

Advance Unedited Version

Report of the Fact-Finding Mission on Syria pursuant to Human Rights Council resolution S-16/1

I. Introduction

A. Background

1. Mandate

1. The Fact-Finding Mission for Syria (“Mission”) was established pursuant to Resolution A/HRC/RES/S-16/1 adopted by the Human Rights Council (“Council”) on 29 April 2011.¹ A special session of the Council was convened in light of widespread anti-government protests in Syria and the grave deterioration of the human rights situation.

2. The Human Rights Council resolution called on the Syrian Government to cooperate fully with the Mission, including by granting access to its staff. It also condemned “*the use of lethal violence against peaceful protestors by the Syrian authorities*” and urged, *inter alia*, that no reprisals be taken against those taking part in demonstrations, and that the Syrian Government “*launch a credible and impartial investigation*” and prosecute those responsible for attacks on peaceful protestors.

3. The Council requested the Office of the High Commissioner for Human Rights (OHCHR) “*to dispatch urgently a mission to the Syrian Arab Republic to investigate all alleged violations of international human rights law and to establish the facts and circumstances of such violations and of the crimes perpetrated, with a view to avoiding impunity and ensuring full accountability*”.

4. The High Commissioner for Human Rights (“High Commissioner”) was requested to provide a preliminary report and an oral update on the situation in Syria at the Council’s seventeenth session, which took place on 15 June 2011.² She was also asked to submit a follow-up report to the Council at its eighteenth session and, during that session, to organize an interactive dialogue on the situation of human rights in Syria. The present report, covering events which began on 15 March 2011, is submitted in response to this request.

5. Following the Council’s special session, the High Commissioner established a Mission consisting of thirteen members and headed by the Deputy High Commissioner for Human Rights, Ms. Kyung-wha Kang.³ The Mission began its work on 23 May 2011.

2. Dialogue with the Syrian Government

6. Through a Note Verbale dated 6 May 2011, the High Commissioner formally requested the Syrian Government’s cooperation with the Mission. Having received no response from the Syrian Government on this matter, the High Commissioner reiterated her request for access to the country by a Note Verbale on 20 May 2011, in a meeting with the Syrian Government’s Permanent Representative to the United Nations Office in Geneva on 7 June 2011, and by a letter to the Syrian Prime Minister Adel Safar on 15 July 2011.⁴

7. At the time of writing, the Syrian Government had not responded to our requests for access. OHCHR received five Note Verbales from the Permanent Representative of Syria to the United Nations Office in Geneva, the contents of which are referred

to in this report where relevant.⁵ On 5 August OHCHR received a letter from the Syrian Government in response to its letter to Prime Minister Safar.⁶ On 16 August, the Permanent Mission of Syria addressed a Note Verbale to the High Commissioner which has also been reflected in the present report where appropriate.

B. Methodology

8. The present report covers events in Syria over a four-month period between 15 March and 15 July 2011. This temporal mandate took into account the time constraints placed on the Mission to complete its work in accordance with the schedule specified by the Human Rights Council.

9. The Syrian Government's non-cooperation with OHCHR with regard to access to the country significantly hampered the work of the Mission. This report does not therefore cover all major geographical areas where protests took place, and does not purport to be exhaustive in documenting the many relevant incidents that occurred in the period covered by the Mission's mandate. It addresses only the most serious violations.

10. In June 2011 the Mission conducted three field investigations outside Syria where reliable and credible information could be obtained from a range of sources, including thousands of Syrian nationals who had fled the country in the preceding weeks.⁷ The Mission interviewed a total of 180 persons in four countries, some of whom were in Syria at the time of interviews. In developing its methodology and implementing its mandate, the Mission was guided by the overall concern for protection of victims and witnesses, and took the necessary measures to ensure the confidentiality of their account.⁸

11. The findings in this report are based primarily on the Mission's analysis of first-hand information obtained through interviews conducted with victims and witnesses, consisting of civilians and military personnel, including military defectors, some of whom had refused to follow orders to shoot civilians. The findings are also based on an examination of victims of torture or other forms of ill-treatment whose injuries were still visible and the analysis by the Mission's forensic physician of the medical reports of wounded persons in hospitals and refugee camps outside Syria, most of whom bore firearms injuries. The Mission also studied information received through written communications it had received.⁹ The Mission assessed the credibility of accounts on the basis of consistency among witnesses and the existence of other corroborative accounts. The Mission also interviewed witnesses regarding instances in which civilians may have used violence against security personnel or others.

12. The Mission also examined over 50 videos and numerous photographic images related to apparent human rights violations, which were obtained from both private sources and the media.¹⁰ It reviewed information compiled by national and international non-governmental organizations (NGOs), the media and other information in the public domain. In addition, the Mission considered public statements made by Syrian Government officials or submitted to OHCHR through Notes Verbales.

13. In interpreting its mandate and examining the facts obtained through its investigations, the Mission applied an international legal framework. During the course of its investigations, the Mission compiled a list of 50 alleged perpetrators at various levels of government and its agencies in connection with incidents documented in this report. This information remains confidential but may be presented by OHCHR in the context of future investigations and possible indictments by a competent prosecutor.

C. Legal framework

1. International human rights law

14. Syria is party to most of the core international human rights treaties, and has made international voluntary pledges, including to ‘continue working to raise promotion and protection of all human rights and fundamental freedoms’.¹¹ Four of the international instruments ratified by Syria and which apply to the events described in this report are particularly relevant: the International Covenant on Civil and Political Human Rights, the International Covenant of Economic, Social and Cultural Human Rights, the Convention on the Rights of the Child, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Syria is not a party to the International Convention for the Protection of All Persons from Enforced Disappearance, although it is bound by the provisions of the ICCPR which also prohibit enforced disappearances.

2. International criminal law

15. Syria signed the Rome Statute of the International Criminal Court on 29 November 2000, but it has not ratified it as yet. The Rome Statute establishes four categories of international crimes: war crimes, crimes against humanity, genocide, and the crime of aggression. In the present context, crimes against humanity are particularly relevant to the events in Syria since mid-March 2011, in particular provisions referring to murder, torture, enforced disappearances, persecution, imprisonment or other severe deprivation of physical liberty, and other inhumane acts. Despite non-ratification, Syria is still obliged to refrain from acts that would ‘defeat the objects and purpose of [the] treaty’ according to the Vienna Convention, acceded to by Syria in 1970.¹²

3. Domestic law

16. While the 1973 Constitution sets out basic freedoms that reflect international standards, Syrian domestic law cannot be adequately relied on because it violates constitutional guarantees and encourages impunity on two fronts:

17. First, the Penal Code¹³ sets out various crimes which are broadly defined and may result in the violation of freedom of expression and association, among others. These include ‘spreading false or exaggerated information with the aim of harming the state’, ‘publishing mendacious information liable to weaken the nation’s moral’,¹⁴ and ‘belonging to a secret society that aims to change the State’s political and social structure’.¹⁵ While the Code of Criminal Procedure required suspects to be brought before a judicial authority within 24 hours of arrest or released,¹⁶ on 21 April 2011 it was amended to allow for suspects to be held for up to seven days pending investigation and the interrogation of suspects for certain crimes, renewable for up to a maximum of 60 days.¹⁷

18. Moreover, the State of Emergency Law (SEL)¹⁸ provided for the detention of suspects for crimes which are not defined either by this or other laws, including ‘crimes committed against the state security and public order’ and ‘crimes committed against public authorities’.¹⁹ The SEL enabled government agencies to ‘monitor all types of letters, phone calls, newspapers....and all forms of expression,’ ‘impose restrictions on the freedom of persons...[to hold] meetings’, ‘evacuate or isolate some areas’ and ‘seize any property or real estate’.²⁰ It also enabled the security forces to hold suspects in preventive detention without judicial oversight for indefinite periods. It should be noted in this respect that on 21 April 2011 the Syrian authorities lifted the SEL and abolished the Supreme State Security Court,²¹ but the law itself remains in force.

19. Secondly, the security and intelligence agencies, responsible for reported atrocities committed over time and particularly since March 2011, continue to enjoy

immunity from prosecution under laws which remain in force under Legislative Decrees 14/1969, and 69/2008.

D. Context of the protests in Syria: political and human rights background

20. The Constitution of the Syrian Arab Republic confers to the executive authorities sweeping powers which cannot be challenged effectively by the legislature and the judiciary. The President of the Republic selects and dismisses ministers and the Prime Minister; appoints Supreme Court justices; higher civil servants, security and intelligence personnel; dissolves at will the unicameral People's Assembly (parliament); and enjoys parallel legislative privileges allowing him to bypass parliament. The executive authorities control most other institutions including schools, universities, social and health services, student and trade unions, professional organizations and the media.²² Even though the Constitution²³ reflects the predominance of some Ba'athist military and security officers and their families, members of the ruling group frequently sideline formal hierarchies through informal chains of command. The presidential family and most of the officers belong to the 'Alawite minority which, prior to urbanization, was concentrated in the north west of the country.

21. Since the 1990s in particular, the Government entered into an alliance of sorts with businesses that were among the principal beneficiaries of economic reforms which emphasized private sector growth. Economic liberalization and growth led to a growing gap between rich and poor despite the rhetoric about a 'social market economy'. This was compounded by cuts in social services and subsidies, several severe droughts, the rise in global food prices, and the negative effects of the recent global financial crisis on remittances received from Syrians working abroad. Structural shortcomings of the economy were never seriously addressed by the Government.

22. For over four decades, the situation in Syria has been characterized by gross human rights violations under the cloak of emergency legislation in force since 1963. Syrians suffered arbitrary arrests and illegal detentions, prolonged detention without trial or after unfair trials before exceptional or military courts, torture and ill-treatment resulting in deaths in custody, forced disappearances and summary executions.²⁴ The rights to freedom of expression, association and assembly have been systematically violated. The brutality of the country's security forces is notorious, and a number of the security and intelligence agencies act as independent entities and remain involved in matters beyond their official functions. They enjoy immunity from prosecution by law.²⁵

23. Upon succeeding his father as president in July 2000, hopes were raised that a series of reforms outlined in Bashar al-Assad's inaugural speech may result in greater political freedoms and civil rights.²⁶ Debate on possible reforms was tolerated to a limited extent, but this was short-lived and the crackdown on political and human rights activists resumed. Promised reforms did not materialise over the next decade.²⁷ A number of these proposals were resurrected after the protests which erupted in March 2011 galvanised anti-government sentiment nationally and developed into a significant threat to the state.

24. Economic grievances were particularly strong in traditionally poor areas including north-eastern and border areas such as Dar'a. They also reinforced long standing issues of discrimination and neglect suffered by specific ethnic and religious groups, notably the Kurds who inhabit the north-east and who, until March 2011, were deprived of basic civil, economic and social rights.²⁸ Sunnis often consider themselves marginalized by rulers who are overwhelmingly 'Alawites. Various alliances between the rulers and Sunni entrepreneurs and local notables

notwithstanding, resentment is all the stronger as Sunnis account for some 70-75 percent of the population compared to some 10 percent of 'Alawites.

25. Initial protests in Dar'a and elsewhere were local responses to specific abuses of power by Syrian officials against the general backdrop of growing economic and political discontent. The partly successful uprisings in other countries in the Middle East provided inspiration and hope, but the non-participatory and highly repressive nature of the Syrian Government made it that much harder for people to voice their grievances. Syrians still remember the shelling of Hama in 1982 by security forces that led to the killing of an estimated 5-10,000 people.²⁹ In the absence of legalized opposition parties and independent organizations, discontent was channeled through informal networks and in semi-private contexts. Electronic means of communication and social media also played an important role despite the authorities' efforts to shut them down. Opposition conferences held in June and July 2011 in Antalya and Istanbul revealed tensions between different groups inside and outside the country. The convening of another conference by key opposition figures in Damascus in late June 2011, tolerated by the authorities, was contested by some of the younger activists within local coordination committees.

26. Over several weeks, cautious protests which began in marginalised regions developed into a countrywide uprising. The generalization of protests and their growing demands - for dignity and reforms and then for the departure of the president - seemed to reflect the failure of a policy combining harsh repression with tardy political concessions.

27. The lifting of the state emergency was immediately followed by the shooting of peaceful protestors, which continued even as the Government-sponsored National Dialogue Conference was held in July 2011, and thus was boycotted by the opposition.

E. Military and security forces implicated in human rights violations since mid-March 2011

28. Both the armed forces and the security forces are involved in the suppression of peaceful protests and related violations across Syria. The civilian police has also been deployed in urban areas for crowd control purposes. In addition, an Alawite civilian militia known as *Shabbiha* participated in the commission of abuses against civilians.³⁰ According to multiple accounts obtained by the Mission, foreign fighters were said to have been present and active during operations in several locations.³¹

1. The armed forces

29. The Syrian army's three corps³² were all said to have been deployed as support to the security forces in quelling protests since mid-March 2011,³³ and to have participated in attacks on anti-government protests. Witness accounts indicate that the armed forces actively participated in the killing of unarmed civilians, in imposing sieges on cities or towns, and were complicit in the commission of collective punishments.

2. The security forces

30. The agencies identified by the majority of witnesses interviewed by the mission as having played the key role in suppressing peaceful protests since mid-March 2011, are: the General Security Directorate³⁴; the Political Security Branch;³⁵ the Military Intelligence Branch,³⁶ and the Air Force Intelligence Branch.³⁷ Security and intelligence agencies are pervasive and are present at all administrative levels of the state.³⁸ Typically, each agency has a branch in each governorate and a division in each city; some also have units in villages or smaller towns. Many of the victims and witnesses interviewed by the mission identified the heads of the security and intelligence branches in their governorates or cities as having ordered the

commission of human rights abuses, including summary executions, arbitrary arrests and torture.³⁹

3. The National Police Force

31. The Ministry of Interior's civil police personnel are divided into several forces, including riot police which was deployed during the quelling of protests and demonstrations.⁴⁰ They were often on the front lines, usually equipped with shields and helmets with visors and armed with Kalashnikovs, batons and tear gas canisters. During some of the earlier protests, riot police used water cannons and tear gas to disperse crowds.

4. Civilian militias

32. The *Shabbiha* participated in operations against civilian protestors led by the security forces. These are members of the Alawite minority in Syria and are closely linked to the ruling al-Assad family, many of them having belonged to the earlier Defence Brigades (*Saraya al-Difa*).⁴¹ Numerous victims or witnesses stated that *Shabbiha* elements took part in the crackdown against unarmed civilians in locations including Dar'a, Damascus, Aleppo, Baniyas, Jisr al-Shughour and Ma'arrat al-Nu'man, and in widespread looting of homes and commercial property.

II. Facts

33. Part A of this section focuses on some of the principal events which took place in various governorates across Syria between 15 March and 15 July 2011. Part B examines the Syrian Government's version of events and its responses.

34. At the time of writing, the Mission was in receipt of over 1,900 names and details of persons killed in Syria since mid-March 2011; all are said to be civilians.⁴² The Syrian Government has stated that "hundreds of public order officers and personnel have died and thousand others injured" during protests in the same period.⁴³

A. Details of the events since mid-March 2011

1. Dar'a Governorate

35. Dar'a witnessed the first large-scale protests in Syria,⁴⁴ triggered by the continued detention of a group of youths and children arrested in February 2011, accused of having written anti-government slogans on the walls. In mid-March, their relatives approached Syrian officials in the city to plead for their release,⁴⁵ but they were both rebuffed and insulted. In response, a demonstration was held on 18 March following Friday prayers at the Omari Mosque in Dar'a al-Balad.⁴⁶ Witnesses stated that security forces, positioned in the square in front of the Mosque, sought to quell the protest by firing tear gas and then used live ammunition, killing at least four persons. The following day, security forces opened fire on a large group of mourners who had taken part in the funeral procession of the four victims, killing another two persons.

36. In the early hours of 23 March security forces stormed the Omari Mosque where some 60 protestors were spending the night in tents erected in the courtyard of the Mosque.⁴⁷ Witnesses stated that the security forces stormed the Mosque, shooting towards the tents using live ammunition and killing at least six people. The following day, several of the mourners who had taken part in the funeral procession for those killed the previous day were also shot dead. On 15 April, several people were killed and others injured when security forces shot demonstrators gathered near the Omari Mosque and the Political Security headquarters.

37. On 25 April, the army and security forces launched a large scale military operation, placing the city of Dar'a under siege. Tanks were stationed around the city's entrances as the armed forces erected checkpoints and banned movement to and from the city. A curfew was imposed, electricity and water supplies were cut off, and all means of communication shut down. Security forces then moved through the neighborhoods of Dar'a al-Balad (the old town), conducting house-to-house searches looking for wanted persons or arresting men at random. Hundreds of people were arrested. Many were routinely beaten during arrest and subsequently tortured while held in Dar'a or Damascus. The siege in its initial form lasted at least two weeks, causing acute shortages of food and water and denying the residents access to medical treatment.

38. Following these developments, numerous protests were staged elsewhere in the governorate, with inhabitants of nearby villages and towns marching towards Dar'a city demanding an end to the siege. One of the largest demonstrations was held on 29 April, when thousands of people headed for Dar'a. Security forces opened fire on the demonstrators, killing at least 60 people, according to multiple witness accounts.

2. Damascus and Damascus Countryside (Rif Dimashq)⁴⁸

39. The majority of incidents involving violent dispersal of demonstrators and widespread arrests took place in towns and villages in the Governorate of Rif Dimashq, including Duma, al-Tal, Darayya, Dmair and Madaya. Similar incidents also took place in several suburbs of Damascus such as Harasta and Zamalka. In the capital, the heavy security presence militated against larger gatherings, but a number of demonstrations were held nevertheless, followed by waves of arrests.⁴⁹

40. On 15 March, security forces carried out a number of arrests during a demonstration in the Souq al Hamidiyya marketplace in Damascus. The following day, security forces arrested 16 demonstrators who were among some 150 protestors gathered outside the Ministry of Interior. During another protest on 18 March, several demonstrators were beaten and arrested as they gathered outside the Omayyad Mosque.

41. In Duma, north-west of Damascus, security forces started shooting randomly at civilians as they left a local mosque to begin a protest on 25 March, reportedly killing 11 demonstrators. Witnesses stated that four main security and intelligence agencies participated in this operation,⁵⁰ and that snipers who were positioned on rooftops targeted the protestors.

42. On 1 April, around 300 people marched from a mosque in Zamalka, and gathered peacefully in a central square.⁵¹ They were soon surrounded by an estimated 500 security personnel, many of whom were dressed in civilian clothes and who proceeded to attack them with electric batons. On 22 April, a demonstration of some 70 people in Damascus in support of the people of Dar'a was violently dispersed by security forces and 30 of the participants arrested. On the same day, a demonstration in Barzeh al-Balad was repressed violently as security forces, including snipers, reportedly shot at demonstrators.⁵²

43. Between 29 April and 2 May the town of Madaya was under siege.⁵³ Witnesses described a large military campaign in which more than 2000 soldiers were deployed to secure the town and set up checkpoints on its outskirts. Security forces as well as the First Corps' Fourth Armored Division were present, accompanied by ambulances from the Syrian Red Crescent. After cutting off means of communication, security forces carried out widespread arrests in the town during house-to-house searches. Scores were arrested either randomly or on the basis of lists of wanted persons. Witnesses stated the detainees were beaten as they were made to board buses. Most were reportedly transferred to a detention facility in Kafr Sousseh.⁵⁴

3. Homs Governorate

44. Demonstrations began in the city of Homs on 18 March.⁵⁵ Multiple witnesses said security forces identified as the 'Anti-Terrorism Unit' of Air Force intelligence sought to disperse the crowds by shooting in the air and using tear gas.⁵⁶ The ensuing days witnessed several smaller demonstrations in various parts of the city, together with an increased use of live ammunition by security forces and mass arrests to quell protests. On 25 March, thousands of demonstrators took to the streets, some of them heading towards the Officers' Club where security forces were stationed. Eyewitnesses reported that security forces and the *Shabbiha* fired live ammunition at protestors while snipers targeted other civilians from rooftop positions.⁵⁷

45. On 17 April, 17 demonstrators were reportedly killed after thousands gathered in the city centre, partly in response to the death in custody of a tribal leader a few days earlier. One eyewitness stated that the security forces gave no warning before targeting the protestors, and that he saw a teenager being shot next to him. Several thousand protestors participated in demonstrations the following day to mourn those deaths. The Syrian authorities stated that three army officers, including a brigadier general, together with his two sons and a nephew, were killed by Salafist groups.⁵⁸

46. On 5 May the Syrian army was deployed to the area of Bab 'Amr in Homs Governorate to quell what was described as an insurrection by Salafist armed groups.⁵⁹ According to a witness, the whole area was surrounded and orders were given to break into all houses and kill all members of armed gangs.⁶⁰ Tens of people were reportedly killed in this operation, during which soldiers also received orders to plant weapons at a local mosque.⁶¹ The following day, this division was ordered to besiege the town of Talbisa in preparation for a similar security operation to 'clean' the area of armed gangs using tanks, armoured vehicles and troops. During this operation, three officers and 20 civilians were reportedly killed.

47. A large scale military operation was launched on 25 May in the town of al-Rastan where 'armed gangs' were still allegedly operating.⁶² Highly consistent accounts given by witnesses described the events there. The armed forces surrounded the town, controlling all access points using tanks and armoured vehicles to prevent entry of food and medical supplies.⁶³ The town was divided into two operational zones. Within each zone, rows of soldiers pushed through the different areas, preceded by officers. Behind each unit there were groups of six to eight *Shabbiha*, allegedly ready to shoot any soldier who looked back or refused to obey orders. Soldiers broke into homes and looted, shooting indiscriminately at cars and passers-by and damaging property. Many of the inhabitants of al-Rastan fled to nearby fields to hide, but were chased and numerous people were killed. Several of the witness accounts also referred to the killing of army officers by unidentified sniper fire during the operation.⁶⁴

4. Hama Governorate

48. On 22 April, eight people were believed to have been killed in the city of Hama,⁶⁵ in the first known instance where security forces fired at demonstrators with live ammunition in the city. A larger demonstration on 27 May involving thousands of people took place without any reported casualties, although elsewhere in the governorate mass arrests, indiscriminate shooting and looting by security forces took place. For example, on 12 April the village of al-Bayda was the scene of destruction and looting as a military operation was launched to rid it of 'terrorist gangs'.⁶⁶ It resulted in the arrest of some 400 inhabitants, some of whom were beaten and humiliated upon arrest. According to the accounts of witnesses, the armed forces deployed from Banias to al-Bayda received orders to shoot indiscriminately upon entering the village, which was said to be under the control of 'terrorist groups'. Security forces were also taking part. Video footage examined by the Mission shows scores of civilians who had been rounded up and made to lie down on the

ground. Some of them were beaten, including one man who had received a bullet in his back. All were then taken to an unknown destination. They were eventually released following protests by their families, apparently bearing injuries consistent with torture.

49. On 3 June, some 50,000 protestors gathered in the al-‘Asi square in Hama city centre.⁶⁷ There was extensive security presence in the vicinity of the square to prevent protestors from entering. A security officer gestured to the protestors, warning them not to approach the security parameter. A few protestors managed to get through and handed flowers to some of the security officers. As they turned back, security forces fired on the protestors, causing them to either disperse or lie flat on the ground. In parallel, numerous security officers, identified by witnesses as Military Intelligence personnel, descended from vans and took up position in the vicinity of the al-‘Asi square and the surrounding buildings.⁶⁸ Other accounts confirm that snipers, dressed in black and stationed on top of the Ba’ath Party building, started shooting at demonstrators from the opposite direction. In the aftermath of the shooting, witnesses described a chaotic scene in which demonstrators removed some of the injured on motorcycles where available, while others had to be left behind. A heavy security presence in the area, coupled with sniper fire, prevented the transport of the wounded to hospitals for treatment. In one incident, between 20 and 25 demonstrators reportedly bled to death in the Um al-Hassan garden area as no one could reach them.⁶⁹ Tens of demonstrators were reportedly killed, while others who were wounded were said to have died due to absence of adequate or timely medical treatment.⁷⁰

50. The heightened tensions in Hama after 3 June, according to many accounts, led the security forces to withdraw from the streets to avoid any further friction with the protestors.⁷¹ In the ensuing weeks, tens and sometimes hundreds of thousands of demonstrators took to the streets⁷² of Hama, with no visible security presence. This relative calm was broken by a series of nightly raids on homes that began on 3 July.⁷³ Among those targeted were activists and organizers of demonstrations in the Hader and al-Sabouniyya neighbourhoods. Witnesses confirmed that security forces raided homes and arrested individuals on the basis of lists of names, while looting and damaging property at the same time. According to multiple accounts, at least 22 civilians were killed in the period leading up to 8 July during search and arrest operations.

