



**The Syrian Arab Republic's Compliance with International Covenant on Civil and
Political Rights Treaty
Suggested List of Issues Prior to Reporting Relating to the Death Penalty**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty, an alliance of more than 160 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. This report addresses Syria's compliance with its human rights obligations with regard to its use of the death penalty. Syria has failed to uphold its obligations under the International Covenant on Civil and Political Rights and has not taken steps toward abolition of capital punishment.
2. The ongoing conflict within the country makes it difficult to ascertain the extent of death sentences and executions within the country.¹ There are reports of thousands of people under sentence of death within Syria's prisons.² Additionally, people are subjected to torture in order to extract confessions.³

The Syrian Arab Republic fails to uphold its obligations under the International Covenant on Civil and Political Rights

I. The State does not limit death penalty to the most serious crimes.

3. In its 2005 Concluding Observations, the Committee expressed concern that "the nature and number of the offences carrying the death penalty in the State party are not consistent with the requirement of the Covenant" and "that this form of punishment must be limited to the most serious crimes."⁴
4. The Committee recommended that Syria "limit the cases in which the death penalty can be imposed" and bring its legislation in line with article 6 of the Covenant which states that the death penalty may only be imposed for the most serious crimes. Additionally, the Committee recommended that Syria provide "precise information to explain the particular reasons for the death sentences imposed and executed."⁵
5. The Syrian Penal Code currently allows for the death penalty⁶ and Syria remains a retentionist country.⁷ Syria's laws allow for the application of the death penalty for crimes other than the intentional killing of a person. Death eligible offenses include murder, arson, gang-robbery resulting in a death, terrorism not resulting in a death,⁸ drug trafficking not resulting in a death,

¹ Amnesty International, *Syria 2019*. Available online at <https://www.amnesty.org/en/countries/middle-east-and-north-africa/syria/report-syria/>.

² *Syria conflict: Thousands hanged at Saydnaya prison, Amnesty says*, British Broadcasting Corporation News, February 7th, 2017. Available online at <https://www.bbc.com/news/world-middle-east-38885901>.

³ *Harrowing accounts of torture, inhuman conditions and mass deaths in Syria's prisons*, Amnesty International, August 18, 2016. Available online at <https://www.amnesty.org/en/latest/news/2016/08/harrowing-accounts-of-torture-inhuman-conditions-and-mass-deaths-in-syrias-prisons/>.

⁴ Human Rights Committee, *Concluding observations of the Human Rights Committee, adopted by the Committee at its 84th session (August 9, 2005)* U.N. CCPR/CO/84/SYR, ¶ 7.

⁵ Human Rights Committee, *Concluding observations of the Human Rights Committee, adopted by the Committee at its 84th session (August 9, 2005)* U.N. CCPR/CO/84/SYR, ¶ 7.

⁶ Penal Code of Syria, art. 43, No 148 Jun. 22, 1949, translated in French, private translation, 1979 edition. Amnesty International, *Death Sentences and Executions in 2009*, (London, United Kingdom: Amnesty International Publications, 2010), 6. Available online at <https://www.amnesty.org/download/Documents/36000/act500012010en.pdf>.

⁷ Amnesty International, *Death Sentences and Executions 2018* (London, United Kingdom, 2019) 6. Available online at: <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF>.

⁸ Penal Code of Syria, art. 535, Law No. 148, Jun. 22, 1949, 1979 edition.

drug possession,⁹ belonging to the Moslem Brethren Group (Muslim Brotherhood Organization),¹⁰ and treason.¹¹ The State party imposes the death penalty for vaguely defined acts of terrorism, which include a wide range of activities including political dissent.¹² The State Party Report concedes that the death penalty can be imposed for political activities, including non-violent expression of views or belief.¹³

6. If the court finds mitigating circumstances, the death penalty in some cases may be commuted to forced labor.¹⁴ Under Article 29 of the Narcotics Drugs Law of 1992, however, courts can be prohibited from considering mitigating factors in cases involving recidivism or other factors.¹⁵ The death penalty is mandatory for some offences, including drug trafficking aggravated by recidivism¹⁶ and membership in the Moslem Brethren Group.¹⁷

7. Suggested questions relating to the scope of the death penalty:

- What steps has the State Party taken to reduce the number of crimes eligible for the death penalty and to limit the availability of the death penalty to the “most serious” crimes in accordance with the ICCPR?
- What procedures are in place to ensure that no person is prosecuted or sentenced to death on terrorism-related charges for exercising their right to freedom of opinion and expression under the Covenant?
- Under what circumstances is the death penalty a mandatory punishment? How does the State Party ensure that courts are able to take into account mitigating circumstances in determining the appropriate sentence in all cases?
- What procedures are in place to allow individuals to seek pardon or commutation of their sentence?

