual violence were used against male victims, as the words of one victim attest:

“I think they raped me because I was stubborn and proud of myself. They decided to make me shameful and embarrassed. Rape for a man means that you will have a stigma all of your life. Imagine you are talking to others, and you tell them you are raped. Especially in our communities. The majority of the people in our communities would think, ‘He should bury himself. It’s shameful how some military members could just fuck him.’ It is a forever stigma. They did it in order to put an end to my aggression.”<sup>236</sup>

92. Forcing male victims into submission is intended to break them. Indeed, it is not unusual for male victims to describe the humiliation associated with sexual violence as being worse than physical acts of torture.<sup>237</sup> The desired effect is too often realised because both perpetrator and victim alike operate within socially constructed gender roles including a hegemonic masculinity that equates men’s ‘natural’ position in the world with their supposedly innate abilities. Male-directed sexual violence thus arises from a binary framing of gender that posits that there are innate differences between men and women. Within this framing, men have a natural will to dominate and are naturally inclined to use violence to effect that will, while women occupy a subordinate role due to their natural passivity and submissiveness. Male-directed sexual violence weaponises this hierarchical construction of gender by ‘feminising’ men and boys. Depriving the enemy of natural male ability – of the advantages of a dominant, militarised male population – arises as a strategy for hastening defeat, and sexual violence as a means for achieving it.

93. Finally, the sheer number of deaths of men and boys in Syrian government detention cannot be passed over without comment. Out of 141,948 men and boys detained between March 2011 and

June 2023, one report estimates that 14,999 of them (10.5%) died under torture.<sup>238</sup> During the same period, 94 out of 8,478 (1.1%) women and girls died. These numbers suggest that male detainees are ten times more likely to die in Syrian government detention. While the lack of reliable data regarding cause of death makes it impossible to explain this disparity, the decimation of the male population is further evidence of discrimination.

### *Women and Girls*

94. Women and girls are uniquely impacted by arbitrary arrest, detention, and torture in Syria. As of February 2024, it is estimated that no fewer than 8,493 women have been arrested by the Syrian government since March 2011 and remain in detention or are disappeared.<sup>239</sup> The discrimination faced by women and girls creates a disproportionate risk that they will be subjected to gender-based violence, including rape and other forms of sexual violence, which have been reported on a widespread and systematic scale in detention centres run by the Syrian government. Discrimination also creates distinct risks for women and girls beyond the detention experience, with the stigma around sexual violence being so severe that female victims of arbitrary detention are often presumed to be victims of rape and suffer the consequences regardless.<sup>240</sup>

95. The survivors interviewed for this report have provided evidence of overcrowded cells; unsanitary and unhygienic facilities; starvation; forced nudity in front of men and family members; beatings while naked, including beatings targeting exposed genitalia and breasts; unwanted touching; electrocution of breasts and genitals; rape with penetration by sexual organs and various implements, including in front of family members; gang rape; mass rape; forcing detainees to rape other detainees; and, forcing detainees to witness sexual violence, including rape.

### *Reasons for Detention*

96. Like men and boys, women and girls were seldom given explicit reasons for their detention or provided with basic due process rights. However, women and girls were more likely to be able to explain the basis for their arrest. Several women were arrested during their participation in protests, or for online activity in support of protests.<sup>241</sup> Some women were never clear on the reasons for their detention.<sup>242</sup>

97. One notable phenomenon is the extent to which women and girls are arrested due to their association with men. One woman was detained at the age of 10 when security forces raided her home looking for her father.<sup>243</sup> Now 21 years old, she reports:

“15 to 20 Syrian government soldiers barged into the house and asked for [my father]. My mom said she divorced my father and does not have children from him. I was playing with my cousins outside. I walked inside not sure what was going on. I identified myself and gave them my passport. The soldiers arrested me and put me in a big car.”<sup>244</sup>

Another woman was arrested with her 21-year-old daughter after a shootout between her husband, a member of the Free Syrian Army, and security forces at their home.<sup>245</sup> Additionally, several women and girls were arrested for performing tasks required of them in accordance with strict



socially constructed gender roles, such as buying and bringing food back to the family,<sup>246</sup> cooking,<sup>247</sup> nursing for and assisting wounded persons,<sup>248</sup> and caring for children.<sup>249</sup>

98. Punishing women for their associations with men deprives them of agency by establishing them as mere extensions of the men in their life. Punishing them for the performance of traditional gender roles, on the other hand, amounts to reimagining socially determined behaviours as forms of material assistance to the enemy. This discriminatory approach marks women out as legitimate targets, justifying their arrest and detention regardless of their participation in an insurgency movement or opposing party in conflict, and jeopardising them despite the fact that they rarely assume continuous combat functions.

#### Arrest

99. Women and girls were more likely to be detained at checkpoints or as a result of targeted arrests.<sup>250</sup> Others were taken by security forces while they were visiting hospitals, inquiring about loved ones at security branches, or at work.<sup>251</sup> Compared to their male counterparts, women and girls were far less likely to be detained during mass raids or arbitrary security sweeps.

100. Arrests of women and girls at checkpoints usually followed ID scans in which personal identity documents are checked against lists of activists and wanted persons. Some women reported that arrests were not violent.<sup>252</sup> Others were subjected to high levels of physical and verbal abuse. One woman, aged 50, was pushed, pulled, kicked in the stomach, and threatened with being set on fire.<sup>253</sup> The beating went on for hours.<sup>254</sup> Another woman, aged 41, describes how she narrowly avoided being raped at a checkpoint. In her own words:

“One of the soldiers touched me on my breasts to see if I had weapons but I protested. All the soldiers but one and the woman left the room. The woman stayed to search me. The woman made me take off all my clothes. I did what she said. I was still bleeding after giving birth. When she searched me, she saw the pad and asked what it was for. I told her I had just given birth. From what I understood from the conversation between the soldier remaining in the room and the woman, he was standing there waiting to rape me. The woman told the man I wasn’t suitable because I had just given birth.”<sup>255</sup>

101. Women and girls were also arrested in targeted operations, for example as part of organised, pre-arranged raids on their home.<sup>256</sup> Other women were taken from the street. One woman, aged 57, was violently pulled into a car by security forces after being accused of taking bread to revolutionaries.<sup>257</sup>

102. Women and girls are far more likely to be with their children when they are arrested and placed in detention. 12 female survivors were with their children during their arrest,<sup>258</sup> and seven were detained alongside their children.<sup>259</sup> One woman, aged 47, explains that her young son tried to free her from the two soldiers who were arresting her and was hit with a gun.<sup>260</sup> Another woman, aged 51, was detained along with her children on two separate occasions. Her account indicates that security forces barely distinguished between adults and children in sowing terror:

“My children started to cry when they saw the gun pulled on them. The little one shouted, ‘Leave my mom’ and picked up a stone and threw it at the soldier. The soldier said to his comrade, ‘Look, even the youngest one is a terrorist.’”<sup>261</sup>

The third time the survivor was detained, she was also with her children. On this occasion, the children were taken by another woman who beat them and only turned them over to the survivor’s parents after they paid a ransom.<sup>262</sup>

103. The role assigned to women as mothers and caregivers to young children is deeply entrenched in Syrian society, and it raises many complex and delicate issues when it comes to detention. On the one hand, many Syrian women may feel strongly that they do not wish to be separated from their children, and the thought of not knowing where their children are or how they are being treated may cause intense mental anguish. The words of one woman, aged 47, shows that her first concern was for her children when security forces placed her in the back of a vehicle and blindfolded her. She says, “I begged them to tell me about what they were going to do with my children. I asked, ‘Are they imprisoned?’”<sup>263</sup> This impulse cannot be separated from societal pressure in a context in which a woman’s status in the family directly depends on the fact that she takes care of children. Conversely, even if women wish to remain with their children, the responsibility of caring for them and keeping them safe in a situation as dangerous as military detention will undoubtedly cause heightened levels of stress. Syrian authorities show little interest in recognising or respecting these sensitivities, suggesting that the aggravated mental suffering experienced by women with children was, at best, disregarded, and, at worst, welcomed.

#### Transportation

104. Women and girls are usually transported to detention centres in cars and jeeps, alone or with their children, and do not often get placed in busses or trucks with other detainees. This pattern can be attributed to the fact that women and girls are more likely to be detained at checkpoints or during targeted arrests and are rarely swept up in mass raids by security forces. The evidence suggests that women are much less likely to experience violence and verbal abuse during their transfer to detention, though the account of one woman, who was 10 years old at the time of her arrest, is an exception:

“In the vehicle, there were some seats. I sat in one of the seats. The other kids were also sitting there. There were around five soldiers in the back of the vehicle ... Once we sat, they started beating us. They used an electric cable ... The car drove for 45 minutes and they beat us for the whole time. There was no specific location where they would hit us. We were sitting and they would hit us all over the body.”<sup>264</sup>

105. Women’s experience in detention as a whole, and the fact that they are subjected to much more brutal acts of violence at later stages of detention, particularly in the context of interrogation, suggests that security forces were less concerned with trying to establish domination and control over them. As noted above, militarised notions of domination are central to the violence perpetrated against men and boys from the moment of arrest. When it comes to women and girls, security forces appear to be pursuing different objectives, prioritising uses of violence that strike at ideas of female purity and modesty that are fundamental to women’s value in society and in the family – uses that

are undoubtedly harnessed, to ruthless effect, during later stages of investigation. The relative absence of violence in the initial stages of arrest therefore tends to highlight, rather than diminish, the discriminatory treatment suffered by female detainees.

#### Entry into Detention Centres

106. When women and girls enter detention centres, the violence against them starts to intensify, with survivors reporting that they were beaten, subjected to strip searches, and even raped on their arrival. Perpetrators include both male and female security officers. Though women are less likely to experience the mass beatings, known as “welcome parties,” that men face, several female survivors report being beaten on entry, including on intimate parts of their body.<sup>265</sup>

107. Strip searches of female detainees are routine and are usually conducted in a way that is humiliating and offends the personal dignity of the detainee. Searches may be conducted directly by male or female security officers, or other detainees may be enlisted to conduct a search. One Syrian man, aged 53, described that he witnessed a male guard oversee searches of around 12 women and girls. The women were forced to pull up their shirts and bra and pull their underwear down to their knees and perform squats in front of male guards as well as other detainees in the entrance of the prison.<sup>266</sup> Although the detainees were allowed to pull their pants back up, the guard forced some to keep their breasts exposed for around 15 minutes. One woman survivor reports that she was asked to undress several times by different soldiers.<sup>267</sup>

108. Security officers carried out intrusive body cavity searches on detainees. While these kinds of searches are not strictly prohibited by international law, the way in which they were conducted, including the absence of medical professionals, the prolonged duration of the search, and the fact that searches were carried out, in some instances, by male guards and, in other instances, by fellow detainees, qualifies them as acts of rape.<sup>268</sup> One woman, aged 31, provides the following account:

“The guard took me to a small room next to the stairs. The room was empty. It had a bench and that is it. The guard told me to remove my clothes, all my clothes. Underwear, bra, and my hijab. After I did, he searched me everywhere, even my hair. He touched my breasts. He asked me to put my hands behind my head and squat. He touched me and padded my vagina. Then, he put his fingers in my vagina, very deep. He moved his fingers right and left and removed them. It lasted for one minute.”<sup>269</sup>

A 39-year-old survivor was also penetrated, in combination with beatings, upon her arrival at a prison.<sup>270</sup>

109. Two survivors were raped by other prisoners.<sup>271</sup> One of them, a 37-year-old woman, recounts, “[The guard] told me to squat and told the woman to search my vagina. The woman barely put her hand on my vagina and removed it quickly. He told her, ‘No, you need to put your hand in her and search her.’ Then she put her hand in my vagina.”<sup>272</sup> Other women and girls were touched inappropriately on their breasts and vaginas.<sup>273</sup>

110. The survivors also discuss rape on entry into detention centres, including gang rape. One woman, aged 49, was raped by two male guards after being subjected to an intimate search. She provides the following account:

“My hands were untied, and they took off my blindfold. There was male officer standing in front of me who had white skin and blue eyes. He said, ‘We are going to rape all the women of Dara’a.’ He grabbed my pants to pull them down, but I grabbed my pants to hold them up. He hit me with a whip ... They ripped off my pants and I was pushed on the tiles of the floor. One man held my hands above my head, the other one raped me.

