

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

CATHLEEN COLVIN et al.,

Plaintiffs,

v.

SYRIAN ARAB REPUBLIC,

Defendant.

Civil No. 1:16-cv-01423 (ABJ)

**EXPERT REPORT OF DAVID KAYE, UNITED NATIONS
SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE
RIGHT TO FREEDOM OF OPINION AND EXPRESSION**

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I, David Kaye, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

I. INTRODUCTION

1. I am the United Nations (“UN”) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (“Special Rapporteur on the Freedom of Expression” or “Special Rapporteur”). As Special Rapporteur, I am mandated by the UN Human Rights Council—the central human rights body of the UN system—to, among other missions, gather information on the threat or use of violence against persons seeking to exercise their right to freedom of expression and opinion. Pursuant to that mandate, I have studied the precarious situation of media workers around the world, including in Syria.

2. In this Report, I address matters relevant to the Syrian government’s treatment of journalists (as well as of other media workers and their sources) following the popular uprising that began in March of 2011. My expertise to do so derives from my work as Special Rapporteur and from the knowledge of and expertise in international law that I have acquired through decades of research and legal practice at the U.S. Department of State (“State Department”) and in academia. Plaintiffs’ counsel requested that I independently assess and opine on two issues: (i) any practices adopted by the Syrian government towards journalists and other media workers after the start of the 2011 uprising, including any discernable motivations for such treatment; and (ii) whether such practices violate existing obligations of the Syrian government under international law to abstain from perpetrating abuses against the media and to safeguard freedom of expression, including as practiced by journalists.

3. It is my opinion, based on my expertise and for the reasons detailed below, that Syria’s military and security forces have been engaged in a pattern and practice of violently censoring the media and suppressing freedom of expression in response to the widespread

protests that began in March of 2011. This pattern and practice by the Syrian military and security forces consists of, *inter alia*, subjecting journalists, media workers, and their sources to intimidation, arrest, detention, torture, and extrajudicial killing. Further, it is my opinion that by committing such actions, the Syrian government is in violation of its obligations under international law.

4. My qualifications and opinions are set out in greater detail below. I have not received nor will I receive any compensation from Plaintiffs or their counsel for serving as an expert in this case. Should I incur reasonable expenses tied to the provision of my services in this case, I may be reimbursed for such costs. I have not testified as an expert witness at trial or by deposition personally or in my capacity as a Special Rapporteur in any previous case. Consistent with my mandate as Special Rapporteur and its corresponding Code of Conduct,¹ I came to the conclusions set forth in this report independently.

II. QUALIFICATIONS & BASIS FOR OPINION

A. Qualifications

5. My expertise on the issues addressed in this Report is based on my long career in public international law, my educational background, the knowledge I have acquired as a scholar on the relevant subject matter, and my experience as UN Special Rapporteur on the Freedom of Expression. My *curriculum vitae*, including a full list of publications, is appended as **Appendix A**; I recount my most relevant experiences below.

¹ See Comm'n on Human Rights Res. 1993/45, Right to Freedom of Opinion and Expression Mandate, U.N. DOC. E/CN.4/RES/1993/45 (Mar. 5, 1993), ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-1993-45.doc; see also Human Rights Council Res. 5/2, Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council, U.N. DOC. A/HRC/RES/5/2 (June 18, 2007), <http://www.ohchr.org/Documents/HRBodies/SP/CodeOfConduct.pdf>.

6. Upon graduating from the University of California's Boalt Hall School of Law at Berkeley in 1995, I began serving as an attorney-adviser in the State Department's Office of the Legal Adviser, handling such matters as international claims and investment disputes, nuclear nonproliferation, and international humanitarian law; I continued in this role until 2002. From 2002 to 2005, I served as deputy legal counselor for the Embassy of the United States in The Hague, The Netherlands, serving as U.S. liaison to the International Criminal Tribunal for the former Yugoslavia, the Permanent Court of Arbitration, and other legal institutions. During my time at the State Department, I earned four Superior Honor Awards and one Meritorious Honor Award.

7. I also developed a parallel career in academia. I was an Adjunct Professor at Georgetown University Law Center in 2002, teaching a seminar on international humanitarian law. From fall 2005 to summer 2007, I was a Visiting Assistant Professor at Whittier Law School, teaching first-year and advanced international law courses. Between fall 2007 and summer 2012, I served as the Founding Executive Director of the International Human Rights Law Program and the Founding Director of the International Justice Clinic at the UCLA School of Law. As such, I taught human rights law and focused my research and clinical projects on accountability for serious human rights violations. Since 2012, I have been a Clinical Professor of Law at the University of California, Irvine School of Law; I also direct the law school's International Justice Clinic.

8. I have authored numerous publications relating to freedom of expression and international humanitarian law, including over twenty articles and thirty short essays and op-ed pieces. All are listed in my *curriculum vitae*. I also regularly present on topics addressing international human rights law. My scholarship and teaching focus on public international law,

specifically international human rights law, international humanitarian law, accountability for violations of human rights, and international law governing the use of force.

9. In tandem with these professional and academic commitments, I have been serving as Special Rapporteur on the Freedom of Expression by appointment of the UN Human Rights Council since August of 2014. In this role, I carry out functions defined by a mandate first established by the Council's predecessor body, the Commission on Human Rights, in 1993.² My mandate includes gathering information, making recommendations, and providing technical assistance or advice with respect to any "violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information."³ As part of that mandate, I communicate directly with governments about concerns related to their compliance with freedom of expression norms, conduct official country visits, report thereon to the Human Rights Council, and prepare substantial thematic reports on globally relevant issues relating to freedom of expression. I have issued dozens of communications to various governments raising concerns about apparent

² See Comm'n on Human Rights Res. 1993/45, *supra* note 1.

³ See Human Rights Council Res. 7/36, U.N. Doc. A/HRC/RES/7/36, ¶ 3 (Mar. 28, 2008), http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_36.pdf; *see also* Human Rights Council Res. 12/16, U.N. Doc. A/HRC/RES/12/16 (Oct. 12, 2009), <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G09/166/89/PDF/G0916689.pdf?OpenElement>; Human Rights Council Res. S16/1, U.N. Doc. A/HRC/RES/S-16/1 (May 4, 2011), <http://www.ohchr.org/Documents/Countries/SY/HRC-RES-S-16-1.pdf>; Human Rights Council Res. 25/2, U.N. Doc. A/HRC/RES/25/2 (Apr. 9, 2014) (consistently extending the mandate of Special Rapporteur on the Freedom of Expression), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/132/93/PDF/G1413293.pdf?OpenElement>.

violations of freedom of expression, including those committed against journalists.⁴ Syria is one of the countries to which I have communicated my concerns about violations of established protections for journalists.⁵

B. Basis for Opinion

10. In addition to relying on the expertise I draw from the experiences outlined above, I base my observations and conclusions in this Report on the following sources: (i) information gathered by the UN and its various organs, including reports of the Independent International Commission of Inquiry (“Commission of Inquiry”)⁶ and other UN documents addressing country

⁴ See, e.g., Commc’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression et al. to the Islamic Republic of Iran (May 17, 2016), [https://spdb.ohchr.org/hrdb/33rd/public_-_UA_IRN_17.05.16_\(12.2016\).pdf](https://spdb.ohchr.org/hrdb/33rd/public_-_UA_IRN_17.05.16_(12.2016).pdf) (inquiring about the undue detention and sentencing of four Iranian journalists for exercising their right to freedom of expression). Such communications—frequently, urgent appeals and allegation letters concerning alleged violations of human rights law—are reported to the Human Rights Council at each of its three annual sessions. Those reports may be viewed at <http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx>; see also Freedex Communications System, UNIVERSITY OF CALIFORNIA, IRVINE, <https://apps.law.uci.edu/freedex/> (last visited Nov. 6, 2017) (collecting over 1,200 communications to various state governments issued under the mandate of the Special Rapporteur on the Freedom of Expression since late 2010); Special Rapporteur of the Human Rights Council on the Promotion and Protection of the Right to Freedom of Opinion and Expression, UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, http://ap.ohchr.org/documents/dpage_e.aspx?m=85 (cataloging reports issued by the Special Rapporteur on the Freedom of Expression throughout the world since 1993, including those issued by me since my assumption of the mandate); Recent activities of the Special Rapporteur, UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, <http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/RecentActivities.aspx> (documenting recent travel, meetings, and presentations undertaken pursuant to the Special Rapporteur mandate to investigate freedom of expression violations around the world).

⁵ See, e.g., Commc’n from the Working Grp. on Arbitrary Detention et al. to the Syrian Arab Republic (Oct. 22, 2015), [https://spdb.ohchr.org/hrdb/31st/public_-_UA_Syria_22.10.15_\(2.2015\).pdf](https://spdb.ohchr.org/hrdb/31st/public_-_UA_Syria_22.10.15_(2.2015).pdf) [hereinafter “Oct. 22, 2015 Commc’n from the Working Grp. on Arbitrary Detention”] (inquiring about and enumerating freedom of expression violations relating to the enforced disappearance and incommunicado detention of a Syrian technology professor and human rights activist). See further *infra*, ¶ 29.

⁶ The UN Human Rights Council established the Commission of Inquiry on August 22, 2011 in response to the Syrian government’s violent crackdown on nationwide demonstrations that began

conditions in Syria, including relevant reports, resolutions, and communications (such as those prepared under the mandate of Special Rapporteur on the Freedom of Expression); (ii) reports of international and Syrian non-governmental organizations with human rights expertise; (iii) reports by the U.S. Department of State; (iv) journalistic reports and academic publications; (v) Syrian government statements and official Syrian Arab News Agency (“SANA”) publications; and (vi) applicable international agreements, along with related decisions issued by international courts. The consultation of such sources of information is accepted practice within the international human rights community and is consistent with the mandate of a UN Special Rapporteur. An index of all the materials cited in this Report is appended hereto as **Appendix B**; I exhibit all of the cited materials that are not publicly available.

III. As Part of Its Crackdown Following the 2011 Uprising, the Syrian Government Engaged in a Systematic Pattern and Practice of Violently Persecuting Journalists and Curtailing Freedom of Expression and Opinion

11. In February and March of 2011, at the same time that mass protests were developing across the Arab world, tens of thousands of Syrian citizens gathered in public spaces

in March of 2011. The Commission of Inquiry was mandated “to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic” and “to establish the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those responsible with a view of ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable.” I reviewed the reports prepared by the Commission of Inquiry, which has conducted over one thousand interviews with Syrian victims and witnesses of abuses perpetrated by the Syrian government and has reviewed, among other sources, photographs, video recordings, satellite imagery, forensic and medical reports from governmental and non-governmental sources. *See Main Page for Independent International Commission of Inquiry on the Syrian Arab Republic*, UNHR OFFICE OF THE HIGH COMMISSIONER (2017), <http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>.

throughout the country to call for government reform.⁷ The Syrian government deployed security and military forces to suppress the peaceful protests,⁸ triggering a cycle of escalating civil unrest. According to the Office of the UN High Commissioner for Human Rights, by November 8, 2011, Syrian government forces had killed approximately 3,500 civilians.⁹ At the time of writing, estimates for the total death toll from the Syrian conflict ranged from 400,000 to 500,000, with as many as 12 million civilians internally displaced or registered as refugees (in a country of fewer than 18.5 million people).¹⁰

⁷ See, e.g., Human Rights Council, Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, ¶ 27, U.N. DOC. A/HRC/S-17/2/Add.1 (Nov. 23, 2011), http://www.ohchr.org/Documents/Countries/SY/A.HRC.S-17.2.Add.1_en.pdf [hereinafter "First Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic"]. Contemporaneous media reports estimated that protestors numbered in the tens of thousands. See, e.g., Michael Slackman, *Syrian Troops Open Fire on Protesters in Several Cities*, N.Y. TIMES (Mar. 25, 2011), <http://www.nytimes.com/2011/03/26/world/middleeast/26syria.html> (reporting "tens of thousands of demonstrators in the southern city of Dara'a and in other cities and towns around the nation"); Tom Porteous et al., *"We've Never Seen Such Horror": Crimes against Humanity by Syrian Security Forces*, HUMAN RIGHTS WATCH (June 1, 2011), <https://www.hrw.org/report/2011/06/01/weve-never-seen-such-horror/crimes-against-humanity-syrian-security-forces> ("on March 18 . . . several thousand protesters marched"); *Syria: 'Hundreds of thousands' join anti-Assad protests*, BBC NEWS (July 2, 2011), <http://www.bbc.com/news/world-middle-east-13988701> (noting reports on the number of protestors as of July 2011 that ranged from hundreds of thousands to as high as three million).

⁸ See First Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, *supra* note 7, ¶¶ 27–28; see also *id.* ¶ 45 ("The commission is aware of acts of violence committed by some demonstrators. However, it notes that the majority of civilians were killed in the context of peaceful demonstrations. Accounts collected by the commission, including those of defectors, indicated that protesters were largely unarmed and determined to claim their rights and express their discontent peacefully.").

⁹ *Id.* ¶ 28; see also Press Briefing, High Comm'r for Human Rights, Briefing Notes on Syria and Democratic Republic of the Congo (Nov. 8, 2011), <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11573&LangID=E> (reporting the same number of civilian casualties and describing as "particularly appalling" the regime's use of tanks and heavy weaponry to attack civilians in residential areas of Homs, including especially the Baba Amr neighborhood).

¹⁰ See *About 500000 persons were killed in Syria during 81 months after the Syrian Revolution started*, SYRIAN OBSERVATORY FOR HUMAN RIGHTS (Dec. 10, 2017),

12. The media reported widely on the popularity and pervasiveness of the protests, the underlying grievances (many of which focused on the current regime’s corruption and repression), and the Syrian government’s brutal response. The Syrian government—which already had a long record of curtailing free press¹¹—immediately acted to further curb non-state media in an effort to suppress information about the protests and the regime’s violent responses thereto. This initial crackdown on traditional forms of broadcast and print journalism quickly pushed Syrian activists to defy the resulting information blackout by using online social media networks like Facebook and YouTube to document protests and circulate video footage of the government’s abuses.¹² Within months of the March 2011 protests, Syria saw a rapid expansion in the number of local activists disseminating news through online blogs, user-generated video channels, and social media.¹³ Networks of so-called citizen journalists coalesced into *ad hoc* “media centers,” often affiliated or otherwise coordinating with Local Coordination Committees

<http://www.syriahr.com/en/?p=80436> (estimating that 500,000 people, including at least 103,490 civilians, have been killed in the conflict, with over 2 million injured and approximately 12 million total forced to flee); *Syria: Events of 2017*, HUMAN RIGHTS WATCH (2018), <https://www.hrw.org/world-report/2018/country-chapters/syria> (estimating over 400,000 individuals had died, 6 million Syrians had been internally displaced, 5 million were refugees, and 540,000 people were living in besieged areas).

¹¹ See *infra*, note 17 and associated text.

¹² See *Shooting the Messenger: Journalists Targeted By All Sides In Syria*, AMNESTY INTERNATIONAL, at 19-20, 30 (2013), <https://www.amnestyusa.org/wp-content/uploads/2017/04/syria-mde240142013en.pdf> [hereinafter *Shooting the Messenger*, AMNESTY INTERNATIONAL] (documenting the use of YouTube by Syrian journalists).

¹³ Syrian blogger Hussein Ghrer provided a first-person account of the emergence of “citizen journalism” in Syria shortly before his arrest by Syrian security forces in February 2012. See Hussein Ghrer, *Social Media and the Syrian Revolution*, SYRIAN CENTRE FOR MEDIA AND FREEDOM OF EXPRESSION (Feb. 14, 2012), <https://www.westminsterpapers.org/articles/abstract/10.16997/wpcc.169/>.

(groups of activists who organized protests and coordinated the sharing of information, often online).¹⁴

13. In response, the Syrian government rapidly escalated and expanded the targets of its media crackdown, often resorting to violent means that included—and continue to include—intimidation, structural interference (such as repressive laws and policies, denial of visas to foreign journalists, and disruptions to cellular and Internet usage), harassment, detention, prosecution without adequate process of law, disappearance, torture, and death. Indeed, Syria has been “strongly condemn[ed]” for its “widespread and systematic violations of human rights and fundamental freedoms” in connection with the uprising, in particular, “the killing and persecution of protestors, human rights defenders and journalists.”¹⁵ The UN Human Rights

¹⁴ As one observer noted:

[C]oordination between protestors and new Syrian media agencies . . . broke the regime’s media blackout. Employees of the Syrian National Council media center said they were in contact with activists inside Syria via satellite Internet provided to those activists by the center. As Syrian society got used to the developing protest culture, it saw a large increase in citizen journalists, who provided information to international media and Syrian-initiated news websites, e-magazine, online radio stations, and media centers.

Billur Aslan, *The Mobilization Process of Syria’s Activists: The Symbiotic Relationship Between the Use of ICTs and the Political Culture*, 9 INT’L J. OF COMM’NS 2507, 2519–20 (2015), <http://ijoc.org/index.php/ijoc/article/viewFile/3527/1436>.

¹⁵ See G.A. Res. 66/253, ¶ 2 (Feb. 16, 2012), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/66/253 [hereinafter “G.A. Res. 66/253”]; see also, e.g., UN General Assembly Resolutions described in note 113, *infra*; Human Rights Council Res. 20/22, Situation of Human Rights in the Syrian Arab Republic, U.N. Doc. A/HRC/RES/20/22 (July 16, 2012), <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/153/46/PDF/G1215346.pdf?OpenElement>. See further *Syria: Rampant Torture of Protestors*, HUMAN RIGHTS WATCH (Apr. 15, 2011), <https://www.hrw.org/news/2011/04/15/syria-rampant-torture-protestors> (noting that Syrian authorities were arbitrarily detaining and torturing protestors, lawyers, activists and journalists); Country Page for *Syria*, REPORTERS WITHOUT BORDERS (2017), <https://rsf.org/en/syria> (“Syria never had a free press but now it has become the world’s deadliest country for journalists.”); *Freedom in the World 2017 Syria Profile*, FREEDOM HOUSE (2017), <https://freedomhouse.org/report/freedom-world/2017/syria> (documenting the killing,

Council, for example, formally urged “the Syrian authorities to allow independent media to operate in the Syrian Arab Republic without undue restrictions, to allow access to the Internet and telecommunications networks for all, and to lift censorship on reporting” as early as August of 2011.¹⁶

14. In this section, I detail the Syrian government’s treatment of journalists and other media workers (as well as their sources) since the start of the Syrian popular uprising in March of 2011. *First*, I describe the Syrian government’s anti-media rhetoric and transparent effort to demonize and target persons sharing information contrary to the regime’s preferred narrative (**Subsection III.A**). *Second*, I describe the formal laws and policies adopted by the Syrian government to repress freedom of expression and prevent media workers—including “citizen journalists”—from disseminating accurate information about its ruthless abuses of its own population (**Subsection III.B**). *Finally*, I describe observable patterns in the Syrian government’s practices with respect to media workers, including widespread detention, harassment, and intentional killing of journalists (**Subsection III.C**).

disappearance and kidnapping and imprisonment of journalists in Syria during the conflict); Emma Daly, *Journalists at Risk*, HUMAN RIGHTS WATCH (Nov. 2, 2016), <https://www.hrw.org/news/2016/11/02/journalists-risk> (describing Syria as the deadliest place for journalist in 2016); Press Release, Amnesty International, Syria: Journalists deliberately targeted as country becomes most dangerous in world for reporters (May 3, 2013) (reporting the deliberate targeting of journalists in the Syrian conflict), <https://www.amnesty.org.uk/press-releases/syria-journalists-deliberately-targeted-country-becomes-most-dangerous-world>.

¹⁶ Human Rights Council Res. S-17/1, U.N. Doc. A/HRC/S-17/1 (Aug. 22, 2011), http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ResS17_1.pdf [hereinafter “Human Rights Council Res. S-17/1”].

A. Media Crackdown: the Syrian Government’s Anti-Media Rhetoric

15. Although the Syrian government’s hostility towards free media is not new,¹⁷ its persecution escalated and became more violent as the protest movement grew. Indeed, the media quickly became a priority target for the Syrian regime in its crackdown: as early as November 2011, the UN Commission of Inquiry had determined that “[e]fforts by the [Syrian] Government to control information and the right to freedom of assembly and expression [lay] at the heart of the . . . violence.”¹⁸

16. The Syrian government made little effort to conceal its media crackdown. From early on, officials and state-owned media adopted incendiary rhetoric branding local and foreign media as enemies of the state at war with the Syrian government. This rhetoric—along with formal policies and violent acts aimed at suppressing freedom of expression and opinion—evidence the Syrian government’s deliberate policy of suppressing media under the guise of national security. Indeed, one defector expressly claimed that Bashar al-Assad considered the media, especially foreign reporters who entered Syria, to be his greatest enemy because they were “showing the true picture of Syria.”¹⁹

¹⁷ For almost fifty years (first under Hafez al-Assad (1971–2000) and now his son Bashar al-Assad (2000–present)), Syria has been ruled by an autocratic dictatorship that controls an extensive intelligence and security apparatus. In that time, suppression of free media has been a consistent practice of the Syrian government. As the Commission of Inquiry on Syria observed, “[d]ecades of tight control of freedom of expression, as well as surveillance and persecution of opponents, have severely limited political life and the constitution of an autonomous civil society.” See First Rep. of the Indep. Int’l Comm’n of Inquiry on the Syrian Arab Republic, *supra* note 7, ¶ 17.

¹⁸ First Rep. of the Indep. Int’l Comm’n of Inquiry on the Syrian Arab Republic, *supra* note 7, ¶ 88.

¹⁹ Ivan Watson, Raja Razek & Saad Abedine, *Defecting Syrian propagandist says his job was ‘to fabricate’*, CNN (Oct. 9, 2012), <http://www.cnn.com/2012/10/09/world/meast/syria-propagandist-defects/>.

17. President Bashar al-Assad himself announced the Syrian government’s position that the media was provoking the uprising through a misinformation campaign during his first address to the Syrian parliament in response to the protests, in March of 2011. President Assad claimed that Syria was “facing a great conspiracy whose tentacles extend to some” foreign countries, “with some inside the country.”²⁰ The conspirators, he claimed, “used the satellite T.V. stations and the internet” for “incitement” and then, “using sedition, started to produce fake information, voices, images, etc.”²¹ He further asserted that the conspirators had “support groups in more than one governorate linked to some countries abroad” and that “[t]here are media groups, forgery groups, and groups of ‘eye-witnesses’” involved in the alleged conspiracy.²² Indeed, President Assad expressly described the media in terms of violent confrontation: “they want us to surrender through waging on us a virtual war using the media and the internet . . .”²³

18. The government’s militarized rhetoric against the media continued throughout the conflict. Between 2011 and 2016, SANA—Syria’s state-owned news agency—published numerous articles referencing a “media-led conspiracy” or “media war,” closely echoing the language first invoked by President Assad in his March 2011 speech. Representative excerpts from 2011 and 2012, in which SANA reports painted journalists as provocateurs and subversives, are set out below:

²⁰ *President Assad Delivers Speech at People’s Assembly*, SYRIAN ARAB NEWS AGENCY (Mar. 30, 2011), http://al-bab.com/albab-orig/albab/arab/docs/syria/bashar_assad_speech_110330.htm.

²¹ *Id.*

²² *Id.*

²³ *Id.*

- On May 10, 2011, SANA reported on what it described as a “media-led conspiracy and the dirty game which aims at undermining Syria’s security and stability as well as its pan-Arab stances.”²⁴
- On August 10, 2011, SANA reported that Syrian Minister of Information, Dr. Adnan Mahmoud, stated “that Syria has been the target of an unprecedented media war for more than 4 months using all technologies of communications, virtual world and satellites,” and that “some Arab and foreign satellite channels dedicated more than 80% of their broadcast to convey the statements of the opposition and armed terrorist groups.”²⁵
- On September 13, 2011, SANA reported that Presidential Political and Media Advisor Dr. Bouthaina Shaaban stated: “there is a fierce media war against Syria based on misinformation, incredibility, and the escalation of violence.”²⁶
- On October 8, 2011, SANA quoted Deputy Foreign and Expatriates Minister Dr. Fayssal Mikdad as stating: “[o]ver the past seven months, Syria has witnessed various forms of war threats, not to mention a media war of deception and of blackmail . . . Syria, which plays a pivotal role in confronting Western and US hegemony plans, is the target of terrorist threats in which law enforcement members are intended to be depleted and weakened to deflect their attention from the real enemies.”²⁷
- On January 11, 2012, SANA reported that President Assad gave a speech on “aspects of the conspiracy hatched against Syria, including the failing media war, blasting the role played by some Arabs as to pave the way for foreign interference in the Syrian affairs.”²⁸

19. In short, Syria’s highest-ranking officials repeatedly promulgated strident anti-media rhetoric, including in 2011 and early 2012, using remarkably consistent terminology and talking points. This pattern shows that the Syrian government perceived journalists as a military

²⁴ *Magnitude of Media Fabrication Unveils Conspiracy Against Syria*, SYRIAN ARAB NEWS AGENCY (May 10, 2011), Ex. 1.

²⁵ *Information Minister: What Syria is Exposed to is Part of a Plot Targeting the Whole Region*, SYRIAN ARAB NEWS AGENCY (Aug. 10, 2011), Ex. 2.

²⁶ *Shaaban: Syrian Leadership Determined to Reform*, SYRIAN ARAB NEWS AGENCY (Sept. 13, 2011), Ex. 3.

²⁷ *Mikdad: President al-Assad Announced Package of Reforms in Various Fields . . . Syria is Targeted by Misleading Media Campaign*, SYRIAN ARAB NEWS AGENCY (Oct. 8, 2011), Ex. 4.

²⁸ *President al-Assad: It is No Longer Possible for the Regional and International Parties Seeking to Destabilize Syria to Forge Facts and Events*, SYRIAN ARAB NEWS AGENCY (Jan. 11, 2011), Ex. 5.

threat and, as described in the following subsections, used formal policies and laws, as well as state-sanctioned violence, to target them as such.

B. Media Crackdown: the Syrian Government's Policy of Censorship and Interference with Media Work

20. In parallel with its rhetoric, beginning in spring of 2011, the Syrian government pursued policies designed to clamp down on free and accurate reporting and to enable its repression of the media, including through arrest, detention, and even killing. Among the clearest examples of such policies are Syria's new media laws, subsequently deployed by the regime to harass, intimidate, censor, and prosecute media workers.²⁹ In addition, the Syrian government has pursued policies that directly interfere with reporting by professional and "citizen" journalists alike; these include restrictions on movement and disruption of publication and broadcast channels. I describe these below.

21. The Syrian government has put into place a series of legal restrictions on the media.³⁰ First, on August 28, 2011, the Syrian government issued a new media law, Decree No. 108/2011.³¹ While preserving vaguely defined speech-crimes under Syria's Penal Code, the

²⁹ U.S. Dep't of State, Bureau of Democracy, H.R. and Lab., Country Report on Human Rights Practices for 2011: Syria, 12 (2011), <https://www.state.gov/documents/organization/186661.pdf>.

³⁰ I note that in April of 2011, the Syrian government repealed the country's 1963 Emergency Law in an apparent show of purported commitment to reform. However, this was little more than a charade masking the government's escalating restrictions on freedom of expression. *See, e.g.*, U.S. Dep't of State, Bureau of Democracy, H.R. and Lab., Country Report on Human Rights Practices for 2012: Syria 1 (2012), <https://www.state.gov/documents/organization/204595.pdf> [hereinafter "U.S. Dep't of State 2012 Human Rights Report: Syria"] ("Although the government symbolically lifted the Emergency Law in April, it conducted frequent police and military operations against the civilian population.").

³¹ Human Rights Council, Rep. of the Independent International Commission of Inquiry on the Syrian Arab Republic, ¶ 51, U.N. Doc. A/HRC/19/69 (Feb. 22, 2012), <http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx> [hereinafter "Second Rep. of the Independent International Commission of Inquiry on the Syrian Arab Republic"].

2011 media law introduced new prohibitions on, among other things, the publication of content affecting national unity and national security and information relating to Syria's armed forces that had not been officially cleared for release.³² This was followed, on February 8, 2012, by the enactment of a broadly drafted decree targeting cybercrime, Decree No. 17/2012, which further restricted free expression on the Internet.³³ These laws afford the Syrian government tremendous discretion for censoring, fining, and arresting journalists reporting on topics the government does not wish to see publicized.³⁴ Unsurprisingly, numerous media workers were arrested following the implementation of the 2011 media and 2012 cybercrime laws.³⁵

22. In addition to enacting legal restrictions, the Syrian government also curtailed journalists'—especially foreign correspondents'—physical access to areas of interest. For example, in March 2011, the government detained, expelled, and revoked the press credentials of Reuters news agency employees who had been covering protests.³⁶ In April of the same year, Al

³² See *id.* (describing Decree No. 108/2011 as “set[ting] out a number of basic rights relating to freedom of expression and information for journalists and citizens,” implementing “broad prohibitions, including a ban on publishing any news related to the armed forces not actually issued by the forces themselves,” and “leav[ing] untouched the vaguely defined criminal offences described in articles 285 to 287 of the Penal Code that have long been used to punish and silence critical journalists, human rights defenders and political dissidents”).

³³ See *id.* (“On 8 February 2012, the President issued a decree on organizing Internet communications and combating cybercrime, which sets out broad offences that restrict freedom of expression on the Internet.”).

³⁴ See, e.g., *Freedom of the Press 2016: Syria*, FREEDOM HOUSE (2016), <https://freedomhouse.org/report/freedom-press/2016/syria> (“[B]road wording [of Decree No. 108/2011] gives the authorities leeway to crack down on journalists if they wish.”).

³⁵ See *id.* (reporting that the Syrian government uses its media laws in tandem with other “security-related legislation to control and punish journalists,” noting further examples of Syrian journalists being arrested and put on trial for a media offence under a similarly-conceived 2012 antiterrorism law).

³⁶ See *Reuters journalists under attack in Syria, Libya*, COMMITTEE TO PROTECT JOURNALISTS, (Mar. 30, 2011), <https://cpj.org/2011/03/reuters-journalists-under-attack-in-syria-libya.php>.

Jazeera TV suspended its operations in Syria indefinitely after its staff reportedly faced restrictions and harassment from Syrian authorities and were repeatedly blocked from entering the city of Dara'a, the earliest scene of protests.³⁷ The government also denied visas to most foreign journalists.³⁸ The few who *were* allowed entry faced serious restrictions that limited their ability to observe and report; for example, the government restrained their movement and monitored their activities, often through mandatory accompaniment by Syrian government officials and official press tours.³⁹ On January 11, 2012, during one such tour, the French journalist Gilles Jacquier was killed in suspicious circumstances while visiting the city of Homs under escort by Syrian security forces.⁴⁰ The effect of these measures, coupled with the other tactics described in this section, led to a virtual mainstream media news blackout across Syria for much of 2011 and cultivated an environment of extreme danger for all those trying to shed light on the government's attacks on civilians, the media, and the protest movement.⁴¹

³⁷ *Shooting the Messenger*, AMNESTY INTERNATIONAL, *supra* note 12, at 22; *see also Silencing Global Coverage, Syria Detains, Expels Reporters*, COMMITTEE TO PROTECT JOURNALISTS (July 14, 2011), <https://cpj.org/2011/07/silencing-global-coverage-syria-detains-expels-rep.php>.

³⁸ *See Shooting the Messenger*, AMNESTY INTERNATIONAL, *supra* note 12, at 6; Alex Thomson, *Q&A: How foreign journalists operate in Syria*, THE GUARDIAN (Apr. 2, 2013), <https://www.channel4.com/news/by/alex-thomson/blogs/qa-foreign-journalists-operate-syria>.

³⁹ *See Shooting the Messenger*, AMNESTY INTERNATIONAL, *supra* note 12, at 6 & 22; Thomson, *supra* note 38; Robert Mackey, *French Journalist Killed in Syria as Observer Mission Frays*, N.Y. TIMES, Jan. 11, 2012 5:04 PM, <https://thelede.blogs.nytimes.com/2012/01/11/french-journalist-killed-in-syria-as-observer-mission-frays/>.

⁴⁰ Mackey, *supra* note 39.

⁴¹ *See Shooting the Messenger*, AMNESTY INTERNATIONAL, *supra* note 12; *see also, e.g.,* Ahmed al Omran, *Basil Al-Sayed, Who Chronicled The Syrian Uprising, Is Dead*, NPR (Dec. 29, 2011), <http://www.npr.org/sections/thetwo-way/2011/12/29/144448779/basil-al-sayed-who-chronicled-the-syrian-uprising-is-dead> ("Foreign journalists have been mostly banned from entering Syria since a popular uprising against the rule of President Bashar Assad began in the country 10 months ago. In many cases, the videos uploaded to YouTube by citizen journalists have been the only way for the outside world to see the clashes that have cost more than 5,000 people their lives in Syria.").

23. In cracking down, the Syrian government also sought to disrupt the informal channels adopted by activists-turned-“citizen journalists” to gather and disseminate news. As online sharing, including through social media and YouTube, increasingly filled the media void left by formal censorship, the government began to target these means of publication. For example, there have been numerous instances of the Syrian government cutting Internet access, disrupting cellular networks, destroying telecommunications infrastructure, and conducting extensive hacking of activists’ and journalists’ email and social media accounts.⁴² The government also launched the “Syrian Electronic Army,” a state-sponsored group of hackers that have disseminated pro-government propaganda and electronically sabotaged media workers, political opposition, and even U.S. government websites.⁴³

⁴² Second Rep. of the Indep. Int’l Comm’n of Inquiry on the Syrian Arab Republic, *supra* note 31, ¶ 53; *see also* Martin Chulov, *Syria shuts off internet access across the country*, THE GUARDIAN (Nov. 29, 2012), <https://www.theguardian.com/world/2012/nov/29/syria-blocks-internet>; *Syria cuts off Internet, cellphone service*, CBC NEWS (Nov. 29, 2012), <http://www.cbc.ca/news/world/syria-cuts-off-internet-cellphone-service-1.1133628> (describing Syrian government’s disruption of internet and cellular networks in areas where it staged attacks on protestors and rebels); *Freedom on the Net 2014: Syria*, FREEDOM HOUSE, at 3-9 (2014), <https://freedomhouse.org/sites/default/files/resources/Syria.pdf> (reporting that “the Syrian government continued to obstruct connectivity through its control of key infrastructure, at times shutting down the internet and mobile phone networks entirely or at particular sites of unrest,” allegedly engaged in deliberate sabotage of telecommunications infrastructure, and is believed to possess and deploy “sophisticated technologies for filtering and surveillance” of both online content and telephone messaging). I note that such disruptions have been described as serving the military purpose of interfering with rebels. However, such disruptions likewise disrupt the means by which media workers or citizen journalists might disseminate information about the government’s actions and have been viewed as intending such interference as well. *See, e.g.*, Human Rights Council Res. S-17/1, *supra* note 16 (urging the Syrian government to, *inter alia*, “allow access to the Internet and telecommunications networks for all”).

⁴³ *See* Max Kobrak, *Syrian Electronic Army Highly Likely Disbanded in 2016*, INTELLIGENCE OBSERVER (Feb. 4, 2017), <https://intelligenceobserver.com/2017/02/26/syrian-electronic-army-highly-likely-disbanded-in-2016/>; Press Release, U.S. Dep’t of Justice, Computer Hacking Conspiracy Charges Unsealed Against Members of Syrian Electronic Army (Mar. 22, 2016), <https://www.justice.gov/opa/pr/computer-hacking-conspiracy-charges-unsealed-against-members-syrian-electronic-army>.

24. Thus, in addition to vilifying non-state media rhetorically, the Syrian government implemented a series of laws and policies designed to prevent independent reporting.

C. Media Crackdown: the Syrian Government’s Pattern of Torture, Detention, and Extrajudicial Killing of Media Workers and Their Sources

25. Finally, the Syrian government instituted a systematic practice of targeting journalists as part of its efforts to quell opposition following the 2011 uprising. This pattern was expressly identified by the State Department in its 2012 Country Report on Human Rights in Syria, where it observed that the Syrian government had “detained, arrested, and harassed journalists and other writers for works deemed critical of the state” throughout 2011.⁴⁴ The State Department further cited statistics reported by the Syrian Observatory for Human Rights (a U.K.-based monitor of the Syrian conflict) that 112 professional journalists and one amateur reporter had been killed in 2012.⁴⁵ Other human rights observers in Syria made similar findings: in November 2011, the Syrian Centre for Media and Freedom of Expression (“SCMFE”)—one of Syria’s foremost human rights organizations—published a report documenting 114 specific human rights violations committed by government actors against media workers, including arbitrary arrests, beatings, and torture in detention.⁴⁶ Among these, SCMFE documented 32 cases of arbitrary detention and 76 disappearances in which journalists and bloggers went missing after being arrested by Syrian security forces.⁴⁷

⁴⁴ U.S. Dep’t of State 2012 Human Rights Report: Syria, *supra* note 30, at 20.

⁴⁵ *Id.* at 17.

⁴⁶ *See Crackdown on Media Workers in Syria*, SYRIAN CENTRE FOR MEDIA AND FREEDOM OF EXPRESSION (Nov. 2011), https://scm.bz/wp-content/uploads/2011/11/Crackdown_on_Media_Workers_in_Syria_-_final1.pdf [hereinafter “SCMFE Report”].

⁴⁷ *See id.* at 2.

26. Consistent with these findings, my review of numerous sources confirms that the Syrian government instituted a campaign to intimidate, arbitrarily detain, torture, forcibly disappear, and kill journalists and any other persons working to document the regime's atrocities. This pattern began in 2011 and was ongoing in 2012; I list several prominent examples below:

- (i) On March 15, 2011, journalist Saber Darwish was detained after a demonstration in Damascus and subjected to whipping and electrical shocks.⁴⁸
- (ii) On July 7, 2011, as noted in a communication under the mandate of Special Rapporteur on the Freedom of Expression, Rami Mohamed Dalati, a social activist who documented and monitored human rights violations, was arbitrarily arrested at a checkpoint in Homs and detained incommunicado for almost two weeks. His personal and professional computer and documents were confiscated.⁴⁹
- (iii) On August 4, 2011, Syrian security forces raided a café in Damascus and arrested journalists Hanadi Zalhout, Omar al-Assad, and Rudi Othman, charging them with, *inter alia*, "weakening the national feeling and inciting racial and religious hatred" under Article 285 of the Syrian Penal Code.⁵⁰
- (iv) On August 19, 2011, photographer Tarek Said Balsha went missing after filming Syrian security operations and giving interviews to several satellite news channels.⁵¹
- (v) On August 25, 2011, Syrian government forces abducted Ali Farzat, Syria's preeminent political cartoonist, in Damascus and severely beat him, breaking one of his hands in an apparent retaliation for a cartoon he had published satirizing President Assad.⁵² The U.S. State Department condemned the "Syrian government's targeted,

⁴⁸ See *id.* at 8.

⁴⁹ See Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 4, 2011), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17858>.

⁵⁰ See SCMF Report at 26–29. Othman has been described as a blogger and activist who was deeply involved in documenting the protests and protestors' detentions. See *id.*

⁵¹ See *id.* at 22.

⁵² See John D. Sutter, *Cartoons that scare Syria's leader*, CNN (May 21, 2013), <http://www.cnn.com/2013/05/21/opinion/sutter-syrian-cartoonist-ferzat/index.html>.

- brutal attack” on Farzat, describing it as having been intended to send “a clear message that he should stop drawing.”⁵³
- (vi) On November 20, 2011, the body of cameraman Ferzat Jarban, which showed clear signs of mutilation and torture, was found one day after he was arrested while filming an anti-government protest in the province of Homs.⁵⁴ Jarban was the first professional journalist reported to be killed while covering the Syrian civil war.⁵⁵
 - (vii) On December 29, 2011, citizen journalist Basil al-Sayed was shot and killed by Syrian security forces while he filmed the violent suppression of a demonstration in Homs.⁵⁶ Al-Sayed was known among Syrians as “the revolution’s journalist,” as he regularly posted footage he took of security forces open firing on demonstrators in the neighborhood of Baba Amr in Homs.⁵⁷
 - (viii) On January 11, 2012, as described above, Gilles Jacquier, a French public broadcaster, was shot and killed while covering a pro-regime rally in Homs after being invited on a regime-authorized trip to Homs. The government blamed the attack on an armed terrorist group but provided no supporting evidence.⁵⁸
 - (ix) On February 16, 2012, SCMFE was raided in Damascus by Air Force Intelligence, and at least 16 people were detained, as noted in a communication under the mandate of Special Rapporteur on the Freedom of Expression.⁵⁹ One SCMFE staff member,

⁵³ See *Syria: Attack on Ali Farzat and Persecution of Activists*, AMERICAN NEWS AND VIEWS (U.S. Dep’t of State, Washington, D.C.), Aug. 25, 2011, at 2, <https://photos.state.gov/libraries/burma/895/pdf/ANV20110826.pdf>.

⁵⁴ See *Freedom of the Press 2012: Syria*, FREEDOM HOUSE (2012), <https://freedomhouse.org/report/freedom-press/2012/syria>; see also *Ferzat Jarban*, COMMITTEE TO PROTECT JOURNALISTS (last updated 2017), <https://cpj.org/killed/2011/ferzat-jarban.php>.

⁵⁵ See Rebecca Shapiro, *Ferzat Jarban Dead: Cameraman is First Reported Journalist Killed in Syria*, HUFFINGTON POST (Nov. 21, 2011), https://www.huffingtonpost.com/2011/11/21/ferzat-jarban-dead-cameraman-journalist-killed-syria_n_1106088.html.

⁵⁶ See Second Rep. of the Indep. Int’l Comm’n of Inquiry on the Syrian Arab Republic, *supra* note 31, ¶ 55; *Basil al-Sayed*, COMMITTEE TO PROTECT JOURNALISTS (last updated 2017), <https://cpj.org/data/people/basil-al-sayed/index.php> [hereinafter “*Basil al-Sayed*, CPJ”].

⁵⁷ See *Basil al-Sayed*, CPJ, *supra* note 56.

