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## Human Rights Council Seventeenth special session

# Report of the independent international commission of inquiry on the Syrian Arab Republic\*

### *Summary*

The deteriorating situation in the Syrian Arab Republic prompted the Human Rights Council to establish an independent international commission of inquiry to investigate alleged violations of human rights since March 2011. From the end of September until mid-November 2011, the commission held meetings with Member States from all regional groups, regional organizations, including the League of Arab States and the Organization of Islamic Cooperation, non-governmental organizations, human rights defenders, journalists and experts. It interviewed 223 victims and witnesses of alleged human rights violations, including civilians and defectors from the military and the security forces. In the present report, the commission documents patterns of summary execution, arbitrary arrest, enforced disappearance, torture, including sexual violence, as well as violations of children's rights.

The substantial body of evidence gathered by the commission indicates that these gross violations of human rights have been committed by Syrian military and security forces since the beginning of the protests in March 2011. The commission is gravely concerned that crimes against humanity have been committed in different locations in the Syrian Arab Republic during the period under review. It calls upon the Government of the Syrian Arab Republic to put an immediate end to the ongoing gross human rights violations, to initiate independent and impartial investigations of these violations and to bring perpetrators to justice. The commission also addresses specific recommendations to opposition groups, the Human Rights Council, regional organizations and States Members of the United Nations.

The commission deeply regrets that, despite many requests, the Government failed to engage in dialogue and to grant the commission access to the country. The Government informed the commission that it would examine the possibility of cooperating with the commission once the work of its own independent special legal commission was completed. The commission reiterates its call for immediate and unhindered access to the Syrian Arab Republic.

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\* The annexes to the present report are reproduced as received, in the language of submission only.

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## **I. Introduction**

### **A. Establishment of the commission of inquiry**

1. At its seventeenth special session, the Human Rights Council considered the report of the fact-finding mission submitted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Council resolution S-16/1.<sup>1</sup> In the light of the mission's findings, including that patterns of human rights violations may amount to crimes against humanity, and the deteriorating human rights situation in the Syrian Arab Republic, the Council decided to establish an independent international commission of inquiry.

2. On 12 September 2011, the President of the Human Rights Council appointed three high-level experts as members of the commission: Paulo Pinheiro (Chairperson), Yakin Ertürk and Karen Koning AbuZayd. A secretariat of the commission, with a broad range of expertise in the field of human rights investigations and international law, was provided by OHCHR.

3. The Human Rights Council requested the commission to make its report public before the end of November 2011. The commission will present a written update to the Council at its nineteenth session, in March 2012. The present report is submitted pursuant to the request of the Council.

### **B. Mandate and terms of reference**

4. The Human Rights Council, in its resolution S-17/1, mandated the commission to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic, 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. The commission adopted its terms of reference (annex I) in the light of its mandate.

5. The commissioners agreed that the first component of the mandate ("to establish facts and circumstances") required the commission to act as a fact-finding body. As such, the standard of proof used was one of "reasonable suspicion". This standard was met when the commission obtained a reliable body of evidence, consistent with other information, indicating the occurrence of a particular incident or event. This is a lower standard of proof than that applied in a criminal proceeding.

6. In order to fulfil the second component of the mandate ("to identify those responsible"), the commission understood that it had to collect a reliable body of material to indicate which individuals might be responsible for human rights violations. The commission received information on the alleged responsibility of a number of individuals for violations committed in the Syrian Arab Republic from March 2011 to the time of drafting of the present report.

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<sup>1</sup> A/HRC/18/53.

## **C. Methods of work**

7. First-hand information was collected through interviews with victims and witnesses of events in the Syrian Arab Republic. The interviewing process began in Geneva on 26 September 2011. Overall, 223 victims and/or witnesses, including personnel who defected from the military and the security forces, were interviewed.

8. A public call was made to all interested persons and organizations to submit relevant information and documentation that would help the commission implement its mandate. It held meetings with Member States from all regional groups, regional organizations, including the League of Arab States and the Organization of Islamic Cooperation, non-governmental organizations, human rights defenders, journalists and experts. Reports, scholarly analyses and media accounts, as well as audio and visual material, were also duly considered.

9. The information collected is stored in a secure database governed by United Nations rules on confidentiality.

10. The protection of victims and witnesses lies at the heart of the methodology of human rights investigations. While the collected information remains confidential, the commission is deeply concerned about the possibility of reprisals against individuals who cooperated with it, and against their relatives in the Syrian Arab Republic. It is also concerned about the protection of those individuals who openly spoke to the media in an attempt to counter the news blockade imposed by the Government.

## **D. Cooperation of the Government**

11. The Human Rights Council called upon the Government of the Syrian Arab Republic to cooperate fully with the commission. The commission addressed letters on 29 September (annex II), 19 October (annex IV), 27 October (annex V), and 4 November 2011 (annex VI) requesting to visit the country. The Chairperson of the commission conveyed in person similar requests to representatives of the Syrian Arab Republic in Brazil and in the United States of America. The commission solicited meetings with the Permanent Representative of the Syrian Arab Republic in Geneva, as well as with the Head of the Syrian delegation attending the universal periodic review of the Council. In a letter dated 12 October 2011, the Government stated that an independent special legal commission had been established to investigate all cases pertaining to the events that had taken place since March 2011 (annex III). The Government would therefore examine the possibility of cooperating with the commission once its own commission had concluded its work.

12. In its letter dated 27 October 2011, the commission reiterated its invitation to the members of the independent special legal commission and relevant Syrian officials to visit Geneva in November. A questionnaire was annexed to the letter with a view of engaging the Government of the Syrian Arab Republic in a dialogue (annex V).

13. The commission deeply regrets not having had access to the Syrian Arab Republic.

## **II. Context**

### **A. Political background**

14. Syria gained independence in April 1946 as a parliamentary republic. The post-independence period was marked by several military coups and coup attempts. A state of emergency, from 1963 to April 2011, effectively suspended most constitutional protections

for citizens. Hafez Al Assad became President in 1971 following a military coup. Bashar Al Assad succeeded his father in 2000. Under their rule, the Baath party came to dominate and control all aspects of political and social life.

15. The Syrian Arab Republic has a population of 22 million, of whom 74 per cent Sunni Muslim, 10 per cent Alawite, 3 per cent other Shia Muslim, 10 per cent Christian and 3 per cent Druze. Major ethnic minorities include Kurdish, Assyrian, Armenian, Turkmen and Circassian populations. The Al Assad family belongs to the Alawite religious community. While comprising only 10 per cent of the population, Alawites today make up the majority in the key positions of the State apparatus, including the officer corps of the armed forces, the Republican Guard and the Fourth Division.

16. In 1982, severe human rights violations occurred in the context of an uprising by the Muslim Brotherhood in the city of Hama. In an attack by Syrian forces, several neighbourhoods of the city were shelled and destroyed, and between 10,000 and 25,000 people are estimated to have been killed, most of them civilians. These documented mass killings and numerous violations of human rights remain unpunished.

17. During the past four decades, suspected opponents of the Government have suffered torture, detention and long prison sentences imposed under vaguely defined crimes relating to political activity. Surveillance and suppression has been conducted by an extensive apparatus of intelligence, the *mukhabarat*. Decades 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.

## **B. Military and security forces**

18. The Syrian Arab Armed Forces comprise the Army, the Navy and the Air Force. They are responsible for defending the national territory and protecting the State from internal threats. Numbering around 300,000, the armed forces are organized into three corps with a total of 12 divisions: seven armoured, three mechanized, one Republican Guard and the Special Forces. Elite units include the 10,000-man Republican Guard, under the President's control, tasked to counter any threat from dissident military forces, and the 20,000-man Fourth Division, which is commanded by Maher Al Assad, the President's brother.

19. The State security apparatus is reported to be large and effective, with a multitude of security forces and intelligence agencies that have overlapping missions. They play a powerful role in Syrian society, monitoring and repressing opposition to the Government. The internal security apparatus includes police forces under the Ministry of the Interior, Syrian Military Intelligence, Air Force Intelligence, the National Security Bureau, the Political Security Directorate and the General Intelligence Directorate. The latter consists of 25,000 members formally under the Ministry of the Interior but reporting directly to the President and his inner circle. It includes Internal Security (also known as the State Security Service), External Security and the Palestine Division.

20. The militia includes the *Shabbiha*, which is composed of an estimated 10,000 civilians, who are armed by the Government and are widely used to crush anti-Government demonstrations alongside national security forces; and the People's Army, a Baath party militia with an estimated 100,000 reservists, designed to provide additional security and protection in cities in times of war.

### C. National legal framework

21. The 1973 Constitution of the Syrian Arab Republic enshrines a number of fundamental human rights, such as the equality of citizens before the law, the rights to freedom of expression and peaceful assembly and the right not to be subjected to torture or humiliating treatment. Article 8 states that the Baath party is the leading political party. The President is the supreme commander of the armed forces. He may declare war and general mobilization, and conclude peace with the approval of the People's Assembly;<sup>2</sup> he may also declare and terminate a state of emergency pursuant to the law.<sup>3</sup> The President issues all necessary decisions and orders for the exercise of his authority and can delegate certain powers.<sup>4</sup> Article 113 provides the President with the power to take necessary measures to address grave emergencies.

22. Legislative Decrees 14/1969 and 69/2008 give immunity to members of the security forces. While the Constitution guarantees the independence of judges, membership in the Baath party is a precondition for judicial and prosecutor positions. The President presides over the Higher Council of the Judiciary, which administers the judicial system. He also sits on the Supreme Constitutional Court and appoints its other four members.

### D. International legal obligations

23. The Syrian Arab Republic is party to most major international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict, and the Convention on the Prevention and Punishment of the Crime of Genocide.

24. As a State party to the above treaties, the Syrian Arab Republic is bound to respect, protect, promote and fulfil the human rights of all persons within its jurisdiction. This includes the responsibility of the State to provide victims with an effective remedy, including reparation, and to undertake prompt and impartial investigations.<sup>5</sup>

25. Derogations from human rights provisions are foreseen only in certain human rights treaties and are exclusively permitted under specific circumstances. The Syrian Arab Republic has never notified the Secretary-General of any state of emergency and subsequent derogations made to its obligations under the International Covenant on Civil and Political Rights. Non-derogable provisions include, but are not limited to, the right to life, the prohibition of torture or cruel, inhuman or degrading punishment, and freedom of thought, conscience and religion. The commission furthermore recalls that article 2(2) of the Convention against Torture states that "no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

<sup>2</sup> Art. 100.