He undid his pants and lowered his pants and underpants to his knees. I looked away. It was against my will and they made me a dirty woman. He inserted his penis into my womb. He finished then the next man came, the one that was behind me holding my arms, and he did the same. After they had both raped me, they told me to get dressed. I was crying. I dressed, and I continued to cry.”<sup>274</sup>

Threats of rape against female detainees are also a common occurrence,<sup>275</sup> exemplified in the words of one prison guard, who told his fellow officers, “Don’t fuck them up. Tonight we’ll have a good time with them.”<sup>276</sup>

111. Many of the female detainees interviewed for this report come from highly conservative Islamic traditions. In their normal daily lives, they wear clothing to preserve their modesty in line with that tradition, including burqas and hijabs. Security officers showed such little concern for modesty when they forced women and girls to expose their breasts and vaginas in front of them that the lack of concern can only be construed as deliberate. A method for causing maximum humiliation and loss of personal dignity, and for increasing the sense of powerlessness experienced by female detainees.

112. The information provided by survivors confirms that there is a culture of rampant impunity in detention centres run by the Syrian government, which enabled – and encouraged – security officers to treat female detainees as little more than objects, and exposed women and girls to a greater risk of harm than their male counterparts. Although some male survivors reported being strip searched and beaten while naked when they entered detention centres, none of them reported that they were raped at that stage of detention. This fact alone speaks to the casualness with which sexual violence against female detainees was treated, rendering them much more vulnerable to the designs of male officers, who controlled every aspect of their environment. Throughout their time in detention centres, women live under the constant threat of sexual violence, a threat which surpasses the interrogation room in a way that is not true for men.

#### Conditions of Detention

113. Women and girls reported similar deplorable conditions of detention as men and boys. Cell overcrowding and “people stacking” was similar for detainees of both sexes. Female detainees provide the following estimates for cell occupancy rates in detention centres: up to ten women in a one-by-two-metre cell;<sup>277</sup> 14 women in a one-by-two-metre cell;<sup>278</sup> 16 women in a one-and-a-half-by-one-metre cell;<sup>279</sup> 24 women in a two-and-a-half-by-two-and-a-half-metre cell;<sup>280</sup> 30 women in

a two-by-two-metre cell;<sup>281</sup> and, 48 women in a three-by-three-metre cell.<sup>282</sup> One survivor, aged 47, explains the hardship of living in such cramped conditions, saying, “The room was the size of a bathroom and there were so many women. There was no spare room at all, so we were sitting tight together and had to stay upright the entire time.”<sup>283</sup> Some detainees had to stand and sit in shifts.<sup>284</sup>

114. Women and girls had extremely limited access to facilities for maintaining basic hygiene, like toilets, showers, soap, and ventilation. One woman, aged 46, described the conditions in her cell as follows:

“It was very dirty and smelled very bad. It did not have a toilet. We were using the toilet that was located outside, in the corridor. We were allowed to use it twice a day, one time in the morning and one time in the evening ... [The cell] was full of lice, bugs, and cockroaches ... There was a very small hole in the middle [of the door] that they would open for one hour a day, and then they would close it.”<sup>285</sup>

Describing the lack of toilets, one 36-year-old woman said, “We were handed a small box to do our business in, as the toilet was only allowed once a day.”<sup>286</sup>

115. The unsanitary conditions in which women and girls were held led to widespread disease and infestations. As one 57-year-old woman reports, “We used to pee in a corner of the room in which we were sleeping ... After a period of detention, scabies began to spread throughout our bodies due to lack of hygiene and water. It was very itchy, and the traces are still on my body to this day”<sup>287</sup> Another woman, aged 29, describes her cell in the following way:

“There were blankets in the room, but they were full of insects. If you covered yourself with one of the blankets, you would immediately start scratching. There were also lice in the hair of the women in the cell ... I was still wearing the original clothes I had been wearing when I was arrested. They were bloodied, dirty, and ripped.”<sup>288</sup>

Health concerns specific to women and girls were neglected. In cells without proper bathroom and shower facilities, menstrual hygiene was a huge problem. As one survivor, aged 30, states, “I had my period, but they never gave me hygiene pads. They looked at me and laughed.”<sup>289</sup> Another survivor said that she and her fellow detainees were given pills to stop their periods.<sup>290</sup>

116. Seven women were detained with their children and had to care for children as young as 15 days in these conditions.<sup>291</sup> Those that had young children described only being given plain clothes to serve in the place of diapers.<sup>292</sup> In addition to the lasting terror this causes the children, one survivor reports that her son, who was an infant at the time, was left with a lasting disability in his leg.<sup>293</sup> The woman, aged 41 says, “He came into the room and immediately kicked me, and because I was holding my baby, he also kicked the baby on his left leg. Afterwards, I saw that there was major bruising on his little leg ... [Today, t]he nerve in his left leg is short, and the muscle disfigured and shrunken. He is constantly in pain and other children pick on him for being disabled.”<sup>294</sup>

117. Women and girls were starved in detention centres to the same extent as men and boys.<sup>295</sup> As one woman, aged 30, describes:

“The food was only brought once per day and this was in the morning ... The food was served on one metal serving plate. There would be five or six small, boiled potatoes. They were not really boiled well because they were usually very hard. There was also bulghur that had cockroaches in it. There was never enough food. Only enough for around one spoonful each. I say spoonful, but we could only use our hands to eat.”<sup>296</sup>

Another woman, aged 29, reports: “There was never enough food for all of us and we would have to ration the food to last two days. We did not receive any water. We received nothing to drink. Our treatment was despicable.”<sup>297</sup> Another detainee, aged 51, describes the amount of food she received as, “Just enough to stay alive.”<sup>298</sup> In one instance, a desperate plea for food and water resulted in sexual assault against a 63-year-old survivor, who says, “We were not given food or water for five days. When we asked for water, the officers peed in our mouths.”<sup>299</sup> The regime led one detainee to lose 30 kilograms in her six to seven months in prison.<sup>300</sup>

118. One unique aspect of the detention experience for women and girls is the frequency with which they were held in private dwellings and makeshift detention facilities. No male survivor reports being held outside of conventional security facilities. By contrast, two women reported being held in houses,<sup>301</sup> one was held in a school,<sup>302</sup> one was confined in a public hospital,<sup>303</sup> and one was held in a secret, underground prison.<sup>304</sup> Four of these women were subjected to rape and other forms of sexual violence.<sup>305</sup>

119. Cumulatively, the detention conditions in which women and girls were held amount to a form of torture. The characteristics of female victims, including the fact that some had only recently given birth, some were detained with young children, and some were children themselves, must be considered when assessing the severity of the suffering caused. The fact that security forces ignored the specific needs of female detainees, aggravating their suffering, means that the regime inflicted on them was carried out for a discriminatory purpose. Moreover, holding detainees outside of the normal detention apparatus, even one which is rife with ill-treatment, removes from detainees the most minimal levels of protection against forms of abuse. It is significant therefore, that female detainees report being taken to makeshift prisons and private dwellings, whereas men did not. The violence and abuse that was carried out in these facilities uniquely targeted female detainees. It is not surprising that conditions inside detention led one woman to comment, “Death would have been easier for me.”<sup>306</sup>

#### Interrogation and Methods of Torture

120. Like men and boys, women and girls are subjected to some of the most severe acts of torture during later stages of detention, particularly in the course of interrogations. Interrogations of female detainees involve torture methods commonly employed by the Syrian government, including Dulab,<sup>307</sup> Shabeh,<sup>308</sup> Bisat al Rih,<sup>309</sup> electrocution,<sup>310</sup> stress positions,<sup>311</sup> and beatings with various tools including sticks, guns, cables, chains, prayer beads, hoses, electric sticks, etc.<sup>312</sup> Where the experience of women and girls diverges most obviously from that of men and boys is when it comes to the scale and nature of sexual violence. All but three female survivors interviewed for this report

are victims of acts, or attempted acts, of sexual violence, or witnessed sexual violence against others. 29 of the 36 women (80%) interviewed are survivors of sexual violence.

121. Women and girls report a pattern of sexual violence in detention centres run by the Syrian government that is horrifying in its variance. As highlighted above, some acts of sexual violence were carried out in connection with arrests and searches upon entry to detention centres, including prolonged forced nudity, beatings while naked, beating on the genitalia, and rape. As detention progresses, the sexual violence perpetrated against women and girls intensifies, and includes sexual assault in the form of inappropriate touching and groping, beating of genitalia, electrocution of sexual organs, rape, gang rape, and mass rape.