5. Idlib Governorate

51. The largest demonstrations in Idlib Governorate took place in the towns of Jisr al-Shughour and Ma’arrat al-Nu’mān. Protests were also organized from the surrounding villages into the towns.⁷⁴ This section details incidents in al-Mastuma, Saraqeb, Jisr al-Shughour and Ma’arrat al-Nu’mān.⁷⁵ Most of the incidents involve the killing of peaceful demonstrators by security forces using live ammunition.⁷⁶

52. On 20 May demonstrators heading for the town of Ariha met with security forces based at a Baath Party youth camp in the village of al-Mastuma, several kilometres south of Idlib. Witnesses described a peaceful march with demonstrators carrying olive branches, but that they were fired upon with live ammunition without warning. Some of the estimated 20 security personnel had hidden behind some trees while others were positioned on rooftops.⁷⁷ An estimated 200 people were injured and 30 others killed, some of them reportedly being ‘finished off’ with knives as they lay on the ground. Some of the witnesses assisted in collecting the bodies and taking the injured to hospital, adding that they were turned away at the hospital in Ariha. One witness said he attended the funeral of a demonstrator who had the word ‘Maher’ carved on his stomach with a knife.⁷⁸

53. On 10 June military forces were deployed to Idlib Governorate ostensibly to regain control of several towns and villages from ‘armed groups linked to the Muslim Brotherhood and Salafist groups’, according to the accounts of several

soldiers who took part.⁷⁹ A witness said the military forces, equipped with modern weaponry and over 100 vehicles including tanks, arrived that evening in the town of Saraqeb, south of Idlib city.⁸⁰ They saw demonstrators chanting “freedom, freedom”; some of them were children who tried to climb on top of the military vehicles. Others called on the soldiers to go back and not to kill them. The witness said he overheard a captain receiving instructions from a superior officer to “spray them with bullets”, and that several soldiers approached their superiors because they were facing unarmed civilians, including women and children. He said that the military orders were to shoot to kill and those who refused would be killed.⁸¹

54. Some of the most serious events witnessed in Idlib Governorate took place in Jisr al-Shughour.⁸² Protests which began on 18 March passed without incident until 30 April when, according to witnesses, some 38-40 people from the town were arrested during raids on their homes. They were released following a large demonstration on 2 May, and subsequently walked through the streets without their shirts to show injuries sustained under torture. On 13 May the Ba’ath Party building in the town was set on fire by unidentified persons during a demonstration in which helicopters were seen overhead firing at the crowd of demonstrators.⁸³ The demonstration was held in response to an earlier incident involving the killing of 11 people and the wounding of three others travelling in a van heading to Jisr al-Shughour from Homs.⁸⁴

55. On 3 June, a crowd of some 30,000 protestors marched in Jisr al-Shughour. According to witnesses, security personnel used tear gas and fired in the air to disperse the crowd. The following day, 4 June, some 20,000 people gathered at a public garden in the town, close to the post office, for the funeral of Basel al-Masri, a protestor killed the previous evening. He was found dead with three bullet wounds, and a friend with him at the time was injured. After the funeral one of the participants, Hassan Malesh, was killed as he made a speech from a platform in the middle of the crowd. According to witnesses, he was shot dead by snipers positioned on the roof of the nearby post office.⁸⁵ This was quickly followed by more shooting with live ammunition coming from the direction of the post office and adjacent security buildings. Witnesses said helicopters were also used in the operation to fire at the crowds. The Mission obtained the names of 14 people killed on that day. One witness stated he took seven of the bodies in his car to his home village and placed them in the fridge of a vegetable shop, as the hospitals were under the control of security forces. According to a witness, 17 soldiers who refused these orders were killed by a senior security official. Some witnesses told the Mission that this official was later killed together with several other Alawite security personnel following their capture by protestors, while others said he was killed by a soldier.⁸⁶ Further killings took place the following day, 5 June, when security and military personnel fired on demonstrators heading for Jisr al-Shughour in an area called Sahl al-Ghab.⁸⁷

56. On 6 June the Minister of Interior, Muhammad Ibrahim al-Sha’ar, announced that the authorities intended to act decisively against “any armed attack” in Jisr al-Shughour.⁸⁸ Shortly thereafter, many of the town’s residents headed towards the Turkish border, fearing reprisals and further violence by the security forces.⁸⁹ A witness stated that two army brigades advanced towards Jisr al-Shughour on 8 June to lay a siege, and were stationed at the town’s sugar factory.⁹⁰ Jisr al-Shughour was virtually deserted when the army entered it on 13 June together with selected media and invited guests to witness what the authorities described as an operation to liberate the town from armed gangs.⁹¹

57. The town of Ma’arrat al-Nu’mān witnessed a number of protests during which security forces used live ammunition against unarmed civilians.⁹² Regular demonstrations were held by residents of the town and nearby villages, initially in support of the people of Dar’a. Witnesses stated that initially the demonstrations passed without any killings despite the presence of security forces. In one instance water cannons were used to disperse demonstrators, and *Shabbiha* elements dressed in civilian clothes had beaten up some of the participants. On 13 May, security

forces attempted to disperse demonstrators who had gathered on the highway outside the town, using tear gas. When this failed to halt the advance, security forces fired live ammunition at the demonstrators, according to witnesses. One of them, injured while trying to help others, said he was taken to a private hospital as many feared the government hospitals were unsafe. Others were treated in private homes.

58. Further violence occurred during a larger demonstration on 20 May, when tear gas, hand grenades and live ammunition were used to quell the protest. Firing also came from snipers positioned on several buildings, including the al-Masri mosque. Witnesses said the armed forces and special police forces took part in this operation, and that *Shabbiha* elements were also allegedly present to shoot at anyone who disobeyed orders.⁹³ The security forces had erected road blocks which were later used to trap demonstrators. In turn, demonstrators burned tyres and erected makeshift roadblocks to try to prevent the security forces from advancing.⁹⁴ In one incident, a witness who had been injured said a soldier tried to help him by gesturing him to leave, but he was spotted by another soldier who came up behind him and shot him in the head. Protestors nearby tried to pull away the soldier to safety and to save him, but other soldiers approached and forcefully pulled the body away as protestors threw stones at them. The injured witness said he got away and was taken to a clinic in a small village, where he said many wounded people had arrived from a place called al-Mastuma. Others with more serious injuries requiring surgery were taken across the border to Turkey. The public hospital in Ma'arrat al-Nu'man was closed during that period.

59. Two other large demonstrations were held in Ma'arrat al-Nu'man on 3 and 10 June. Thousands gathered on the al-Corniche street in the town, and in both instances witnesses said security forces fired live ammunition at the demonstrators without warning or instructions to disperse.⁹⁵ In addition to sniper fire, tanks were brought in and one witness said she saw firing from one or more of the five helicopters she had counted. Security forces reportedly shot dead some of the injured at point blank range as they lay on the ground, according to witnesses. The injured had to be transferred to other locations outside the town, as most believed they would come to more harm in public hospitals controlled by security forces.

6. Other governorates

60. Baniyas in Tartus Governorate witnessed its first demonstration on 18 March when protestors gathered outside the Rahman mosque and headed for the city centre. The police and local sheikhs noted down a list of the protestors' grievances, but a week later on 25 March violence erupted leading to casualties. According to witnesses, water cannons were used by security forces to disperse a crowd outside the Abu Bakr mosque. Security forces, together with *Shabbiha* and snipers, began shooting at people as they emerged from the mosque. At least three people were killed and others wounded. Three of the *Shabbiha* elements were reportedly killed subsequently when their car was intercepted by a group of demonstrators, and their vehicle set on fire.⁹⁶ On 7 May, military forces were deployed to Baniyas to lay siege, accompanied by tanks and several helicopters.

61. In the city of al-Ladhiqiyya,⁹⁷ two demonstrations on 18 and 25 March passed without confrontations with security forces.⁹⁸ During a demonstration on 26 March, security forces fired at demonstrators when they tried to topple a statue of President Bashar al-Assad.⁹⁹ Witnesses said *Shabbiha* elements fought alongside the security forces, reportedly attacking some of the demonstrators with knives. A demonstration on 8 April was described as particularly bloody although witnesses were unable to say how many demonstrators had been killed or injured. They stated that after the shooting stopped, garbage trucks were brought in by the security forces to pick up bodies off the streets.

62. Demonstrations in Aleppo began on 15 March but have been largely confined to student demonstrations focused around the city's university. Several such

demonstrations were held in April and May, mostly at night. According to witness accounts, some were broken up by military and security forces in combination with other groups said to have been 'recruited' for this purpose.¹⁰⁰ One of the larger demonstrations took place on 30 June, when over 400 students were said to have been arrested.

63. Smaller demonstrations were organized in the governorate of Deir al-Zor starting in mid-March, which grew larger over several weeks.¹⁰¹ According to witness accounts, security and intelligence personnel regularly filmed the protestors for purposes of identification, and numerous arrests were carried out. These included two demonstrations held on 20 April and 27 May, during which snipers were positioned on rooftops, but witnesses said demonstrations were dispersed with tear gas and firing in the air.

64. The governorate of al-Hasaka witnessed demonstrations in a number of locations, including the city of al-Hasaka, al-Qamishli, Ra's al-'Ain and 'Amouda.¹⁰² The demonstrations in this predominantly Kurdish region were relatively small and called for basic civil and political rights for the Kurdish minority in Syria. According to witness accounts, the security forces refrained from using lethal force in this region but infiltrated some of the protests to identify some of the activists. A small number were arrested but later released, apparently after signing documents undertaking not to participate in future demonstrations.

B. Response of the Government

65. The Government of Syria has addressed five Notes Verbales to OHCHR in relation to the Mission mandate. Although the Government of Syria has continued to cooperate with OHCHR, the Government did not allow the Mission access to the country. This section is primarily based on the Notes Verbales received from the Permanent Mission of Syria.

66. On 30 March, President Assad announced his intention to introduce a series of reforms, including lifting emergency legislation, abolishing the Supreme State Security Court and issuing amnesties for certain prisoners and detainees. The proposed reforms also include legislation regulating peaceful assembly and the establishment of political parties, as well as the setting up of committees to draft electoral and information laws. At least two new laws were since promulgated, and a decree issued in April regulating the status of Syrian Kurds.¹⁰³ In its Note Verbale to OHCHR dated 6 June 2011, the Permanent Mission of Syria noted that in early June, a decision was taken to establish a Committee for National Dialogue. In the same Note Verbale the Syrian authorities announced that a judicial committee had been established to investigate and bring to justice all perpetrator(s) of crimes against protestors and security personnel in Dara'a on 31 March 2011. It also stated that the mandate of this committee has been recently extended to investigate all crimes committed against civilians as well as security and army personnel throughout Syria.

68. At various times, Syrian officials including President Bashar al-Assad acknowledged the legitimacy of certain demands by protestors and distinguished those with legitimate demands from those aiming at destabilizing the country.¹⁰⁴ In its Note Verbale dated 27 June 2011, the Government stated that those aiming to destabilize the country had used legitimate protests as a cover for their acts of sabotage. The Government further maintained that these groups attacked "a large number of innocent civilians and security forces" and are seeking to create "sectarian rifts" and to "overthrow the regime and establish Salafist emirates."¹⁰⁵ According to the Syrian authorities, 260 members of the armed and security forces were killed, and a further 8,000 injured in the period up to late June 2011.¹⁰⁶

70. In its Note Verbale to OHCHR dated 5 August 2011, the Ministry of Foreign Affairs responded to OHCHR questions and provided information pertaining to, among others: the existing criminal legislation; laws granting full citizenship rights

to Kurds; the adoption of parliamentary decrees ending the state of emergency; the granting of a general amnesty, which according to the Government has led to the release of 10,433 of detainees;¹⁰⁷ and the adoption of new electoral laws. The Note also referred to the conduct of Syrian authorities, and provided figures of torture cases before Syrian courts. The same Note Verbale stated that the Government has established an Investigation Commission to probe allegations of crimes in the context of the on-going events in Syria. This Commission was established pursuant to the decision number L/905 of 31 March 2011 issued by the Deputy President of the Judiciary Council. The Commission consists of Attorney General of Syria as Chair. The other members include the Head of the Judicial Inspection Department, the First Prosecutor of Damascus and the First Investigative Judge of Damascus. The Commission has been mandated to carry out an investigation into the circumstances that led to the death of a number of civilians and military personnel in the towns of Dara'a and Latakia. According to the Note Verbale, this Commission has gathered statements from a number of witnesses in Dara'a and carried out investigations into individual allegations. Those investigated have included the former governor of Dara'a and members of the security forces. In reference to mass graves, the Note Verbale noted that some armed "terrorist groups" attacked one of Police premises in Jisr-el Shoughour with live ammunition killing all Police personnel. According to the Note Verbale, the corpses were then removed by bulldozers, piled up and buried in mass graves.

71. OHCHR shared the report of the Mission with the Permanent Mission of Syria on 10 August for comments. The Permanent Mission addressed a Note Verbale to OHCHR on 16 August noting that the Government of Syria abides by international human rights law, and has embarked on a series of thorough reforms. The Government noted that those who provided information to the Mission in refugee camps had breached Syrian law and therefore, could not be considered reliable sources. The Note Verbale criticized the role of the media in distorting the facts, and claimed that the reference to a "repressive minority" in the report was unacceptable. It further claimed that this particular reference demonstrated the biased approach of the Mission. The Note Verbale stated that the reference to 1900 persons killed in Syria is correct. However, it added that the figure includes Police and security officers as well as victims of terrorist armed groups. The Government also explained that 120 Police officers were brutally killed in Jisr-el Shoughour by armed groups.

III. Patterns of violations

72. The Mission found a pattern of human rights violations that constitutes widespread or systematic attacks against the civilian population, which may amount to crimes against humanity as provided for in article 7 of the Rome Statute of the International Criminal Court. The following sections provide detailed examples of some of these violations.

1. Murder and disappearances

73. Following the widespread killing of civilians by government controlled security forces, Syria has grossly violated the non-derogable right to life, enshrined in article 6 of the International Covenant on Civil and Political Rights.

74. The Mission gathered corroborative eye-witness statements with respect to numerous summary executions, including 353 named victims. In addition, the Mission found corroborative accounts indicating that members of the security forces posed as civilians in order to cause unrest and portray an inaccurate picture of events. Civilians were often able to distinguish themselves from these security forces because the latter wore colour-coded armbands.¹⁰⁸ Several types of security forces, as well as the army, were deployed to the demonstrations but were clearly not trained in crowd control capabilities.

75. Whilst there have been violent incidents caused by a minority of civilians in some demonstrations,¹⁰⁹ the disproportionate use of force by Syrian military and security forces violates Syria's international human rights obligations.

76. Reports from a wide variety of sources assert that the demonstrations were mostly peaceful. Civilians of all ages participated in protests and often carried olive branches or showed their bare chests to indicate they had no weapons. Government-controlled media channels reported these events inaccurately, in most cases attributing disturbances to 'terrorist' elements.¹¹⁰ The majority of killings reported were due to live ammunition, coming from security forces, the military and *Shabbiha* elements, using Kalashnikovs and other guns.¹¹¹ Reports from witnesses indicate that there was a widespread *modus operandi* to kill civilians by using a) forces on the ground, b) snipers on rooftops and c) air power.

77. Consistent with an apparent shoot-to-kill policy, most of the victims' bullet wounds were located in the head, chest and general upper body area.¹¹² Interviews were conducted with a number of former soldiers who had deserted the army, the police and different branches of the security forces. They stated that they received clear orders to use live ammunition against protestors.¹¹³ Those who did not shoot civilians were shot from behind by other security officers and *Shabbiha* units. Analysis by the Mission's public order expert of video footage showing security operations underscores the lack of training in riot control by most of the forces deployed against civilians. This was compounded by weaponry that facilitated the excessive use of force against civilians.

78. On the ground, officers often fired indiscriminately at civilians, at close range and without warning.¹¹⁴ Many children and women were killed. In only a few demonstrations non-lethal methods were used: tear gas, water cannons and the firing of live ammunition into the air. Some of the demonstrations involved the indiscriminate use of rapid and intense ammunition fire at the same time, or shortly after, the use of tear gas. Corroborative reports from different regions indicate that soldiers deserted after being ordered to fire on peaceful civilians.¹¹⁵

79. Witnesses attested to the use of tanks, heavy machine guns mounted on anti-personnel carriers and helicopters in urban areas.¹¹⁶ Security forces also used rocket-propelled grenades and grenade launchers mounted on AK47s against civilians in other areas.¹¹⁷

80. Summary executions also took place outside the context of the demonstrations. For example, there were reports that on 1 May in Dar'a, about twenty-six men were blindfolded and summarily executed by gunshots at the football stadium, which had been transformed into the security forces headquarters for that area. Executions also occurred during the sieges of cities, and during house-to-house searches.¹¹⁸

81. Due to lack of access to Syria, the Mission was unable to verify repeated allegations that civilians were routinely and summarily executed in their hospital (or make-shift hospital) beds by security forces. However, it was widely reported that forces conducted regular raids in hospitals to search for and kill injured demonstrators. The Mission observed a high and consistent level of fear amongst civilians of going to hospitals, with many preferring to remain untreated rather than risk being captured and killed.

82. There was a clear pattern of snipers shooting at demonstrators,¹¹⁹ including reports that officers were specially trained to be used against civilian demonstrations. Buildings where snipers were positioned included premises belonging to the security forces, government or Ba'ath Party buildings, and mosques. In most cases no warnings were used before opening fire. In some instances it appeared that snipers targeted people who were providing medical assistance by trying to evacuate the wounded.

83. Civilians were shot at by security officers in helicopters, who were deployed to various demonstrations.¹²⁰ No warnings were used before opening fire.

84. Victims and witnesses reported widespread attempts to cover up killings by the security forces, including the use of mass graves.¹²¹ In al-Ladhiqiyya on 8 April, garbage trucks were seen collecting dead bodies. Civilians stored murdered victims in makeshift refrigerators during the sieges.¹²² But there were several reports of security forces killing injured victims by putting them alive in refrigerators in hospital morgues.¹²³

85. Syria has violated its obligations under the ICCPR related to enforced disappearances.¹²⁴ Many civilians, including children, have disappeared. Some bodies were returned to their respective families, many of which bore the traces of torture. The fate and whereabouts of hundreds of detainees remain unknown and, the Mission continues to receive reports of enforced disappearances.

2. Torture

86. From the 180 witness accounts taken by the Mission, 98 revealed torture and other inhuman and degrading treatment of civilians by military and security forces, which violate Syria's obligations under the Convention Against Torture. A clear widespread or systematic policy appears to have been in place whereby security forces targeted people suspected of having taken part in demonstrations, with a view to intimidating and terrorizing them as a way of quelling protests.¹²⁵ Torture and ill-treatment were commonly used to obtain false statements from detainees. Many reports spoke of security forces breaking into people's homes and beating civilians, including women and children. After mass arrests, security forces and *Shabbiha* elements transported those detained in buses and trucks to secret detention centres or public stadia, where the victims were then inhumanely treated or tortured.¹²⁶ Many victims were repeatedly subjected to torture upon their transfer from one detention facility to another.¹²⁷ Former detainees cited cases of deaths in custody as a result of torture. Others referred to the torture of children.¹²⁸ Security agents often forced family members of the deceased to sign a document stating that the person was killed by armed gangs.

87. The Mission documented numerous methods of torture, most of which are known to have been used in Syria over many years. They include severe beatings, electric shocks, suspension for prolonged periods by the limbs, as well as psychological torture and routine humiliation.¹²⁹ The Mission photographed witnesses who bore injuries consistent with the torture alleged. The Mission's forensic physician examined other victims who were hospitalized after fleeing Syria. Furthermore, victims of arbitrary arrests declared they were beaten and humiliated with insults referring to their religious, democratic and political beliefs. Many victims reported that those abusing them would make statements like 'You want freedom, this is your freedom,' whilst torturing or beating them.

3. Deprivation of liberty

88. Syria has also violated the right liberty as enshrined in article 9 of the International Covenant on Civil and Political Rights through the widespread commission of arbitrary, unlawful arrests and subsequent unlawful detention aimed in large part at intimidating protestors; including women, children and the elderly.¹³⁰

89. Statements point to two categories of detainees. Firstly, individuals suspected of being government opponents (including activists and protest organizers) arrested in the context of sweeping arrests that appeared to be both speculative and unwarranted. Secondly, detainees arrested in the context of operations that aimed to collectively punish inhabitants of cities and towns that the authorities perceived to be recalcitrant or centres of democratic activism. Arrests appeared to be random and widespread.¹³¹ Medics and human rights activists were also targeted.¹³² Several

witnesses who fled Syria reported that members of their families were arrested in lieu of the person being sought.

90. Witnesses who had been detained stated that they were denied fair trial provisions, such as access to a lawyer or any form of legal recourse.¹³³ They were not informed of the reason for their arrest or allowed to contact their families. They were recurrently moved from one detention centre to another without notice, and often tortured or inhumanely treated in each facility. Scores of civilians were brought before investigative judges in multiple numbers, often bearing the signs of torture or beatings, or had *ad hoc* hearings in their cells with military personnel, without knowing the charges against them. In addition there was no appeal process. Many detainees were forced to sign or fingerprint documents while blindfolded, not knowing what was in the documents. Others had to sign pledges declaring that they would no longer take part in demonstrations.

4. Persecution

91. Furthermore, the Mission received disturbing reports that many discriminatory and abusive remarks about religion and/or ethnicity were made during arrest and detention, and as detainees were being tortured.

92. Moreover, a number of towns and cities were blockaded with the use of heavy artillery and military vehicles, including tanks and mortars in violation of Articles 10 and 11 of the ICESCR.¹³⁴ Water tanks were targeted and shot, leaving civilians with no water. Restriction of movement was imposed on civilians in a highly disproportionate manner to any threat that may have existed. Those who left their homes to find food were often killed or injured, including children shot by snipers. People were stopped at checkpoints by security personnel who would not allow them to pass and would subject them to physical and verbal abuse. In addition, electricity was cut by the security forces while cities and towns remained under siege, as were means of communication. Public hospitals were sometimes closed ahead of a military operation,¹³⁵ or staff told the injured they had no space.¹³⁶ In other instances, public hospitals refused to treat injured victims, the doctors apparently being under threat from security forces, or cooperating with them. People were forced to assemble make-shift hospitals that were not able to give adequate medical attention to victims.¹³⁷ There were numerous instances of the targeting of civilians who were attempting to assist the wounded by moving them to safer areas or taking them to hospital. Ambulances or other vehicles used by demonstrators were also targeted.

93. Children have not only been targeted by security forces, but they have been repeatedly subject to the same human rights and criminal violations as adults, including torture, with no consideration for their vulnerable status. The fact that Syrian forces have tortured or killed children on several occasions,¹³⁸ in what are clearly not isolated incidents, causes grave concern.

94. Finally, the Mission received disturbing reports that many discriminatory and abusive remarks about religion and/or ethnicity were made to detainees.

IV. Recommendations

95. Bearing in mind the findings of the Mission on Syria, the response thus far provided by the Government of Syria and the international community, as well as the on-going situation on the ground, the High Commissioner, reminds that States unanimously agreed at the 2005 Summit that each individual State has the responsibility to protect its populations from crimes against humanity and other international crimes. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. When a State is manifestly failing to protect its population from serious international crimes, the

international community has the responsibility to step in by taking protective action in a collective, timely and decisive manner.