<sup>3</sup> Art. 101.

<sup>4</sup> Art. 103.

<sup>5</sup> Human Rights Committee, general comment No. 31 (CCPR/C/21/Rev.1/Add.13); Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, annex).

26. United Nations treaty bodies and special procedures have raised a number of concerns with regard to serious violations of human rights in the Syrian Arab Republic in recent years. In 2010, the Committee against Torture expressed concern at the lack of judicial independence and arbitrary procedures that resulted in the systematic violation of the right to fair trials. The Committee also reported widespread, routine and consistent torture of prisoners in detention.<sup>6</sup> In 2011, concerns were also raised with regard to the number of enforced disappearances by the Working Group on Enforced or Involuntary Disappearances.<sup>7</sup> The widespread harassment of human rights defenders, including restrictions on their freedom of movement, violations of the freedom of expression and the right to assembly were also addressed by various treaty bodies.

### **III. Events and human rights violations since March 2011**

#### **A. Sequence of events**

27. In February 2011, limited protests broke out around issues such as rural poverty, corruption, freedom of expression, democratic rights and the release of political prisoners. Subsequent protests called for respect for human rights, and demanded far-reaching economic, legal and political reforms. By mid-March, peaceful protests erupted in Dar'a in response to the detention and torture of a group of children accused of painting anti-Government graffiti on public buildings. Following the suppression by State forces of peaceful protests, including firing at a funeral procession, civilian marches in support of Dar'a spread to a number of cities, including some suburbs of Al Ladhqiyyah, Baniyas, Damascus, Dayr Az Zawr, Homs, Hama and Idlib.

28. On 25 April, Syrian armed forces undertook the first wide-scale military operation in Dar'a. Since then, protests have continued across the country, with an increasingly violent response by State forces. Other major military operations were carried out in different locations. On 8 November, OHCHR estimated that at least 3,500 civilians had been killed by State forces since March 2011. Thousands are also reported to have been detained, tortured and ill-treated. Homs, Hama and Dar'a reportedly suffered the highest number of casualties.

29. Numerous defections from military and security forces have occurred since the onset of the protests, and have, by many accounts, increased in recent months. An unknown number of defectors have organized themselves into the "Free Syrian Army", which has claimed responsibility for armed attacks against both military and security forces (although there is no reliable information on the size, structure, capability and operations of this body). Colonel Riad Al Asaad, who declared his defection in July, is said to be in charge of the Free Syrian Army.

30. From the start of the protests, the Government has claimed to be the target of attacks by armed gangs and terrorists, some of whom it accused of being funded by foreign sources. On 30 March 2011, in his national address, President Al Assad asserted that the Syrian Arab Republic was "facing a great conspiracy" at the hands of "imperialist forces". He stated that conspirators had spread false information, incited sectarian tension and used violence. He contended that they were supported inside the country by media groups and others.

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<sup>6</sup> CAT/C/SYR/CO/1, paras. 7 and 12.

<sup>7</sup> A/HRC/16/48.



31. In April, the President announced several steps towards political and legal reform. These steps included the formation of a new Government,<sup>8</sup> the lifting of the state of emergency,<sup>9</sup> the abolition of the Supreme State Security Court,<sup>10</sup> the granting of general amnesties<sup>11</sup> and new regulations on the right of citizens to participate in peaceful demonstrations.<sup>12</sup>

32. On 2 June, the President announced the establishment of the National Dialogue Commission, responsible for preparing consultations as part of a transitional process towards a multiparty democracy. Several leading opposition figures boycotted the meeting because of the continued violence used against protesters.

33. On 6 June, the President stated that members of the military and security forces, as well as innocent people, had been killed in acts of sabotage and terror. While admitting that the State should work tirelessly to meet the demands of its people, he affirmed that among those demanding change was a small group of criminals and religious extremists attempting to spread chaos. The Government news agency increasingly reported armed attacks against State forces in cities, including Homs, Hama, Idlib and Talkalakh.

34. The Government has since announced a number of policy initiatives as part of the reform process, including Decree No. 100 of 3 August, promulgating a new law on political parties, and Decree No. 101 of 3 August, promulgating a general law on elections.<sup>13</sup> Local elections were announced for 12 December,<sup>14</sup> and a new law on the media was introduced on 2 September.<sup>15</sup> On 16 October, the President established a national committee tasked with preparing a draft constitution, which would be subject to a referendum within four months.<sup>16</sup>

35. On 3 August, the Security Council issued a presidential statement condemning the ongoing violence against protesters by Syrian forces and calling on restraint from all sides. It also called on the Syrian Arab Republic to implement political reforms and to cooperate with OHCHR.<sup>17</sup> On 4 October, China and the Russian Federation vetoed a draft resolution of the Security Council,<sup>18</sup> in which the Council recommended possible measures against the Syrian Arab Republic under Article 41 of the Charter of the United Nations.

36. A number of States and regional organizations have imposed sanctions on the Syrian Arab Republic.

37. On 7 October, the Government of the Syrian Arab Republic reiterated that the country was being subjected to a series of criminal attacks by armed terrorist groups and an unprecedented media campaign of lies and allegations, supported by certain western States. According to the Government, the groups involved had committed offences against the Syrian people, including acts of theft, murder and vandalism, and they were exploiting peaceful demonstrations to create anarchy. The Government also claimed that 1,100 members of State forces had been killed by terrorists and armed gangs.<sup>19</sup> It pointed out that,

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<sup>8</sup> Decree No. 146 of 14 April 2011.

<sup>9</sup> Decree No. 161 of 21 April 2011.

<sup>10</sup> Decree No. 53 of 21 April 2011.

<sup>11</sup> Decrees No. 34, 61 and 72 of 2011.

<sup>12</sup> Decree No. 53 of 21 April 2011.

<sup>13</sup> A/HRC/WG.6/12/SYR/1, para. 98.

<sup>14</sup> SANA news agency, 6 October 2011

<sup>15</sup> See A/HRC/WG.6/12/SYR/1, para. 49, referring to Decree No. 108, 2011.

<sup>16</sup> Presidential Decree No. 33, 2011, SANA News Agency, 16 October 2011.

<sup>17</sup> Statement by the President of the Security Council of 3 August 2011 (S/PRST/2011/16).

<sup>18</sup> 6627<sup>th</sup> meeting of the Security Council, 4 October 2011, meeting record S/PV. 6627.

<sup>19</sup> A/HRC/19/11, para. 102.

while many protests had been conducted in full legality, others had been held without notification and disrupted public order.

38. On 2 November, the Council of the League of Arab States announced that the Syrian Arab Republic had agreed on a workplan to end violence and protect citizens. The Government also pledged to release all those detained in relation to the recent events, to remove armed elements from cities and inhabited areas, and to give the specialized organizations of the League and Arab and international media access to the country. The Council mandated a ministerial committee of the League to oversee and report on the implementation of the workplan. According to the Government, 553 detainees were released pursuant to the agreement. Continued violence and the non-implementation of the agreement prompted the League, on 12 November, to adopt a resolution suspending Syrian activities within the organization. The resolution also imposed economic and political sanctions on the country, and reiterated the previous demand that the Syrian Arab Republic withdraw its armed forces from cities and residential areas. The League urged its Member States to recall their ambassadors from Damascus. The measures came into force on 16 November. On 15 November, 1,180 prisoners were also released.

39. In November, military and security forces carried out operations in Homs, Dar'a, Hama, Dayr Az Zawr and Rif Damascus, targeting public assemblies and funeral processions. In Homs, the operations were conducted in the residential areas of Alqaseer, Bab Amr, Bab Al Sibaa, Bab Hood and Karm Al Zaitoon. According to eyewitnesses, tanks deployed in and around the city frequently fired at residential buildings. It is estimated that, in a three-week period until 13 November, 260 civilians were killed. According to information received, a small number of defectors claiming to be part of the Free Syrian Army engaged in operations against State forces, killing and injuring members of military and security forces.

40. On 20 November, in an interview published by *The Sunday Times*, President Al Assad explained that his Government did not have a policy to treat the public harshly; its aim was to fight militants to restore stability and protect civilians. He added that any "mistakes" committed by officials would be addressed by the independent special legal commission.

## **B. Excessive use of force and extrajudicial executions**

41. According to individual testimonies, including those of defectors who have acknowledged their role in policing and quelling the protests, State forces shot indiscriminately at unarmed protestors. Most were shot in the upper body, including in the head. Defectors from military and security forces told the commission that they had received orders to shoot at unarmed protesters without warning. In some instances, however, commanders of operations ordered protesters to disperse and issued warnings prior to opening fire. In some cases, non-lethal means were used prior to or at the same time as live ammunition.

42. The commission received several testimonies indicating that military and security forces and *Shabbiha* militias had planned and conducted joint operations with "shoot to kill" orders to crush demonstrations. Such operations were conducted in the centre of Al Ladhqiyah around Sheikh Daher Square in early April, and also in the Ramel suburb of Al Ladhqiyah on 13 and 14 August. During the latter incident, at least 20 people, including children, were reportedly killed. In other incidents, officers ordered their personnel to attack protesters without warning, hitting them with batons.

43. A defector described to the commission the rationale for deployment and the orders that were given to his army battalion on 1 May:

Our commanding officer told us that there were armed conspirators and terrorists attacking civilians and burning Government buildings. We went into Telbisa on that day. We did not see any armed group. The protestors called for freedom. They carried olive branches and marched with their children. We were ordered to either disperse the crowd or eliminate everybody, including children. The orders were to fire in the air and immediately after to shoot at people. No time was allowed between one action and the other. We opened fire; I was there. We used machine guns and other weapons. There were many people on the ground, injured or killed.

44. The rationale for the use of force and orders to open fire on demonstrators were echoed in numerous testimonies of other former soldiers who had been dispatched to different locations and at different times. For example, on 29 April, thousands of people walked from nearby villages to the town of Dar'a to bring food, water and medicine to the local population. When they reached the Sayda residence complex, they were ambushed by security forces. More than 40 people were reportedly killed, including women and children.

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.