122. Many women reported that they were sexually assaulted during interrogations and throughout their period of detention. For example, a guard came up behind one 46-year-old woman and touched her breasts over her clothes on the way to the interrogation room.<sup>313</sup> Another woman, who was 19 years old at the time, was touched on her breasts by guards in the Air Force Intelligence Branch alongside an 18-year-old girl.<sup>314</sup> One woman, aged 57, provides the following account of a physical invasion by a guard:

“As soon as I arrived at the interrogation room, he touched my breasts and said, ‘What hot nipples you have.’ He approached me and started sucking on my breasts and touching them forcefully. He was a young man. I said to him, ‘Son, please leave me, I am your mother’s age.’ He said, ‘You are not my mother.’ He sucked on my breasts while I was trying to move away. He touched my lips and said how good they were.”<sup>315</sup>

123. Security forces regularly beat women on their genitals and private parts, sometimes on their exposed genitals. According to one woman, aged 63, who was detained by men wearing military uniforms in a vacant house, “They beat me on my genitals ... They beat me between the legs, on my breasts, and my butt, with their rifles and boots.”<sup>316</sup> Another woman, aged 28, said that her interrogator would kick her with his boots in her private parts during interrogations.<sup>317</sup> Individual security officers used implements to beat women on their genitalia, like a plastic hose, a wooden broom, and even an electric stick.<sup>318</sup> In the words of one 51-year-old woman:

“Then he took an electric stick and started to beat me with it on my body, my stomach, my arms, legs, and private parts. I was trembling when I was receiving the electric shocks on my body. I could not stand it anymore. I screamed and begged him to stop. He did not care. He continued to beat me until he decided to stop by himself.”<sup>319</sup>

124. Women and girls were electrocuted on the chest, breasts, and genitalia.<sup>320</sup> One woman, aged 42, reports, “They threw water on me and then electrocuted me. They didn’t undress me. But my clothes were wet. They put clips over my nipples and vagina and electrocuted me.”<sup>321</sup> A 49-year-old woman gave this vivid account:

“It did not make any noise, but it shot electricity out on to my skin when it touched me. They pushed it against me under the breast twice. I stopped being able to talk and I could smell my flesh burn. She took it away for a short time and then came back and did it again ... It started

smelling like a cooked flesh smell in the room, like that of cooked barbecue meat on the sticks. It was very painful, and I saw later that I was left with purplish-blue marks on me like a bruise. To this moment it is still hurting where they hit me with the electricity.”<sup>322</sup>

A male survivor, aged 53, reports seeing an investigator beat a woman on the vagina with a small plastic tube while electrocuting her with cables attached to her bare nipples.<sup>323</sup>

125. The accounts of rape provided by women and girls are too numerous and too varied to capture in a single text. In total, 17 women report being raped or having witnessed the rape of other women firsthand.<sup>324</sup> One of the survivors who witnessed rape was only 10 years old at the time and recalls:

“The soldiers raped the girls in front of everyone. Some girls got pregnant while in prison ... The girls who were raped in front of me were teachers at [another detainee’s] school. They were accused of training the kids and turning them against Assad. This happened in front of me three times. They brought the girls in one-by-one and undressed them. The girls started to scream. I and the others were frightened. We sat in the corner and closed our eyes.”<sup>325</sup>

The presence of children during acts of rape is not unusual. One woman, aged 41, was held alone in a room with her 15-day-old son. While her son was lying on the ground of the cell, she was pushed onto a bed by a guard, who forced her to suck his penis and ejaculated in her mouth. The guard told the survivor that if she did not do what he wanted, “[Your] child will be worth one bullet.”<sup>326</sup> Another woman, aged 64, remembers being raped with her daughter by the head of the barracks, who, “Inserted his penis into me and my daughter’s mouths and then ejaculated on our faces.”<sup>327</sup>

126. Women and girls report that they were raped in the vagina and anus in ways that caused severe physical damage. A security officer forced a dildo into the anus of a 46-year-old woman, who says she started to bleed from behind.<sup>328</sup> Another survivor, aged 41, had an iron rod inserted in her vagina, suffering severe wounds which subsequently got infected.<sup>329</sup> Another woman, aged 51, reports, “[A] masked policewomen speaking in an Alawite accent, somewhere between thirty and forty years old, would place an electric stick in my cervix and ovaries, which totally damaged my cervix.”<sup>330</sup> This particular survivor had uterine cancer at the time of the incident and later had to have a hysterectomy.<sup>331</sup>

127. Several women and girls report that they were raped multiple times during their period of detention. One survivor was raped five or six times by the same guard, who promised that he would help to free her. The 42-year-old woman recalls:

“He undid my jeans and pulled them and my underwear down towards my knees. He told me that I had a beautiful body. He entered it into me. By this, I mean he put his penis inside my vagina. He didn’t take long before he ‘came’ (ejaculated). He said this is the first time that he had come so quickly ... I had not had sex with anyone since my husband died. This hurt me physically and mentally ... After the second or third time, I told him that I was afraid I was going to fall pregnant. He said not to worry because he would get me medicine to terminate any pregnancy.”<sup>332</sup>



Another woman, aged 41, was raped 22 times by multiple security officers during 17 days of detention.<sup>333</sup> The survivor notes that following the first incident of rape, perpetrators always ejaculated inside of her vagina.<sup>334</sup>

128. Three survivors were gang raped.<sup>335</sup> One survivor, aged 30, was gang raped by two guards 10 times in Al Mintka Branch.<sup>336</sup> She described how she was looking at one guard for help while the other forced his penis into his anus, raped her, and ejaculated inside her.<sup>337</sup> The guard that she hoped would help her then proceeded to rape her in the same manner.<sup>338</sup> Another 30-year-old survivor described the first of three incidents of gang-rape by prison guards and interrogators as follows:

“One took me to the bed and threw me on the bed. It was the one who had been sitting on the bed that came and took me and threw me on the bed. Two of them held my feet and a third one held my upper body. I was trying to struggle but I could not get away. The fourth man, who had been behind the desk, pulled down my pants and underpants. He put his male organ inside me. By ‘male organ,’ I mean penis. By ‘inside me,’ I mean between my legs inside of me so that I was no longer a virgin. I had been a virgin before that moment. At least three of the men raped me. They told me, ‘This was for you father.’”<sup>339</sup>

129. In addition to gang rape, two female survivors report that they were part of mass rape incidents involving more than one victim. As shared above, one woman, aged 64, was forced to perform oral sex with her daughter.<sup>340</sup> In a particularly harrowing episode, a 41-year-old woman was raped alongside her niece. The niece, who was 15 years old at the time, died during the attack. The survivor’s account bears repeating at length:

“The man finished with me. By that I mean he had raped me anally. He looked at my niece and told them that she was going to die. The man in front of my niece said that he had stopped enjoying himself anyway because of there being so much blood. He took his penis out of her and then came on her face. His penis had been inside her front, her vagina, and I had also saw him put it in her mouth earlier. He called her an ‘ibn al-haram.’ This is an insulting word meaning the son or daughter that was born from adultery. I was often called this too.

He came to me and told me to go see her because he needed some time to relax before he started on me ... I threw some water on her face, but she did not wake up. She was having convulsions and blood was pouring out of her, from out of her vagina. She stopped convulsing and stopped breathing.

The other two had left and then came back in with a man in civilian clothes ... He put his two fingers against her throat. Then opened her eye lids with his fingers and said, ‘She’s finished.’ He then left. The other two wrapped her in a blanket and took her out ... They called for the other man to leave too, but he said he wanted to sleep with me. He stayed and raped me from the back. He said, ‘My brain is full now’ and he left.”<sup>341</sup>

There is probably no account that better illustrates the lack of value placed on the lives and bodies of Syrian women and girls, as well as the complete dehumanisation that drives perpetrators.

130. Rape and sexual violence against women and girls are not crimes of opportunity or crimes of sexual gratification. Sexual violence is used by security officers in the Syrian government to devalue and dehumanise female detainees. The use of sexual violence targets some of the core values – chastity, modesty, and sexual purity – around which femininity and female honour are constructed in Syrian society, and thus emerges from harmful gender stereotypes that existed long before the outbreak of conflict. It is the erasure, or negation, of honour in the women and girls targeted that is the end pursued in the attack. In the minds of perpetrators, the act of sexual violence forces upon the victim a status that is “lesser than” – less than (an honourable) woman, less than Muslim or Syrian. Of course, a status that denies the victim this much of her identity likewise denies her humanity.

131. The concept of honour in Syrian society, and a political economy that makes a woman’s place within the family dependent on keeping her honour, ensures that the impact of sexual violence goes far beyond the immediate injury inflicted on the victims. It is not unusual for Syrians to express the view that it is better for women to be killed than raped. The social consequences for women and girls, ranging from threats of divorce and excommunication from one’s family to honour killings, clarify their meaning.<sup>342</sup> One 41-year-old survivor, who was raped dozens of times and gang raped, reflects,

“I try to forget but in vain. My thoughts would always take me back to that dark cell wondering: ‘What did I do to them to rape my soul, my motherhood, my body, my dignity? What did I do for society to turn into a more severe whip than the one I was exposed to in the prisons?’ Perhaps they released my body which still breathes, but they kept my soul there in those cells, where many women are still suffering to this day. They buried my soul in these prisons.”<sup>343</sup>

132. Add to this stigma the serious and long-term psychological impact, including anxiety, depression, and trauma, and it is arguable that sexual violence reaches further than other tactics used by the Syrian government for sowing discord among opposition communities. It furthers the government’s aims by weakening bonds of social cohesion that might otherwise have held firm in the face of attack. In this way, the bodies of women and girls become part of the battlefield on which a political, cultural, and religious struggle is fought, consummating the dehumanisation.

## **VI. Continuing Nature of Violations**

133. The violations described in this report are continuing in nature. A breach of an international obligation by the wrongful act of a state can be instantaneous or continuing.<sup>344</sup> An instantaneous violation or crime may take time to prepare and have lasting effects, but it is committed in an instant and its physical elements do not persist in time.<sup>345</sup> Continuing violations or crimes involve an ongoing course of conduct causing harm that lasts as long as the conduct persists.<sup>346</sup> They are premised on the continuing operation of the cause or influence exerted by the precipitating conduct, entailing the emergence of an unlawful state of affairs.<sup>347</sup> Importantly, to qualify as continuing, a violation must be continuing in essence and not merely in terms of its effects.<sup>348</sup> The concept has

been applied in the work of regional human rights courts,<sup>349</sup> ad hoc international criminal tribunals,<sup>350</sup> and the ICC.<sup>351</sup>

134. The long-term suffering inflicted on Syrian survivors is severe and ongoing. Several survivors report thoughts of suicide or attempts to act upon suicidal ideation.<sup>352</sup> Sexual and gender-based violence, in particular, fundamentally changes a survivor's mental state and connectedness to those around them, creating deep fissures within society. As one woman, aged 41, reports, "I ... have psychological issues. I stopped loving anyone."<sup>353</sup> One man, aged 35, was unable to find a romantic partner for years after the violation, something he attributes to the enduring shame and "weak personality" it caused.<sup>354</sup> A 49-year-old victim of gang rape reflects on the rippling impact that sexual violence has had:

"My husband asked if they did anything to me when I was in detention, but I didn't say anything. He would have left me if I said anything. He would not have stayed with me if I had told him I had been raped. A woman sometime lies for her best interest. I told my husband that they only hit me, and he believes me because I had never lied to him before. We were always honest with each other. He respects me and is kind to me, but he wouldn't be if I had told him what had happened. I have a brother, and until this moment, because I was in detention, we don't talk to each other. When I was released my comfort with my husband, and his with me, changed."<sup>355</sup>

Enduring shame and negative social consequences are harmful effects that survivors may experience for a lifetime. They also reflect the continuing operation of sexual violence and the way it was used by the Syrian government to humiliate and dehumanise detainees and sow discord among opposition communities.