96. In particular the High Commissioner recommends the following:

To the Government of Syria

- Immediately put an end to the gross human rights violations, including the excessive use of force against demonstrators and the killing of protestors, torture and ill-treatment of detainees and enforced disappearances; halt violations of economic, social and cultural rights.
- Take immediate steps to end impunity, including by abolishing legislation which grants security and intelligence personnel virtual immunity from prosecution.
- Ensure the immediate and unconditional release of detainees held on the basis of their participation in peaceful demonstrations and other political prisoners.
- Ensure the safe and voluntary return of refugees and internally displaced persons to their areas of origins in Syria.
- Allow safe and unrestricted access to international and national journalists to investigate and report on the situation on Syria without hindrance.
- Take immediate measures to ensure full and unhindered access for humanitarian workers to provide aid and assistance to those in need in Syria.
- Allow OHCHR immediate access to Syria to conduct investigations into all human rights abuses, irrespective of alleged perpetrator, in the context of protests since mid-March 2011.
- Invite the Special Procedures of the Human Rights Council, in particular the Special Rapporteur on extrajudicial, summary or arbitrary executions, and Special Rapporteur on Torture, and the Working Group on arbitrary detention, to visit Syria to monitor and report on the human rights situation.

To the Human Rights Council

- Ensure that the situation of human rights in Syria remains on the agenda of the Human Rights Council through the establishment of appropriate monitoring and investigating mechanisms, including the possibility of extending the mandate of the Fact-Finding Mission on Syria, as well as through periodic reporting.
- Urge Syria to cooperate with OHCHR and the Human Rights Council's Special Procedures, including by granting them unfettered access to Syria.
- Urge the Security Council to remain seized of, and address in the strongest terms the killing of peaceful protestors and other civilians in Syria through the use of excessive force and other grave human right violations; to call for an immediate cessation of attacks against the civilian population; and to consider referring the situation in Syria to the International Criminal Court.

To the League of Arab States

- Continue being actively engaged in calling for concerted action for the protection of human rights in Syria.

¹ A/HRC/RES/S-16/1, The current human rights situation in the Syrian Arab Republic in the context of recent events, Human Rights Council, Sixteenth special session, 29 April 2011.

² A/HRC/17/CRP.1, Preliminary report of the High Commissioner on the situation of human rights in the Syrian Arab Republic, Human Rights Council, Seventeenth session, 15 June 2011.

³ The members of the Mission included officials with substantive, technical and administrative expertise in the relevant fields, including human rights investigation, public order issues, forensic expertise and country knowledge.

⁴ Appended to OHCHR's letter of 15 July 2011 was an annex containing a series of questions and requests for information on issues related to detentions and the administration of justice; torture and ill-treatment; investigations into incidents of killings; and reform measures (see Annex).

⁵ Note Verbales to OHCHR from the Syrian Government's Permanent Representative to the United Nations Office in Geneva, dated 6 June, 14 June and 27 June, 5 August and 16 August 2011. OHCHR had also received an earlier Note Verbale, dated, 15 April 2011, containing references to reforms announced by the Syrian Government.

⁶ Note Verbale to OHCHR from Syria's Permanent Representative to the United Nations Office in Geneva, dated 5 August 2011, enclosing a letter from the Syrian Ministry of Foreign Affairs (see Para 70).

⁷ These included a two-week visit to Turkey between 10 and 26 June 2011.

⁸ Interaction with the media was limited to statements issued by the High Commissioner in response to further deterioration in the situation in Syria, including on 9 and 15 June 2011. The Deputy High Commissioner gave media interviews in connection with the issuance of the aforementioned Preliminary Report on 15 June 2011.

⁹ A public call for submissions was posted on the OHCHR website inviting the submission of written communications by individuals. During the period covered by its mandate, the mission received 135 communications, most of which were from Syrian human rights groups or individual activists, addressing issues related to killings, arrests and torture.

¹⁰ The videos and photographic images examined relate to events or incidents documented in this report through statements from witnesses.

¹¹ Note Verbale dated 1 March 2011 from the Permanent Mission of the Syrian Arab Republic to the United Nations addressed to the President of the General Assembly, A/65/784.

¹² The Vienna Convention on the Law of Treaties, Article 18.

¹³ Law 148/1949 as amended.

¹⁴ *Ibid.*, Article s 285-6.

¹⁵ *Ibid.*, Article 306.

¹⁶ CCP, Law 112 of 1950 as amended, articles 104(1) and (2). The detaining authority which violates this provision may be prosecuted for the crime of deprivation of personal liberty (CCP, Article 105), punishable by imprisonment for between one and three years (Penal Code, Article 358).

¹⁷ Legislative Decree No. 55/2011, amending Article 17 of the CCP.

¹⁸ Legislative Decree No. 51 of 22 December 1962 introduced the State of Emergency Law, which came into force on 8 March 1963. Article 1 of SEL provided that 'A State of Emergency may be declared in wartime or in the event of a war-threatening situation or in the event that security or public order in the territories of [Syria] or in part thereof is subjected to danger because of internal riots or public disasters'. The SEL was abolished by Legislative Decree No. 161 of 21 April 2011, and which had been one of the protestors' key demands.

¹⁹ SEL, Article 6. Other offences include 'crimes violating public trust', and 'crimes which constitute an overall hazard'.

²⁰ Article 4(d). Government laid siege to Dar'a and other cities and towns after the lifting of the emergency legislation was announced.

²¹ Legislative Decree No. 47/1968 established the Supreme State Security Court, which operated outside the framework of the judicial system and whose verdicts were not subject to appeal. It was abolished by Legislative Decree No. 53/2011.

²² With a few exceptions, 'civil society organizations' are also run by individuals close to the ruling group, as is part of the private sector.

²³ Promulgated by former President Hafez al-Assad, father of the current president.

²⁴ These violations have been extensively document over the years by international non-governmental organizations including Amnesty International and Human Rights Watch, and by the UN's own monitoring mechanisms including treaty bodies and special procedures of the Human Rights Council. A number of Syrian human rights groups have also documented many of these violations, including the Syrian Committee for Human Rights.

²⁵ See para 19 of this report.

²⁶ Inaugural speech delivered on 17 July 2000. A period lasting just over one year, the so-called 'Damascus Spring', saw the closure of a notorious prison and the release of hundreds of political prisoners, as well as a relative loosening of the state's grip on political and human rights activism.

²⁷ See International Crisis Group, *Popular Protest in North Africa and the Middle East(VI): The Syrian People's Slow Motion Revolution*, Middle East/North Africa Report N°108 – 6 July 2011, and *Popular Protest in North Africa and the Middle East(VII): The Syrian Regime's Slow Motion Suicide*, Middle East/North Africa Report N°109 – 13 July 2011.

²⁸ The Kurds in Syria have been deprived of Syrian nationality since 1962, as have their descendants. Their statelessness gave rise to other problems relating to personal status and an inability to seek employment in the public sector. They were also denied basic social and cultural rights. See, for example, UN Committee on the Rights of the Child, Concluding Observations, Syrian Arab Republic, CRC/C/15/Add.212, July 10, 2003.

²⁹ For more information about the killings of Hama, see Human Rights Watch, *Syria Unmasked*, pp. 19-21

³⁰ There are conflicting accounts regarding the origin of the word *Shabbiha*.

³¹ Multiple witnesses stated that during raids on mosques and other public places, they heard a foreign language being spoken among some of the armed groups who were fighting alongside Syrian security forces. Some witnesses said they did not recognise the language, while others thought it may have been Farsi.

³² The size of the Syrian army is estimated at 220,000, including conscripts, with an additional 280,000 reserves (The International Institute for Strategic Studies, *The Military Balance 2011*). These figures exclude the Air Force, Air Defence and the Navy.

³³ They include the First Corps' Fourth Armoured Division.

³⁴ *Idarat al-Mukhabarat al-'Amma*.

³⁵ *Shu'bat al-Amn al-Siyassi*.

³⁶ *Shu'bat al-Mukhabarat al-'Askariyya*.

³⁷ *Shu'bat al-Mukhabarat al-Jawwiyya*.

³⁸ Two of the main agencies, Military Intelligence and Air Force Intelligence, are nominally part of the Ministry of Defence and their responsibilities relate to affairs of the army and the air force and air defences respectively. The Political Security Branch forms part of the Ministry of Interior, and is said to have within its jurisdiction matters related to political parties, opposition groups, students and state employees, including the police force. The General Security Directorate (formerly known as State Security or *Amn al-Dawla*) is a separate institution that falls outside the framework of any ministry, and its formal responsibilities focus on crimes affecting the internal and external security of the state.

³⁹ At the time of writing, the heads of these four agencies were among a number of Syrian officials and others subject to sanctions imposed by the European Union or the Government of the United States, or both. See, U.S. Department of Treasury Press Release, *U.S. Sanctions on Syrian President, Six Senior Officials*, 18 May 2011; and Official Journal of the European Union, Volume 54, 10 May 2011 (*Council Regulation (EU) No 442/2011 of 9 May 2011 concerning restrictive measures in view of the situation in Syria*, and *Council Decision 2011/273/CFSP of 9 May 2011 concerning restrictive measures against Syria*).

⁴⁰ Each governorate has its own Police Command except for Damascus, where there is an additional Police Command for the capital.

⁴¹ The Defence Brigades were security forces under the command of the late president's brother, Rif'at al-Assad. They were responsible for gross violations of human rights in the 1980s in particular, including the killing of thousands of civilians and detainees. The *Shabbiha* are generally dressed in civilian clothes, and armed with Kalashnikovs or various light weaponry as well as batons, and are typically identifiable by their shaved heads, thick beards and tattooed arms.

⁴² This information is compiled by local coordinating committees active within Syria in documenting the names and details of victims. The Mission is not in a position to independently verify this information.

⁴³ Note Verbale to OHCHR dated 5 August 2011 from the Permanent Mission of Syria in Geneva, enclosing a letter from the Ministry of Foreign Affairs. See also Footnote 115.

⁴⁴ The city of Dar'a has a population of approximately 80,000 residents. It is situated in the south west of the country near the Syrian-Jordanian border.

⁴⁵ The officials included the Governor of Dar'a, Faisal Kulthoum, and the head of the local Political Security branch, 'Atif Najib.'

⁴⁶ The city of Dar'a is divided into two main zones: Dar'a al-Balad refers to the old part of the city, the downtown area; and Dar'a al-Mahatta, where the municipality and other public and security premises are located. A bridge links the two zones.

⁴⁷ The Omari Mosque quickly became the focal point for protests, which began following noon prayers on a daily basis. It was also used as a location for a makeshift medical facility to provide treatment and shelter for the injured.

⁴⁸ Rif Dimashq (literally Damascus Countryside), is a separate governorate to the capital Damascus. It lies south of the governorate of Homs and is divided into nine districts.

⁴⁹ On 16 February, a spontaneous demonstration took place in the al-Hariqa market in Damascus after a young man was beaten by a police officer. To protest these incidents, some 2,000 demonstrators gathered at the scene and refused to disperse until the Minister of Interior arrived and gave assurances that he would personally investigate this case.

⁵⁰ Air Force Intelligence, Political Security, Military Security and the General Security Directorate.

⁵¹ Zamalka is a suburb east of Damascus.

⁵² Barzeh is a suburb in northern Damascus.

⁵³ Madaya is a resort town located some 40 kms north-west of Damascus.

⁵⁴ Kafir Sousseh is a south-western suburb of Damascus. Some of those detained were later released after being brought before an investigative judge who ordered their release. Some of the accusations leveled against them included 'demeaning the dignity of the country', 'disrupting the peace of the nation' or 'weakening the spirit of the nation'.

⁵⁵ Homs is Syria's third largest city with a population of 1,500,000, the majority being Sunni Muslims and with a Christian minority. It has been one of the focal points during the ongoing protests.

⁵⁶ One eyewitness stated that more than 40 protestors were arrested during this demonstration.

⁵⁷ One eyewitness stated that the *Shabbiha* were brought in to support security forces in larger demonstrations. They reportedly targeted demonstrators directly causing a significant number of casualties. The same account details how the *Shabbiha* prevented the transport of those killed by ambulances but instead removed them to an unknown location. Fire fighter trucks then cleaned the bloodstains using water cannons.

⁵⁸ Note Verbale to OHCHR from the Syrian Government's Permanent Representative to the United Nations Office in Geneva, dated 27 June 2011. OHCHR was not in a position to corroborate this account or to further investigate this incident.

⁵⁹ According to the witness statements, the orders received referred to a Salafist insurrection.

⁶⁰ In order to cover the whole area, this division broke into groups, each composed of roughly a hundred soldiers. Each group was accompanied by six to eight members of the *Shabbiha*, to undertake what was described as the 'dirty work'. The witness said the soldiers were given no information on how members of these armed gangs could be identified.

⁶¹ Witnesses stated that as the troops were pulling back from the area of Bab ‘Amr, they broke into the mosque in the area, reportedly killing the imam and then planting arms there. They further stated that the security forces then arranged for filming of the arms cache by Syrian television and reporting that armed gangs had hidden weapons in the mosque.

⁶² Demonstrators in the town had reportedly toppled the statue of the late president Hafez Al-Assad.

⁶³ The scale and intensity of this campaign was markedly higher than in earlier operations. Witnesses stated that they were told al-Rastan was ‘infested with armed groups’.

⁶⁴ According to Human Rights Watch, 41 people were killed during the operations in al-Rastan . Accounts from eyewitnesses suggest that the figures may be markedly higher. The military operation lasted until 2 June but was most intense in the first 48 hours.

⁶⁵ Hama is located north of Damascus, and has a population of some 700,000.

⁶⁶ The village is located south-east of the city of al-Ladhiqiyya but is part of the Governorate of Hama.

⁶⁷ According to consistent accounts of events that day, demonstrators bought thousands flowers for the security officers to emphasize the peaceful nature of the demonstrations and the rejection of violence.

⁶⁸ Some witnesses reported that security personnel were hiding in the nearby Orphan’s Shelter, and that they attacked demonstrators as they approached the al-‘Asi square. Many described this incident as a trap in which demonstrators were confined to narrow alleyways with no means of escape.

⁶⁹ Eyewitnesses reported having found the bodies of these demonstrators in the Um al-Hassan garden area with pools of blood around them, suggesting they had bled to death.

⁷⁰ Some of the injured reportedly refused to go to public hospitals because they feared that they would be arrested by security officers stationed there.

⁷¹ To this end, security forces removed a statue of former president Hafez Al Assad from the city center, both to avoid further clashes and to prevent it being attacked and toppled by protestors.

⁷² An estimated 200,000 people participated in a demonstration in the city on 24 June.

⁷³ The security forces carrying out the arrests were believed to belong to Political Security and Military Intelligence.

⁷⁴ A number of predominantly Alawite villages in the area did not participate in the protests.

⁷⁵ Other incidents in Ariha, Sallet al-Zuhour and other locations researched by OHCHR are not detailed in this report.

⁷⁶ Several of those injured were examined by the Mission’s forensic physician during a field visit to Turkey.

⁷⁷ Some of them wore dark green military uniforms while others were dressed in black. The latter had shaved heads and long beards and looked ‘foreign’, according to witnesses.

⁷⁸ In reference to Maher al-Assad, brother of the President.

⁷⁹ The witnesses referred to a “blockade of information”, and that ordinary rank and file soldiers had no idea what was happening when they were deployed, and that they had not been allowed leave for several months and were confined to their barracks in between operations.

⁸⁰ The witness said he was told that “terrorists had infiltrated Syria and the population needed help to resist these groups who were committing acts of violence”.

⁸¹ At this point, according to the witness, shooting broke out among the soldiers themselves and he made a run for it. He stated he had to run towards the demonstrators since the *Shabbiha* were positioned behind the lines with instructions to shoot anyone who deserted or who refused to obey instructions. Another witness to the same events added that after the operations, checkpoints were set up on the Idlib road and that he witnessed military personnel killing at point blank range three car passengers at one such checkpoint. He also noted the presence of *Shabbiha* elements during this incident, saying they had shaved heads and long beards. He said others spoke in a foreign language or in broken Arabic. Upon deciding to leave the army he learned that seven others who had attempted the same had been killed.

⁸² A town located between Aleppo and al-Ladhiqiyya, some 20 kms from the border with Turkey.

⁸³ It remains unclear who was responsible for setting the building on fire. Some witnesses claimed demonstrators were responsible, while others said it was Ba’ath Party officials themselves who set fire to the premises as they vacated it. Video footage of the incident appears to support the latter version.

⁸⁴ On 8 May a van carrying 17 passengers returning from Lebanon and heading for Jisr al-Shughour was attacked in the Homs area. The van was fired upon from two directions as it became trapped between two checkpoints. The army reportedly claimed that the van failed to stop at the first checkpoint and alerted soldiers manning the second checkpoint. Photographs obtained by the Mission shows the vehicle riddled with bullet holes. According to the victims’ relatives, the bodies of those killed were returned to them some ten days later, and that they were pressured into signing documents stating that the attack had been carried out by ‘terrorists.’ In its note verbale of 5 August 2011, the Syrian government denied these allegations.

⁸⁵ Some witnesses stated that the basement of the post office had been used by security personnel for the interrogation of suspects.

⁸⁶ The Mission was not able to investigate these accounts further.

⁸⁷ Other witnesses said that at that point, armed clashes broke out between the group of soldiers who were attempt to flee and the security forces. They also said that two helicopters providing backup began firing at both the civilians and the fleeing soldiers. Some of the civilians managed to reach Jisr al-Shughour and fled to safety. The Mission interviewed one of the civilians injured after the helicopters began shooting at the crowd, and another civilian who was injured as he made his way to Jisr al-Shughour.

⁸⁸ The minister’s statement was broadcast on Syrian television.

⁸⁹ Military and security forces had reportedly gathered some 20 kms outside the town.

⁹⁰ According to other witnesses, the sugar factory was used in that period as headquarters for armed forces deployed from other areas, as well as for interrogation, detention of suspects and torture of suspects. Several sources also reported that four girls were raped at that location, but the Mission was not in a position to corroborate these accounts.

⁹¹ On 6 June, Syrian television reported that security forces had been killed in several attacks, including during an ambush by ‘armed gangs’ operating in Jisr al-Shughour, where clashes took place at a security centre and other government buildings set on fire.

⁹² The town is located on the highway connecting Aleppo and Hama.

⁹³ One witness gave an account of the killing of a soldier by one of the *Shabbiha*.

⁹⁴ Several witnesses identified a key security official who was reportedly responsible for much of the violent reaction towards demonstrators. Other witnesses had identified the same person in the context of killings in the town of Jisr al-Shughour on 4 June.

⁹⁵ Witnesses described the forces as dressed in both army and police uniforms. Many also referred to *Shabbiha* elements dressed in black civilian clothes. Others said ‘foreigners’ were present, also wearing black.

⁹⁶ Other incidents involving the killing or wounding of civilians occurred during demonstrations held in April.

⁹⁷ The capital of al-Ladhiqiyya Governorate, the city lies on the Mediterranean coast in north-western Syria.

⁹⁸ On 18 March, according to accounts of nine witnesses who later fled to Turkey, the demonstrators walked towards the al-Shaikh Daher square carrying olive branches. There were no clashes with security forces, but some confrontations took place with scores of Alawite residents who tried to prevent the demonstrators from reaching the square.

⁹⁹ Witness stated that some of the forces firing at them were dressed in military uniform, others in civilian clothes, and others in black fatigues.

¹⁰⁰ In one instance, witnesses stated that armed groups belonging to a local clan referred to in the accounts as *Baltajiyya* (literally, ‘axe carriers’ but the meaning is akin to ‘thugs’) took part in breaking up protests and intimidating the demonstrators. The Mission was unable to further investigate this claim.

¹⁰¹ The governorate lies in eastern Syria and shares a border with Iraq.

¹⁰² Located in north-eastern Syria, the Governorate of al-Hassaka shares borders with both Turkey and Iraq.

¹⁰³ Legislative Decree No. 49 passed on 7 April 2011. Article 1 states that individuals who are registered as foreigners in the al-Hassaka Governorate shall be granted Syrian nationality.

¹⁰⁴ Speech by President Bashar al-Assad at Damascus University on 20 June 2011.

¹⁰⁵ Note Verbale to OHCHR dated 27 June 2011 from the Permanent Mission of Syria in Geneva.

¹⁰⁶ Ibid.

¹⁰⁷ The Note Verbale provided numbers of those released per Governorate in Syria.

¹⁰⁸ Reports also state that various security units were at times shooting at each other.

¹⁰⁹ For example, the Mission received two uncorroborated accounts from Baniyas and Jisr al-Shughour involving the killing of security or other officials by demonstrators or unidentified persons.

¹¹⁰ For example there are corroborated reports that security forces planted weapons in the Omari Mosque in the city of Dar’a after clearing it and murdering civilians, wrongly attributing blame to innocent demonstrators. See <http://www.sana.sy/eng/337/2011/04/27/343519.htm> for SANA version of events.

¹¹¹ In several incidents documented by the Mission, *Shabbiha* elements used knives or bayonets to kill protestors.

¹¹³ Witness stated that the orders at Saraqeb, and near the camp of the Youth of the Baath Party in al-Mastuma, were given on 20 May 2011, when security forces opened fire at demonstrators as soon as they arrived, killing more than forty people.

¹¹⁴ Early on when the protests began, there were instances of attempted negotiation by security or military personnel seeking to disperse the crowds. In most cases such attempts were brief. As the situation on the ground worsened, such tactics gave way to direct attack with live ammunition.

¹¹⁵ Many of these soldiers were shot dead immediately upon breaking ranks during demonstrations, and some were killed or treated inhumanely for being suspected of disloyalty towards the government.

¹¹⁶ These locations include Jisr al-Shughour, Ma’arrat al-Nu’man and Dar’a.

¹¹⁷ These include al-Rastan, Talbisa and Bab ‘Amr in Homs.

¹¹⁸ Including at Dar’a, al-Ladhiqiyya, Hama and Jisr al-Shughour.

¹¹⁹ For example, in Dar’a, Jisr al-Shughour, Baniyas, al-Ladhiqiyya and Duma.

¹²⁰ Including Jisr al-Shughour and Ma’arrat al-Nu’man, in Idlib Governorate.

¹²¹ The locations of alleged mass graves are not being disclosed at this stage since they can neither be secured nor properly exhumed.

¹²² For example, in Dar’a a number of bodies that could not be buried during the siege were stored in a refrigerated truck normally used for the transport of perishable food.

¹²³ One of the cases reported to the Mission took place in Dar’a.

¹²⁴ In particular, articles 2, 6, 7, 9, 10, 14, and several other articles in the ICCPR related to freedoms.

¹²⁵ In Dar’a, Nawa, al-Yaduda, Jisr al-Shughour, Madaya, Homs, and Hama, among others.

¹²⁶ Detention centres cited in accounts and which are located in or around Damascus include Kafr Sousseh, al-Mezze, ‘Adra and al-Qaboun; other cited detention facilities in Idlib and Homs. Most appeared to be under the jurisdiction of one or other of the security agencies, including Air Force Intelligence, Military Security and Political Security. Victims were often immobilized on the ground by security agents, who stepped upon their faces and tied their hands, as well being inhumanely treated during their transportation to detention centres.

¹²⁷ Some people were taken to up to four detention centres where they were abused.

¹²⁸ These cases included that of Hamza al-Khatib, aged 13 from Dar'a, who died in custody. In its Note Verbale of 14 June 2011, the Syrian government denied this allegation. See Annex.

¹²⁹ In some cases, male detainees were forced to strip naked for prolonged periods in their cells, or while being otherwise tortured or under interrogation. The Mission received a number of reports of sexual assault or rape of women and girls during the course of raids on homes, in particular. The Mission was not able to corroborate these accounts.