⁵⁸ See *Gilles Jacquier*, COMMITTEE TO PROTECT JOURNALISTS (last updated 2017), <https://cpj.org/killed/2012/gilles-jacquier.php>. As noted above, the circumstances of Jacquier’s death are widely considered to be suspicious and possibly implicating regime misconduct. See Mackey, *supra* note 39.

⁵⁹ See Commc’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 20, 2012), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=181>

Ayham Ghazzoul, died in the custody of Syrian intelligence forces in November 2012.⁶⁰ Journalist and SCMFE researcher Mansour al-Omari was detained and tortured for approximately one year before he was released.⁶¹ Mazen Darwish and two other SCMFE staff members, Hussein Ghrer⁶² and Hani Zeitani, were detained without process and subjected to torture until their release in summer 2015.⁶³

- (x) In March of 2012, Syrian security forces arrested Ali Mahmoud Othman, one of the citizen journalists running the media center in Baba Amr, Homs, who was credited with facilitating the movement of foreign reporters in and out of the beleaguered city.⁶⁴ Othman has not been seen publicly since April 2012, when Syrian State television aired an interview in which Othman gave what is believed to be a coerced confession regarding his media activities.⁶⁵
- (xi) On April 15, 2012, another prominent Syrian free speech advocate disappeared in Syrian government custody: Internet entrepreneur Bassel Khartabil Safadi was arrested by Military Intelligence forces, detained incommunicado, reportedly tortured, and eventually tried by a military court on charges of “spying for an enemy state” in

79; see also *Shooting the Messenger*, AMNESTY INTERNATIONAL, *supra* note 12, at 15–16; U.S. Dep’t of State 2012 Human Rights Report: Syria, *supra* note 30, at 5.

⁶⁰ See Eleanor Steafel, *The Syrian mothers forced to trawl photographs of the dead to find out if their sons and husbands are alive*, THE TELEGRAPH (Apr. 7, 2017), <http://www.telegraph.co.uk/women/family/syrian-mothers-forced-trawl-photographs-dead-find-sons-husbands/>.

⁶¹ See Mansour al-Omari, *Syrians: Tortured for Daring to Speak Out*, FREE SYRIAN VOICES, <http://free-syrian-voices.org/syrians-tortured-for-daring-to-speak-out/>; Avantika Chilkoti, *On Cloth Scraps, Syrian Names Are Immortalized in Rust and Blood*, N.Y. TIMES (Aug. 9, 2017), <https://www.nytimes.com/2017/08/09/world/middleeast/mansour-omari-syria-prisons-holocaust-museum.html?mcubz=0>.

⁶² See Ghrer, *supra* note 13.

⁶³ See *Syrian activist Mazen Darwish freed after three-year ordeal that included torture*, AMNESTY INTERNATIONAL (Aug. 10, 2015), <https://www.amnesty.org/en/latest/news/2015/08/syrian-activist-mazen-darwish-freed-after-three-year-ordeal/>.

⁶⁴ See *Shooting the Messenger*, AMNESTY INTERNATIONAL, *supra* note 12, at 18–19 (reporting that Othman “was arrested in March 2012 in Aleppo province and remains held in conditions which amount to an enforced disappearance”); see also *Syria detains, reportedly tortures videographer*, COMMITTEE TO PROTECT JOURNALISTS (Apr. 2, 2012), <https://cpj.org/2012/04/syria-detains-reportedly-tortures-videographer.php>.

⁶⁵ See *Shooting the Messenger*, AMNESTY INTERNATIONAL, *supra* note 12, at 19; Oliver Holmes, *Syria’s television confessions fail to convince many*, REUTERS (May 16, 2012), www.reuters.com/article/us-syria-confessions-idUSBRE84F0PM20120516. Othman was sighted again in May of the same year in a state prison in Damascus. See *Shooting the Messenger*, AMNESTY INTERNATIONAL, at 18–19.

connection with his online media activities.⁶⁶ In August 2017, the Syrian government finally revealed to Mr. Khartabil's wife that he had been executed by the government in October 2015.⁶⁷

- (xii) On April 22, 2012, three of the SCMFE activists detained in February 2012 (*see* bullet (ix) above) were brought before the Military Prosecutor and accused of “possessing prohibited materials with the intent to disseminate them.” The Military Prosecutor referred to certain recorded material supposedly in the activists’ possession, which allegedly called for protests against the Government. Other SCMFE activists were charged with the same crime and detained; several others were reportedly held incommunicado at a military base.⁶⁸

27. The same pattern has continued since 2012. For example:

- (i) On April 1, 2013, Syrian government forces announced the death of radio broadcaster Abdul Raheem Kour Hassan without offering further details, including either the surrounding circumstances or the exact date of his death.⁶⁹ Hassan had been arrested and was being held in government prison in Damascus prior to his death. The prison was under the control of Syria’s Military Intelligence Security and, according to the Committee to Protect Journalists, was “known for the severe abuse of prisoners.”⁷⁰
- (ii) In December of 2014, news correspondents Rami Asmi and Yousef El-Dous, and cameraman Salem Khalil were killed in a missile attack while driving to Sheikh

⁶⁶ See Human Rights Council, Working Grp. on Arbitrary Detention Opinion No. 5/2015, Comm’n addressed to the Government on 15 January 2015 Concerning Bassel Khartabil, ¶¶ 6–7, U.N. Doc. A/HRC/WGAD/2015/5 (July 6, 2015), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/149/41/PDF/G1514941.pdf?OpenElement> [hereinafter “Working Grp. on Arbitrary Detention Opinion No. 5/2015”].

⁶⁷ See Liz Sly, *One of Syria’s best-known democracy activists has been executed*, WASHINGTON POST (Aug. 2, 2012), https://www.washingtonpost.com/world/middle_east/one-of-syrias-best-known-democracy-activists-has-been-executed/2017/08/02/483f4ca0-778a-11e7-8c17-533c52b2f014_story.html?utm_term=.2c8e07c3549e; Alice Su, *How One Syrian Fought to the Death for a Free Internet* (Sept. 27, 2017), <https://www.wired.com/story/how-one-syrian-fought-to-the-death-for-a-free-internet/>. Mr. Khartabil was the subject of one of my communications in my role as Special Rapporteur, as noted at the outset of this Report. See Oct. 22, 2015 Commc’n from the Working Grp. on Arbitrary Detention, *supra* note 5.

⁶⁸ See *supra* notes 59-63; see also Commc’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (May 8, 2012), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17853>.

⁶⁹ See Abdul Raheem Kour Hassan, COMMITTEE TO PROTECT JOURNALISTS (2013), <https://cpj.org/killed/2013/abdul-raheem-kour-hassan.php>.

⁷⁰ See *id.*

Miskeen, an area with some rebel presence in the Dara'a province.⁷¹ The journalists passed government forces just minutes before being targeted. Their car was not marked as a press vehicle, but was identifiable as such by a satellite dish fixed to the top of the roof.⁷²

- (iii) On June 16, 2016, journalists Khaled al-Essa and Hadi Abdullah were severely wounded by the explosion of a bomb planted behind a door in their home.⁷³ Al-Essa later died from his wounds. Both men covered the civil war in Idlib and Kafr Nabl provinces (of Syria), and were known for “bringing images of the aftermath of air strikes on civilian areas to the outside world.”⁷⁴

28. These examples are by no means intended to be an exhaustive list of media workers and their sources who were arbitrarily detained, tortured, disappeared, or killed by the Syrian government. But they are representative of the pattern of practices by the Syrian government that I observe. And it is my opinion that the Syrian state has become one of the world's most dangerous for journalists. For example, at the time of writing this Report, the Committee to Protect Journalists had identified 131 journalists and media workers who had been killed in Syria since November of 2011.⁷⁵ As the UN Commission of Inquiry observed in 2015:

Violence against journalists continues unabated, forcing scores of Syrian reporters into exile. Media activists still reporting inside [Syria] operate under constant threat and fear for their lives. . . . Journalists continue to be systematically targeted by [g]overnment forces for documenting and disseminating information perceived to be supportive of the opposition or disloyal to the [g]overnment. Large numbers of journalists are still detained in [g]overnment controlled

⁷¹ See *Syria Conflict: Journalists Killed in Missile Attack*, BBC (Dec. 10, 2014), <http://www.bbc.com/news/world-middle-east-30411516>.

⁷² See *id.*

⁷³ See *Syrian Journalist Khaled al-Essa Dies After Bomb Attack*, AL-JAZEERA (June 25, 2016), <http://www.aljazeera.com/news/2016/06/syrian-journalist-khaled-al-essa-dies-bomb-attack-160625033330015.html>.

⁷⁴ See *id.*

⁷⁵ See *115 Journalists Killed in Syria/Motive Confirmed*, COMMITTEE TO PROTECT JOURNALISTS (last visited Mar. 1, 2018), <https://cpj.org/killed/mideast/syria/>. According to its website, the Committee classifies cases where media workers die in connection with their work by type of case, and regularly reclassifies cases based on new findings. At the time of writing for this Report, the Committee had classified 17 of the confirmed journalist deaths in Syria as murders.

detention centres, where they are subjected to disappearance and torture. An unknown number have died in detention.⁷⁶

Indeed, Syria has figured prominently as a country of concern under the mandate of UN Special Rapporteur on the Freedom of Expression both during my tenure and that of my predecessor (who held the mandate during the year in which the Syrian protests began (2011) and remained in that role until the end of July 2014).

29. My predecessor and I, together with other Human Rights Council rapporteurs, as relevant, have sent 26 communications to the Syrian government through formal diplomatic queries since 2011. These communications include cases where journalists and other persons seeking to publicize information about the protests and the resulting humanitarian crisis have reportedly been arrested, held incommunicado, tortured, or killed in government custody. Particularly egregious examples include the alleged death and torture by Air Force Intelligence of Mr. Ayham;⁷⁷ the alleged enforced disappearance, incommunicado detention, and possible murder of Mr. Bassel Khartabil;⁷⁸ and the alleged incommunicado detention in an unknown location of Mr. Akram Raslan, a political cartoonist for Al-Fida newspaper, who was arrested

⁷⁶ Human Rights Council, Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, ¶¶ 155–56, U.N. Doc. A/HRC/30/48 (Aug. 13, 2015), http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A.HRC.30.48_AEV.pdf.

⁷⁷ Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 21, 2013), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18042>; *see also supra* notes 59–63 and associated text.

⁷⁸ Oct. 22, 2015 Commc'n from the Working Grp. on Arbitrary Detention, *supra* note 5; *see also supra* notes 66–67 and associated text; *Bassel Khartabil: Missing Syrian-Palestinian 'executed'*, AL JAZEERA (Aug. 2, 2017) (Aug. 2, 2017), <http://www.aljazeera.com/news/2017/08/bassel-khartabil-missing-syrian-palestinian-executed-170802100920059.html>.

after he had posted political cartoons critical of President Bashar Al-Assad on Facebook.⁷⁹ Appended as **Appendix C** is a table summarizing all communications to the Syrian government that involved the Office of the Special Rapporteur since the beginning of 2011.⁸⁰ To my knowledge, in spite of being confronted directly with the concerns contained in these communications, the Syrian government has not held any person or entity accountable for the violent persecution of journalists in any of these cases. Instead, on the few occasions when the Syrian government responded, it has denied any wrongdoing, including with reference to the proper application of its laws (without identifying any specific provisions).⁸¹ Such broad assertions of state authority in connection with persons seeking to exercise their freedom of expression are illustrative of my above-described concerns with Syria's media laws.

* * *

30. Based on the accounts I have described, it is my view that since the start of the widespread protests in early 2011 and throughout Syria's transition into civil war, the Syrian government has engaged in a pattern and practice of targeting journalists and other media workers, subjecting them to, *inter alia*, detention, torture, forced disappearance, extrajudicial killings, and other abuses. In my view, these tactics have been part of the Syrian government's

⁷⁹ Commc'n from the Working Grp. on Arbitrary Detention et al. to the Syrian Arab Republic (Jan. 22, 2014), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18048>.

⁸⁰ For a discussion of online databases containing these and other communications relating to my and other UN Human Rights Council mandates, see *supra* note 4.

⁸¹ See, e.g., Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated March 31, 2014 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al., No. 106/14 (Mar. 31, 2014), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67521> [hereinafter "Mar. 31, 2014 Letter from the Permanent Mission of the Syrian Arab Republic to the U.N."]. See further **App. C**.

overall strategy of suppression and are calibrated to intimidate and prevent journalists—both professional and “citizen”—from reporting on the Syrian uprising and the Syrian government’s brutal response. Limited coverage of the war and anecdotal reports from media workers further suggest that this strategy of intimidation has, indeed, chilled free expression and free flow of information, a harm separate from the Syrian government’s abuse of those media workers themselves.⁸²

IV. The Deliberate Targeting of Non-Combatant Journalists Constitutes a Violation of International Law

31. The policies and practices I have detailed above constitute a course of conduct that violates international legal standards governing the protection of media workers and the freedom of expression. International law, applicable to Syria and to all States, clearly recognizes a prohibition against the deliberate targeting of journalists during times of peace and armed conflict alike. That prohibition is a well-established principle under international humanitarian law and international human rights law. Syria’s pattern and practice of targeting journalists violates those legal standards. I provide an overview of the legal framework governing the protections afforded to journalists below.

⁸² See, e.g., Erik Wemple, *Risk level in Syria has media outlets in quandary over coverage*, WASH. POST (Feb. 23, 2012), https://www.washingtonpost.com/lifestyle/style/2012/02/23/gIQA1dneWR_story.html?utm_term=.77b6dc6c03a1; Hiba Dlewati, *Fewer Journalist Deaths in Syria – Because there Aren’t Many Left*, NEWS DEEPLY (Aug. 31, 2016), <https://www.newsdeeply.com/syria/community/2016/08/31/fewer-journalist-deaths-in-syria-because-there-arent-many-left>.

A. The Deliberate Targeting of Non-Combatant Journalists Is a War Crime Under International Humanitarian Law

32. International humanitarian law governs state conduct during times of armed conflict and imposes restrictions on state use of deadly force.⁸³ Although international humanitarian law distinguishes between international and non-international fighting, certain legal principles, which I describe below, apply to all armed conflicts, including Syria's civil war. Under these principles, journalists must be protected and cannot be targeted so long as they do not directly participate in hostilities.⁸⁴

⁸³ See generally David Kaye, *Complexity in the Law of War*, PROGRESS IN INT'L LAW (Bratspies and Miller, eds., Martinus Nijhoff Publishers, 2008), Ex. 6. Whether the fighting in Homs, Syria amounted to an "armed conflict" for purposes of international humanitarian law is a fact-specific determination that depends on the intensity of the fighting and the existence of an organized opposition. See *Prosecutor v. Tadić*, Case No. IT-94-1-I, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, ¶ 70 (Int'l Crim. Trib. for the Former Yugoslavia Oct. 2, 1995), <http://www.icty.org/x/cases/tadic/acdec/en/51002.htm>. According to the Commission of Inquiry, an "armed conflict [had] developed in the Syrian Arab Republic during February 2012 which triggered the applicability of Common Article 3 of the Geneva Conventions as well as customary law relevant to non-international armed conflict." Human Rights Council, Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, Annex II, ¶ 12, U.N. DOC. A/HRC/21/50 (Aug. 16, 2012), http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-50_en.pdf. I have not performed an independent assessment of when the threshold for an "armed conflict" was reached in Syria, but view the Commission of Inquiry's analysis on this point as reasonable. In any case, however, this determination does not affect my overall finding that Syria's conduct as described in Section III of this report violates international law. This is because such conduct violates both humanitarian law applicable during armed conflict and international human rights law applicable at all times, including as described in Section IV(B) below.

⁸⁴ See Customary International Humanitarian Law Database, Rule 34, INTERNATIONAL COMMITTEE OF THE RED CROSS, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule34 [hereinafter "ICRC CIL Database"]; S.C. Res. 2222 (May, 27 2015), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2222.pdf; S.C. Res. 1738 (Dec. 23, 2006), <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Civilians%20SRES1738.pdf>; Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) art. 79, June 8, 1977, 1125 U.N.T.S. 3 [hereinafter "Protocol I"] (ratified by Syria on Nov. 14, 1983),

33. International humanitarian law derives from a body of treaties and customary international law that are binding on Syria. Syria is party to the four Geneva Conventions of August 12, 1949,⁸⁵ as well as to the Additional Protocol relating to the Protection of Victims of International Armed Conflicts (“Additional Protocol I”),⁸⁶ which collectively form the core canon of international humanitarian law. Article 3, common to all four Geneva Conventions (and thus referred to as “Common Article 3”), prohibits parties to non-international armed conflicts from committing “violence to life and person, in particular murder of all kinds,” against “[p]ersons taking no active part in the hostilities” during an armed conflict.⁸⁷ In addition, Article 79 of Additional Protocol I provides that “[j]ournalists engaged in dangerous professional missions in areas of armed conflict” shall be protected as civilians.⁸⁸ Although formally applicable to international, rather than non-international armed conflicts, this Additional Protocol

<https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=6E95E63184FD05C8C12563CD0051E0FB>.

⁸⁵ See Convention for the Amelioration of the Condition of the Wounded and the Sick in Armed Forces in the Field, Aug. 12, 1949, entered into force Oct. 21, 1950, 6 U.S.T. 3217, 75 U.N.T.S. 31, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e636b/fe20c3d903ce27e3c125641e004a92f3>; Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, entered into force Oct. 21, 1950, 6 U.S.T. 3217, 75 U.N.T.S. 85, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e636b/44072487ec4c2131c125641e004a9977>; Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, entered into force Oct. 21, 1950, 6 U.S.T. 3316, 75 U.N.T.S. 1351, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e63bb/6fef854a3517b75ac125641e004a9e68>; and Convention Relative to the Treatment Civilian Persons in Time of War, Aug. 12, 1949, entered into force Oct. 21, 1950, 6 U.S.T. 3516, 75 U.N.T.S. 287, <https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5> [hereinafter collectively “Geneva Conventions”]. All four of the Geneva Conventions were ratified by Syria on November 2, 1953.

⁸⁶ Additional Protocol I, *supra* note 84.

⁸⁷ Geneva Conventions, Art. 3(a).

⁸⁸ Additional Protocol I, Art. 79, *supra* note 84.

I principle has been, in my view, recognized as customary international law—i.e., a precept binding on all states as a universally accepted legal norm—applicable to any conflict.⁸⁹ Thus, journalists—like other civilians—may not be targeted in internal armed conflicts unless they actively take part in hostilities.

34. At the core of these protections is the principle of distinction: government actors are obligated to “distinguish between civilians and combatants” and may not attack civilians not actively engaged in hostilities.⁹⁰ All civilians, including journalists, are protected from attack unless and for such time as they take direct part in hostilities.⁹¹ Thus, to be subject to a legitimate military attack, journalists must take active part in some military action. Merely being present in proximity to hostilities, publicizing the existence of such hostilities, or entering into areas where hostilities are taking place without local government permission is not sufficient to permit government forces to target media workers.

35. The same principle of distinction applies to “civilian objects” and “military objectives.” Military objectives are “limited to those objects which by their nature, location, purpose, or use make an effective contribution to military action and whose partial or total

⁸⁹ See ICRC CIL Database, Rule 34, *supra* note 84; U.N. Security Council Res. 2222, ¶ 3 (2015) (recalling that journalists are protected as civilians “in areas of armed conflict” without limiting protection to areas of international armed conflict).

⁹⁰ ICRC CIL Database, Rule 1, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1; Protocol I, Art. 48, *supra* note 84; Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226, ¶¶ 78–79 (July 8), <http://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf> [hereinafter “Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons”]. The principle of distinction (including its corollaries prohibiting indiscriminate attacks and requiring proportionality) is, in my view (and as commonly accepted by international law scholars), customary international law.

⁹¹ See *Prosecutor v. Milošević*, Trial Chamber Judgment, IT-98-29/1-T, ¶ 947 (Int’l Crim. Trib. for the Former Yugoslavia Dec. 12, 2007), http://www.icty.org/x/cases/dragomir_milosevic/tjug/en/071212.pdf [hereinafter *Prosecutor v. Milošević*].

destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”⁹² Accordingly, media facilities like television and radio stations, news agency bureaus, cameras, computers, and broadcast satellites are civilian objects and are protected from attack unless and for such time as their use makes an effective contribution to military action. Merely broadcasting exposés of casualties, criticism of the war effort, or even propaganda in favor of one party, does not constitute an effective contribution to military action and thus cannot lawfully justify an armed attack on a media center or news agency.⁹³

36. Intentionally directing attacks against civilians or civilian objects has been recognized as a war crime under U.S.⁹⁴ and international criminal law.⁹⁵ A Trial Chamber of the

⁹² Additional Protocol I, Art. 52, *supra* note 84; *see also* ICRC CIL Database, Rule 8, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule8, *supra* note 84. The application of the principle of distinction to civilian objects is likewise customary international law.

⁹³ *See* Final Report to the Prosecutor by the Special Committee of the ICTY Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia, ¶ 55, <http://www.icty.org/x/file/Press/nato061300.pdf> [hereinafter “ICTY Final Report on the NATO Bombing Campaign Against Yugoslavia”] (concluding that even the use of media facilities to broadcast propaganda does not constitute direct participation in hostilities nor would it, alone, render a broadcast studio a legitimate military objective). In any case, as explained in *infra* note 97, even with respect to legitimate military targets, states are prohibited from undertaking attacks that may be expected to cause injury or damage to civilians and civilian objects in excess of the anticipated military advantage.

⁹⁴ *See* 18 U.S.C. § 2441(d)(1)(D) (imposing penalties on “a person who intentionally kills, or conspires or attempts to kill, . . . one or more persons taking no active part in the hostilities”).

⁹⁵ *See* Rome Statute Art. 8(2)(c)(i) (prohibiting “violence to life and person” that is “committed against persons taking no active part in hostilities”); *id.* Art. 8(2)(e)(i) (prohibiting “[i]ntentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities”). Although Syria is not party to the Rome Statute, which defines the jurisdiction of the International Criminal Court, the crimes subject to the court’s jurisdiction are widely viewed as customary international law, binding on all states by virtue of states’ persistent practice of treating corresponding norms as compulsory. Other international tribunals, whose jurisprudence is likewise viewed as identifying and clarifying standards of customary international law, have also recognized the protections owed to civilians during armed conflict. *See, e.g., Prosecutor v. Galić*, Appeal Judgment, ICTY-98-29-A, ¶¶ 129–30 (Int’l Crim. Trib. for the Former Yugoslavia Nov. 30, 2006), <http://www.icty.org/x/cases/>

International Criminal Court has pointed out that the “prohibition on the direct targeting of civilians” applicable to international and non-international armed conflicts is absolute and cannot be justified by military necessity.⁹⁶ Moreover, the crime of directing attacks against civilians “may be established even if the military operation also targeted a legitimate military objective” if “the primary object of the attack was the civilian population or individual civilians.”⁹⁷

37. International courts and commissions have also contemplated—and denounced as a war crime—instances where media workers or workplaces were targeted with armed attacks.⁹⁸ In *Prosecutor v. Milošević*, for example, the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia examined the June 28, 1995 shelling of a building housing

galic/acjug/en/gal-acjud061130.pdf (holding that “there is an absolute prohibition on the targeting of civilians in customary international law” and affirming that “the targeting of civilians cannot be justified by military necessity”); Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, *supra* note 90, ¶¶ 78–79 (noting as one of the “cardinal principles” of “humanitarian law” that “States must never make civilians the object of attack” and that “these fundamental rules are to be observed by all States . . . because they constitute intransgressible principles of international customary law.”).

⁹⁶ *Prosecutor v. Katanga*, Judgment pursuant to article 74 of the Statute, ICC-01/04-01/07, ¶ 800 I.C.C., (Mar. 7, 2014), https://www.icc-cpi.int/CourtRecords/CR2015_04025.PDF.

⁹⁷ *Id.* ¶ 802. The principle that states may not undertake attacks whose expected military advantage is exceeded by harm to civilians and civilian objects, even if such harm is not intended, is well established under international humanitarian law and has become customary international law. See Additional Protocol 1, art. 51(5)(b) (defining prohibited “indiscriminate” attacks); see also *id.*, art. 51(1) (establishing general protections for civilians against dangers from military operations), 51(2) (prohibiting any attacks whose primary purpose “is to spread terror among the civilian population”), 51(4) (prohibiting indiscriminate attacks even when directed against legitimate military targets); see generally ICRC CIL Database, Chapter I (The Principle of Distinction), https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cha, *supra* note 84.

⁹⁸ See, e.g., *Prosecutor v. Milošević*, *supra* note 91, ¶ 580; Comm. on the Truth for El Salvador, Report, U.N. Doc. S/25500 at 69–75 (1993), https://ia800407.us.archive.org/34/items/S25500EN/S_25500-EN.pdf (finding that the Salvadoran army had violated international humanitarian law by killing four Dutch journalists allegedly working on a report favorable to rebel forces in an internal armed conflict).

the World Wide Television Company in Sarajevo.⁹⁹ The evidence included a statement by the accused former army commander that—in a tone reminiscent of the above-described Syrian government rhetoric regarding alleged “incitement” by the media¹⁰⁰—celebrated as “heroi[c]” an attack on a television building he described as “the centre of media lies against the just struggle of the Serbian people.”¹⁰¹ The Trial Chamber ultimately convicted the accused of war crimes, *inter alia* because it found that he had ordered the shelling of civilian areas, including that television building.¹⁰² In other words, his assertion that the television building that been involved in propaganda against the state did not change the Trial Chamber’s assessment that it had been a civilian—and not a military—target.

38. Thus, journalists who cover the conflict in Syria and report on related events do not constitute direct participants in hostilities and cannot be deemed legitimate targets under international humanitarian law. Nor can the Syrian government’s rhetoric of engaging in a “media war” make them such.¹⁰³ The camera, the pen, and even Facebook are not weapons of

⁹⁹ *Prosecutor v. Milošević*, *supra* note 91, ¶ 580.

¹⁰⁰ *See supra* ¶ 17.

¹⁰¹ *See Prosecutor v. Milošević*, *supra* note 91, ¶ 836.

¹⁰² *See id.* ¶¶ 964-966, 978-79.

¹⁰³ *See id.* ¶ 947 (“To take direct part in hostilities means to engage in acts of war which, by their nature or purpose, are likely to cause actual harm to the personnel or matériel of the enemy armed forces”); Nils Melzer, *Interpretive Guidance on the Notion of Direct Participation in Hostilities Under Int’l Humanitarian Law*, 48 INT’L COMM. OF THE RED CROSS 103, 51–52 (2009), <https://www.icrc.org/eng/assets/files/other/icrc-002-0990.pdf> (explaining that media activities supporting the general war effort do not meet the threshold for direct participation and that the “decisive criterion” is “the importance of the transmitted information for the direct causation of harm, and thus, for the execution of a concrete military operation”); ICTY Final Report on the NATO Bombing Campaign Against Yugoslavia, *supra* note 93, ¶ 55 (concluding that even the use of media facilities to broadcast propaganda does not constitute direct participation in hostilities nor would it, alone, render a broadcast studio a legitimate military objective).

war, no matter how damaging war reporting might be to a belligerent power and no matter how forcefully that power condemns wartime journalism as propaganda.

B. International Human Rights Law Prohibits the Targeting of Journalists in Conflict Zones

39. State conduct is also governed by international human rights law, as embodied in treaties and international custom. International human rights law applies regardless of whether an armed conflict exists and imposes legal obligations on Syria that are separate and distinct from obligations under international humanitarian law.

40. It is a basic tenet of this body of law that all people enjoy inherent and fundamental rights, including those to life and freedom of expression. For example, the International Covenant on Civil and Political Rights (the “ICCPR”)—a key source of international human rights law—expressly protects the right to life and guarantees the free exercise of expression.¹⁰⁴ The ICCPR has been ratified by 169 of the world’s 196 states.¹⁰⁵ Syria acceded to the ICCPR in 1969, and it came into force in 1976.¹⁰⁶

41. Directing armed attacks against journalists and engaging in extrajudicial killings both violate “the inherent right to life” as set out in Article 6(1) of the ICCPR, which provides that “no one shall be arbitrarily deprived of his [or her] life.”¹⁰⁷ The right to life asserted in the

¹⁰⁴ Int’l Covenant on Civil and Political Rights (ICCPR) Arts. 6 & 19, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter the “ICCPR”]. *See also, e.g.*, Universal Declaration of Human Rights, arts. 3 (right to life) & 19 (right to freedom of opinion and expression), G.A. Res. 217 (III) A, U.N. Doc. A/RES/217 (III) (Dec. 10, 1948).

¹⁰⁵ *Status of Ratification ICCPR*, UNITED NATIONS (last updated 2017), <http://indicators.ohchr.org/>.

¹⁰⁶ *ICCPR Depositary Status of Treaties*, UNITED NATIONS (Oct. 16, 2017), https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&clang=_en.

¹⁰⁷ ICCPR, art. 6(1).

ICCPR permits no derogations¹⁰⁸ and complements the obligations contained in Common Article 3 of the Geneva Conventions and in customary international law. Indeed, an international human rights body has specifically determined that the arbitrary deprivation of life can constitute a dual violation of both human rights and humanitarian law.¹⁰⁹

42. Attacks against journalists are also an especially grave violation of the rights enshrined in ICCPR Article 19 “to hold opinions without interference” and the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”¹¹⁰ The Syrian government may not ignore these obligations as part of its crackdown:¹¹¹ international tribunals

¹⁰⁸ Although the ICCPR permits limited derogations from certain human rights obligations during states of “public emergency which threaten[] the life of the nation,” it expressly prohibits derogation from the obligation to protect the right to life. ICCPR, art. 4(2).

¹⁰⁹ See, e.g., *Bustios v. Peru*, Case 10.548, Inter-Am. Comm’n H.R., Rep. No. 38/97, OEA/Ser.L/V/II.95, doc. 7 rev. at 753, ¶¶ 63, 88 (1997), <http://hrlibrary.umn.edu/cases/1997/peru38-97.html> [hereinafter “*Bustios*”] (holding that the extrajudicial killing of a journalist by state forces during a non-international armed conflict violated rights to life and freedom of expression protected by the American Convention on Human Rights—a regional equivalent of the ICCPR—and Common Article 3 of the Geneva Conventions, both). In *Bustios*, the Inter-American Commission on Human Rights specifically observed:

Though journalists or reporters in combat zones implicitly assume a risk of death or injury either incidentally or as a collateral effect of attacks on legitimate military targets, the circumstances surrounding the attacks on Hugo Bustíos and Alejandro Arce clearly indicate that they were not accidental, but intentional.

Id. ¶ 61.

¹¹⁰ ICCPR, art. 19. The UN Human Rights Committee has held that Article 19 protects a journalist against government efforts to “muzzle advocacy” through arbitrary detention and the threat or use of physical violence. See *Mukong v. Cameroon*, Communication No. 458/1991, UN Human Rights Comm. July 21, 1994, ¶ 9.7, <http://hrlibrary.umn.edu/undocs/html/vws458.htm> [hereinafter “*Mukong*”] (holding that the subjection of a journalist to arbitrary detention and cruel, inhuman, and degrading treatment violated Article 19 of the ICCPR).

¹¹¹ Although Article 19(3) of the ICCPR allows governments to impose certain restrictions on the right of free expression “[f]or the protection of national security or of public order,” ICCPR, art. 19(3)(b), this is a limited right. “Any restriction of the freedom of expression pursuant to

and human rights bodies have recognized that governments remain subject to these requirements of international human rights law at all times, such that the intentional targeting of journalists during armed conflict constitutes a dual violation of the fundamental rights recognized under international human rights law and humanitarian law alike.¹¹²

* * *

43. As can be seen from the above summary of the international legal principles governing the Syrian government's obligations under international humanitarian and human rights law, the pattern and practice of targeting journalists and other media actors, as described in Section III of this Report, constitutes a clear violation of international law. Indeed, international bodies have consistently concluded that Syria's crackdown on journalists during the 2011 uprising has been carried out in violation of multiple principles of international law.¹¹³ Syria's

paragraph 3 of article 19 must cumulatively meet the following conditions: it must be provided for by law, it must address one of the aims enumerated in paragraph 3(a) and (b) of article 19, and must be necessary to achieve the legitimate purpose.” *Mukong, supra* note 110, ¶ 9.7. The UN Human Rights Committee has expressly determined that “it [is] not necessary to safeguard an alleged vulnerable state of national unity by subjecting [a journalist] to arrest, continued detention and [cruel, inhuman or degrading] treatment” and that “the legitimate objective of safeguarding and indeed strengthening national unity under difficult political circumstances cannot be achieved by attempting to muzzle” speech. *Id.*

¹¹² See *Restrepo v. Colombia*, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 248, ¶ 209 (Sept. 3, 2012), http://www.corteidh.or.cr/docs/casos/articulos/seriec_248_ing%20.pdf (applying the American Convention on Human Rights to an assault carried out by Colombian military forces against a journalist during the course of a military operation in Colombia's internal armed conflict); *Bustios, supra* note 109, ¶¶ 63, 88.

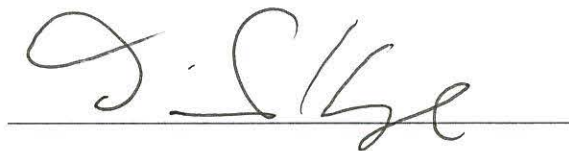
¹¹³ See, e.g., G.A. Res. 66/253, *supra* note 15, ¶ 2 (condemning “the continued widespread and systematic violations of human rights and fundamental freedoms by the Syrian authorities, such as...the killing and persecution of...journalists.”); G.A. Res. 66/253 B, Concerning the Situation in the Syrian Arab Republic, U.N. Doc. A/RES/66/253 B, at 3 (Aug. 7, 2012), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/66/253%20B (“Strongly condemns the continued widespread and systematic gross violations of human rights and fundamental freedoms by the Syrian authorities...such as...the killing and persecution of...journalists”); G.A. Res. 67/262,

attacks on journalists in particular have been a subject of specific international concern because the ability of journalists to investigate, report, and express opinions on war is an essential pillar of accountability. To silence reporters on the battlefield is to promote impunity and to silence democratic deliberation on how and why a war is fought.

Concerning the Situation in the Syrian Arab Republic, U.N. Doc. A/RES/67/262, at 4 (June 4, 2013), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_67_262.pdf (“[s]trongly condemns also all violations of international humanitarian law and the continued widespread and systematic gross violations of human rights and fundamental freedoms by the Syrian authorities...such as those involving the...killing and persecution of...journalists”); G.A. Res. 68/182, Concerning the Situation in the Syrian Arab Republic, U.N. Doc. A/RES/68/182, 3 (Jan. 30, 2014), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_182.pdf (containing nearly identical “strong[]” condemnations); *see also* Rick Gladstone, *General Assembly Votes to Condemn Syrian Leader*, N.Y. TIMES (Feb. 16, 2012), http://www.nytimes.com/2012/02/17/world/middleeast/secretary-general-ban-ki-moon-castigates-syria-ahead-of-general-assembly-vote.html?_r=0 (quoting Secretary General Ban Ki-moon condemning the Syrian government’s violent repression).

I declare under penalty of perjury that the foregoing is a true statement of my independent professional opinion.

Executed on 15 March, 2018 in Irvine, California

A handwritten signature in black ink, appearing to read "D. Kaye", written over a horizontal line.

David Kaye

**APPENDIX A:
CURRICULUM VITAE OF DAVID KAYE**

David A. Kaye

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401 E. Peltason Drive, Suite 3800
Irvine, CA 92697-8000

Email: dkaye@law.uci.edu
Secure email: dkaye@lawnet.uci.edu
Skype: dkisaway
Twitter: @davidakaye
Signal/Whatsapp (on request)

CURRENT APPOINTMENTS

UN Special Rapporteur on the Right to Freedom of Opinion and Expression August 2014 – currently
Appointed by the United Nations Human Rights Council as the UN’s principal monitor of
implementation of the human right to freedom of opinion and expression. Communicate directly with
governments worldwide, prepare studies for the Council and UN General Assembly on key freedom of
expression issues, and conduct official country missions assessing free expression compliance. Website:
<https://freedex.org/>.

UC Irvine School of Law, Irvine, California Summer 2012 – currently
Clinical Professor of Law; Director, International Justice Clinic
Direct projects in human rights, freedom of expression, humanitarian law, and international justice.
Teach and research in human rights and international humanitarian law. Service: Admissions Committee
(Chair, 2015-16; Member, 2014-15); Academic Affairs Committee (Member, 2014-15, 2016-17).
Website: <http://www.law.uci.edu/faculty/full-time/kaye/>.

PREVIOUS ACADEMIC APPOINTMENTS

GWU Law School and Oxford University, Oxford, United Kingdom Summer 2016
Professor of Human Rights Law
Taught course on human rights in the digital age in the GW/Oxford summer human rights program.

UCLA School of Law, Los Angeles, California Fall 2007 – Summer 2012
Founding Executive Director, International Human Rights Law Program
Founding Director, International Justice Clinic
Founded and provided overall direction for the first major human rights law program and clinic in the Los
Angeles area. Taught human rights law and international justice clinic focusing on accountability for
serious human rights violations.

Whittier Law School, Costa Mesa, California Fall 2005 – Summer 2007
Visiting Assistant Professor
Taught first-year property and advanced international law courses (public international law, world trade,
comparative law), including summer programs in Amsterdam and Toulouse.

Georgetown University Law Center, Washington, D.C.
Adjunct Professor of Law
Taught seminar on International Humanitarian Law.

2002

GOVERNMENT AND POLICY EXPERIENCE

Embassy of the United States, The Hague, The Netherlands

Deputy Legal Counselor

2002 – 2005

U.S. liaison to the International Criminal Tribunal for the former Yugoslavia (ICTY), Permanent Court of Arbitration, and other legal institutions in The Hague. Co-counsel of the United States before the International Court of Justice (*Oil Platforms*, *Avena*) and Iran-U.S. Claims Tribunal.

Office of the Legal Adviser, U.S. Department of State, Washington, D.C.

Attorney-Adviser

1995 – 2002

Special assistant in 2000 – 2001 and principal staff attorney in areas including (1) application of law of armed conflict, use of force, conventional weapons regulation, and human rights, including Geneva Conventions, detainee issues and military commissions; (2) international agreements on nuclear nonproliferation, safety and liability, sanctions, and export controls; (3) law of state responsibility, including U.S. policy concerning the Helms-Burton (Libertad) Act of 1996 and consequent NAFTA and U.S.–European negotiations; and (4) litigation before the Iran-U.S. Claims Tribunal. Awarded four Superior Honor Awards and one Meritorious Honor Award.

EDUCATION

Boalt Hall School of Law, University of California, Berkeley

J.D. 1995

University of California at Berkeley

B.A. (Rhetoric) 1990

- Phi Beta Kappa, graduated with honors
- Hebrew University of Jerusalem (UC Education Abroad, 1988 – 1989)

PROFESSIONAL AND ACADEMIC MEMBERSHIPS

Council on Foreign Relations, Life Member

California State Bar, Member

UC Irvine Forum for the Academy and the Public, Board Member

American Society of International Law

Co-Editor, *ASIL Insights* (2009 – 2013); Executive Council (2010 – 2013); Executive Committee (2010 – 11); Program Committee Member, 2010 and 2013 Annual Meetings & 2011 Midyear Meeting

International Justice Resource Center, Advisory Board Member

DC Circuit Court of Appeals, Member of the Bar

Center for Civil Society and Democracy in Syria, Advisory Board Member (2011 – 2015)

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The High Commissioner for Human Rights and International Justice, Conference on the High Commissioner for Human Rights, Jacob Blaustein Institute for Human Rights of the American Jewish Committee, New York, February 8, 2012.

Conference: The Potential Role of Transitional Justice in Active Conflicts, Presenter, Minerva Center for Human Rights, Hebrew University, Jerusalem, Israel, November 13 – 15, 2011.

The International Criminal Court: An Introduction, Santa Barbara Coalition for Global Dialogue, November 9, 2011.

Justice Beyond The Hague, Presentation, Council on Foreign Relations Academic Conference Call, October 13, 2011.

Public International Law and the Responsibility to Protect Doctrine, Panel Presentation, Webinar of the California State Bar and the Langston Bar Association, October 4, 2011.

Keynote Address, The Individual and the International, Annual Meeting of the International Studies Association Western Region, Pasadena, California, September 24, 2011.

Human Rights 101, Presentation for the California Committee South of Human Rights Watch, Los Angeles, September 7, 2011.

High Technology and the Laws of War, The Global Impact and Implementation of Human Rights Law, McGeorge School of Law, March 12, 2011.

Human Rights in 2021, International Law Weekend West, Southwestern Law School, February 26, 2011.

Getting Some Closure? The Law and Politics of Detention Policy, Lecture, UC Irvine International Studies Public Forum, Irvine, California, *video available at* <http://ocw.uci.edu/lectures/lecture.aspx?id=174>, April 29, 2010.

The Obama Administration and Human Rights, Panel Presentation, Claremont McKenna College, Claremont, California, April 23, 2010.

What Makes States Successful? Afghanistan and the Future of State Building, Panelist, Symposium of the Public-Private Partnership for Justice Reform in Afghanistan, University of La Verne College of Law, Ontario, California, April 16, 2010.

A Short History of Human Rights Law, Lecture, Human Rights Watch Educators Program, Mt. St. Mary's College, Los Angeles, California, *video available at* <http://video.yahoo.com/watch/5728138/15004528>, August 6, 2009.

The Present and Future of the International Criminal Court, Lecture, Global Exchange, Thousand Oaks, California, July 27, 2009.

Torture, Trials and Terrorism: Detention Policy in the Obama Era, Lecture, UCLA Extension, Los Angeles, California, May 26, 2009.

The Purposes of International Justice, Justice Award Lecture, Soku Gakkai Int'l, Santa Monica, California, May 16, 2009.

The Impact of International Justice on National Jurisdictions, Presentation, Conference of the Journal of International Law and Foreign Affairs, UCLA School of Law, February 20, 2009.

What's Just about International Justice? Lecture, Center for European and Eurasian Studies, UCLA, February 12, 2009.

Whither the Court: Boumediene v. Bush, Presentation, UCLA School of Law, August 25, 2008.

The ICTY and the Future of International Justice, Lecture, Munger Tolles & Olson, Los Angeles, January 14, 2008.