135. In addition, the survivors report that they continue to be subjected to a campaign of terrorisation, intimidation, and harassment. This campaign consists of direct threats against the survivors and their family members to prevent them from returning to Syria, including threats of detention, threats of rape and murder, arrest warrants, execution orders, and intimidation and harassment of family members who remain in Syria. Threats have been issued to them via social media, anonymous phone calls, and messages passed through family members. This purposeful conduct maintains an unlawful state of affairs by continuing to inflict great mental anguish and suffering upon the survivors.

## **VII. Conclusion**

136. Gender discrimination is a pervasive force in the Syrian government's detention and torture system, yet too little has been written about the way in which the government has harnessed such discrimination to further its aims. The differential treatment suffered by women, girls, men, and boys in Syrian detention centres does not happen by default. It happens by design. Discrimination based on gender intersects with other forms of discrimination, especially political and religious-based discrimination, to determine who is targeted by the military security and intelligence branches that run the system and the way in which detainees are treated, including whether they are more or less likely to survive.

137. Recreating the reality of arbitrary detention and torture in Syria through the words of former detainees reveals the centrality of gender in the detention experience. Understanding the role ascribed to gender in the detention system is not a peripheral or discretionary consideration. An analysis of gender is essential to understanding the government's purposes and exposes some of the main objectives that the government has been pursuing for the past 13-and-a-half years. In its desperation to cling to power, the Syrian government has unleashed upon the population a terror campaign evincing a will to dominate and humiliate its opponents, dehumanise victims, and sow discord among targeted communities. The way in which these objectives are pursued strikes at the gendered foundations of Syrian society and manifests a discriminatory purpose prohibited by international law.

138. As the work of holding the Syrian government to account progresses, it is incumbent on judges, prosecutors, and practitioners at all levels to surface the gendered nature and impact of violations committed during the conflict. Such an approach is necessary to provide a broad spectrum of victims and survivors with recognition of the harms they have suffered, as well as to ensure that the fundamental aims of justice and accountability in a rules-based international order are achieved. When it comes to mass arbitrary detention and torture, a form of accountability that fails to address the discrimination underlying the practice falls short of establishing the culpability of perpetrators. It suggests that the very thing that makes Syrian men, boys, women, and girls targets of arbitrary detention and torture, and which gives shape to the severe pain and suffering inflicted upon them, is irrelevant to the pursuit of justice and the promise of non-repetition. In Syria, as elsewhere, the fight against impunity must be inclusive to be effective.

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<sup>1</sup> See e.g. Amnesty International, *Syria: Torture by the Security Forces* (1 October 1987), <https://www.amnesty.org/en/documents/mde24/009/1987/en/>.

<sup>2</sup> Amnesty International, *Syria: Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, p. 12 (7 February 2017), <https://www.amnesty.org/en/documents/mde24/5415/2017/en/>.

<sup>3</sup> LAW's work throughout the world is overseen by Executive Director Antonia Mulvey, a British lawyer with 20 years' experience in international, human rights, refugee, and criminal law. She is a former United Nations investigator, sexual and gender-based violence expert for the United Kingdom Foreign and Commonwealth Office Preventing Sexual Violence Initiative, United Nations Women, and the Justice Rapid Response Unit, and former Visiting Fellow at Columbia University and London School of Economics. The investigation was overseen by Nick Leddy, LAW's Head of Litigation. Nick is an international criminal lawyer from the United States with extensive experience in the investigation and prosecution of corruption, sexual and gender-based violence, war crimes, crimes against humanity, and human rights violations. Before joining LAW, he worked for over five years as a Trial Lawyer at the International Criminal Court's Office of the Prosecutor where he worked on several investigations and trials, including the situations in the Central African Republic, Myanmar/Bangladesh, and Ukraine. Previously, he was a prosecutor at the Manhattan District Attorney's Office for over seven years. He is a member of the International Criminal Court List of Counsel and can therefore represent survivors in situations before the Court.

<sup>4</sup> International Organisation for Migration, *SOGIESC: Full glossary of terms* (November 2020), <https://www.iom.int/sites/g/files/tmzbd1486/files/documents/IOM-SOGIESC-Glossary-of-Terms.pdf>.

<sup>5</sup> International Federation for Human Rights, *Sexual and gender-based violence: A glossary from A to Z* (25 November 2022), [https://www.fidh.org/IMG/pdf/atoz\\_en\\_book\\_screen.pdf](https://www.fidh.org/IMG/pdf/atoz_en_book_screen.pdf).

<sup>6</sup> International Criminal Court Office of the Prosecutor, *Office of the Prosecutor Policy on Gender-Based Crimes*, para 31 (December 2023), <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>.

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<sup>7</sup> Legal Action Worldwide, *'The Light Has Disappeared': Enforced Disappearances in Syria and Their Impact on Children and Young People* (25 June 2021), <https://www.legalactionworldwide.org/wp-content/uploads/Syria-Policy-Brief-25.06.21.pdf>.

<sup>8</sup> Human Rights Watch, *"They Treated Us in Monstrous Ways" Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict* (July 2020), p. 33; United Nations Human Rights Council, *Report of the independent international commission of inquiry on the Syrian Arab Republic*, UN Doc A/HRC/25/65 (12 February 2014), paras. 67, 69.

<sup>9</sup> V021; V022; V024; V030; V045; V051; V068.

<sup>10</sup> V044.

<sup>11</sup> V006; V008.

<sup>12</sup> V041; V050.

<sup>13</sup> V002; V007; V010; V011; V014; V032; V034; V035; V036; V037; V047; V053; V055.

<sup>14</sup> Legal Action Worldwide, *An Untapped Justice Opportunity for Syria: A State Party Referral to the International Criminal Court* (November 2023), <https://www.legalactionworldwide.org/wp-content/uploads/Policy-Brief-10-Syria.pdf>.

<sup>15</sup> Marco Sassòli et al., *How Does Law Protect in War? Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law, First Volume* (3<sup>rd</sup> ed.), (ICRC, 2011), Chapter 14, p. 10.

<sup>16</sup> Until 2004, this approach was more or less endorsed in the jurisprudence of the International Court of Justice. In its advisory opinion regarding the use of nuclear weapons, the Court declined to consider loss of life in armed conflict from the perspective of human rights law. In a situation of armed conflict, "The test of what constitutes an arbitrary deprivation of life ... then must be determined by the applicable *lex specialis*, namely, the law applicable in armed conflict." International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Report 1996, p. 226, para. 240.

<sup>17</sup> In the words of the Court, "As regards the relationship between international humanitarian law and human rights law, there are thus three possible situations: some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may be matters of both these branches of international law." International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136, para 106.

<sup>18</sup> "Where human rights obligations fail to be applied in a situation of armed conflict, due effect should be given to interpreting the relevant obligations in light of, and consistently with, the equally applicable rules of international humanitarian law." Laura Pineschi (ed), *General Principles of Law: The Role of the Judiciary* (Springer, 2015), p. 274.

<sup>19</sup> Universal Declaration of Human Rights (1948), Art. 9.

<sup>20</sup> United Nations Human Rights Committee, *General Comment No. 35: Article 9 (Liberty and security of person)*, UN Doc. CCPR/C/GC/35 (16 December 2014), para. 13.

<sup>21</sup> *Ibid.*

<sup>22</sup> International Covenant on Civil and Political Rights (1966), Art. 9(1).

<sup>23</sup> *Ibid.*, Art. 9(3).

<sup>24</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, First Volume* (Cambridge Univ. Press, 2009), pp. 344-352.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*, p. 352. In these circumstances, captured enemy combatants should benefit from the same treatment that prisoners of war receive in international armed conflict, while detained civilians should benefit from the protections in the Fourth Geneva Convention.

<sup>27</sup> Rome Statute of the International Criminal Court (1998), Art. 8(2)(a)(vi).

<sup>28</sup> *Ibid.*, Art. 7(1)(e).

<sup>29</sup> Human Rights Watch, *The Use of Incommunicado Detention: International Law and Standards*, <https://www.hrw.org/reports/2005/spain0105/6.htm> (last visited 22 February 2024).

<sup>30</sup> United Nations Commission on Human Rights, *Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, UN Doc. E/CN.4/RES/2003/32 (23 April 2003).

<sup>31</sup> United Nations Human Rights Commission, *Civil and Political Rights, Including the Questions of Torture and Detention*, UN Doc. E/CN.4/2003/68 (17 December 2002), para. 26(g).

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<sup>32</sup> Incommunicado detention also gives rise to violations of the internationally guaranteed right to counsel, under Article 14 of the International Covenant on Civil and Political Rights. The United Nations Human Rights Committee has interpreted Article 14(3)(b) as requiring states to ensure “that Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. Furthermore, lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter.” The right to legal assistance is a right which is inherent in the right to liberty and security of person and the right to a fair and public hearing by a competent, independent, and impartial tribunal established by law, in accordance with Articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights and Principles 15, 17, and 18 of the Body of Principles. United Nations Commission on Human Rights, *Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment, In particular: Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, UN Doc. E/CN.4/1995/34 (12 January 1995), para. 926(d).

<sup>33</sup> Amnesty International, *Spain: Out of the shadows - Time to end incommunicado detention*, p. 16 (June 2009), <https://www.amnesty.org/en/documents/eur41/001/2009/en/#:~:text=Spain%3A%20Out%20of%20the%20shadows%20%E2%80%93%20Time%20to%20end%20incommunicado%20detention,under%20international%20human%20rights%20law>.

<sup>34</sup> United Nations Human Rights Committee, *Concluding Observations of the Human Rights Committee: Democratic People’s Republic of Korea*, UN Doc. CCPR/CO/72/PRK (27 August 2001), para. 18.

<sup>35</sup> United Nations Human Rights Committee, *Concluding Observations of the Human Rights Committee: India*, UN Doc. CCPR/C/79/Add.81 (4 August 1997), para. 23.

<sup>36</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, First Volume* (Cambridge Univ. Press, 2009), pp. 439-442.

<sup>37</sup> *Ibid.*, pp. 445-447.

<sup>38</sup> *Ibid.*, pp. 421-427.

<sup>39</sup> Protocol (II) Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (1977), Art. 5(2)(a).

<sup>40</sup> Yves Sandoz et al., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, (ICRC, 1987), para. 4580.

<sup>41</sup> Protocol (II) Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (1977), Arts. 5, 7.

<sup>42</sup> In its study of customary international humanitarian law, the International Committee of the Red Cross frequently cites human rights instruments such as the Standard Minimum Rules for the Treatment of Prisoners as authority for customary rules. See e.g. Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, First Volume* (Cambridge Univ. Press, 2009), pp. 306-308, 428-431, 433-435.

<sup>43</sup> Universal Declaration of Human Rights (1948).