¹³⁰ Targeted and mass arbitrary arrests and unlawful detention were reported, amongst others, in Aleppo, Baniyas, Damascus (city and outskirts), Dar'a (city and outskirts), Jisr al Shughour and al-Ladhiqiyya. During the siege on Dar'a, it was reported that hundreds of people were arbitrarily arrested on a daily basis. Witnesses told the Mission that school yards and sports fields had been transformed into makeshift detention areas given the very large number of detainees.

¹³¹ The majority of those interviewed by the Mission were not privy to the whereabouts of their detained family and friends.

¹³² This involves arresting family members of the targeted individual in situations where security forces were unable to detain that person.

¹³³ See article 14 of the International Covenant on Civil and Political Rights, as well as the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), adopted by General Assembly resolution 45/110 of 14 December 1990.

¹³⁴ Cities and towns under siege included Dar'a, Baniyas and Madaya.

¹³⁵ This occurred in Ma'arrat al-Nu'man.

¹³⁶ In one incident in Jisr al-Shughour security forces said they could 'resolve a problem of space' and then proceeded to murder wounded civilians.

¹³⁷ This includes the makeshift hospital set up in the Omari mosque in Dar'a.

¹³⁸ Including being shot by snipers.

ANNEXES

The High Commissioner's letters to the Permanent Mission of the Syrian Arab Republic

NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE
L'HOMME



UNITED NATIONS
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15 July 2011

Excellency,

I write further to resolution S-16/1 adopted by the United Nations Human Rights Council in a special session on human rights in the Syrian Arab Republic on 29 April 2011. As you will be aware, this resolution requested my Office to urgently dispatch a fact-finding mission to investigate all alleged violations of international human rights law and to establish the facts and circumstances of such violations and of the crimes perpetrated, with a view to avoiding impunity and ensuring full accountability.

Through a Note Verbale dated 6 May 2011, my Office formally requested Your Excellency's Government to cooperate with this mission, in particular by ensuring full access to the country. Having received no response from Your Excellency's Government on this matter, I reiterated my request for access to the country through a Note Verbale dated 20 May 2011 and again on 7 June 2011 through a meeting between the Deputy High Commissioner, Ms. Kyung-wha Kang, and Your Excellency's Permanent Representative to the United Nations Office in Geneva, H.E. Mr. Faysal Khabbaz Hamoui. I regret that the Syrian Government has to date remained silent on this matter, and once again I renew my request for access for the fact-finding mission.

I take this opportunity to stress that the material currently before my Office reflects a dire human rights situation and remains a matter of the gravest concern. Facts suggesting a pattern of widespread and systematic attacks against civilians and consequential breaches of the most fundamental rights documented by OHCHR require thorough investigation and full accountability with respect to the perpetrators. In my view, the credibility of the Syrian Government's statements on the nature of the on-going protests and the individuals or groups reportedly responsible for these abuses rests in substantial part on its willingness to allow independent investigation on the ground.

H.E. Mr. Adel Safar
Prime Minister

DAMASCUS

I have noted the series of reforms announced to date, and I welcome the information received from Your Excellency's Government on these and certain other issues. Allow me to stress however that the value of political and other reforms lies in their practical implementation, and reform plans also require transparent monitoring mechanisms to ensure sound and timely translation into effective change. More importantly, the promulgation of laws and decrees aimed at introducing greater political and civil rights cannot be accompanied by a progressively deteriorating human rights situation and commission of the gravest human rights violations.

Resolution S-16/1 also requested my Office to provide a follow-up report the Human Rights Council at its 18th Session, containing substantive information documented by the fact-finding mission. While the refusal of Your Excellency's Government to date to grant access has hampered the mission's work, it has nevertheless documented egregious violations of human rights committed since March 2011. These include summary executions, excessive use of force in quelling peaceful protests, arbitrary detentions, torture and ill-treatment, violations of the rights to freedom of assembly, expression, association and movement, and violations of the rights to food and health, including medical treatment to injured persons. This information will form the basis of the follow-up report, which will be made public in September.

In this context, and alongside my request for the mission to be granted access to the country, my Office wishes to raise with the Syrian Government a range of issues that have emerged in the course of the mission's work and requests further information, as detailed in the Annex attached to this letter. I would appreciate receiving the responses of Your Excellency's Government to these enquiries by 5 August 2011 in order to enable my Office to reflect the position of Your Excellency's Government on these issues in its report.

Please accept, Excellency, the assurances of my highest consideration.

Navanethem Pillay
High Commissioner for Human Rights

Annex: Questions submitted by the Office of the High Commissioner for Human Rights (OHCHR) to the Government of Syria, 15 July 2011

A. Rights of individuals deprived of their liberty and the administration of justice: OHCHR would appreciate receiving the following information regarding legislative reforms announced by the Syrian Government:

1. The text of the decision announced by President Bashar al-Assad on 19 April 2011 to abrogate the 1963 State of Emergency Law and to abolish the High State Security Court. We wish to receive information regarding the legal measures taken to implement this decision, including the text of the relevant laws and their current status, including the date of their publication in the Official Gazette.
2. The text of Legislative Decree No. 61/2011 announcing a general amnesty for crimes committed before 31 May 2011, and Legislative Decree No. 72/2011 extending the scope of the amnesty to crimes committed before 20 June 2011. OHCHR would appreciate receiving information on how the amnesty laws have been implemented across the country, information about any committees (other than medical committees) which may have been set up to consider individual cases and their terms of reference, any existing appeal process for prisoners against a negative decision, and data showing how many prisoners and detainees have been released in each category. We would appreciate receiving the texts of other legislative decrees referred to in the amnesty law.¹ Additionally, Legislative Decree No. 61/2011 is also said to cover “all members of the Muslim Brotherhood party and other detainees belonging to political movements”.² OHCHR wishes to receive details on which other political movements are covered under the amnesty law, and how many such detainees have been released to date and their presumed political affiliation.
3. Given the abrogation of emergency legislation on 19 April 2011, we wish to receive clarification as to the legal basis for the arrest and continued detention of individuals who have been apprehended in the context of protests and other incidents since 15 March 2011. If the purpose of the lifting of emergency laws is to afford basic rights to persons deprived of their liberty, and to curtail the exceptional powers granted to security and intelligence personnel, then it follows that other legislation is being applied in these cases. We would appreciate receiving information on current arrest and detention procedures being followed by the security forces since 19 April.
4. In its efforts to determine the fate and whereabouts of the significant numbers of persons detained or missing it has recorded since mid-March 2011, OHCHR requests information on the places of detention used by each of the security and intelligence agencies, together with information on individuals held there in connection with protests.³

B. Torture and ill-treatment and deaths in custody

1. OHCHR refers to a Note Verbale received from the Permanent Mission of Syria in Geneva, dated 14 June 2011, containing a summary of the official investigation into the death of the child Hamza al-Khatib on 29 April 2011. We wish to receive

¹ These are: Law 49/1980; Legislative Decree 37/1966 as amended; Legislative Decree 13/1974; and Legislative Decree 59/2008.

² Note Verbale to OHCHR dated 8 June 2011 from the Permanent Mission of Syria in Geneva.

³ This should include names, dates of arrest, place of detention, reason for arrest and the arresting authority.

additional information on this investigation, including the following: copy of Administrative Order 913 dated 30 May 2011 establishing an investigative committee under Ministry of Interior jurisdiction; copies of all documents prepared on this case by officials on duty at Tishreen Military Hospital during the period of Hamza al-Khatib's hospitalization and death, including copies of photographs taken of the body on 30 April 2011; copy of the report of a three-person committee which prepared a comparative study between the aforementioned photographs and others taken of the body on 24 May 2011 at the National Hospital in Daraa; copy of the report prepared by the Office of the General Prosecution in Damascus relating to the procedures followed in the criminal and judicial investigations relating to the case; and copies of all documentation, including photographs, prepared on this case by medical and judicial personnel at the National Hospital in Daraa. We also request an explanation as to why there was a delay of one month before an investigation into the death of the child was established, and information on the whereabouts and condition of the body between his death on 29 April and its handing over to his family on 24 May 2011.

2. OHCHR would appreciate receiving information regarding the procedures and laws currently in force for the investigation of cases involving the torture or ill-treatment of detainees and other persons deprived of their liberty, including cases resulting in death in custody. It would be useful to receive official data from the relevant ministries and the judiciary regarding the nature and number of such investigations since January 2011, the procedures followed in these cases, and details on cases which resulted in the prosecution of officials found guilty of such crimes. These should include cases where named individuals were declared by officials to be responsible for killings and other crimes, and whose "confessions" were broadcast on Syrian television. Additional information on any provisions under Syrian law for the compensation of victims of torture and their families would also be useful.

C. Investigations into killings of civilians and security personnel, and mass graves: several communications received by OHCHR from the Permanent Mission of Syria in Geneva contained references to a judicial committee and on-going investigations into incidents involving the killing of civilians and military personnel. There have also been a number of statements by Syrian officials regarding the discovery of mass graves, responsibility for which was attributed to "armed gangs". OHCHR would appreciate receiving the following information:

1. In early June, OHCHR was informed that a judicial committee was established to "investigate and bring to justice all perpetrator[s] of crimes against protestors and security personnel in Dara'a [o]n 31/3/2011", and that "the mandate of this committee was recently extended to investigate all crimes committed against civilians and security and army personnel in all parts of Syria".⁴ We would appreciate receiving the texts of the decision to establish this committee in the first instance and to subsequently extend its mandate, and details of any investigations it has conducted to date, together with the relevant findings. OHCHR notes the establishment of a complaints procedure which is accessible electronically, and which refers to a 'Judicial Private Investigation Commission'.⁵ In this regard, we request information on the composition and competence of its members, its terms of reference, and information on the nature and volume of complaints received to date. In particular, given the reference to "bringing perpetrators to justice", we wish to receive

⁴ Note Verbale to OHCHR dated 6 June 2011 from the Permanent Mission of Syria in Geneva.

⁵ Referred to in Note Verbale to OHCHR dated 6 June 2011 from the Permanent Mission of Syria in Geneva (www.ipic.gov.sy).

clarification as to the nature of the judicial powers of this committee. Does the committee have powers of enforcement or is it limited to making recommendations? What legislation is being used to formally charge any perpetrators with specific crimes, and which courts will be competent to hear such cases? Which laws will regulate the rights of the defendants and any appeals procedures?

2. At various times since the current protests began, Syrian officials have made references to the discovery of mass graves said to contain the remains of security personnel killed by “armed gangs”. This included an announcement on 12 June, upon the entry of Syrian forces to the town of Jisr al-Shughour, of one such site said to contain the remains of some ten security personnel.⁶ OHCHR wishes to receive details of the locations and contents of all sites of purported mass graves, and the procedures followed in the exhumation of these sites and the ensuing forensic examinations. Copies of official reports of any such investigations are particularly important. We also wish to be informed of the procedures followed in the related criminal investigations to determine culpability and identify the perpetrators, and the results of such investigations.

D. Conduct of law enforcement officials: Since mid-March 2011, several Syrian Government officials have publicly stated that orders were issued to law enforcement personnel, including the security forces, not to shoot at unarmed demonstrators.⁷ Further, that the police have “strict instructions not to assault or harass the demonstrators”, and that “security personnel have exercised maximum restraint while trying to control the situation”.⁸ OHCHR requests the following information and clarifications:

1. What instructions were issued to law enforcement personnel assigned to deal with crowd control since protests began in mid-March 2011? Who issued these orders and to whom?
2. Were these orders issued orally or in writing? If they were oral instructions, we wish to receive details of these orders and how they were communicated to the relevant commanders. We also wish to receive copies of any written orders and information on how they were disseminated and to whom. Additionally, what procedures are in place to ensure that orders on crowd control mechanisms are implemented, and what disciplinary measures are in place to deal with breaches of these orders?
3. Were these or other orders also issued to members and commanders of the Syrian armed forces, who also participated in a number of incidents since March 2011? We would appreciate receiving details of any oral or written orders issued in this regard. We also seek clarification of laws and procedures governing the role and conduct of specialised military agencies, including Air Force Intelligence (*al-Mukhabarat al-Jawwiyya*) and Military Security (*al-Amn al-‘Askari*).
4. How many security agencies are authorized to deal with public order issues, and particularly with peaceful assemblies or demonstrations? Which law enforcement agencies, including security and intelligence agencies, participated in crowd control operations since March 2011?

⁶ There were also references to “three mass graves dug by the armed groups and fundamentalist forces” having been discovered by the Syrian authorities (Note Verbale to OHCHR dated 27 June 2011 from the Permanent Mission of Syria in Geneva).

⁷ Note Verbale to OHCHR dated 15 April 2011 from the Permanent Mission of Syria in Geneva.

⁸ Note Verbale to OHCHR dated 27 June 2011 from the Permanent Mission of Syria in Geneva.

5. Is there a crowd control strategy for managing demonstrations and peaceful assemblies, and is it integrated in an overall strategy for dealing with public order issues?
6. What decision-making criteria are available, if any, to assist in applying legitimate and reasonable tactical options that are proportional to crowd behaviour? What level of law enforcement officials take such decisions, in particular with regard to the use of lethal weapons?
7. Under what circumstances does Syrian law permit law enforcement officials to carry and use firearms? What types of firearms and ammunition are permitted for use in the context of demonstrations and peaceful assembly?
8. What procedures are followed by commanders to communicate to crowds the intent to use force, and to ensure that adequate time is given for such warnings to be observed?
9. What procedures are integrated into operations plans for crowd control to facilitate the movement of ambulances and to ensure adequate medical services for emergency cases?
10. OHCHR would appreciate receiving copies of the relevant Syrian laws governing the conduct of law enforcement officials generally, including amendments to the Police Service Regulations (Law 1962/1930), and the Syrian Penal Code (Law 148/1949).⁹ Of particular relevance is information on legislative amendments currently in force relating to the use of force, including non-lethal incapacitating weapons.
11. We also seek clarification of any other laws and procedures governing the role and conduct of specialised security and intelligence agencies, including the General Intelligence Directorate (*Idarat al-Mukhabarat al-'amma*) and Political Security (*al-Amn al-Siyassi*). What is the current status of Legislative Decree No. 14 /1969, which provided immunity from prosecution for employees of General Intelligence except by order of the Director, and Legislative Decree No. 69/2008, which extended this immunity to members of other security forces except by order of the Armed Forces General Command?¹⁰ Are there cases where such immunity was waived? What other mechanisms or laws are available to ensure that abuses of powers by law enforcement personnel are prosecuted as criminal offences under the law?

E. Political and other reforms announced by the Syrian Government, OHCHR would appreciate receiving the latest information regarding the implementation of these measures:

1. The text of the new law regulating the right to peaceful assembly, which the Syrian authorities said had been issued on 21 April 2011.¹¹ We would appreciate clarification of the current status of this law, and what procedures and consultations were followed in its preparation.
2. Information regarding the decision taken on 11 May 2011 to establish a National Committee of Legal Experts to draw up a new law on elections.¹² We would appreciate receiving the text of this decision, details of the composition of this committee, the terms of reference of its mandate, its progress to date and an indication on the proposed timeline for the issuance of the law.

⁹ Selected articles of the Syrian Penal Code and the Police Service Regulations were accessed on the Syrian Ministry of Interior website.

(<http://www.syriamoi.gov.sy/portal/index.php?page=show&ex=2&dir=docs&ex=2&ser=2&lang=1&cat=71>).

¹⁰ Legislative Decree No. 14 of 15/01/1969 establishing the General Intelligence Directorate; and Legislative Decree No. 69 of 30/09/2008 amending the Military Penal Code.

¹¹ Note Verbale to OHCHR dated 6 June 2011 from the Permanent Mission of Syria in Geneva.

¹² *Ibid*

3. Information regarding the decision taken on 24 May 2011 to establish a National Committee to draw up a new information law.¹³ We would appreciate receiving the text of this decision, details of the composition of this committee, the terms of reference of its mandate, its progress to date and an indication as to whether the draft law may be drafted within the two-month deadline proposed by the Syrian authorities.
4. Information regarding the decision taken on 5 June 2011 to establish a committee to draw up a new law on political parties.¹⁴ We would appreciate receiving the text of this decision, details of the composition of this committee, the terms of reference of its mandate, its progress to date and an indication as to whether the draft law may be drafted within the one-month deadline proposed by the Syrian authorities.
5. Information regarding the decision taken on 1 June 2011 to establish a Committee for National Dialogue.¹⁵ We would appreciate receiving the text of this decision, details of the composition of this committee, the terms of reference of its mandate and its progress to date.
6. Text of the decree issued by President Bashar al-Assad in early April concerning the issue of the 1962 Census and the status of stateless members of the Kurdish community in Syria. According to Syrian officials, “beneficiaries of this decree were given the full rights of citizens”.¹⁶ OHCHR wishes to receive information on how the provisions of this decree have been implemented to date.

¹³ *Ibid*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Note Verbale to OHCHR dated 15 April 2011 from the Permanent Mission of Syria in Geneva.



N° 290/11

Geneva, 6 June 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 High Commissioner for Human Rights, and the honour to inform of the latest steps of political reform in the Syrian Arab Republic.

As The High Commissioner already knows, Syria has **lifted the state of emergency**, and has **abolished the High State Security Court** early in April 2011, in addition to setting up a **judicial Committee to investigate** and bring to justice all perpetrator of crimes against protestors and security personnel in Dara'a in 31/3/2011.

New more advanced steps were taken since that date within the continuing reform process the Syrian authorities have taken upon themselves. These steps also serve to meet legitimate requests for reform by national movements within Syria. They have been accompanied with a number of other steps for social and economic reform that seek to further improve the human rights situation of the Syrian citizens in accordance with Syria's international commitments including human rights commitments. However, this verbal note will discuss the political reforms underway at the time being, bearing in mind that other steps are still anticipated, including the results of the **Committee set up for combating corruption and increasing transparency**. The Committee is expected to present the results of its work to the Prime Minister today, or tomorrow at the latest.

The other latest steps for political reforms are as follows:

- 1- **A new law regulating the right to peaceful assembly** was issued on the 21st of April 2011, in accordance with the belief that the right to peaceful assembly is one of the basic human rights enshrined in the Syrian Constitution. It serves to reconcile the constitutional human right to peaceful assembly of all citizens while protecting the security of the nation, the citizens, and public and private property. This law was formulated in accordance with the highest international standards.
- 2- H.E. the President has issued an unprecedented **General amnesty** for all crimes committed before the 31st of May 2011. This amnesty has special relevance in pardoning all those arrested for belonging to

illegal political parties. The decree comes within the spirit of social forgiveness and national cohesion in the state.

- 3- A presidential decision has also been issued on the 1st of June 2011 to establish a **committee for national dialogue**. The Committee includes law professors, economists, politicians from a number of political parties, and other experts. H.E. the president met with the Committee on the 2nd of June and discussed with its members the importance of national dialogue to overcome the current situation of political and social turmoil. The Committee will formulate the bases for the dialogue in a comprehensive, and an all inclusive way to allow all national movements to present, freely, their points of view on the future of the political economic and social life in Syria.
- 4- On the 11th of May 2011 H.E. the Prime Minister Mr. Adel Safar has set up a national committee of competent legal experts to formulate a **new law on elections**. The committee presented the draft text to the Prime Minister later that month. The text was put up for public comments and amendments. The text is available for comments on the website:
http://www.youropinion.gov.sy/Tasharukia/projectdetail.asp?law_id=46
- 5- On the 24th of May, H.E. the Prime Minister set up a national committee consisting of a large number of journalists, including members of the internet media, writers and scholars, to formulate a **new information law** to restructure the information sector in all its forms in Syria in accordance with the most contemporary applicable laws in the world, and with accordance with Syria's commitments in this domain. The committee has 2 months, maximum, to present the draft of the new law.
- 6- On the 5th of June, H.E. the Prime Minister Mr. Adel Safar established a committee of wise men and women, including those with high expertise and competence, to formulate a **new law to regulate the formation and the functioning of political parties in Syria**. The Committee has already started its work, and will present a draft law to the Prime Minister within a month at the latest.
As with the elections law, the initial draft will be put forward to the public, including on the formal website to be created for this goal, to enrich the draft and collect suggestions before the law takes its final form.
- 7- Another development worth noting is related to the above mentioned decision to establish a **judicial committee to investigate all crimes committed against demonstrators and security personnel** in the city of Dara'a on the 31st of March 2011. The mandate of this committee was recently extended to investigate all crimes committed against

civilians and security and army personnel in all parts of Syria. Plaintiffs in these crimes would not have to travel to Damascus to present their complaints. They can present them to the public prosecutors in their cities. Furthermore, the Ministry has set up a **hotline**, and a separate **website** to receive all such complaints at the address: www.jplic.gov.sy

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to the High Commissioner for Human Rights, the assurances of its highest consideration.

The High Commissioner for Human Rights
Palais Wilson
Geneva- Switzerland



OHCHR REGISTRY

- 7 JUIN 2011

Recipients :...M.E.N.A.....
.....A. Asan.....
.....
.....

Mission Permanente
De La
République Arabe Syrienne
Genève



الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمم المتحدة
جنيف

N° 311 /11

Geneva, 14th of June 2011

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and has the honour to submit here with the report of the committee of inquiry subject of allegations concerning the case of the child Hamza Al Khatib and 3 CDs describing the situation in Syria.

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Encl. ment.



OHCHR REGISTRY

Office of the High Commissioner for
Human Rights
Palais Wilson

19 June 2011
Re: MENA
HC
SPD

إشارة إلى حملة التظليل المفبركة التي قامت بها الدوائر المتربصة بسورية وأجهزة الإعلام التابعة لها حول وفاة الطفل حمزة الخطيب ، وتنفيذاً لتوجيهات السيد رئيس الجمهورية ، صدر الأمر الإداري رقم ٩١٣/ص تاريخ ٢٠١١/٥/٣٠، المتضمن تشكيل لجنة برئاسة السيد معاون وزير الداخلية، وعضوية كل من:

- مدير إدارة الأمن الجنائي.

- النائب العام العسكري.

- قائد الشرطة العسكرية.

- رئيس فرع التحقيق بإدارة الأمن الجنائي.

والتي مهمتها التحقيق بموضوع الإدعاءات المتعلقة بوقوع أعمال عنف وشدة وتعذيب على جثة الطفل حمزة الخطيب.

* مباشرة قامت اللجنة بالإجراءات التالية بغية الوصول للحقيقة:

١- الانتقال بكامل أعضائها إلى مشفى تشرين العسكري، وعانيت الصور الضوئية المأخوذة للجنة بعد الوفاة مباشرة، وكانت ست صور ملونة، ومعرفة بتدوين رقم ٢٣ على كل منها، وكانت الصور بوضعيات مختلفة، وسبب تعريفها برقم ٢٣ كون الجثة كانت مجهولة الهوية، وجرى ضمها للتحقيقات القائمة حسب الأصول.

٢- طلبت نسخة عن محضر الكشف على جثة المتوفى المعدة من قبل اللجنة الطبية الثلاثية التي شكلت لهذه الغاية من القاضي المناوب بتاريخ ٢٠١١/٤/٣٠.

٣- وكلفت اللجنة الطبية الثلاثية بإعداد دراسة مقارنة بين الصور الضوئية المأخوذة لجنة الحدث المتوفى حمزة بمشفى تشرين العسكري بتاريخ ٢٠١١/٤/٣٠ مع الصور الضوئية المأخوذة لنفس الجثة بتاريخ ٢٠١١/٥/٢٤ بالمشفى الوطني في درعا وتنفيذاً لهذا التكليف قدمت اللجنة الدراسة المقارنة بتقرير مؤلف من صفتين حيث تبين لها مجموعة فروقات.