An Arab Court for Human Rights, Presentation, Chapman University Human Rights Conference, April 16, 2007.

Hamdan, Common Article 3 and the Framework for the Fight Against Terrorism, Presentation and Panelist, German-American Colloquium on Legal Issues in the Fight Against Terrorism, Sponsored by German Foreign Office and Max Planck Institute, Berlin, October 12, 2006.

Challenges Facing the Law of War in the United States, Presenter and Workshop Facilitator, Conference on Governing and Living in a Time of Terror: Law Beyond 9/11, Boalt Hall School of Law, Berkeley, September 8, 2006.

The International Law of Hamdan v Rumsfeld, Colloquium, Center for International and Comparative Law, Whittier Law School, August 28, 2006.

The IHL Bureaucracy, Lecture, Pepperdine School of Law, April 7, 2006.

Introduction: The Negotiation of the Claims Settlement Declaration, Symposium on the 25th Anniversary of the Algiers Accords, Boalt Hall School of Law, Berkeley, January 13, 2006.

Self-Policing By Government Lawyers: Function, Dysfunction and the Law of War, Presentation, George Washington University Law School, Washington, D.C., September 30, 2005.

Recent Developments and the International Criminal Tribunals, Moderator, Panel of the American Society of International Law Annual Conference, Washington, D.C., April 1, 2005.

The United States and the Use of Force Under International Law, Lecture, The Netherlands Ministry of Foreign Affairs Interagency Legal Group, December 16, 2004.

Europe, the United States and International Law, Lecture, Leiden University, November 1, 2004.

Self-Defense, the UN Charter and the Perception of Threat, Presentation and Panelist, University of Utrecht, October 22, 2004.

The Occupation of Iraq under International Law, Presentation and Panelist, University of Amsterdam, May 13, 2004.

Lessons Learned from the Development of War Crimes Tribunals, Lecture, Erasmus University, Rotterdam, April 26, 2004.

The Law on the Use of Force after Iraq, Presentation and Panelist, T.M. Asser Institute Academic Forum, The Hague, March 26, 2004.

Problems of Compliance in Internal Armed Conflict, Presentation and Panelist, Regional Conference of the International Committee of the Red Cross, Brugge, Belgium, September 12, 2003.

Europe, Iraq and the Future of the EU's Common Foreign and Security Policy, Lecture, University of Amsterdam, February 10, 2003.

**APPENDIX B:
INDEX OF MATERIALS CITED IN EXPERT REPORT OF DAVID KAYE**

I. MATERIALS EXHIBITED WITH EXPERT REPORT OF DAVID KAYE*:

Exhibit No.	Description
1.	<i>Magnitude of Media Fabrication Unveils Conspiracy Against Syria</i> , SYRIAN ARAB NEWS AGENCY (May 10, 2011)
2.	<i>Information Minister: What Syria is Exposed to is Part of a Plot Targeting the Whole Region</i> , SYRIAN ARAB NEWS AGENCY (Aug. 10, 2011)
3.	<i>Shaaban: Syrian Leadership Determined to Reform</i> , SYRIAN ARAB NEWS AGENCY (Sept. 13, 2011)
4.	<i>Mikdad: President al-Assad Announced Package of Reforms in Various Fields . . . Syria is Targeted by Misleading Media Campaign</i> , SYRIAN ARAB NEWS AGENCY (Oct. 8, 2011)
5.	<i>President al-Assad: It is No Longer Possible for the Regional and Int'l Parties Seeking to Destabilize Syria to Forge Facts and Events</i> , SYRIAN ARAB NEWS AGENCY (Jan. 11, 2011)
6.	David Kaye, <i>Complexity in the Law of War</i> , in PROGRESS IN INT'L LAW (Bratspies and Miller, eds., Martinus Nijhoff Publishers, 2008)
7.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 9, 2011)
8.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 18, 2011)
9.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Mar. 30, 2011)
10.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (May 26, 2011)
11.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated July 6, 2011 from the Permanent Mission of the Syrian Arab Republic to the Working Group on Arbitrary Detention et al. (July 6, 2011)
12.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated October 25, 2011 from the Permanent Mission of the Syrian Arab Republic to the Working Group on Arbitrary Detention et al. (Oct. 25, 2011)
13.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated December 27, 2011 from the Permanent Mission of the Syrian Arab Republic to the Working Group on Arbitrary Detention et al. (Dec. 27, 2011)

* For the convenience of the Court, the above Index has been linked to the cover page of each exhibit listed. All exhibits appear at the end of this document.

II. PUBLICLY AVAILABLE MATERIALS CITED IN EXPERT REPORT OF DAVID KAYE:

A. Communications from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression

No.	Description
1.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression et al. to the Islamic Republic of Iran (May 17, 2016), https://spdb.ohchr.org/hrdb/33rd/public - UA_IRN_17.05.16_(12.2016).pdf
2.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (June 17, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18181
3.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (June 29, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18053
4.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 3, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=21090
5.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 4, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17858
6.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 10, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18137
7.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 18, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=21518
8.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 30, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18398
9.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Sept. 23, 2011), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=21083
10.	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 20, 2012), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18179

11.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Mar. 27, 2012), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22710
12.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (May 8, 2012), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17853
13.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (June 28, 2012), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=21848
14.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Nov. 2, 2012), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18666
15.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Nov. 8, 2012), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22703
16.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 21, 2013), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18042
17.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (May 13, 2013), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22010
18.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (June 28, 2013), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=15275
19.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 29, 2013), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17854
20.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances to the Syrian Arab Republic (Nov. 25, 2013), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18054
21.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Jan. 22, 2014), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18048

22.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 24, 2014), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=21520
23.	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Oct. 22, 2015), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=19193

B. Communications from the Syrian Arab Republic in Response to Special Rapporteur Communications

No.	Description
24.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated Mar. 31, 2014 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al., No. 103/14 (Mar. 31, 2014), https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67748
25.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated June 6, 2013 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al. (June 6, 2013), https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67213
26.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated Apr. 24, 2013 from the Permanent Mission of the Syrian Arab Republic to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression et al. (Apr. 24, 2014), https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67026
27.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated Mar. 31, 2014 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al., No. 106/14 (Mar. 31, 2014), https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67521
28.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated Oct. 30, 2015 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al. (Oct. 30, 2015), https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=68685
29.	Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated Apr. 29, 2015 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al. (Apr. 29, 2015), https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=68686

C. Other United Nations Resolutions, Reports, and Communications

No.	Description
30.	Comm'n on Human Rights Res. 1993/45, Right to Freedom of Opinion and Expression Mandate, U.N. Doc. E/CN.4/RES/1993/45 (Mar. 5, 1993), ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-1993-45.doc
31.	Human Rights Council Res. 5/2, Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council, U.N. Doc. A/HRC/RES/5/2 (June 18, 2007), http://www.ohchr.org/Documents/HRBodies/SP/CodeOfConduct.pdf
32.	Human Rights Council Res. 7/36, U.N. Doc. A/HRC/RES/7/36 (Mar. 28, 2008), http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_36.pdf
33.	Human Rights Council Res. 12/16, U.N. Doc. A/HRC/RES/12/16 (Oct. 12, 2009), https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G09/166/89/PDF/G0916689.pdf?OpenElement
34.	Human Rights Council Res. S16/1, U.N. Doc. A/HRC/RES/S-16/1 (May 4, 2011), http://www.ohchr.org/Documents/Countries/SY/HRC-RES-S-16-1.pdf
35.	Human Rights Council Res. 25/2, U.N. Doc. A/HRC/RES/25/2 (Apr. 9, 2014), https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/132/93/PDF/G1413293.pdf?OpenElement
36.	G.A. Res. 66/253 (Feb. 16, 2012), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/66/253
37.	Human Rights Council Res. 20/22, Situation of Human Rights in the Syrian Arab Republic, U.N. Doc. A/HRC/RES/20/22 (July 16, 2012), https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/153/46/PDF/G1215346.pdf?OpenElement
38.	Human Rights Council Res. S-17/1, U.N. Doc. A/HRC/S-17/1 (Aug. 22, 2011), http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ResS17_1.pdf
39.	S.C. Res. 2222 (May 27, 2015), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2222.pdf
40.	S.C. Res. 1738 (Dec. 23, 2006), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Civilians%20SRES1738.pdf
41.	G.A. Res. 67/262, Concerning the Situation in the Syrian Arab Republic, U.N. Doc. A/RES/67/262 (June 4, 2013), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_67_262.pdf
42.	G.A. Res. 68/182, Concerning the Situation in the Syrian Arab Republic, U.N. Doc. A/RES/68/182 (Jan. 30, 2014), http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_182.pdf
43.	Human Rights Council, Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, U.N. Doc. A/HRC/S-17/2/Add.1 (Nov. 23, 2011), http://www.ohchr.org/Documents/Countries/SY/A.HRC.S-17.2.Add.1_en.pdf

44.	Human Rights Council, Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, U.N. Doc. A/HRC/19/69 (Feb. 22, 2012), http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx
45.	Human Rights Council, Working Grp. on Arbitrary Detention Opinion No. 5/2015, Comm'n addressed to the Government on 15 January 2015 Concerning Bassel Khartabil, U.N. Doc. A/HRC/WGAD/2015/5 (July 6, 2015), https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/149/41/PDF/G1514941.pdf?OpenElement
46.	Human Rights Council, Rep. of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, U.N. Doc. A/HRC/30/48 (Aug. 13, 2015), http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A.HRC.30.48_AEV.pdf
47.	Comm'n from the Working Grp. on Arbitrary Detention et al. to the Syrian Arab Republic (Oct. 22, 2015), https://spdb.ohchr.org/hrdb/31st/public_-_UA_Syria_22.10.15_(2.2015).pdf
48.	Press Briefing, High Comm'r for Human Rights, Briefing Notes on Syria and Democratic Republic of the Congo (Nov. 8, 2011), http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11573&LangID=E
49.	Comm'n from the Working Grp. on Arbitrary Detention et al. to the Syrian Arab Republic (Oct. 22, 2015), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=19193
50.	Comm'n from the Working Grp. on Arbitrary Detention et al. to the Syrian Arab Republic (Jan. 22, 2014), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18048
51.	<i>Mukong v. Cameroon</i> , Comm'n No. 458/1991, UN Human Rights Comm., July 21, 1994, http://hrlibrary.umn.edu/undocs/html/vws458.htm
52.	Comm'n from the Working Group on Arbitrary Detention et al. to the Syrian Arab Republic (Sept. 21, 2012), https://spdb.ohchr.org/hrdb/22nd/public_-_UA_Syrie_21.09.12_(8.2012).pdf
53.	Human Rights Council, Report of the Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, Annex II, ¶ 12, U.N. Doc. A/HRC/21/50 (Aug. 16, 2012), http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-50_en.pdf

D. Non-Governmental Organization Reports

No.	Description
54.	Tom Porteous et al., “ <i>We’ve Never Seen Such Horror</i> ”: <i>Crimes against Humanity by Syrian Security Forces</i> , HUMAN RIGHTS WATCH (June 1, 2011), https://www.hrw.org/report/2011/06/01/weve-never-seen-such-horror/crimes-against-humanity-syrian-security-forces
55.	<i>About 500000 persons were killed in Syria during 81 months after the Syrian Revolution started</i> , SYRIAN OBSERVATORY FOR HUMAN RIGHTS (Dec. 10, 2017), http://www.syriahr.com/en/?p=80436
56.	<i>Syria: Events of 2017</i> , HUMAN RIGHTS WATCH (2018), https://www.hrw.org/world-report/2018/country-chapters/syria

57.	<i>Shooting The Messenger: Journalists Targeted By All Sides In Syria</i> , AMNESTY INTERNATIONAL (2013), https://www.amnestyusa.org/wp-content/uploads/2017/04/syria-mde240142013en.pdf
58.	Hussein Ghrer, <i>Social Media and the Syrian Revolution</i> , SYRIAN CENTRE FOR MEDIA AND FREEDOM OF EXPRESSION (Feb. 14, 2012), https://www.westminsterpapers.org/articles/abstract/10.16997/wpcc.169/
59.	<i>Syria: Rampant Torture of Protestors</i> , HUMAN RIGHTS WATCH (Apr. 15, 2011), https://www.hrw.org/news/2011/04/15/syria-rampant-torture-protesters
60.	Country Page for Syria, REPORTERS WITHOUT BORDERS (2017), https://rsf.org/en/syria
61.	<i>Freedom in the World 2017 Syria Profile</i> , FREEDOM HOUSE (2017), https://freedomhouse.org/report/freedom-world/2017/syria
62.	Emma Daly, <i>Journalists at Risk</i> , HUMAN RIGHTS WATCH (Nov. 2, 2016), https://www.hrw.org/news/2016/11/02/journalists-risk
63.	Press Release, AMNESTY INTERNATIONAL, Syria: Journalists deliberately targeted as country becomes most dangerous in world for reporters (May 3, 2013), https://www.amnesty.org.uk/press-releases/syria-journalists-deliberately-targeted-country-becomes-most-dangerous-world
64.	<i>Freedom of the Press 2016: Syria</i> , FREEDOM HOUSE (2016), https://freedomhouse.org/report/freedom-press/2016/syria
65.	<i>Reuters journalists under attack in Syria, Libya</i> , COMMITTEE TO PROTECT JOURNALISTS, (Mar. 30, 2011), https://cpj.org/2011/03/reuters-journalists-under-attack-in-syria-libya.php
66.	<i>Silencing Global Coverage, Syria Detains, Expels Reporters</i> , COMMITTEE TO PROTECT JOURNALISTS (July 14, 2011), https://cpj.org/2011/07/silencing-global-coverage-syria-detains-expels-rep.php
67.	<i>Freedom on the Net 2014: Syria</i> , FREEDOM HOUSE (2014), https://freedomhouse.org/sites/default/files/resources/Syria.pdf
68.	Max Kobrak, <i>Syrian Electronic Army Highly Likely Disbanded in 2016</i> , INTELLIGENCE OBSERVER (Feb. 4, 2017), https://intelligenceobserver.com/2017/02/26/syrian-electronic-army-highly-likely-disbanded-in-2016/
69.	<i>Crackdown on Media Workers in Syria</i> , SYRIAN CENTRE FOR MEDIA AND FREEDOM OF EXPRESSION (Nov. 2011), https://scm.bz/wp-content/uploads/2011/11/Crackdown_on_Media_Workers_in_Syria_-_final1.pdf
70.	<i>Freedom of the Press 2012: Syria</i> , FREEDOM HOUSE (2012), https://freedomhouse.org/report/freedom-press/2012/syria
71.	<i>Ferzat Jarban</i> , COMMITTEE TO PROTECT JOURNALISTS (last updated 2017), https://cpj.org/killed/2011/ferzat-jarban.php
72.	<i>Basil al-Sayed</i> , COMMITTEE TO PROTECT JOURNALISTS (last updated 2017), https://cpj.org/data/people/basil-al-sayed/index.php
73.	<i>Gilles Jacquier</i> , COMMITTEE TO PROTECT JOURNALISTS (last updated 2017), https://cpj.org/killed/2012/gilles-jacquier.php
74.	Mansour al-Omari, <i>Syrians: Tortured for Daring to Speak Out</i> , FREE SYRIAN VOICES, http://free-syrian-voices.org/syrians-tortured-for-daring-to-speak-out/

75.	<i>Syrian activist Mazen Darwish freed after three-year ordeal that included torture</i> , AMNESTY INTERNATIONAL (Aug. 10, 2015), https://www.amnesty.org/en/latest/news/2015/08/syrian-activist-mazen-darwish-freed-after-three-year-ordeal/
76.	<i>Syria detains, reportedly tortures videographer</i> , COMMITTEE TO PROTECT JOURNALISTS (Apr. 2, 2012), https://cpj.org/2012/04/syria-detains-reportedly-tortures-videographer.php
77.	<i>Abdul Raheem Kour Hassan</i> , COMMITTEE TO PROTECT JOURNALISTS (2013), https://cpj.org/killed/2013/abdul-raheem-kour-hassan.php
78.	<i>113 Journalists Killed in Syria/Motive Confirmed</i> , COMMITTEE TO PROTECT JOURNALISTS (last visited Oct. 26, 2017), https://cpj.org/killed/mideast/syria/

E. U.S. Department of State Reports

No.	Description
79.	U.S. Dep't of State, Bureau of Democracy, H.R. and Lab., Country Report on Human Rights Practices for 2011: Syria (2011), https://www.state.gov/documents/organization/186661.pdf
80.	U.S. Dep't of State, Bureau of Democracy, H.R. and Lab., Country Report on Human Rights Practices for 2012: Syria (2012), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204383
81.	Press Release, U.S. Dep't of Justice, Computer Hacking Conspiracy Charges Unsealed Against Members of Syrian Electronic Army (Mar. 22, 2016), https://www.justice.gov/opa/pr/computer-hacking-conspiracy-charges-unsealed-against-members-syrian-electronic-army

F. News Articles

No.	Description
82.	Michael Slackman, <i>Syrian Troops Open Fire on Protesters in Several Cities</i> , N.Y. TIMES (Mar. 25, 2011), http://www.nytimes.com/2011/03/26/world/middleeast/26syria.html
83.	<i>Syria: 'Hundreds of thousands' join anti-Assad protests</i> , BBC NEWS (July 2, 2011), http://www.bbc.com/news/world-middle-east-13988701
84.	Ivan Watson, Raja Razek & Saad Abedine, <i>Defecting Syrian propagandist says his job was 'to fabricate'</i> , CNN (Oct. 9, 2012), http://www.cnn.com/2012/10/09/world/meast/syria-propagandist-defects/
85.	Alex Thomson, <i>Q&A: How foreign journalists operate in Syria</i> , THE GUARDIAN (Apr. 2, 2013), https://www.channel4.com/news/by/alex-thomson/blogs/qa-foreign-journalists-operate-syria
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87.	Robert Mackey, <i>French Journalist Killed in Syria as Observer Mission Frays</i> , N.Y. TIMES (Jan. 11, 2012), https://thelede.blogs.nytimes.com/2012/01/11/french-journalist-killed-in-syria-as-observer-mission-frays/
88.	Ahmed al Omran, <i>Basil Al-Sayed, Who Chronicled The Syrian Uprising, Is Dead</i> , NPR (Dec. 29, 2011), http://www.npr.org/sections/thetwo-way/2011/12/29/144448779/basil-al-sayed-who-chronicled-the-syrian-uprising-is-dead
89.	Martin Chulov, <i>Syria shuts off internet access across the country</i> , THE GUARDIAN (Nov. 29, 2012), https://www.theguardian.com/world/2012/nov/29/syria-blocks-internet
90.	<i>Syria cuts off Internet, cellphone service</i> , CBC NEWS (Nov. 29, 2012), http://www.cbc.ca/news/world/syria-cuts-off-internet-cellphone-service-1.1133628
91.	John D. Sutter, <i>Cartoons that scare Syria's leader</i> , CNN (May 21, 2013), http://www.cnn.com/2013/05/21/opinion/sutter-syrian-cartoonist-ferzat/index.html
92.	<i>Syria: Attack on Ali Farzat and Persecution of Activists</i> , AMERICAN NEWS AND VIEWS (U.S. Dep't of State, Washington, D.C.), Aug. 25, 2011, https://photos.state.gov/libraries/burma/895/pdf/ANV20110826.pdf
93.	Rebecca Shapiro, <i>Ferzat Jarban Dead: Cameraman is First Reported Journalist Killed in Syria</i> , HUFFINGTON POST (Nov. 21, 2011), https://www.huffingtonpost.com/2011/11/21/ferzat-jarban-dead-cameraman-journalist-killed-syria_n_1106088.html
94.	Eleanor Steafel, <i>The Syrian mothers forced to trawl photographs of the dead to find out if their sons and husbands are alive</i> , THE TELEGRAPH (Apr. 7, 2017), http://www.telegraph.co.uk/women/family/syrian-mothers-forced-trawl-photographs-dead-find-sons-husbands/
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97.	Alice Su, <i>How One Syrian Fought to the Death for a Free Internet</i> , WIRED (Sept. 27, 2017), https://www.wired.com/story/how-one-syrian-fought-to-the-death-for-a-free-internet/
98.	Oliver Holmes, <i>Syria's television confessions fail to convince many</i> , REUTERS (May 16, 2012), www.reuters.com/article/us-syria-confessions-idUSBRE84F0PM20120516
99.	<i>Syria Conflict: Journalists Killed in Missile Attack</i> , BBC (Dec. 10, 2014), http://www.bbc.com/news/world-middle-east-30411516
100.	<i>Syrian Journalist Khaled al-Essa Dies After Bomb Attack</i> , AL-JAZEERA (June 25, 2016), http://www.aljazeera.com/news/2016/06/syrian-journalist-khaled-al-essa-dies-bomb-attack-160625033330015.html
101.	<i>Bassel Khartabil: Missing Syrian-Palestinian 'executed'</i> , AL JAZEERA (Aug. 2, 2017) (Aug. 2, 2017), http://www.aljazeera.com/news/2017/08/bassel-khartabil-missing-syrian-palestinian-executed-170802100920059.html

102.	Erik Wemple, <i>Risk level in Syria has media outlets in quandary over coverage</i> , WASHINGTON POST (Feb. 23, 2012), https://www.washingtonpost.com/lifestyle/style/2012/02/23/gIQA1dneWR_story.html?utm_term=.77b6dc6c03a1
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104.	Rick Gladstone, <i>General Assembly Votes to Condemn Syrian Leader</i> , N.Y. TIMES (Feb. 16, 2012), http://www.nytimes.com/2012/02/17/world/middleeast/secretary-general-ban-ki-moon-castigates-syria-ahead-of-general-assembly-vote.html?_r=0

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105.	Billur Aslan, <i>The Mobilization Process of Syria’s Activists: The Symbiotic Relationship Between the Use of ICTs and the Political Culture</i> , 9 INT’L J. OF COMM’NS 2507 (2015), http://ijoc.org/index.php/ijoc/article/viewFile/3527/1436
106.	Customary International Humanitarian Law Database, INT’L COMMITTEE OF THE RED CROSS, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule34
107.	ICRC CIL Database, Chapter I (The Principle of Distinction), https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cha
108.	Nils Melzer, <i>Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law</i> , 48 INT’L COMM. OF THE RED CROSS 103 (2009), https://www.icrc.org/eng/assets/files/other/icrc-002-0990.pdf

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109.	Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, 1125 U.N.T.S. 3, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=6E95E63184FD05C8C12563CD0051E0FB
110.	Convention for the Amelioration of the Condition of the Wounded and the Sick in Armed Forces in the Field, Aug. 12, 1949, entered into force Oct. 21, 1950, 6 U.S.T. 3217, 75 U.N.T.S. 31, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e636b/fe20c3d903ce27e3c125641e004a92f3
111.	Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, entered into force Oct. 21, 1950, 6 U.S.T. 3217, 75 U.N.T.S. 85, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e636b/44072487ec4c2131c125641e004a9977
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115.	UN General Assembly, <i>Rome Statute of the International Criminal Court (last amended 2010)</i> , 17 July 1998, ISBN No. 92-9227-227-6, http://www.refworld.org/docid/3ae6b3a84.html
116.	International Covenant on Civil and Political Rights (ICCPR), Dec. 16, 1966, 999 U.N.T.S. 171, http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf
117.	<i>Prosecutor v. Milosević</i> , Trial Chamber Judgment, IT-98-29/1-T Int'l Crim. Trib. for the Former Yugoslavia (Dec. 12, 2007), http://www.icty.org/x/cases/dragomir_milosevic/tjug/en/071212.pdf
118.	Final Report to the Prosecutor by the Special Committee of the ICTY Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia, http://www.icty.org/x/file/Press/nato061300.pdf
119.	<i>Prosecutor v. Galić</i> , Appeal Judgment, ICTY-98-29-A (Int'l Crim. Trib. for the Former Yugoslavia Nov. 30, 2006), http://www.icty.org/x/cases/galic/acjug/en/gal-acjud061130.pdf
120.	<i>Prosecutor v. Katanga</i> , Judgment pursuant to article 74 of the Statute, ICC-01/04-01/07, I.C.C. (Mar. 7, 2014), https://www.icc-cpi.int/CourtRecords/CR2015_04025.PDF
121.	<i>Bustios v. Peru</i> , Case 10.548, Inter-Am. Comm'n H.R., Report No. 38/97, OEA/Ser.L/V/II.95, doc. 7 rev. (1997), http://hrlibrary.umn.edu/cases/1997/peru38-97.html
122.	<i>Restrepo v. Colombia</i> , Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 248 (Sept. 3, 2012), http://www.corteidh.or.cr/docs/casos/articulos/seriec_248_ing%20.pdf
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124.	Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217 (III) (Dec. 10, 1948), http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

APPENDIX C:
SUMMARY OF FORMAL COMMUNICATIONS WITH THE GOVERNMENT OF THE SYRIAN ARAB REPUBLIC
INVOLVING THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO
FREEDOM OF OPINION AND EXPRESSION

No.	Date	Reference	Description
1.	2011.02.09	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 9, 2011), Ex. 7	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the detention of and charges against Mr. Ali Al-Abdullah, a member of the National Council of the Damascus Declaration for National Democratic Change. ¹¹⁴ Mr. Al-Abdullah was detained on December 17, 2007 after attending a meeting to elect a new executive committee associated with the Damascus Declaration. He and eleven others were sentenced to two and a half years of imprisonment on charges of “weakening the national sentiment” and “spreading false or exaggerated news that would affect the morale of the country.” No response from the Syrian government has been received to date.
2.	2011.02.18	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 18, 2011), Ex. 8	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the sentencing of Ms. Tal al-Mallohi, a 19-year-old high school student and blogger writing on social and political issues. No response from the Syrian government has been

¹¹⁴ For this and all other Communications listed in this Appendix, the Communications did not “prejudge the accuracy” of the allegations contained therein.

			received to date.
3.	2011.03.30	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Mar. 30, 2011), Ex. 9	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding allegations that protestors had been killed or wounded, arrested and detained in unknown locations across Syria. Among those arrested on various occasions are Mr. Mazen Darwish, Director of the Syrian Centre for Media and Freedom of Expression, and Mr. Lo'ay Hussein, a writer and journalist who had published a petition on the internet calling for the peaceful expression of opinion. The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva responded to this Communication on July 6, 2011. ¹¹⁵
4.	2011.05.26	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (May 26, 2011), Ex. 10	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the detention, incommunicado detention, and possible enforced disappearances of a number of individuals in connection with demonstrations in Syria. Among those detained

¹¹⁵ Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated July 6, 2011 from the Permanent Mission of the Syrian Arab Republic to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression et al. (July 6, 2011), Ex. 11. The Response disputes the Syrian government's involvement in violence against demonstrators, asserting instead that "armed terrorist gangs are appearing on the ground, attacking, terrorizing and killing peaceful demonstrators" with the "essential aim of . . . discredit[ing] the public authorities of Syria by portraying them as undertaking bloody operations to suppress the demonstrators," and further alleges that those "detained for perpetrating unlawful acts have been transferred to the judicial authorities in accordance with the . . . Syrian Code of Criminal Procedure and in complete conformity with the legislation promulgated in terms of lifting the state of emergency." The Response provides no information on whether the individuals identified in the Communication were released or charged, nor any details on what charges these individuals might face.

			and disappeared include Mr. Yasser Al-Khayyat, a 26-year-old student who oversees the Damascus University Group website, which allows students to express their views on current events in Syria. Mr. Mazen Adi, a leading figure of the opposition, was also arrested, reportedly “because of his participation in several media interviews in the past couple of days.” No response from the Syrian government has been received to date.
5.	2011.06.17	Comm’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (June 17, 2011), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=18181	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the excessive use of force, arbitrary arrest, detention, and torture of protestors. The Communication notes “concern that the allegations mentioned above are linked to [the victims’] legitimate exercise of their right to freedom of opinion and expression.” No response from the Syrian government has been received to date.
6.	2011.06.29	Comm’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (June 29, 2011), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=18053	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the raid of the premises of the Assyrian Democratic Organization and the arrest of 13 human rights activists following a peaceful protest. The Communication notes allegations “that these activists were arrested for their participation or calls for peaceful demonstrations During these allegedly peaceful protests, thousands of political opponents, demonstrators, human rights defenders, including bloggers and journalists, have been arrested and reportedly tortured and ill-treated by State security agents for having exercised their right to the freedom of opinion, expression and peaceful assembly.” The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva responded to this

			Communication on October 25, 2011. ¹¹⁶
7.	2011.08.03	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 3, 2011). https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=21090	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the detention and possible enforced disappearances reported in connection with the protests taking place across the country. No response from the Syrian government has been received to date.
8.	2011.08.04	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 4, 2011), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=17858	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the continued violent crackdown against demonstrations taking place since March 15, 2011. In one instance, Mr. Rami Mohamed Dalati, a social activist who documented and monitored human rights violations, was arbitrarily arrested and detained; his personal and professional computer and documents were confiscated. In another instance, Mr.

¹¹⁶ Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated October 25, 2011 from the Permanent Mission of the Syrian Arab Republic to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression et al. (Oct. 25, 2011), Ex. 12. The Response asserts that the Chief Public Prosecutor in Al-Qamishli authorized the police search in accordance with Syrian law and that the premises were being used as “the headquarters of an unauthorized ethnic sectarian organization” that was “engaging in unlawful acts and activities . . . in order to undermine public security by provoking sectarian and ethnic strife and organizing demonstrations without obtaining authorization.” The Response further alleges that the persons arrested were engaged in activities punishable “under articles 327, 328, 335 and 339 of the Syrian Criminal Code and Legislative Decree No. 54 of 2011 concerning the organization of peaceful demonstrations in the Syrian Arab Republic,” that those persons were never “beaten or abused in any way . . . [nor] detained in solitary confinement,” that, in any case, on May 26, 2011 they were released after the investigation established that their offenses did not require an appearance in court, and that subsequently, on May 31, 2011, the investigation itself was discontinued as a result of a general amnesty for related offences.

			Mouhammad Alammar, a human rights defender, was charged with damaging the prestige of the state, holding secret unauthorized meetings, spreading news that might weaken the morale of the nation, and weakening national sentiment or inciting racial or sectarian strife. The Communication expresses “grave[] concern[]” regarding ongoing “alleged human rights violations.” No response from the Syrian government has been received to date.
9.	2011.08.10	Comm’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 10, 2011), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=18137	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the arrest and possible enforced disappearance of Mr. Mohamed Jamal Al Tahhan, a political activist and a member of the Arab Writer’s Union as well as of the Federation of Arab Journalists. No response from the Syrian government has been received to date.
10.	2011.08.18	Comm’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 18, 2011), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=21518	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the disciplinary procedure initiated against Mr. Mustafa Osso, allegedly for his activities as a human rights lawyer and defender, for his participation in peaceful protests, and for denouncing, in the media, human rights violations. The Communication expresses “concern” that Mr. Osso was “targeted for his . . . denunciation of human rights violations by the Government in the media and for his participation in a peaceful protest.” The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in

			Geneva responded to this Communication on December 27, 2011. ¹¹⁷
11.	2011.08.30	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 30, 2011), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=18398	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the harassment, arrest, and detention of human rights activists Messrs. Ahmed Tomeh, Wael Al-Hamada, Abdel Rahman Al-Hamada, Mohamed Najti Tayara, Walid Al Bunni and his two sons, Mu'ayad Al Bunni and Iyad Al Bunni, and Ms. Handai Zahlout. Mr. Ahmed Tomeh, a member of the General Secretariat of the National Council of the Damascus Declaration for Democratic National Change, reported on human rights violations committed in the city of Der Al-Zor, and Ms. Handai Zahlout coordinated protests and posted information online regarding the situation in Syria. The Communication expresses "concern" that the persecution against these individuals was "linked to their legitimate human rights work." No response from the Syrian government has been received to date.
12.	2011.09.23	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the alleged persecution and harassment of Mr.

¹¹⁷ Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated December 27, 2011 from the Permanent Mission of the Syrian Arab Republic to the Working Group on Arbitrary Detention et al. (Dec. 27, 2011), Ex. 13. The Response asserts that Mustafa Osso "is in no way a human rights defender and his activities are not related to that field in any respect," characterizing contrary observations in the Communication itself as "entirely spurious." The Response further emphasizes that all proceedings are "in accordance with the provisions of the law." I note that the Syrian Arab Republic states that its Response is in relation to a Communication of September 29, 2011; however, it is clear from context that it is responsive to the Communication of August 18, 2011.

		<p>Republic (Sept. 23, 2011), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=21083</p>	<p>Radeef Mustafa, the head of Kurdish Committee for Human Rights, who authored reports and gave interviews to Syrian media, regarding the country's human rights violations. The Communication expresses "concern . . . that Mr. Mustafa has . . . been targeted for his peaceful exercise of the right to freedom of opinion and expression, [denouncing] alleged human rights violations by the Government through interviews, reports and articles." No response from the Syrian government has been received to date.</p>
13.	2012.02.20	<p>Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 20, 2012), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=18179</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the arbitrary detention of at least 16 people, including members of the Syrian Centre for Media and Freedom of Expression (SCM). The Communication expresses "serious concern . . . that the arrest of these persons may be directly linked to the SCM's activities in the defence of human rights and may be part of a wider pattern of harassment against human rights defenders in the Syrian Arab Republic." No response from the Syrian government has been received to date.</p>
14.	2012.03.27	<p>Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Mar. 27, 2012), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=22710</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the arrest, incommunicado detention and possible enforced disappearance of Mr. Rudy Uthman (a journalist and human rights activist) and Mr. Saleh Shameya (a lawyer with National Human Rights Organisation-Syria). Mr. Uthman was arrested as he was participating in a protest marking the first anniversary of the protests in Syria. The Communication expresses "concern that both Messrs. Uthman and Shameya have been detained as a result of the peaceful exercise of their right to freedom of expression." No response from the Syrian government</p>

			has been received to date.
15.	2012.05.08	<p>Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (May 8, 2012), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=17853</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the alleged incommunicado detention, torture, and upcoming military court trials of members of the Syrian Centre for Media and Freedom of Expression (SCM), three of whom were “accused of ‘possessing prohibited materials with the intent to disseminate them,’” including “recorded material . . . which allegedly . . . call[ed] for protests against the Government.” The Communication expresses “serious concern . . . that the prolonged incommunicado detention and torture and ill-treatment of these individuals and the criminal charges being brought against them may be directly linked to SCM’s activities in the defence of human rights.” No response from the Syrian government has been received to date.</p>
16.	2012.06.28	<p>Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (June 28, 2012), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=21848</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the death in custody of Mr. Aladdin Al Doori, a social media activist, noting concern “about the alleged ongoing pattern of extrajudicial killings in the Syrian Arab Republic.” No response from the Syrian government has been received to date.</p>
17.	2012.11.02	<p>Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Nov. 2, 2012), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=21848</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding various cases, including the arrest and incommunicado detention of Mr. Maher Fawzi al-Hamoud, a 25-year-old Syrian man who was arrested and detained without access to a lawyer or his family, and had not been informed whether he</p>

		File?gId=18666	faced charges. It is alleged that, during his previous period in detention from October 9, 2011 to January 13, 2012, in a branch of the Air Force Intelligence, he was subject to torture and other ill-treatment. The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva responded to this Communication on June 6, 2013. ¹¹⁸
18.	2012.11.08	Comm'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Nov. 8, 2012), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22703	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the alleged enforced disappearance of Messrs. Abdelaziz al-Khayer, Iyas Ayash and Maher Tahan (members of the National Coordination Body for Democratic Change and Arab Socialists Movement), who were travelling in a car from Damascus International Airport when reportedly stopped at an Air Force Intelligence checkpoint. The individuals were reportedly brought to one of the branches of Air Force Intelligence. The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva responded to this Communication on April 24, 2013. ¹¹⁹

¹¹⁸ Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated June 6, 2013 from the Permanent Mission of the Syrian Arab Republic to the Working Group on Arbitrary Detention et al. (June 6, 2013), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67213>. The Response states that Mr. al-Hamoud was “arrested for participating in unauthorized demonstrations and for membership in the illegal ‘Sweida Coordination Committee’” and held on the charge of colluding with other individuals and instigating illegal demonstrations and acts of vandalism, as well as for his call over the Internet for foreign military intervention in Syria. The Response further reports that Mr. al-Hamoud’s case was referred to the appropriate judicial authority and that he was released on July 11, 2012; it does not specify which law Mr. al-Hamoud was alleged to have violated.

¹¹⁹ Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated April 24, 2013 from the Permanent Mission of the Syrian Arab Republic to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression et al. (Apr. 24, 2013), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67026>. The Response asserts that the concerned

19.	2013.02.21	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 21, 2013), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=18042	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the alleged torture and death of Mr. Ayham Moustafa Ghazzoul, who worked with the Syrian Center for Media and Freedom of Expression offices in Damascus and was kidnapped from Damascus University, and expressing "concern" about the allegations that he was targeted because of his involvement with the Center. No response from the Syrian government has been received to date.
20.	2013.05.13	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (May 13, 2013), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=22010	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the alleged enforced disappearance and torture of Mr. Omar Mohamed Mamoun Arnous (member of the Syrian Network for Human rights) and the incommunicado detention and denial of medical treatment of Mr. Khalil Matouk (a human rights lawyer). The Communication expresses "grave concern" about these cases, noting that they "form part of a much broader pattern of ongoing arrests and disappearances, on a daily basis, in the Syrian Arab Republic since protests broke out in February 2011." No response from the Syrian government has been received to date.
21.	2013.06.28	Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights

authorities have confirmed that the referenced individuals are not in the custody of any law enforcement or security authority in Syria and that no information is available regarding their whereabouts.

		<p>Expression et al. to the Syrian Arab Republic (June 28, 2013), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=15275</p>	<p>Council, regarding alleged acts of reprisal and criminal charges against, and the alleged incommunicado detention, torture, and ill treatment of Messrs. Mazen Darwish (the Director of the Damascus-based Syrian Centre for Media and Freedom of Expression (SCM)), Hussayn Gharir, Hani Zitani, Abdelrahman Alhamade and Mansour Al-Omari, as well as acts of reprisal against, and the alleged continued incommunicado detention and deteriorating health of Mr. Khalil Matouk and Mr. Mohammed Thatha. The Communication expresses “grave concern . . . that the . . . detention, torture and ill-treatment of these individuals, and the criminal charges . . . brought against them may be directly linked to their activities in defence of human rights, their cooperation with UN human rights mechanisms and may be part of a wider pattern of harassment and criminalization against human rights defenders.” The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva responded to this Communication on March 31, 2014.¹²⁰</p>
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¹²⁰ Mar. 31, 2014 Letter from the Permanent Mission of the Syrian Arab Republic to the U.N., *supra* note 81. The Response asserts that Messrs. Darwish, Gharir, and Zitani had been arrested on February 16, 2012 for their suspicious activities and subsequently referred to the competent judicial authority on November 14, 2012. The Response does not specify which law they were alleged to have violated.

22.	2013.08.29	<p>Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Aug. 29, 2013), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=17854</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the alleged enforced disappearances of Messrs. Youssef Abdelke and Adnan al-Dibs, as well as the alleged arrest of Mr. Toufiq Umran, all associated with the National Coordination Body for Democratic Change. The Communication expresses "concern . . . that the alleged enforced disappearance of Messrs. Abdelke and Al-Dibs, as well as the arrest of Mr. Umran, may be related to their activities in relation to the National Coordination Body for Democratic Change, exercising their legitimate rights to freedom of expression and of association." No response from the Syrian government has been received to date.</p>
23.	2013.11.25	<p>Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances to the Syrian Arab Republic (Nov. 25, 2013), https://spcommreports.ohchr.org/TMRes ultsBase/DownloadPublicCommunication File?gId=18054</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, regarding the alleged abductions of Mr. Abdulwahab Almullah (broadcaster, civil rights activist, and founder of the Aleppo News Network and Aleppo Reporters Union) and Mr. Rami Al-Razzouk (the director of the Ana Foundation of New Media in Raqqa). The Communication expresses "concern[] . . . that the alleged abductions of Mr. Abdulwahab Almullah and Mr. Rami Al-Razzouk may be related to their work in defence of human rights, specifically in promoting freedom of expression and the right to information in Syria." No response from the Syrian government has been received to date.</p>
24.	2014.01.22	<p>Commc'n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Jan. 22, 2014),</p>	<p>Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the case of Mr. Akram Raslan, a political cartoonist for the Al-Fida newspaper, who was arrested for</p>

		https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18048	drawing political cartoons of President Bashar Al-Assad, put on trial, and sentenced to life in prison on charges of “working against Syria’s Constitution, insulting the country’s president, incitement to sedition, promoting revolt against the public order, and undermining the prestige of the Syrian State.” The Communication expresses “serious concern about Mr. Raslan’s whereabouts and fate” and requests “an official confirmation about his well-being and current place of detention.” The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva responded to this Communication on March 31, 2014. ¹²¹
25.	2014.02.24	Comm’n from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Feb. 24, 2014), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=21520	Joint Communication from the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the attempted killing of Mr. Raed Fares, the founder of the Kafranbel Media Centre, an independent organization that organizes, monitors, and reports on peaceful demonstrations. The Communication expresses “[g]rave concern . . . at the attempted killing of Mr. Fares and that the threats directed towards him may be directly linked to his legitimate activities in the defence of human rights in the Syrian Arab Republic, specifically his work with the Kafranbel Media Centre.” No response from the Syrian government has been received to date.
26.	2015.10.22	Comm’n from the Special Rapporteur	Joint Communication from the Special Rapporteur on the

¹²¹ Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated March 31, 2014 from the Permanent Mission of the Syrian Arab Republic to the Working Group on Arbitrary Detention et al., No. 103/14 (Mar. 31, 2014), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=67748>. The Response asserts that Mr. Raslan was arrested for publishing cartoons offending the state’s prestige and is still under investigation by the competent judicial authority. The Response does not specify which law Mr. Raslan is alleged to have violated.