<sup>44</sup> These standards are not legally binding but expand upon the requirements of Article 10(1) International Covenant on Civil and Political Rights regarding humane conditions of detention. Nigel Rodley, *The Treatment of Prisoners Under International Law, First Edition* (Oxford Univ. Press, 1987), p. 222. The Mandela Rules also synthesize developments under international laws such as the International Covenant on Civil and Political Rights, Convention on the Elimination of all Forms of Discrimination Against Women, Convention on the Rights of a Child, Convention Against Torture, as well as Common Article 3 of the Geneva Conventions. Kasey McCall-Smith, *Introductory Note to the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*, International Legal Materials Vol. 55, No. 6 (2016), pp. 1180-1205.

<sup>45</sup> United Nations General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, UN Res. A/RES/70/175 (8 January 2016), Annex, Rule 1, 22, 24.

<sup>46</sup> *Ibid.*, Rule 50. In addition, searches must not be used to harass, intimidate, or unnecessarily intrude upon a detainee’s privacy, and for accountability purposes records on searches must be kept. *Ibid.*, Rule 51.

<sup>47</sup> *Ibid.*, Rule 52.

<sup>48</sup> *Ibid.*, Rule 11.

<sup>49</sup> United Nations General Assembly, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, UN Doc. A/RES/65/229 (16 March 2011), Rule 10.

<sup>50</sup> *Ibid.*, Rule 7.

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<sup>51</sup> United Nations Voluntary Fund for Victims of Torture, *Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies*, p. 9 (2009), [https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation\\_torture\\_2011\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation_torture_2011_EN.pdf).

<sup>52</sup> See e.g. Sara Ferro Ribeiro and Danaé van der Straten Ponthoz, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, Second Edition* (2017), p. 269.

<sup>53</sup> Jemma Arman et al., *Convention (III) relative to the Treatment of Prisoners of War. Geneva 12 August 1949, Commentary of 2020* (ICRC, 2020), para. 1664.

<sup>54</sup> See e.g. United Nations Voluntary Fund for Victims of Torture, *Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies*, p. 13 (2009), [https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation\\_torture\\_2011\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation_torture_2011_EN.pdf).

<sup>55</sup> United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Guyana*, UN Doc. CAT/C/GUY/CO/1 (7 December 2006), para. 19; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Togo*, UN Doc. CAT/C/TGO/CO/1 (28 July 2006), para. 20; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Burundi*, UN Doc. CAT/C/BDI/CO/1 (15 February 2007), paras. 11, 18.

<sup>56</sup> United Nations Security Council, *Resolution 1820 (2008)*, UN Doc. S/RES/1820 (19 June 2008), para. 3.

<sup>57</sup> See Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, First Volume* (Cambridge Univ. Press, 2009), pp. 323-327.

<sup>58</sup> *Ibid.*, pp. 495-498, 505-508. See also Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949), Arts. 1, 3; Geneva Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea (1949), Arts. 1, 3; Geneva Convention (III) Relative to the Treatment of Prisoners and of War (1949), Arts. 1, 3; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (1949), Arts. 1, 3. Protocol (I) Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (1977), Art. 1(1). "It follows from common Article 3, which is binding on all Parties to a noninternational armed conflict, that non-State armed groups are obliged to 'respect' the guarantees contained therein. Furthermore, such armed groups have to 'ensure respect' for common Article 3 by their members and by individuals or groups acting on their behalf." Jemma Arman et al., *Convention (III) relative to the Treatment of Prisoners of War. Geneva 12 August 1949, Commentary of 2020* (ICRC, 2020), para. 938.

<sup>59</sup> Rome Statute of the International Criminal Court (1998), Art. 7(1)(g).

<sup>60</sup> *Ibid.*, Art. 8(2)(b)(xxii).

<sup>61</sup> *Ibid.*, Art. 8(2)(e)(vi).

<sup>62</sup> See e.g. International Criminal Tribunal for Rwanda, *Prosecutor v. Akayesu*, Judgement, T.C. Case No. ICTR-96-4-T (2 September 1998), paras. 596-598; International Criminal Tribunal for Rwanda, *Prosecutor v. Rukundo*, Judgement, T.C. Case No. ICTR-2001-70-T (27 February 2009), para. 379; International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Milutinovic et al.*, Judgement, T.C. Case No. IT-05-87-T (26 February 2009), paras. 190-191; International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Karadzic*, Judgement, T.C. Case No. IT-95-5/18-T (24 March 2016), para. 513; International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Delalić*, Judgement, T.C. Case No. IT-96-21-T (16 November 1998), para. 491.

<sup>63</sup> United Nations Convention Against Torture (1984), Art. 2.

<sup>64</sup> International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Furundžija*, Trial Judgment, T.C. Case No. IT-95-17/1-T (10 December 1998), para. 153.

<sup>65</sup> International Court of Justice, *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment, I.C.J. Reports 2012, p. 442, para. 99.

<sup>66</sup> United Nations Convention Against Torture (1984), Art. 1.

<sup>67</sup> Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949), Art. 50; Geneva Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea (1949), Art. 51; Geneva Convention (III) Relative to the Treatment of Prisoners and of War (1949), Art. 130; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (1949), Arts. 147.

<sup>68</sup> Rome Statute of the International Criminal Court (1998), Arts. 8(2)(a)(ii), 8(2)(c)(i).

<sup>69</sup> *Ibid.*, Art. 7(1)(f).

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<sup>70</sup> Under Article 6 of the Rome Statute, acts causing serious bodily or mental harm to members of a group can qualify as genocide if committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group as such. Footnote 3 of the Elements of Crimes explicitly notes that such conduct can include torture. International Criminal Court, *Elements of Crimes*, Footnote 3.

<sup>71</sup> International Criminal Court, *Prosecutor v. Ongwen*, Judgment, T.C. Case No. ICC-02/04-01/15 (4 February 2021), paras. 2703-2705.

<sup>72</sup> United Nations Voluntary Fund for Victims of Torture, *Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies*, pp. 6-8 (2009), [https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFT/Interpretation\\_torture\\_2011\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFT/Interpretation_torture_2011_EN.pdf).

<sup>73</sup> International Criminal Court, *Elements of Crimes*, Art. 7(1)(f).

<sup>74</sup> United Nations Convention Against Torture (1984), Art. 1.

<sup>75</sup> See e.g. European Court of Human Rights, *Ireland v. United Kingdom*, Application No. 5310/71 (18 January 1978), para. 162; African Commission on Human and Peoples' Rights, *Shumba v. Zimbabwe*, Comm. No. 288/2004 (2 May 2012), para. 138; International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Radoslav Brđanin*, Appeals Judgement, Case No. IT-99-36-A (3 April 2007), para. 251; Extraordinary Chambers in the Courts of Cambodia, Trial Chamber, *Prosecutors v. Kaing Guek alias Duch*, Judgement, Case No. 001/18-07-200/ECCC/TC (26 July 2010), para. 355.

<sup>76</sup> The Inter-American Court of Human Rights has gone so far as to suggest that, "The personal characteristics of a presumed victim of torture or cruel, inhuman or degrading treatment must be taken into account when determining whether their personal integrity was violated, because these characteristics may change the individual's perception of the reality and, consequently, increase the suffering and the feeling of humiliation when they are subjected to certain treatments." Inter-American Court of Human Rights, *Case of Espinoza González v. Peru*, Series C No. 289 (20 November 2014), para. 142.

<sup>77</sup> United Nations Committee Against Torture, *General Comment No. 2: Implementation of article 2 by State parties*, UN Doc. CAT/C/GC/2 (24 January 2008), para. 18.

<sup>78</sup> United Nations Committee Against Torture, *Decision adopted by the Committee under article 22 of the Convention, concerning Communication No. 854/2017*, UN Doc. CAT/C/67/D/854/2017 (22 August 2019), paras. 7.4, 8; See also United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Mexico*, UN Doc. CAT/C/MEX/CO/4 (6 February 2007), para. 19; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Guyana*, UN Doc. CAT/C/GUY/CO/1 (7 December 2006), para. 19; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Togo*, UN Doc. CAT/C/TGO/CO/1 (28 July 2006), para. 20; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Burundi*, UN Doc. CAT/C/BDI/CO/1 (15 February 2007), paras. 11, 18.

<sup>79</sup> United Nations Committee Against Torture, *General Comment No. 2: Implementation of article 2 by State parties*, UN Doc. CAT/C/GC/2 (24 January 2008), para. 22.

<sup>80</sup> United Nations Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak*, UN Doc. A/HRC/7/3 (15 January 2008), para. 34.

<sup>81</sup> European Court of Human Rights, *MC v. Bulgaria*, Judgement, Application No. 39272/98 (4 December 2003), para. 187.

<sup>82</sup> European Court of Human Rights, *Aydın v. Turkey*, Judgement (GC), Application No. 23178/94 (25 September 1997), para. 75.

<sup>83</sup> Inter-American Court of Human Rights, *Lopez Soto et al. v. Venezuela*, Judgement, Series C No. 379/7 (14 May 2019), paras. 187-188; <sup>83</sup> Inter-American Court of Human Rights, *Fernandez Ortega et al. v. Mexico*, Judgement, Series C No. 215 (30 August 2010), para. 131.

<sup>84</sup> International Criminal Tribunal for Rwanda, *Prosecutor v. Akayesu*, Judgement, T.C. Case No. ICTR-96-4-T (2 September 1998), para. 597; International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Mucić et al.*, Judgment, T.C. Case No. IT-96-21-T (16 November 1998), para. 496; International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Simić*, Judgment, T.C. Case No. IT-95-9/2-S (17 October 2002), para. 36; International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Furundžija*, Judgement, T.C. Case No. IT-95-17/1-T (10 December 1998), paras. 264-267.

<sup>85</sup> United Nations Convention Against Torture (1984), Art. 1(1).



<sup>86</sup> International Criminal Court, *Prosecutor v. Bemba*, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor against Jean-Pierre Bemba Gombo, P.T.C. Case No. ICC-01/05-01/08 (15 June 2009), para. 194; Rome Statute of the International Criminal Court (1998), Art. 30.

<sup>87</sup> Association for the Prevention of Torture & Centre for Justice and International Law, *Torture in International Law: A guide to jurisprudence*, p. 12 (2008), <https://www.corteidh.or.cr/tablas/26562.pdf>; United Nations Voluntary Fund for Victims of Torture, *Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies*, p. 4 (2009), [https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation\\_torture\\_2011\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation_torture_2011_EN.pdf).

<sup>88</sup> United Nations Convention Against Torture (1984), Art. 1.

<sup>89</sup> *Ibid.*, Art. 2(1); United Nations Committee Against Torture, *General Comment No. 2: Implementation of article 2 by State parties*, UN Doc. CAT/C/GC/2 (24 January 2008), para. 2.

<sup>90</sup> *Ibid.*, para. 17.

<sup>91</sup> *Ibid.*

<sup>92</sup> See *Ibid.*, paras. 15-19.

<sup>93</sup> *Ibid.*, para. 18.

<sup>94</sup> *Ibid.*

<sup>95</sup> Human Rights Council, “*No End in Sight*”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), para. 117.

<sup>96</sup> V001; V010; V022; V026; V032; V051; V068.

<sup>97</sup> V042; V043; V055; V056.