- ٤- كما اطلعت اللجنة على تقرير معاون رئيس النيابة العامة بدمشق الذي يبين فيه الإجراءات التحقيقية القضائية التي قام بها حيال جثة الحدث المتوفى حمزة الخطيب.
- ٥- استدعت اللجنة بتاريخ ٢٠١١/٦/١ الطبيب الشرعي في المشفى الوطني الذي أجرى الخبرة والكشف على جثة الحدث المتوفى حمزة الخطيب ووصولاً لحقيقة علمية ساطعة قاطعة لا يتسرب إليها الشك أو الريبة، واستدعت أيضاً أعضاء اللجنة الطبية الثلاثية الذين قاموا بالكشف على جثة نفس الشخص، وتم إجراء المقابلة بينهم جميعاً وأقهموا موضوع سبب الحضور والمقابلة والغاية من هذا الاجتماع وباللغاش الشفوي العلمي والطبي والفني تقرر بإجماع الأطباء "بأن حالة العضو التناسلي للطفل لم تكن حالة بتر بشكل جازم وذلك لوجود التغيرات النفسية مع احتمال أن هذا الضياع المادي الذي نوه عنه حدث في سياق التفسخ، أو أثناء نقل الجثة أو احتكاك في هذه الناحية".
- ٦- ومنعاً للتأويل أحضرت اللجنة بيان قيد مدني فردي للمتوفى حمزة الخطيب من أمين السجل المدني الذي يتبع له

* بعد القيام بالإجراءات المذكورة أعلاه (تم إيجازها) استخلصت اللجنة وبالإجماع النتائج التالية:

- أ- وصلت الجثة إلى مشفى تشرين العسكري بدمشق بتاريخ ٢٠١١/٤/٢٩ في ساعة متأخرة من الليل وبوشر في إجراء الكشف الطبي والقضائي عليها أصولاً عقب وقت قصير من وصولها بشكل فني وقانوني متكامل.
- ب- لا يوجد من آثار الشدة والعنف سوى آثار المرامي النارية الموصوفة بمحضر الكشف.
- ج- ان سبب الوفاة هو الإصابة بنزف شديد ناجم عن الإصابة بمرامي نارية ثلاث:
- ١- مرمي ناري دخوله وخروجه في العضد السفلي الأيسر بداية ثم دخل ثانية في الصدر الجانبي الأيسر وخرج من منتصف القص.
- ٢- مرمي ناري دخوله في الخاصرة اليمنى وخروجه في الظهر الأيمن الوحشي.
- ٣- مرمي ناري دخوله في الثلث السفلي للعضد الأيمن. مسافة الإطلاق لجميع المرامي: بعيدة: متر واحد كحد أدنى.
- الإطلاق من قبل الغير ومن عدة مصادر أو من مصدر واحد بوضعية الحركة أيضاً وفي نفس المستوى الأفقي.
- لقد سببت المرامي أذيات بليغة حشوية صدرية بطنية وعائية نازفة بشدة أدت إلى الوفاة.
- الوفاة ناجمة عن المرامي النارية وما نجم عنها.

د- إن حالة العضو التناسلي للطفل لم تكن حالة بتر بشكل جازم وذلك لوجود التغيرات التفسخية مع احتمال أن هذا الضياع المادي الذي نوه عنه حدث في سياق التفسخ، أو أثناء نقل الجثة أو احتكاك في هذه الناحية.

ه- ثبوت قناعة والد الحدث المتوفى حمزة الخطيب بأن جثة ولده سليمة وخالية من العبث، وهذه القناعة تبعت من أرضية الحوار بينه وبين أعضاء اللجنة من جهة وفق الثبوتات الرسمية القضائية والصور الضوئية وتقرير الخبرة الطبية الثلاثية والدراسة المقارنة بين الصور المأخوذة في درعا والصور المأخوذة في دمشق من جهة أخرى.

و- ثبوت وجود جهات معادية ولجّت أشخاصاً لنقل صور مغايرة للحقيقة أو متلاعب بها فنياً لتحقيق مآرب دنيئة يجب متابعتها من الجهات المعنية توصلاً لمعرفةها والقبض على ناقلي تلك الصور ومفذيها عامة وفيما يتعلق بهذه الواقعة خاصة.

وخلصت اللجنة إلى النتيجة التالية:

"ثبت بالدليل العلمي والفني والقضائي عدم وجود آثار لأعمال شدة أو عنف أو تعذيب على جثة الحدث المتوفى حمزة الخطيب لا بحياته ولا بعد وفاته سوى آثار المرامي النارية التي أصيب بها."



N° 319 /11

Geneva, 27 June 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 High Commissioner for Human Rights, and with reference to the preliminary report issued by the High commissioner on the 14th of June 2011 regarding the situation of Human Rights in the Syrian Arab Republic as mandated by the Human Rights Council resolution S-16/1 of 29/4/2011, has the honour to inform the High Commissioner of its shock at the unrealistic approach used by the High Commissioner towards the situation of human rights in Syria.

The report relied on media reports, as is evident from the footnotes of the report itself, and on unverified allegations to make serious human rights accusations against Syria. The report was prepared with a premeditated goal. It is biased and unprofessional. Despite that, and since the Syrian Arab Republic is keen on clarifying all the facts, and since it wishes to continue the dialogue with the High Commissioner to promote and protect human rights in accordance with her mandate and with respect to the Syrian sovereignty, the Syrian Arab Republic would therefore kindly inform the High Commissioner of the following:

- 1- In his speech of 20/6/2011, H.E. the president of the Syrian Arab Republic, clarified the comprehensive national plan for political, economic and administrative reform that is being conducted within a clearly defined and short timeframe. It seeks to meet all the demands of the Syrian people which became clear through the number of meetings H.E. the president had with different social groups over a 2 month period, including the trend to conduct substantial amendments to the constitution, or even replace it with a new constitution.
- 2- The right to peaceful assembly is enshrined in the Syrian Arab Republic in accordance with the constitution and the national and international commitments of Syria. Even though the High Commissioner was informed of the decree no: 54 of 21/4/2011 that regulated the right to peaceful assembly as a basic human right guaranteed by the constitution of the Syrian Arab Republic, yet she

refrained from presenting it in her report, for reasons well known by now, and chose to present it as an 'intention'.

- 3- The citizens of the Syria called for a number of legitimate demands for reform. The government is working to implement them within the law and in a manner to respect the law and serve the interests of the people. The High Commissioner was officially informed, through a number of verbal notes, of the steps that were taken in this context such as: lifting the state of emergency, abolishing the state security court, issuing a new law for peaceful assembly, a first in Syria and is in accordance with the highest international standards. In addition to other measures to combat corruption, and meet the public demands in issues related to the every day life of citizens. Many more reforms are underway. Yet none of this found its way to this report.
- 4- The Syrian government has become certain that there are foreign regional and international forces, acting to destabilize security and stability in Syria through exploiting legitimate demonstrations and calls for reform. It also became evident that there are armed groups that do not want reform, but want to overthrow the regime and establish salafist emirates. And instead of retreating in the face of reform measures undertaken by the Syrian leadership, they answered by seeking sectarian rifts and by escalating attacks against innocent civilians and against army posts. They also answered with destroying security enforcing forces headquarters, killing their personnel and mutilating their corpses (as was the case of the brigadier- general Abdu Khidr Tilawi and his three children), forcing schools to shut their doors. Furthermore three mass graves dug by the armed groups and fundamentalist forces were discovered. Members of the diplomatic corps in Damascus, international Organizations, and the international media witnessed the last one.
- 5- In the city of Talbise in the governorate of Homs, for example, armed men cut off the international highway for long hours and attacked policemen who had strict instructions not to assault or harass the demonstrators. This led to a number of casualties, which in turn led to the intervention of the army. In Jisr al-Shughur the armed groups have gained control of the city and terrified the residents. This made them call for the military intervention to protect them from the armed groups.
- 6- The armed groups that raise havoc in Syria killed a large number of innocent civilians and security personnel. Security personnel have exercised maximum restraint while trying to control the situation. This led the armed groups to exploit the situation and increase their attacks on civilians (as per our verbal note to the High Commissioner no:213/11 dated 15/4/2011). However, the High Commissioner chose

to ignore all this information and to ignore the horrific violations of human rights such as extrajudicial killings, abductions, torture and other crimes committed by those groups. She made no reference to these crimes in any way, and aligned herself with one side and established herself as its defender.

- 7- What happened in Syria lately, and what is still going on, is not related in any way to peaceful demonstration. Rather, we are up against acts of destruction, and terrorizing people. This has largely affected the markets, the national economy and tourism. It also affected the feeling of security by Syrians, a feeling Syria takes pride in.
- 8- The fundamentalist leadership outside Syria mainly guides the protests, in synchronization with issuing many 'fatwa's' outside Syria calling for resisting the authority through abusing Friday prayers to incite violence, to destroy, to kill, and extend the sphere of chaos. A number of phone calls of those who have incited violence have been intercepted. And even though they were aired on a number of the media channels (including some of which the High Commissioner cited in her report) the High Commissioner refrained from referring to these cases. Collaborators of that leadership inside Syria, and a number of Jihadi Salafist groups and paid men, attacked the army, the police and the security. What is going on now is a repetition of what Syria witnessed in the 1980s but with modern tools. At the time, Syria paid the price of terrorist activities dearly with its best scientist, intellectuals, and sons. For this reason, the state has to take measures to protect its citizens, the private and public establishments, and protect its economy from this haemorrhage. It is unacceptable for the state to stand by watching while the electricity stations, TV. buildings, land registries, schools and hospitals are burnt down, and ambulances, paramedics, telephone and telecommunication centres are targeted, as was the case in Jisr al-Shughur, where representatives of the foreign embassies and UN agencies made a first hand evaluation at the situation.
- 9- This was accompanied with an unprecedented incitement campaign against Syria in a number of media outlets. A number of satellite channels lately aired photos and videos of people injured or killed during the protests. It was later proved that they were clips from other countries or even totally fabricated. A number of satellite channels aired the way these clips were fabricated and produced to present events from outside Syria as happening in Syria. Reuters, other news agencies and television channels apologized for airing misinformation or information from events in other countries. Unfortunately, the High Commissioner chose not to mention this, neither did she refer to the

information and videos sent to her by the Mission in the Verbal Note of 14/6/2011. She chose to close her ears to any neutral or objective voice.

- 10- The Syrian Laws, as in other countries, demand that journalists wishing to enter its territory, to do so in a legitimate and legal way, and not through presenting wrong information and invalid documents. It is surprising to single out the case of the Al Jazeera reporter as a proof to what the High Commissioner called 'deportation of foreign journalists'. This journalist entered Syria with an expired passport and irregular documents. This is illegal and no country in the world would accept it.
- 11- The High Commissioner refrained from mentioning 260 deaths from members of the security and the army. Some were killed while they were outside working hours. As for the injured from army and the security, they have reached 8.000 casualties.
- 12- In an effort to protect its borders, Syria discovered a large number of smuggled weapon shipments and arms supplies used by the armed groups to strike at security and order in Syria using foreign finance. No country in the world accepts this. It is a matter of national security. Those groups were tracked down, and a number of them were arrested, while others fled outside the country. The national TV aired their confessions, showing the foreign involvement in supporting them financially and logistically. They also confessed to the large amounts of money they received for the crimes they committed, and which cannot be justified under any human rights bill. It is worth noting that the weapons being used currently by the armed groups against the civilians, the security and army are advanced weapons. They range from machine guns to RBGs, bombs, other weapons and advanced communication systems that are not compatible with allegation of peaceful protest, and show a high level of training and prior preparations for acts of violence and killings.
- 13- In addition to all above, the report contained a number of fallacies. The Mission of the Syrian Arab Republic would like to hereby present some:
 - a- In paragraph 6 of the report the High Commissioner alleged that '*helicopter machine guns were also said to have been used during a military assault on the town of Jisr al-Shughur*'. This is not true. One helicopter was used in an exploratory mission to find out what was happening on the ground due to the siege imposed by the armed groups on security headquarters in the city. That helicopter never took part in any military activities.
 - b- The allegation in paragraph 7 that '*while women and children were among those detained, human rights defenders, political*

activists, and journalists were particularly targeted', is a reprehensible allegation that serves only to smear the image of Syria, a campaign that is being conducted by media outlets. It is a fact that there are many Syrians who express their different views through all media outlets, and from within Syria, without being harmed in any way.

c- The High Commissioner referred in paragraph 8 of her report to the case of Syrian Child Hamza alkhatib, as presented in the media. she ignored the ad hoc committee set up in Syria to investigate the death of the child and the affirmative conclusions it reached on the circumstances of his death, including the lack of traces of torture on his body. The High commissioner was informed of this in the Missions' verbal note no: 311/11 dated 14/6/2011.

d- Paragraphs 9 and 10 of the report, claimed that *the Syrian authorities violated the freedoms of assembly, expression and movement*. There is no better proof of this fallacy than the declaration of the Syrian authorities, at the highest levels, that they respects peaceful assemblies and that they are making every effort to study and meet the demands of the protestors.

14- The Mission rejects the use of the term '*Syrian Government claims 120 security personnel in attacks*' in the city of Jisr Alshugour. At the time when she did not use the term to refer to media and NGO reports. In fact she used terms such as 'reliable sources' while quoting those reports. This proves she intends to adopt a one sided approach and align herself with this side, refusing to deal in an impartial manner with all that is presented to her by the Syrian Government. This in turn sheds doubts on carrying out her mandate impartially and objectively.

15- Syria reiterate that it is proceeding in the road to reform as announced by H.E. the President, and its persistence in meeting the legitimate demands of its citizens and protecting their lives and properties, and stresses that it will not allow terrorism and fundamentalism to claim the lives of Syrian citizens.

16- The Syrian Arab Republic expects the High Commissioner to carry out her work in an impartial and objective manner with the aim of protecting victims of human rights violations, and promote and protect human rights within her mandate and without politicization. The position taken by the High Commissioner, through relying on misinformation, does wrong to the Syrian people, and to the blood of the innocent casualties. This puts the High Commissioner in a position as if take part in the hatred campaign against Syria launched by other organizations, in order to undermine the Syrian peoples national interests.

Finally, the Syrian Arab Republic reiterates its readiness to cooperate with the High Commissioner for Human Rights and her office, to promote and protect human rights, in a framework of impartiality, objectivity, non-politicization and without adopting one point of view against another, and within the mandate of the High Commissioner, and within respect to the sovereignty of the Syrian Arab Republic and its freedom to make its political choices within its national and international human rights commitments.

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to the High Commissioner for Human Rights, the assurances of its highest consideration.



The High Commissioner for Human Rights
Palais Wilson
Geneva- Switzerland

Cc: - The Deputy High Commissioner for Human Rights
- The MENA Unit at the OHCHR

OHCHR REGISTRY

28 JUN 2011

Recipients : *H.C. Correspondence*
..MENA.....
.....N. Siakh paush
.....

MISSION PERMANENTE
DE LA
RÉPUBLIQUE ARABE SYRIENNE
GENÈVE



الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمم المتحدة
جنيف

N° 395/11

Geneva, 5th August 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 High Commissioner for Human Rights, and in reference to the High Commissioner Note Verbal dated 15 July 2011 which included the letter addressed to H.E Dr. Adel Safar prime Minister of The Syrian Arab Republic, has the honour to attach herewith the answers to the questions attached to above mentioned letter. The related documents and CDs will be sent next week.

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to the High Commissioner for Human Rights the assurances of its highest consideration.

United Nations
High Commissioner for Human Rights
Palais des Nations
CH-1211 GENEVE 10

OHCHR REGISTRY

- 5 AOUT 2011

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الجمهورية العربية السورية
وزارة الخارجية والمغتربين

رد حكومة الجمهورية العربية السورية على الأسئلة الموجهة إلى
السيد رئيس مجلس الوزراء من المفوضية السامية لحقوق الإنسان
حول الأوضاع في سورية

أولاً: تعبر حكومة الجمهورية العربية السورية مجدداً عن استمرارها في التعاون مع المفوضية العليا لحقوق الإنسان وتؤكد إصرارها الدائم على كشف وتقديم كافة الحقائق التي يتم السؤال عنها وذلك بعيداً عن ما يتم تلقيقه وتقديمه للمفوضية السامية من وقائع كاذبة ومعلومات ملفقة تقدمها لها بعض المصادر والجهات التي تتركز أهدافها على تشويه سمعة الجمهورية العربية السورية، وتتبع من أجل الوصول إلى هذه الأهداف كافة الوسائل البعيدة عن الأخلاق الإنسانية والشرائع والأعراف.

ثانياً: إن حكومة الجمهورية العربية السورية تود التأكيد على مجموعة المبادئ التي تسيّر على هديها في التعامل والمعالجة لكافة الأمور المطروحة للنقاش وفقاً للنقاط الآتية:

إن حق التعبير عن الرأي بحرية مضان بموجب دستور الجمهورية العربية السورية، ويجب على الحكومة حمايته وتعزيز ممارسته وتطوير الثقافة الخاصة به ليكون إيجابياً مفيداً للمجتمع ككل.

إن الحق بالتظاهر السلمي مضان أيضاً بموجب دستور الجمهورية العربية السورية. وقد صدر مؤخراً قانون ينظم ممارسة هذا الحق وفقاً للمعايير المعمول والمتعارف بها دولياً وبما ينسجم ويتطابق مع ما هو مطبق في معظم دول العالم.

إن القوانين السورية النافذة تعاقب على أي ضرب من ضروب الشدة أو التعذيب بنصوص صارمة .

إن القوانين السورية النافذة تعاقب على أي نوع من أنواع حجز الحرية خارج نطاق القانون سواء قام به أشخاص تابعون للسلطات العامة أو أفراد عاديين.

إن الدفاع عن حقوق الإنسان وحمايتها وتعزيزها هو أحد أهم المرتكزات التي تقوم عليها سياسة حكومة الجمهورية العربية السورية في الداخل والخارج.

إن مكافحة الفساد هي عملية مستمرة وتعمل حكومة الجمهورية العربية السورية على متابعتها وتعزيزها وسن التشريعات التي تواكب آليات معالجة هذه الظاهرة بما ينسجم مع قوانين الدول الرائدة في هذا المجال.

حكومة الجمهورية العربية السورية تعمل بشكل حثيث على تطوير العمل السياسي في سورية من كافة النواحي وقد اتخذت من القرارات والخطوات الواسعة في هذا المجال بما يؤكد على عزمها هذا.

إن الحوار الوطني الشامل بين كافة أطراف المجتمع السوري هو السبيل الأمثل للإصلاح والتطوير من أجل الوصول إلى الأهداف المرجوة في الارتقاء نحو الأفضل في المجالات السياسية والتشريعية والاجتماعية والاقتصادية.

سيادة القانون والقضاء هما من أهم المرتكزات التي تقوم عليها عملية الإصلاح الشامل بهدف تحقيق أرقى معايير العدالة الاجتماعية بين أفراد المجتمع السوري.

ومن خلال ما سبق بيانه فإننا نؤكد أن السلطات السورية المختصة ومنذ بداية الأحداث في شهر آذار ٢٠١١ تعاملت مع المظاهرات السلمية التي لدى أصحابها مطالب وأهداف تتعلق بالإصلاح ومكافحة الفساد بصورة حضارية تعكس طبيعة وجوهر العلاقة القائمة بين المجتمع والدولة، وكانت تقوم بتأمين هذه التظاهرات إلى حين انتهائها وعودة المشاركين فيها كل إلى منزله، لكن هذا الأمر لم يرق لجهات وأطراف داخلية وخارجية هدفها الرئيس زعزعة الاستقرار الذي تعيشه سورية حيث أخذت تظهر على أرض الواقع جماعات إرهابية مسلحة تقوم بالاعتداء على المتظاهرين السلميين وإرهابهم وقتلهم، وصارت هذه

المجموعات الإرهابية تنشط إما عن طريق الانخراط ابتداءً ضمن صفوف المتظاهرين حيث كان يحمل أفرادها العصي والسيوف والسكاكين ويبادرون إلى التهيج والقيام بالأعمال التخريبية انطلاقاً من داخل المظاهرات فيحرقون السيارات ويخربون الممتلكات والإدارات والمباني العامة والخاصة، أو كان الأفراد المسلحين بأسلحة حربية من هذه المجموعات يقومون بإطلاق النار بشكل مباشر على المتظاهرين أو على قوات حفظ النظام بقصد قتل أكبر عدد من الناس، والسبب هو كون هؤلاء يتظاهرون بشكل سلمي وتحت حماية السلطات العامة التي كانت تؤمن لهم تجمهرهم حفاظاً على الأمن العام، أما الهدف الحقيقي والأساسي للجماعات الإرهابية فهو تشويه سمعة السلطات العامة في سورية عبر تصويرها بأنها تقوم بعملية قمع دموي للمتظاهرين، كل ذلك ترافق مع حملة إعلامية خارجية مضللة ضد سورية تواكبت مع مجموعة من الفتاوى التكفيرية التي أطلقها عدد ممن يعتبرون أنفسهم رجال دين أخذوا يحرضون على القتل وسفك الدماء تحت ستار الدين وبما يتطابق بشكل تام مع فكر ونهج التنظيمات الإرهابية التكفيرية التي تنتشر في الكثير من دول العالم وتسعى إلى تخريب المجتمعات والدول التي تنشط فيها، فأخذت الخلايا الإرهابية النائمة تنشط وتظهر إلى العلن مستفيدة من التمويل الخارجي الهائل الذي يقدم لها ومن وسائل الاتصال الحديثة والأسلحة الحربية المتنوعة التي تم تهريبها وإدخالها لصالحها عبر الحدود بوسائل غير مشروعة وصارت بعض الجوامع تستخدم كمستودعات للأسلحة الحربية والذخائر وهذا ما كان عليه حال المسجد العمري في درعا وبعض المساجد الأخرى في نفس المحافظة وفي محافظات أخرى من سورية التي أقدم القائمين عليها على تغطية هذه الأعمال وتنسيقها ضمن نطاق انحرافهم الفكري والديني ودعوتهم للقتل، واستقطابهم وتغريبهم ببعض ضعاف النفوس للعمل ضمن نطاق أعمال القتل والتخريب والإرهاب ضد أفراد الشرطة والجيش وضد المتظاهرين السلميين على حد سواء، حيث وصل عدد الشهداء الذين قتلهم الإرهابيون من أفراد الشرطة والجيش إلى المئات من الضباط والعناصر ووصل عدد المصابين بطلق نارية أو بطعنات السيوف والسكاكين أو بالضرب المبرح إلى الآلاف إضافة إلى ما قام به هؤلاء الإرهابيون من تمثيل بجث ضحاياهم من أفراد الشرطة والجيش.

أما بالنسبة لكل من أوقف نقيامه بأعمال غير مشروعة فقد تمت إحالته إلى الجهات القضائية وفقاً لأحكام قانون أصول المحاكمات الجزائية السوري وبما ينسجم بشكل تام مع ما صدر من تشريعات لجهة رفع حالة الطوارئ بحيث لم يعد هناك مجال في سورية لأي توقيف عرفي بل تتم إحالة المشتبه فيهم خلال أربع

وعشرون ساعة إلى النيابة العامة المختصة ويصبحون تحت عهدة وولاية القضاء السوري، وفي معظم الحالات التي أحيلت إلى القضاء تم إخلاء سبيل الأشخاص المشتبه فيهم فوراً، أما من قاموا بارتكاب أعمال التخريب أو الإحراق أو القتل فإن السلطات القضائية المختصة تقوم بملاحقتهم قضائياً وفقاً لأحكام القانون ومن تثبت براءته يتم إعلان هذه البراءة بحكم قضائي، أما من يثبت للقضاء أنه ارتكب هذه الجرائم فتتم معاقبته وفقاً لنصوص قانون العقوبات السوري.