		<p>on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to the Syrian Arab Republic (Oct. 22, 2015), https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=19193</p>	<p>Promotion and Protection of the Right to Freedom of Opinion and Expression, and other mandates under the UN Human Rights Council, regarding the alleged enforced disappearance and consequent incommunicado detention of Mr. Bassel Khartabil, a professor and human rights activist who advocated for internet freedoms, including free expression through social media and information-sharing. After being disappeared and held incommunicado, Mr. Khartabil was brought before a military prosecutor and charged with “spying for an enemy state.” Notably, this OHCHR Communication followed a September 21, 2012 Joint Appeal from the Working Group on Arbitrary Detention concerning Mr. Khartabil’s disappearance and detention as well as a January 15, 2015 letter,¹²² asserting that the Syrian government had not responded to either missive. The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva responded to this Communication on October 30, 2015.¹²³</p>
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¹²² Commc’n from the Working Grp. on Arbitrary Detention et al. to the Syrian Arab Republic (Sept. 21, 2012), [https://spdb.ohchr.org/hrdb/22nd/public_-_UA_Syrie_21.09.12_\(8.2012\).pdf](https://spdb.ohchr.org/hrdb/22nd/public_-_UA_Syrie_21.09.12_(8.2012).pdf); Working Grp. on Arbitrary Detention Opinion No. 5/2015, *supra* note 66. The Freedom of Expression mandate is not and has not been involved in this Working Group.

¹²³ Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated October 30, 2015 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al. (Oct. 30, 2015), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=68685>. The Response contains no substantive discussion, but merely disputes the assertion that the Syrian government had failed to respond to earlier Communications by the Working Group. This claim is partially correct: on April 29, 2015, the Syrian government responded to the January 2015 letter (but not the September 2012 Joint Appeal), asserting (without referencing any specific laws) that Mr. Khartabil “was arrested by the competent authorities for carrying out activities in violation [of] national legislation[], including [for] his relations with unauthorized organizations and terrorist armed groups.” *See* Permanent Mission of the Syrian Arab Republic to the U.N., Letter dated April 29, 2015 from the Permanent Mission of the Syrian Arab Republic to the Working Grp. on Arbitrary Detention et al. (Apr. 29, 2015), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=68686> (describing Mr. Khartabil’s case as being reviewed “under due process by the competent judicial authorities”).

Exhibit 1

Magnitude of Media Fabrication Unveils Conspiracy against Syria

NewsRoom

5/10/11 Syrian Arab News Agency (SANA) 14:16:58

Syrian Arab News Agency (SANA)
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May 10, 2011

Magnitude of Media Fabrication Unveils Conspiracy against Syria

Damascus, (SANA)-"Lie, lie until they believe you"...This was the slogan which some Arab and foreign channels have adopted in their coverage of the events in the Arab arenas, particularly in Syria, serving a Western-Israeli scheme through launching immense media war depending on fabricating the false news to portray them as facts on the ground.

The size of media fabrication, misleading and instigation related to what is happening in Syria unveiled the plot of the media-led conspiracy and the dirty game which aims at undermining Syria's security and stability as well as its pan-Arab stances.

Political analysts clarified that the strategy of pre-emptive wars which was adopted by the so-called neoconservatives in Washington and their allies in Israel comes from their conviction that war is settled through media before being settled on the ground.

Dr.

Shamil Sultanov, Chairman of the Center for Strategic Studies, Russia and the Islamic World, says "The West tries again to adapt to the current circumstances in the Arab world, using a destructive media technology to defeat Syria as the key Arab country standing in the face of the Israeli expansionist project in the region, through sowing all-out sedition along the spectrums of the Syrian people.

Several Arab and global sources agree on the reality of the conspiracy targeting Syria's security using media as a tool, asserting that media is working on provoking all kinds of problems to justify an external intervention as a humanitarian message.

The Canadian Center for Globalization Studies in its research paper under the title "Truth, Propaganda and Media Fabrication' revealed that the latest events in Syria and the region divulged the huge media misleading which was not only restricted to TV channels , newspapers, magazines and news agencies, but also websites of political and strategic studies centers affiliated to some persons and groups of bloggers, and communication networks on You Tube, Twitter and Facebook.

H.

Zain/ M.

Magnitude of Media Fabrication Unveils Conspiracy against Syria

Ismael

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---- Index References ----

Region: (Mediterranean (1ME20); Syria (1SY20); Arab States (1AR46); Middle East (1MI23); Israel (1IS16))

Language: EN

Other Indexing: (ALBAWABA COM; CANADIAN CENTER; CENTER FOR STRATEGIC STUDIES; GLOBALIZATION STUDIES; ISLAMIC WORLD; MEDIA FABRICATION; MEDIA FABRICATION UNVEILS CONSPIRACY; PROPAGANDA; TRUTH; TV) (Arab; Dr; Facebook; International; Magnitude; Shamil Sultanov; Zain)

Word Count: 337

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NewsRoom

Exhibit 2

Information Minister: What Syria is Exposed to is Part of a Plot Targeting the Whole Region

NewsRoom

8/10/11 Syrian Arab News Agency (SANA) 04:00:27

Syrian Arab News Agency (SANA)
Copyright © 2011 All rights reserved. Albawaba.com

August 10, 2011

Information Minister: What Syria is Exposed to is Part of a Plot Targeting the Whole Region

Minister of Information Dr.

Adnan Mahmoud on Tuesday said the latest events in Syria are part of a plot against the whole region, adding that Syria has been targeted since 2001.

The Minister comments came during a meeting with the Jordanian Popular Committee delegation which voiced support to Syria against targeting its#pivotal role in the region.

Minister Mahmoud added that conspiracy is becoming clearer after the Security Council adopted a statement on Syria, pointing out that the statement ignored the#acts of the armed terrorist groups in some Syrian areas.

The government managed, by virtue of the popular awakening, to stop all pretexts for foreign sides to interfere in Syria's internal affairs, the Minister said.

He added that the Syrian people expressed support to President Bashar al-Assad's reform program and condemned the criminal acts of terrorists and foreign intervention.

Minister Mahmoud said that Syria has been the target of an unprecedented media war for more than 4 months using all technologies of communications, virtual world and satellites, pointing out that some Arab and foreign satellite channels dedicated more than 80% of their broadcast to convey the statements of the opposition and armed terrorist groups.

The Minister clarified that Syria has started implementing reforms announced by President al-Assad as the parties, elections and local administration laws were endorsed and soon the media law will be endorsed too, stressing that reform is going on with great momentum.

For his part, member of the delegation Ibrahim Alloush said the crisis which is storming Syria is "a war to win the hearts and minds", adding that Syrian media has a big responsibility to develop its tools to win that war.

Members of the delegation stressed the necessity of rebuilding a wide national front to face all challenges targeting the unity of the Syrian society.

F.Allafi/M.Eyon #####

Information Minister: What Syria is Exposed to is Part of a Plot Targeting the Whole Region

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---- Index References ----

News Subject: (Embassies & Consulates (1EM50); Top World News (1WO62); Government (1GO80); International Terrorism (1IN37))

Industry: (TV (1TV19); Traditional Media (1TR30); TV Stations (1TV23); Entertainment (1EN08); Broadcast TV (1BR25))

Region: (Arab States (1AR46); Mediterranean (1ME20); Syria (1SY20); Middle East (1MI23))

Language: EN

Other Indexing: (Ibrahim Alloush; Bashar al-Assad; Adnan Mahmoud)

Word Count: 317

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NewsRoom

Exhibit 3

Shaaban: Syrian Leadership Determined to Reform

NewsRoom

9/13/11 Syrian Arab News Agency (SANA) 04:00:27

Syrian Arab News Agency (SANA)
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September 13, 2011

Shaaban: Syrian Leadership Determined to Reform

Presidential Political and Media Advisor Dr.

Bouthaina Shaaban on Monday held talks with Deputy Minister of Foreign Affairs of the Russian Federation, Mikhail Bogdanov, Deputy Chairman of the Russian Federation Council Elias Ahumakhanov and Mikhail Margelov Chairman of the Committee on International Relations in the Russian Federation Council.

Bogdanov stressed that the Russian stance is firm on preventing foreign interference in the internal issues of Syria, expressing his satisfaction over the ongoing reforms and the intention to carry out democratic elections in Syria.

For his part, Ahumakhanov stressed the Russian people's sympathy with Syria and his confidence that Syria will get out of the crisis peacefully and restores its prosperity and development.

Margelov stressed that Syria is a friendly country to Russia and that friendly countries do not abandon their friends at times of crises, adding that Russia is resolved to prevent the repetition of the Libyan scenario in Syria.

He suggested that a delegation from the Russian Federation Council come to Syria to inspect what is happening on ground.

For her part, Dr.

Shaaban stressed that the Syrian leadership is making progress in reforms which stem from the need of the Syrian society, saying, "What happens in Syria cannot be separated from what is happening in the region." She pointed out that the crisis in Syria is complex, saying that there is a fierce media war against Syria based on misinformation, incredibility and the escalation of violence.

Shaaban clarified that the Russian people and leadership are taking honorable and objective stances regarding the current events in Syria, stressing that Russia has always been a partner to Syria in defending the principles of right and justice.

Dr.

Shaaban held a press conference at the Russian Foreign Ministry Press Center attended by several reporters during which she clarified the truth of events in Syria.

Shaaban: Syrian Leadership Determined to Reform

"We are on the threshold of the centennial anniversary of Sykes-Picot colonial treaty and Balfour Declaration.

We notice that old colonial countries are seeking to practice their habitual policies and dividing what is has already been divided," Shaaban said.

She stressed that the Western countries are far from the desire to achieve democracy, freedom and dignity for the Arab peoples.

Shaaban added that there are facts that prove what is happening is related to the Arab-Israeli conflict and the continuation of Israeli occupation of Arab territories.

Every time a reform law or procedure is issued in Syria, foreign pressure escalates and armed acts by armed terrorist groups against the Syrian army and security forces and civilians increase, she said.

Dr.

Shaaban stressed that Russia is a friendly country to Syria, saying, "We are assured of the Russian stance which is not based on provocative media means, rather on truth and tangible facts on ground." F.Allafi/M.Eyon

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---- Index References ----

News Subject: (International Issues (1IN59); Nuclear, Biological, & Chemical Warfare (1NU88); Embassies & Consulates (1EM50); Emerging Market Countries (1EM65); World Organizations (1IN77); Top World News (1WO62); CIS (1CI65); Government (1GO80))

Industry: (Defense (1DE43); Aerospace & Defense (1AE96))

Region: (Europe (1EU83); Eastern Europe (1EA48); CIS Countries (1CI64); Arab States (1AR46); Middle East (1MI23); Mediterranean (1ME20); Russia (1RU33); Syria (1SY20))

Language: EN

Other Indexing: (Mikhail Bogdanov; Mikhail Margelov; Bouthaina Shaaban)

Word Count: 477

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NewsRoom

Exhibit 4

Mikdad: President al-Assad Announced Package of Reforms in Various...

NewsRoom

10/8/11 Syrian Arab News Agency (SANA) 04:00:13

Syrian Arab News Agency (SANA)
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October 8, 2011

Mikdad: President al-Assad Announced Package of Reforms in
Various Fields...Syria is Targeted by Misleading Media Campaign

Syria submitted on Friday the national report of periodical comprehensive review at the United Nations Human Rights Council.

Deputy Foreign and Expatriates Minister Dr.

Fayssal Mikdad, who heads the Syrian delegation comprising officials from various official bodies, gave a speech on Syria's achievements in protecting human rights.

Mikdad stressed Syria's appreciation of the importance of comprehensive periodical review, being a world mechanism marked with objectivity and interactive dialogue.

Mikdad said "As Syria has effectively and positively contributed to the discussion of improving work mechanisms of human rights, we hope that this mechanism will not turn into a tool for defaming the institutions and efforts of countries and politicizing human rights, because such a thing will return us to the human rights committee form which we all worked to change." Mikdad added "The national report was prepared in Syria through integrated collective institutional work.

The Syrian Prime Minister issued a decision on forming a national committee comprising representatives of authorities concerned with human rights, as well as NGOs." "Over the past seven months, Syria has witnessed various forms of war threats, not to mention a media war of deception and of blackmail," said Mikdad, adding "Syria, which plays a pivotal role in confronting Western and US hegemony plans, is the target of terrorist threats in which law enforcement members are intended to be depleted and weakened to deflect their attention from the real enemies." "Syria will hand the Human Rights Commission in the coming few days a list of martyrs from the law enforcement members counting more than 1,100 martyrs, killed by the armed terrorist groups funded by some neighboring countries which host their extremist leaders.

" "It is strange that these countries hold conferences for the extremists while vaunting about democracy and human rights, with their full knowledge that they are practicing killings and violations of the right to life," Mikdad said, adding that the killings coincided with regional and international media instigation.

Mikdad: President al-Assad Announced Package of Reforms in Various...

Mikdad said that there is plenty of proof exposing the lies and fabrications of these channels, citing the story of Zeinab al-Hasni who was claimed to be arrested, then killed and mutilated brutally by the Syrian security, showing up a month later to refute the whole story.

Mikdad added that Syria is part of a volatile region as a result of colonial and occupation policies, suffering from political, economic and social problems, affirming that countries of Western colonialism and US hegemony are by no means entitled to give advice.

"There have been 50 thousand Libyans who were killed and over one million Iraqi martyrs, not to mention US detention centers in Abu Ghreib and Guantanamo," Mikdad said.

"Some Western countries don't care a bit about human rights, but they are rather interested in the oil shipments looted for their own interests... We would like to seize the opportunity to call upon these countries to treat our countries and peoples in a humane way and stop looting our resources, and give up supporting the Israeli occupation of our lands." Mikdad indicated that Syria's receiving a delegation from the United Nations Office for the Coordination of Humanitarian Affairs and International Committee of the Red Cross proves that Syria has nothing to hide, voicing Syria's readiness to benefit from the advice of friends.

Mikdad said that President Bashar al-Assad announced a package of reforms in various fields, especially political reform, enumerating the decrees issued recently in Syria as part of the reform process.

He said that the door for dialogue has been open since the outset of the crisis and all political, economic and social spectrums were invited, adding that the comprehensive national dialogue will commence in the coming period.

"Nonetheless, those who were demanding such legislations and dialogue sessions continued violent acts and framing law enforcement members for them, as laid bare by the confessions of the arrested criminals.

Zeinab al-Hasni is a case in point." Mikdad stressed the need for annulling the two decisions adopted by the Human Rights Council be annulled, since they were based on baseless claims and misleading, calling for rectifying the work of the Human Rights Council.

Mikdad highlighted the major achievements of Syria in empowering women who assumed senior positions in all fields, indicating that a national strategy for women empowerment was laid down for this purpose.

Mikdad stressed that Israel prevents the Syrian government from caring for its citizens in the occupied Golan by refusing to return the occupied Golan to motherland Syria and dismissing the international legitimacy resolutions.

"The human rights culture was inflicted with a serious plague as Western countries market it as a cultural product exported to underdeveloped countries," said Mikdad.

"Syria's enemies want the culture of death for its people, while the Syrians want a culture of life derived from their noble values and history dating back to 10 thousand years B.C." 53 delegations addressed the session, welcoming the participation of the Syrian delegation in spite of the situation it is going through, which proves Syria's respect to its international commitments.

Delegations voiced rejection of interference in Syria's internal affairs, underlining the necessity that the world countries respect Syria's independence and free decisions.

Mikdad: President al-Assad Announced Package of Reforms in Various...

Many delegations also hailed Syria's hosting of big numbers of Palestinians and Iraqi refugees.

M.

Ismael/H.

Sabbagh

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---- Index References ----

News Subject: (Social Issues (1SO05); Human Rights (1HU19); World Organizations (1IN77); Top World News (1WO62); International Law (1IN60); War Crimes (1WA27); Legal (1LE33); International Issues (1IN59); International Terrorism (1IN37))

Region: (Syria (1SY20); Middle East (1MI23); Mediterranean (1ME20); Arab States (1AR46))

Language: EN

Other Indexing: (Zeinab al-Hasni; Fayssal Mikdad; Bashar al-Assad)

Word Count: 885

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NewsRoom

Exhibit 5

President al-Assad: It Is No Longer Possible for the Regional and International...

NewsRoom

1/11/12 Syrian Arab News Agency (SANA) 02:17:47

Syrian Arab News Agency (SANA)
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January 11, 2012

President al-Assad: It Is No Longer Possible for the Regional and International Parties Seeking to Destabilize Syria to Forge Facts and the Events

President Bashar al-Assad delivered on Tuesday before noon a speech at Damascus University Auditorium covering domestic issues in Syria as well as local and regional conditions' developments.

President al-Assad reiterated in his speech Syria's determination to continue the ongoing process of reforms, whose results are known before hand, citing some of the measures and steps taken to this effect including the abrogation of emergency law, authorization for parties, local administration elections, information law, elections law, and the under-discussion anti-corruption law.

President al-Assad declared that the new constitution is to be soon put into popular referendum, citing some aspects of the constitution as to include 'political and party pluralism', 'the people are the source of power especially through elections'.

The President welcomed an expansion of the government as to include all political forces and national opposition and pointed out to the importance of dialogue.

The second to none priority for Syrians is the restoration of security and fighting terrorism with an iron fist, outlined President al-Assad hailing the Syrians' steadfastness and awareness.

President al-Assad underlined that no orders were given to shoot at the citizens and that no cover-up for any person would be given.

President al-Assad cited in his speech some aspects of the conspiracy hatched against Syria, including the failing media war, blasting the role played by some Arabs as to pave the way for foreign interference in the Syrian affairs.

The President spoke of the Syrian long experience with elected parliaments, parties highlighting the Syrian Arab role in the Arab League, whose Arabism is to be suspended without the participation of Syria, in reference to the decision taken by the League of Arab States to suspend Syria's participation.

The full text of the speech: I know that I have been away from the media for a long time, and I have missed having direct contact with the citizens, but I have always been following up with the daily occurrences and gathering the information so that my speech can be built on what is said by the street.

President al-Assad: It Is No Longer Possible for the Regional and International...

I would like to salute you in the name of pan-Arabism which will continue to be a symbol of our identity and our haven in difficult times, as we will continue to be its heart beating with love and affection.

I would also like to greet you in the name of our home country which will always be the source of our pride and dignity, as we will remain faithful to its genuine values for which our fathers and grandfathers sacrificed dearly to keep the country glorified and independent.

And I am proud of your steadfastness which will keep Syria an invincible fortress in the face of all forms of penetration, and free in resisting submission to foreign forces.

Today, I am addressing you ten months after the outbreak of the unfortunate events which befell the country imposing new circumstances on the Syrian arena.

For all of us, these conditions represent a serious test of our national commitment, and we cannot pass this test except by our continuous work and honest intents based on our faith in God, the genuine character of our people, and its solid nature which has been polished over the ages and made brighter and more robust.

Although those events have made us pay, until now, heavy prices which made my heart bleed, as it made the heart of every Syrian bleed, yet they require the sons of Syria, regardless of their beliefs and doctrines, to be wise and sensible, and to be guided by their deep national feelings.

Only then our entire country can achieve victory with our unity, our fraternity, and our will to go beyond narrow horizons and momentary interests and reach where our noble national issues lie.

For this is our destination and there lies the strength of our country and the glory of our history.

External Conspiring Is No Longer a Secret External conspiring is no longer a secret because what is being plotted in the pal talk rooms has started to be clearly revealed before the eyes of the people.

It is not possible anymore to deceive others except for those who do not want to listen or see; as the tears shed by the dealers of freedom and democracy for our own victims can no longer conceal the role they played in the bloodshed which they tried to use for their own purposes.

At the beginning of the crisis, it was not easy to explain what happened.

Emotional reactions and the absence of rationality were surpassing the facts.

But now, the fog has lifted, and it is no longer possible for the regional and international parties which wanted to destabilize Syria to forge the facts and the events.

Now the masks have fallen off the faces of those parties, and we have become more capable of deconstructing the virtual environment which they have created to push Syrians towards illusion and then make them fall.

That virtual environment was created to lead to a psychological and moral defeat which would eventually lead to the actual defeat.

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That unprecedented media attack was meant to lead us to a state of fear, and this fear, which could paralyze the will, would lead to defeat.

Over Sixty T.V.

Channels in the World Are Devoted to Work against Syria Over sixty T.V.

channels in the world are devoted to work against Syria.

Some of them are devoted to working against the Syrian domestic situation, and some others are working to distort the image of Syria abroad.

There are tens of internet websites, and tens of newspapers and different media channels, which means that we are talking about hundreds of media networks.

Their aim was to push us to a state of self-collapse in order to save their efforts in waging many battles; and they failed in doing so, yet they did not give in.

One of their attempts which you are aware of is what they did with me personally in my interview with the American news channel.

Usually I do not watch myself on T.V whether in an interview or a speech.

That time I watched the interview and I was about to believe what I myself was presented to have said.

If they were capable of convincing me of the lie, how can they not convince others! Fortunately, we had an original version of the interview, and they did what they did because they thought that we did not have an original version which we can present to the citizens to compare with their version.

Had that not been the case, no one would have ever believed the professional fabrication which they did even if I talk now for hours and try to tell you I did not say what was misrepresented on that news channel.

Of course, they had one aim in mind.

When they failed in causing a state of collapse on the popular and institutional levels in Syria, they wanted to target the top of the pyramid of the state in order to say to the citizens, on the one hand, and, of course, to the West, on the other hand, that this person lives in a cocoon and does not know what has been going on.

They also wanted to say to the citizens, especially those in the state, that if the top figure in the pyramid is evading responsibility and feeling that things are falling apart, then it is normal for things to go out of control.

There were continuous rumors like saying that the president has left the country, as to say that the president has given up on his responsibilities.

They did their best to circulate those rumors but we say to them, 'in your dreams, for I am not a person who surrenders his responsibilities.' When I sipped some water in my previous speech, they said the president is nervous, but we never fish in troubled waters, neither in crises nor in normal situations.

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Now they will use the previous statement to say that the Syrian president is announcing that he will not relinquish his post.

In fact, they do not distinguish between the two notions of 'office' and 'responsibility', and I did say in the year 2000 that I am not after office and I do not run away from responsibility.

An office does not have any value.

It is a sheer device and whoever seeks to office does not get respect.

We are talking now about responsibility, and this responsibility derives its importance from public support.

This means that I acquire a position with the support of the people; and when I leave it, it will be with the will of this people.

This is final, and regardless of what you heard, I always based my external policy in all our positions on public support and public will.

What do we make of the interview with the American channel in the media framework? There was repeated talk about the good intention of many from within Syria and the outside world.

Why did we not allow the media to enter Syria? In fact, during the first month or month and a half of the crisis, Arab and foreign media networks were completely free to move inside Syria.

However, all the media fabrications, and the whole political and media campaign against Syria, were built on that phase of forging and distortion; and there is a difference between distorting the truth then giving it credibility as being presented from the inside of Syria, on the one hand, and distorting the truth from the outside of Syria where less credibility tends to be given to such misrepresentation.

That is why we took a decision not to close the door to all media networks, but to be selective in the access given to them in order to control the quality of the information or the falsification which goes beyond the borders.

Victory Is Very Close As Long As We Are Able to Survive and Invest in Our Points of Strength We were patient in an unprecedented battle in Syria's modern history; a battle that made us stronger.

If this battle carries significant risks and decisive challenges, the victory is very close as long as we are able to survive and invest in our points of strength which are many, and to know weaknesses of opponents which are even more.

Your public awareness which is based on facts, not on hype, underestimation, exaggerations or simplifications, had the most important role in uncovering the scheme and restricting it in preparation for thwarting it entirely.

In our quest to dismantle that virtual environment and to ensure the importance of the internal situation in confronting any external interference, we took the initiative to talk transparently on having a default here and a defect or delay there in some areas.

I mean in previous speeches when I was talking about mistakes, but we did not mean at all to underestimate the importance of such external schemes.

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I do not think that a reasonable person can deny today those schemes that shifted acts of sabotage and terrorism to another level of crime which targeted minds, highly qualified people and institutions.

The aim of which is to generalize the state of panic, to destroy morale and to make you reach the state of despair which would open the way for what was planned in the outside to become a reality, but this time with local hands.

At the beginning, they searched for their desired revolution, but their revolution was against them and against their vandals and their tools.

Since the early days, however, the people revolted against them, thus precluding them and their henchmen.

When they were shocked by your unity, they tried to dismantle and fragment this unity through using the hideous sectarian weapon after masking it with the cover of holy religion.

When they lost hope to achieve their goals, they shifted into acts of sabotage and murder under different headings and covers such as the utilization of some peaceful demonstrations and the exploitation of wrong practices done by persons in the state.

Thus, they started the process of assassinations and attempted to isolate cities and dividing the various parts of the country.

They stole, looted and destroyed public and private facilities and after experimenting with all possible ways and means in today's world with all the regional and international media and political support, they did not find a foothold for their hoped-for revolution.

Arab Countries Are Not the Same in Their Policies towards Syria Here comes the foreign role after they failed in all attempts; there was no choice but the foreign intervention.

When we say foreign, it usually comes to our minds that it is the foreign outside.

Unfortunately, this foreign outside has become a mix of Arab and foreign, and sometimes, in many cases, this Arab part is more hostile and worse than the foreign one.

I do not want to generalize; the image is not that bleak because Arab countries are not the same in their policies.

There are countries which tried during this stage to play a morally objective role towards what is happening in Syria.

In contrast, there are countries that basically do not care about what is happening in general.

I mean they stand on the fence in most cases, and there are countries that carry out what they are asked to do.

What is strange is that some Arab officials are with us in heart and against us in politics.

When we ask for clarifications, it is said or the official says I am with you, but there are external pressures.

I mean this is a semi-official declaration of losing sovereignty.

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It is not a surprise that the countries will one day link their policies to the policies of foreign countries just like linking local currency to foreign currencies, and thus giving away sovereignty becomes a sovereign matter.

The truth is that this is the peak of deterioration for the Arab situation, but any deterioration always precedes a renaissance; when we move from the first independence which is the first liberation of land from occupation to the second independence which is the independence of the will.

We will reach this independence when Arab peoples take the lead in the Arab world in general.

This is because the official policies we see do not utterly reflect what we see on the public arenas in the Arab world.

We do not see this Arab role, which we have suddenly seen now, when there is a crisis or a dilemma in an Arab country.

In contrast, we see it in its best forms when there is trouble in a foreign country or a superpower.

Saving that state from its crisis is often at the expense of another state or at the expense of Arab states, and often through the destruction of an Arab country.

This is what happened in Iraq and this is what happened in Libya, and this is what we see now in the Arab role towards Syria.

After they failed in the Security Council when they could not convince the world of their lies, there was a need for an Arab cover and a need for having an Arab platform.

Here comes this initiative.

The truth of this initiative and the monitors' issue is that I am the one who proposed this issue in my meeting with the Arab League delegation a few months ago.

We said since the international organizations came to Syria, reviewed the facts and they got a positive reaction at least through reviewing things - we do not say things are all positive; they see positive and negative things and we do not want more than knowing the truth as it is – it is more worthy of the Arabs to send a delegation to see what is happening in Syria.

Of course, there was not any interest in this proposal put forward by Syria, but suddenly after several months, we see that this topic became the focus of global attention.

It was not sudden attention towards what we put forward at all, but because the scheme has started from the outside under this title.

In all cases we continued dialogue with various parties and the Foreign Minister spoke in his press conferences on details I will not repeat here.

We were focusing on one thing only which is the sovereignty of Syria.

We were considering that the Arab citizen, the Arab official or the Arab observer has feelings towards us; I mean we remain Arabs who sympathize with each other no matter how bad the Arab situation is.

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Why they started the Arab initiative? The same countries that claim concern for the Syrian people were initially advising us to reform.

Of course, these countries do not have the least knowledge of democracy and have no heritage in this area, but they were thinking that we will not be moving towards reform and there will be a title for these countries to use internationally that there is a conflict inside Syria between a state that does not want reform and the people who want reform, freedom or the like.

When we started reform, this thing was confusing for them, thus they shifted to the issue of the Arab League or the Arab initiative.

The truth is that if we are to follow these countries, which give us advice, we have to go backward at least a century and a half.

What happened a century and a half ago? We were part of the Ottoman Empire and we had the first parliament which we are concerned with in one way or another.

The first parliament was opened in the year / 1877 / and if we put this aside, the first parliament in Syria was in 1919; this means less than a century ago.

Therefore, imagine these countries that want to advise us about democracy! Where were these countries at that time? Their status is like the status of a smoking doctor who advises the patient to quit smoking while putting a cigarette in his mouth.

Eventually, outrage of the Arab or public reaction in Syria towards the issue of the Arab League was the result.

In fact, I was not angry; why to get angry with someone who does not know his decision.

If someone attacks us with a knife, we defend ourselves not by struggling with the knife but with the person.

The knife is just a tool.

Our struggle is not with these people but against those who stand behind them.

The public reaction was outrage, indignation and surprise; why did not the Arabs stand with Syria rather than standing against Syria? I ask a question: when did they stand with Syria?! I will not go back far in the past, but let us just talk about the past few years.

Let us start by the war on Iraq, after the invasion, when Syria was threatened with bombing and invasion.

Who stood with Syria in 2005 when they exploited the assassination of Hariri? Who stood alongside Syria in 2006? Who supported our positions against the Israeli aggression on Lebanon in 2008? Who supported us in the IAEA in relation to the alleged nuclear file? Arab states vote against us.

These facts may be unknown to many citizens.

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That is why we need to explain everything in these junctures and situations.

Recently, Arab states voted against Syria with regard to the Human Rights issue.

In contrast, some non-Arab countries stand with Syria.

That is why we should not be surprised.

I mean we should not be surprised with the Arab League status because it is just a reflection of the Arab situation.

The Arab League is a mirror of our situation.

The Arab League mirrors our current miserable situation.

If it has failed in over six decades in taking a position in the Arab interest, why are we surprised today if the general context is the same and hasn't changed except in the sense that it is pushing the Arab condition from bad to worse and in that what was happening in secret is now happening in public under the slogan of the nation's interest.

Has the Arab league actually gained independence for its states, and consequently for itself? Has it ever implemented its decisions and removed the dust off its files and achieved only a fragment of the aspirations of the Arab peoples? Or has it contributed directly to sowing the seeds of sedition and disunity? Has it respected its charter and defended its member states whose land, or the rights of whose peoples, have been violated? Has it returned one olive tree uprooted by Israel or prevented the demolition of one Palestinian house in occupied Arab Palestine? Has it been able to prevent the partition of Sudan or prevent the killing of over a million Iraqis or feed a single starved Somali? Today, we are not in the process of attacking the Arab League because we are part of it, although we are in the age of decadence.

Nor am I talking about the Arab league because it or the Arab states have taken a decision to suspend Syria's membership in it.

This does not concern us in the least.

I am talking about it because I have noticed the extent of popular frustration which we need to put in its natural context.

The Arab League has been doomed for a long time.

When we used to sit in Arab summits listening to criticism and denunciation whose echo reverberated in conference halls, we used to talk about this candidly, as Arab officials; some felt ashamed and some behaved as if it was no concern of theirs.

So, being out of the Arab League, or suspending Syria's membership, and all this talk is not the issue.

The issue is who wins and who loses.

Does Syria or the Arab League lose? For us, we and the Arab states are losing as long as the Arab condition is bad.

This is a chronic situation, nothing new in it, and there are no winners.

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We have been working for years to minimize the losses because it is not possible to win.

But suspending Syria's membership raises a question: can the body live without a heart? Who said that Syria is the throbbing heart of Arabism? It wasn't a Syrian, it was President Abdul Naser, and this is still true.

Many Arabs have the same conviction.

For Syria Arabism is not a slogan, it is a practice.

Who offered, more than Syria, and is still offering and paying the price? Who, more than Syria, has offered to the Palestinian cause in particular? Who, more than Syria, has given to the process of Arabizing culture and education everywhere, in the mass media? Syria is quite strict about Arabization, particularly in school curricula.

Who has offered more to Arabism and to Arabization and insisted on Arab culture in their school curricula more than Syria does in its schools and universities.

The issue for us is not a slogan.

If some countries seek to suspend our Arabism in the League, we say to them that they are suspending the Arab identity of the League itself.

They cannot suspend Syria's Arab identity.

On the contrary, the League without Syria suspends its own Arab identity.

Arab League without Syria Means Suspending Arabism If some believe they can get us out of the League, they cannot get us out of our Arab identity, because the Arab identity is not a political decision.

It is heritage and history.

Those countries, which you know, have not acquired, and will not acquire, the Arab identity.

If they believe that with money they can buy some geography and rent and import some history, we tell them that money does not make nations or create civilizations.

Consequently, and as I heard from many Syrians, and I agree with them on this point, maybe in our present condition we are freer in exercising our real and pure Arabism which Syrians have been the best to express throughout history.

That is why we say that with this attempt they don't focus on getting Syria out of the League, but rather on suspending Arabism itself so that it becomes an Arab League only in name.

It will no longer be a league – bringing people together – or Arab.

It will be a mock-Arab body in order to be in line with their policies and the role they are playing on the Arab arena.

Otherwise, how can we explain this unprecedented and unreasonable tact with the Zionist enemy in everything it does and this decisiveness and toughness with Syria? We have been trying for years to activate the Israel-boycott office; and

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we have been receiving excuses of the type that this is no longer acceptable; but, within a few weeks, they activate a boycott against Syria.

This means that their objective is replacing Syria with Israel.

This is only a pattern; and we are not naïve.

We have known this Arab condition for a very long time.

We have not clung to illusions.

By showing our patience regarding these practices, before and during this crisis, we wanted to prove to all those who have their doubts about the bad intentions, wrapped in beautiful and ornamented language, that their intentions are bad and their objectives are vile.

I think now this has become abundantly clear to most people.

We Shall Never Close the Door to Any Arab Endeavor As Long As It Respects Our Sovereignty, the Independence of Our Decision and the Unity of Our People We realize all that.

But based on our genuine Arab character, and our desire to restore the original idea of the Arab League, in which we are supported by some sisterly countries keen on making the Arab League a truly collective and Arab body, we haven't closed the doors to any solution or proposal; and we shall never close the door to any Arab endeavor as long as it respects our sovereignty, the independence of our decision and the unity of our people.

All these negative accumulations on the Arab arena, throughout decades, in addition to the current situation, led some of our citizens to take their anger out on Arabism which has been wrongly confused with the Arab League or the performance of some pseudo-Arabs to the extent that they denounced it.

Brothers and sisters, The social structure of the Arab world, with its large diversity, is based on two strong and integrated pillars: Arabism and Islam.

Both of them are great, rich and vital.

Consequently, we cannot blame them for the wrong human practices.

Furthermore, the Muslim and Christian diversity in our country is a major pillar of our Arabism and a foundation of our strength.

When we get angry with Arabism or abandon it because of what some have done on this wide Arab arena we commit a gross injustice.

As we have refused to generalize the mistakes done by some officials to the whole country, we shouldn't generalize the mistakes of some pseudo-Arabs to Arabism.

What we are doing now is similar to what the west did against Islam in the wake of 9/11.

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We say that there is a great religion – Islam, and there are terrorists taking cover under Islam.

Who should we banish: religion or terrorism? Do we denounce religion or terrorists? Do we fight those who trade in Islam or fight terrorism? The answer is clear: It is not the fault of Islam when there are terrorists who take cover under the mantle of Islam.

Christianity is a religion of love and peace.

What is the fault of Christianity in the wars waged under its name and in the crimes committed in the heart of America or in European countries by people who claim to be committed to Christian values? The same applies to Arabism.

We should not link it to what some pseudo-Arabs are doing; otherwise we head towards the greatest sin.

There are things which have existed through a historical process and we cannot respond to them by an act or a decision.

These things didn't take place through a decision.

There is a historical context and there is a divine will behind religions and nationality which we cannot face through reaction.

The first reaction was proposing the "Syria first" concept.

It is natural to put Syria first.

Every person belongs to his country first and foremost.

One's homeland cannot be in the second, third or fourth place; but the context in which this concept was made was isolationist – only Syria.

Every person belongs first to his city more than to other cities.

He is naturally connected to it.

Everyone likes the village he grew up in more than other villages, but this doesn't prevent one from being patriotic and like the whole of the homeland.

Being Syrian doesn't prevent us from being Arabs; and being Arab doesn't create any contradiction between our Arab and Syrian identities.

That is why we should stress that point, that the relationship between Arabism and patriotism is a close and vital one for the future, for our interests and for everything.

It is not about romanticism or principles.

It is about interests too.

If we separate this fact from reaction, we should always know that Arabism is an identity not a membership.

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Arabism is an identity given by history not a certificate given by an organization.

Arabism is an honor that characterizes Arab peoples not a stigma carried by some pseudo-Arabs on the Arab or world political stage.

Some might wonder about all this talk about Arabism and Arabs while in Syria there are only Arabs.

My response is: who said that we are talking about an Arab race? Had Arabism been only the Arab race, we wouldn't have had much to be proud of.

The last thing in Arabism is race.

Arabism is a question of civilization, a question of common interests, common will and common religions.

It is about the things which bring about all the different nationalities which live in this place.

The strength of this Arabism lies in its diversity not in its isolation and not in its one coloredness.

Arabism hasn't been built by the Arabs.

Arabism has been built by all those non-Arabs who contributed to building it and those who belong to this rich society in which we live.

Its strength lies in its diversity.

Had there been a group of non-Arabs who wanted to change their traditions and customs and abandon them, we would oppose them on the grounds that they weaken Arabism.

The strength of our Arabism lies in openness, diversity and in showing this diversity not integrating it to look like one component.

Arabism has been accused for decades of chauvinism.

This is not true.

If there are chauvinistic individuals, this doesn't mean that Arabism is chauvinistic.

It is a condition of civilization.

All the above will not affect our vision of the internal situation in Syria and how we deal with it.

There is no doubt that the current events and their repercussions have posed a huge number of questions and ideas which aim at finding different solutions for the current situation Syria is going through.

If it is natural and self evident, but it cannot be positive and effective except when it is based on the importance of facing the problem not running away from it, or when it is based on courage not panic and escaping forward.

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We Cannot Carry out Internal Reform without Dealing with Facts If we want to talk about the internal situation – and I think it is the issue over which all Syrians' concerns are focused - we should identify issues clearly.

There are numerous ideas, which might be good.

But unless they are put in the appropriate framework they remain useless and sometimes harmful.

Instead of having ideas moving in one strain contradicting and fighting with each other, let's draw some definitions before we get into the details.

First, we cannot carry out internal reform without dealing with facts as they are on the ground, whether we like them or not.

We cannot just hang on to a straw in the air.

Neither the straw nor the air will carry us.

This means falling.

Under the pressure of the crisis, some talk about any solution and call for any solution.

We shall not give 'any' solution.

We shall only give 'solutions'.

Solutions mean that the results are known beforehand.

'Any solution' will lead to the abyss.

It might lead to deepening the crisis.

It might get us into an impasse.

The pressure of the crisis will not push us to adopt just 'any' plan.

Even though time is very important, but it is not more important than the quality of the solution which we shall provide.

Today, we are dealing with two aspects of internal reform: the first is political reform and the second is fighting terrorism which has spread recently to different parts of Syria.

In the reform process, there are those who believe that what we are doing now is the way to get out of the crisis or is the whole solution to the crisis.

This is not true.

We are not doing it for this reason.

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The relationship between reform and the crisis is limited.

In the beginning, it had a larger role, when we decided to separate those who claim reform for terrorist objectives and those who genuinely want reform.

This has happened.

My vision from the very beginning was that there is no relation between the two, but it wasn't easy to talk about it then because, as I said, things were not clear for many Syrians as they have become clear now.

What is the relationship between the reform process and the outside plot? Will the outside plots against Syria stop if we introduce the reforms today? I'll tell you something.

We know a great deal about discussions taking place outside Syria, particularly in the West about the situation in Syria.

None of those involved cares about neither the number of the victims nor about reforms, neither about what has been achieved nor what will be achieved.

Everyone is talking about Syria's policies and whether Syria's behavior has changed from the beginning of the crisis till now.

The Outside Part of the Crisis Is against Reform That Makes Syria Stronger On the other hand, there were those who came to bargain, saying if you do 1, 2, 3, 4, at least the outside part of the crisis and its internal tentacles will stop immediately.

So, there is no relation between reform and the outside part of the crisis, because this part is against reform and because reform will make Syria stronger.

If Syria is stronger, this means strengthening Syrian policies, and we all know that Syrian policies are not well liked in foreign circles.

On the contrary, such policies are loathed by many countries which want us to be mere lackeys.

The second point: what is the relationship between reform and terrorism? If we carry out the reforms, will terrorists stop? Does this mean that the terrorists who are killing and destroying are keen on the political parties law, the local administration elections or things of that kind? They are not.

Terrorists don't care.

Reform will not prevent terrorists from being terrorists.

So, what is the component which concerns us? The greatest part of the Syrian people want reform, and they have not come out, haven't broken the law, haven't killed.

This is the largest part of the Syrian people, it is the part which wants reform.

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For us, reform is the natural context.

That is why we announced a phased reform in the year 2000.

In my swear-in speech I talked about modernization and development.

At that time, I was focused on state institutions.

In 2005, we talked about political reform.

Part of what we are doing now was proposed in 2005 in the Bath party conference.

At that time there were no pressures in this regard.

Pressure was different, in a different direction.

No one was talking about internal reform.

We proposed it because we thought of it as a natural context not a forced one.

It cannot be forced.

It is a natural requirement for development.

We cannot develop without reform.

Whether we were late or not is a different question.

Why we were late is a different question.

But it remained a natural need.

Had reform been part of the crisis, it would fail; and if reform were forced, it would fail.

That's why, in our discussion of reform, let's separate natural needs from the crisis.

If we start from the current crisis, reform will be abrupt and tied to its current circumstances which are temporary.

What about future decades? Things will be different.

We have to connect what is before the crisis with what is after it regardless of it and then base our work on the reform process.

Of course this is not in the absolute.

Sometimes, we take into account what we are going through now in our reform efforts.

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We don't separate it completely from the timetable.

Sometimes we move quickly.

Sometimes we assume that people's reaction needs a move in a certain direction.

There are some impacts of the crisis; but we don't build our reforms on the crisis.

If we do so, we justify foreign powers' intervention in our crisis under the title of reform.

So, let's agree on separating the two and deal with the details on these grounds.

Now that we talked about the details, I proposed in my speech in this auditorium last June about an action plan; and I talked mainly about the legislative component in relation to laws and the constitution.

At that time, I offered a timeframe for the laws which have all been passed within the timeframe identified at the time.