<sup>98</sup> United Nations Convention Against Torture (1984), Art. 1(1).

<sup>99</sup> United Nations Voluntary Fund for Victims of Torture, *Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies*, p. 4 (2009), [https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation\\_torture\\_2011\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Torture/UNVFVT/Interpretation_torture_2011_EN.pdf).

<sup>100</sup> International Criminal Court, *Elements of Crimes*, Arts. 8(2)(a)(ii)-1, 8(2)(c)(i)-4.

<sup>101</sup> “In comparison to torture, ill-treatment may differ in the severity of pain and suffering and does not require proof of impermissible purposes.” United Nations Committee Against Torture, *General Comment No. 2: Implementation of article 2 by State parties*, UN Doc. CAT/C/GC/2 (24 January 2008), para. 10.

<sup>102</sup> See e.g. European Commission of Human Rights, *The Greek Case: Report of the Commission*, Application No. 3321/67, Denmark v. Greece, Application No. 3322/67, Norway v. Greece, Application No. 3323/67, Sweden v. Greece, Application No. 3344/67, Netherlands v. Greece (5 November 1969), p. 186; European Court of Human Rights, *Egmez v. Europe*, Application No. 30873/96 (21 December 2000), para. 78; European Court of Human Rights, *Denizci and Others v. Cyprus*, Applications Nos. 25316-25321/94 and 27207/95 (23 May 2001), para. 384; Inter-American Court of Human Rights, *Cantoral-Benavides v. Peru*, Series C, No. 69 (18 August 2000), para. 104.

<sup>103</sup> See e.g. European Court of Human Rights, *Peers v. Greece*, Application No. 28524/95 (19 April 2001), para. 75; European Court of Human Rights, *Kehayov v. Bulgaria*, Application No. 41035/98 (18 January 2005), paras. 63, 70; European Court of Human Rights, *Fedotov v. Russia*, Application No. 5140/02 (25 October 2005), para. 68; European Court of Human Rights, *Ananyev and others v. Russia*, Applications Nos. 42525/07 and 60800/08 (10 January 2012), para. 166; European Court of Human Rights, *Idalov v. Russia*, Application No. 5826/03 (22 May 2012) para. 101; European Court of Human Rights, *Neshkov and others v. Bulgaria*, Applications Nos. 36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13 (27 January 2015), para. 229; European Court of Human Rights, *Muršić v. Croatia*, Application No. 7334/13 (20 October 2016), paras. 170-171; European Court of Human Rights, *Darboe and Camara v. Italy*, Application No. 5797/17 (21 July 2022), para. 183.

<sup>104</sup> European Court of Human Rights, *Denizci and Others v. Cyprus*, Applications Nos. 25316-25321/94 and 27207/95 (23 May 2001), para. 384.

<sup>105</sup> European Court of Human Rights, *Al-Nashiri v. Romania*, Application No. 33234/12 (31 May 2018), para. 675. The Court does not state the reasoning behind its finding. Earlier in its judgement, however, the Court noted, “In order to determine whether any particular form of ill-treatment should be classified as torture, the Court must have regard to the distinction drawn in Article 3 between this notion and that of inhuman or degrading treatment ... In addition to the severity of the treatment, there is a purposive element, as recognised in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ... which defines

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torture in terms of the intentional infliction of severe pain or suffering with the aim, inter alia, of obtaining information, inflicting punishment or intimidating.” Ibid., para. 666.

<sup>106</sup> United Nations Economic and Social Council, *Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1994/37 Addendum Visit by the Special Rapporteur to the Russian Federation*, UN Doc. E/CN.4/1995/34/Add.1 (16 November 1994), para. 71.

<sup>107</sup> See e.g. United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Guyana*, UN Doc. CAT/C/GUY/CO/1 (7 December 2006), para. 19; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Togo*, UN Doc. CAT/C/TGO/CO/1 (28 July 2006), para. 20; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Burundi*, UN Doc. CAT/C/BDI/CO/1 (15 February 2007), para. 18.

<sup>108</sup> United Nations Convention Against Torture (1984), Art. 2(1); United Nations Committee Against Torture, *General Comment No. 2: Implementation of article 2 by State parties*, UN Doc. CAT/C/GC/2 (24 January 2008), para. 22.

<sup>109</sup> United Nations Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak*, UN Doc. A/HRC/7/3 (15 January 2008), para. 28.

<sup>110</sup> See e.g. United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Guyana*, UN Doc. CAT/C/GUY/CO/1 (7 December 2006), para. 19; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Togo*, UN Doc. CAT/C/TGO/CO/1 (28 July 2006), para. 20; United Nations Committee Against Torture, *Conclusions and recommendations of the Committee Against Torture: Burundi*, UN Doc. CAT/C/BDI/CO/1 (15 February 2007), para. 18.

<sup>111</sup> For information on the incidence of male-directed sexual violence in conflict see: Željka Mudrovčić, *Sexual and Gender-Based Violence in Post-Conflict Regions: The Bosnia and Herzegovina Case*, United Nations Population Fund, pp. 60–76 (November 2001), [https://www.unfpa.org/sites/default/files/pub-pdf/impact\\_conflict\\_women.pdf](https://www.unfpa.org/sites/default/files/pub-pdf/impact_conflict_women.pdf) (finding that 5000 of 6000 concentration camp victims in the Sarajevo Canton were men, and 80% had reportedly been raped); Kirsten Johnson et al., *Association of Combatant Status and Sexual Violence with Health and Mental Health Outcomes in Postconflict Liberia*, *Journal of the American Medical Association*, Vol. 300, No. 6, pp. 676–690 (August 2008) (finding that 32.6% of male combatants in Liberia experienced sexual violence based on survey of 1666 adults).

<sup>112</sup> Syrian Network for Human Rights, *SNHR’s 12<sup>th</sup> Annual Report on Enforced Disappearance in Syria on the International Day of the Disappearances: Enforced Disappearance is an Ongoing Crime in Syria* (29 August 2023), <https://snhr.org/blog/2023/08/30/snhrs-12th-annual-report-on-enforced-disappearance-in-syria-on-the-international-day-of-the-disappeared-enforced-disappearance-is-an-ongoing-crime-in-syria/>.

<sup>113</sup> United Nations General Assembly, *Independent Institution on Missing Persons in the Syrian Arab Republic*, UN Doc. A/77/L.79 (26 June 2023).

<sup>114</sup> United Nations Human Rights Council, *“No End in Sight”: Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), para. 12.

<sup>115</sup> Amnesty International, *Syria: Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, p. 12 (7 February 2017), <https://www.amnesty.org/en/documents/mde24/5415/2017/en/>.

<sup>116</sup> Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria’s Underground Prisons since March 2011* (3 July 2012), <https://www.hrw.org/report/2012/07/03/torture-archipelago/arbitrary-arrests-torture-and-enforced-disappearances-syrias#:~:text=Since%20the%20beginning%20of%20anti,archipelago%20of%20torture%20centers%2C%20scattered.>

<sup>117</sup> See United Nations Human Rights Council, *“No End in Sight”: Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), paras. 2, 17-38.

<sup>118</sup> V001, V005, V006, V008, V009, V023, V024, V027, V033, V039, V040, V041, V048.

<sup>119</sup> United Nations Human Rights Council, *“No End in Sight”: Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), para. 2.

<sup>120</sup> Ibid.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> TRIAL International, *Ali Mamluk*, <https://trialinternational.org/latest-post/ali-mamlouk-marie-colvin-case/> (last visited 28 November 2023); Council of the European Union, *Council Decision (CFSP) 2020/719*, Official Journal of the European Union L. 168/66, 121 (28 May 2020); Office of Financial Sanctions Implementation HM Treasury, *Consolidated List of Financial Sanctions Targets in the UK*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1169070/Syria.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1169070/Syria.pdf) (last visited 23 February 2024); Office of Foreign Asset Control, *Sanction List Search*, <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=12742> (last visited 23 February 2024). Human Rights Watch, *Syrian Officials Convicted of Crimes Against Humanity in France* (27 May 2024), <https://www.hrw.org/news/2024/05/27/syrian-officials-convicted-crimes-against-humanity-france#:~:text=On%20May%2024%2C%202024%2C%20the,is%20without%20the%20accused%20present>.

<sup>124</sup> United Nations Human Rights Council, “*No End in Sight*”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), para. 13.

<sup>125</sup> *Ibid.*, para. 86.

<sup>126</sup> *Ibid.*, para. 36; Amnesty International, *Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, pp. 31-32 (7 February 2017), <https://www.amnesty.org/en/documents/mde24/5415/2017/en/>; Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria’s Underground Prisons*, pp. 22, 39 (3 July 2012), [https://www.hrw.org/sites/default/files/reports/syria0712webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf).

<sup>127</sup> “People stacking” is a term used to describe how people sit or lay on top of each other due to a lack of space.

<sup>128</sup> United Nations Human Rights Council, “*No End in Sight*”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), paras. 42-61; Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria’s Underground Prisons*, p. 16 (3 July 2012), [https://www.hrw.org/sites/default/files/reports/syria0712webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf); Amnesty International, *Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, pp. 12, 35 (7 February 2017), <https://www.amnesty.org/en/documents/mde24/5415/2017/en/>; Syrian Network for Human Rights, *Documentation of 72 Torture Methods the Syrian Regime Continues to Practice in its Detention Centres and Military Hospitals*, pp. 26-29 (21 October 2019), [https://snhr.org/wp-content/pdf/english/Documentation\\_of\\_72\\_Torture\\_Methods\\_the\\_Syrian\\_Regime\\_Continues\\_to\\_Practice\\_in\\_Its\\_Detention\\_Centres\\_and\\_Military\\_Hospitals\\_en.pdf](https://snhr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centres_and_Military_Hospitals_en.pdf).

<sup>129</sup> See e.g. United Nations Human Rights Council, “*No End in Sight*”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), paras. 18, 20-21, 23, 25, 28, 34; United Nations Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, UN Doc. A/HRC/55/64 (9 February 2024), para. 65; United Nations Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, UN Doc. A/HRC/54/58 (14 August 2023), para. 40.

<sup>130</sup> Syrian Network for Human Rights, *Documentation of 72 Torture Methods the Syrian Regime Continues to Practice in its Detention Centres and Military Hospitals* (21 October 2019), [https://snhr.org/wp-content/pdf/english/Documentation\\_of\\_72\\_Torture\\_Methods\\_the\\_Syrian\\_Regime\\_Continues\\_to\\_Practice\\_in\\_Its\\_Detention\\_Centres\\_and\\_Military\\_Hospitals\\_en.pdf](https://snhr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centres_and_Military_Hospitals_en.pdf).

<sup>131</sup> See e.g. *Ibid.*, pp. 15, 19-20; United Nations Human Rights Council, “*No End in Sight*”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), paras. 4, 32; Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria’s Underground Prisons*, pp. 18-26 (3 July 2012), [https://www.hrw.org/sites/default/files/reports/syria0712webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf).