ثالثاً: أما فيما يتعلق بمجموعة الأسئلة التي يطرحها مكتب المفوض السامي لحقوق الإنسان على حكومة الجمهورية العربية السورية بتاريخ ٢٠١١/٧/١٥ فنورد لكم الإجابات عليها وفقاً لما يلي:

١- بتاريخ ٢٠١١/٤/٢١ صدرت ثلاثة مراسيم تشريعية هي المرسوم التشريعي رقم (١٦١) المتضمن إنهاء العمل بحالة الطوارئ، والرسوم التشريعي رقم (٥٣) المتضمن إلغاء محكمة أمن الدولة العليا المحدثة بالمرسوم التشريعي رقم (٤٧) تاريخ ١٩٦٨/٣/٢٨، وإحالة جميع الدعاوى المنظورة لدى المحكمة المذكورة والنيابة العامة فيها بحالتها الحاضرة إلى مرجعها القضائي المختص وفق ما تنص عليه قواعد قانون أصول المحاكمات الجزائية، والرسوم التشريعي رقم (٥٥) المتضمن تعديل المادة (١٧) من قانون أصول المحاكمات الجزائية بحيث تختص الضابطة العدلية أو المفوضون بمهامها باستقصاء بعض الجرائم المنصوص عليها في قانون العقوبات العام (الجرائم الواقعة على أمن الدولة والسلامة العامة) وجمع أدلتها، والاستماع إلى المشتبه بهم فيها، على ألا تتجاوز مدة التحفظ عليهم سبعة أيام قابلة للتجديد من النائب العام وفقاً لمعطيات كل ملف على حده، وعلى ألا تزيد هذه المدة عن ستين يوماً، ووفقاً لأحكام قانون أصول المحاكمات الجزائية فإنه يتوجب على الضابطة العدلية تقديم المشتبه فيه إلى القضاء فور انتهاء مهلة السبعة أيام إلا إذا كان يوجد موجبات قانونية أو واقعية مستمدة من ماهية التحقيقات تستدعي تمديد هذه المهلة لأكثر من سبعة أيام وعند ذلك تستطيع الضابطة العدلية إطلاع النائب العام المختص على سير التحقيقات وطلب مهلة إضافية للتحفظ على المشتبه فيه لمتابعة التحقيق في القضية وجمع أدلتها وللنائب العام في هذه الحالة الصلاحية في تمديد المهلة أو إعطاء الأمر للضابطة العدلية بتقديم المشتبه فيه فوراً إلى القضاء.

وبالعودة إلى ما ورد حول هذه المواضيع من أسئلة نفيديكم أنه بمجرد إنهاء حالة الطوارئ لم يعد يوجد في سورية أي مجال لأي توقيف عرفي بالنسبة للجرائم الواقعة على أمن الدولة أو السلامة العامة وأصبحت

النصوص الواردة في قانون أصول المحاكمات الجزائية هي الوحيدة واجبة التطبيق في التوقيف الاحتياطي وآلياته ومبرراته، وهذه النصوص تمنع بأي حال توقيف المشتبه فيهم من قبل الضابطة العدلية احتياطياً لأكثر من أربع وعشرين ساعة ليتم تقديمهم فوراً إلى النيابة العامة المختصة، ويصبحوا تحت عهدة وولاية القضاء، وقد أباحت هذه النصوص تمديد المهلة المذكورة لكن بأمر وموافقة النائب العام المختص حسب ماهية ومآل التحقيقات، وذلك بالنسبة لكافة الجرائم المنصوص عليها في القوانين السورية النافذة باستثناء الآليات والمدد المتعلقة بالجرائم الواقعة على أمن الدولة والسلامة العامة التي سبق لنا ذكرها أما عن الإجراءات القانونية التي تم اتخاذها لتنفيذ المرسوم التشريعي المتضمن إلغاء محكمة أمن الدولة العليا فقد تمت إحالة كافة الدعاوى التي كانت المنظورة أمامها حين إلغائها إلى المحاكم المختصة حسب قواعد الاختصاص المكاني المنصوص عليها في قانون أصول المحاكمات الجزائية وتم نقل كافة الأشخاص الذين كانت تجري محاكمتهم أمامها إلى السجون التي تتبع محاكم المحافظات لتتم محاكمتهم وفقاً لأحكام قانوني العقوبات وأصول المحاكمات الجزائية النافذين في سورية.

٢- بالنسبة لكيفية تنفيذ العفو العام فإن النيابة العامة المختصة في كل منطقة أو محافظة تقوم بتنفيذ أحكام العفو العام وفقاً لمضمون المرسوم التشريعي الصادر بهذا الصدد ووفقاً لأحكام قانوني العقوبات وأصول المحاكمات الجزائية بحيث يتم فور صدور العفو العام إحصاء الموقوفين المشمولين بأحكامه من خلال سجلات المحاكم والنيابات العامة وسجلات السجون ويصدر النائب العام المختص قراره بإطلاق سراح الموقوفين فوراً بالنسبة لمن يشمل العفو العام كامل عقوبتهم، أما الذين شمل العفو جزءاً من عقوبتهم فيتم ترك أمر إطلاق سراحهم لقضاة التحقيق أو الحاكم الجنائية المختصة التي تنظر في قضاياهم ويتم أخذ مفاعيل العفو العام بعين الاعتبار لدى إصدار الأحكام بحقهم بحيث تقرر المحكمة في الحكم الذي يصدر عنها إسقاط الجزء المشمول بالعفو من العقوبة النهائية.

٣- لم يتم تشكيل أية لجان (عدا الطبية) للنظر في الحالات الفردية المتعلقة بالاستفادة من أحكام العفو العام لكن أي سجين يستطيع تقديم طلباته إلى المحكمة المختصة أو إلى النائب العام المختص ليتم النظر فيها ومعالجتها وفقاً لأحكام القانون.

٤- بالنسبة لأعداد السجناء الذين أطلق سراحهم تنفيذاً للعفو العام فنوردها لكم وفقاً للقوائم التالية:.

عدد المشمولين بأحكامه		تاريخ صدوره	رقم المرسوم
		2011/3/7	المرسوم التشريعي رقم 34
<u>العدد</u>	<u>المحافظة</u>		
138	دمشق		
244	حلب		
4195	ريف دمشق		
97	إدلب		
57	حمص		
185	حماة		
52	اللاذقية		
37	طرطوس		
52	درعا		
11	السويداء		
46	دير الزور		
57	الحسكة		
56	الرقبة		
5227	المجموع		
		2011/5/31	المرسوم التشريعي رقم 61
<u>العدد</u>	<u>المحافظة</u>		
323	دمشق		
66	حلب		
1431	ريف دمشق		
65	إدلب		
168	حمص		
61	حماة		
83	اللاذقية		

160	طرطوس		
45	درعا		
26	السويداء		
50	دير الزور		
46	الحسكة		
160	الرققة		
2684	المجموع		
<u>العدد</u>	<u>المحافظة</u>	2011/6/20	المرسوم التشريعي رقم 72
196	دمشق		
103	حلب		
344	ريف دمشق		
32	إدلب		
30	حمص		
59	حماة		
1600	اللاذقية		
13	طرطوس		
12	درعا		
55	السويداء		
31	دير الزور		
27	الحسكة		
20	الرققة		
2522	المجموع		

وبالتالي فإن عدد من شمله العفو من الموقوفين الذين أطلق سراحهم فور صدور المراسيم التشريعية المشار إليها أعلاه يبلغ (١٠،٤٣٣) شخصاً، مع التنويه بأن الإحصائية المتقدمة لا تشمل إلا من أطلق سراحه فوراً بموجب مراسيم العفو. ومن ثم فإنها لا تشمل المخالفات، أو الجرح المفصولة، كما أنها لا تشمل الدعاوى قيد النظر في الجنايات التي يستفيد أصحابها من العفو عند الحكم فهناك عدد كبير ممن استفاد من العفو جزئياً كالاستفادة من نصف العقوبة، أو ربعها، ولا تشمل أيضاً المتوارين عن الأنتظار إلا إذا سلموا أنفسهم خلال المدد المحددة في مرسوم العفو، وهنا لا بد من الإشارة إلى أن مرسومي العفو المذكورين لم يشملاً أيضاً بعض الجرائم كالخيانة والإرهاب والتجسس والاعتصاب والاتجار بالأسلحة والمخدرات ويعد هذين المرسومين الأكثر اتساعاً وشمولية مقارنة بجميع قوانين ومراسيم العفو السابقة، كما لا بد من الإشارة إلى أن العفو العام الصادر بتاريخ ٢٠١١/٥/٣١ شمل كافة أعضاء وقيادات التنظيمات والجمعيات السياسية غير المرخصة باستثناء تلك التي تتخذ من وسائل الإرهاب عنصراً جوهرياً في نشاطها من أجل تحقيق أهدافها، لكن حكومة الجمهورية العربية السورية ومن خلال إصرارها وسعيها الحثيث باتجاه إطلاق الحوار الوطني الشامل بين كافة أطراف المجتمع السوري وبين كافة القوى السورية بادرت إلى تشميل كافة المنتمين إلى تنظيم جماعة الإخوان المسلمين بالعفو العام وعن كامل العقوبة على الرغم من أن التنظيم المذكور اتخذ من وسائل الإرهاب والتخريب والقتل عنصراً جوهرياً إن لم يكن وحيداً من أجل تحقيق أهدافه في سورية وعلى مدى عقود طويلة مضت، كما تم بنفس الإتجاه والهدف إطلاق سراح عدد من الموقوفين المنتمين لحزب العمل الشيوعي، وصدرت القرارات بتسهيل عودة المشمولين بالعفو إلى القطر، كما تم إلغاء الموافقات الأمنية في كافة معاملات المواطنين السوريين.

٥- بعد رفع حالة الطوارئ فإن الأساس القانوني للتوقيف بالنسبة لأية مشتبه فيه بأية جريمة منصوص عليها في القوانين السورية النافذة، هو ما ورد من نصوص في قانون أصول المحاكمات الجزائية، كما أسلفنا بيانه سابقاً وهذا يشمل حالات التوقيف على خلفية القيام بأعمال الشغب والتخريب والإرهاب كما يحصل حالياً في سورية ويتم تسميته احتجاجات سلمية، أما بالنسبة للتظاهر السلمي قام يتم إلقاء القبض على أي محتج أو متظاهر سلمي لجأ إلى التظاهر الاحتجاج أو التظاهر وفقاً لأحكام القانون، إلا أنه في حالات محدودة للغاية جرى إلقاء القبض على من يتظاهر بصورة مخالفة لأحكام المرسوم التشريعي رقم

(٥٤) تاريخ ٢١/٤/٢٠١١ الذي ينظم حق التظاهر السلمي، وفي هذه الحالة غالباً ما يطلق القضاء سراح الموقوف فوراً أو خلال خمسة أيام على أبعد تقدير في حال التكرار. أما في الحالات التي لا يكون فيها التظاهر سلمياً فإن أحكام قانون العقوبات الصادر بالمرسوم التشريعي رقم (148) لعام 1949 هي التي يطبقها القضاء في ضوء ظروف كل قضية على حدة. ذلك أن سورية تواجه في الغالب الأعم من الحالات والوقائع التي تحصل على الأرض عصابات إرهابية مسلحة، مزودة بأحدث الأسلحة وأكثرها تقنية، في إطار من العنف المنظم الذي تناهضه القوانين والأعراف الدولية والقوانين الداخلية على حد سواء، وفي ظل فبركة وتضليل إعلامي غير مسبوق، إذ لا يعقل أن تسمح أية دولة ذات سيادة بقيام بمرمرد إرهابي مسلح على أراضيها وبطال كافة مواطنيها من المدنيين أو العسكريين دون أن تقف في وجه القائمين به وتقدمهم إلى العدالة لينالوا عقابهم أمام القضاء الوطني خاصة وأن أعمال التخريب والإرهاب والإحراق انصبت على أبنية الخدمة العامة في الدولة.

٦- إن الإجراءات القانونية التي اتبعتها وتتبعها كافة قوى الأمن الداخلي في سورية بعد رفع حالة الطوارئ تخضع جميعها لما ورد في قانون أصول المحاكمات الجزائية في التوقيف والاعتقال فكل القوى الأمنية والشرطية وفقاً لأحكام المادة رقم ٨/ من القانون المذكور تعتبر من الضابطة العدلية التي تساعد النائب العام في مهامه وأفراد هذه الضابطة مكلفون وفقاً لنص المادة رقم ٦/ من نفس القانون باستنصاء الجرائم وجمع أدلتها والقبض على فاعليها وإحالتهم على المحاكم الموكل إليها أمر معاقبتهم، ولا يوجد لدينا أي موقوف خارج نطاق القانون على خلفية مظاهرات أو احتجاجات سلمية، إما إذا كان من يستخدم السلاح والعنف والإرهاب في مواجهة الدولة هو المقصود بهذا التساؤل فإن هذا أمر مختلف غاية الاختلاف، ومع ذلك فإننا على استعداد حتى بالنسبة لمن ارتكب عملاً إرهابياً موافاتكم بما يطلب بشأنه، على أن تكون لدينا أسماء ومعطيات محددة ودقيقة، وليس مجرد كلام غير مستند إلى أي دليل معقول.

٧- فيما يتعلق بمقتل حمزة الخطيب نفيديكم بأن المذكور لدى مقتله كان يشارك مع مجموعة إرهابية تخريبية مسلحة في الهجوم على ضاحية سكنية في محافظة درعا، وكان يحمل بيده سلاح حاد قاطع وأصيب بعدة طلقات نارية من مسافة قريبة جداً مما يشير إلى أن مطلق الرصاص الذين أصابوه هم رفاقه من المخربين، وورفق تقريراً مفصلاً حول الكشف الطبي والتحقيقات القانونية التي جرت على جثته.

٨- إن قانون العقوبات السوري يجوي اللصوص القانونية الواضحة والصریحة التي تعاقب على أي ضرب من ضروب الشدة أو التعذيب بحق أي موقوف، كما تعاقب على حجز الحرية بعقوبات صارمة ونجيبكم حول تساؤلاتكم عن هذا الموضوع وفق التفصيل التالي:

١- الحرية الشخصية حق مقدس كفله الدستور والقانون. ولا يجوز احتجاز أحد دون توجيه تهمة إليه حسب الأصول القانونية، وإلا كان ذلك حجز حرية غير مشروع ومعاقب عليه. فالمادة (357) من قانون العقوبات تنص على أن: "كل من أوقف أو حبس شخصاً في غير الحالات التي ينص عليها القانون يعاقب بالأشغال الشاقة المؤقتة"، وتنص المادة (358) على الحبس من سنة إلى ثلاث سنوات لمديري وحراس السجون، والمعاهد التأديبية، أو الإصلاحية، وكل من اضطلع بصلاحياتهم من الموظفين إذا قبلوا شخصاً دون مذكرة قضائية، أو قرار، أو استبقوه إلى أبعد من الأجل. وأي شخص يتم توقيفه وفقاً للقانون السوري يتم إعلامه بأسباب هذا التوقيف، والجرم الذي استوجب إصداره، ونوعه، والمادة القانونية التي تعاقب عليه، ويبلغ المدعى عليه مذكرات الدعوة، والإحضار، والتوقيف، ويترك له صورة عنها. ولقاضي التحقيق في دعاوى الجناية والجنحة أن يكتفي بإصدار مذكرة دعوة، على أن يبدلها بعد استجواب المدعى عليه بمذكرة توقيف إذا اقتضى التحقيق ذلك.

وإذا أوقف المدعى عليه بموجب مذكرة إحضار، وظل في النظارة أكثر من أربع وعشرين ساعة دون أن يستجوب أو يساق إلى النائب العام اعتبر توقيفه عملاً تعسفياً، ولو حق الموظف المسؤول بجريمة حجز الحرية الشخصية المنصوص عليها في المادة (358) من قانون العقوبات.

٢- تعاقب المادة (391) من قانون العقوبات على التعذيب بأبسط صورته يجعل مرتكبه عرضة للعقاب، فقد جاء نص هذه المادة على النحو الآتي:

" من سام شخصاً ضروباً من الشدة لا يجيزها القانون رغبة منه في الحصول على إقرار عن جريمة أو على معلومات بشأنها عوقب بالحبس من ثلاثة أشهر إلى ثلاث سنوات. وإذا أفضت أعمال العنف عليه إلى مرض أو جراح كان أدنى العقاب الحبس سنة".

فالنص القانوني يستخدم عبارة "من سام شخصاً ضروباً من الشدة..."، أي أنه يشمل أبسط صور التعذيب وحالاته.

وجدير الذكر أن الجمهورية العربية السورية قد انضمت إلى الاتفاقية الدولية لمناهضة التعذيب، وقد ناقشت تقريرها بتاريخ ٣- ٤/٩/٢٠١٠، ووافقت اللجنة المعنية بكل ما هو مطلوب.

والجمهورية العربية السورية ملتزمة بكل ما تضمنته اتفاقية مناهضة التعذيب غيره من ضروب المعاملة القاسية أو والانسانية أو المهينة من أحكام، ذلك أنه من المستقر دستورياً وقضائياً وفقهياً في سورية، ومنذ أمد بعيد، أن المعاهدة التي تستكمل إجراءات التصديق الدستورية تتقدم على أي نص تشريعي نافذ، وتعامل على أنها جزء من التشريع الوطني، وإذا كانت متعارضة مع نص نافذ فإنها تعدّ معدلة له، وتتقدم عليه.

ويستخلص من نصوص الدستور السوري الدائم لعام 1973، ولا سيما المادتين (71) و(104) أنه أعطى المعاهدات قيمة مساوية للقانون الداخلي عندما يتم إبرام معاهدة، وإقرارها بشكل صحيح، ووفقاً لأحكام الدستور، فإذا خالفت الاتفاقية الدولية قانوناً نافذاً، وكانت سليمة من حيث إقرارها، وإبرامها، ومن حيث نفاذها، فإنها تكون ذات قيمة مساوية للقانون الداخلي.

وخلاصة القول إن ما أثير لجهة الادعاءات المتعلقة باستخدام التعذيب بصورة اعتيادية من قبل موظفي إنفاذ القانون، والمحققين، أو بتحريض منهم، ولا سيما في مواقع الاحتجاز، إنما هو قول مرسل لا يؤيده أي دليل قانوني أو مادي. وبعد صدور المرسوم رقم (161) بتاريخ 2011/4/21 المتضمن إنهاء حالة الطوارئ، والمرسوم التشريعي رقم (55) الصادر بتاريخ 2011/4/21، لم يعد بالإمكان الحديث عن أي احتجاز تعسفي أو مخالف للقانون لدى أي جهة كانت.

ونبين فيما يلي على سبيل المثال جدولاً بأعداد الدعاوى المنظورة حالياً أمام القضاء في قضايا تتعلق بالادعاء بالتعذيب:

عدد الدعاوى	الجهة المنظور أمامها الدعوى
1	عدلية دمشق
5	عدلية ريف دمشق
1	عدلية حلب
1	عدلية اللاذقية

2	عدلية دير الزور
1	عدلية حماة
لا يوجد	عدلية إدلب
لا يوجد	عدلية الرقة
لا يوجد	عدلية الحسكة
لا يوجد	عدلية حمص
لا يوجد	عدلية طرطوس
لا يوجد	عدلية درعا
لا يوجد	عدلية السويداء
12	المجموع

أما الجهة التي تتولى التحقيق فإنه القضاء في معرض الدعاوى المرفوعة إليه، أو في معرض الدفع في قضية قائمة بتعرض المتهم للتعذيب. مع ملاحظة أنه غالباً ما يدفع المتهم عند مثوله أمام القضاء بتعرضه للتعذيب في معرض التحقيق معه بالجرم المسند إليه كي يستفيد من عذرٍ يعفيه من العقاب، ويبطل إجراءات التحقيق معه، لأن الإقرار المنتزع تحت التعذيب لا يعتد به أمام القضاء، ولا يصلح لوحده دليلاً لإدانة المتهم.

ولا مجال على الإطلاق لاعتماد إقرار منتزع بالإكراه، والإقرار على هذا النحو لا قيمة له إن لم تكن هناك أدلة تؤيده. وقد بيّنت الهيئة العامة لمحكمة النقض (وهي أعلى مرجع قضائي، ويلتزم سائر القضاة بما تصدره من اجتهادات لأن لها منزلة القواعد القانونية، ومن يخالف اجتهادها يعد مرتكباً لخطأ مهني جسيم)، بأن الاعتراف الذي يدلي به المتهم في ضبط الشرطة لا يؤخذ به إلا إذا تأيد بدليل آخر (قرار الهيئة العامة لمحكمة النقض رقم 293 في الدعوى رقم أساس 538 لعام 2005). وأن الاعتراف أمام رجال الضابطة العدلية يمكن الرجوع عنه، ولا يصلح دليلاً للإدانة إذا لم تؤيده قرينة، أو دليل (القرار رقم 400 في الدعوى رقم أساس 97 لعام 2005). والاعتراف الوارد بضبط الأمن وحده ليس كافياً للحكم، وإن إهمال الدفوع الجوهرية، والأدلة المتوفرة في الدعوى، وعدم مناقشتها، يشكل خطأ مهنيًا جسيمًا (القرار

رقم 52 في الدعوى رقم أساس 259 لعام 2006). كما ذهبت الهيئة العامة لمحكمة النقض إلى أنه في الجرم الجنائي الوصف لا تعتمد الأقوال المنتزعة بالإكراه لدى رجال الأمن كدليل وحيد في إثبات الإدانة، ما لم تؤكد بأدلة أخرى، ويكون ضبط الشرطة والأقوال الفورية معلومات أساسية للسير في التحقيق، والتوصل إلى الحقيقة، وإن عدم الأخذ بهذه الأقوال، لا يشكل خطأ مهنيًا جسيمًا (القرار رقم 222 في الدعوى رقم أساس 1097 لعام 2006).

أما عن تعويض ضحايا التعذيب فإن القوانين السورية النافذة تبيح لكل من يدعي تعرضه لسوء المعاملة أو التعذيب أن يطالب المسؤول عن ذلك بالتعويض فإذا ثبت للمحكمة التي تنظر دعواه أنه تعرض للتعذيب على يد أي كان لها أن تحكم لصالح من يطالب بالتعويض بمبالغ مالية تناسب الضرر المادي والمعنوي الذي تعرض له، كل ذلك ضمن نطاق التعويض عن العمل غير المشروع إذ أن كل عمل غير مشروع يلزم من ارتكبه بالتعويض وفقاً لقواعد المسؤولية عن الأعمال الشخصية المنصوص عليها في مواد القانون المدني السوري.

٩- لم تسجل لدينا أي حالة تتعلق بوفاة تمت بالسجن جراء التعذيب، وفي حال توفر لديكم معلومات محددة بشأن أعمال من هذا القبيل يرجى موافاتنا بها.

١٠- بالنسبة لأسئلتكم حول لجنة التحقيق القضائية التي شكلت للنظر والتحقيق في الجرائم التي تحصل نتيجة الأحداث الجارية نفيديكم بما يلي:

شكلت لجنة قضائية بموجب القرار الصادر عن نائب رئيس مجلس القضاء الأعلى برقم (905/ل) تاريخ 2011/3/31، وذلك على النحو الآتي:

- القاضي تيسير قلا عواد/ النائب العام للجمهورية رئيساً
- القاضي محمد ديب المقطرن/ رئيس إدارة التفتيش القضائي عضواً
- القاضي حسان السعيد/ المحامي العام الأول بدمشق عضواً
- القاضي أحمد السيد/ قاضي التحقيق الأول بدمشق عضواً

ومهمتها التحقيق بصورة فورية في جميع القضايا التي أودت بحياة عدد من المواطنين المدنيين والعسكريين في محافظتي درعا واللاذقية.

وبناءً عليه قامت اللجنة في يوم صدور القرار القاضي بتشكيلها، أي بتاريخ 2011/3/31 بالانتقال إلى محافظة درعا والاستماع إلى عدد من الشهود، وذوي المتوفين، كما قامت بالاستعانة بقضاة التحقيق والنيابة العامة في المحافظة المذكورة في الكشف على جثث المتوفين، وسماع أقوال ذويهم. كما جرى الاستماع إلى أقوال عدد من المصابين، وتم استجواب محافظ درعا السابق، وعدد من المسؤولين الأمنيين في المحافظة، وقد اتخذت اللجنة قراراً بمنع سفر كل من محافظ درعا ورئيس فرع الأم السياسي السابق... بتاريخ 2011/4/2 توجهت اللجنة القضائية إلى محافظة اللاذقية، وقد استعانت بقضاة التحقيق والنيابة العامة في المحافظة، وضبط أقوال ذوي المتوفين، وسماع العديد من الشهود، وسماع المصابين في المشافي...