Now, we hear many people saying "we haven't seen any tangible results".

I always like to talk transparently, and I'll address every subject separately.

The first law we passed was lifting the state of emergency.

In such circumstances that Syria is going through, can any state lift the state of emergency.

On the contrary, any state would have imposed the state of emergency.

Nevertheless, we didn't do that.

We insisted on lifting the state of emergency.

Some Syrians accused us of abandoning part of the security of Syria because we lifted the state of emergency.

Of course this is inaccurate, because lifting the state of emergency or the state of emergency itself doesn't provide security.

It is rather an organizational issue.

When there is a state of emergency, there are certain measures and when it is lifted there is a different set of measures.

We haven't abandoned security.

No state could accept to abandon security.

The laws and the measures now in place give us full authority to control security regardless of the state of emergency law.

But lifting the state of emergency needs training for the relevant services, including the security and police forces which deal with citizens.

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We all know that they are all over Syria now; and some of them haven't taken leave for months.

So, it is logical, reasonable or practical to train them now? This is impossible.

There will be no training in the current circumstances.

Nevertheless, we insist that the services stress some basic regulations in relation to lifting the state of emergency.

When there is an environment of terrorism, destruction and law breaking, if there are errors they will multiply tens of folds.

That is why we are not dealing only with the results but with the causes too.

The results are the mistakes we see being committed by some, but the causes are related to the state of chaos in itself.

We need to control the chaos in order to feel the results.

In other words, we cannot feel the true effects of lifting the state of emergency while chaos prevails.

And here I distinguish, of course, between different levels of mistakes, on the one hand, and killing, on the other. There Is No Cover for Anyone; There Is No Order at Any Level of the State to Shoot at Any Citizen There is no cover for anyone; but the issue of killing needs evidence.

Some people believe that none of those who committed acts of killing have been arrested.

That's not true in relation to those working for the state.

A limited number of people have been arrested in relation to murder and other crimes.

I say limited because the evidence was limited and connected with those people.

The existence of evidence or searching for evidence needs institutions; and institutions need appropriate conditions; and the current conditions hamper the work of such institutions.

But I would like to stress that there is no cover for anyone; and there is no order, I stress, no order at any level of the state to shoot at any citizen.

Shooting, under the law, is allowed only in the case of self defence and in defence of citizens and in cases of engaging an armed person.

So, there is a specific case in the law.

In this regard, I stress the need to deal with causes and effects.

Concerning the political parties, the political parties law has been issued.

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Some parties have applied and have been given licenses.

The first license was given to the first party a few weeks ago; and I believe that yesterday or today there is a second party on the way which met all the conditions.

There are many other parties which are still trying to meet the conditions and submit the necessary documents to be licensed.

Of course we didn't feel the existence of these parties, because political parties need time.

But, in any case, after the political parties law has been passed, we haven't only given licenses, but encouraged many groups to form parties.

I don't think that the state is responsible in this regard.

We will not form any parties, will not appear in the media or conduct activities on behalf of anyone.

So, there are no obstacles in this regard and it is only a question of time.

The local administration law has been passed and elections have been held.

Of course they have been held in difficult circumstances; and it is natural that they will not give the desired results because participation, neither on the part of the candidates or the voters, was not as they were supposed to be with a new law because of the security conditions.

There was a point of view saying that we should postpone local administration elections to a later stage.

But there was a different opinion, which we adopted, saying that there should be change because every change is positive, particularly that most citizens' complaints were about the performance of local administration.

We embarked on that effort.

But in any case, anything related to elections will not give results if there is no broad participation on the part of candidates and also on the part of voters, so that there is competition.

That is why you will not feel the results.

In general, with anything related to elections, part of the responsibility lies on the citizens and not only on the state.

As for the media law, I think the government has completed last week the preparation of executive instructions and have become ready for implementation.

There are requests ready for television, press and others.

The election law was issued and the aim of which is to frame all these ideas that we hear on the political scene, and anyone who has an idea should go to the ballot box which is the voice of law for everything in this country; this is the core of the issue.

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The important law is the law of fighting corruption.

It is the only law which has been delayed for several months.

The first reason is related to the fact that this law is very important and has many aspects.

Therefore, I asked the government to extensively consider it in collaboration with various bodies and parties.

It was put on the internet and there were many posts and useful ideas.

The government finished this and sent it to the Syrian Presidency which sent it back recently to the government.

It is a good law which includes very important points and a point related to the inspecting authority.

In the current law, the anti-corruption law, the inspection commission was abolished, and the Anti-Corruption Commission replaced the inspection commission, but the anti-corruption law is specialized in corruption cases.

This means that it deals only with small issue which does not often list all cases of corruption.

This commission deals with corruption after its appearance, while the inspection commission was in charge of broader functions, including organization of management, raising proposals in the field of management and control of state action in terms of administration as well as combating corruption.

Thus, the abolition of all these tasks and linking them only to one title which is corruption is not good, especially that fighting corruption cannot be done in isolation from the organization of the administration.

We cannot fight corruption alone because this is a great imbalance apart from other points that are present.

There are proposals on the integration of the inspection commission with the Financial Control Commission, but this issue is not important.

The most important thing is to know the relationship between inspection and Anti-Corruption Commissions.

If there is a cancellation of the inspection commission, will the Anti-Corruption Commission include all the tasks of the two bodies or should we leave the two commissions and specify different tasks for each one of them, or should we coordinate between both of them in respect of the issue of corruption? That is why this law was resent to the government to resolve this point.

After that, the law of fighting corruption will be issued.

Anyway, if the law was passed in the best of conditions, it will be easy for the state to fight corruption at the intermediate level and above, but it is difficult to fight it from the intermediate level and below without the contribution of the citizens and the media.

This means that prosecution will not be done even by this commission because it will only receive information.

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Thus, we need to look for the information and report them to this commission.

This means that the success of this law needs significant popular awareness.

Within the framework of the corruption topic, many people whom I meet say we want the President to hold corrupt people accountable.

Here, I want to clarify that the President does not replace institutions; I handle one or two issues when I see an error, but the institution holds thousands of people accountable or address thousands of cases.

When the President replaces the institutions, this will not be reassuring even if he is doing the right thing.

Therefore, we have to work in order to activate institutions.

I told them that I will take care of this law and the activation of these institutions, and I want to see fighting corruption through normal legal channels.

At that time, we solved the problems of thousands, tens of thousands, hundreds of thousands and millions of Syrians.

I always focus on institutional work.

If I solved a problem, it is an individual problem; I solve the problem of someone but not the problem of thousands of people.

The other pillar in reform is the Constitution.

The decree that provides for establishing a committee to draft the constitution was issued.

This committee was given a deadline of four months and I think that it has become in its final stages.

This constitution will focus on a fundamental and essential point which is the multi-party system and political pluralism.

They were talking only about article eight, but we said that the entire Constitution should be amended because there is a correlation among articles.

The Constitution will focus on the fact that the people is the source of authority, especially during elections, the dedication of the institutions' role, the freedoms of the citizens and other things and basic principles.

There was a question: why we had legal reform before changing the Constitution? Logically, we must begin with the Constitution and then laws come after that.

This is true in terms of logic, but people's pressure and questioning the credibility of the state that it wishes to carry out real reform, have led us to work in parallel.

Moreover, issuing laws is faster in terms of time; it takes a few months and this is less than needed by the Constitution.

If logic contradicts reality, we go with reality and in any case this is not an important issue.

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What is really important is that when laws are passed and the Constitution is drafted, we will be in a new phase which is not a transition.

This is related to the legislation aspect.

The More We Extend Participation in Government, the More Benefits We Achieve in All Aspects and Generally for the Sake of the National Feeling As for things that we can do as initiative, we heard a lot about a national unity government.

I always like to check terminology because we should not take the term without knowing its content.

We hear about the national unity government in the states that have complete division on the national level between parties, a civil war, war-lords communities or princes of nationalities who are directly gathered at the table or through representatives to form a government of national unity.

We do not have a national division.

We have problems, we have a split in certain cases, but we do not have a national division in the sense that could be asked.

I know they do not mean this, but I do not use such an expression as 'national unity government'.

For this reason we do not have a government of national division.

At any rate, governments in Syria are always diversified governments which include independents and various parties.

But now we have a new political map for the crisis and the new Constitution.

With the new parties' law, new political forces have emerged and must be taken into consideration.

Some may propose the participation of all these political forces in the government.

Some others focus on the opposition.

I say all political parties from the center to the opposition to the pro-government forces and everyone should contribute because the government is the homeland's government not a government of a party or a state.

The more we extend participation, the more benefits we achieve in all aspects and generally for the sake of the national feeling.

Thus, expanding the government is a good idea.

I do not know what label we may use here because some call it a national consensus and some others call it expansion participation; this does not matter.

What is important is that we welcome the participation of all political forces.

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In fact, we started dialogue recently even in general headlines with some political forces to take their views in this participation and the answer was positive.

I want to go back to a point in the Constitution which is related to the dates.

When the Committee finishes the draft constitution within the time limit, there will be several propositions either to be issued by the President as a decree, or to be referred to parliament in order to be issued by a law.

I refused the first and the second and I stressed the fact that there should be a referendum because the Constitution is not the state's Constitution; it is an issue related to every Syrian citizen.

Therefore, we will resort to a referendum after the committee finishes its work and presents the Constitution which will be put through constitutional channels to reach a referendum.

The referendum on the Constitution could be done at the beginning of March.

Parliamentary elections are linked to the constitution, especially as most of the political forces want to have these elections after having the constitution.

I was thinking as I said in my last speech that it would be at the end of last year or the beginning of this year, but as a response to their will, I say that elections are linked to the new constitution because this would give much time for these powers to establish and prepare themselves and their grassroots for the elections.

We said that we do not have any objection to this.

The timeframe is connected with the new constitution.

What is the constitutional grace period: two or three months? If it was two months, and the referendum is held in March, the elections can be held in early May.

If the grace period is three months, the elections can be held in early June.

This depends on the new constitution.

Back to the subject of the national unity government, if we talk about the participation of the opposition and say that all the parties will take part in the government including the opposition, who do we mean by 'opposition'? Any person can now call himself/herself 'opposition', and I have met some of such people and used to ask them, 'who do you represent?' The opposition stands for a public body, not for a person as an opponent.

Now we have opposition figures and currents, but the opposition is usually an institutional body which is established by elections.

For the time being, we do not have elections; so how do we define the opposition? Who takes part in that opposition, and what is the volume of their participation? We still do not have the criteria for all this.

Before the next elections, we could still say that the government will take a certain form after the elections.

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But we want to accelerate the process and launch the contribution in the opposition before the elections.

In other words, we will adopt special, rather than institutional, criteria.

We haven't accused people of being traitors.

The criteria are clear stating the establishment of a national opposition.

What do we mean by 'national government?' We do not want an opposition that sits in embassies and receives gestures from the outside where they will be told not to have dialogue with the state or to delay the dialogue now because things are over and it is a matter of weeks before the total collapse! We do not want an opposition that sits with us and blackmails us under the title of the crisis in order to achieve personal gains.

We do not want an opposition that wants to have a secret dialogue to avoid the anger of others.

If we take the existing national criteria and figures, we can start to work on this government immediately now that we have understood the subject, whether they call it a 'national unity government' or 'separation government'.

What they choose to name it is not important at all.

This means that we will start to work on this within a very short period of time, but there is an important question: will the government be political or technical? Some talked about having a micro political government, but this does not work for several reasons.

First, we are a country with a big public sector which is not independent and where each institution still depends on the ministry, the minister, the deputy minister, the directors, and others.

Can a political figure lead a technical sector? This is not possible in addition to the fact that the problems of the people are not limited to the security issue.

There are issues to do with the services which everyone is complaining about at the time.

Will a political government be able to provide the people with diesel, gas, or medicine? This is unrealistic in our current conditions.

Let there be an inclusive government which has a mixture of politicians and technocrats and which represents the political forces, if they want to be represented, and comprises the technical aspect where we do not lose this or that.

I believe that this is the best framework, but of course I always like to have dialogue and discuss things with others in order to see the negatives of every proposal.

At the moment, I am raising titles which were not agreed upon completely.

I am only presenting the framework and introducing preferences which we could change throughout the discussions.

We Will Be Witnessing Changes, the Most Important Is to Focus in Future on the Young Generation There was a question about dialogue.

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We launched the dialogue in July, and we were supposed to start with the extensive dialogue and then move to the central dialogue.

However, different forces exerted pressure to reverse the process and we agreed and finished the first phase of the dialogue without the contribution of all the opposition forces.

Only part of them participated in the dialogue which was a very fruitful dialogue with a wide participation from the different institutions in the governorates.

Two months ago it was suggested to start the third phase of the dialogue on the central level, and I can say that we, as a state, political party, or authority, are ready to start tomorrow and have no problem in that.

However, some of the opposition forces are not ready.

Part of them wants to conduct a secret dialogue for certain personal gains, as I mentioned earlier, and another part wants to wait and see how things go so that they determine where to go.

But we will not wait for those forces to come and join in a celebratory dialogue which is conducted just to show off.

We are now having dialogue with other forces which are ready to have a public dialogue and we are discussing the ideas which were raised earlier.

What I wanted to clarify is that the delay in the dialogue is not caused by Syria.

We have even accepted to have dialogue under the Arab initiative which was built on the idea of conducting dialogue with all the forces including hostile forces which committed crimes of terrorism in the seventies and the eighties of the last century.

We said that we did not have a problem in conducting dialogue with these forces if they wanted to come to Syria, and we gave all the guarantees.

In other words, we do not have any restrictions to dialogue and we will show full openness when we see that everybody is ready for the dialogue and has a perspective on that dialogue.

We are ready to start dialogue right away.

There will always be a question as to whether we will witness changes and transformation.

Usually I do not talk about this as we tend to change things whenever there is need for transformation.

But it is clear from my earlier speech that we will be witnessing changes.

When we talk about a new government and a new structure of the government, and when the Country Command has been announcing for a week now that there will be a national conference very soon, this means that we will be witnessing changes, part of which already started a few days ago.

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The most important thing is for these changes to focus in the future on the young generation which considers itself marginalized to a large extent, although it is the generation which faced the crisis boldly; and we saw how young people have been active in defending their country with all the meaning of the word.

Syria Needs All Its Honest Sons Regardless of Their Political Attitudes At any rate, Syria now needs all its honest sons, regardless of their political attitudes.

And when we talk about the coming phase, while we are still at the beginning of the New Year, some talk about the new Syria.

But I say we do not have a 'new Syria' but a 'renewed Syria' because renewal is a continuous process and we are talking here about a new phase, rather than a new Syria.

We have to understand the requirements of every phase; otherwise, all that we have said will be futile.

What we have dealt with comprises procedures and regulations whose implementation does not succeed without the awareness needed for any process of development and transition.

I can give an answer to this by saying that the previous ten months, with all their miseries, were very helpful in this regard as they proved to the Syrian people that they are capable with their awareness to present a model of a modern country which is stages and centuries ahead of other countries.

I was talking about a hundred and fifty years, but actually we are capable of becoming one thousand years ahead of those countries which try to give us lessons about democracy, and I am confident that this future will come.

Even so, the more we are capable of spreading the state awareness which we have witnessed, the better the situation.

There is no doubt that despite the presence of an overall awareness in Syria, there are small holes of ignorance which might influence the general situation, and we do not want such holes and certain cases of ignorance to influence the process of development.

We rather want to have a maximum level of positives and a minimum level of negatives. In summary, the points which are related to the issue of domestic reform have become clear.

After the Constitution is issued, we do not have additional steps to make except for the procedures; and if there is a shortcoming in the laws, we can, after the Constitution is issued, re-study these laws as we will not stop at this stage of development.

Notes are also to be taken about the laws and the practices as mistakes might happen throughout the implementation, and the process of renewal is a continuous process on the anatomical level.

Sisters and brothers, What is taking place in Syria is part of what has been planned for the region for tens of years, as the dream of partition is still haunting the grandchildren of Sykes-Picot.

But today their dream turns into a nightmare, and if some believe that the time of conflict over Syria is back, then they are mistaken because the conflict today is 'against Syria' and not 'over Syria' or 'on Syria'.

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And one thing we will never allow them to achieve is defeating Syria as it means defeating steadfastness and resistance and it also means the fall of the whole region to the hands of great powers.

Defeat is not necessarily military and it might come true if they succeed in making us withdraw to internal conflicts and forget about our bigger issues on top of which the Palestinian Issue.

Their ultimate goal which they aspire to achieve eventually is a Syria which is busy with internal marginal conflicts and withdrawn to its false borders, rather than its natural, historical, nationwide borders.

They want to see a shrunk Syria which is prone to demise and deterioration as a result of division and partition, and their a International Copyright © 2006-2012, SANA Provided by Syndigate.info an Albawaba.com company

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NewsRoom

Exhibit 6

Complexity in the Law of War

By David Kaye

Considering that the progress of civilization should have the effect of alleviating as much as possible the calamities of war...

The 1868 St. Petersburg Declaration¹

A. Introduction

Professor Manley O. Hudson saw in the increasing international legislation of the early 20th Century an “unlimited promise for the future...”² Perhaps nothing better reflects this promise than the early codification of the laws of war, guided by the then-novel multilateral attempt to alleviate the suffering inherent in war. At the centennial of the 1907 Hague Regulations concerning the law of land warfare,³ the most prominent and lasting of the early codification efforts, it is easy to regard the legislative project of the laws of war as a forward march of progress. Civilians and combatants around the world enjoy the legal protections of the Geneva Conventions of 1949,⁴ the Additional Protocols to the Geneva

¹ Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, Dec. 11, 1868, *reprinted in* DOCUMENTS ON THE LAW OF WAR 54, 55 (Adam Roberts & Richard Guelff, eds., 3d ed., 2000) [hereinafter DOCUMENTS].

² MANLEY O. HUDSON, *PROGRESS IN INTERNATIONAL ORGANIZATION* 77 (1932). He also knew that legislation alone would be insufficient. *See id.* at 80.

³ Convention IV Respecting the Laws and Customs of War on Land, with Annexed Regulations, Oct. 18, 1907, *reprinted in* DOCUMENTS, *supra* note 1, 69-82 [hereinafter Hague Regulations].

⁴ Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), Geneva Convention II for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), Geneva Convention III Relative to the Treatment of Prisoners of War (Third Geneva Convention), Geneva Convention IV Relative to the Protection of Civilian Person in Time of War (Fourth Geneva Convention), Aug. 12, 1949, 75 U.N.T.S. 31-417, *reprinted in* DOCUMENTS, *supra* note 1, at 197-355.

Conventions of 1977,⁵ the Convention on Conventional Weapons and its five protocols,⁶ and customary international law,⁷ all of which together provide a remarkable array of detailed rules that regulate nearly all aspects of the conduct of interstate war and the treatment of individuals caught up in its maelstrom. The law has given policymakers, activists and academics the language by which they condemn or justify behavior in war today.⁸ Combatants and civilians owe their protections not merely to the military economy or moral sense of an adversary but also to the legal rules that govern in times of armed conflict.

Yet despite progress in the expansion of legal rules, the laws of war – also called international humanitarian law (IHL) or the law of armed conflict⁹ – generate substantial disquiet among some who implement or study it. British General Michael Rose has written, “As war has become more complicated, so, sadly, has the language of the treaties and protocols.”¹⁰ Professor Ingrid Detter has noted that the law of war “contains rules, some of which are highly technical, susceptible to different legal interpretations and embodied in a complicated inter-woven network of conventions as well as entrenched in general international law.”¹¹ The International Committee of the Red Cross (ICRC) has felt it necessary to simplify the instruments of IHL so that they are widely understandable.¹² The International Court of Justice, seeming to hail the development

⁵ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), *esp.* arts. 35-60, June 8, 1977, 1125 U.N.T.S. 3, 16 I.L.M. 1391 [hereinafter “Additional Protocol I”], *reprinted in* DOCUMENTS, *supra* note 1, at 422-479; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), *esp.* arts. 13-16, June 8, 1977, 1125 U.N.T.S. 609 [hereinafter Additional Protocol II], *reprinted in* DOCUMENTS, *supra* note 1, at 483-493.

⁶ Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, Oct. 10, 1980 [hereinafter CCW], and its five protocols, *reprinted in* DOCUMENTS, *supra* note 1, at 520-548.

⁷ *See generally* JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW (2005). Key instruments other than the ones mentioned above may be found in DOCUMENTS, *supra* note 1.

⁸ Consider the recent efforts by the United Nations Security Council to emphasize IHL in its decision-making. *See, e.g.*, S.C. Res. 1674, U.N. Doc. S/RES/1674 (Apr. 28, 2006) (concerning the protection of civilians in armed conflict).

⁹ For a discussion of terminology, see ALLAN ROSAS, THE LEGAL STATUS OF PRISONERS OF WAR 41 (1976). I use terms such as law of armed conflict, law of war and international humanitarian law (IHL) interchangeably, disregarding the semantic implications of each.

¹⁰ ANTHONY P.V. ROGERS, LAW ON THE BATTLEFIELD xv (2d ed. 2004).

¹¹ INGRID DETTER, THE LAW OF WAR 156 (2d ed. 2000).

¹² 1978 Red Cross Fundamental Rules of International Humanitarian Law Applicable in Armed Conflict, *reprinted in* DOCUMENTS, *supra* note 1, at 513.

of IHL, nonetheless noted that current instruments in the field “attest to the unity *and complexity*” of the law of armed conflict.¹³

These observers and practitioners are identifying the basic complexity that plagues certain areas of IHL. Complexity in international law – a side effect of the complexity of international society generally¹⁴ – can be particularly problematic for the law of war, as unambiguous and realistic rules best serve the commanders and soldiers in the field to whom its commands are principally directed. Key provisions of the law of war have become difficult to interpret, frequently undermined by an inability to find consensus on the meaning of important provisions. It has become lawyers’ law – an interesting body subject to creative legal argument, focused on questions that affect the well-being of countless individuals, but often difficult to implement by commanders in the field without legal advice. This is not to say that all rules of humanitarian law are complex and designed for lawyers. Yet as one looks across the range of rules that make up humanitarian law, density, technicality, differentiation and indeterminacy, features I borrow from Peter Schuck’s assessment of complexity in the American legal system,¹⁵ are not uncommon.

In what specific senses has the law of war become complex, if indeed it has? Has it always been complex? What are the costs of that complexity, and what solutions might be adopted to limit the complexity and reduce those costs? In this chapter, following a brief overview of the development of the law of armed conflict, I explore the complexity problem of humanitarian law. I focus on three particular areas – the definition of a military objective, discrimination between civilian and military objects and the problem of proportionality, and combatant status – in which the rules are famously difficult to interpret or apply and subject to substantial politicization. I conclude with some areas for research and policy that might counter IHL’s complexity and improve implementation of the basic principles that these rules reflect. I propose to pose questions rather than provide definitive answers, to suggest consequences, and to identify ways to avoid the costs of complexity.¹⁶

¹³ Legality of the Threat or Use of Nuclear Weapons, 1996 I.C.J. 256 (July 8) (emphasis added).

¹⁴ See MALCOLM N. SHAW, INTERNATIONAL LAW 42-45 (5th ed. 2003).

¹⁵ Peter H. Schuck, *Legal Complexity: Some Causes, Consequences, and Cures*, 42 DUKE L.J. 1, 3 (1992).

¹⁶ Where a system exhibited features of complexity, Schuck claimed, risks increased for higher transaction costs, greater uncertainty among those who are regulated, and systemic delegitimation. Schuck, *supra* note 15, at 18–25.

B. *A Century of Codification of International Humanitarian Law*

The law of armed conflict contains two sets of norms, the first pertaining to the limits on the military's use of force (so-called means and methods) and the second to the treatment of individuals in a warring power's custody. It has been common (if misleading) to distinguish the two normative frameworks as Hague Law and Geneva Law. Hague Law refers to those treaties dealing principally with the conduct of hostilities and the treatment of belligerents during wartime, named after the agreements concluded as part of the 1899 and 1907 Peace Conferences in The Hague, most importantly the 1907 Hague Convention (IV) and its annexed Regulations.¹⁷ The International Court of Justice has given the opinion that the Hague Regulations have become a part of the customary international law of armed conflict, binding on all states, and the Regulations themselves sought to codify then-existing customary law.¹⁸ In general, the three sections of the regulations – on belligerents, hostilities, and occupation – concern the behavior of soldiers on the field of battle or in occupied territory. Although one may catch glimpses of what we may call today individual rights in wartime,¹⁹ the Hague Regulations more often regulate the conduct of hostilities by a state's military forces, or “the means and methods of warfare.”²⁰

Two essential principles animate Hague Law. First, “*the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy.*”²¹ Today this principle embodies the concept of *military necessity*, the root of all law governing means and methods of war, and the related one of *distinction*, namely that belligerents must always distinguish between military and civilian objectives.²² Second, “*this object would be exceeded*

¹⁷ *Supra* note 3.

¹⁸ See *Legality of the Threat or Use of Nuclear Weapons*, *supra* note 13, at 257-258. See also HUDSON, *supra* note 2, at 84 (noting that the Hague Peace Conference codified much of then-existing law).

¹⁹ See, e.g., Hague Regulations, *supra* note 3, arts. 4, 18, 46.

²⁰ Instruments in this vein also include the nonbinding 1923 Hague Rules of Aerial Warfare, 17 AM. J. INT'L L. SUPP. 245 (1923), reprinted in DOCUMENTS, *supra* note 1, at 141-153; the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, reprinted in *id.* at 158-159; the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 249 U.N.T.S. 240-288, reprinted in *id.* at 373-405, and its Second Protocol of 1999, reprinted in *id.* at 700-719; Additional Protocol I, pt. IV, sec. I, *supra* note 5, at 447-461; and the Convention on Certain Conventional Weapons, and its five protocols, U.N. Doc. A/CONF.95/15 (Oct. 10, 1980).

²¹ St. Petersburg Declaration of 1868, pmbl., reprinted in DOCUMENT, *supra* note 1.

²² See ROGERS, *supra* note 10, at 4. I discuss this principle in detail below.

by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable.”²³ This principle acknowledges that the law of war does not prohibit the causing of suffering, but military forces may not impose suffering that has no military purpose, that is not consistent with military necessity.²⁴ It is enough to take the individual combatant off the field of battle – by killing or by injuring, but not by doing so with cruelty. Closely related is the provision that, “[t]he right of belligerents to adopt means of injuring the enemy is not unlimited.”²⁵ This is fundamentally a principle expressing the belief that some weapons or methods – such as poison, declarations of “no quarter,” treacherous killing or wounding, perfidious use of a flag of truce – are outside the realm of the legal.²⁶

The law of Geneva – beginning with the Geneva Convention of 1864,²⁷ extending through the four Geneva Conventions of 1949,²⁸ and concluding thus far with the Third Additional Protocol of 2005²⁹ – deals primarily with the protection of individuals, whether they are prisoners of war or other individual combatants no longer participating in hostilities, or civilians in the hands of an enemy or in occupied territory.³⁰ The engines driving Geneva Law, from the outset, have been the increasing violence of war and the ICRC. Thus, the 1864 Convention begins as a modest codification to protect those involved in battlefield relief operations, and we find within each of the Geneva Conventions substantial development of such protections. Later Geneva Conventions in 1906 and 1929 expanded the scope of protections for the “wounded and sick” in the field and developed a set of protections available to prisoners of war. World War II revealed the weaknesses of that system of protections, thus triggering the negotiation of

²³ St. Petersburg Declaration of 1868, *supra* note 21.

²⁴ See, e.g., Additional Protocol I, *supra* note 5, art. 35(2), Legality of the Threat or Use of Nuclear Weapons, *supra* note 13, at 257. For a discussion of how military necessity evolved from a constraint to an excuse for military action, see N.C.H. Dunbar, *The Significance of Military Necessity in the Law of War*, 67 JURID. REV. 201 (1955); Burrus Carnahan, *Lincoln, Lieber and the Laws of War: The Origins and Limits of the Principle of Military Necessity*, 92 AM. J. INT’L L. 213 (1998).

²⁵ Hague Regulations, *supra* note 3, art. 22.

²⁶ See *id.* at arts. 23–28.

²⁷ Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, Aug. 22, 1864, 22 Stat. 940, 1 Bevans 7.

²⁸ See *supra* note 4.

²⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), Dec. 8, 2005, available at <http://www.icrc.org/ihl.nsf/FULL/615?OpenDocument>.

³⁰ Legality of the Threat or Use of Nuclear Weapons, *supra* note 13, at 256 (Geneva Law “protects the victims of war and aims to provide safeguards for disabled armed forces personnel and persons not taking part in the hostilities.”).

the four Conventions in 1949 that deal with the wounded and sick on land and at sea, prisoners of war and civilians.³¹

Like the Hague Law discussed above, there are two basic principles of Geneva Law. First, “*the unarmed citizen is to be spared in person, property, and honor as much as the exigencies of war will admit.*”³² Many of the principles contained in Francis Lieber’s eponymous code of instructions for Union Soldiers during the American Civil War translated into the Geneva instruments of the succeeding decades. So too did the principle that humanitarian concerns and military requirements must be balanced, an inherent tension in the law to which much of its later complexity can be traced. Second, where conventional law does not apply, “*the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.*”³³ Called the Martens Clause in honor of the delegate who proposed it, this principle – found in each of the Geneva Conventions of 1949³⁴ and, in modified form, the 1977 Additional Protocols³⁵ – states the case for humanitarian concerns and values as a crucial element of the law.³⁶ While the Martens Clause may not provide specific guidance as conventional IHL does, it does provide an argument for the use of human rights law where the rules of war may not be applicable. Much of human rights law may be applicable in times of armed conflict, giving an extra layer of legal protection to individuals, but it is more common to think of the law of armed conflict as the *lex specialis* to be applied during wartime.³⁷

Today, Hague and Geneva Law have merged in the Additional Protocols to the Geneva Conventions, which not only expand individual protections but also

³¹ See *supra* note 4.

³² INSTRUCTIONS FOR THE GOVERNMENT OF ARMIES OF THE UNITED STATES IN THE FIELD, GENERAL ORDERS No. 100, art. 22, (LIEBER CODE) Apr. 24, 1863, *reprinted in* <http://www.icrc.org/ihl.nsf/FULL/110?OpenDocument>.

³³ Hague Convention, pmbl., *supra* note 3.

³⁴ See First Geneva Convention, *supra* note 4, art. 63; Second Geneva Convention, *supra* note 4, art. 62; Third Geneva Convention, *supra* note 4, art. 142; Fourth Geneva Convention, *supra* note 4, art. 158.

³⁵ See Additional Protocol I, *supra* note 5, art. 1(2); Additional Protocol II, *supra* note 5, pmbl.

³⁶ See, e.g., ROGERS, *supra* note 10, at 7 (“Humanity is, therefore, a guiding principle that puts a brake on undertakings which might otherwise be justified by the principle of military necessity.”).

³⁷ See Legality of the Threat or Use of Nuclear Weapons, *supra* note 13, para. 25 (the law of armed conflict must be “determined by the applicable *lex specialis*, namely, the law applicable in armed conflict which is designed to regulate the conduct of hostilities.”); *Abella v. Argentina*, Case 11.137, Report No. 55/97, para. 161, Inter-Am. C.H.R., OEA/Ser.L/V/II.95 Doc. 7 rev. at 271, para. 161 (1997). The relationship between human rights law and IHL has been the subject of significant scholarly attention. See especially Theodor Meron, *The Humanization of Humanitarian Law*, 94 AJIL 239, 266–73 (2000); Kenneth Watkin, *Controlling the Use of Force: A Role for Human Rights Norms in Contemporary Armed Conflict*, 98 AM. J. INT’L L. 1 (2004); Dietrich Schindler, *Human Rights and Humanitarian Law*, 31 AM. U. L. REV. 935 (1982).

include groundbreaking provisions governing the conduct of hostilities.³⁸ In the statutes for the International Criminal Tribunal for the former Yugoslavia (ICTY)³⁹ and Rwanda (ICTR),⁴⁰ and in the Rome Statute for the International Criminal Court (ICC),⁴¹ the two branches of the law are joined together in unified rules of criminal law and procedure. Together the law provides detailed guidance across a remarkable range of problems faced by military forces and individual soldiers.

Yet there remain significant areas of IHL where the rules are so complex as to make their implementation difficult. Thus, even though we may (and should) applaud the century's progress, we need to confront the fact that several important rules of IHL are not easily accessible to meet the challenges of contemporary armed conflict. Many factors may have contributed to this problem, chief among them the difficulty of negotiating clear rules in the multilateral setting of the Geneva conferences in the 1970s. Jean Pictet introduces the ICRC Commentaries to the Additional Protocols with the following illuminating comment:

Despite all the efforts, it was not possible to entirely avoid some politics being brought into the debates. This should not come as a great surprise, for, though treaties of this nature have humanitarian aims, their implementation raises political and military problems, to begin with, that of the survival of the State. Thus it was not possible to escape this tension between political and humanitarian requirements. Such tension is in the nature of the law of armed conflict, which is based, as we know, on compromise.⁴²

I will now turn to a more specific look at how a few of the key rules in IHL exhibit signs of complexity.

C. *The Complexity of IHL*

I. *What is Complexity?*

Peter Schuck identifies four questions to determine a legal system's degree of complexity. First, are the rules dense, "numerous and encompassing," so that "[t]hey occupy a large portion of the relevant policy space and seek to control a

³⁸ See Christopher Greenwood, *A Critique of the Additional Protocols to the Geneva Conventions of 1949*, in *THE CHANGING FACE OF CONFLICT AND THE EFFICACY OF INTERNATIONAL HUMANITARIAN LAW* 1, 9–20 (Helen Durham & Timothy L.H. McCormack, eds., 1999).

³⁹ Statute of the International Tribunal for the former Yugoslavia, U.N. Doc. S/25704, 32 I.L.M. 1192–95 (May 3, 1993).

⁴⁰ Statute of the International Tribunal for Rwanda, U.N. Doc. SC/5974, 33 I.L.M. 1598–1604 (Jan. 12, 1995).

⁴¹ Rome Statute on the Establishment of an International Criminal Court, U.N. Doc. A/CONF.183/9 (July 17, 1998).

⁴² Jean Pictet, *General Introduction*, in ICRC, COMMENTARY ON THE ADDITIONAL PROTOCOLS OF 1977 (1987) at xxxiv.

broad range of conduct, which causes them to collide and conflict with their animating policies with some frequency”⁴³ IHL, by this measure, certainly has features of density. Consider, for example, the rules governing combatant status, now a pastiche of rules based on the Third Geneva Convention and, for those party to it, Additional Protocol I of 1977. The notion of prisoner *status* collides with the practical imperative of detainee *treatment*, which must in all circumstances be humane.⁴⁴ Although the IHL lawyer can explain the basic dichotomy between status and treatment, it ultimately suggests a collision of principles that may be difficult for a commander or policymaker to apply sensibly.⁴⁵ Particularly difficult questions include: In what sense can treatment be modified according to a detainee’s status? Why distinguish status if all treatment must involve the same minimum standards of humanity?

Second, are the rules technical? “Technical rules,” Schuck writes, “require special sophistication or expertise on the part of those who wish to understand and apply them. Technicality is a function of the fineness of the distinctions a rule makes, the specialized terminology it employs, and the refined substantive judgments it requires.”⁴⁶ One may respond to this point by noting that technicality may benefit legal regulation, as it helps lawmakers specify the precise kind of behavior they want the law to endorse, sanction or encourage. Yet technicality has a harmful effect when it serves to make it *more* difficult for the object of the law’s proscriptions – e.g., the military commander in the field, the civilian leader deciding on policy or targets, the military lawyer advising both – to interpret or understand the rules; it encourages rather than resolves disputes over interpretation and implementation. In IHL, some rules are technical whereas others are straightforward and accessible. Non-technical rules are those such as Article 13 of the Third Geneva Convention, which prohibits “physical mutilation” and “medical or scientific experiments of any kind” against POWs.⁴⁷ It may be expected that rules pertaining to weapons tend toward the technical, inasmuch as they may involve sophisticated systems that cannot be regulated without resort to technical description.⁴⁸ But other areas also have become quite prone to technicality.

⁴³ Schuck, *supra* note 15, at 3.

⁴⁴ On status, see Third Geneva Convention, *supra* note 4, at art. 4. On treatment, see *id.*, arts. 3, 13; Additional Protocol I, *supra* note 5, art. 75.

⁴⁵ For an example of the problems that emerge in this field, see Final Report of the Independent Panel to Review DOD Detention Operations 79-83 (Aug. 2004) [hereinafter Schlesinger Report], available at <http://www.defenselink.mil/news/Aug2004/d20040824finalreport.pdf>.

⁴⁶ Schuck, *supra* note 15, at 4.

⁴⁷ Third Geneva Convention, *supra* note 4, art. 13.

⁴⁸ For instance, the protocols to the Convention on Certain Conventional Weapons require technical familiarity with weapons such as blinding lasers, incendiary devices and landmines. CCW, *supra* note 6, Protocol I on Non-Detectable Fragments, DOCUMENTS, *supra* note 1, at 527;

Consider, for instance, the recent Third Additional Protocol to the Geneva Conventions, which provides for the adoption of a new symbol – a Red Crystal – to have equal status to the Red Cross and Red Crescent.⁴⁹ Like the First Geneva Convention, it distinguishes between indicative and protective uses of the symbol, a distinction that requires expertise to unpack and understand.⁵⁰

Third, is the system of IHL “institutionally differentiated insofar as it contains a number of decision structures that draw upon different sources of legitimacy, possess different kinds of organizational intelligence, and employ different decision processes for creating, elaborating, and applying the rules”?⁵¹ Institutional differentiation is crucial to the framework of IHL, much as it is throughout international law. In particular, elaboration and application of the rules depends on an open set of institutions, from national jurisdictions to international tribunals to international political bodies, and they may each reach different conclusions on the interpretation of rules of IHL. The Geneva Conventions envision just such differentiation when obligating states to prosecute or extradite those alleged to have committed “grave breaches.”⁵² One may also consider the multiple conflicting legal assessments of the Israeli separation barrier in the West Bank.⁵³ Moreover, negotiation or elaboration of rules occurs in diverse settings, from Geneva to The Hague to New York and elsewhere, involving increasingly diverse participation.⁵⁴

Finally, are the rules indeterminate? Are they “flexible, multi-factored, and fluid,” with “outcomes [that] are often hard to predict.”⁵⁵ Additional Protocol I, for instance, is replete with references to “feasibility” and “military necessity,”

Protocol II (Amended) on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, *supra* note 5; Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons, Oct. 10, 1980, *reprinted in* DOCUMENTS, *supra* note 1, at 533; Protocol IV on Blinding Laser Weapons, Oct. 13, 1995, *reprinted in* DOCUMENTS, *supra* note 1, at 535.

⁴⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), Dec. 8, 2005 (not yet in force), *available at* <http://www.icrc.org/ihl.nsf/FULL/615?OpenDocument>.

⁵⁰ See MARCO SASSOLI & ANTOINE BOUVIER, *HOW DOES LAW PROTECT IN WAR* 137-140 (1999).

⁵¹ Schuck, *supra* note 15, at 4.

⁵² See, e.g., Third Geneva Convention, *supra* note 4, arts. 129-130; Fourth Geneva Convention, *supra* note 4, arts. 146-147.

⁵³ Cf. *Zaharan Yunis Muhammad Mara'abe et al. v. The Prime Minister of Israel et al.*, HCJ 7957/04, Supreme Court of Israel, Sept. 15, 2005; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J. 131 (July 9, 2004); G.A. Res. ES-10/14, U.N. Doc. A/ES-10/L.16 (Dec. 8, 2003).

⁵⁴ See, e.g., Kenneth Anderson, *The Ottawa Convention Banning Landmines, the Role of International Non-governmental Organizations and the Idea of International Civil Society*, 11 EUR. J. INT'L L. 91 (2000).

⁵⁵ Schuck, *supra* note 15, at 4.

injecting a sense of uncertainty and subjectivity into rules that otherwise have a core moral imperative. One of the leading scholars of IHL, bemoaning the “far from optimal” protection afforded civilians, notes that “there are a host of ambiguities embedded in the law as it stands.”⁵⁶

Complexity may be a necessary feature of the law of armed conflict, as the conduct of war, like other fields subject to international law, has itself become increasingly complex. It is, after all, a body of rules designed to regulate a highly complicated activity, an activity, moreover, in which governments jealously guard their perceived prerogative to take measures consistent with their assessment of military requirements. It could be argued that even minimal, uncertain constraints serve a useful function as “the best that could be achieved” under such circumstances. Consider the position taken by the ICRC’s Commentaries on Additional Protocol I to the Geneva Conventions: “The text which was adopted is not always as clear as one might have wished, but it seemed necessary to leave some margin of appreciation to those who will have to apply the rules. Thus their effectiveness will depend to a large extent on the good faith of the belligerents and on their wish to conform to the requirements of humanity.”⁵⁷

Good faith may be a basic guarantor of compliance with the law, but it is a lot to ask of warring parties, which is one reason why one should want clear, unambiguous rules in wartime. The complexity of the law may have negative consequences not only because its rules “will not always be easy to interpret, particularly for those who have to decide about an attack and on the means and methods to be used.”⁵⁸ It may also encourage the public perception that the law “isn’t really law,” that its constraints are too subjective to amount to real restraints on behavior during war. Or it may contribute to the general problem of noncompliance in IHL.⁵⁹ The remainder of this section identifies four examples of complexity in IHL.

II. *Differentiation By Multiple Legal Frameworks*

A set of dichotomies in IHL have shaped debates over its application at least since the negotiations of the 1949 Geneva Conventions. First, the law distinguishes international armed conflicts – those between states – from those internal to

⁵⁶ YORAM DINSTEIN, *THE CONDUCT OF HOSTILITIES UNDER THE LAW OF INTERNATIONAL ARMED CONFLICT* 256 (2004). *See also* RENE PROVOST, *INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW* 247-269 (2002).

⁵⁷ ICRC, *supra* 42, at 589 (1987).

⁵⁸ *Id.* at 635.