<sup>132</sup> United Nations Human Rights Council, “*No End in Sight*”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), paras. 4; Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria’s Underground Prisons*, pp. 2-4, 19, 27, 56-57 (3 July 2012), [https://www.hrw.org/sites/default/files/reports/syria0712webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf); Syrian Network for Human Rights, *Documentation of 72 Torture Methods the Syrian Regime Continues to Practice in its Detention Centres and Military Hospitals*, pp. 10, 13 (21 October 2019), [https://snhr.org/wp-content/pdf/english/Documentation\\_of\\_72\\_Torture\\_Methods\\_the\\_Syrian\\_Regime\\_Continues\\_to\\_Practice\\_in\\_Its\\_Detention\\_Centres\\_and\\_Military\\_Hospitals\\_en.pdf](https://snhr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centres_and_Military_Hospitals_en.pdf); Amnesty International, *Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, pp. 12, 32 (7 February 2017), <https://www.amnesty.org/en/documents/mde24/5415/2017/en>.

<sup>133</sup> United Nations Human Rights Council, “No End in Sight”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), paras. 34, 39; Amnesty International, *Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, pp. 31-32 (7 February 2017), <https://www.amnesty.org/en/documents/mde24/5415/2017/en>; Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria’s Underground Prisons*, pp. 16, 18, 27, 40, 42, 62, 67, 69 (3 July 2012), [https://www.hrw.org/sites/default/files/reports/syria0712webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf); Syrian Network for Human Rights, *Documentation of 72 Torture Methods the Syrian Regime Continues to Practice in its Detention Centres and Military Hospitals*, p. 29 (21 October 2019), [https://snhr.org/wp-content/pdf/english/Documentation\\_of\\_72\\_Torture\\_Methods\\_the\\_Syrian\\_Regime\\_Continues\\_to\\_Practice\\_in\\_Its\\_Detention\\_Centres\\_and\\_Military\\_Hospitals\\_en.pdf](https://snhr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centres_and_Military_Hospitals_en.pdf).

<sup>134</sup> United Nations Human Rights Council, “I Lost my Dignity”: *Sexual and gender-based violence in the Syrian Arab Republic*, UN Doc. A/HRC/37/CRP.3 (08 March 2018), para. 49; Syrian Network for Human Rights, *Documentation of 72 Torture Methods the Syrian Regime Continues to Practice in its Detention Centres and Military Hospitals*, pp. 10, 30 (21 October 2019), [https://snhr.org/wp-content/pdf/english/Documentation\\_of\\_72\\_Torture\\_Methods\\_the\\_Syrian\\_Regime\\_Continues\\_to\\_Practice\\_in\\_Its\\_Detention\\_Centres\\_and\\_Military\\_Hospitals\\_en.pdf](https://snhr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centres_and_Military_Hospitals_en.pdf); Human Rights Watch, *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria’s Underground Prisons*, pp. 4, 24, 26 (3 July 2012), [https://www.hrw.org/sites/default/files/reports/syria0712webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf).

<sup>135</sup> United Nations Human Rights Council, “I Lost my Dignity”: *Sexual and gender-based violence in the Syrian Arab Republic*, UN Doc. A/HRC/37/CRP.3 (08 March 2018), para. 44; United Nations Human Rights Council, “No End in Sight”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), para. 37.

<sup>136</sup> United Nations Human Rights Council, “I Lost my Dignity”: *Sexual and gender-based violence in the Syrian Arab Republic*, UN Doc. A/HRC/37/CRP.3 (08 March 2018), para. 44; United Nations Human Rights Council, “No End in Sight”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), paras. 37.

<sup>141</sup> United Nations Human Rights Council, “I Lost my Dignity”: *Sexual and gender-based violence in the Syrian Arab Republic*, UN Doc. A/HRC/37/CRP.3 (08 March 2018), paras. 28-50; United Nations Human Rights Council, “No End in Sight”: *Torture and ill-treatment in the Syrian Arab Republic 2020-2023*, UN Doc. A/HRC/53/CRP.5 (10 July 2023), para. 37; Amnesty International, *Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, pp. 12, 33, (7 February 2017), <https://www.amnesty.org/en/documents/mde24/5415/2017/en>; Syrian Network for Human Rights, *Documentation of 72 Torture Methods the Syrian Regime Continues to Practice in its Detention Centres and Military Hospitals*, p. 30 (21 October 2019), [https://snhr.org/wp-content/pdf/english/Documentation\\_of\\_72\\_Torture\\_Methods\\_the\\_Syrian\\_Regime\\_Continues\\_to\\_Practice\\_in\\_Its\\_Detention\\_Centres\\_and\\_Military\\_Hospitals\\_en.pdf](https://snhr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centres_and_Military_Hospitals_en.pdf).

<sup>137</sup> United Nations Human Rights Council, *Report of the independent international commission of inquiry for the Syrian Arab Republic*, UN Doc. A/HRC/S-17/2/Add.1 (23 November 2011), paras. 101-102; Amnesty International, *Syria: Deadly reprisals: Deliberate killings and other abuses by Syria’s armed forces* (14 June 2012), <https://www.amnesty.org/en/documents/mde24/041/2012/en/>; Human Rights Watch, *Death by Chemicals, The Syrian Government’s Widespread and Systematic Use of Chemical Weapons*, p. 22 (May 2017), [https://www.hrw.org/sites/default/files/report\\_pdf/syria0517\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/syria0517_web.pdf); TRIAL International, *Anwar Raslan*, <https://trialinternational.org/latest-post/anwar-raslan-and-eyad-al-gharib/> (last visited 11 May 2023).

<sup>138</sup> Syrian Network for Human Rights, *12<sup>th</sup> Annual Report on Torture in Syria on the International Day in Support of Victims of Torture*, p. 5 (26 June 2023), <https://snhr.org/wp-content/pdf/english/R230606E.pdf>.

<sup>139</sup> United Nations International Independent Commission of Inquiry for Syria, *I lost my dignity: Sexual and gender-based violence in the Syrian Arab Republic*, UN Doc. A/HRC/37/CRP.3 (8 March 2018), para. 46.

<sup>140</sup> *Ibid.*, para. 30.

<sup>141</sup> Syrian Network for Human Rights, *At Least 2,317 Arbitrary Arrests/Detentions Documented in 2023, Including 129 Children and 87 Women, With 232 Documented in December Alone*, p. 13 (02 January 2024), <https://snhr.org/blog/2024/01/02/at-least-2317-arbitrary-arrests-detentions-documented-in-2023-including-of-129-children-and-87-women-with-232-documented-in-december-alone/>.

<sup>142</sup> Syrian Network for Human Rights, *12<sup>th</sup> Annual Report on Torture in Syria on the International Day in Support of Victims of Torture*, p.6 (26 June 2023), <https://snhr.org/wp-content/pdf/english/R230606E.pdf>.

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- <sup>143</sup> V042; V044; V046.
- <sup>144</sup> V001; V006; V008; V022; V030; V045; V051; V068.
- <sup>145</sup> V004; V005; V018; V020; V021; V043; V052.
- <sup>146</sup> V021.
- <sup>147</sup> V052.
- <sup>148</sup> V026.
- <sup>149</sup> See International Criminal Court, *Prosecutor v. Abd-Al-Rahman*, Decision on Confirmation of Charges, P.T.C. Case No. ICC-02/05-01/20 (9 July 2021), para. 99 (“The prisoners were predominantly male civilians of Fur ethnicity, as they were specifically targeted among the IDPs by the Militia/Janjaweed and GoS Forces who perceived them as members or supporters of the rebel armed groups”). See also Anne-Kathrin Kreft and Mattias Agerberg, *Imperfect Victims? Civilian Men, Vulnerability, and Policy Preferences*, *American Political Science Review*, Vol. 118, Issue 1, p. 274 (February 2024); R. Charli Carpenter, *Recognizing Gender-based Violence Against Civilian Men and Boys in Conflict Situations*, *Security Dialogue*, Vol. 37, No. 1, p. 83 (March 2006).
- <sup>150</sup> Syrian Observatory for Human Rights, *Syrian Revolution 13 years on | Nearly 618,000 persons killed since the onset of the revolution in March 2011*, <https://www.syriahr.com/en/328044/> (last visited 28 April 2024); Syrian Network for Human Rights, *12<sup>th</sup> Annual Report on Torture in Syria on the International Day in Support of Victims of Torture*, p.6 (26 June 2023), <https://snhr.org/wp-content/pdf/english/R230606E.pdf>.
- <sup>151</sup> V004; V008; V018; V020; V022; V024.
- <sup>152</sup> V005; V006; V021; V043; V044; V052.
- <sup>153</sup> V001; V030; V042; V045; V046; V051; V068.
- <sup>154</sup> V020.
- <sup>155</sup> V051.
- <sup>156</sup> V021; V043; V044.
- <sup>157</sup> V021.
- <sup>158</sup> V021.
- <sup>159</sup> V030.
- <sup>160</sup> V018; V020; V022; V024.
- <sup>161</sup> V006; V021; V052.
- <sup>162</sup> V008; V042; V045; V046; V051. Sometimes individuals detained during targeted arrests were also collected in busses. See V030.
- <sup>163</sup> V042; V045; V052; V068.
- <sup>164</sup> V006; V018; V024; V030; V045; V051.
- <sup>165</sup> V019.
- <sup>166</sup> V051.
- <sup>167</sup> Ibid.
- <sup>168</sup> V020; V021; V030; V043; V044; V045; V051; V052.
- <sup>169</sup> V020.
- <sup>170</sup> V019; V025.
- <sup>171</sup> See V024.
- <sup>172</sup> V004; V022; V042; V043; V045; V046; V052.
- <sup>173</sup> V015; V016; V018; V019; V021; V044; V051.
- <sup>174</sup> V043; V044; V051.
- <sup>175</sup> V044.
- <sup>176</sup> V043.
- <sup>177</sup> V043; V045; V046; V051; V052.
- <sup>178</sup> V052.
- <sup>179</sup> V046.
- <sup>180</sup> See V004; V015; V016; V017; V018; V025; V051.
- <sup>181</sup> V046.
- <sup>182</sup> See V042; V043.
- <sup>183</sup> V004; V030.
- <sup>184</sup> V004; V012; V015; V016; V018; V020; V021; V022; V024; V025; V027; V030; V042; V043; V044; V046; V051; V052.
- <sup>185</sup> V042.