46. Snipers were responsible for many casualties. On some occasions, snipers appeared to be targeting leaders of the march and those using loudspeakers or carrying cameras and mobile phones. The commission heard several accounts of how those who were trying to rescue the wounded and collect the bodies of demonstrators also came under sniper fire. The commission documented several cases in Dar'a, Hama and Al Ladhhiqiyah.

47. Checkpoints and roadblocks were set up to prevent people from moving freely and joining demonstrations, especially on Fridays. Defectors who were deployed at checkpoints told the commission about "black lists" with names of people wanted by the authorities. They were given instructions to search for weapons and, in some cases, given orders to shoot. A soldier who manned two checkpoints in the Dar'a governorate, from April to August, was given orders "to search everybody and if any demonstrators try to pass through, to fire at them".

48. Several defectors witnessed the killing of their comrades who refused to execute orders to fire at civilians. A number of conscripts were allegedly killed by security forces on 25 April in Dar'a during a large-scale military operation. The soldiers in the first row were given orders to aim directly at residential areas, but chose to fire in the air to avoid civilian casualties. Security forces posted behind shot them for refusing orders, thus killing dozens of conscripts.

49. Civilians bore the brunt of the violence as cities were blockaded and curfews imposed. The commission heard many testimonies describing how those who ventured outside their homes were shot by snipers. Many of the reported cases occurred in Dar'a, Jisr Al Shughour and Homs. A lawyer told how security forces took positions in old Dar'a during the operation in April. Snipers were deployed on the hospital rooftop and other buildings. "They targeted anyone who moved", he said. Two of his cousins were killed on the street by snipers.

50. A number of cases was documented of injured people who were taken to military hospitals, where they were beaten and tortured during interrogation. Torture and killings reportedly took place in the Homs Military Hospital by security forces dressed as doctors and allegedly acting with the complicity of medical personnel. As people became afraid of going to public hospitals, makeshift clinics were set up in mosques and private houses,

which also became targets. This was the case of the Omari Mosque in Dar'a, which was raided on 23 March. Several of the injured and some medical personnel were killed there.

51. According to the Government, global media inaccurately reported the use of weapons against civilians to discredit the Syrian Arab Republic. Security forces were deployed to the demonstrations to keep the peace, but many of them were killed, including unarmed police officers. For instance, in the city of Homs, 12 police officers were reportedly murdered. The Government claimed that security forces were not usually armed when policing demonstrations. It also claimed that the information on the use of tanks was false, and that they were used solely for rescuing overwhelmed police officers who had no means of defending themselves.

## **C. Arbitrary detentions, enforced disappearances, torture and other forms of ill-treatment**

### **1. Arbitrary detentions**

52. According to many accounts gathered, arbitrary arrests and unlawful detentions were widespread and occurred at an alarming rate in places such as Homs, Hama, Jisr Al-Shughour, Dar'a and in Rif Dimashq, regarded as supportive of the protest movement.

53. Arrests have been conducted mainly in the context of wide-scale military operations targeting specific areas or during demonstrations. Various victims consistently stated that they had been physically or verbally assaulted during the arrest process before being held for various periods of time without due process and routinely subjected to torture.

54. One of the reportedly largest-scale arbitrary arrest campaigns took place in the city of Baniyas on 7 May. According to various eyewitness accounts, the army swept through the villages surrounding the city using tanks, armoured vehicles and soldiers. Security and military forces broke into houses and reportedly arrested more than 500 people, including women and children. A similar incident was reported in Jisr Al-Shughour in the early hours of 14 May. Following a large demonstration on the previous day, members of the security forces arrested more than 400 people during night raids. Some 400 people, including women and children, were detained in the Ramel suburb of Al Ladhiqiyah on 13 and 14 August.

55. Other arrests targeted activists who participated or helped to organize demonstrations and whose names appeared on security forces' lists. Families and acquaintances of wanted individuals were detained by security forces as a measure of intimidation and retribution.

56. A number of journalists and web activists claimed they had been detained and tortured for reporting on demonstrations.

57. Many of the defectors interviewed indicated that soldiers suspected of sympathizing with or aiding demonstrators were immediately detained. A conscript explained how he witnessed the torture of many defectors inside a prison.

58. Accounts obtained from victims and defectors described arbitrary arrest and conditions of detention in grave terms. Some were detained in the offices of security forces or in prisons, while others were transferred to open stadiums, schools and, in some cases, hospitals. Most of those arrested were blindfolded and handcuffed, and denied food and medical assistance. Several people reported that scores were detained, beaten and tortured in the stadium in Al Ladhiqiyah in August.

## 2. Enforced disappearances

59. Allegations of enforced disappearances were received. Although it is impossible to assess the exact scale of the phenomenon, many reports put the number of the missing and unaccounted for in the thousands. A witness described the abduction of his brother-in-law in September in the Dar'a governorate. His family has heard nothing about him since. He stated that his aunt and uncle had gone to look for him in both Dar'a and Damascus. "The authorities refused to give them any information. In the course of a telephone conversation with an acquaintance in the security services, my uncle was advised to forget about his son."

60. Another witness stated that, on 24 July, members of the military security came to arrest one of his cousins in their family home in Dar'a. Five days later his father and brother went to the military security quarters to ask about him. "We were given the run around. There was no further news of my cousin," the interviewee concluded.

## 3. Torture and other forms of ill-treatment

61. Numerous victims of torture and other forms of ill-treatment were interviewed. Many were subjected to severe beatings with batons and cables. They also endured prolonged stress position for hours or even days in a row, electroshocks and deprivation of food, water and sleep. Detainees were often put in overcrowded cells and forced to take turns to sleep. Many were blindfolded and sometimes handcuffed, then forced to thumb-sign written confessions of crimes that, at best, were read to them by an officer. Several witnesses and victims interviewed emphasized that they were tortured whether they confessed or not.

62. Children were also tortured, some to death. Two well-known cases are those of Thamir Al Sharee, aged 14, and Hamza Al Katheeb, aged 13, from the town of Sayda in the Dar'a governorate. They were seized and allegedly taken to an Air Force Intelligence facility in Damascus in April. They did not return home alive. The injuries described in the post-mortem report of Thamir Al Sharee are consistent with torture. A witness, himself a victim of torture, claimed to have seen Thamir Al Sharee on 3 May. The witness stated that "the boy was lying on the floor and was completely blue. He was bleeding profusely from his ear, eyes and nose. He was shouting and calling for his mother and father for help. He fainted after being hit with a rifle butt on the head."

63. Torture has been described as rampant at detention facilities of the Air Force Intelligence Branch in the Mazzeh airport near Damascus. Other facilities where torture was reported to have taken place are the facilities of Air Force Intelligence in Bab Tuma, in Homs; the Maza Al Jabal prison of the Republican Guard; the Political Security Branch detention facility in Al Ladhqiyyah; and the Altala'a military base, which hosts the central command centre for police, military and intelligence operations in Idlib governorate.

64. Defectors were tortured because they attempted to spare civilians either surreptitiously or by openly refusing to obey orders. A defector showed scars on his arms compatible with electroshock marks and about 30 stitches on his scalp. He stated:

On Friday 12 August, we received orders to go to the Omar al Khattab Mosque, in Duma (Damascus governorate), where about 150 people had gathered. We opened fire. A number of people were killed. I tried to aim high. Later, I realized that security forces had been taking pictures of us. I was pictured firing in the air. I was interrogated. I was accused of being a secret agent. Members of the Republican Guard beat me every hour for two days, and they tortured me with electroshocks.

65. Several methods of torture, including sexual torture, were used by the military and the security forces in detention facilities across the country. Torture victims had scars and

bore other visible marks. Detainees were also subjected to psychological torture, including sexual threats against them and their families and by being forced to worship President Al Assad instead of their god.

#### **D. Sexual violence**

66. Several testimonies reported the practice of sexual torture used on male detainees. Men were routinely made to undress and remain naked. Several former detainees testified reported beatings of genitals, forced oral sex, electroshocks and cigarette burns to the anus in detention facilities, including those of the Air Force Intelligence in Damascus, the Military Intelligence in Jisr Al Shughour, the Military Intelligence and the Political Security in Idlib and Al Ladhqiyyah and the intelligence detention facilities in Tartus. Several of the detainees were repeatedly threatened that they would be raped in front of their family and that their wives and daughters would also be raped.

67. Testimonies were received from several men who stated they had been anally raped with batons and that they had witnessed the rape of boys. One man stated that he witnessed a 15-year-old boy being raped in front of his father. A 40-year-old man saw the rape of an 11-year-old boy by three security services officers. He stated: "I have never been so afraid in my whole life. And then they turned to me and said; you are next." The interviewee was unable to continue his testimony. One 20-year-old university student told the commission that he was subjected to sexual violence in detention, adding that "if my father had been present and seen me, I would have had to commit suicide". Another man confided while crying, "I don't feel like a man any more".

68. Several women testified that they were threatened and insulted during house raids by the military and security forces. Women felt dishonoured by the removal of their head scarves and the handling of their underwear during raids of their homes, which often occurred at night. Defectors from the military and the security forces indicated that they had been present in places of detention where women were sexually assaulted; the commission, however, received limited evidence to that effect. This may be due in part to the stigma that victims would endure if they came forward.

#### **E. Violations of children's rights**

69. The information collected indicates that children have suffered serious violations and that State forces have shown little or no recognition of the rights of children in the actions taken to quell dissent.

70. Witnesses informed the commission that children (mostly boys) were killed or injured by beatings or shooting during demonstrations in several locations across the country, including Sayda, Dar'a, Idlib, Hama, Homs, Sarmeen Al Ladhqiyyah and Dayr Az Zawr. Reliable sources indicated that 256 children had been killed by State forces as at 9 November. The commission spoke with several children who had witnessed the killing of adults and of other children, and also met a 2-year-old girl whose mother was killed by the Syrian military in August while trying to cross the border. The commission saw several children whose mental health was seriously affected by their traumatic experience.

71. One military defector stated that he decided to defect after witnessing the shooting of a 2-year-old girl in Al Ladhqiyyah on 13 August by an officer who affirmed that he did not want her to grow into a demonstrator. A 15-year-old boy interviewed was shot in the leg in Homs on 15 August while returning home from the mosque. The neighbours tried to take him to hospital, but checkpoints by security forces blocked access to it.