II. Syria’s death penalty practices lack transparency and due process.

8. In its 2005 Concluding Observations, the Committee observed that there is “insufficient information relating to the number of persons whose death sentences have been commuted, and the number of persons awaiting execution.” The Committee likewise noted the use of prolonged incommunicado detention.¹⁸

⁹ Syria Narcotic Drugs Law, art. 50, Law No. 2, Apr. 12, 1993.

¹⁰ Law of Syria No. 49, art. 1, Jul. 7, 1980.

¹¹ Penal Code of Syria, arts. 163-266, Law No. 148, Jun. 22, 1949, 1979 edition.

¹² According to Amnesty Intl. “anyone who opposes the aims of the Revolution” is punishable by death under arts. 3 & 4 of Legislative Decree No. 6 of 7 January 1965; Amnesty International, *Syrian Arab Republic: Briefing to the Human Rights Committee 71st session*, (March 2001) 6-8. Available online at <https://www.amnesty.org/download/Documents/132000/mde240012001en.pdf>.

¹³ Amnesty International, *Syrian Arab Republic: Briefing to the Human Rights Committee 71st session*, (March 2001) 6-8. Available online at: <https://www.amnesty.org/download/Documents/132000/mde240012001en.pdf>.

¹⁴ Penal Code of Syria, arts. 143, Law No. 148, Jun. 22, 1949, 1979 edition.

¹⁵ Syria Narcotic Drugs Law, art. 39, Law No. 2, Apr. 12, 1993.

¹⁶ Syria Narcotic Drugs Law, art. 39, Law No. 2, Apr. 12, 1993.

¹⁷ Law of Syria No. 49, art. 1, Jul. 7, 1980.

¹⁸ Human Rights Committee, *Concluding observations of the Human Rights Committee, adopted by the Committee at its 84th session (August 9, 2005)* U.N. CCPR/CO/84/SYR, ¶ 7.

9. The Committee recommended that Syria provide exact data regarding the reasons for death sentences imposed and the number of persons executed. The Committee further recommended that Syria end its use of incommunicado detention.¹⁹
10. The armed conflict in Syria has made it difficult for organizations to obtain accurate data on death penalty practices in the country.²⁰
11. Many trials and executions are carried out swiftly and secretly. In a 2017 report, Amnesty International quoted a former military court judge who said that detained individuals are asked if they have committed the crimes alleged to have taken place: “Whether the answer is ‘yes’ or ‘no,’ he will be convicted.” These trials take place without due process. After an expedited trial, individuals are then be taken to another part of the prison and hanged. Amnesty estimates that anywhere from 5,000 to 13,000 people were executed over a five-year period within one prison.²¹

12. Suggested questions relating to transparency:

- Please provide disaggregated data broken down by age (including current age and age at the time of the offense), race and ethnicity, nationality, and sex relating to all persons sentenced to death or executed during the reporting period, including: the crimes of conviction; location and date of arrest; duration of pre-trial detention; date legal counsel was provided or obtained; location, date, and duration of trial; date of sentencing; location of post-trial detention; and location and date of execution, if applicable.
- How does the Syrian Government make available to the public information on death sentences and executions?
- What procedures are in place to ensure that individuals at risk of being sentenced to death have access to adequate, competent legal representation at all stages of proceedings and to ensure that trial proceedings comply with the Covenant?

III. The State subjects people suspected of crimes and people convicted of crimes to torture and other cruel, inhuman, or degrading treatment

13. In its 2005 Concluding Observations, the Committee expressed its continuing concern about reports of torture and other forms of cruel, inhuman, or degrading treatment or punishment.²²
14. The Committee recommended that Syria eliminate all forms of torture and cruel, inhuman or degrading treatment of punishment by law enforcement officials. The Committee also recommended that Syria ensure prompt and thorough investigations by an independent

¹⁹ Human Rights Committee, *Concluding observations of the Human Rights Committee, adopted by the Committee at its 84th session (August 9, 2005)* U.N. CCPR/CO/84/SYR, ¶ 7.

²⁰ Amnesty International, *Death Sentences and Executions 2018* (London, United Kingdom, 2019) 6. Available online at: <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF>.

²¹ *Syria: Human Slaughterhouse: Mass Hangings and Extermination at Saydnaya Prison, Syria*, Amnesty International, February 7th 2017. Available online at <https://www.amnesty.org/en/documents/mde24/5415/2017/en/>.