بتاريخ 2011/4/5 انتقلت اللجنة إلى مدينة دوما (في ريف دمشق) وبأشرت بتحقيقاتها في المجمع القضائي بدوما، وتم الاستماع إلى ذوي المتوفين والمصابين وعدد من الشهود...

وبتاريخ 2011/4/19 أصدر السيد نائب رئيس مجلس القضاء الأعلى القرار رقم (1092/ل) المتضمن إعادة تشكيل اللجنة القضائية لتصبح على النحو الآتي:

- القاضي محمد ديب المقطرن/ رئيس إدارة التفتيش القضائي رئيساً
- القاضي حسان السعيد/ المحامي العام الأول بدمشق عضواً
- القاضي محمد رضوان حجة/ قاضي الإحالة الثالث في ريف دمشق عضواً
- القاضي أحمد السيد/ قاضي التحقيق الأول بدمشق عضواً

بتاريخ 2011/4/21 انتقلت اللجنة إلى محافظة طرطوس وتم الاجتماع بالمحامي العام ورئيس النيابة العامة، والاطلاع منهما على واقع الأحداث في المحافظة.

وبتاريخ 2011/4/23 انتقلت اللجنة إلى عدلية بانياس (محافظة طرطوس) وهناك باشرت عملها مستعينة بقضاة التحقيق والنيابة العامة، وتم الاستماع إلى ذوي المتوفين والشهود. وفي اليوم التالي انتقلت اللجنة إلى بلدة "البيضة" التابعة لمدينة بانياس، وتم الالتقاء ببعض الأهالي، وإطلاعهم على مهمة اللجنة، والطلب إليهم إعلام من لديه معلومات تتعلق بالأحداث بوجوب مراجعة اللجنة في عدلية بانياس، وفي هذه الأثناء لاحظت اللجنة بعض التصرفات المخلة بالنظام العام من قبل بعض الأهالي الذين لم يرغبوا بالتعاون مع اللجنة.

بتاريخ 2011/5/11 أصدر السيد نائب رئيس مجلس القضاء الأعلى القرار رقم (ل/1421) المتضمن تعديل المادة (3) من القرار رقم (905/ل) تاريخ 2011/3/31 بحيث تصبح مهمة اللجنة "إجراء التحقيقات الفورية في جميع القضايا التي أودت بحياة عدد من المواطنين المدنيين والعسكريين أو إصابتهم، وجميع الجرائم الأخرى الناجمة عنها أو المرتبطة بها، وذلك في جميع المحافظات، وتلقى الشكاوى بهذا الخصوص. ويعتبر كل من المحامي العام وقاضي التحقيق الأول وأقدم رئيس نيابة عامة في كل محافظة بمثابة لجنة فرعية تتبع لجنة التحقيق القضائية وتباشر مهماتها في نطاق المحافظة وترفع نتائج أعمالها إليها.

تم تحديد مقر خاص للجنة في مدينة دمشق، وتم الإعلان عنه وعن أرقام الهواتف وعن الموقع الإلكتروني في جميع وسائل الإعلام المرئية والمسموعة والمقروعة لتلقي الشكاوى من المواطنين أو استقبالاتهم في مقر اللجنة. وبالفعل باشرت اللجنة عملها في المكان المحدد، كما أم اللجان الفرعية تتابع عملها في جميع المحافظات بشكل متواصل حتى تاريخه...

١١- بالنسبة للمقابر الجماعية في جسر الشغور: قامت مجموعات إرهابية مسلحة مؤلفة من مئات العناصر بالهجوم على أحد مقرات قوى حفظ النظام في جسر الشغور مستخدمة مختلف أنواع الأسلحة والذخائر حيث سيطرت على المبنى من حيث النتيجة وقتلت كافة العناصر الذين كانوا فيه ومثلت بجثثهم وبعد ذلك قام عناصر هذه الجماعات الإرهابية بتجميع عشرات الجثث ممن تم قتلهم ورميهم فوق بعضهم البعض في عدة أماكن بواسطة الجرافات، ومن ثم رمي التراب والأنقاض فوق جثثهم، كل ذلك تم خلال قيام هذه المجموعات بالسيطرة على المدينة المذكورة وترويع سكانها وإجبارهم على النزوح والهرب من منازلهم والاتجاه إلى الأراضي التركية حيث كانت مخيمات اللجوء معدة سلفاً بغية استغلال ذلك إعلامياً عبر عملية التضليل والكذب الإعلامي التي تتم إدارتها ضد حكومة الجمهورية العربية السورية عبر تصوير هؤلاء المواطنين الهاربين من إرهاب الجماعات المسلحة بأنهم لجأوا إلى الأراضي التركية خوفاً من الجيش السوري، وبعد إعادة السيطرة على مدينة جسر الشغور من قبل الدولة وإلقاء القبض على بعض عناصر التنظيمات الإرهابية قام هؤلاء المقبوض عليهم بدلالة السلطات المختصة على الأمكنة التي قاموا بدفن جثث ضحاياهم من رجال الشرطة والأمن فيها، حيث تم نبش هذه المقابر الجماعية بحضور وسائل الإعلام وعدد كبير من أعضاء البعثات الدبلوماسية المعتمدين في سورية، نرفق لكم نسخة

عن شريط تصويري مسجل لذلك، ونفيدكم بأن الملف القضائي المتعلق بالأحداث المذكورة هو قيد الإنجاز لدى القضاء المختص في محافظة إدلب التي تتبع لها مدينة جسر الشغور.

١٢- أما بالنسبة لموضوع تعامل السلطات السورية المختصة مع الحشود فلا بد لنا أولاً من إيراد النصوص القانونية المتعلقة بذلك.

أ- المرسوم التشريعي رقم /٥٤/ لعام ٢٠١١ المتعلق بتنظيم التظاهر السلمي في سورية والذي تتوافق نصوص مواده مع ما هو وارد في تشريعات معظم دول العالم بهذا الشأن لجهة اعتبار التظاهر السلمي أحد الحقوق الأساسية للإنسان وآليات الترخيص للتظاهر والجهة التي تصدر هذا الترخيص والمرجع القضائي المختص بالنظر في الطعن بقرار عدم الموافقة على ترخيص المظاهرة إضافة إلى النصوص العقابية التي تتضمن تجريم أعمال التظاهر أو الشغب غير المرخص والعقاب عليها.

ب- مواد قانون العقوبات السوري التي تجرم وتعاقب تظاهرات وتجمعات الشعب، وهي المواد من رقم /٣٣٥ إلى ٣٣٩/ وفيما يلي نصها:

- المادة ٣٣٥: من كان في اجتماع ليس له طابع الاجتماع الخاص سواء من حيث غايته أو غرضه أو عدد المدعويين إليه أو الذين يتألف منهم أو من مكان انعقاده أو كان في مكان عام أو بمحل مباح للجمهور أو معرض لأنظاره فجهر بصياح أو أناشيد الشغب أو أبرز شارة من الشارات في حالات يضطرب معها الأمن العام أو أقدم على أية تظاهرة شغب أخرى يعاقب بالحبس من شهر إلى سنة وبالغرامة مائة ليرة.

- المادة ٣٣٦: كل حشد أو موكب على الطرق العامة أو في مكان مباح للجمهور يعد تجمعا للشغب ويعاقب بالحبس من شهر إلى سنة:

إذا تألف من ثلاثة أشخاص أو أكثر بقصد اقتراف جنائية أو جنحة وكان أحدهم على الأقل مسلحاً.

إذا تألف من سبعة أشخاص على الأقل بقصد الاحتجاج على قرار أو تدبير اتخذتهما السلطات العامة بقصد الضغط عليها.

إذا أربى عدد الأشخاص على العشرين وظهروا بمظهر من شأنه أن يعكر الطمأنينة العامة.

- المادة ٢٣٧:

١- إذا تجمع الناس على هذه الصورة أنذرهم بالتفرق أحد ممثلي السلطة الإدارية أو ضابط من الضابطة العدلية.

٢- يعفى من العقوبة المفروضة أنفا الذين ينصرفون قبل إنذار السلطة أو يمثلون في الحال لإنذارها دون أن يستعملوا أسلحتهم أو يرتكبوا أية جنحة أخرى.

- المادة ٣٣٨:

١- إذا لم يتفرق المجتمعون بغير القوة كانت العقوبة الحبس من شهرين إلى سنتين.

٢- ومن استعمل السلاح عوقب بالحبس من سنة إلى ثلاث سنوات فضلاً عن أية عقوبة أشد قد يستحقها.

المادة ٣٣٩: يمكن الحكم بالمنع من الحقوق المدنية وبمنع الإقامة وبالطرد من البلاد وفقاً للمواد ٦٥- ٨٢- ٨٨ في الجرح المنصوص عليها في الفصول ٢ إلى ٥ من هذا الباب

ومن خلال ما سبق بيانه ووصفه في الفقرات السابقة لتظاهرات وتجمعات الشغب والتخريب وما قامت به الجماعات الإرهابية المسلحة من قتل وترويع للمواطنين ومن تدمير وإحراق لمؤسسات الدولة وأبنية إدارتها العامة نقيدهم بأن قوى الأمن الداخلي المختصة تعاملت وما زالت تتعامل مع أية تظاهرة سلمية حتى ولو كانت غير مرخصة عن طريق تأمين الحماية لهذه المظاهرة وكافة المواطنين المشاركين فيها إلى حين تفرقهم من تلقاء أنفسهم وذهاب كل منهم إلى منزله، أما عندما تخرج المظاهرة عن النطاق السلمي ويدخل المشاركون فيها ضمن نطاق أعمال تخريب المباني العامة وإحراقها فيتم مواجهتهم بالقوة العدلية المناسبة ودون استخدام أية أسلحة حربية من قبل عناصر قوات حفظ النظام كذلك الأمر عندما يخرج من بين المتظاهرين بعض العناصر المسلحة التي تبادر لإطلاق النار على عناصر حفظ النظام وعلى المتظاهرين أنفسهم إثارة البلبلة والذعر وتشويه صورة السلطات العامة أمام المواطنين فإن قوات حفظ النظام وخشية منها إلى أرواح المواطنين تبادر إلى الابتعاد عن منطقة الشغب والتظاهر حتى لا يؤدي اشتباكها مع المسلحين إلى إصابة المتظاهرين الآخرين، ولا يسمح بأي حال من الأحوال باستخدام السلاح إلا في حالات الاشتباكات المسلحة مع المجموعات الإرهابية وضمن نطاق الدفاع عن النفس فقط أو في الحالات التي يقوم فيها عناصر هذه المجموعات بأعمال التخريب أو القتل الجماعي للمواطنين الآخرين في مناطق تواجدهم، وفي جميع الأحوال فإن الاستراتيجية الوحيدة المطبقة في سورية لجهة ضبط الحشود

والتعامل مع التظاهرات سلمية كانت وهي نادرة جداً أم غير سلمية وهي السائدة منذ بدء الأحداث هي ضبط النفس إلى أبعد الحدود وأقصاها وقد أدت هذه الاستراتيجية التي اقترنت بأوامر صارمة لجهة عدم استخدام الأسلحة حتى مع التظاهرات التخريبية إلى قتل المئات من عناصر وضباط قوات حفظ النظام وإصابة الآلاف منهم بجروح خطيرة أصيبوا بها بسبب استخدام المجموعات التخريبية والإرهابية للأسلحة الحربية والسيوف والخناجر وإن أي عنصر أو ضابط من قوات حفظ النظام يخرق هذه الأوامر أو يتجاوز على الصلاحيات الممنوحة له يتعرض للعقوبات الصارمة المنصوص عليها في هذا الصدد بالقوانين الجزائية السورية النافذة، ولا يوجد أية حصانة لأحد أو لأية جهة في هذا المجال، أما عن إسعاف المصابين وتأمين الخدمات الطبية لهم فإن الجهات المختصة ضمن هذا المجال تقوم بإسعاف الجميع وتأمين الرعاية الطبية اللازمة لهم سواء كانوا من المتظاهرين أو من الإرهابيين أو من عناصر حفظ النظام وبنفس السوية والأداء للجميع، وتعزيزاً لهذه الإجراءات فقد صدرت التعليمات لقوات حفظ النظام بعدم توقيف أي مصاب تم إسعافه إلى أية مشفى أو مستوصف طبي مهما كانت فعاليته الجرمية خلال أعمال الشغب التي أصيب خلالها.

١٣- إن عملية الرصد والتفتيش التي تمارس من قبل وزارة العدل ومن قبل وزارة الداخلية على مختلف السجون هي عملية دائمة ومتواصلة، وتتم بشكلٍ منهجي وفعال، وفي جميع الأوقات، وقد أورد قانون أصول المحاكمات الجزائية النصوص الواجبة حول ذلك في المواد من /٤٢١/ إلى /٤٢٥/ منه وفقاً لما يلي:

المادة ٤٢١: تنظيم السجون ومحال التوقيف بمرسوم يتخذ في مجلس الوزراء.

المادة ٤٢٢: يتفقد قاضي التحقيق وقاضي الصلح مرة واحدة في الشهر ورؤساء المحاكم الجزائية مرة واحدة كل ثلاثة أشهر على الأقل الأشخاص الموجودين في محال التوقيف والسجون.

المادة ٤٢٣: لرؤساء المحاكم الجزائية وقضاة التحقيق وقضاة الصلح أن يأمرؤا حراس محال التوقيف والسجون التابعين لمحكمتهم بإجراء التدابير التي يقتضيها التحقيق والمحاكمة.

المادة ٤٢٤: على كل من علم بتوقيف أحد الناس في أمكنة غير التي أعدتها الحكومة للحبس والتوقيف أن يخبر بذلك النائب العام أو معاونه أو قاضي الصلح.

المادة ٤٢٥:

١- عندما يبلغ الموظفون المذكورون في المادة السابقة مثل هذا الخبر عليهم أن يتوجهوا في الحال إلى المحل الحاصل فيه التوقيف وأن يطلقوا سراح من كان موقوفاً بصورة غير قانونية.

٢- وإذا تبين لهم سبب قانوني موجب للتوقيف أرسلوا الموقوف في الحال إلى النائب العام أو قاضي الصلح العائد إليه الأمر.

٣- وعليهم أن ينظموا محضر بالواقع.

٤- إذا أهملوا العمل بما تقدم عدوا شركاء في جريمة حجز الحرية الشخصية وجرت الملاحقة بحقهم بهذه الصفة.

١٤- بالنسبة لموضوع المواطنين السوريين من أصل كردي فقد صدر المرسوم التشريعي رقم /٤٩/ تاريخ ٢٠١١/٤/٧ الذي نص على منحهم الجنسية العربية السورية وبالتالي يستطيع أي منهم الحصول على الجنسية ويعتبر بالتالي مواطناً سورياً يتمتع بكافة حقوق وواجبات المواطن السوري على كافة الأصعدة وبكل المجالات وقد وصل عدد الذين حصلوا على الجنسية إلى الآلاف منهم.

١٥- بالنسبة للقوانين التي يجري العمل على إصدارها حالياً ضمن نطاق عملية الإصلاح الجارية في سورية فقد أقر مجلس الوزراء قانوني الانتخابات والأحزاب السياسية تمهيداً لصدورها ونود أن نعرض عليكم ما تم القيام به في إطار إصدار قانون الانتخابات العامة من خطوات بهدف إطلاعكم على المراحل التي يمر بها إصدار أي من التشريعات الحديثة في سورية لكي تكون متواكبة عن أفضل النصوص القانونية المعمول بها في معظم دول العالم وفقاً لما يلي:

أصدر السيد رئيس مجلس الوزراء القرار رقم (٦١٨٦) تاريخ ٢٠١١/٥/٨، المتضمن تشكيل لجنة مهمتها إعداد مشروع قانون جديد للانتخابات العامة يتوافق وأفضل المعايير العالمية المتعارف عليها، على أن تنجز اللجنة مهمتها خلال أسبوعين...

وتضم اللجنة:

معاون وزير العدل	- د. نجم الأحمد
معاون وزير الداخلية	- حسن جلاي
المستشار القانوني في رئاسة مجلس الوزراء	- محمود صالح

- د. محمد يوسف الحسين
- د. جميلة شربجي
- د. محمد خير العكام
- فوزي محاسنة
- خالد كامل
- أستاذ في كلية الحقوق بجامعة دمشق
- أستاذ في كلية الحقوق بجامعة دمشق
- أستاذ في كلية الحقوق بجامعة دمشق
- المستشار في وزارة الإدارة المحلية
- مدير المجالس في وزارة الإدارة المحلية.

واستناداً إلى القرار المشار إليه أعلاه نيبين الآتي:

- عكفت اللجنة موضوع القرار أعلاه على عقد اجتماعات يومية متتالية إلى أن أنهت مشروع القانون.
- اطلعت اللجنة على القوانين النافذة في دول عديدة منها: فرنسا- بلجيكا- مصر- الجزائر- الأردن- العراق- فلسطين...
- كما اطلعت اللجنة على القوانين والأنظمة السورية سواء النافذة، أو ما كان نافذاً قبل هذه القوانين.
- استعانت اللجنة بآراء ومقترحات عدد كبير من المختصين ورجال القانون (أساتذة جامعات- قضاة- محامون...)، ومن مختلف التخصصات والشرائح العمرية، وقد كان لخبرتهم وآرائهم دوراً في إثراء مشروع القانون.
- انتهت اللجنة من عملها قبل الموعد المحدد بيوم واحد.
- عرض مشروع القانون على موقع "التشاركية" التابع لرئاسة مجلس الوزراء، وعلى المواقع الإلكترونية لوزارات العدل، والداخلية، والإدارة المحلية، وكان عدد الزيات قد تجاوز (٣٤,٠٠٠) زيارة، وكان عدد الآراء المسجلة نحو (٣٤٠٠) ملاحظة.
- تمت دراسة جميع الملاحظات الواردة، والأخذ بجميع الملاحظات الموضوعية التي تسهم في إثراء مشروع القانون، كما أسهم البرنامج الإنمائي للأمم المتحدة UNDP بملاحظات قيمة تم الأخذ بها جميعها.
- ولعل أهم ما تضمنه مشروع القانون لجهة الالتزام بالمعايير العالمية:

قانون انتخابات واحد:

- تضمن مشروع القانون جمعاً للأحكام الموضوعية المتعلقة بانتخاب أعضاء مجلس الشعب ومجالس الإدارة المحلية في قانون واحد، أسوة بما عليه الحال في غالبية دول العالم.

الأهداف:

وكان الهدف المبتغى هو تنظيم الأحكام الموضوعية المتعلقة بهذه الانتخابات، وتأمين سلامة العملية الانتخابية، وحق المرشحين في مراقبتها، وتضمن مشروع القانون نصوصاً تضمن معاينة العابثين بالعملية الانتخابية وبارادة الناخبين. إضافة إلى تأمين تمثيل الشرائح الاجتماعية الأوسع في المجتمع... وجود إدارة انتخابية مستقلة ومتكاملة عضواً وفقاً للمعايير الدولية:

ذلك أن نزاهة الانتخابات من الناحية العملية إنما تكمن في كيفية تنظيمها وتنفيذها على أرض الواقع، مما يقتضي وجود جهة محايدة لضمان تطبيق الضوابط القانونية، فلا يجوز لأحد أن يكون طرفاً في منافسة ما حكماً فيها، وبمعنى آخر لا يجوز لمن تكون له مصلحة مباشرة أو غير مباشرة في نتيجة الانتخاب القيام بتنظيمها أو إدارتها. لذلك كان الحرص في مشروع القانون على أن يتولى القضاء عملية الإشراف على الانتخابات وإدارتها، فكانت اللجنة العليا للانتخابات التي تتولى هذه المهمة، كما أن اللجنة الفرعية في كل محافظة هي لجنة قضائية، ولم يترك للسلطة التنفيذية إلا جانباً بسيطاً من الأمور الإدارية.

لجان انتخابية مستقلة:

ولأن المعايير الدولية تقتضي أن تكون الإدارة الانتخابية مستقلة ومتكاملة عضواً، فإن مشروع القانون كان قد أفرد نصوصاً واضحة تتعلق بتشكيل لجان انتخابية مستقلة وحيادية تكون مسؤولة عن تنظيم وإدارة العملية الانتخابية بمختلف مراحلها ومستوياتها، وقد جرى تحديد الاختصاصات والمسؤوليات على نحو يعكس أعلى مستويات المصداقية والنزاهة في العملية الانتخابية.

الدوائر الانتخابية:

أخذاً بالمقاهيم السياسية والدستورية المتعلقة بفلسفة التمثيل سواء في المجالس النيابية (مجلس الشعب) أو المجالس المحلية فقد كان الحرص في مشروع القانون على أن تكون الدوائر الانتخابية بالنسبة للانتخابات مجلس الشعب دوائر كبيرة نسبياً لأن عضو مجلس الشعب لا يمثل رقعةً جغرافية محددة، وإنما هو ممثل للشعب بأكمله، بينما كانت الدوائر الانتخابية بالنسبة للانتخابات المحلية دوائر صغيرة تتناسب ومفهوم التمثيل المحلي.

شروط الترشيح:

تم رفع الحد الأدنى للمدة الزمنية المتعلقة بالمتجنس من (٥) إلى (١٠) سنوات. وقد استثنى مشروع القانون الذين اكتسبوا الجنسية السورية بموجب المرسوم رقم (٤٩) لعام ٢٠١١ (المتعلق بمعالجة مشكلة إحصاء ١٩٦٢)، إذ يحق لهم الترشح فوراً دون انتظار لمرور عشر سنوات.

الدعاية الانتخابية:

نظم مشروع القانون موضوع الدعاية الانتخابية متيحاً إمكانية الوصول إلى مختلف وسائل الإعلام، بحيث تتاح فرصة معقولة للمتنافسين في الانتخابات بأن يعلنوا عن برامجهم الانتخابية.

مراقبة العملية الانتخابية:

أتاح مشروع القانون للمرشحين أو من يمثلهم قانوناً حق الرقابة على العملية الانتخابية بهدف التأكد من سير الانتخابات بنزاهة بعيداً عن أي تزوير أو تلاعب، وتشمل هذه الرقابة عمل اللجان، والانتخاب، وقرز الأصوات، وكافة الأمور المتعلقة بالعملية الانتخابية إلى حين إعلان النتائج.

الجرائم الانتخابية:

تم أفراد فصل خاص في مشروع القانون فيه عرض مفصل ومسهب لكل فعل أو امتناع عن فعل من شأنه أن يشكل جرماً انتخابياً، وذلك على نحو من شأنه خلق جو من الأمان القانوني. وفي مشروع القانون جرى تحديد نطاق الجرائم الانتخابية بشكلٍ دقيق، وجرّمت الأفعال التي من شأنها الاعتداء على مكونات العملية الانتخابية.

المنازعات الانتخابية:

حرص مشروع القانون على وجود مراجع مختصة يمكن للناخب أو المرشح اللجوء إليها بشكلٍ مباشر لعرض طعنه في أمر من الأمور المتعلقة بالعملية الانتخابية، بدءاً من لجنة الانتخاب، وكذلك لجنة الترشيح، واللجان الفرعية، وانتهاءً بإمكانية الطعن بالنتائج الانتخابية في صيغتها النهائية أمام المراجع القضائية المختصة. وفي جميع هذه المراحل حددت آجال زمنية قصيرة إن لجهة الطعن أو البت فيه، وذلك بما لا يؤثر على سير العملية الانتخابية وبما يضمن حقوق الطاعنين في آن معاً.

• تم تشكيل لجنة وزارية لمرجعة القانون في صيغته النهائية.

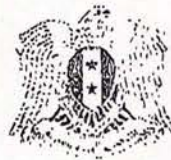
• أقر مجلس الوزراء مشروع القانون تمهيداً لصدوره.