72. Numerous accounts from former detainees indicated the presence of children, some younger than 10, in detention centres in various locations run by the military and security forces. Torture was reportedly applied equally to adults and children. Several former detainees informed the commission that young boys were tortured at the Air Force Intelligence detention facilities in and around Damascus, in intelligence detention facilities in Tartus and in Political Security and Military Intelligence detention facilities in Al Ladhqiyyah and Idlib. One defector stated that “people had their feet and hands bound with plastic handcuffs. They were beaten mercilessly, including 10-year-old children. Some children urinated out of fear while they were being beaten. It was very cruel.”

73. Numerous testimonies indicated that boys were subjected to sexual torture in places of detention in front of adult men.

74. The commission received many reports on the use of schools as detention facilities and on the deployment of snipers on the roofs of schools. Several children expressed concerns that they were prevented from continuing their education.

## **F. Displacement and restriction of movement**

75. The repression of protests has prompted a significant number of Syrians to flee the country. Syrian refugees number around 8,000 in Turkey, 3,400 in Lebanon and 1,000 in Jordan.<sup>20</sup> There are no recorded numbers for internally displaced people, but the commission received information on significant internal displacement from areas where military operations are prevalent, including in Homs.

76. Disturbing accounts were received of Syrian security and military forces using live fire against, and sometimes killing, individuals trying to flee the country. In an incident near Idlib in August 2011, a family with children travelling in a car towards a crossing at the Turkish border came under fire from Syrian armed forces; two family members were killed and one wounded. In another incident, in September 2011, Syrian forces killed a man as he attempted to cross the border into Turkey.

77. Numerous cases documented individuals who felt compelled to cross the border because their names appeared on lists of people wanted by the security services because of their mere participation in peaceful protests.

78. Individuals who had succeeded in crossing the border were targeted by State forces when they later approached the border while still on the territory of the neighbouring State.

79. In the context of such cases, the commission is furthermore gravely concerned at recent reports of Syrian armed forces laying mines near the border with Lebanon, putting those compelled to flee at grave risk of severe injury or death.

## **G. Violations of economic and social rights**

80. Numerous testimonies were received regarding the obstruction and denial of medical assistance to the injured and sick. Many of the injured were prevented from receiving treatment in public hospitals in several locations, including Al Ladhqiyyah, Baniyas, Homs and Idlib. Consistent testimonies described how members of the security forces tracked down wounded protesters in both public and private hospitals. Security forces conducted

<sup>20</sup> These figures relate to refugees/asylum-seekers who have registered with Governments or the Office of the United Nations High Commissioner for Refugees. The number of unregistered persons who have fled the country is likely to be significant.

raids in early June and late July in hospitals in Hama. Injured demonstrators were arrested and taken to military hospitals, where they were reportedly interrogated and tortured.

81. Individuals suspected by the Government of being involved in setting up and operating alternative medical facilities or providing medical supplies or treatments were also subjected to arrest and torture by the security forces. According to testimonies, security forces warned the staff of private hospitals and ambulance drivers not to treat or provide assistance to injured protesters. Instead, they were ordered to transfer all such patients to either public or military hospitals. While some private hospitals complied with Government orders, others continued to provide wounded protesters with first aid and other medical services.

82. The rights to food and to water were violated in numerous instances, particularly in cities where wide-scale military operations were conducted. For example, witnesses told to the commission that, during the attack and blockade of Dar'a, the military and security forces barred the city's residents from obtaining food and other basic necessities. Residential water tanks and water pipes were deliberately damaged by military and security forces.

83. The commission received credible information regarding the destruction of property, including of homes and household possessions. In the context of raids, security and military forces received orders from their superiors to systematically loot homes, shops and other properties, steal money and other valuables. Motorcycles were confiscated, piled up and destroyed to prevent people from joining rallies outside their place of residence.

## **IV. Violations and crimes under applicable international law**

### **A. International human rights law**

84. On the basis of the information and evidence collected, the commission has reached conclusions with regard to a number of serious violations of international human rights law. The major conclusions are summarized below.

#### **1. Impunity**

85. Accountability constitutes the basic element of justice and the rule of law. The commission expresses its grave concern over the prevailing systemic impunity for human rights violations and its entrenchment in legislation awarding immunity for State officials, in contravention of the State's international legal obligations.

#### **2. Excessive use of force, extrajudicial executions and other violations of the right to life**

86. Governments have an obligation to maintain public order. They bear the ultimate responsibility for protecting individuals under their jurisdiction, including those participating in public assemblies and exercising their right to freedom of expression. In the Syrian Arab Republic, the high toll of dead and injured is the result of the excessive use of force by State forces in many regions. Isolated instances of violence on the part of demonstrators do not affect their right to protection as enshrined in international human rights law.

87. The Syrian Arab Republic has violated the right to life, as enshrined in article 6 of the International Covenant on Civil and Political Rights, through the use of excessive force by military and security forces as well as by militia, such as *Shabbiha*, acting in complicity with, or with the acquiescence of, State officials and forces.



**3. Violations of the right to peaceful assembly and the right to freedom of expression**

88. Efforts by the Government to control information and the right to freedom of assembly and expression lie at the heart of the current violence. Consistent eyewitness and victim accounts indicate that military and security forces have reacted excessively to peaceful demonstrations, including the use of live ammunition to quell demonstrators and extensive cases of arbitrary detention. The presidential decree on freedom of assembly issued on 21 April has not ensured respect for human rights. The commission notes with great concern the widespread harassment of human rights defenders and journalists.

89. The commission concludes that the Syrian Arab Republic has systematically violated the rights to freedom of assembly and expression as enshrined in articles 19 and 21 of the International Covenant on Civil and Political Rights.

**4. Arbitrary detention and violations of the right to a fair trial**

90. The commission is seriously concerned about the absence of judicial independence and the extensive use of arbitrary and incommunicado detention without criminal charges or judicial supervision. Mass arrests have regularly been made by military and security forces. Detainees were charged with broadly defined crimes such as “weakening the national sentiment”, and prosecuted at random in civil or military courts. Despite the abolition of the Supreme State Security Court in April 2011, military courts continue to operate in clear violation of the right to a fair and public hearing by a competent, independent and impartial tribunal. The commission notes with concern reports indicating the practice of involuntary and enforced disappearances.

91. The commission concludes that the Syrian Arab Republic has systematically violated the right to liberty and security of a person and of fair trial standards as enshrined in articles 9, 10 and 14 of the International Covenant on Civil and Political Rights, and articles 37 and 40 of the Convention on the Rights of the Child.

**5. Torture and sexual violence**

92. Information received demonstrates patterns of continuous and widespread use of torture across the Syrian Arab Republic where protests have taken place. The pervasive nature, recurrence and reported readiness of Syrian authorities to use torture as a tool to instil fear indicate that State officials have condoned its practice. Information from military and security forces defectors indicates that they received orders to torture. The commission is particularly disturbed over the extensive reports of sexual violence, principally against men and boys, in places of detention.

93. The commission concludes that the extensive practices of torture indicate a State-sanctioned policy of repression, which manifestly violates the State’s obligations under article 7 of the International Covenant on Civil and Political Rights, the Convention against Torture, and article 37 of the Convention on the Rights of the Child.

**6. Violations of children’s rights**

94. The commission expresses its deepest concern over consistent reports of extensive violations of children’s rights committed since the start of the uprising in March, including killings of children during demonstrations and widespread practices of arbitrary detention, torture and ill-treatment, in particular of boys. Children were subjected to the same conditions and abuses in detention as adults. The commission concludes that the State has fundamentally failed its obligations under the Convention on the Rights of the Child, article 24 of the International Covenant on Civil and Political Rights, and the Convention against Torture.

**7. Violations of the right to freedom of movement**

95. The right to freedom of movement is provided for under article 12 of the International Covenant on Civil and Political Rights. This right encompasses both the freedom of movement inside the country of residence and the freedom to leave one's country. The Syrian Arab Republic has taken measures to restrict the right to leave the country to seek protection and has deliberately targeted and killed people at or near border crossings.

**8. Violations of economic and social rights**

96. Restrictions imposed by the State on the treatment of injured protesters constitute serious violations of the right to health and the right to access medical assistance guaranteed under article 12 of the International Covenant on Economic, Social and Cultural Rights. Other rights, such as the right to an adequate standard of living and the rights to food, to water (art. 11) and to education (art. 13), have been infringed upon in the context of wide-scale military operations and blockades in several locations.

**B. International humanitarian law**

97. The commission is concerned that the armed violence in the Syrian Arab Republic risks rising to the level of an "internal armed conflict" under international law. Should this occur, international humanitarian law would apply. The commission recalls that the International Court of Justice has established that human rights law continues to apply in armed conflict, with the law of armed conflict applying as *lex specialis* in relation to the conduct of hostilities.

98. According to the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia, an armed conflict exists when there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups, or between such groups within a State. The Trial Chamber in *Tadić* and subsequent cases interpreted the test for internal armed conflict as consisting of two criteria: the intensity of the conflict, and the organization of the parties to the conflict, as a way to distinguish armed conflict from banditry, unorganized and short-lived insurrections or terrorist activities, which do not fall within the scope of international humanitarian law.

99. The commission was unable to verify the level of the intensity of combat between Syrian armed forces and other armed groups. Similarly, it has been unable to confirm the level of organization of such armed groups as the Free Syrian Army. For the purposes of the present report, therefore, the commission will not apply international humanitarian law to the events in the Syrian Arab Republic since March 2011.

100. Nevertheless, crimes against humanity may occur irrespective of the existence of an armed conflict and the application of international humanitarian law. The commission describes below its reasons for concluding that members of the Syrian military and security forces have committed crimes against humanity in 2011.

**C. International criminal law**

101. According to article 7 of the Rome Statute of the International Criminal Court, "crimes against humanity" include acts such as murder, torture and unlawful imprisonment when committed as part of a widespread or systematic attack directed against any civilian

population, with knowledge of the attack. Crimes against humanity have five elements: there must have been an attack;<sup>21</sup> the attack must have been directed against the civilian population;<sup>22</sup> the attack must be widespread or systematic;<sup>23</sup> the acts of the perpetrator must form part of the attack;<sup>24</sup> and the perpetrator must know that there is an attack directed against the civilian population.<sup>25</sup>

102. The commission received numerous, credible and consistent first-hand reports about widespread and systematic violations of the human rights of civilians in the Syrian Arab Republic since March 2011. The scale of these attacks against civilians in cities and villages across the country, their repetitive nature, the levels of excessive force used consistently by units of the armed forces and diverse security forces, the coordinated nature of these attacks and the evidence that many attacks were conducted on the orders of high-ranking military officers all lead the commission to conclude that the attacks were apparently conducted pursuant to a policy of the State.