⁵⁹ On this general problem, see REPORT PREPARED BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS, *IMPROVING COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW: ICRC EXPERT SEMINARS*, Geneva, Oct. 2003, available at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/5tam64?opendocument> (follow “Full text in PDF format” hyperlink).

one state. Thus, Common Article 2 of the Geneva Conventions applies those instruments to “all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties.”⁶⁰ Common Article 3 applies a basic minimum set of rules to cases of “armed conflict not of an international character occurring in the territory of one of the High Contracting Parties.” The distinction between the two forms of armed conflict, in principle, is accessible, but its application can be complicated in situations that have elements of international and non-international conflict.⁶¹ It has been suggested that, between common Articles 2 and 3, all armed conflicts are covered by one or the other set of norms. However, this assertion has come under increasing attack in the wake of the September 11, 2001, terrorist attacks in the United States.⁶² The 1977 Additional Protocols added a significant layer of complexity by expanding the notion of international armed conflict to include so-called liberation movements and limiting the application of Additional Protocol II to a certain high-threshold of internal armed conflict, in effect the classic civil war.⁶³ As a result of the differentiation between the two, international armed conflicts are much more highly regulated than non-international ones.

Second, customary law remains particularly important to governments and advocates arguing about the application of rules. With respect to international armed conflict, a number of major military powers – including the United States – are not party to Additional Protocol I, making the status of its rules vis-à-vis customary law particularly important. With respect to other conflicts, conventional law has limited reach to internal armed conflicts. Discerning the rules of IHL thus requires attention not only to a variety of conventional provisions that may apply in a given situation but also any customary norms that may be said to apply.⁶⁴ Yet arguments about the existence or applicability of customary norms of IHL are extremely difficult to make given the paucity of research into widespread state practice and the temptation to cite to non-practice elements – such as the

⁶⁰ Geneva Conventions of 1949, *supra* note 4, common art. 2. Also note that art. 2 applies in all cases of occupation.

⁶¹ See DINSTEIN, *supra* note 56, at 14–15.

⁶² For American purposes, the Supreme Court arguably has put this debate to rest by finding that common art. 3 governs all armed conflicts not covered by common art. 2. See *Hamdan v. Rumsfeld*, 126 S. Ct. 2749, 67–68 (2006).

⁶³ See DETTER, *supra* note 11, at 206. Early in the Additional Protocol negotiations, Norway proposed negotiating *one* protocol to govern in all conflicts, however characterized as international or non-international. The proposal failed. See ICRC, *supra* note 42, at 1328 n.31. See also Richard R. Baxter, *Some Existing Problems of Humanitarian Law*, 14 REVUE DE DROIT PENAL MILITAIRE ET DE DROIT DE LA GUERRE 297 (1975) (Fr.).

⁶⁴ See *Hamdan v. Rumsfeld*, *supra* note 62, at 70 (noting that customary law must be understood as incorporated into the Geneva Conventions).

number of parties to a treaty, resolutions of the United Nations General Assembly, practice of the ICRC, and military manuals – to support the existence of a customary norm. A recent, massive project of the ICRC to collect customary law, while laudable and useful to scholars, has suffered from such practical disadvantages.⁶⁵

Third, depending upon the context of any given conflict, claims may be pressed under both IHL and human rights law.⁶⁶ The substance of obligations may not vary in a particular case, but there will be occasions when they do. This is not necessarily fatal, just as a claim that fails in criminal law may yet succeed in tort. Yet, because of the variety of enforcement frameworks under the two bodies of law, we may see an increasing variation in the interpretation of specific rules of law.⁶⁷ International human rights bodies may examine application of the rules pertaining to armed conflict, developing law according to their own special methodological and political priorities. This is less a question of which body “gets it right” and more a question of increasing the circle of interpretations of a given rule.

III. *Examples of Complex Rules*

The law of international armed conflict consists of hundreds of rules intended to limit the brutality of war, to inject elements of humanity in the treatment of the detained and the wounded, and to limit the impact of war on civilians. Many, perhaps the vast majority, are admirably direct and clear, such as:

- Civilian medical personnel shall be respected and protected.⁶⁸
- Prisoners of war may in no circumstances renounce in part or in entirety the right secured to them by the present Convention.⁶⁹
- All hospital ships shall make themselves known by hoisting their national flag.⁷⁰
- The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.⁷¹

⁶⁵ CUSTOMARY INTERNATIONAL HUMANITARIAN LAW (Jean-Marie Henckaerts & Louise Doswald-Beck, eds., 2005); George Aldrich, *Book Review*, 76 BRIT. YB INT'L L. (2005). (See also, Malcolm MacLaren & Felix Schwendimann, *An Exercise in the Development of International Law: The New ICRC Study on Customary International Humanitarian Law*, 6 GERMAN LAW JOURNAL 1217 (2005), at http://www.germanlawjournal.com/pdf/Vol06No09/PDF_Vol_06_No_09_1217-1242_Articles_MacLaren_Schwendimann.pdf).

⁶⁶ See generally PROVOST, *supra* note 56. But see DINSTEIN, *supra* note 56, at 22–25.

⁶⁷ See David Kaye, *International Decisions*, 99 AM. J. INT'L L. 873, 878–881 (2005) (Chechnya decisions of the European Court of Human Rights).

⁶⁸ Additional Protocol I, *supra* note 5, art. 15(1).

⁶⁹ Third Geneva Convention, *supra* note 4, art. 7.

⁷⁰ Second Geneva Convention, *supra* note 4, art. 43.

⁷¹ Fourth Geneva Convention, *supra* note 4, art. 83.

There are, however, significant deviations from clarity. The most important deviations may be found in Additional Protocol I pertaining to the conduct of hostilities, particularly targeting and combatant status.

1. *Military Objectives*

At the heart of the law of armed conflict lies the requirement to distinguish between civilian and military objectives and, consequently, to direct attacks only against the latter. The modern rule provides:

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.⁷²

The law does not define civilian objectives but instead defines military objectives as:

those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.⁷³

This definition seeks to limit the subjective claims of governments in conducting hostilities, and to this extent it is an important achievement. It requires a government to support the lawfulness of a particular action by specific criteria:⁷⁴ First, does the target contribute to an adversary's military action effectively, by its nature, location, purpose or use? And second, does attacking it offer the attacker a definite military advantage in the circumstances ruling at the time? It thus combines an external and an internal element, focusing on both parties to the conflict.

Yet the definition "leaves a lot to be desired."⁷⁵ Its "abstract and generic" quality is but one of its problems, as it fails to identify specific objectives as military in an illustrative way.⁷⁶ The ICRC's Commentary concedes the indeterminacy of this definition.⁷⁷ One may see how the rule's indeterminacy can fuel disputes

⁷² Additional Protocol I, *supra* note 5, art. 48.

⁷³ *Id.*, art. 52(2). The definition has been largely accepted as reflecting customary international law, though states have sought to interpret it in a variety of ways. A useful compendium of sources may be found in HENCKAERTS & DOSWALD-BECK, *supra* note 65, pt. 1, at 181–232.

⁷⁴ In defense of international law's value in these terms, Malcolm Shaw notes that even should "antagonists dispute the understanding of a particular rule and adopt opposing stands as regards its implementation, they are at least on the same wavelength and communicate by means of the same phrases. That is something." SHAW, *supra* note 14, at 7.

⁷⁵ DINSTEIN, *supra* note 56, at 83.

⁷⁶ *Id.*

⁷⁷ ICRC, *supra* note 42, at 635.

over the legality of action. Consider, for instance, the decision of NATO to bomb the radio and television station of Serbia during the war in Kosovo. General Wesley Clark describes how European and American decision-makers spent a substantial amount of time trying to determine whether RTS Belgrade met the definition of a military objective for purposes of attacking it.⁷⁸ The Office of the Prosecutor of the ICTY resolved the question in favor of NATO, though others believed the attack was unlawful.⁷⁹ The law provided a guide but did not resolve the question neatly.⁸⁰

A more recent example is provided by the war between Israel and Hezbollah in Lebanon during the summer of 2006. Was the Beirut airport a military target because of its “use” by Hezbollah to bring in supplies and weapons from Syria and Iran?⁸¹ Was a power station which provides electricity to civilians and Hezbollah a military objective because it contributes to Hezbollah’s effectiveness?⁸² What about a Lebanese television transmitting tower that transmits Hezbollah television in addition to regular Lebanese programming?⁸³

In any given circumstance, application of the rule is uncertain for at least three reasons: First, what is an *effective* contribution to military action? Are there degrees of contribution that can affect an attack’s lawfulness? What if, with respect to the Lebanese television transmitter, Hezbollah used it to transmit direct guidance to commanders in the field? What if it used the transmitter only to maintain public support among Lebanese in the south? Our position on this will depend on the purpose of its use, which may not be easy to pin down. Second, what is the scope of such contribution? Some argue that such a contribution includes “war-sustaining” capabilities, in particular economic contributions that a society may make to maintain a military apparatus, while others believe that contribution pertains in

⁷⁸ See WESLEY K. CLARK, *WAGING MODERN WAR: BOSNIA, KOSOVO AND THE FUTURE OF COMBAT* 224-250 (2001).

⁷⁹ Cf. FINAL REPORT TO THE PROSECUTOR BY THE COMMITTEE ESTABLISHED TO REVIEW THE NATO BOMBING CAMPAIGN AGAINST THE FEDERAL REPUBLIC OF YUGOSLAVIA, June 13, 2000, and HUMAN RIGHTS WATCH, CIVILIAN DEATHS IN THE NATO CAMPAIGN, Feb. 2000, available at http://www.hrw.org/reports/2000/nato/Natbm200-01.htm#P413_109721.

⁸⁰ The NATO spokesman subsequently complained that “many NGOs tell us that we are violating international law when our lawyers tell us we are not. There is obviously a lot of confusion here about what are legitimate and illegitimate targets...” Jamie Shea, *Conveying Military Practice to the Press*, in ICRC, *PROTECTING CIVILIANS IN 21ST-CENTURY WARFARE* 45, 54 (2001).

⁸¹ See Greg Myre & Steven Erlanger, *Clashes Spread to Lebanon as Hezbollah Raids Israel*, N.Y. TIMES, July 13, 2006.

⁸² See Sam Ghattas, *Israel Batters Lebanese Seaports, Roads; Hezbollah Rockets Kill 8 in Haifa*, WASH. POST, July 16, 2006.

⁸³ See Greg Myre, *Israel Approves Call-Up, But Sets No Deployment*, N.Y. TIMES, July 27, 2006.

a more limited way to “war-making” functions.⁸⁴ What if the civilian power station in Lebanon provides 85% of the military power required by Hezbollah? What if the use is less? What if the use is made only for certain purposes excluding military preparations and attacks? Third, how does one assess whether the circumstances at the time supported the determination that an object’s destruction offered a definite military advantage? It is a great weight on the shoulders of a commander, who is said to “attack only if he had reasons to think he was threatened.”⁸⁵ To what extent may the law account for the chaotic realities of conflict under which commanders make such decisions distinguishing military from civilian objectives?⁸⁶

An attempt to alleviate the complexity of Articles 51 and 52 is made by the precautionary principles under Article 57 of Additional Protocol I. In particular, Article 57(1) says that “constant care shall be taken to spare the civilian population.”⁸⁷ Check and double-check that objectives are military rather than civilian or subject to special protection.⁸⁸ Cancel the attack if you see that the objective is not military.⁸⁹ Give warning, where possible, of attacks that may affect civilians.⁹⁰ These are the kinds of directives that can be easily transferred to the officer on the ground or in the air or on the sea. Even so, Article 57 exacerbates the indeterminacy, as a commander and force legal adviser may yet be unable to determine whether they have done “everything feasible” to “verify” the military nature of targets, or they may be unsure when “it becomes apparent” that an objective “is not a military one,” or they may not have the tools available to determine which of several possible objectives will “cause the least danger to civilian lives and to civilian objects.”⁹¹ This uncertainty is heightened by the possibility of criminal prosecution, in light of which soldiers will want a higher degree of confidence that their actions are consistent with criminal law norms.

All of these indeterminacies are exacerbated by the reality that multiple decisionmakers may be involved in assessing whether the rule is applied lawfully in

⁸⁴ See, e.g., Horace B. Robertson, *The Principle of the Military Objective in the Law of Armed Conflict*, in *THE LAW OF MILITARY OPERATIONS: LIBER AMICORUM PROFESSOR JACK GRUNAWALT*, 72 *INTERNATIONAL LAW STUDIES* 197 (Jack Grunawalt & Michael Schmidt, eds., 1998); DINSTEIN, *supra* note 56, at 87.

⁸⁵ *THE SAN REMO MANUAL ON INTERNATIONAL LAW APPLICABLE TO ARMED CONFLICTS AT SEA* 114 (Louise Doswald-Beck, ed., 1995).

⁸⁶ See Davis, in this volume.

⁸⁷ Additional Protocol I, *supra* note 5, art. 57(1).

⁸⁸ *Id.*, art. 57(2)(a).

⁸⁹ *Id.*, art. 57(2)(b).

⁹⁰ *Id.*, art. 57(2)(c).

⁹¹ *Id.*, art. 57(2).

any given situation. This does not implicate only the varieties of courts and tribunals, international and domestic, that may be engaged in assessing alleged violations. It also implicates the way in which different militaries interpret the rules. The statements and understandings made by governments ratifying Additional Protocol I, for instance, indicate that many Western governments see significant uncertainty in the law. Some state that “the word ‘feasible’ is to be understood as practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations.”⁹² There is also a repeated assertion that “[m]ilitary commanders and others responsible for planning, deciding upon, or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is reasonably available to them at the relevant time.”⁹³ While all of these assertions may be merited, they also underscore the complexity involved in the rules themselves. Perhaps even more importantly, they suggest that commanders may not be operating under *rules* as much as *standards*,⁹⁴ a particularly troubling notion in light of the criminalization of such behavior under the Rome Statute for the ICC.⁹⁵ Militaries undoubtedly value the discretion afforded them in these rules, but they nonetheless heighten the differences between warring parties and observers when implementation questions arise.

This leads us to the question: Would it be better *not* to have a rule defining military objectives?⁹⁶ Should we embark on an effort to find a simpler rule less

⁹² Statement of Italy on ratification, *reprinted in* DOCUMENTS, *supra* note 1, at 507. This statement is echoed by other NATO members.

⁹³ Statement of the United Kingdom on ratification, *id.* at 510. This point is consistent with the statement of the U.S. Military Tribunal at Nuremberg in *The Hostages Trial*, that “[W]e are concerned with the question whether the defendant at the time of [the challenged act’s] occurrence acted within the limits of honest judgment on the basis of the conditions prevailing at the time.” Trial of Wilhelm List and Others, United States Military Tribunal, Nuremberg, *reprinted in* UNITED NATIONS, 8 LAW REPORTS OF TRIALS OF WAR CRIMINALS 34, 69 (1948). See also MICHAEL BOTHE, ET AL., RULES FOR VICTIMS OF ARMED CONFLICTS 326 (1982).

⁹⁴ See MYRES S. MCDUGAL & FLORENTINO P. FELICIANO, LAW AND MINIMUM WORLD PUBLIC ORDER 57 (1961); Cass Sunstein, *Problems with Rules*, 83 CAL. L. REV. 953, 959 (1995) (“Lawyers have customarily compared standards ... to rules..., with rules seeming hard and fast, and standards seeming open-ended.”).

⁹⁵ See Rome Statute, *supra* note 41, art. 8(2)(b)(iv) (including within the Court’s subject matter jurisdiction the act of “[i]ntentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects ... which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.”). The use of the word “clearly” signifies an understanding of the Statute’s drafters that the act criminalized here should be of a certain, high threshold to merit prosecution.

⁹⁶ Over forty-five years ago, McDougal and Feliciano saw the effort to define military objectives as futile. See MCDUGAL & FELICIANO, *supra* note 94, at 526 (“It is not easy to see how military

subject to subjective argumentation? On balance, it appears that the rule expresses a valuable principle that needs clarification. Just what kinds of objects normally constitute military objectives? Debate and confusion may be eliminated by a specification, as Yoram Dinstein has argued, of the kind of objects that should be presumed to be military objectives.⁹⁷ Preparing such a list would likely prove difficult, if not impossible, if one considers the kinds of pressure that would be pressed against declaring power stations, airports, etc. as military objectives. At this stage, what would be most useful to the development of this area of the law would be a serious research project exploring exactly how states have implemented this rule in order to tease out from state practice the customary norms at play today. In other words, the codified rule, in all likelihood, provides less guidance than the traditional methods of assessing customary international law, with a premium put on state practice.

2. *The Law of Targeting*

Among the most important provisions of Additional Protocol I are those that further spell out the rules to target only military objectives. Article 51(2) prohibits attacks on the civilian population “as such,” a direct descendant of the 1868 St. Petersburg Declaration. “Don’t direct attacks against civilians,” it demands. It focuses on the intent of the attacker, for it does not prohibit accidental attacks but ones where “the perpetrator *intended* the civilian population as such or individual civilians not taking direct part in hostilities to be the object of the attack.”⁹⁸

Article 51(4) of Additional Protocol I also takes into account intent, suggesting that the key issue is not whether an attacker intends to strike civilian objectives but whether, in effect, *he just doesn’t care*. It thus codifies the customary rule prohibiting attacks that may strike civilian and military objectives without distinction,⁹⁹ defining such indiscriminate attacks as:

objectives could be evaluated as legitimate or nonlegitimate save in terms of their relation to some broader political purpose postulated as legitimate.”).

⁹⁷ DINSTEIN, *supra* note 56. The specification of military objectives has been undertaken by experts and states. *See, e.g.*, 1923 HAGUE DRAFT RULES OF AERIAL WARFARE, *reprinted in* DOCUMENTS, *supra* note 1, at 141, 145; US NAVY COMMANDER’S HANDBOOK ON THE LAW OF NAVAL OPERATIONS, 73 *International Law Studies* 402 (1999). For the debate on this subject, *see* SAN REMO MANUAL, *supra* note 85, at 114-116.

⁹⁸ Elements of Crimes, art. 8(2)(b)(ii), *reprinted in* INTERNATIONAL CRIMINAL COURT, SELECTED BASIC DOCUMENTS RELATED TO THE INTERNATIONAL CRIMINAL COURT (2005) (emphasis added).

⁹⁹ *See* The Prosecutor v. Stanislav Galic, IT-98-29-T, Judgment and Opinion, Dec. 5, 2003, n.103; HENCKAERTS & DOSWALD-BECK, *supra* note 65, vol. I, at 40.

- a. those which are not directed at a specific military objective;
- b. those which employ a method or means of combat which cannot be directed at a specific military objective; or
- c. those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and, consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

At the negotiations of this provision in Geneva in 1977, the representative of France, the only country to vote against Article 51, said that this definition's "very complexity would seriously hamper the conduct of defensive military operations against an invader and prejudice the inherent right of legitimate defense."¹⁰⁰ Putting aside the French position on the merits, the provision surely lacks legal precision. While the first two elements of the definition seem relatively straightforward – subparagraph (a) suggests an attack launched against an area rather than a specific target, while subparagraph (b) suggests the use of a weapon or other method which cannot be limited to a specific target¹⁰¹ – the third refers back to another, uncertain section of the law. To what does the provision refer when speaking of "the effects of which cannot be limited as required by this Protocol"? Expert commentators disagree.¹⁰² Even so, it leaves many questions open. For instance, imagine that a guerilla force has dispersed itself and its weapons throughout a residential neighborhood in order to shield itself with civilians and civilian objects, in clear violation of Article 51(7) of Additional Protocol I.¹⁰³ How does this provision constrain a military force from attacking the guerillas? May the military force attack the neighborhood, thereby targeting civilians and military objects necessarily without distinction? Or must the force let the guerilla force be, finding other non-forcible mechanisms (if any) to separate the military from the civilian? These are not easy questions, and even if there are answers, it is unlikely that opposing forces will agree on their outcome.

That said, the definition uses objective language and does not provide much room for military forces to argue on subjective grounds.¹⁰⁴ It focuses on the

¹⁰⁰ French Statement at the Diplomatic Conference Leading to the Adoption of the Additional Protocols, *quoted in* HENCKAERTS & DOSWALD-BECK, *supra* note 65, vol. I, at 41.

¹⁰¹ See ROGERS, *supra* note 10, at 24.

¹⁰² See JUDITH GARDAM, NECESSITY, PROPORTIONALITY AND THE USE OF FORCE BY STATES 93, n.32 (2004).

¹⁰³ Art. 51(7) prohibits the use of civilians to "render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations." Additional Protocol I, *supra* note 5, art. 51(7).

¹⁰⁴ Cf. DINSTEIN, *supra* note 56, at 117.

means or method of the attacks themselves, forcing an attacker to consider whether such attacks “are of a nature to strike military objectives and civilians or civilian objects without distinction.” For this reason, few if any states or commentators stood with Russia in defending the Russian military bombardment of Grozny, Chechnya, in 1999, which involved large-scale destruction of the city using heavy, imprecise weaponry.¹⁰⁵ The definition’s complexity rests on its technical, dense qualities rather than a sense of indeterminacy.

The definition of indiscriminate attacks goes beyond the traditional understanding of the concept to incorporate the separate requirement of proportionality in the effects of attacks.¹⁰⁶ The Protocol prohibits those attacks which cause “incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, *which would be excessive in relation to the concrete and direct military advantage anticipated.*”¹⁰⁷ The proportionality rule is packed with imprecision and indeterminacy, problems that have been reviewed comprehensively by Judith Gardam.¹⁰⁸ The rule asks a commander to consider: what is excessive? How to define “military advantage”? Is such advantage according to a particular attack or cumulatively based on an entire operation?¹⁰⁹ Is the “anticipated” advantage to be taken from the subjective vantage point of the attacker or from an objective sense of what a reasonable commander would expect to gain from an attack? Indeed, to take a specific doctrinal example provided by Gardam, there is division over the fundamental question of “whether the military significance of the target can justify heavy civilian casualties.”¹¹⁰ The ICRC has taken the view that the rule “does not provide any justification for attacks which cause extensive civilian and damages. Incidental losses and damages should never be extensive.”¹¹¹ Yet the substitution of “‘extensive’ for ‘excessive’ destroys the balancing process inherent in the idea of proportionality.”¹¹²

Perhaps division over the meaning and implementation of proportionality could not have been otherwise, as the principle involves a comparison of military and humanitarian elements: are the civilian losses justified by the military gains? Or put another way, are the military gains so important as to justify the civilian losses? How can such an assessment be anything other than subjective and indeterminate?

¹⁰⁵ See, e.g., Pavel Felgenhauer, *The Russian Army in Chechnya*, in CRIMES OF WAR PROJECT, available at <http://www.crimesofwar.org/chechnya-mag/chech-felgenhauer.html>.

¹⁰⁶ GARDAM, *supra* note 102, at 94.

¹⁰⁷ Additional Protocol I, *supra* note 5, art. 51(5)(b) (emphasis added).

¹⁰⁸ GARDAM, *supra* note 102, at 94 – 121.

¹⁰⁹ See Statement of The Netherlands on ratification of Additional Protocol I, *supra* note 5, at 508.

¹¹⁰ GARDAM, *supra* note 102, at 106.

¹¹¹ ICRC, *supra* note 42, at 626, quoted in *id.* at 106-07.

¹¹² GARDAM, *supra* note 102, at 107, citing Rogers, *supra* note 10, at 18.

Again the question arises whether we can refer appropriately to proportionality as a rule or a standard which should guide military action. Gardam notes that attacks, even if they offer a definite military advantage, invariably are controversial where there are high levels of civilian damage.¹¹³ Thus, many rest on the hope that militaries will implement the norm of proportionality in good faith in recognition of the imprecision involved in its application and interpretation. Yoram Dinstein writes that “there is no serious alternative” to the subjectivities and indeterminacies of the codified rule.¹¹⁴

3. *Combatant Status*

The United States’ determination that combatants detained in Afghanistan or elsewhere during the “war on terror” would not be accorded lawful combatant status – that is, the status of a prisoner of war under the Third Geneva Convention – has brought great attention to this area of law.¹¹⁵ From the U.S. perspective, the decision was solely about the Third Geneva Convention’s rules, since it is not a party to Additional Protocol I. The Third Convention’s rules are fairly straightforward: a person who meets the conditions of Article 4 should be granted POW status (and the related protections); if there is doubt, a “competent tribunal” under Article 5 will make the appropriate determination.¹¹⁶ If a person is found not to be a POW, other provisions derived either from the Fourth Convention or from customary law should provide legal protections pertaining to humane treatment.

Additional Protocol I introduces greater density, indeterminacy and technicality into status determinations. First, it defines the armed forces of a party, members of which “are combatants, that is to say, they have the right to participate directly in hostilities.”¹¹⁷ The ICRC Commentary on this article suggests that direct participation is easily defined as the ability to “attack and be attacked.”¹¹⁸ But later on the Commentary suggests a more complicated, nuanced meaning: “Direct participation in hostilities implies a direct causal relationship between the activity engaged in and the harm done to the enemy at the time and the place where the activity takes place.”¹¹⁹ This is exceptionally hard to follow, for lawyers and operators alike.¹²⁰

¹¹³ GARDAM, *supra* note 102, at 137.

¹¹⁴ DINSTEIN, *supra* note 56, at 122.

¹¹⁵ See Memorandum from The President, Humane Treatment of al Qaeda and Taliban Detainees, Feb. 7, 2002, reprinted in MARK DANNER, TORTURE AND TRUTH 105 (2004).

¹¹⁶ Third Geneva Convention, *supra* note 4, art. 5.

¹¹⁷ Additional Protocol I, *supra* note 5, art. 43.

¹¹⁸ ICRC, *supra* note 42, at 515.

¹¹⁹ *Id.* at 516.

¹²⁰ The ICRC, recognizing the multiple interpretations of direct participation, has endeavored to study this issue. See ICRC, *Direct Participation in Hostilities*, at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/participation-hostilities-ihl-311205?opendocument>.

Direct participation is but one of the complexities introduced into combatant status in Additional Protocol I. Article 44 requires that combatants “distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack.”¹²¹ It is the following exception to that rule that proves most difficult to unpack:

Recognizing, however, that there are situations in armed conflicts where, owing to the nature of the hostilities an armed combatant cannot so distinguish himself, he shall retain his status as a combatant, provided that, in such situations, he carries his arms openly: (a) during each military engagement, and (b) during such time as he is visible to the adversary while he is engaged in a military deployment preceding the launching of an attack in which he is to participate.¹²²

Putting aside the merits of the provision – which, to my mind, undermines the protections available to the civilian population – its application is strikingly dense. First, it is an exception to the rule of distinction. A combatant may fail to distinguish himself from the civilian population if he is not involved in a deployment or engagement. Second, it requires an assessment of the “nature of the hostilities” without actually defining the term. What kind of hostilities would allow such behavior? Third, it does not explain the meaning of carrying arms “openly.” And fourth, it limits the requirement to carry arms openly to military engagements and times of visibility to the enemy preceding the launching of the attack. Bear in mind, further, that the provisions here are supplemental to the Third Convention.

A commander facing a question concerning Article 51 of Additional Protocol I is likely to be in a crisis situation, requiring a prompt determination as to whether a plan is consistent with the law. Complexity frustrates that effort. A commander faced with a question concerning combatant status may have more time to consider whether a person has earned it. But the time may not be available in a situation of a military engagement, where a commander will need to determine whether a particular individual has combatant status and is thus liable to be attacked.¹²³ Snap judgments are required in such situations, where error may involve significant harm to civilians. The complexity of Article 44 – even if the rule

¹²¹ Additional Protocol I, *supra* note 5, art. 44(3).

¹²² *Id.* Christopher Greenwood has noted that this article is “a disagreement reduced to writing.” See Greenwood, *supra* note 38, at 17-18.

¹²³ See, e.g., Julian E. Barnes, *A Suspect Iraqi: Do You Fire?*, L.A. TIMES, Aug. 15, 2006, at A1 (“With insurgents hiding among ordinary Iraqis, that decision [“to kill, or not?”] often must be made in a split second. The wrong choice could mean a guerrilla gets a chance to lay a roadside bomb that kills more Americans or Iraqi civilians. Or it could mean an innocent Iraqi dies at the hands of Americans ... [The soldier], one year into his four-year stint with the Marines, radioed his squad leader. He got permission to shoot. Now, the choice was his.”).

allowing an exception to the principle of distinction were correct as a policy choice – undermines the ability of the commander to make the right decision.

D. *Consequences and Cures*

The complexity of IHL results from a number of factors, including the increased complexity of warfare, the widespread integration of civilian and military infrastructure, the changing dynamics of multilateral negotiations, the increased participation of states and non-governmental organizations in the negotiation of treaties, and the extreme politicization of conflict that has infected humanitarian law. To embark on a negotiation of a multilateral treaty is to engage other states in compromise, resulting in treaty language that may not be as clear as would be desirable. Even though the compromise rule may be better than no rule, the complexities involve several potential costs, though I hasten to add that determining the costs – and the extent to which they are costly – requires some detailed empirical research not undertaken here. In any event, one may imagine that costs could include limited guidance to commanders and soldiers; increased number of disputes about the content of the law; multiple interpretations of the law across jurisdictions; and transforming political disputes into legal ones that are difficult to resolve over time.

Not all aspects of IHL are infected with the complexities identified in Additional Protocol I, and where it occurs in other contexts it seldom does so to the same degree. Many of the norms of IHL “possess a core meaning and a penumbra which will not accommodate any and all possible applications.”¹²⁴ Some of the most basic rules may be easily stated by legal advisers and quickly absorbed by commanders and soldiers in the field. For instance, Article 75 of Additional Protocol I provides the baseline rule that, even if a detained person does not deserve protection as, for example, a civilian under the Fourth Geneva Convention or a prisoner under the Third Geneva Convention, he “shall be treated humanely in all circumstances.” It goes on to prohibit, among other acts, “violence to the life, health, or physical or mental well-being of persons,” “humiliating and degrading treatment,” hostage-taking, and collective punishment.¹²⁵

Additional Protocol I implicitly recognizes the complexity of the law. Its solution is the resort to more lawyers. Article 82 provides:

The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to

¹²⁴ PROVOST, *supra* note 56, at 247.

¹²⁵ Additional Protocol I, *supra* note 5, art. 75(2).

advise military commanders at the appropriate level on the application of the [Geneva] Conventions [of 1949] and this Protocol and on the appropriate instruction to be given to the armed forces on this subject.

For the developed world, providing lawyers for the armed services has involved a decades-long effort of building professional legal staff capable of providing apt legal advice in crisis situations and ample instruction in training.¹²⁶ We can afford it, after all, and ultimately the public demands that wars be fought within the law. But not all societies can afford the level and extent of legal advice that one may find in NATO militaries or non-NATO ones such as the Israel Defense Forces. Relatively few countries have the capacity (or the time, in some instances) to undertake the kind of two-week legal review of potential targets that may be faced by British military officers.¹²⁷

One response may be that it is the obligation of states to disseminate the rules to their militaries in ways that ensure compliance.¹²⁸ States should be expected to boil down the rules to accessible principles that can be followed without the constant need for legal advice in the field. Yet the boiling down of such rules will inevitably entail some glossing over of the complicated compromises that form the basis for the legal rules.¹²⁹ Lawyers will still be needed to step in and provide advice where the situation presents a difficult question of how to apply the rule.

Another response may be that IHL, fraught as it is with the highly political and sensitive issues of national security, could only progress by accommodating complexity, over time reducing the complexity to acceptable levels. Progress in all fields is about complexity, and many fields develop mechanisms and training tools to cope with it. Even in international law this is true – increased complexity of environmental law, or nonproliferation, or trade, as examples, has involved the real progress of increased regulation and compliance. Yet those fields differ in their implementation from IHL. Those fields do not typically regulate crisis decision-making with criminal consequences for violation; they typically involve decisions in which careful lawyers have time to analyze a problem from all angles,

¹²⁶ See W. Hays Parks, *Teaching the Law of War*, ARMY LAW., June 1987, Department of the Army Pamphlet 27-50-174, 4. The current Department of Defense policy on law of war application and training may be found at DoD Directive 2311.01E, May 9, 2006, available at http://www.fas.org/irp/doddir/dod/d2311_01e.pdf.

¹²⁷ See Tom Boyle, *Proportionality in Decision Making and Combat Actions*, in ICRC, PROTECTING CIVILIANS IN 21ST-CENTURY WARFARE: TARGET SELECTION, PROPORTIONALITY AND PRECAUTIONARY MEASURES IN LAW AND PRACTICE 29, 30-32.

¹²⁸ See, e.g., Fourth Geneva Convention, *supra* note 4, art. 144; Additional Protocol I, *supra* note 5, art. 83.

¹²⁹ See Rome Statute, art. 8(b)(i)-(ii), reprinted in DOCUMENTS, *supra* note 1, at 671, 676.

develop legal theories and assessments that may be tested over periods of years. Even in IHL there are areas that allow for such care; for instance, the rules governing the kinds of weapons that may be employed require military officials to assess the legality of weapons in their development, a process that is amenable to thoughtful cogitation.¹³⁰ But complexity undermines accessibility, and the law of armed conflict must be accessible to those whose actions are to be informed and constrained by the law.

Modern militaries deal with the complexity in a variety of ways. Soldiers – in the American military and others – receive distillations of the rules governing their conduct in battle and over those they detain.¹³¹ These distillations read like the Ten Commandments: Thou shalt not engage an enemy who has surrendered. Thou shalt not engage a hospital. Thou shalt treat civilians with respect and dignity and treat all prisoners humanely. And so on. These are crucial rules for every soldier to keep close in time of armed conflict. Yet even so, distillations gloss over the complexities inherent in a vast body of conventional law. Attacks on hospitals are forbidden, but how do I react to the use of a hospital by my enemy as a base of attack? There is a rule for that: “The protection to which civilian medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the enemy.”¹³² This is a valuable rule, aimed at the protection of those within the care of a medical establishment such as a hospital, and the rule goes on to define acts that “shall not be considered as acts harmful to the enemy.”¹³³ But what acts *are* harmful to the enemy? You will want a lawyer for that question, but even she will need some time to give you an answer, time that is not always available in the midst of conflict.

Many militaries prepare manuals for their commanders to use in determining whether their plans are consistent with the law, yet manuals tend to become just as complicated as the treaties, serving as a tool for lawyers rather than commanders in the field. Thus, the two paths, Hague and Geneva, have involved the accumulation of law to an extent that ensures that it becomes the province of experts, namely lawyers. In theory, the density of the law is a remarkable achievement,

¹³⁰ Additional Protocol I, *supra* note 5, art. 36. It has been argued that this rule, which requires assessment of whether new weapons are consistent with the applicable laws of armed conflict, is a part of customary international law. See Christopher Greenwood, *The Law of Weaponry at the Start of the New Millennium*, in U.S. NAVAL WAR COLLEGE, 71 INTERNATIONAL LAW STUDIES 185, 235, n. 165 (1998).

¹³¹ See Operation Desert Storm, US Rules of Engagement: Pocket Card, *reprinted in* DOCUMENTS, *supra* note 1, at 561.

¹³² Additional Protocol I, *supra* note 5, art. 13(1).

¹³³ *Id.*, art. 13(2).

providing hard detailed guidance to constrain the conduct of hostilities. In some respects, such detailed regulation is one of the signal accomplishments of the post-World War II international community. Yet in practice, key provisions often confuse rather than clarify the basic principles of the law.

E. *Conclusion*

We may simply have to accept complexity in the law of armed conflict. It is, in fact, difficult to imagine “reopening” the major instruments in the law of armed conflict in an effort to simplify key provisions. The experience of recent negotiations in the field – starting with the Additional Protocol negotiations in the 1970s and continuing through landmine, International Criminal Court and Third Emblem negotiations through 2005 – indicates that complexity continues to be a major feature and that politics often play a harmful role in finding consensus solutions. Some organizations have implicitly recognized the complexity of the field and have offered distillations or instructions that seek to simplify the key rules. Such efforts are laudable, but again, as with any simplified instructions, they may elide some of the compromises that inhere in the law itself, a particular problem where criminal sanctions attach to violations.

There are ways to deal with the complexity of the law.

First, many have claimed that despite the existence of extensive rules governing hostilities, widespread noncompliance pervades the field. The ICRC, which has long considered itself the guardian of humanitarian law,¹³⁴ has anxiously sought to uncover the reasons for poor implementation of the law.¹³⁵ Some may argue that noncompliance exists mainly because states are unlikely to follow or establish a rule that runs against what they perceive to be in their national interest.¹³⁶ Part of the effort to explore noncompliance with IHL should attempt to control for the problem of complexity, where there is a real need for serious empirical study. Where rules are complex, do we observe less compliance than in areas where rules are relatively simple? In what sense does state practice reflect or fail to reflect the codified rules?

Second, governments should seek to simplify instructions at the highest level of protection of the norm behind the rule. For years, for instance, the United States

¹³⁴ See SASSOLI & BOUVIER, *supra* note 50, at 275.

¹³⁵ See, e.g., ICRC Report, *Improving Compliance with International Humanitarian Law: ICRC Expert Seminars*, Geneva (Oct. 2003).

¹³⁶ See generally JACK L. GOLDSMITH & ERIC A. POSNER, *THE LIMITS OF INTERNATIONAL LAW* (2005).

has taken the position that it would “comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations.”¹³⁷ The result of such instructions is that officers in the field do not need to bother themselves with the nice distinctions involved in determining unlawful and lawful combatants and may avoid confusing soldiers responsible for all detainees’ humane treatment. In addition, for the larger project of progress in IHL, to the extent state practice increasingly involves ignoring the complexities at a higher level of protection for the norm behind the rule, customary law may develop so as to provide the simpler, more protective rule than conventional law.

Third, based on an assessment of the role of complexity in compliance, the states parties to the Geneva Conventions should review the principal instruments with an eye to whether some of the provisions do not meet the goal of constraining behavior in wartime and thus undermine civilian protections. Many instruments in complicated areas of international law involve periodic review, and though one may imagine that a review could devolve into political posturing and blaming, a carefully mandated review – perhaps undertaken only by military officers at the outset, on the basis of empirical study of compliance – could provide a useful assessment of whether IHL has room for further progress.

Professor Hudson’s contemporary, the great British lawyer, scholar and judge Hersh Lauterpacht, may not have used the language of complexity to express his views about the laws of war, but he famously captured the difficulties a student or practitioner of the law faces when considering the lawfulness of military action:


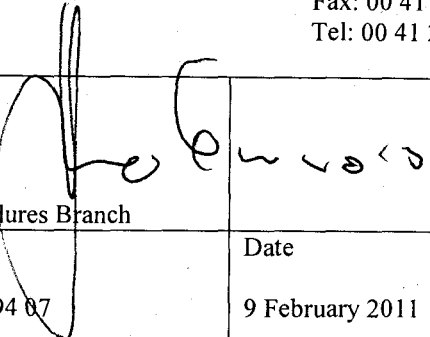
In all these matters the lawyer must do his duty regardless of dialectical doubts – though with a feeling of humility springing from the knowledge that if international law is, in some ways, at the vanishing point of law, the law of war is, perhaps even more conspicuously, at the vanishing point of international law. He must continue to expound and to elucidate the various aspects of the law of war for the use of armed forces, of governments, and of others. He must do so with determination though without complacency and perhaps not always very hopefully – the only firm hope being that a world may arise in which no such calls will claim his zeal.¹³⁸

The law of armed conflict has been on its progressive course for well over a century. The increasing complexity of warfare has been reflected in its instruments, and the level of complexity in current law makes one wonder whether the project of progress has reached an unseen limit, a glass ceiling. The only way to test whether this is the case is by empirical study, careful diplomatic and military review and forceful reengagement in the humane norms that underlie the law.

¹³⁷ DoD Directive 2311.01E, *supra* note 126, Rule 4.1.

¹³⁸ Hersh Lauterpacht, *The Problem of the Revision of the Law of War*, 29 BYIL 360, 379 (1952).

Exhibit 7

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Room No.	Tel No.	Date			
3-017	00 41 22 917 94 07	9 February 2011			
Priority	To:				
IMMEDIATE	His Excellency Mr. Faysal Khabbaz Hamoui Ambassador Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva Fax: 022 738 42 75				
File No.					
UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (3-3-16) SYR 2/2011					
<p align="center">Subject: COMMUNICATION FROM SPECIAL PROCEDURES: URGENT APPEAL</p>					

(6 PAGES ATTACHED)

Please find attached an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders.

We would be grateful if this communication could be transmitted at your earliest convenience to His Excellency
 Mr. Walid Al-Moualem
 Minister for Foreign Affairs

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME



UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME
Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the
independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders

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Address:
Palais des Nations
CH-1211 GENEVE 10

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (3-3-16)
SYR 2/2011

9 February 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 6/4, 8/6, 7/36, and 7/8.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the detention of and charges against **Mr. Ali Al-Abdullah**, member of the National Council of the Damascus Declaration for National Democratic Change, a legislative body composed of numerous opposition groups and activists who have been advocating for democratic reforms in the Syrian Arab Republic. Mr. Al-Abdullah has allegedly been imprisoned on three previous occasions: he spent six months in detention after returning from abroad to live in the Syrian Arab Republic in the 1990s; he served almost six months in prison in 2005 for his involvement with the Jamal al-Atassi Forum, where he read out a statement by the exiled Muslim Brotherhood leader who called for pluralism and human rights to be respected in the Syrian Arab Republic; and he served a six-month sentence in 2006 for having participated in a protest outside the Supreme Security Court (SSSC) against the trials that do not comply with international fair trial standards.

His Excellency
Mr. Faysal Khabbaz Hamoui
Ambassador
Permanent Representative of the Syrian Arab Republic
to the United Nations Office at Geneva

.../2

According to recent information received:

On 17 December 2007, Mr. Ali Al-Abdullah was detained by State security officials after he and others associated with the Damascus Declaration met to elect a new executive committee. He was sentenced by a criminal court in Damascus, together with 11 other activists, to two and a half years of imprisonment on vaguely defined charges of “weakening the national sentiment” and “spreading false or exaggerated news that would affect the morale of the country” (article 286 of the Penal Code).