²² Human Rights Committee, *Concluding observations of the Human Rights Committee, adopted by the Committee at its 84th session (August 9, 2005)* U.N. CCPR/CO/84/SYR, ¶ 9.

mechanism into all allegations of torture, prosecute perpetrators, and provide rehabilitation to victims.²³

15. In response, the Syrian Government reports that it “acceded to the Convention against Torture and prepares a report on it every year.” Additionally, the government notes that Syrian law prohibits the use of torture.²⁴ Article 358 of the Criminal Code states that “Anyone who illegally batters a person in order to extract a confession to, or information about, an offence shall be liable to penalty from three months to three years in prison. If the violence results in illness or injury, the minimum penalty shall be one years’ imprisonment.”²⁵ Under article 53 of the Syrian constitution, “No one may be tortured or treated in a humiliating manner, and the law shall define the punishment for those who do so.”²⁶
16. Despite these provisions, State officials appear to torture detained individuals, subjecting them to beatings, sexual assault, humiliation, electrocution, and burning with acid.²⁷ In a 2014 Human Rights Council-mandated Fact-Finding Mission, the independent international commission of inquiry on the Syrian Arab Republic found that government forces and militias engage in a large-scale practice of torture and other inhuman treatment that may constitute crimes against humanity. The report found that torture is most common during the first days or weeks of detention and during interrogations in an effort to extract confessions. One individual reported being tortured daily over the month he was detained incommunicado.²⁸
17. Many victims of torture are accused of being members of opposition groups, taking part in protests, or knowing the location and origins of weapon caches. Authorities use torture to obtain confessions or to intimidate or punish an individual for perceived support for opposition groups.²⁹
18. **Suggested questions relating to torture and cruel, inhuman or degrading treatment**
 - What efforts has the Syrian Government undertaken to: (a) investigate and remediate each alleged case of torture and cruel, inhuman, or degrading treatment in detention facilities; and (b) hold accountable the perpetrators of such acts?
 - Please provide information about all cases in which a person was charged or prosecuted under Article 358 of the Criminal Code for conduct that occurred in a detention or interrogation facility, including the factual circumstances giving rise

²³ Human Rights Committee, *Concluding observations of the Human Rights Committee, adopted by the Committee at its 84th session (August 9, 2005)* U.N. CCPR/CO/84/SYR, ¶ 9.

²⁴ Human Rights Committee, Comments by the Government of Syria on the concluding observations of the Human Rights Committee (September 12 2006) U.N. CCPR/CO/84/SYR/Add.1

²⁵ Syria Criminal Code Article 391.

²⁶ Syrian Arab Republic Constitution 2012 art. 53

https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en.

²⁷ *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria's Underground Prisons since March 2011*, Human Rights Watch, July 3 2012. Available online at <https://www.hrw.org/report/2012/07/03/torture-archipelago/arbitrary-arrests-torture-and-enforced-disappearances-syrias>.

²⁸ Office of the High Commissioner of Human Rights, *Open wounds: torture and ill treatment in the Syrian Arab Republic* (2014), 2. Available online at <https://www.ohchr.org/Documents/Countries/SY/PaperOnTorture.pdf>.

²⁹ Office of the High Commissioner of Human Rights, *Open wounds: torture and ill treatment in the Syrian Arab Republic* (2014), 2. Available online at <https://www.ohchr.org/Documents/Countries/SY/PaperOnTorture.pdf>.

to the charge, the persons charged, the outcome of the prosecution, and the current status of the case.

- How do Syrian authorities ensure that any person suspected of a crime, particularly if the crime is eligible for the death penalty, has access to counsel during all phases of investigation and interrogation and that no official uses torture or cruel, inhuman, or degrading treatment to extract confessions or other incriminating testimony?
- What measures has the State Party taken to establish a system of regular and genuinely independent monitoring of places of detention, with the aim of ensuring that conditions of detention conform to articles 7 and 10 of the ICCPR, and to the Mandela Rules?
- What procedures ensure that no court considers statements made under torture as evidence, except against a person accused of torture or other ill-treatment as evidence that the “confession” or other statement was made? What procedures are in place to allow courts to investigate and respond to a person’s allegation that a statement was made under torture or other cruel, inhuman, or degrading treatment?
- Please describe the extent to which the Syrian Government provides systematic training to law enforcement, prosecutors, investigators, prison officials, and judicial officers regarding human rights as a standard component of curricula, covering the topics of the prohibition of torture, interrogation techniques that are consistent with international human rights standards, conditions of detention, and the treatment of detainees.
- What safeguards are in place to prevent authorities from subjecting persons to incommunicado detention? What measures has the State taken to establish oversight and accountability to ensure compliance with fair trial standards?