103. The above conclusion finds support in diverse sources of information. Multiple witnesses indicated that, on different days and in different locations, officers at the level of Colonel and Brigadier General issued orders to their subordinate units to open fire on protesters, beat demonstrators and fire at civilian homes. The commission received credible evidence that it is unlikely that the officers issued these orders independently given that the Syrian military forces are professional forces subject to military discipline. The commission therefore believes that orders to shoot and otherwise mistreat civilians originated from policies and directives issued at the highest levels of the armed forces and the Government.

104. Security forces and the military made concerted efforts to control access to information about the protests. Prior to operations to stop civilian demonstrations, military commanders told their units, falsely, that they were going to fight “terrorists”, “armed gangs” or Israelis. Television sets in barracks and soldiers’ cellular telephones were confiscated. Journalists who attempted to report on the protests were arrested, detained, tortured and interrogated about the activities of their colleagues. People who filmed attempts by security forces to stop demonstrations were targeted for arrest. Different pretexts were used to create the impression that the civilian protesters were “terrorists” or “armed gangs”: for example, in the Saqba suburb of Damascus, security forces circled behind protesters and fired towards the soldiers deployed there to create the impression that the soldiers were being fired upon. These efforts to control and distort available information about events reflect the existence of a plan or policy to conceal the truth.

105. Witness testimonies revealed extensive degrees of coordination among diverse security and military forces during operations to stop protests. Members of security forces were often stationed behind soldiers or inside tanks to ensure that soldiers followed orders to shoot at protesters. On several occasions, soldiers who disobeyed these orders were shot themselves by the security forces or by army snipers. In addition, members of the *Shabbiha*

<sup>21</sup> *Prosecutor v. Momčilo Perišić*, Judgement, Case No. IT-04-81-T, 6 September 2011, paras. 81-82.

<sup>22</sup> *Prosecutor v. Jean-Pierre Bemba Gombo*, decision pursuant to article 61 (7) (a) and (b) of the Rome Statute on the charge of *Prosecutor v. Jean-Pierre Bemba Gombo*, Case No. ICC -01/05-01/08, 15 June 2009, para. 77.

<sup>23</sup> *Prosecutor v. Jean-Pierre Bemba Gombo*, Decision Pursuant to Article 61 (7) (a) and (b), paras. 81 and 83; *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, decision on the confirmation of charges, paras. 396 - 397.

<sup>24</sup> Perišić Judgement, para. 87, citing Kunarac Appeal Judgement, paras. 85, 99 – 100; and *Prosecutor v. Mile Mrksic and Veselin Sljivancanin*, Appeal Judgement, Case No. IT-95-13/1-A, 5 May 2009, para. 41.

<sup>25</sup> *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, decision on the confirmation of charges, para. 401; and *Prosecutor v. Bemba*, decision on the confirmation of charges, para. 88.

paramilitary groups were often present during operations to quash demonstrations and assisted in efforts to repress protests. When soldiers detained demonstrators, they would turn them over to units of the security forces who transported the protestors to detention centres. This degree of coordination between military and security forces could only be possible under the direction of the highest levels of the Government and the military.

106. Information provided to the commission illustrates the extensive resources that the Government and armed forces has devoted to efforts to control protests. In addition to regular military units armed with automatic weapons, the military deployed snipers, Special Forces units, tanks, armoured personnel carriers and intelligence units during operations to end demonstrations. To sustain these operations, the State had to provide sufficient weapons, ammunition, tank shells, uniforms, transport vehicles, fuel, communications equipment and food. Similar material was required to sustain the different security forces deployed. The commission believes that expenditure of such large quantities of State resources would only be possible pursuant to the policies and directives of the Government.

107. The sheer scale and consistent pattern of attacks by military and security forces on civilians and civilian neighbourhoods and the widespread destruction of property could only be possible with the approval or complicity of the State.

108. According to international law, when certain crimes are committed as part of a widespread or systematic attack against civilians and the perpetrators know that their conduct is part of this attack, such offences constitute crimes against humanity. The commission is thus gravely concerned that crimes against humanity of murder,<sup>26</sup> torture,<sup>27</sup> rape<sup>28</sup> or other forms of sexual violence of comparable gravity,<sup>29</sup> imprisonment or other severe deprivation of liberty,<sup>30</sup> enforced disappearances of persons<sup>31</sup> and other inhumane acts of a similar character<sup>32</sup> have occurred in different locations in the country since March 2011, including, but not limited to, Damascus, Dar'a, Duma, Hama, Homs, Idlib and along the borders.

## V. Responsibility

### A. State responsibility

109. The Syrian Arab Republic has failed its obligations under international human rights law. Every internationally wrongful act of a State incurs the international responsibility of that State.<sup>33</sup> Similarly, customary international law provides that a State is responsible for all acts committed by members of its military and security forces.<sup>34</sup> The State is therefore responsible for wrongful acts, including crimes against humanity, committed by members of its military and security forces as documented in the present report.

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<sup>26</sup> Rome Statute of the International Criminal Court, Elements of Crimes, art. 7 (1) (a).

<sup>27</sup> *Ibid.*, art. 7 (1) (f).

<sup>28</sup> *Ibid.*, art. 7 (1) (g) 1.

<sup>29</sup> *Ibid.*, art. 7 (1) (g) 6.

<sup>30</sup> *Ibid.*, art. 7 (1) (e).

<sup>31</sup> *Ibid.*, art. 7 (1) (i).

<sup>32</sup> *Ibid.*, art. 7 (1) (k).

<sup>33</sup> *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10)*, chap. IV, sect. E, art. 1.

<sup>34</sup> *Ibid.*, commentary to article 7.

110. The prohibition of crimes against humanity is a *jus cogens* or peremptory rule, and the punishment of such crimes is obligatory pursuant to the general principles of international law.<sup>35</sup> Furthermore, crimes against humanity are the culmination of violations of fundamental human rights, such as the right to life and the prohibition of torture or other forms of inhuman and degrading treatment.<sup>36</sup> According to the principles of State responsibility in international law, the Syrian Arab Republic bears responsibility for these crimes and violations, as well as the duty to ensure that individual perpetrators are punished and that victims receive reparation.<sup>37</sup>

## **B. Individual responsibility for crimes against humanity**

111. The principle of individual criminal responsibility for international crimes is well established in customary international law.<sup>38</sup> According to article 27 of the Rome Statute of the International Criminal Court, which the Syrian Arab Republic has signed but not ratified, the Statute applies equally to all persons, without any distinction based on official capacity. In this context, Syrian laws afford extensive immunities, in most cases, for crimes committed by Government agents at all levels during the exercise of their duties. Although the Independent Special Legal Commission was established in recent months to investigate events, the State still has not provided the commission with any details of investigations or prosecutions under way by this mechanism.

## **VI. Recommendations**

112. **The independent international commission of inquiry recommends that the Government of the Syrian Arab Republic:**

- (a) Put an immediate end to gross human rights violations;**
- (b) Initiate prompt, independent and impartial investigations under both domestic and international law to end impunity, ensure accountability and bring perpetrators to justice;**
- (c) Pending investigations, suspend from the military and the security forces all alleged perpetrators of serious human rights violations;**
- (d) Ratify the Rome Statute of the International Criminal Court and introduce domestic legislation consistent with it;**
- (e) Release immediately all persons arbitrarily detained and provide international monitoring bodies and the International Committee of the Red Cross with access to all places of detention;**
- (f) Allow immediate and full access for the commission and outside observers, and other United Nations human rights monitoring bodies;**

<sup>35</sup> *Case of Almonacid-Arellano et al v. Chile*, Inter-American Court of Human Rights, Judgement of September 26, 2006, (Preliminary Objections, Merits, Reparations and Costs), para. 99. See also *Official Records of the General Assembly* (see footnote 34), Art. 26.

<sup>36</sup> *Almonacid-Arellano et al. v. Chile*, para. 111.

<sup>37</sup> See the Preamble to the Rome Statute of the International Criminal Court: "Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes."

<sup>38</sup> *Prosecutor v. Tharcisse Muvunyi*, Judgement, Case No. ICTR-00-55-T, 12 September 2006, para. 459.

(g) Grant immediate access to affected areas and provide international organizations, United Nations specialized agencies and non-governmental organizations with full cooperation for the purpose of protecting the population and providing humanitarian assistance;

(h) Ensure full access for media and allow both national and international journalists to cover the events in the country without harassment or intimidation;

(i) Abolish legislation granting military and security forces immunity, and expedite the revision of relevant legislation and policies applicable to security forces, in accordance with international standards;

(j) Support hospitals and clinics to ensure provision of adequate health care, including for those injured in the unrest;

(k) Establish a mechanism to investigate cases of disappearances by allowing relatives of disappeared persons to report the details of their cases, and to ensure appropriate investigation;

(l) Establish a reparation fund for victims of serious human rights violations, including killings, enforced disappearances, torture and other cruel, inhuman or degrading treatment or punishment, arbitrary detention and destruction of property;

(m) Implement political and legal reforms announced in 2011 ensuring the respect of human rights;

(n) Respect human rights defenders and ensure that there are no reprisals against persons who have cooperated with the commission;

(o) Facilitate the voluntary return of Syrian refugees.

113. The commission recommends that opposition groups ensure respect for and act in accordance with international human rights law.

114. The commission recommends that the Human Rights Council:

(a) Establish the mandate of special rapporteur on the situation of human rights in the Syrian Arab Republic;

(b) Keep the situation in the Syrian Arab Republic on its agenda, and invite the United Nations High Commissioner for Human Rights to report periodically on the human rights situation;

(c) Take urgent steps, including through the General Assembly, the Secretary-General and the Security Council, to implement the recommendations made in the present report.

115. The commission recommends that the High Commissioner establish a field presence in the Syrian Arab Republic with a protection and promotion mandate.