During his detention, Mr. Al-Abdullah wrote an article criticizing the Islamic Republic of Iran’s Wilayat-al-Faqih doctrine, which grants absolute political authority to a religious figure, as well as alleged human rights violations committed during the presidential election in the Islamic Republic of Iran. On 23 August 2009, the article reportedly appeared online, and on 19 April 2010, Mr. Al-Abdullah was allegedly interrogated by a prosecutor from the State Security Court. In June 2009, he also allegedly made a statement via telephone to the Italian AKI news agency in which he praised the elections that had taken place in Lebanon and then criticized the Iranian authorities’ use of excessive force against peaceful protestors demonstrating that month against the disputed presidential election results.

On 17 June 2010, at the end of their prison terms, all detainees were released, except for Mr. Al-Abdullah. He was informed by the officials of Political Security, one of Syrian Arab Republic’s security services, that his case will be referred to the military prosecutor for new charges relating to the article that he wrote on the Islamic Republic of Iran. On 19 September 2010, he was charged by a military investigative judge with “spoiling Syria’s relations with another country” (article 278 of the Penal Code), for which, if found guilty, he could be sentenced to up to 15 years’ imprisonment. On 1 December 2010, a military court confirmed the charge.

On 7 February 2011, a hearing took place before the Second Criminal Military Court in Damascus, where the judge informed Mr. Al-Abdullah that the charge of “spoiling Syria’s relations with another country” relate to his statement regarding the Islamic Republic of Iran. His lawyers have allegedly been unable to meet him without an officer from the security forces monitoring their conversations. Additionally, his lawyers have not had access to the full case file. His next hearing is scheduled to take place on 23 February 2011.

Concern is expressed that Mr. Ali Al-Abdullah has been sentenced for peacefully expressing his opinions and in connection to his work in defence of human rights and fundamental freedoms. Further concern is expressed regarding his trial by a military court on broad charges, as well as his physical and psychological integrity.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Ali Al-Abdullah is arbitrary or not, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee his right

not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

While we do not wish to prejudge the accuracy of these allegations, as Mr. Ali Al-Abdullah was sentenced to imprisonment and is facing new charges solely for peacefully expressing his opinions, we would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Moreover, we would like to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

With regard to Mr. Al-Abdullah's trial by a military court, we would like to draw the attention of your Excellency's Government to paragraph 22 of General Comment No. 32 adopted by the Human Rights Committee, in which the Committee states that "Trials of civilians by military or special courts should be exceptional, i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials." This argument was also underscored by the Committee in its decision concerning communication 1172/2003 (Madani vs. Algeria). In this decision, the Committee considered "[t]hat the State party must demonstrate, with regard to the specific class of individuals at issue, that the regular civilian courts are unable to undertake the trials, that other alternative forms of special or high-security civilian courts are inadequate to the task and that recourse to military courts is unavoidable. The State party must further demonstrate how military courts ensure the full protection of the rights of the accused pursuant to article 14. [...] Nor does the mere invocation of domestic legal provisions for the trial by military court of certain categories of serious offences constitute an argument under the Covenant in support of recourse to such tribunals."

Additionally, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and

fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 9, para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

In paragraph 22 of its General Comment No. 32, the Human Rights Committee said that "Trials of civilians by military or special courts should be exceptional, i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials." This argument was also underscored by the Committee in its decision concerning communication 1172/2003 (Madani vs. Algeria). In this decision, the Committee considered "[t]hat the State party must demonstrate, with regard to the specific class of individuals at issue, that the regular civilian courts are unable to undertake the trials, that other alternative forms of special or high-security civilian courts are inadequate to the task and that recourse to military courts is unavoidable. The State party must further demonstrate how military courts ensure the full protection of the rights of the accused pursuant to article 14. [...] Nor does the mere invocation of domestic legal provisions for the trial by military court of certain categories of serious offences constitute an argument under the Covenant in support of recourse to such tribunals."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Ali Al-Abdullah are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Ali Al-Abdullah in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

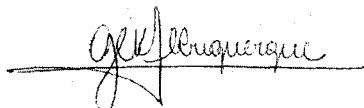
1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide detailed information on how Mr. Ali Al-Abdullah's participation in the National Council of the Damascus Declaration for National Democratic Change, and the new charge of "spoiling Syria's relations with another country" for an article that he wrote on the Islamic Republic of Iran, is compatible with the Syrian Arab Republic's obligations under international human rights law, in particular article 19 of the ICCPR.
4. Please provide information on the measures taken to ensure the safety of Mr. Ali Al-Abdullah.
5. Please indicate the legal basis for trying Mr. Ali Al-Abdullah before a military court and please provide information how this is in compliance with the Syrian Arab Republic's obligations under international human rights law.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

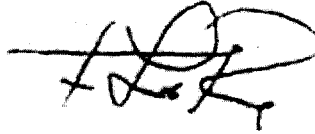
Please accept, Excellency, the assurances of our highest consideration.




El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention



Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

A handwritten signature in black ink, appearing to read 'F. La Rue', with a horizontal line drawn through the middle of the signature.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

A handwritten signature in black ink, appearing to read 'M. Sekaggya', with a stylized, cursive script.

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders


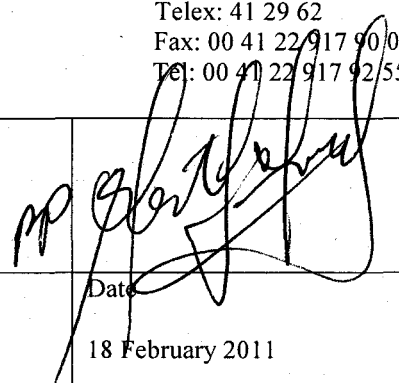
* * * RAPPORT RESULTAT TRANSMISSION (TX IMMED) (9. FEV. 2011 14:06) * * *

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L : TX DIFFEREE
D : DETAILC : CONFIDENTIEL
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F : FINP : RELEVÉ
E : ECMM : MEMOIRE
S : STANDARD

Exhibit 8

NATIONS UNIES				UNITED NATIONS	
<p align="center">OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS</p>					
Palais des Nations CH-1211 Geneva 10			Telex: 41 29 62 Fax: 00 41 22 917 90 06 Tel: 00 41 22 917 92 55		
		Authorized by Jane Connors Chief Special Procedures Branch			
Room No.		Tel No.		Date	
3-017		00 41 22 917 94 07		18 February 2011	
Priority		To:			
IMMEDIATE		His Excellency Mr. Faysal Khabbaz Hamoui Ambassador Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva Fax: 022 738 42 75			
File No.					
UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (3-3-16) SYR 3/2011					
<p align="center">Subject: COMMUNICATION FROM SPECIAL PROCEDURES: URGENT APPEAL</p>					

(4 PAGES ATTACHED)

Please find attached an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

We would be grateful if this communication could be transmitted at your earliest convenience to

His Excellency Mr. Walid Al-Moualem
Minister for Foreign Affairs

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME



UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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E-mail: urgent-action@ohchr.org



Address:
Palais des Nations
CH-1211 GENEVE 10

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (3-3-16)
SYR 3/2011

18 February 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 6/4, 8/6, and 7/36.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the sentencing of **Ms. Tal al-Mallohi**, a 19 year old high school student and blogger. Her blog (<http://talmallohi.blogspot.com>) contains poems and commentary on social and political issues. Ms. al-Mallohi does not belong to any political group.

According to information received:

On 27 December 2009, Ms. al-Mallohi was summoned to Damascus for interrogation by Syrian Arab Republic's State Security (Branch 279) relating to an article she published on her blog. She was immediately detained without charge. Two days later, on 29 December 2009, members of State Security reportedly went to Ms. al-Mallohi's house and confiscated her computer, CDs, books, and other personal effects. She was held in incommunicado detention at an undisclosed location without charge or access to her family for the first nine months of her detention. Her family was allowed to visit her once at Doma prison in Damascus on 30 September 2010.

His Excellency
Mr. Faysal Khabbaz Hamoui
Ambassador
Permanent Representative of the Syrian Arab Republic
to the United Nations Office at Geneva

.../2

On 5 October 2010, it was reported that Ms. al-Mallohi had been charged with spying for a foreign country. On 14 February 2011, Ms. al-Mallohi appeared before Damascus State Security Court in a closed trial, and was sentenced to five years of imprisonment for "divulging information to a foreign State." The court did not disclose any evidence nor details of the reason behind the verdict. The State Security Court's verdict is final and there is no possibility of appeal. Since 30 September 2010, other than during her court appearance, Ms. al-Mallohi is being held in solitary confinement in Doma prison.

Concern is expressed that Ms. al-Mallohi was held in incommunicado detention without charge for nine months, sentenced to five years of imprisonment on unclear charges, and now held in solitary confinement because of articles posted on her blog. While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government attention to the right to physical and mental integrity of Ms. Tal al-Mallohi.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Ms. Tal al-Mallohi is arbitrary or not we would like to appeal to your Excellency's Government to take all necessary measures to guarantee her right not to be deprived arbitrarily of her liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.

With regard to our concerns that Ms. Tal al-Mallohi has been arbitrarily detained and sentenced to five years of imprisonment for articles posted on her blog, we would like to remind your Excellency's Government of its obligation to guarantee the right to freedom of opinion and expression of all individuals, as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Moreover, in relation to Ms. Tal al-Mallohi's right to a fair trial, we would like to refer your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985, and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. In particular to principle 6, which provides that "The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected."

Additionally, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights, to which your Government is a party since 1969, and in particular Article 14 3), which states that "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him" and "(c) To be tried without undue delay."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Tal al-Mallohi are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Ms. Tal al-Mallohi in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and observations on the following matters, when relevant to the case under consideration:

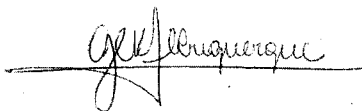
1. Are the facts alleged in the above summary of the case accurate?
2. Please provide detailed information regarding why Ms. Tal al-Mallohi has been convicted of "divulging information to a foreign State", and how it is compatible with international norms and standards on the right to freedom of opinion and expression.
3. Please provide information on the measures taken to ensure the safety of Ms. Tal al-Mallohi
4. Please indicate the remedies that have been made available to Ms. Tal al-Mallohi to protect her right to a fair trial.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

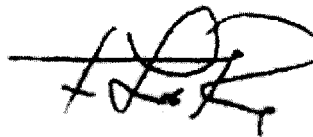
Please accept, Excellency, the assurances of our highest consideration.



El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention



Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers



Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

* * * RAPPORT DE RESULTAT DE LA COMMUNICATION (18. FEV. 2011 16:36) * * *

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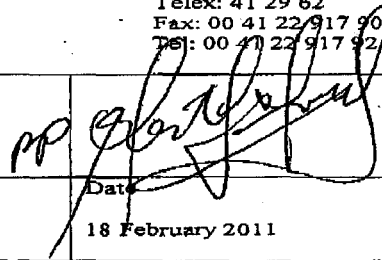
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NATIONS UNIES				UNITED NATIONS	
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS					
Palais des Nations CH-1211 Geneva 10			Telex: 41 29 62 Fax: 00 41 22 917 90 06 Tel: 00 41 22 917 92 55		
		Authorized by			
		Jane Connors Chief Special Procedures Branch Tel No.			
Room No. 3-017		00 41 22 917 94 07		Date 18 February 2011	
Priority IMMEDIATE		To: His Excellency Mr. Faysal Khabbaz Hamoui Ambassador Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva Fax: 022 738 42 75			
File No. UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (3-3-16) SYR 3/2011					
Subject: COMMUNICATION FROM SPECIAL PROCEDURES: URGENT APPEAL					



(4 PAGES ATTACHED)

Please find attached an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

We would be grateful if this communication could be transmitted at your earliest convenience to

His Excellency Mr. Walid Al-Moualem
Minister for Foreign Affairs

Exhibit 9

NATIONS UNIES				UNITED NATIONS	
<p align="center">OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS</p>					
Palais des Nations CH-1211 Geneva 10			Telex: 41 29 62 Fax: 00 41 22 917 90 06 Tel: 00 41 22 917 92 55		
		Authorized by Jane Connors Chief Special Procedures Branch			
Room No.	Tel No.	Date			
3-017	00 41 22 917 94 07	30 March 2011			
Priority	To:				
IMMEDIATE	His Excellency Mr. Faysal Khabbaz Hamoui Ambassador Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva Fax: 022 738 42 75				
File No.					
UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (53-24) SYR 4/2011					
<p align="center">Subject: COMMUNICATION FROM SPECIAL PROCEDURES: URGENT APPEAL</p>					

(11 PAGES ATTACHED)

Please find attached an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

We would be grateful if this communication could be transmitted at your earliest convenience to His Excellency Mr. Walid Al-Moualem
Minister for Foreign Affairs

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HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME



UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
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Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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REFERENCE: UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (53-24)
SYR 4/2011

30 March 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 6/4, 7/12, 8/3, 7/36, 7/8, and 8/8.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning demonstrations in the last week where it is alleged that **protesters have been killed or wounded**. It is further alleged that **some protesters have been arrested and at least some of them have been detained in unknown locations in various places in Syria**.

According to the information received:

1. Killing and Wounding of Protesters

In the context of the demonstrations, we are informed that security forces have used excessive force, including live ammunition to disperse protesters. Information has been received that on 18 March 2011, several thousand protesters marched from the al-Omari Mosque in the southern city of Dera'a, calling for greater political freedom and for an end to corruption. Reportedly, security forces used water cannons and fired live ammunition to disperse the protesters. The shooting allegedly killed **Wissam Ayyash, Mahmoud al-Jawabra, Ayham al-**

.../2

Hariri, Abou Aoun and wounded approximately 35 civilians. On 19 March 2011, **Adnan Akrad (Raed Al kerd)** died, allegedly from wounds sustained during the shooting on the previous day. On 19 March 2011, during the funeral of **Wissam Ayyash** and **Mahmoud al-Jawabra**, security forces allegedly used teargas and live ammunition to disperse thousands of mourners who were attending the funeral.

On 20 March 2011, Government forces allegedly opened fire on protesters killing two people. One of these was **Moemen Monzer Al Masalmi**, aged 11, who died due to suffocation from tear gas. Dozens of other protesters were injured.

Security forces further opened fire during a night time raid at the Omari Mosque in Dera'a on 22 March 2011, killing at least seven people. The protesters were staging a sit-in at the Mosque and were reportedly unarmed. The names of the victims are reportedly **'Omar 'Abd al-Wali, Muhammad Abu al-Eyoun, Hamid Abu Nabbout, Ashraf Masalma, Ibtisam Masalma, and Tahir Masalma.**

On 25 and 26 March 2011, security forces reportedly used live ammunition against protesters in Sanmein and Tafas, killing at least 26 persons. Confrontations between security forces and protesters in the coastal city of Latakia on 26 March 2011 allegedly killed 12 people. Reportedly, at least 58 individuals have been killed during the week of unrest in and around Dera'a.

Attached to this communication as **Annexure A** is a list of individuals reportedly killed in the past week's protests.

2. Arrest and Detention of Protesters

On 24 March 2011, President Bashar al-Assad issued a directive ordering the release of all those that had been detained in the past week in relation to demonstrations in Syria. Information has been received with names of persons who have reportedly been released. However, we wish to request further information on the following individuals who have been arrested, among whom there are a number of persons in situations of vulnerability.

On 16 March 2011, about 150 individuals gathered outside the Ministry of Interior in Damascus, to present a petition calling for the release of prisoners of conscience. Most of the individuals involved in the demonstration were human rights defenders and relatives of prisoners of conscience. It was reported that when families started raising pictures of their detained relatives, they were confronted by security services agents armed with batons and individuals in plain clothes who proceeded to violently beat and break up the demonstration. Children, women and elderly individuals were reportedly among those beaten. Demonstrators who tried to flee the assault were reportedly chased down and arrested. An estimated 40 persons were arrested at the scene of the demonstration.

It was alleged that security services agents subsequently transported a number of the demonstrators, including an unidentified boy in his early teens, to the Mantaqa branch of Military Security. One of these individuals, **Mr. Bader Shalah**, was reportedly hit over his eye with a baton, causing bleeding. Security services agents allegedly interrogated some of these individuals and asked for passwords to their *Facebook* accounts.

On 17 March 2011, a number of the demonstrators were charged for alleged violations relating to “weakening national sentiment...” Some of these individuals have been released. However, we have yet to receive information on the following detained persons: **Omar Al-Labwani; Ammar Al-Labwani; Nahid Badawieh; Naret Ibrahim Abdul Karim; Badr Eddin Al-Shallash; Kamal Shaikh**, member of the Committee for the Defence of Democratic Liberties and Human Rights in Syria (CDF); **Suhair Al-Attassi**, President of the Attassi Forum, a pro-democracy discussion group; **Mohamed Osama Nassar; Saad Jawdat Saeed; Bisher Jawdat Saeed; Ghaffer Hikmat Muhammad; Dana Ibrahim Al-Jawabra; Nabil Walid Shurbaji; Fahima (Herveen) Saleh Awsi**, a member of the Kurdish Committee for Human Rights; **Rayan Kamal Suleyman; Muhammad Dia’ Aldeen Daghmash; Nasr Eddin Fakr Eddin Ahmi; Zokan Nofal; Ali Abdul Rahman Al-Muqdad; Shaher Al-Warea; Hisham Khalid Al-Droubi; Mohammad Hassan Al-Khalil; Adel Al-Bunni; Fahed Al-Bassam Al-Yimani; Abdul Al-Razzaq Al-Temmo; and Mudar Al-Asimi**. These individuals are reportedly detained in the Damascus Central Prison of Adra or Douma Prison for Women.

On 23 March 2011, Mr. **Mazen Darwish**, Director of the Syrian Centre for Media and Freedom of Expression, was arrested at the political police headquarters in Almayasat in Damascus after being summoned by a high officer. He was released the following day. Mr. Darwish was among the activists arrested on 16 March 2011.

To date, there has been no information concerning the situation of several other individuals who were reportedly arrested in relation to the peaceful demonstration. These include: **Hussein Al-Labwani, Hannibal Awwad, Mahmoud Ghawrani, Mohammad Adib Matar, Mohammad Darwish, Ghaffar Hikmat Muhammad, Abdul Rahman Kheto, Kaka Dawood, Mohammad Munir Al-Fakir, Bara’ah Kalziyeh, Mohammad Al-Katib and Wissam Tarif**.

Additionally, and according to the allegations, between 8 and 23 March 2011 in the cities and towns of Aleppo, Baniyas, Dera’a, Douma, Hama, Homs, Latakia, Ma’aran Nu’man, and al-Malkyiah, many individuals were also arrested and their fate and whereabouts remain unknown and, if true, would amount to enforced

disappearances. According to the allegations, a number of the detainees are under the age of 18 years old.

Attached to this communication, as **Annexure B**, is a list of these individuals who include:

Ms. Marwa al-Ghemyan, a 17 year old female student, who was part of a group of about 11 people who were arrested on 15 March 2011, for taking part in a small peaceful demonstration that was held in Damascus;

Mr. Nasr Sa'id, arrested on 16 March 2011, when he responded to a summons from the State Security branch in the coastal city of Latakia, allegedly for distributing brochures calling for democratic change;

Mr. Hussein Mustafa Ali, aged 25, alleged to have been arrested on 18 March 2011, for taking part in a protest in Umayyad Mosque in Damascus. Reportedly, Mr. Ali's family has not heard from him since he was arrested;

Mr. Issa Masalmeh, a leading member of an authorised opposition party, the Arab Socialist Union, was allegedly arrested from his home in Dera'a on 21 March 2011;

Mus'ab Sheikh Amin, aged 14; **Rafé Abu Ghaloun**, aged 16; **Abdullah Amin**, aged 17; and **Saleh Abu Ghaloun**, aged 18, were allegedly arrested on 22 March 2011, by Military Security in the northern city of Aleppo for attempting to demonstrate in support of the protests of Dera'a. Saleh Abu Ghaloun was allegedly badly injured wearing bloodied clothing when his family last saw him;

Mr. Lo'ay Hussein, a writer and journalist, was allegedly arrested from his home near Damascus on 22 March 2011, apparently for publishing a petition on the internet in Dera'a calling for the Syrian people's right to peacefully express their opinions.

We have also received information of arrests on 25 March 2011, in the city of Hama, regarding 20 young men who refused to participate in demonstrations in support of the Government. Three of these men are identified as: **Mr. Mohammad Hasan Mahwati**, 18 years old; his brother **Mr. Mohammad Mutasem Mahwati**, 20 years old; and **Mr. Anas Ibrahim Rayhan**, 24 years old.

Grave concern has been expressed concerning the use of live fire and excessive force to disperse protesters resulting in the growing number of deaths and injuries in the past week in Syria. Further concern is expressed for the physical and psychological integrity of the abovementioned individuals who have been detained in relation to their peaceful activities and legitimate exercise of their freedom of opinion and expression.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal

Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant and Civil and Political Rights (ICCPR).

We would like to emphasize that the ICCPR to which Syrian Arab Republic acceded to on 21 April 1969, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6).

With regard to the alleged deaths and injuries which may have resulted from the excessive use of force, we wish to stress that, under international law, excessive use of force and firearms is not permitted when policing peaceful assemblies. We would like to remind your Excellency's Government of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). In particular, principle 12 provides that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the UDHR and the ICCPR, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14." Principle 13 states that "In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary", and principle 14 states that "In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary."

We would also like to draw your Excellency's Government's attention to principle 4 which provides that "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Furthermore, principle 5 provides that "Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment."

Additionally, the use of excessive use of force by both security forces must be investigated by your Excellency's Government in line with Basic Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions which require States "to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, ...to grant adequate compensation within reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and to prevent the recurrence of such executions" (para. 4).

Concerning allegations of enforced or involuntary disappearance, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which sets out necessary protection by the State, including in:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);
- article 7 (no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances);
- article 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);
- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons);
- article 17 (acts of enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and whereabouts of persons who have disappeared and these facts remain unclarified).

Furthermore, with respect to the allegation according to which many individuals were arrested, and their fate and whereabouts remain unknown, we would like to draw the attention of your Excellency's Government to paragraph 7c of Human Rights Council Resolution 8/8, which "reminds all States that [...] detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person."

We should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental

integrity of all persons. This right is set forth inter alia in the UDHR, the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

With respect to the allegations indicating that demonstrators were confronted by security services agents armed with batons and individuals in plain clothes who proceeded to violently beat them, we would like to draw your Excellency's Government's attention to paragraph 1 of Human Rights Council Resolution 8/8 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw your Excellency's Government's attention to article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and to article 7 of the Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. We would like to draw your Excellency's Government's attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture".

Furthermore, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the UDHR, which provides that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of assembly, as recognized in article 20 of the UDHR, which provides that "Everyone has the right to freedom of peaceful assembly and association."

Additionally, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally

Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the legal grounds for the arrest and detention of the abovementioned individuals. Please indicate how these are compatible with international norms, specifically with those contained, *inter alia*, in the ICCPR.
3. Please provide details on the measures taken to determine the fate and whereabouts of the persons whose names are included in Annexure A. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators including those who authorized the use of excessive force?
6. Please provide information on the measures taken to ensure the safety of peaceful demonstrators and we would appreciate to receive information from your Excellency's Government on measures taken to ensure compliance with international standards on the use of force by law enforcement officials.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

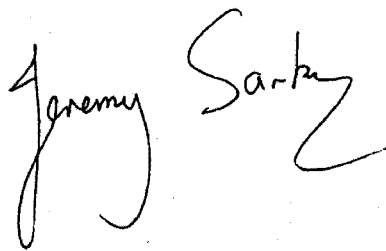
We would also like to bring to the attention of your Excellency's Government that should the source submit the above mentioned allegations as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working

Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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



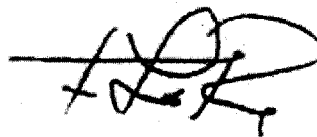
El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention



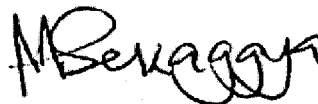
Jeremy Sarkin
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances



Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions



Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression



Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

A handwritten signature in black ink, appearing to read 'J. Méndez', with a stylized flourish at the end.

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

ANNEXURE A – Individuals Killed in the Past Week's Protests

No	Name	Date of violation	Place of violation
1	HussamAbdelmawla	18 March 2011	Daraa
2	AkramJawabra	18 March 2011	Daraa
3	Mutaz Abu Zaid	23 March 2011	Khirbat Al Ghazali
4	Fadi Al Masry	23 March 2011	Khirbat Al Ghazali
5	Hayan Haj Ali	23 March 2011	Khirbat Al Ghazali
6	MunzerRans Hawash Qanbas Al Shamari	23 March 2011	Al Harah
7	Salah Abdulrahman Al Hariri	23 March 2011	Daraa
8	Mohamed Abdulrahman Al Hariri	23 March 2011	Daraa
9	Issa Mohamed Al Kurdi	23 March 2011	Daraa
10	MuazNayef Al Abazayd	23 March 2011	Al Soura Village
11	Mohamed Ahmed Al Salamat	23 March 2011	Panorama
12	Jamal Al Jarboui	23 March 2011	Al Hrak
13	MuhabNayefAbazayd	23 March 2011	Daraa
14	Malek Mahmoud Mufdi Al Karad	23 March 2011	Daraa
15	Ali Ghassab Al Mahamid	23 March 2011	Daraa
16	Abbas Saad Al Mahamid	23 March 2011	Daraa
17	KhaledAbdallah Al Mahamid	23 March 2011	Daraa
18	Nayef Hussein Al Abazayd	23 March 2011	Daraa
19	IbtissamMusalma	23 March 2011	Daraa
20	Rayed Ahmed Al Himsi	23 March 2011	Daraa
21	MunzirAmro	23 March 2011	Al Harah
22	Omar AbdelwaliMusalma	23 March 2011	Daraa
23	Khaled Al Masri	23 March 2011	Homs
24	Mohamed Abu Nabut	23 March 2011	Daraa
25	Hamid Abu Nabut	23 March 2011	Daraa
26	Bilal Abu Nabut	23 March 2011	Daraa
27	Aziz Abu Nabut	23 March 2011	Daraa
28	Maher Musalma	23 March 2011	Daraa
29	Mohamed Rashrash Al Jarad	23 March 2011	Al Harah
30	Ashraf Abdulaziz Al Masry	23 March 2011	Daraa
31	Talal Al Fadel	23 March 2011	Al Harik
32	Wahib Al Adawi	23 March 2011	Al Harik
33	Abdulghani Al Akrad	23 March 2011	Daraa
34	Ali Al Rawashda	23 March 2011	Tafas
35	AbdulnasserMusalmani	23 March 2011	Alma Village
36	Samir Qambas	23 March 2011	Al Harah
37	Mohamed Qambas	23 March 2011	Al Harah
38	Abdallah Al Jarad	23 March 2011	Al Harah
39	Mohamed DiabDagher	23 March 2011	Alma Village

40	Omar Ahmed Al Hariri	23 March 2011	Alma Village
41	Ayman Qutayfan	23 March 2011	Daraa
42	Hathem Al Mahamid	23 March 2011	Daraa
43	Mohamed Mustafa Daloo	23 March 2011	Daraa
44	Mohamed Abou Al Ouyoun	23 March 2011	Daraa
45	Musab Al Mahamid	23 March 2011	Daraa
46	Munzer Al Hamadi	23 March 2011	Daraa
47	Mohamed Ali Salamat	23 March 2011	Daraa
48	Fawaz Abu Safi	23 March 2011	Al Hrak
49	Taher Al Musalama	23 March 2011	Daraa
50	Ibrahim Al Naasan	23 March 2011	Daraa
51	Rami Hassan Al Hariri	23 March 2011	Al Hrak
52	Ashraf Al Musalama	23 March 2011	Daraa
53	Omar Al Sharif	25 March 2011	Region of Kafr Shams
54	Muamar Al Hamoudi	25 March 2011	Region of Kafr Shams
55	Ahmed Al Libad	25 March 2011	Region of Kafr Shams
56	Mohamed Khirou Al Libad	25 March 2011	Region of Kafr Shams
57	Ahmed Yahya Al Zoabi	25 March 2011	Region of Kafr Shams
58	Ibrahim Saqr	25 March 2011	Lattakia

Annexure B – List of Detainees

No.	Name	Date of Arrest	Age	Place of arrest
1.	'Abdullah Mazen Mas'oud	08.03.11	22	Ma'aratan Nu'man
2.	Adham 'Abd al-Mo'in Bittar	08.03.11	21	Ma'aratan Nu'man
3.	Wassim Mahmoud Bdiwi	08.03.11	21	Ma'aratan Nu'man
4.	Hassan Mohammed al-Homsi	08.03.11	22	Ma'aratan Nu'man
5.	Shahem Zaher al-Yousefi	08.03.11	21	Ma'aratan Nu'man
6.	Manhal Shahni	08.03.11	22	Ma'aratan Nu'man
7.	'Azo 'Ali Sriyoul	11.03.11	17	Douma
8.	Yasser al-Sheikh Ibrahim	11.03.11	17	Douma
9.	Amjad al-Samadi	11.03.11	17	Douma
10.	Ahmed Majed al-Saydawi	11.03.11	17	Douma
11.	'Abd al-Rahim Tami	12.03.11		Damascus
12.	Anwar Murad	12.03.11		Damascus
13.	Mohammed 'Alloush	14.03.11	22	Homs
14.	Mu'taz Salah al-Din Hamoudeh	14.03.11	22	Family Home in Aleppo
15.	Hadil Yashar Kawaka	14.03.11	20	Aleppo
16.	Ward Sha'ban	14.03.11	20	
17.	Mohammed Wafa Mardili	14.03.11	20	Al-Midan/Damascus
18.	Mohammed Kayyali	14.03.11		Aleppo
19.	Sa'id Mohammed al-Jajeh	14.03.11		
20.	Hussam Hajjar	14.03.11	36	
21.	Shirwan 'Adnan Rashid	14.03.11	17	Al-Malkiyah
22.	Arish Hashem al-'Omar	14.03.11	15	Al-Malkiyah
23.	'Abd al-'Aziz Iben Ahmed	15.03.11	27	

	Mohammed	March		
24.	Sami Duraïd Iben 'Abd al-'Aziz Duraïd	15.03.11	40	
25.	Mahmoud Duraïd Iben 'Abd al-'Aziz Duraïd	15.03.11		
26.	Marwa Hassan al-Ghemyan	15.03.11	17	Damascus
27.	'Ula Kayyali	15.03.11		Damascus
28.	Rima Sa'egh	15.03.11		Damascus
29.	Sabr Darwich	15.03.11	32	Damascus
30.	Mohammed Ahmed Houriyeh	15.03.11	44	Damascus
31.	Diyar 'Ali al-'Omar	15.03.11	16	
32.	Mohammed 'Ali al-'Omar	15.03.11	15	
33.	Rama Hassan al-Ghemyan	16.03.11		Damascus
34.	Nasr Sa'id	16.03.11		Latakia
35.	'Ammar Badr	18.03.11	22	Damascus
36.	'Ammar Sharbaji	18.03.11		Damascus
37.	Yasser al-Sheikh Youssef	18.03.11		Damascus
38.	Iyad 'Abd al-Karim Nour al-Din	18.03.11	28	Damascus
39.	Hassan Hussein Mar'i	18.03.11	34	Damascus
40.	Hussein Mustafa 'Ali	18.03.11	25	Damascus
41.	Nayef Ayoub Sha'ban	18.03.11		Damascus
42.	Abu Baker Ayoub Sha'ban	18.03.11		Damascus
43.	Ahmed Ghowesh	18.03.11		Damascus
44.	'Ekremah al-'Arnous	18.03.11		Damascus
45.	Mujahed al-Attrash	18.03.11		Damascus
46.	Anas al-Sisi	18.03.11		Daraya
47.	Bassam Abu Nboub	18.03.11		Dera'a
48.	Belal Abu Nboub	18.03.11		Dera'a
49.	Rizeq al-Falouji	18.03.11		Dera'a

50.	Aktham al-Barmawi	18.03.11		Dera'a
51.	'Abd al-Wahab al-Masalmeh	18.03.11		Dera'a
52.	Ibrahim Mahmoud	18.03.11	25	Damascus suburbs
53.	Khaled Sulaiman	18.03.11	19	Damascus suburbs
54.	Hassan Mahmoud	18.03.11	22	Damascus suburbs
55.	Mahmoud al-Haj 'Ali 'Assaf	18.03.11	26	Damascus suburbs
56.	Mohammed Mehraz	18.03.11	24	Damascus suburbs
57.	'Abd al-Rahman Mehraz	18.03.11	24	Damascus suburbs
58.	Ahmed Nasif	18.03.11	36	Damascus suburbs
59.	Iyad Nasif	18.03.11	23	
60.	Mu'ath Nasif	18.03.11	19	
61.	Zakarya Nasif	18.03.11	23	
62.	Khaled Mohammed al-Sha'ar	18.03.11		Damascus/ al-Thahriyah
63.	Fahed Jarad	18.03.11		Damascus/ al-Thahriyah
64.	Sa'id Salim al-Sa'id	18.03.11		Homs
65.	Hassaan Khadam	19.03.11	39	Banias
66.	Mustafa al-A'sar	19.03.11	24	Banias
67.	Mahmoud Dibo	19.03.11		al-'Anaza -Banias
68.	'Ali Ma'rastawi	19.03.11	29	Aleppo
69.	'Ali Hakawati	19.03.11		Aleppo
70.	'Issa Masalmeh	21.03.11		Dera'a
71.	Yousef Sayasneh	21.03.11		Dera'a
72.	Mohammed Jabr Masalmeh	21.03.11		Dera'a
73.	Shukri al-Mahamid	21.03.11		Dera'a
74.	'Issam al-Mahamid	21.03.11		Dera'a
75.	Yousef Swedan	21.03.11		Dera'a
76.	'Abdou Swedan	21.03.11		Dera'a
77.	Mohammed Jahmani	21.03.11		Dera'a
78.	'Abd al-Hadi Moussa	21.03.11		Damascus Suburbs, al-

				Hajar al-Aswad
79.	Dr. Mohammad Alammar	21.03.11		
80.	Nizar al-Harek	21.03.11		
81.	Lo'ay Hussein	22.03.11		Sahnaya/Damascus
82.	Mus'ab Sheikh Amin	22.03.11	14	Aleppo
83.	'Abdullah Amin	22.03.11	17	Aleppo
84.	Saleh Abu Ghaloun	22.03.11	18	Aleppo
85.	Rafe' Abu Ghaloun	22.03.11	16	Aleppo
86.	Dr. Mohammad Alammar	23.03.11		
87.	Mohammad Hassan Mahwati	25.03.11	18	Hama
88.	Mohammad Mutasem Mahwati	25.03.11	20	Hama
89.	Anas Ibrahim Rayhan	25.03.11	24	Hama


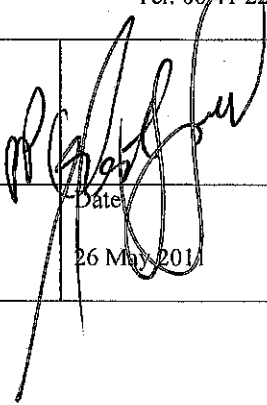
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Exhibit 10

NATIONS UNIES				UNITED NATIONS	
<p align="center">OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS</p>					
Palais des Nations CH-1211 Geneva 10			Telex: 41 29 62. Fax: 00 41 22 917 90 06 Tel: 00 41 22 917 92 55		
		Authorized by			
		Jane Connors Chief Special Procedures Branch			
Room No.		Tel No.		Date	
3-017		00 41 22 917 94 07		26 May 2011	
Priority		To:			
IMMEDIATE		His Excellency Mr. Faysal Khabbaz Hamoui Ambassador Extraordinary and Plenipotentiary Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva Fax: 022 738 42 75			
File No.					
UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (53-24) SYR 5/2011					
<p align="center">Subject: COMMUNICATION FROM SPECIAL PROCEDURES: URGENT APPEAL</p>					

(10 PAGES ATTACHED)

Please find attached an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

We would be grateful if this communication could be transmitted at your earliest convenience to His Excellency Mr. Walid Al-Moualem
Minister for Foreign Affairs

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME



UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

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Address:
Palais des Nations
CH-1211 GENEVE 10

REFERENCE: UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (53-24)
SYR 5/2011

26 May 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/16, 16/4, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the detention of **Mr. Najati Tayara** and **Mr. Mazen Adi**; incommunicado detention of **Mr. Mohamed Yassim Al-Hamwi** and **Mr. Amjad Baiazy**; and possible enforced disappearance of **Mr. Wael Al-Hamada**; **Mr. Abdel Rahman Al-Hamada**; **Mr. Mohammed Hasan al-Labwani**; **Mr. Hassan Abd al-Adhim**; **Mr. Omar Qashaash**; and **Mr. Yasser Al-Khayyat** in connection with the demonstrations taking place in Syria.

According to the information received:

Mr. Wael Al-Hamada, a 35 year-old human rights activist, was arrested at his workplace in Damascus on 11 May 2011. His fate and whereabouts are unknown.

His Excellency
Mr. Faysal Khabbaz Hamoui
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the Syrian Arab Republic
to the United Nations Office at Geneva

.../2

He is the husband of Ms. Razan Zeitouneh, a human rights lawyer, who is currently allegedly in hiding from the Syrian security forces.

Mr. Abdel Rahman Al-Hamada, a 22-year-old student, had been arrested by agents from the intelligence services dressed in civilian clothing on 30 April 2011 to force his brother Mr. Wael Al-Hamada to surrender. Mr. Al-Hamada was not presented with an arrest warrant. His fate and whereabouts remain unknown.

Mr. Najati Tayara, a prominent lawyer, the Vice-President of the Syrian Human Rights Association, human rights campaigner and former political prisoner, was also arrested at a checkpoint on 12 May 2011, in Homs. Mr. Tayara is currently being held at the central prison of Homs together with other detainees in a cell of 100 square metres, (mostly participants in the demonstrations). It is reported that his arrest is linked to the fact the day before he had denounced the military incursion into residential neighbourhoods of the city of Homs. According to the information received, on 20 May 2011, he was presented before a judge on charges of weakening the State's national sentiments.

Mr. Amjad Baiazy, a Syrian citizen who had worked with *Médecins Sans Frontières* in 2007 and had acted as an international observer and interpreter for the International Mission for Iraqi Elections in 2005, was arrested at Damascus International Airport on 12 May 2011, while boarding a flight to the United Kingdom. Since his arrest he has had no contact with his family. Allegedly, he is currently being held in detention by State Security, a branch of the Syrian security police in Damascus.

Mr. Mohammed Hasan al-Labwani, a brother-in-law of prisoner of conscience Mr. Kamal al-Labwani who is currently serving a 12-year prison term, was arrested at his home on 2 May 2011, in the town of al-Zabadani, near Damascus. According to some detainees who were held with him and released on 4 May 2011, Mr. Mohammed Hasan al-Labwani has been tortured. He suffers from a pituitary tumour. His fate and whereabouts remain unknown.

Mr. Hassan Abd al-Adhim, aged 79, and **Mr. Omar Qashaash**, aged 85, were arrested on 28 and 30 April 2011, respectively, for statements they had allegedly made to the media in support of the protests. Mr. Hassan Abd al-Adhim is a lawyer and the Secretary General of the Democratic Arab Socialist Union Party in Syria. He was arrested at his office in Damascus by State Security. Reportedly he suffers from diabetes, for which he needs regular medication. Mr. Omar Qashaash was arrested in Aleppo and is the leading member of the Syrian Democratic People's Party and a long-standing union activist. Their current fate and whereabouts remain unknown.

Mr. **Mohamed Yassin Al-Hamwi**, a 65-year-old political activist, was arrested on 1 May 2011, by Military and Security agents at his house. He was taken to the Air Force Intelligence Branch where he is currently held in incommunicado detention. Following the arrest in 2005 of his son, Haytham Al-Hamwi, also a political activist, Mr. Mohamed Al Hamwi founded the Committee of the families of prisoners of opinion and conscience with other activists. He had already spent six months in detention in 2005 for "spreading false information that weakens national sentiment".

Mr. **Yasser Al-Khayyat**, a 26 year-old student who is head of the Damascus University Group, a Syrian website which focuses on relaying medical knowledge and promoting scientific research, was arrested with his co-workers on 11 May 2011. He was allegedly blindfolded and taken to a security detention centre. While his co-workers were released, his fate and whereabouts remain unknown. Through his website, Mr. Al-Khayyat allowed students to express their views on the current events in Syria. It is feared that this may have been the sole basis for his arrest and detention.

Mr. **Mazen Adi**, a 58 year-old leading figure of the opposition and member of both the People's Democratic Party and the National Democratic Gathering, was arrested on 10 May 2011, in Damascus. We are informed that he was arrested because of his participation in several media interviews in the past couple of days. He is currently being held at the detention centre of the Syrian political security services in Damascus.

Following alleged threats, home searches and persecutions, many human rights activists, lawyers and students have gone into hiding from the Syrian security forces, including Messrs. Haytham al-Maleh, Hind al-Labwani, Omar al-Labwani, Jwan Yousef Khorshid, and Walid al-Bunni.

Concern is expressed that the detention of Mr. Najati Tayara; Mr. Mazen Adi; Mr. Mohamed Yassin Al-Hamwi; and Mr. Amjad Baiazy, and the possible enforced disappearance of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat may be solely based on their legitimate human rights activities or participation in the demonstrations in Syria.

While we do not wish to prejudge the accuracy of these allegations, we wish to share our serious concern at the situation of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Najati Tayara; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; Mr. Mohamed Yassin Al-Hamwi; Mr. Amjad Baiazy; Mr. Yasser Al-Khayyat; and Mr. Mazen Adi, and to draw the attention of your Excellency's Government to the relevant international norms and principles applicable to these cases.

Without expressing at this stage an opinion on the facts of the cases and on whether the detention of Mr. Najati Tayara; Mr. Mazen Adi; Mr. Mohamed Yassim Al-Hamwi and Mr. Amjad Baiazy is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and article 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to the right to physical and mental integrity of the aforementioned persons.

With regard to the allegation that some detainees have been subjected to torture, we would like to draw your Excellency's Government's attention to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment".

Concerning the allegations of unknown fate and whereabouts of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat, which may amount to enforced disappearances, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which sets out the necessary protection by the State, including in:

- article 1 (any act of enforced disappearance places the persons subjected thereto outside the protection of the law and it constitutes a violation of the rules of international law guaranteeing, *inter alia*, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life);
- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 5 (enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such

disappearances liable under civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law);

- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);

- article 7 (no circumstances whatsoever, whether, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances);

- article 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);

- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest);

- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons).