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186 Ibid.  
187 V044.  
188 V027.  
189 V052.  
190 V025.  
191 V020.  
192 V027.  
193 See V006; V022; V025; V042; V043; V045; V051; V052.  
194 V025.  
195 V006.  
196 V015.  
197 See V006; V042; V043; V051.  
198 V045; V051; V052; V068.  
199 V051.  
200 V045; V052.  
201 V068.  
202 V024.  
203 V046.  
204 V042.  
205 V051.  
206 V005.  
207 V051.  
208 V052.  
209 Ibid.  
210 V001; V006; V008; V012.  
211 For women and girls, the longest period of detention documented was approximately two and a half years. For men, it was approximately four years.  
212 V027; V042.  
213 V019; V045; V046; V052.  
214 V005; V008; V020.  
215 V001; V003; V004; V005; V007; V008; V009; V015; V016; V020; V027; V042; V043.  
216 V044; V045; V046; V052.  
217 V005; V020; V024; V051.  
218 V001; V003; V004; V009; V015; V016; V019; V020; V021; V022; V024; V027; V042; VT044; V045; V046; V051; V052.  
219 V001; V006; V009; V012; V018; V024; V042; V043; V044; V045; V046; V051; V052.  
220 V045.  
221 V051.  
222 V044.  
223 V042.  
224 V030.  
225 V052.  
226 V004; V008; V009; V018; V030; V043; V045; V052.  
227 V046.  
228 Ibid.  
229 V036.  
230 V051.  
231 Ibid.; V068.  
232 V005; V008; V021; V030.  
233 V068.  
234 V005.  
235 V001.  
236 V068.

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<sup>237</sup> See e.g. the testimony provided by a Bosnian Muslim to the ICTY regarding a forced act of oral sex: “It was very hard for me, perhaps more than any other beatings, that humiliating, the degrading thing, very hard. I still have problems with that. I still smart from it psychologically, the situation that I was in.” International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Sikirica et al.*, Trial Hearing, T.C. Case No. IT-95-8 (11 April 2001), para. 2346. See also the testimony of Dhia al-Shweiri, an Iraqi held prisoner in Abu Ghraib: “Beatings don’t hurt us; it’s just a blow. But no one would want their manhood to be shattered.” Mary Anne Franks, *How to Feel Like a Woman, or Why Punishment is a Drag*, UCLA Law Review Vol. 61, p. 570 (2014).

<sup>238</sup> All figures taken from Syrian Network for Human Rights, *SNHR’s 12<sup>th</sup> Annual Report on Enforced Disappearance in Syria on the International Day of the Disappearances: Enforced Disappearance is an Ongoing Crime in Syria* (29 August 2023), <https://snhr.org/blog/2023/08/30/snhrs-12th-annual-report-on-enforced-disappearance-in-syria-on-the-international-day-of-the-disappeared-enforced-disappearance-is-an-ongoing-crime-in-syria/>.

<sup>239</sup> Syrian Network for Human Rights, *Unshakable Voices: Syrian Women Who Overcame the Trauma of Detention and the Tribulations Following Their Release*, p. 6 (19 February 2024), <https://snhr.org/blog/2024/02/19/unshakable-voices-syrian-women-who-overcame-the-trauma-of-detention-and-the-tribulations-following-their-release/>.

<sup>240</sup> Independent International Commission of Inquiry for the Syrian Arab Republic, *Policy Paper: Gendered Impact of the Conflict in the Syrian Arab Republic on Women and Girls*, p. 7 (12 June 2023), <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coisyrria/policypapersieges29aywar/2023-06-12-Gendered-impact-women-girls-%20Syria.pdf>.

<sup>241</sup> V011; V053.

<sup>242</sup> For example, when one woman, aged 41, was taken to an officer after 15 days in detention, she said, “He asked me why I was there. I said, ‘They just took me for no reason.’ He opened my investigation file, looked at it, and said, ‘It says you were carrying a knife and tried to stab an officer.’ I said, ‘I was carrying my child who was sick. I was trying to take him to receive treatment.’” V041.

<sup>243</sup> V007.

<sup>244</sup> Ibid.

<sup>245</sup> V055.

<sup>246</sup> V010; V057; V061.

<sup>247</sup> V058.

<sup>248</sup> V038; V063; V064.

<sup>249</sup> V013; V041.

<sup>250</sup> V034; V035; V041; V047; V053; V054; V055; V056.

<sup>251</sup> V038; V039; V050; V063; V064.

<sup>252</sup> V054.

<sup>253</sup> V049.

<sup>254</sup> Ibid.

<sup>255</sup> V041.

<sup>256</sup> V036.

<sup>257</sup> V057.

<sup>258</sup> V010; V014; V033; V034; V035; V041; V054; V055; V056; V057; V058; V059.

<sup>259</sup> V010; V014; V034; V035; V041; V055; V059.

<sup>260</sup> V058.

<sup>261</sup> V056.

<sup>262</sup> Ibid.

<sup>263</sup> V058.

<sup>264</sup> V007.

<sup>265</sup> V011; V013; V048; V055; V056; V062.

<sup>266</sup> V042.

<sup>267</sup> V013.

<sup>268</sup> The definition of rape under international criminal law, which the International Committee of the Red Cross has recognized as authoritative in international humanitarian law, is instructive. In the *Akayesu* case, the International Criminal Tribunal for Rwanda defined rape as a “physical invasion of sexual nature, committed on a person under circumstances which are coercive.” International Criminal Tribunal for Rwanda, *Prosecutor v. Jean-*

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*Paul Akayesu*, Trial Judgment, T.C. Case No. ICTR-96-4-T (2 September 1998), para. 598. The Rome Statute definition is more detailed, describing rape as an act in which, “The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.” International Criminal Court, *Elements of Crimes*, Art. 7 (1) (g)-1 (crime against humanity of rape), Art. 8 (2) (b) (xxii)-1 (war crime of rape in international armed conflict), Art. 8 (2) (e) (vi)-1 (war crime of rape in non-international armed conflict).

<sup>269</sup> V037.

<sup>270</sup> V067.

<sup>271</sup> V036; V069.

<sup>272</sup> V036.

<sup>273</sup> V010; V056.

<sup>274</sup> V048.

<sup>275</sup> V010; V056.

<sup>276</sup> V042.

<sup>277</sup> V056.

<sup>278</sup> V014.

<sup>279</sup> V066.

<sup>280</sup> V060.

<sup>281</sup> V033.

<sup>282</sup> V065.

<sup>283</sup> V047.

<sup>284</sup> V60; V062.

<sup>285</sup> V033.

<sup>286</sup> V060.

<sup>287</sup> V057.

<sup>288</sup> V039.

<sup>289</sup> V032.

<sup>290</sup> V033.

<sup>291</sup> See V010; V014; V034; V035; V041; V055; V059.

<sup>292</sup> V034; V035.

<sup>293</sup> V041.

<sup>294</sup> *Ibid.*

<sup>295</sup> See V038; V030; V040.

<sup>296</sup> V040.

<sup>297</sup> V039.

<sup>298</sup> V066.

<sup>299</sup> V002.

<sup>300</sup> V033.

<sup>301</sup> V002; V013.

<sup>302</sup> V057.

<sup>303</sup> V033.

<sup>304</sup> V032.

<sup>305</sup> V002; V013; V032; V057.

<sup>306</sup> V066.

<sup>307</sup> V036; V050; V054.

<sup>308</sup> V048; V050; V053; V054; V055; V060.

<sup>309</sup> V033; V062.

<sup>310</sup> V007; V010; V011; V014; V042.

<sup>311</sup> V50; V060.

<sup>312</sup> V002; V007; V048; V054; V055; V056.

<sup>313</sup> V055.

<sup>314</sup> V062.

<sup>315</sup> V057.



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- <sup>316</sup> V002.  
<sup>317</sup> V034.  
<sup>318</sup> V035; V049; V054.  
<sup>319</sup> V054.  
<sup>320</sup> V011; V033; V048; V054; V056; V063.  
<sup>321</sup> V011.  
<sup>322</sup> V048.  
<sup>323</sup> V042.  
<sup>324</sup> V007; V010; V013; V032; V033; V036; V037; V038; V040; V041; V048; V053; V056; V057; V065; V067; V069.  
<sup>325</sup> V007.  
<sup>326</sup> V041.  
<sup>327</sup> V010.  
<sup>328</sup> V033.  
<sup>329</sup> V069.  
<sup>330</sup> V056.  
<sup>331</sup> Ibid.  
<sup>332</sup> V038.  
<sup>333</sup> V069.  
<sup>334</sup> Ibid.  
<sup>335</sup> V032; V040; V048.  
<sup>336</sup> V032.  
<sup>337</sup> Ibid.  
<sup>338</sup> Ibid.  
<sup>339</sup> V040.  
<sup>340</sup> V010.  
<sup>341</sup> V041.  
<sup>342</sup> UN Commission of Inquiry for Syria, *I lost my dignity: Sexual and gender-based violence in the Syrian Arab Republic*, UN Doc. A/HRC/37/CRP.3 (8 March 2018), para. 46.  
<sup>343</sup> V069.  
<sup>344</sup> International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts, as contained in ICL, Report of the International Law Commission on the Work of its 52nd Session*, UN Doc.A/56/10 (26 November 2001), Arts. 14(1), 14(2), 14(3).  
<sup>345</sup> Alan Nissel, *Continuing Crimes in the Rome Statute*, Michigan Journal of International Law Vol. 25, p. 661 (2004); Due Process Law Foundation, *Digest of Latin American Jurisprudence on International Crimes* (Washington DC, 2010), pg. 46  
<sup>346</sup> *United States v. Morales*, 11 F 3d at 921 (9th Cir. 1993) (O’Scannlain, J., dissenting).  
<sup>347</sup> See Astolfo Di Amato, *Criminal Law in Italy*, 2nd ed. p. 78 (Kluwer Law International, 2011); Alan Nissel, *Continuing Crimes in the Rome Statute*, Michigan Journal of International Law Vol. 25, p. 654 (2004).  
<sup>348</sup> “An act does not have a continuing character merely because its effects or consequences extend in time. It must be the wrongful act as such which continues.” United Nations General Assembly, *Report of the International Law Commission on the work of its fifty-third session (23 April–1 June and 2 July–10 August 2001)*, UN Doc. A/CN.4/SER.A/2001/Add.1 (2017), p. 60.  
<sup>349</sup> European Court of Human Rights, *Loizidou v. Turkey*, Application No. 15318/89 (18 December 1996), para. 41; Inter-American Court of Human Rights, *Case of Moiwana Village v. Suriname*, Series C No. 124 (15 June 2006) para. 49; African Court on Human and Peoples’ Rights, *Chacha v. Tanzania*, Application No. 003/2012 (28 March 2014), para. 126.  
<sup>350</sup> International Criminal Tribunal for Rwanda, *Prosecutor v. Nahimana and Others*, Judgement, T.C. Case No. ICTR-99-52-A (28 November 2007), para. 721. The tribunal adopted the following definition of a continuing crime: “A crime that continues after an initial illegal act has been consummated; a crime that involves ongoing elements [...] 2. A crime (such as driving a stolen vehicle) that continues over an extended period.”

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<sup>351</sup> International Criminal Court, *Prosecutor v. Lubanga*, Judgment, T.C. Case No. ICC-01/04-01/06 (14 March 2012), para. 618.

<sup>352</sup> V001; V006; V008; V012; V041; V062; V068.

<sup>353</sup> V041.

<sup>354</sup> V046.

<sup>355</sup> V048.



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