116. The commission recommends that Member States and regional organizations, particularly the League of Arab States:

(a) Support efforts to protect the population of the Syrian Arab Republic and to bring an immediate end to gross human rights violations, and suspend the provision of arms and other military material to all parties;

(b) Assist the Syrian Arab Republic in addressing serious institutional weaknesses by strengthening the independence of its judiciary and reforming its security sector through bilateral and multilateral development cooperation;

(c) **Provide Syrian nationals seeking protection with refuge in accordance with the provisions of the international law governing asylum.**

## Annexes

### Annex I

#### **Terms of reference of the independent international commission of inquiry on the Syrian Arab Republic**

##### **Mandate**

1. In its resolution S-17/1, the Human Rights Council decided to dispatch urgently an independent, international commission of inquiry:

(a) To investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic;

(b) To establish the facts and circumstances that may amount to such violations and of the crimes perpetrated including those that may constitute crimes against humanity;

(c) To identify, where possible, those responsible with a view to ensuring that perpetrators of violations are held accountable;

(d) To make public the report of the commission as soon as possible, and in any case before the end of November 2011;

(e) To present a written update to the report on the situation in the Syrian Arab Republic at the nineteenth session of the Human Rights Council, in an interactive dialogue with the participation of the United Nations High Commissioner for Human Rights.

2. The Human Rights Council decided to transmit the report of the commission and its update to the General Assembly, and recommended that the Assembly transmit the reports to all relevant bodies of the United Nations.

##### **Cooperation of Syrian authorities**

3. The Human Rights Council called upon the Syrian Arab Republic to cooperate fully with the commission of inquiry.

4. In accordance with established good practices, such cooperation shall include compliance with requests of the commission for assistance in collecting the required information and testimony. The Syrian Arab Republic should, in particular, guarantee the commission:

- Freedom of movement throughout its territory
- Freedom of access to all places and establishments, including prisons and detention centres of relevance to the work of the commission
- Freedom of access to all sources of information, including documentary material and physical evidence, freedom to interview representatives of governmental and military authorities, community leaders, civil society and, in principle, any individual whose testimony is considered necessary for the fulfilment of its mandate
- Appropriate security arrangements for the personnel, documents, premises and other property of the commission



- Protection of all those who are in contact with the commission in connection with the inquiry; no such person shall, as a result of such appearance or information, suffer harassment, threats of intimidation, ill-treatment, reprisals or any other prejudicial treatment
- Privileges, immunities and facilities necessary for the independent conduct of the inquiry; in particular, the members of the commission shall enjoy the privileges and immunities accorded to experts on missions under article VI of the Convention on the Privileges and Immunities of the United Nations, and to officials, as under articles V and VII of the Convention

### **Cooperation with other stakeholders**

5. The commission will approach third States, including neighbouring countries, with a request for cooperation in the collection of information and testimony relevant to the mandate. The commission will also request cooperation from other relevant actors.

### **Composition**

6. The President of the Human Rights Council appointed the experts Paulo Pinheiro (Chairperson), Karen Abuzayd and Yakin Ertürk as members of the commission.

### **Secretariat**

7. The Human Rights Council requested the Secretary-General and the United Nations High Commissioner for Human Rights to provide the full administrative, technical and logistical assistance needed to enable the commission to carry out its mandate. Furthermore, the High Commissioner has been requested to report on the implementation of resolution S-17/1 to the Human Rights Council at its nineteenth session.

8. Accordingly, the commission shall be assisted by a secretariat composed of necessary staff, including administrative, logistic and technical staff.

## Annex II

### **Note verbale dated 29 September 2011 from the independent international commission of inquiry addressed to the Permanent Representative of the Syrian Arab Republic**

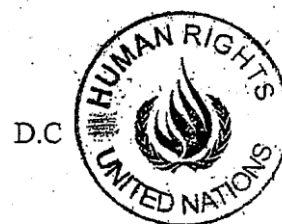
The Commissioners present their compliments to the Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva and specialized institutions in Switzerland, and refer to the Note Verbale sent to the Permanent Representative, H.E Ambassador Faysal Khabbaz Hamoui, on 23 September 2011.

The Commissioners have the honour to inform the Permanent Representative that the Commission of Inquiry will be headed by Mr. Paulo Pinheiro who will be accompanied by Commissioners Ms. Yakin Ertürk and Ms. Karen AbuZayd.

The Commission of Inquiry would like to visit the Syrian Arab Republic as part of fulfilling its mandate and in preparation of its report due by the end of November 2011. The Commissioners wish to request the agreement of the Government of the Syrian Arab Republic to travel to Syrian Arab Republic in the period between 31 October and 7 November 2011.

The Commissioners avail themselves of this opportunity to renew to the Permanent Representative of the Syrian Arab Republic assurances of their highest consideration.

DC



Geneva, 29 September 2011

**Annex III**

**Letter dated 12 October 2011 from the Permanent Representative of the Syrian Arab Republic addressed to the independent international commission of inquiry**

12 October 2011

Dear Mr. Chalev,

In reference to your letter dated 23 September 2011, I would like to draw your attention to the fact that the government of the Syrian Arab Republic has established an Independent Special Legal Commission with a clear and open mandate to investigate in all cases pertaining to the events that took place since March 2011 in Syria.

Consequently, the Syrian Arab Republic will examine the possibility of cooperating with the International Commission of Inquiry established pursuant to Human Rights Council resolution A/HRC/17/1 as soon as the Syrian Independent Special Legal Commission concludes its work.

Yours Sincerely,

**OHCHR REGISTRY**

14 OCT. 2011

Recipients : *D. Chalev...*

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Faysal Hamoui

Ambassador, Permanent Representative

Cc/ H.E Ambassador Laura Dupuy Lasserre, President of the Human Rights Council

## Annex IV

### **Note verbale dated 19 October 2011 from the independent international commission of inquiry addressed to the Syrian Arab Republic**

The Commissioners present their compliments to the Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva and specialized institutions in Switzerland, and refer to the Note Verbale sent to the Permanent Representative, H.E Ambassador Faysal Khabbaz Hamoui, on 29 September. They also wish to acknowledge receipt of H.E Ambassador Faysal Khabbaz Hamoui's response of 12 October 2011.

The Commissioners regret that to date, the Syrian Arab Republic has not been cooperating with the International Commission of Inquiry. The Commissioners wish to reiterate their request to visit the Syrian Arab Republic as part of fulfilling their mandate and in preparation of their report due by the end of November 2011 and the written update requested by the Human Rights Council for its 19<sup>th</sup> session.

If a visit to Syria would not be possible in the coming weeks, the Commissioners would like to invite members of the Independent Special Legal Commission and relevant Syrian officials to Geneva in the second or third week of November.

The Commissioners avail themselves of this opportunity to renew to the Permanent Representative of the Syrian Arab Republic assurances of their highest consideration.



**Annex V****Letter dated 27 October 2011 from the independent international commission of inquiry addressed to the Syrian Arab Republic**

Dear Mr. Ambassador,

On 14 October 2011, we received your letter informing us that the Syrian Arab Republic will examine the possibility of cooperating with the Independent International Commission of Inquiry as soon as the Syrian Independent Special Legal Commission concludes its work.

Resolution A/HRC/S-17/1 requests that the Independent International Commission of Inquiry make its report public before the end of November and we are in the process of finalising our report.

In our note verbale of 19 October 2011, we reiterated our request to visit the Syrian Arab Republic as part of fulfilling our mandate and extended an invitation to the members of the Independent Special Legal Commission and relevant Syrian officials to visit Geneva in the second or third week of November.

We regret that, to date, the Syrian Arab Republic has not agreed to receive the Independent International Commission of Inquiry. This has prevented us from establishing direct contact with the authorities of your Government, as well as civil society organisations in order to share their assessment of the events since March 2011.

We believe that by doing so, the Syrian Arab Republic misses an important opportunity to cooperate with the Human Rights Council and Member States from all regional groups that are supporting our endeavour.

We hope that Syrian Arab Republic will reconsider its decision and would like to assure you that we stand ready to conduct a mission to your country and meet relevant authorities.

Meanwhile, in view of the preparation of the report due by the end of November 2011, we would be grateful if you could provide us with responses to the questionnaire enclosed herewith by 11 November 2011.

Yours Sincerely,



Paulo Pinheiro  
Chairperson

## **Questions for the Government of the Syrian Arab Republic from the United Nations Commission Of Inquiry**

The questions in this document are organized into three general categories: 1) questions concerning respect for the right to life; 2) questions concerning the right to be free from arbitrary detention and other forms of mistreatment; and 3) questions concerning recent Legislative Decrees, the Independent Special Legal Commission and other activities of the Syrian Arab Republic. The Commission of Inquiry respectfully seeks the assistance of the Government of the Syrian Arab Republic in clarifying the questions below.

### **I. Questions Concerning Respect for the Right to Life**

1. Please provide the Commission of Inquiry with a list of those members of the security services and armed forces who have been killed by “terrorist groups” since March 2011 and any information in the possession of the Government of the Syrian Arab Republic concerning the circumstances of their deaths.

2. Please provide the Commission of Inquiry with information about events that were “staged” from March 2011 to the present in order to increase political pressure on the Government of the Syrian Arab Republic and its citizens.

3. Would the Government of the Syrian Arab Republic please answer the questions a – j below about events which occurred in Syria during 2011, including, but not limited to: the Da'ra Military Operation (1 April 2011), the Hama Great Friday Incident (22 April 2011), the Jisr al Shoughour military operation/incident (5 June 2011), the Hama military operation (31 July 2011), the Homs Military operation (throughout September 2011), the Ar Rastan military operation (3 October 2011),

- (a) Which army units, police or other security agencies were deployed at the location of the events?
- (b) Which army or police officers and/or civilian leaders gave the orders for the deployment and were responsible for its execution?
- (c) Were the deployed military/security/and/or police units instructed to use force if necessary, and, if so, on what grounds?
- (d) Was a written order with clear rules of engagement and/or use of force issued for the purpose of monitoring the protests and ensuring public order? If so, can the Commission of Inquiry please receive a copy of the order(s)?
- (e) Which kind of weapons were the military/security and/or police forces issued and authorized to use in order to ensure public order?
- (f) How many armed individuals were arrested or killed by Government forces during the events?
- (g) How many unarmed individuals were arrested or killed by Government forces in the events?
- (h) How many and what type of weapons have been seized in the operation?
- (i) Were any militia groups (including so-called “Shabiha”) present at these events? If so, how did such militia groups participate in these events?