Similarly, we would like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished".

Further, we would like to draw your Excellency's Government's attention to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture".

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with

the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

We would also like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

In addition, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3 of the ICCPR provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Provided that the allegations received concern mostly the situation of human rights defenders and activists, including human rights lawyers, as well as people associated to them and their activities, and that allegations indicate that their situation may be connected to their legitimate work in defense of human rights and fundamental freedoms,, we would like to refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Najati Tayara; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; Mr. Mohamed Yassim Al-Hamwi; Mr. Amjad Baiazy; Mr. Yasser Al-Khayyat; and Mr. Mazen Adi, are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible for the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Najati Tayara; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; Mr. Mohamed Yassim Al-Hamwi; Mr. Amjad Baiazy; Mr. Yasser Al-Khayyat; and Mr. Mazen Adi, in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate? If so, please provide details on the measures taken to determine the fate and whereabouts

of Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat, as well as their physical and mental condition. If their fate and whereabouts are still unknown, please provide details on any investigation or other inquiries which may have been carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.

2. Please provide the legal basis for the arrest and detention of Mr. Najati Tayara; Mr. Mazen Adi; Mr. Mohamed Yassim Al-Hamwi and Mr. Amjad Baiazy and explain how they are compatible with the provisions of the UDHR and ICCPR.
3. Has a complaint been lodged by or on behalf of the aforementioned persons?
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate whether compensation has been provided to the victims or the family of the victims.
7. Please provide information on the measures taken to ensure the safety of the aforementioned persons.

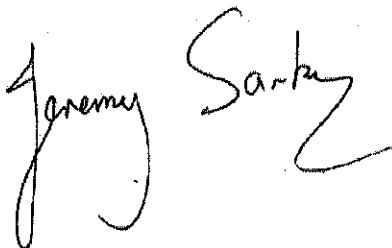
We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

We would also like to bring to the attention of your Excellency's Government that should the source submit the above mentioned allegations concerning Mr. Wael Al-Hamada; Mr. Abdel Rahman Al-Hamada; Mr. Mohammed Hasan al-Labwani; Mr. Hassan Abd al-Adhim; Mr. Omar Qashaash; and Mr. Yasser Al-Khayyat as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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



El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention



Jeremy Sarkin
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances



Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders



Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression



Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

* * * RAPPORT DE RESULTAT DE LA COMMUNICATION (26.MAI.2011 17:56) * * *

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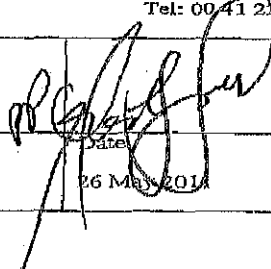
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 OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS			
Palais des Nations CH-1211 Geneva 10.		Telex: 41 29 62. Fax: 00 41 22 917 90 06 Tel: 00 41 22 917 92 55	
	Authorized by		
	Jane Connors Chief Special Procedures Branch		
Room No.	Tel No.		
3-017	00 41 22 917 94 07	26 May 2011	
Priority	To:		
IMMEDIATE	His Excellency Mr. Faysal Khabbaz Hamoui Ambassador Extraordinary and Plenipotentiary Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva Fax: 022 738 42 75		
File No.			
UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (S3-24) SYR 5/2011			
Subject: COMMUNICATION FROM SPECIAL PROCEDURES: URGENT APPEAL			

(10 PAGES ATTACHED)

Please find attached an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

We would be grateful if this communication could be transmitted at your earliest convenience to His Excellency Mr. Walid Al-Moualem
Minister for Foreign Affairs

Exhibit 11

[TRANSLATION]

Geneva, 6 July 2011

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights; the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture. It refers to its urgent appeal no. UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO214 (107-9) G/SO 214 (33-27) G/SO 214 (53-24) SYR 4/2011, dated 30 March 2011, and has the honour to transmit to them the following letter from the Syrian Arab Republic.

The Syrian Arab Republic thanks the Human Rights Council and all its working groups for their concern and emphasizes its continuing cooperation with them to for the sake of promoting and protecting human rights. It reaffirms its determination to disclose and present all the facts in question, which are incompatible with the fabricated, false or exaggerated facts and information presented by the sources and parties whose aims are concentrated on discrediting the Syrian Arab Republic before the Special Rapporteurs and the international authorities.

It therefore wishes to elucidate a set of principles that guide it in dealing with all the matters under discussion, as follows:

1. The right to express an opinion is safeguarded by the Constitution of the Syrian Arab Republic, and the Government is required to protect it, and to promote the exercise and develop the culture of that right so that it is positive and beneficial to society as a whole.
2. The right to demonstrate peacefully is also safeguarded by the Constitution. Recently a law was promulgated regulating the exercise of that right in accordance with internationally applicable and recognized standards and in line with what is applied in most countries of the world.
3. The laws in force in Syria punish harshly any severe beating or torture.
4. The laws in force in Syria punish any type of unlawful detention, whether undertaken by persons under the supervision of the authorities or by ordinary individuals.
5. The defence, protection and promotion of human rights is one of the cornerstones of the domestic and foreign policy of the Syrian Arab Republic.
6. Combating corruption is a continuous process and one that the Government of the Syrian Arab Republic is pursuing, as well as enacting legislation that introduces mechanisms to deal with this phenomenon in line with the laws of the pioneering states in this field.
7. The Government of the Syrian Arab Republic is working swiftly to develop political action in Syria in every respect and has taken a number of wide-ranging decisions and steps in this regard that confirm its determination.
8. Comprehensive national dialogue between all sections of Syrian society is the best means of reform and development in order to achieve the desired goals in the evolution towards improvement in the political, legislative, social and economic fields.

[TRANSLATION]

9. The rule of law and justice are among the most important cornerstones of comprehensive reform aimed at reaching the highest standards of social justice among the members of Syrian society.

From what has been explained above, and returning to the letter of the Special Rapporteurs, the subject of discussion, we emphasize that, since the beginning of the events in March 2011, the competent Syrian authorities have dealt with peaceful demonstrations by those whose demands and goals are reform and combating corruption in a civilized manner reflecting the nature and substance of the relationship between society and state, and have safeguarded those demonstrations until such time as they ended and all the participants had returned to their homes.

However, this fact is not to the liking of the internal and external parties whose main goal is to destabilize Syria, since armed terrorist gangs are appearing on the ground, attacking, terrorizing and killing peaceful demonstrators. These armed terrorist gangs have become active, either by infiltrating the ranks of the demonstrators from the outset – some individuals were carrying swords, sticks and knives – and setting about inciting and perpetrating acts of sabotage emanating from among the demonstrators, setting fire to cars, wrecking public and private property, administrations and buildings, or members of such groups armed with weapons of war have opened fire directly on the demonstrators or the forces of order with the intention of killing as many people as possible. The cause is the presence of these people, who appeared to be demonstrating peacefully under the protection of the public authorities, which were securing their gathering, preserving public security. As for the real and essential aim of the terrorist gangs, it is to discredit the public authorities of Syria by portraying them as undertaking bloody operations to suppress the demonstrators.

All of that goes along with the misleading foreign media campaign against Syria, accompanying a set of blasphemous legal opinions issued by a number of people who consider themselves men of religion, which incite to murder and bloodshed under the guise of religion. This exactly matches the thinking and approach of the blasphemous terrorist organizations that are dispersed in many countries of the world and are seeking to undermine the societies and states in which they are active.

Dormant terrorist cells have become active and come out into the open, benefitting from massive foreign funding, which provides them with modern means of communication and various arms, which have been smuggled in for their use across the borders by unlawful means. Certain mosques have been used as stores for arms and ammunition; this was the case of the Omari Mosque in Daraa, some other mosques in the same governorate and in other governorates in Syria, where those responsible for them undertook to conceal these acts, place them within the scope of their intellectual and religious deviance and their call to murder, and gathered and enticed certain weak-minded people to work within the framework of acts of murder, sabotage and terrorism against both members of the police and the army and peaceful demonstrators.

The martyrs killed by the terrorists among members of the police and the army amount to hundreds of officers and men. The number of casualties from gunshot, stabbing with swords or knives, and beatings runs into the thousands, in addition to the mutilations these terrorists have carried out on the corpses of members of the police and the army. This is proved by the facts, figures and lists that we are entirely willing to provide, should you request any of them.

With regard to the inquiries about the detainees mentioned in the annexes appended to your letter, all those who were detained for perpetrating unlawful acts have been transferred to the judicial authorities in accordance with the provisions of the Syrian Code of Criminal Procedure and in complete conformity with the legislation promulgated in terms of lifting the state of emergency, so that there is no longer any scope in Syria for unofficial detention: suspects are referred to the competent public prosecutor within 24 hours and come under the protection and guardianship of the Syrian judiciary. In most of the cases

[TRANSLATION]

referred to the courts, the suspects have been released immediately. As for those who have committed acts of sabotage, arson or murder, the competent judicial authorities have prosecuted them in accordance with the provisions of the law, and those who are proven innocent are declared not guilty by judicial judgment, while those whom the courts find have committed such acts are punished in accordance with the provisions of the Syrian Criminal Code.

In this regard we submit to you the measures the Syrian Government has taken and the legislation its has promulgated recently in the framework of promoting and protecting human rights in a comprehensive reform and development process through which Syria emphasizes its views of its established and declared policy, which focuses on continuing on its course in established, rapid steps to reach its main goal, which is to achieve the highest standards of social justice among all citizens of the Syrian Arab Republic.

Syria launched a national dialogue with all Syrian political forces after issuing Legislative Decree No. 61, containing a general amnesty for all persons detained or prosecuted for political offences before 31 May 2011. Decisions were issued facilitating the return to the country of those covered by the amnesty, including political detainees. Security approvals concerning all the transactions of Syrian nationals have been revoked. A law has been promulgated prohibiting trafficking in persons in line with international standards relating to the prosecution and punishment of perpetrators of such crimes.

The legislation promulgated in support of the declared Syrian reform process policy and the viewpoints presented are outlined below:

1. Legislative Decree No. 49 issued on 7 April 2011 granting Syrian nationality to foreign Kurds.
2. Decree No. 161 of 21 April 2011 on the termination of the state of emergency.
3. Legislative Decree No. 53 of 12 April 2011 abolishing the Supreme State Security Court and transferring all the cases pending before it to the competent judicial authorities in the civilian judiciary in accordance with the rules and procedures contained in the Syrian Code of Criminal Procedure.
4. Legislative Decree No. 55 of 21 April 2011 containing an amendment to the text of Article 17 of the Code of Criminal Procedure limiting the period of detention of persons suspected of committing crimes against state security to seven days, and requiring the judicial police to bring them before the competent court immediately that period ends. As for the other offences provided for in Syrian laws in force, the basic text in the Code of Criminal Procedure limits the period of detention of persons suspected of committing them to only 24 hours.
5. Legislative Decree No. 54 of 21 April 2011 concerning regulation of peaceful demonstrations as a fundamental human right guaranteed by the Constitution of the Syrian Arab Republic and stipulated by international conventions in order to achieve a balance between national security and the rights of citizens to exercise their rights in peaceful demonstrations.

This is in addition to the content of the Syrian Code of Criminal Procedure concerning judicial supervision of the role of detention and the prisons, all of which are subject to control by the Prosecutor General, the examining magistrates and justices of the peace in districts with regard to the legality of detention, application of health regulations, and prison employees' treatment of the persons under their supervision.

[TRANSLATION]

Lastly, the Government of the Syrian Arab Republic again emphasizes its continuing endeavour to cooperate with Special Procedures of the Human Rights Council in every field and to reply to its questions in order to arrive at the truth on every subject, and to enable it to take its decisions and form opinions impartially and justly, removed from the fabricated facts presented to it by certain sources in an effort to appear to be defending human rights by discrediting the Syrian Arab Republic in order to achieve unlawful aims.

It is essential to mention that the legislative and political reform process is continuing to make great strides in Syria, consistent with the standards and foundations laid down in the Syrian Constitution and with the international standards in force, and that the positive, fruitful and ongoing interaction between the Syrian Arab Republic and Special Procedures of the Human Rights Council is beneficial for that process.

The Permanent Mission of the Syrian Arab Republic in Geneva avails itself of this opportunity to express to the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture, the assurance of its highest consideration.

- Copy to the High Commissioner for Human Rights

Special Procedures Branch

Office of the High Commissioner for Human Rights, Geneva

MISSION PERMANENTE
DE LA
RÉPUBLIQUE ARABE SYRIENNE
GENÈVE



الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمم المتحدة
جنيف

OHCHR REGISTRY

جنيف في ٢٠١١/٧/٦

07 JUL 2011

الرقم: 334/45/11

Recipients: UPP

تهدي بعثة الجمهورية العربية السورية لدى مقر الأمم المتحدة في جنيف والمنظمات الدولية الأخرى في جنيف أطيب تحياتها إلى المفوضية العليا لحقوق الإنسان: رئيس ومقرر الفريق العامل المعني بالاعتقال التعسفي، ورئيس ومقرر الفريق العامل المعني بالاختفاء القسري، والمقرر الخاص المعني بالقتل خارج نطاق القانون، والمقرر الخاص المعني بحرية الرأي والتعبير، والمقرر الخاص المعني بالمدافعين عن حقوق الإنسان، والمقرر الخاص بالتعذيب، وبالإشارة إلى نداء هم العاجل رقم

UA G/SO 218/2 G/SO 217/1 G/SO 214(67-17) G/SO 214(107-9)
G/SO214 (33-27) G/SO 214 (53-24) SYR4/2011

تاريخ ٢٠١١/٣/٣٠، و تتشرف بإيداعهم جواب الجمهورية العربية السورية على الشكل التالي:

تشكر الجمهورية العربية السورية مجلس حقوق الإنسان وكافة أفرقة العاملة على اهتمامهم وتؤكد استمرارها في التعاون معهم من أجل تعزيز وحماية حقوق الإنسان. وتعتبر مجدداً عن إصرارها على كشف وتقديم كافة الحقائق والوقائع موضع التساؤل وذلك بعيداً عن ما يتم تليفقه وتقديمه من وقائع ومعلومات كاذبة أو مبالغ فيها من المصادر والجهات التي تتركز أهدافها على تشويه سمعة الجمهورية العربية السورية أمام المقررين الخاصين وأمام الجهات الدولية.

ومن خلال ذلك فإنها تود أن توضح مجموعة من المبادئ التي تسيّر على هديها في التعامل والمعالجة لكافة الأمور المطروحة لنقاش وفقاً لما يلي:

- ١- إن حق التعبير عن الرأي مصان بموجب دستور الجمهورية العربية السورية، ويجب على الحكومة حمايته وتعزيز ممارسته وتطوير الثقافة الخاصة به ليكون إيجابياً ومفيداً للمجتمع ككل.
- ٢- إن الحق في التظاهر السلمي مصان أيضاً بموجب الدستور. وقد صدر مؤخراً قانون ينظم ممارسة هذا الحق وفقاً للمعايير المعمول والمتعارف عليها دولياً وبما ينسجم ويتطابق مع ما هو مطبق في معظم دول العالم.
- ٣- إن القوانين السورية النافذة تعاقب على أي ضرب من ضروب الشدة أو التعذيب بنصوص صارمة.
- ٤- إن القوانين السورية النافذة تعاقب على أي نوع من أنواع حجز الحرية خارج نطاق القانون سواء قام به أشخاص تابعون للسلطات العامة أو أفراد عاديون.
- ٥- إن الدفاع عن حقوق الإنسان وحمايتها وتعزيزها هو أحد أهم المرتكزات التي تقوم عليها سياسة حكومة الجمهورية العربية السورية في الداخل والخارج.
- ٦- إن مكافحة الفساد هي عملية مستمرة وتعمل حكومة الجمهورية العربية السورية على متابعتها وسن التشريعات التي تواكب آليات معالجة هذه الظاهرة بما ينسجم مع قوانين الدول الرائدة في هذا المجال.
- ٧- تعمل حكومة الجمهورية العربية السورية بشكل حثيث على تطوير العمل السياسي في سورية من كافة النواحي، وقد اتخذت عدداً من القرارات والخطوات الواسعة في هذا المجال بما يؤكد على عزمها هذا.
- ٨- إن الحوار الوطني الشامل بين كافة أطراف المجتمع السوري هو السبيل الأمثل للإصلاح والتطوير من أجل الوصول إلى الأهداف المرجوة في الارتقاء نحو الأفضل في المجالات السياسية والتشريعية والاجتماعية والاقتصادية.
- ٩- إن سيادة القانون والقضاء هما من أهم المرتكزات التي تقوم عليها عملية الإصلاح الشامل، بهدف تحقيق أرقى معايير العدالة الاجتماعية بين أفراد المجتمع السوري.

من خلال ما سبق بيانه، وبالعودة إلى رسالة المقررين الخاصين موضوع البحث، فإننا نؤكد أن السلطات السورية المختصة، ومنذ بداية الأحداث في شهر آذار ٢٠١١، تعاملت مع المظاهرات السلمية، التي لدى أصحابها مطالب وأهداف تتعلق بالإصلاح ومكافحة الفساد، بصورة حضارية تعكس طبيعة وجوهر العلاقة القائمة بين المجتمع والدولة، وكانت تقوم بتأمين هذه التظاهرات إلى حين انتهائها وعودة المشاركين فيها كل إلى منزله.

لكن هذا الأمر لم يرق لجهات وأطراف داخلية وخارجية هدفها الرئيس زعزعة الاستقرار الذي تعيشه سورية، حيث أخذت تظهر على أرض الواقع جماعات إرهابية مسلحة تقوم بالاعتداء على المتظاهرين السلميين وإرهابهم وقتلهم، وصارت هذه المجموعات الإرهابية تنشط، إما عن طريق الانخراط ابتداءً ضمن صفوف المتظاهرين، حيث كان يحمل أفرادها العصي والسيوف والسكاكين، ويبادرون إلى التهيج والقيام بالأعمال التخريبية انطلاقاً من داخل المتظاهرين، فيحرقون السيارات ويخربون الممتلكات والإدارات والمباني العامة والخاصة، أو من خلال الأفراد المسلحين بأسلحة حربية من هذه المجموعات التي تقوم بإطلاق النار بشكل مباشر على المتظاهرين أو على قوات حفظ النظام بقصد قتل أكبر عدد من الناس. والسبب هو كون هؤلاء يتظاهرون بشكل سلمي وتحت حماية السلطات العامة التي كانت تؤمن لهم تجمهرهم حفاظاً على الأمن العام. أما الهدف الحقيقي والأساسي للجماعات الإرهابية فهو تشويه سمعة السلطات العامة في سورية عبر تصويرها بأنها تقوم بعملية قمع دموي للمتظاهرين.

كل ذلك ترافق مع حملة إعلامية خارجية مضللة ضد سورية تواكبت مع مجموعة من الفتاوى التكفيرية التي أطلقها عدد ممن يعتبرون أنفسهم رجال دين أخذوا يحرضون على القتل وسفك الدماء تحت ستار الدين، وبما يتطابق بشكل تام مع فكر ونهج التنظيمات الإرهابية التكفيرية التي تنتشر في الكثير من دول العالم وتسعى إلى تخريب المجتمعات والدول التي تنشط فيها.

فأخذت الخلايا الإرهابية النائمة تنشط وتظهر إلى العلن مستفيدة من التمويل الخارجي الهائل الذي يُقدم لها من وسائل الاتصال الحديثة والأسلحة الحربية المتنوعة التي يتم تهريبها وإدخالها لصالحها عبر الحدود بوسائل غير مشروعة. وصارت بعض الجوامع تُستخدم كمستودعات للأسلحة الحربية والذخائر، وهذا ما كان عليه حال الجامع العمري في درعا، وبعض المساجد الأخرى في نفس المحافظة، وفي محافظات أخرى في سورية، التي أقدم القائمون عليها على تغطية هذه الأعمال وتنسيقها ضمن نطاق انحرافهم الفكري والديني ودعوتهم للقتل، واستقطابهم وتخريبهم ببعض ضعاف النفوس للعمل ضمن نطاق أعمال القتل والتخريب والإرهاب ضد أفراد الشرطة والجيش وضد المتظاهرين السلميين على حد سواء.

وقد وصل عدد الشهداء الذين قتلهم الإرهابيون من أفراد الشرطة والجيش إلى المئات من الضباط والعناصر. ووصل عدد المصابين بطلقات نارية أو بطعنات السيوف والسكاكين أو بالضرب المبرح إلى الآلاف، إضافة إلى ما قام به هؤلاء الإرهابيون من تمثيل بجثث ضحاياهم من أفراد الشرطة والجيش، وهذا ثابت بالواقع والأرقام والقوائم التي نبدي استعدادنا التام لتزويدكم بها لدى طلبكم إياها.

أما بالنسبة لما ورد من استفسارات حول الموقوفين المذكورين في الجداول المرفقة برسالتكم فإن كل من أوقف لقيامه بأعمال غير مشروعة تمت إحالته إلى الجهات القضائية وفقاً لأحكام قانون أصول المحاكمات الجزائية السوري وبما ينسجم بشكل تام مع ما صدر من تشريعات لجهة رفع حالة الطوارئ، بحيث لم يعد هناك مجال في سورية لأي توقيف عرفي، بل تتم إحالة المشتبه فيهم خلال ٢٤ ساعة إلى النيابة العامة المختصة ويُصبحون تحت عهدة وولاية القضاء السوري. وفي معظم الحالات التي أُحيلت إلى القضاء فقد تم إخلاء سبيل الأشخاص المشتبه فيهم فوراً. أما من قاموا بارتكاب أعمال التخريب أو الإحراق أو القتل فإن السلطات القضائية المختصة تقوم بملاحقتهم قضائياً وفقاً لأحكام القانون، ومن تثبت براءته

يتم إعلان هذه البراءة بحكم قضائي. أما من تثبت للقضاء أنه ارتكب هذه الجرائم فتتم معاقبته وفقاً لنصوص قانون العقوبات السوري.

ولابد في هذا الصدد أن نعرض لكم ما قامت به الحكومة السورية من إجراءات وما صدر في الفترة الأخيرة من تشريعات تصب في نطاق تعزيز وحماية حقوق الإنسان ضمن عملية إصلاح وتطوير شاملة، تؤكد من خلالها سورية على وجهات نظرها لجهة سياستها الثابتة والمعلنة، التي تتركز على الاستمرار في السير بخطوات ثابتة ومتسارعة للوصول إلى هدفها الرئيسي، المتمثل بتحقيق أرقى معايير العدالة الاجتماعية بين كافة مواطني الجمهورية العربية السورية.

فقد تم في سورية إطلاق حوار وطني مع كافة القوى السياسية السورية بعد إصدار المرسوم التشريعي رقم ٦١/ المتضمن منح عفو عام عن كافة الموقوفين والملاحقين بجرائم سياسية حتى تاريخ ٢٠١١/٥/٣١. وصدرت قرارات بتسهيل عودة المشمولين بالعفو إلى القطر بما فيهم السياسيين، وتم إلغاء الموافقات الأمنية عن كافة معاملات المواطنين السوريين. وصدر قانون منع الاتجار بالأشخاص بما يتوافق مع المعايير الدولية المتعلقة بملاحقة ومعاقبة مرتكبي الجرائم الخاصة بهذه الحالة.

ونورد لكم فيما يلي ما صدر من تشريعات تفيد وتدعم السياسة المعلنة للسورية في عملية الإصلاح، وبما يفيد وجهات النظر التي يتم عرضها

١- المرسوم التشريعي رقم ٤٩/ الصادر بتاريخ ٢٠١١/٤/٧ القاضي بمنح الجنسية السورية للأكراد الأجانب

٢- المرسوم رقم ١٦١/ تاريخ ٢٠١١/٦/٤١ المتضمن إنهاء العمل بحالة الطوارئ.

٣- المرسوم التشريعي رقم ٥٣/ تاريخ ٢٠١١/٤/٢١ الذي تم بموجبه إلغاء محكمة امن الدولة العليا وإحالة كافة الدعاوى القائمة أمامها إلى المراجع القضائية المختصة في القضاء المدني وفقاً للقواعد والإجراءات المنصوص عليها في قانون أصول المحاكمات الجزائية السورية.

٤- المرسوم التشريعي رقم /٥٥/ تاريخ ٢٠١١/٤/٢١ الذي تضمن تعديل نص المادة /١٧/ من قانون أصول المحاكمات الجزائية بحيث تم تحديد مدة التحفظ على المشتبه فيهم بارتكاب جرائم واقعة على أمن الدولة بسبعة أيام يتوجب على الضابطة العدلية فور انتهاء هذه المدة تقديمه إلى القضاء المختص. أما بقية الجرائم النصوص عليها في القوانين السورية النافذة فإن النص الأصلي في قانون أصول المحاكمات الجزائية يحدد مدة التحفظ على المشتبه فيهم بارتكابها بأربع و عشرين ساعة فقط.

٥- المرسوم التشريعي رقم /٥٤/ تاريخ ٢٠١١/٤/٢١ المتعلق بتنظيم التظاهر السلمي بوصفه حقاً من حقوق الإنسان الأساسية التي كفلها دستور الجمهورية العربية السورية ونصت عليها المواثيق الدولية بما يحقق التوازن بين سلامة الوطن وحقوق المواطنين بممارسة حقهم في التظاهر السلمي.

هذا بالإضافة لما يحويه قانون أصول المحاكمات الجزائية السوري بشأن رقابة القضاء على دور التوقيف والسجون التي تخضع جميعها للرقابة من قبل النيابة العامة وقضاة التحقيق وقضاة الصلح في المناطق لجهة قانونية التوقيف وتطبيق القواعد الصحية ومعاملة العاملين في السجون للأشخاص الموجودين تحت رقابتهم.

وأخيراً فإن حكومة الجمهورية العربية السورية تؤكد مرة أخرى على سعيها الدائم للتعاون مع الإجراءات الخاصة التابعة لمجلس حقوق الإنسان في كافة المجالات والإجابة على تساؤلاتها من أجل الوصول إلى الحقيقة في كافة المواضيع، وتتمكن من اتخاذ قراراتها وآرائها، بشكل حيادي وعادل بعيداً عن الوقائع الملفقة التي تقدمها لها بعض المصادر من أجل الظهور أمامها بمظهر الدفاع عن حقوق الإنسان، عبر تشويه سمعة الجمهورية العربية السورية، بهدف الوصول إلى أهداف غير مشروعة.

ولابد من الإشارة بأن عملية الإصلاح التشريعي والسياسي ما زالت مستمرة في سورية بخطوات واسعة، وبما يتوافق مع المعايير والأسس الراسخة في الدستور

السوري، ويتطابق مع المعايير المعمول بها دولياً، إضافة إلى الاستفادة في ذلك في التفاعل الإيجابي والمثمر والمستمر القائم بين الجمهورية العربية السورية والإجراءات الخاصة التابعة لمجلس حقوق الإنسان.

و تغتتم بعثة الجمهورية العربية السورية هذه المناسبة لتعرب رئيس ومقرر الفريق العامل المعني بالاعتقال التعسفي، ورئيس ومقرر الفريق العامل المعني بالاختفاء القسري، والمقرر الخاص المعني بالقتل خارج نطاق القانون، والمقرر الخاص المعني بحرية الرأي والتعبير، والمقرر الخاص المعني بالمدافعين عن حقوق الإنسان، والمقرر الخاص بالتعذيب في جنيف عن فائق اعتبارها وتقديرها.



- نسخة إلى السيدة المفوضة السامية لحقوق الإنسان

قسم الإجراءات الخاصة

المفوضية السامية لحقوق الإنسان - جنيف

Exhibit 12

DE LA
RÉPUBLIQUE ARABE SYRIENNE
GENÈVE



الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمم المتحدة
جنيف

N° 544/11

25 October, 2011

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to The Office of the High Commissioner for Human Rights, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and with reference to their communication AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24) SYR 6/2011, dated 29 June 2011, concerning the arrest of 13 members of the Assyrian Democratic Organization, has the honour to attach herewith the answer of the competent authorities in the Syrian Arab Republic which explains the circumstances and the reasoning of the arrest and clarifies that the arrest was made for violating the laws of the Syrian Arab Republic and not a case of torture or arbitrary detention.

OHCHR REGISTRY

25 OCT. 2011

Recipients :SPD.....
.....(encl).....
.....
.....

With this information, The Permanent Mission of the Syrian Arab Republic kindly requests the concerned Special Rapporteurs to consider this case clarified. The Syrian authorities provided this information within the spirit of cooperation with the Human Rights Special Procedures .

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to The Office of the High Commissioner for Human Rights the assurances of its highest consideration



Office of the High Commissioner for Human Rights
Palais Wilson

(Translated from Arabic)

On 20 May 2011, an unauthorized demonstration took place in the town of Al-Qamishli. A group of persons bearing placards disturbed public order and then sought refuge in a private residence. Al-Hasakah police command obtained authorization from the Chief Public Prosecutor in Al-Qamishli to search the premises, duly and in accordance with Syrian law. Having obtained authorization, Al-Qamishli police and the criminal security department duly searched the premises in the presence of the local mayor, Yunil Nimrud. The search showed that the residence was used as the headquarters of an unauthorized ethnic sectarian organization, known as the Assyrian Democratic Organization. In addition, it showed that this organization was engaging in unlawful acts and activities and violating the law in order to undermine public security by provoking sectarian and ethnic strife and organizing demonstrations without obtaining authorization as required by law. By engaging in such activities, the members of this organization caused disturbances, disrupted social peace and security and incited other citizens to do so, although neither they nor their organization had any connection with human rights activities. Therefore, the persons who were at the headquarters of this unauthorized organization were arrested and taken into preventive custody and precautionary measures were taken in respect of the premises and the assets therein, in accordance with the provisions of the Syrian Code of Criminal Procedure relating to flagrante delicto offences. The activities in which the persons concerned were engaged are punishable offences under articles 327, 328, 335 and 339 of the Syrian Criminal Code and Legislative Decree No. 54 of 2011 concerning the organization of peaceful demonstrations in the Syrian Arab Republic.

On 26 May 2011, the persons concerned were released and the items seized were returned to them, in preparation for the submission of the preliminary judicial report that had been drafted in respect of them to the competent court. They were released once the investigation had established that the unlawful acts that they had committed were offences for which law enforcement officers could submit the judicial report to the court and for which they were not required to attend the court hearing as detainees. These actions were taken in coordination with and under the oversight and management of the competent Office of the Public Prosecutor. On 31 May 2011, however, Legislative Decree No. 61 was issued granting a general amnesty for a number of offences committed prior to that date, including those committed by the persons concerned. The investigations into them were, therefore, duly discontinued. During their period in custody and the investigations, the persons concerned were not beaten or abused in any way and were not detained in solitary confinement. The Syrian Criminal Code prescribes severe penalties for anyone who uses force of any kind, makes an extrajudicial arrest or enters any residence under circumstances other than those provided for by law and without respect for due process (arts. 358–360 and 371). The right to free expression of opinion is safeguarded by the Syrian Constitution. The Syrian Arab Republic is a world leader in the protection and promotion of this right, the exercise of which develops positive and constructive interactions between all citizens from diverse sectors and communities and of various affiliations. In addition, the right to peaceful demonstration is safeguarded in accordance with the law, which defines the rules and mechanisms for the exercise of this right and is in conformity with international standards and treaties and with the applicable laws in most countries around the world.

بتاريخ ٢٠١١/٥/٢٠

قامت مجموعة من الأشخاص بالتظاهر دون ترخيص ضمن مدينة القامشلي رافعين اللافتات ومخلين بالأمن العام ولاذوا بعد ذلك ضمن أحد المنازل فقامت قيادة شرطة الحسكة بالحصول على موافقة رئيس النيابة العامة بالقامشلي من أجل تحري المنزل المذكور وفقاً للأصول القانونية المنصوص عنها في القوانين السورية النافذة ، وبعد الحصول على الموافقة قام قسم شرطة القامشلي وقسم الأمن الجنائي فيها بتحري المنزل أصولاً وبحضور مختار الحي بونيل نمرود ، فتبين أن المنزل يُستخدم كمقر لمنظمة طائفية عرقية غير مرخصة تسمى " المنظمة الآشورية الديمقراطية " ، كما تبين أن هذه المنظمة تقوم بأعمال ونشاطات غير مشروعة ومخالفة للقانون بهدف زعزعة أمن المجتمع عبر إثارة اللعرات الطائفية والعرقية وتنظيم التظاهرات دون الحصول على ترخيص وفقاً لأحكام القانون حيث يقوم أعضاء هذه المنظمة من خلال أنشطتهم هذه بإثارة الاضطرابات والإخلال بالأمن والسلم الاجتماعي وتحريض المواطنين الآخرين على ذلك دون أن يكون لهم أو لمنظمتهم أية علاقة في النشاط بمجال حقوق الإنسان ، وبناءً على ذلك فقد تم توقيف المتواجدين في مقر هذه المنظمة غير المرخصة احتياطياً واتخاذ التدابير الاحترازية المتعلقة بمقرها وموجوداته وفقاً لأحكام قانون أصول المحاكمات الجزائية السوري المتعلقة بالجرم المشهود ، لأن ما قاموا به يشكل جرائم مُعاقب عليها في قانون العقوبات السوري بالمواد (٣٢٧ - ٣٢٨ و ٣٣٥ حتى ٣٣٩) وذلك عطفاً على المرسوم التشريعي رقم ٥٤ لعام ٢٠١١ المتعلق بتنظيم التظاهر السلمي في سورية.

وبتاريخ ٢٠١١/٥/٢٦ تم إخلاء سبيل الأشخاص المذكورين وتسليمهم كافة المحجوزات تمهيداً لتقديم الضبوط الأولية للمنظمة بحقهم إلى القضاء المختص ، وقد تمّ ذلك بعد أن تبين من خلال سير التحقيقات أن الأفعال غير المشروعة التي أقدموا على ارتكابها هي من فئة الجرح التي يمكن للضابطة العدلية تقديم الضبوط للمنظمة بشأنها دون تقديم المشتبه فيهم كموقوفين إلى القضاء لتتم محاكمتهم بعد ذلك وهم طلقاء ، وكل ذلك يتم بالتنسيق والإشراف من النيابة العامة المختصة وإدارتها ، إلا أنه وبتاريخ ٢٠١١/٥/٣١ صدر المرسوم التشريعي رقم (٦١) المتضمن منح العفو العام عن العديد من الجرائم المرتكبة قبل تاريخ صدوره وكان من بين الجرائم المشمولة بالعفو العام الجرم المتعلق بالأشخاص المذكورين مما أدى إلى حفظ التحقيقات الجارية بحقهم أصولاً ، وخلال فترة توقيف المذكورين والتحقيق معهم لم يتم ضربهم أو إهانتهم مطلقاً كما لم يتم توقيف أي منهم بشكل منفرد ، كون نصوص

مواد قانون العقوبات السوري تعاقب تعاقب بعقوبات صارمة من يرتكب أي ضرب من ضروب الشدة أو التوقيف خارج نطاق القانون أو الدخول إلى أي منزل في غير الحالات التي ينص عليها القانون ودون مراعاة للأصول القانونية النافذة، وهذا ما هو منصوص عليه في المواد (٣٥٨ إلى ٣٦٠) و (٣٧١) من قانون العقوبات السوري أما عن الحق في التعبير عن الرأي بحرية فإنه مُصان في نصوص الدستور السوري وسورية تُعتبر من الدول الرائدة على مستوى العالم في مجال حماية هذا الحق وتعزيزه والارتقاء في ممارسته بما يحقق التفاعل الإيجابي المثمر بين كافة المواطنين بمختلف شرائحهم وأطيافهم وانتماءاتهم، أما عن حرية التظاهر السلمي فهي مُصانة أيضاً وفقاً للقوانين النافذة التي تُحدد أصول وآليات ممارسة هذا الحق وبما يتوافق ويتطابق مع المعايير والاتفاقيات الدولية والقوانين السارية في معظم دول العالم .

Exhibit 13

DE LA
RÉPUBLIQUE ARABE SYRIENNE
GENÈVE



OHCHR REGISTRY

27 DEC 2011

Recipients *SPD*
(enclousure)

الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمم المتحدة
جنيف

604/11

27 December, 2011

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to The Office of the High Commissioner for Human Rights – the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the Promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders; and with reference to their joint communication *UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16) SYR 12/2011*, concerning the case of **Mr. Mustafa Osso**, has the honour to attach herewith the answer of the competent authorities in the Syrian Arab Republic regarding Mr. Osso's case.

With this information, The Permanent Mission of the Syrian Arab Republic kindly requests the concerned Special Rapporteurs to consider this case clarified. The Syrian authorities provided this information within the spirit of cooperation with the Human Rights Special Procedures .

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to The Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Office of the High Commissioner for Human Rights- Special Procedures
Palais Wilson



Syrian Arab Republic

Ministry of Foreign Affairs and Immigration

Legal and International Waters Directorate

Permanent Mission to the United Nations Office at Geneva

We refer to your letter No. 49(80/103) dated 29 September 2011 concerning the lawyer Mustafa Osso.

The Government of the Syrian Arab Republic emphasizes its continuing cooperation with you in all fields relating to the promotion and protection of human rights. It again stresses the deception to which the High Commissioner for Human Rights is exposed by the sources from which he obtains information about the cases brought before him concerning the Syrian Arab Republic. The fact is that the last thing those sources are concerned about is human rights, because all of them work in the fields of politics or the media and all their activities fall within the scope of individual interests and achieving political goals, not to mention the means pursued to achieve those goals, even trading in human rights. This is the case with the lawyer Mustafa Osso, because he is in no way a human rights defender and his activities are not related to that field in any respect. The connection made in the information you have between the disciplinary procedure initiated against him in the Al Hasaka branch of the Bar Association and statements made to the media is entirely spurious, as is [the suggestion] that criminal proceedings will be brought against the afore-mentioned lawyer on account of his activities as a human rights defender. Here we must ask you for an explanation for the use of the differentiation criteria and the concurrence criteria and the connection between political activities and humanitarian activities in order that a person defined as a political actor human rights defender.

To return to the subject of the letter, we emphasize that neither political activity nor defence of human rights nor making statements to the media responsible for true, documented information expose a person to any disciplinary or criminal proceedings before any authority whatsoever. In such cases it is not possible to bring charges and make allegations at random, nor is it possible to make any lawyer in Syria the subject of disciplinary proceedings before the Bar Association unless there is strong evidence suggesting that he or she has committed an unlawful act or one that he or she is prohibited from performing under the provisions of the Law regulating the legal profession in the Arab Republic of Syria. In all cases, the matter is in the hands of the Bar Association, which decides on the matter. We must all await the outcome of the proceedings and the facts and reasons on which the punishment or acquittal of the lawyer Osso is based, in accordance with the provisions of the law.



الجمهورية العربية السورية
وزارة الخارجية والمغتربين
الإدارة القانونية والمياه الدولية

البعثة الدائمة لدى مكتب الأمم المتحدة

- جنيف -

إشارة لكتابكم رقم ٤٩ (١٠٣/٨٠) تاريخ ٢٩/٩/٢٠١١ المتعلق بالمحامي مصطفى أوسو

إن حكومة الجمهورية العربية السورية تعبر عن تأكيدها على استمرار التعاون معكم في كافة المجالات المتعلقة بتعزيز وحماية حقوق الإنسان وتؤكد مجدداً على مدى التضليل الذي تتعرض له المفوضية العليا لحقوق الإنسان من قبل المصادر التي تستقي منها معلوماتها عن الحالات المعروضة أمامها والمتعلقة بالجمهورية العربية السورية كون هذه المصادر آخر ما يهتمها هو حماية حقوق الإنسان لأنها جميعها تعمل في مجالات السياسة والإعلام وكافة أنشطتها تُصب ضمن حيز المصالح الفردية وتحقيق الغايات السياسية بغض النظر عن الوسائل المتبعة من أجل الوصول إلى هذه الغايات حتى ولو كانت المتاجرة بحقوق الإنسان ، وهذا ما هو عليه الحال في موضوع المحامي مصطفى أوسو فهو ليس من المدافعين عن حقوق الإنسان بأي حال من الأحوال ولا علاقة لأنشطته بهذا المجال على الإطلاق ، وإن ما وردكم من معلومات تم الربط فيها بين الإجراءات التأديبية الحاصلة بحقه أمام فرع نقابة المحامين بالحسكة وبين تصريحات أدلى بها أمام وسائل الإعلام هو عار عن الصحة تماماً ، كذلك ما ورد من أن هناك إجراءات عقابية سيتعرض لها المحامي المذكور على أساس قيامه بنشاط سياسي كمدافع عن حقوق الإنسان ، وهنا لابد لنا من الاستفسار منكم على سبيل الاستفادة عن معايير التفريق ومعايير الاشتراك والربط بين النشاطات السياسية والنشاطات الإنسانية حتى يتم التعريف عن الشخص كناشط سياسي مدافع عن حقوق الإنسان.

وبالعودة إلى موضوع المراسلة نؤكد لكم أن النشاط السياسي والدفاع عن حقوق الإنسان والإدلاء بالتصريحات الإعلامية القائمة على معلومات صحيحة وحقيقية وموثقة ، كل هذه الأنشطة لا تُعرض القائم بها إلى أية إجراءات تأديبية أو جزائية أمام أية جهة كانت ، ولا يمكن في هذه الحالات إلقاء التهم وسوق المزاعم جزافاً

كما لا يمكن أن يتعرّض أي محامي في سورية لأية إجراءات تأديبية أمام نقابة المحامين إلا إذا ورد لها أدلة قوية تشير إلى توافر الشبهة حول ارتكاب المحامي لعمل غير مشروع أو يحظر عليه القيام به وفقاً لأحكام قانون تنظيم مهنة المحاماة في الجمهورية العربية السورية ، وفي جميع الأحوال فإن الأمر بيد نقابة المحامين والقرار لها في هذا الأمر ويتوجب علينا جميعاً انتظار النتيجة التي ستخلص إليها في إجراءاتها والوقائع والحيثيات التي ستعتمد عليها في معاقبة أو تبرئة المحامي أوسو وفقاً لأحكام القانون .