- (j) Will the Government make public a record and disclose details and circumstances regarding the fatalities and casualties incurred by Government forces, armed opposition groups and civilians?

## **II. Questions Concerning the Right to Be Free from Arbitrary Detention and Other Forms of Mistreatment**

4. Could the Government of the Syrian Arab Republic please describe to the Commission of Inquiry what measures the Government has implemented to investigate allegations since March 2011 of torture, arbitrary arrest, and enforced disappearances by members of Government security forces, the army and/or the police, militia groups (including the so-called “Shabiha”), and prosecute those individuals responsible for these alleged crimes? Has the Government been able to disprove any such allegations and if so, which ones? Has the Government established that any of these allegations are true? If so, have any of the perpetrators been charged with a crime or disciplined?

5. Do local authorities keep an official up-to-date register of all persons deprived of liberty, including those arrested from March 2011 onwards, in every place of detention? Does the Government of the Syrian Arab Republic maintain a similar centralized register? If so, is the information contained in these registers made available to family members, their counsel, or any other person having a legitimate interest in the information? Will the International Committee of the Red Cross be granted access to those persons who are detained? Will the Commission of Inquiry be granted access to those persons who are detained?

6. The Commission of Inquiry understands that persons detained in the Syrian Arab Republic may challenge their detention pursuant to paragraphs 2 and 4 of Article 28 of the Constitution. During 2011, to date, how many detained persons in Syria have challenged their arrest/detention under these provisions of the Constitution? How many such challenges have been successful? Can you please provide examples?

7. In paragraph 32 of its report to the Human Rights Council dated 2 September 2011, the Government of the Syrian Arab Republic explains that “[t]he Ministry of Justice and the Ministry of the Interior oversee a process of effective, constant, systematic and continuous monitoring of prisons and prison inspections.”

8. Can you please describe how this process has functioned during 2011? Which prisons have been monitored and inspected? What procedures occurred when these prisons were monitored and inspected? Who carried them out? How many prisoners were monitored and/or inspected? Where are the records of these procedures and inspections? May the Commission of Inquiry please be given access to these records?

9. Could the Government of the Syrian Arab Republic please inform the Commission of Inquiry how many persons detained during the demonstrations in 2011 have applied for bail? How many have received bail?

10. Could the Government of the Syrian Arab Republic please inform the Commission of Inquiry how many children between the ages of 10 and 18 have been arrested during the demonstrations in 2011? Where have they been detained? Are any such children still detained? May the Commission of Inquiry please be given access to them?

11. During 2011, how many persons have been detained for longer than sixty days for violations of State Security laws? Where are these persons detained and can the Commission of Inquiry please receive a list of their names? What is the legal basis for holding these persons for longer than sixty days? Can the Commission of Inquiry please receive access to these persons?

12. The Commission of Inquiry understands that the National Dialogue Commission met in June 2011 and made the following recommendations:

- (k) All political prisoners must be released immediately, together with prisoners of conscience who have not committed any legally punishable offence.
- (l) All those detained during the recent events should be released, if they have not already been convicted by the courts.

13. The Commission of Inquiry would like to know how many “political prisoners” have been released since June 2011? For those “political prisoners” still detained, can the Commission of Inquiry please receive a list of their names, the place of their detention and the reasons for their detention?

14. The Commission of Inquiry would like to know how many “prisoners of conscience” have been released since June 2011? For those “prisoners of conscience” still detained, can the Commission of Inquiry please receive a list of their names, the place of their detention and the reasons for their detention? Has the Government of the Syrian Arab Republic amended its legislation concerning the detention of “prisoners of conscience”?

### **III. Questions Concerning Recent Legislative Decrees, the Independent Special Legal Commission and other Activities of the Syrian Arab Republic.**

15. What kind of fair trial guarantees are available to civilians prosecuted under “state security offenses”?

16. Can you please provide details regarding the prosecution of military, security and law enforcement personnel involved in the use of excessive force while preventing or stopping the protests that have occurred in several cities and locations in the Syrian Arab Republic since March 2011. Does the law of the Syrian Arab Republic provide immunity from prosecution for members of the intelligence, security, police and/or armed forces who use excessive force?

17. Could you please update the Commission of Inquiry regarding progress related to the work of the Independent Special Legal Commission established on 31 March tasked with investigating the events in Dara’a? Will the work of the Independent Special Legal Commission be extended to encompass other incidents of political unrest over the past seven months? Can the Commission of Inquiry receive access to the findings and methodology of the Judicial Commission?

18. Were the amnesties granted by the Government Decrees No. 61 of 31 May 2011 and No. 72 of 17 July 2011 also applied to offenses related to treason and terrorism? Can you describe the practical application of these decrees? How many persons received amnesties? For what crimes or charges? How many persons requested amnesty but were rejected? If requests for amnesty were rejected, can you please describe the reasons why?

19. Can you please clarify which specific measures have been taken to implement the lifting of the state of emergency? Would you please provide a list of prisoners whose offenses were related to breaches of “state security” during 2011? Have any of these prisoners received amnesty? For those who have not received amnesty, have they been prosecuted? Where are they detained or imprisoned?

20. Could you please provide details on the application of the recently enacted decree No. 55 of 21 April 2011 on the use of detention without judicial review for up to seven days, renewable for up to two months? Has any suspect been apprehended, investigated, and prosecuted under this new provision?



21. The Commission of Inquiry understands that Legislative Decree 54 of 21 April 2011, creates new procedures for authorization of peaceful protests. How many requests to make peaceful protests have been made since the enactment of law? How many such requests have been granted? Where requests have been denied, what were the reasons for the denial? Since this law was enacted, how many persons have been arrested for “the staging of unlawful demonstrations or riots?” Where are those persons detained and for how long have they been detained?

22. In paragraph 87 of its National Report dated 2 September 2011, the Government of the Syrian Arab Republic explains that, in implementation of the “amnesty” decrees, i.e. Legislative Decree 34 of 7 March 2011, Legislative Decree 61 of 31 May 2011 and Legislative Decree 72 of 20 June 2011, 10,433 persons were released immediately from detention. Does the Government of the Syrian Arab Republic have a list of those persons, the locations of their detentions, the reasons for their detentions, and the contact details of these persons? If so, can the Commission of Inquiry have access to this information? Of these 10,433 persons released, how many of these persons were being detained for “offenses against State Security and public order?” How many persons whose cases were before the “Supreme State Security Court” when it was abolished, received amnesties?

23. To date, during 2011, how many persons in the Syrian Arab Republic have been prosecuted for violations of articles 357, 358, 359 and 555 of the Criminal Code concerning unlawful deprivations of liberty? Can you please provide some examples of these prosecutions? How many people have been convicted for such violations? What penalties have they received?

24. Pursuant to the Legislative Decree 34 of 7 March 2001, Legislative Decree 61 of 31 May 2011 and Legislative Decree 72 of 20 June 2011, how many members of the army, police or other government institutions were granted “amnesty” for violations of articles 357, 358, 359 and 555 of the Criminal Code? How many members of the army, police or other government institutions were granted “amnesty” for “unlawful deprivation of liberty” pursuant to Article 105 of the Code of Criminal Procedure?

26. Could you please clarify the meaning and scope of Decree No. 14 of 1969, particularly article 16; and Decree No. 69 of 2008?

## Annex VI

### **Note verbale dated 4 November 2011 from the independent international commission of inquiry addressed to the Syrian Arab Republic**

The Commissioners present their compliments to the Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva and specialized institutions in Switzerland, and refer to their Notes Verbales of 29 September 2011 and 19 October 2011 as well to the Chairperson's letter of 27 October 2011.

The Commissioners welcome the decision made by the Council of the League of Arab State during its extraordinary session on 2 November and sincerely hope that the agreement reached between the League of Arab State and your Government will contribute towards the protection of the lives and human rights in Syria.

The Commissioners note the commitment made by the Syrian Government to cease all violence, the withdrawal of its armed presence from cities and inhabited areas, as well as to release all those detained in relation to the recent events.

In light of these developments, the Commissioners wish to reiterate their request to visit the Syrian Arab Republic as part of fulfilling their mandate and in preparation of their report due by the end of November 2011 and the written update requested by the Human Rights Council for its 19<sup>th</sup> session. The Commissioners also wish to reiterate their invitation to the members of the national Independent Special Legal Commission and relevant Syrian officials to meet with them in Geneva in the second or third week of November.

The Commissioners avail themselves of this opportunity to renew to the Permanent Representative of the Syrian Arab Republic assurances of their highest consideration.



## Annex VII

**Note verbale dated 17 November 2011 from the Syrian Arab Republic addressed to the independent international commission of inquiry**

N° 568/11

Geneva, 17 November 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 Chairperson of the Independent International Commission of Inquiry pursuant to resolution A/HRC/S-17/1, and with reference to his letter of 27<sup>th</sup> October 2011 with a questionnaire enclosed, has the honour to kindly attached herewith the responses of the Government of the Syrian Arab Republic to this mentioned questionnaire.

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to the Chairperson of the Independent International Commission of Inquiry to resolution of A/HRC/S-17/1 the assurances of its highest consideration.



M. Paulo Pinheiro  
Office of High Commissioner for Human Rights  
Palais Wilson

OHCHR REGISTRY

18 NOV. 2011

Recipients : .....D. Chalek (encl)

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تود الحكومة السورية الإشارة إلى أن الأسئلة المذكورة أعلاه مهمة بها اللجنة القضائية الوطنية المستقلة المشكلة بتاريخ ٢٠١١/٣/٣١، والتي توسعت صلاحيتها بتاريخ ٢٠١١/٥/١١، لتصبح مهمتها إجراء التحقيقات الفورية في جميع القضايا التي أودت بحياة مواطنين مدنيين أو عسكريين أو أمنيين، منذ بداية الأحداث في سورية، وفي كافة المحافظات، وبجميع الجرائم التي رافقت هذه الأحداث، وشكلت بدورها لجان قضائية فرعية في كل محافظة، تتبع لها مباشرة للتحقيق في كافة الأحداث الجارية بالمحافظات، والتي لا زالت تمارس مهامها الموكلة إليها، وبالتالي لا يمكن في ظل ذلك تزويد رئيس لجنة التحقيق الدولية السيد باولو بينيرو بالأجوبة التفصيلية المطلوبة، حتى انتهاء اللجنة القضائية الوطنية من تحقيقاتها، ورفع النتائج الكاملة عن تحقيقاتها. ويمكن إحاطة اللجنة حالياً بالمعلومات التالية:

- لم تتوقف قط الضغوط السياسية وغيرها على سورية لتغيير نهجها المعارض لسياسات الاحتلال والمحاولات الأمريكية وغيرها للهيمنة على المنطقة، وجعلها تدور في فلك السياسة الأمريكية، وازدادت الأحداث المنظمة والضاغطة على سورية بشكل كبير منذ بداية الأحداث في شهر آذار ٢٠١١، وعلى المستويين الإقليمي والدولي، قام الاتحاد الأوروبي بفرض العديد من العقوبات الاقتصادية والسياسية لزيادة الضغط على الحكومة والشعب في سورية للإسراع بإخضاعه للإملاءات الغربية، كما سعت دول الاتحاد بالتعاون مع الولايات المتحدة مرات عديدة لاتخاذ قرارات إدانة للحكومة السورية في مجلس الأمن، ومختلف المحافل الدولية.

- إن التساؤل عن أحداث وعمليات عسكرية زمنياً ومكانياً لا يقدم الصورة الحقيقية لما يجري في سورية، من عمليات إرهابية لمسلحين خارجين عن القانون يقومون بترويع المواطنين وإجبارهم على ترك منازلهم وممتلكاتهم

وتهجيرهم إلى مناطق ذات لون طائفي معين أو قتلهم وتشويه جثثهم لتقسيم البلد طائفيًا وتشجيع الحرب الأهلية. والقوات التي تتصدى لهؤلاء الإرهابيين معنية بحفظ النظام، وتلاحق الإرهابيين المطلوبين للعدالة لإلقاء القبض عليهم وتقديمهم للقضاء لمحاكمتهم وفق القوانين النافذة، ومصادرة أسلحتهم المتنوعة التي بلغت آلاف البنادق الآلية وغيرها من الأسلحة الفردية، والقواذف والقنابل والألغام المعدة للتفجير، ومعظمها يهرب من الخارج، وكلما حاولت السلطات المختصة التوجه إلى المسلحين لتسليم أسلحتهم للعفو عنهم وتطوير الأزمة تبادر جهات خارجية بتشجيعهم على عدم تسليم أسلحتهم للاستمرار بقتل المدنيين، وكان آخر هذه المبادرات ما أدلى به الناطق الرسمي باسم الخارجية الأمريكية.

- أما بالنسبة للمشاركين في العمليات الأمنية، فهم كما وضحنا من القوات المتخصصة بحفظ النظام ومكافحة الإرهاب، وما يطلق عليهم مصطلح الشبيحة الذي يتم تداوله خارجياً، فهو غير موجود في سورية أبداً، إلا إذا كان المقصود به كل مواطن سوري يعمل لمنع هدر الدماء وتطوير الأزمة، وهؤلاء يمثلون أكثر من ٨٠% من سكان سورية.

- إن كل حادثة وفاة تتم سواءً من قوى حفظ النظام أو المدنيين أو المسلحين الإرهابيين الخارجيين عن القانون يتم تسجيلها كواقعة في سجلات رسمية بمديريات الشؤون المدنية في كافة المحافظات السورية، تشرف عليها مكاتب رسمية في الدولة.

[Unofficial translation]

**Letter dated 17 November 2011 from the Syrian Arab Republic to the international independent commission of inquiry**

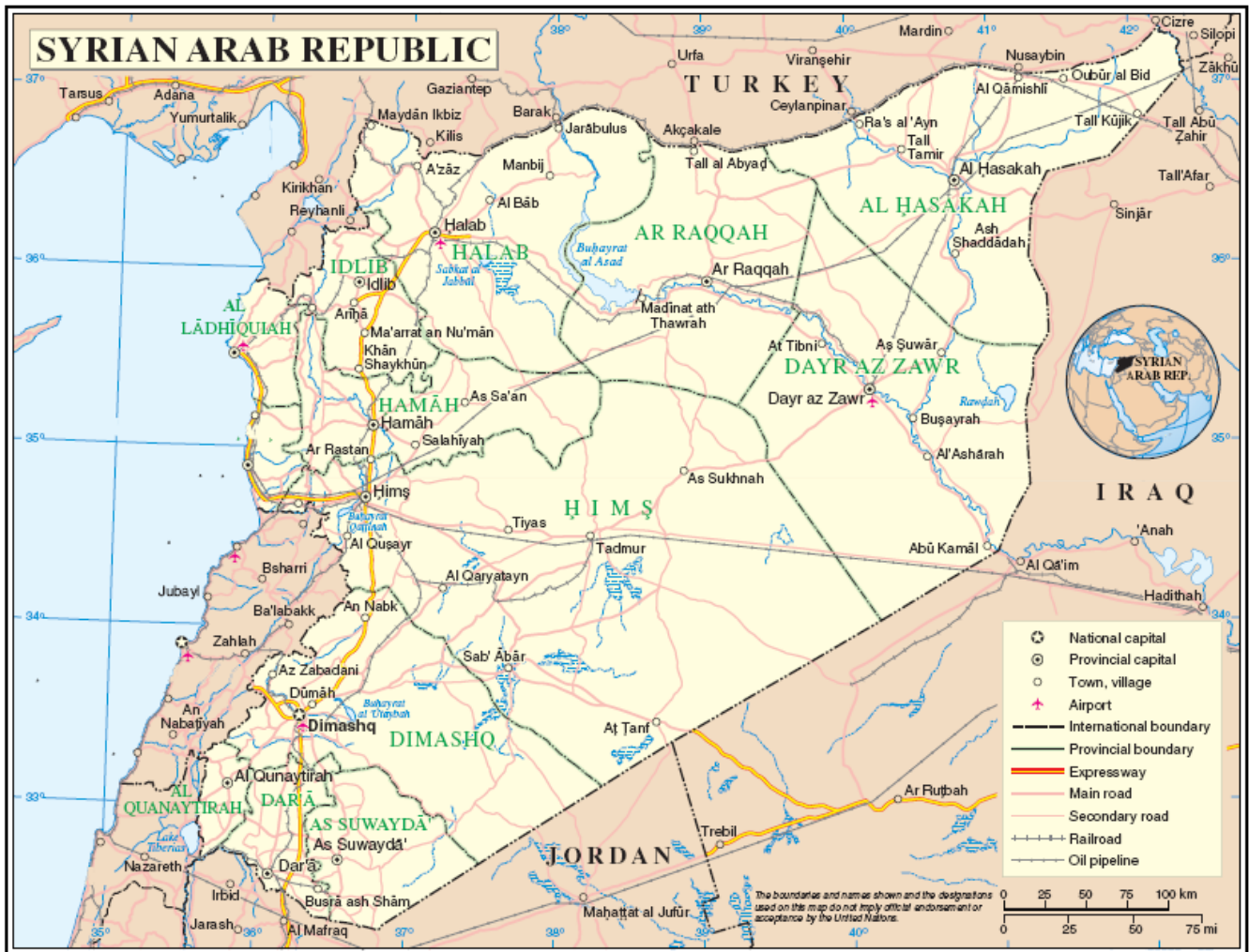
The Syrian Government would like to point out that the above-mentioned questionnaire is being considered by the Independent Special Legal Commission, which was established on 31 March 2011, and whose mandate has been expanded on 11 May 2011 to carry out immediate investigations into all cases involving the death of citizens, including civilians, military or security personnel since the beginning of the events in Syria. The mandate of the commission covers all events and crimes in all Governorates of Syria. In this regard, the commission has established sub-commissions operating under its supervision in order to carry out investigations in all the Governorates of Syria. The commission is still in the process of carrying out its mandate. Therefore, it will not be possible to provide Mr. Paulo Pinheiro with the required detailed answers before the commission has concluded and presented the full outcome of its investigations.

At this moment, it is possible to inform the commission [of inquiry] of the following:

- Political and other forms of pressure have been on-going to try and coerce Syria to reverse its stance towards policies of occupation and efforts by America and other countries to dominate the region and make it part of the sphere of influence of American policies. These pressures have increased significantly since the beginning of March 2011. At both the regional and international levels, the European Union has imposed economic and political sanctions to increase pressure on the Government and on the people of Syria in order to accelerate their submission to Western policies. European Union States together with the United States have sought resolutions condemning the Government of Syria at the UN Security Council and in other international forums.
- Questions regarding incidents, time and place of military operations cannot depict the picture of what has been really happening in Syria, in terms of terrorist operations carried out by armed outlaws who are terrorizing our citizens and forcing them to abandon their homes and properties, and eventually resulting in their displacement to areas of certain sectarian demography, or resulting in their death and the mutilation of their bodies, in order to divide the country along sectarian lines and incite civil war. The [Syrian security] forces dealing with those terrorists are tasked with maintaining public order. They chase wanted terrorists in order to arrest them and bring them to justice, in accordance with the law, and to confiscate their weapons, which include automatic rifles, small arms, launchers, bombs, landmines, the majority of which is smuggled in from abroad. Every time the authorities attempted to engage those armed individuals, requesting that they hand over their guns in return for amnesty, foreign entities stepped in and encouraged them not to turn in their arms so that they continue killing civilians. The latest of such initiatives was that expressed by the Spokesperson of the US State Department.
- As already explained above, those involved in security operations, are the [State] Public Order and Anti-Terrorism forces. Regarding the so-called *Shabbiha*, this is an expression which has been used abroad and never in Syria, unless it is meant to refer to all Syrian citizens working towards putting an end to the bloodshed and to the crisis, which would account for more than 80% of the population of Syria.
- Every death whether it is caused by Public Order forces, civilians or armed terrorist outlaws, is recorded in official registries at the Civilian Affairs Directorates in every Syrian Governorate, which are supervised by official bureaus of the Government.

Annex VIII

Map of the Syrian Arab Republic



Map No. 4204 Rev. 2 UNITED NATIONS  
May 2008

Department of Field Support  
Cartographic Section