١٦- نرفق ربطاً كافة النصوص التشريعية ومشاريع القوانين التي نوهنا عنها في معرض إجابتنا هذه، وتسعة أقرص ليزيرية (CD) تتضمن تنفيذاً لجريمة مقتل حمزة الخطيب وفقاً لشهادات ذويه، إضافة لموضوع المقابر الجماعية بجسر الشغور وأعمال التخريب والإرهاب في بعض المحافظات واعترافات بعض أعضاء المجموعات الإرهابية المسلحة بما قاموا به من أعمال إجرامية.

رابعاً: أخيراً فإن حكومة الجمهورية العربية السورية تؤكد مجدداً سعيها الدائم إلى استمرار التعاون معكم في كافة مجالات عملكم وتقديم العون لكم في مهامكم والإجابة على تساؤلاتكم من أجل الوصول إلى الحقيقة في كافة المواضيع التي نتواصل معكم بشأنها، حتى تتمكنوا من اتخاذ قراراتكم وآرائكم حولها بشكل عادل وحيادي بعيداً عن الوقائع الملفقة التي تقدمها لكم بعض المصادر من أجل الظهور أمامكم بمظهر الدفاع عن حقوق الإنسان عبر تشويه سمعة الجمهورية العربية السورية بهدف الوصول إلى أهداف غير مشروعة، ولابد من الإشارة لكم بأن عملية الإصلاح التشريعي والسياسي مازالت مستمرة في سورية بخطوات واسعة وبما يتوافق مع المعايير والأسس الراسخة في الدستور السوري ويتطابق مع المعايير المعمول بها دولياً، إضافة إلى الاستفادة في ذلك من التفاعل الايجابي والمثمر والمستمر القائم فيما بيننا.



Mission Permanente
De La
République Arabe Syrienne
Genève



الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمر المتحدة
جنيف

URGET

N° 435/11

Geneva, the 16th of August 2011

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and in reference to its communication dated 10 August 2011 which included the report of the Office of the High Commissioner for Human Rights Mission to Syria, has the honour to convey to the Office of the High Commissioner the response of the Syrian Government to this report.

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to the High Commissioner for Human Rights the assurances of its highest consideration.



إضافة إلى المعلومات التي سبق للجمهورية العربية السورية وأن وافئتم بها، والتي تتضمن عرضاً شاملاً لحقيقة الأحداث في سورية، نقدم فيما يلي المعلومات التالية استكمالاً لما سبق تقديمه وتوضيحاً لما ورد في تقرير المفوضة من مغالطات:

- كانت الحكومة السورية قد قدمت ردودها على أسئلة المفوضة السامية حول الأحداث الجارية في سورية وما اتخذته السلطات السورية من إجراءات لمعالجة المسائل التي نتجت عن هذه الأحداث قبل الانتهاء من الموعد المحدد لتضمين الرد السوري على هذه الأجوبة في التقرير الذي ستقدمه المفوضة إلى مجلس حقوق الإنسان حول الأوضاع في سورية. ومن المؤسف أن تقرير المفوضة الحالي لم يتضمن موقف سورية من الأحداث، والذي تم شرحه بشكل واف في تلك الردود. وإن عدم تضمين المعلومات الواردة من الحكومة السورية واعتماد المفوضة السامية على المصادر المغرضة فقط تخلق حالة من عدم الثقة وعدم المصادقية في مهنية عمل المفوضة خصوصاً وأن سورية قدمت كل ما لديها من معلومات موثقة حول المواضيع المثارة.

- اعتمد التقرير على مصدر واحد هو بعض من السوريين المعارضين في الخارج والمطلوبين للعدالة بعد اقترافهم جرائم مسلحة روعت الناس وفروا إلى الخارج وهي أقوال غير قائمة على أي دليل أو مستند قانوني وتعتبر عن وجهة نظر أحادية الجانب ليست لها مصداقية يمكن الركون إليها، فعلى سبيل المثال فإن ما تحدث عنه هؤلاء عن فرار آلاف السوريين خارج القطر هو قول يفتقر إلى المصادقية، فما جرى أن نحو عشرة آلاف شخص قد نصبت لهم الخيام على الحدود التركية قبل شهر من وقوع الأحداث، وقد هجرة مدنهاهم وقرأهم قبل أي تواجد أمني أو عسكري هرباً من العصابات المسلحة، وحينما أعادت السلطات المختصة الأمن والاستقرار إلى المنطقة عاد أكثر من عشرة آلاف من هؤلاء إلى مدنهاهم وقرأهم، وهم يعيشون الآن حياة هانئة ومستقرة، ولم يبق في الخارج إلا من استخدام السلاح والعنف المنظم.

- ورد في الإطار القانوني لتقرير المفوضية تناقضاً صارخاً، ففي جانب منه أشار التقرير إلى التزام سورية بالعديد من الاتفاقيات والمواثيق الدولية. وفي جانب آخر تحدث عن انتهاكات سورية لهذه الاتفاقيات. وهذا الجانب الأخير منافع للحقيقة. لأن اعتقال كل من يخالف القوانين والأنظمة وتقديمه للعدالة أصولاً لا يعد خرقاً أو انتهاكات لتلك الاتفاقيات الدولية أو القوانين الوطنية.

- لا توجد في سورية كما ورد في التقرير - أقلية تستغل السلطة وتقمع المتظاهرين، إلا أن تأثر معدو التقرير وانحيازهم لشهادات من تمت مقابلتهم ممن يطلقون على أنفسهم شهود عيان وهم في الحقيقة بغالبيتهم فارين من وجه العدالة لما اقترفوه من جرائم، الأمر الذي ينأى بالتقرير عن المصادقية إن التدخل السافر من قبل معدي التقرير لإضعاف النسيج الوطني السوري ووصفها بأغليبتها أو أقليتها هو وصفه لتخريب سورية ناهيك عن كونه أصلاً غير مقبول إطلاقاً.

- يتحدث التقرير كذلك عن ضحايا وشهود عيان من مدنيين وعسكريين معتمداً على معلومات وردت عبر

بحق العسكريين ومدنيين من قبل هذه الجماعات. وفي كثير من الأحيان كانت بعض من وسائل الإعلام تضخم الأمور حول ما يجري في سورية عبر أخبار كاذبة ومفبركة جرى فضحها عبر وسائل الإعلام السورية، ومن ذلك إعطاء معلومات معاكسة لحقيقة الأمور أو عرض صور لمظاهرات جرت في دول أخرى على أنها جرت في سورية، وهناك عشرات المقاطع المصورة التي تثبت هذا الأمر بشكل واضح لا لبس فيه ولا غموض كنا قد أرسلناها إلى المفوضية.

- إن سورية ملتزمة بتطبيق القانون الدولي وهي طرف في معظم الاتفاقيات والبروتوكولات الخاصة بحقوق الإنسان متقدمة بذلك على العديد من دول العالم معلنة سلسلة متتالية من الإصلاحات الهادفة إلى إحداث تغيير شامل في سورية نحو مستقبل أفضل، ملغية حالة الطوارئ في وقت كانت بحاجة فيه إلى الإبقاء عليها لأن ما جرى في سورية على الأرض من قبل العصابات الإجرامية المسلحة يفوق حدود التصور والتوقعات لجهة الفوضى والاضطراب والعنف المؤيد في بعض من الأحيان دولياً وإقليمياً وهو ما يشكل تدخلاً سافراً في الشؤون السورية الداخلية من قبل بعض الدول خلافاً للقانون الدولي والأعراف والمواثيق الدولية. كما ألغت الحكومة محكمة أمن الدولة العليا وتشكيل لجان إصلاحية أنجزت مهماتها بما يعزز رؤى التنمية والتطوير في سورية وتبعاً لذلك صدرت ثلاثة مراسيم تشريعية تتعلق بمنح عفو عام وشامل عن الجرائم باستثناء جرائم الخيانة والتجسس والإرهاب والاعتصاب وهي المرسوم التشريعي رقم ٣٤ تاريخ ٢٠١١/٣/٧ والرسوم التشريعي رقم ٦١ تاريخ ٢٠١١/٥/٣١ والرسوم التشريعي رقم ٧٢ تاريخ ٢٠١١/٦/٢٠ وكان حصيلة الموقوفين ممن شملتهم هذه المراسيم وأطلق سراحهم فوراً تصل إلى ١٠٤٣٣ شخصاً مع التتويه بأن هذا الرقم لا يشمل المخالفات والجناح المفصولة التي تعد بعشرات الآلاف استفاد أصحابها من هذه المراسيم كما لا يشمل الدعاوى قيد النظر في الجنايات حيث طال العفو نصف العقوبة الجنائية إلا عند صدور الحكم، فضلاً عن عدد كبير ممن يطالهم العفو جزئياً.

وقناعة منا بأن الجوار الوطني الشامل بين أطراف المجتمع السوري كافة هو السبيل الأمثل للإصلاح والتطوير من أجل الوصول إلى الأهداف المرجوة في الارتقاء نحو الأفضل في المجالات السياسية والتشريعية والاجتماعية والاقتصادية، فقد صدر القرار الجمهوري بتاريخ ٢/٦/٢٠١١ القاضي بتشكيل هيئة مهمتها وضع أسس لحوار وطني وتحديد آلية عمله وبرنامج الزماني.

وقد دعت هيئة الحوار الوطني إلى لقاء تشاوري في الفترة ما بين ١٠ إلى ١٢ تموز ٢٠١١ ضم مجموعة من رجال السياسة والفكر والمجتمع والناشطين الشباب من مختلف الأطياف الشعبية والتوجهات السياسية في الوطن للتدارس والتشاور من أجل الخروج بتصورات ومقترحات للوصول بالحوار الوطني إلى النتيجة المتوخاة. وناقش اللقاء التشاوري طبيعة المرحلة الدقيقة التي تمر بها البلاد والمعالجات السياسية والاقتصادية والاجتماعية المطلوبة مع استشراف الآفاق المستقبلية والاهتمام بالقضايا المعيشية للمواطنين. وقد خلص المجتمعون على توصيات عديدة، منها:

- أن الحوار هو الطريق الوحيد الذي يوصل البلاد إلى إنهاء الأزمة،
- ضرورة إعلاء قيمة حقوق الإنسان وصونها وفق أرقى المعايير الدستورية والإنسانية والعصرية والتوصية بإنشاء مجلس أعلى لحقوق الإنسان في سورية،
- وضرورة الإفراج القوري على جميع المعتقلين السياسيين ومعتقلي الرأي الذين لم يرتكبوا جرائم يعاقب عليها القانون.

- 5- المرسوم التشريعي رقم ٤٦ تاريخ ٢٠١١/٤/٣ المتعلق بتشميل المتقاعدين في الدولة والقطاع العام والمنظمات الشعبية من المدنيين والعسكريين بالتأمين الصحي.
- 6- المرسوم التشريعي رقم ٤٣ تاريخ ٢٠١١/٣/٢٤ المتعلق بالتملك في المناطق الحدودية.
- 7- المرسوم التشريعي رقم ٤٠ تاريخ ٢٠١١/٣/٢٤ المتضمن زيادة الرواتب والأجور للعاملين المدنيين والعسكريين في الدولة.
- 8- المرسوم التشريعي رقم ٦٢ تاريخ ٢٠١١/٦/٥ المتعلق بتثبيت العمال المؤقتين.
- 9- المرسوم التشريعي رقم ٨٤ تاريخ ٢٠١١/٧/١٣ المتعلق بالتنمية الاجتماعية.
- 10- المرسوم التشريعي رقم ١٠٠/١٠٠ تاريخ ٢٠١١/٨/٦ المتضمن قانون الأحزاب.
- 11- المرسوم التشريعي رقم ١٠١/١٠١ تاريخ ٢٠١١/٨/٦ المتضمن قانون الانتخابات العامة. وقد أنجزت الحكومة قانون الإدارة المحلية وقانون الإعلام اللذان سيصدران خلال أيام معدودة كما صدرت العديد من المراسيم التنظيمية ومنها على سبيل المثال مراسيم تتعلق بمنح دورات إضافية للطلاب في جميع مراحل التعليم، وإحداث شركات جديدة وكليات جديدة في مختلف الجامعات.

كما شكلت الحكومة العديد من اللجان من كبار المختصين ومن ذلك:

- 1- لجنة للتحقيق في الجرائم المرتكبة بحق المدنيين والعسكريين وجميع الجرائم ذات الصلة المرتبطة بالأحداث التي تشهدها سورية.
 - 2- لجنة لوضع الرؤى والتصورات المتعلقة بالفساد لجهة بيان أسبابه والعوامل المؤدية إليه وكيفية الوقاية منه وآليات تعزيز مبدأ النزاهة.
 - 3- لجنة لوضع قانون الإعلام.
 - 4- لجنة للإصلاح القضائي.
 - 5- لجنة للإصلاح الإداري.
 - 6- لجنة للحوار الوطني.
- وغير ذلك العديد من المراسيم التشريعية والتنظيمية والقرارات الإستراتيجية مما لم تشر إليه المفوضية في التقرير.

- إن تحميل الأجهزة المسؤولية كاملة عن الأحداث في سورية هو أمر يجافي الحقيقة والمنطق ويتطرق إلى المواضيع من وجهة نظر أحادية الجانب ومن واجب الأجهزة الأمنية في أية دولة من دول العالم تحقيق الأمن والاستقرار للمواطنين وإعادة الهدوء والأمان وحماية الممتلكات العامة والخاصة، علماً بأن الغالبية العظمى ممن سقط في الأحداث هم من رجال الجيش والشرطة والأمن على أيدي العصابات المسلحة، وغالباً ما تم الاعتداء على هؤلاء في أماكن عملهم أو أثناء وجودهم لحماية المتظاهرين، إلا أنهم كانوا هم والمتظاهرين على حد سواء عرضة لإطلاق النار من مسلحين ملتزمين تجاهلهم تقرير المفوضية كليا.

- ومن المغالطات أيضاً الحديث عن إصلاحات اقتصادية متوقفة في الوقت الذي تشهد فيه تقارير المنظمات والمؤسسات الدولية التي ساهمت في برامج إصلاحية عديدة بسورية وأكدت بأن الإصلاح الاقتصادي

أراضيها. وقد ظل السوريون من أصل كردي طوال تاريخ سورية يتقلدون أعلى المناصب السياسية والمدنية والعسكرية، ويمكن بيان ذلك بشكل مفصل إذا رغبت المفوضية بذلك.

- من الغريب أن يقال أن قيام المظاهرات في درعا سببه استغلال السلطة بينما كان معلناً في بدء المظاهرات هو المطالبة بإصلاحات محددة، كما أن تقرير المفوضية يشير لاحقاً إلى أن الشرارة الأولى قد انطلقت من درعا بعد سجن مجموعة من الأطفال وهذا يعني تناقضاً فاضحاً طالما تكرر في حيثيات هذا التقرير، وذلك قبل أن تستغل العصابات المسلحة هذا الحراك العفوي لتمعن في إطلاق النار على المدنيين والعسكريين مع التنويه بأن محافظة درعا تضم عدد كبير من المسؤولين في الدولة وهو ما يمكن أيضاً إثباته مفصلاً إذا رغبت المفوضية بذلك.

- إن مصطلح الشبيحة الذي ورد في التقرير هو مصطلح مختلق من قبل الميليشيات المسلحة، وبعض وسائل الإعلام المضللة التي روجته في تقاريرها بهدف تاجيح الفتنة بين شرائح المجتمع. إنما في بعض من المناطق التي استباحتها المجموعات الإرهابية المسلحة وبسبب الفراغ الأمني الذي حصل مؤقتاً في تلك المناطق قام الأهالي بتشكيل لجان شعبية سلمية ليس لديها أي نوع من أنواع الأسلحة تعمل على حراسة الممتلكات العامة والخاصة.

- صحيح أن هناك نحو ١٩٠٠ شهيد إلا أنه ليس صحيحاً أن جميع هؤلاء من المدنيين بل أن القسم الأكبر منهم هم من رجال الجيش والشرطة والمواطنين الذين ذهبوا ضحية أعمال القتل التي أقدمت عليها الجماعات الإرهابية المسلحة.

- فيما يتعلق بمدينة حماة لم يعتمد الجيش على احتلالها فهو جيش سورية الوطني وليس جيشاً أجنبياً، بل تعاون مع القوى الأمنية لتخليص المدينة من المسلحين والمتطرفين الإرهابيين الذين حولوها إلى مدينة أشباح بعد ترويع سكانها واضطرابهم لمغادرتها حفاظاً على أرواحهم وهذا ما خلق ارتياحاً لدى الأهالي بدخول الجيش الذي أعاد الهدوء والحياة الطبيعية. وهذا ينطبق على العديد من البلدات التي حاول المجرمون تثبيت حالة الرعب والخوف فيها. وقد لجأت الدولة إلى الاعتماد على قوات الجيش لأنه لا توجد لديها قوة شرطة مختصة لمقاومة الشغب والتمرد والإرهاب ولم يستخدم الجيش أياً من معداته الثقيلة لإيذاء المواطنين بل لحماية نفسه من المسلحين والإرهابيين.

- حينما تحدث التقرير عن جسر الشغور أشار إلى ٣٠ قتيل ومائتي جريح متجاهلاً تماماً حقيقة أن الإرهابيين المسلحين قد قتلوا بوحشية قل مثيلها جميع عناصر الأمن الموجودين وفي المنطقة والبالغ عدده (١٢٠) / عنصرًا ودفنواهم في مقابر جماعية جرى الكشف عنها بمعرفة بعض من الإرهابيين الذين ألقى القبض عليهم ويحضور ومراى عدد كبير من الدبلوماسيين والصحافة العالمية.

- مع التنويه بأنه لم يلقى القبض على أي متظاهر سلمي، وغالباً ما يتم الإفراج عن المتظاهر بشكل مخالف للقانون من قبل القضاء خلال خمسة أيام على الأكثر، وإذا كان هناك معتقلين سلميين على خلفية المظاهرات

- إن الحكومة مصنمة وجادة في عدم جواز استخدام أو تعريض أي مواطن سوري للتعذيب، ولجنة التحقيق القضائية الخاصة اتخذت خطوات مباشرة لمقاضاة كل من يثبت انتهاكه لحقوق الإنسان وكل من يثبت تورطه في اغتيال المدنيين والعسكريين على حد سواء.

- أما بشأن عودة المهجرين فليس هناك أي عبة تحول دون عودتهم ويقدم لكل من يعود كامل التسهيلات اللازمة، وقد سمحت للصحفيين بدخول المناطق الساخنة.

- أما بالنسبة للسماح لمنظمات حقوق الإنسان بالدخول إلى سورية وإجراء تحقيقات عن حقوق الإنسان فإنه أمر تقدره الدولة وفقاً لاعتبارات السيادة الوطنية وفي الوقت الذي تراه مناسباً.

- ومن الناحية الإجرائية نجد أن تقرير اللجنة يخرج عن الإطار القانوني الذي وضعه القرار S-16/1 في جوانب عدة أهمها:

- ١- تغيير اسم "البعثة" إلى "بعثة تقصي حقائق"، وذلك في عنوان التقرير وفي الفقرة الأولى منه.
- ٢- عدم الالتزام بمنطوق القرار S-16/1 حول "قيام اللجنة بتحقيق وتقديم تقرير محايد وذو مصداقية".
- ٣- تم تكيف إطار القانوني للانتهاكات التي ارتكبها هؤلاء وفقاً للفقرتين ١٥ و١٧ من التقرير باعتبار أنه يمكن أن ترتقي بعض هذه الخروقات لمستوى "جرائم ضد الإنسانية". إذ يعتبر هذا التكيف خروجاً عن ولاية اللجنة التي تنحصر بجمع المعلومات وليس التوصيف القانوني للخروقات.
- ٤- تقديم توصية إلى مجلس الأمن الدولي في حين تكمن علاقة المفوضية مع مجلس حقوق الإنسان.
- ٥- تقديم توصية لجامعة الدول العربية وكأنها إحدى المؤسسات التي تتبع المفوضية.

- إن سورية إذا تقدر عالياً الدور المسند إلى المفوضية السامية لحقوق الإنسان والمهام المتوقعة بها ترحو أن تلتزم المفوضية جانب الحياد وأن تأخذ جميع الرؤى ووجهات نظر الأطراف جميعاً، وتحللها بموضوعية ودون انحياز إلا للجوانب الإنسانية، وأن تكون جهة محايدة مستقلة لا تضع رؤى وتصورات مسبقة دون تدقيق أو تحليل. وإن يد الحكومة السورية ممدودة إليها من أجل تعاون مثمر يضع الأمور في نصابها الصحيح، علماً بأن الحكومة الآن بشأن إعداد ملفات قضائية متكاملة ستقدم بها إلى المفوضية وغيرها من الجهات الدولية المستقلة والمختصة تثبت تورط دول ومجموعات وأفراد في تأجيج الأوضاع الداخلية والفتنة الطائفية ودعم العصابات الإرهابية المسلحة بما يقوض دعائم الاستقرار الداخلي والوحدة الوطنية، والتدخل السافر في الشؤون الداخلية للدولة وتقديم الدعم المادي والمعنوي للعصابات الإجرامية التي استباحت البلاد وقتلت المدنيين والعسكريين وخلقت حالة من الفوضى والاضطراب والعنف المنظم.

نتائج عمل اللجنة المكلفة بموضوع حمزة الخطيب

بناءً على الأمر الإداري رقم ٩١٣/ص تاريخ ٣٠/٥/٢٠١١ المتضمن تشكيل لجنة برئاسة اللواء عبد الكريم سليمان معاون وزير الداخلية وعضوية كل من :

- السيد محمد درويشة، مدير إدارة الأمن الجنائي.
- السيد محمد كنجو، النائب العام العسكري.
- السيد عبد العزيز الشلال، قائد الشرطة العسكرية.
- السيد رائد جازم، رئيس فرع التحقيق بخدارة الأمن الجنائي.

مهمتها: التحقيق بموضوع الإدعاءات المتعلقة بوقوع أعمال عنف وشدة وتعذيب على جثة الطفل حمزة الخطيب.

اجتمعت اللجنة بكامل قوامها في مكتب رئيسها يوم الثلاثاء الواقع في ٣١/٥/٢٠١١ الساعة الثامنة صباحاً، وبالمداولة تقرر القيام بالإجراءات التالية بغية الوصول للحقيقة.

١- انتقلت اللجنة بكامل قوامها إلى مشفى تشرين العسكري - قسم الطب الشرعي وفي القسم المذكور وبناء على تكليف منها أحضرت الصور الضوئية المأخوذة لجثة المتوفى الحدث حمزة الخطيب، وباختصار تبين أنها ستة صور ملونة لهذا الحدث المتوفى مثبتة على كرتون مقوى بلون ابيض تحمل رقم متسلسل ٢٠٢ /٧٥٧ صادرة عن الشرطة العسكرية الأدلة القضائية/ قسم التصوير الجنائي ومعرفة هذه الصور بتدوين رقم ٢٣ على كل منها، وهذه الصور بوضعيات مختلفة وسبب تعريفها برقم ٢٣ كون الجثة كانت مجهولة الهوية، وبعد الاطلاع على الصور جرى ضمها للتحقيقات القائمة لدينا حسب الأصول.

٢- طُلبت نسخة عن محضر الكشف على جثة المتوفى الحدث حمزة الخطيب المعدة من قبل اللجنة الطبية الثلاثية والمؤلفة من السادة الأطباء : أكرم الشعار - عصام احمد - إسماعيل كيوان، وبإحضار الخبرة تبين لنا أنها مؤلفة من أربعة صفحات مطبوعة والتي جاء فيها بالحرف الواحد:

- الجثة تبدي صملاً موتياً وزرقة رمية خفيفة متوضعة في الأقسام الخلفية غير الامتدادية من الجذع والأطراف.
- الجثة ملطخة بالدماء وتبدي سحجات متكمة سطحية خفيفة في مستوى الجبهة اليمنى والأجفان والخد الأيمن وهي ناجمة عن سقوط أثناء الاحتضار وليس لها علاقة بالوفاة.
 - يلاحظ أن الجثة لا تتناسب مع العمر المتوفى وتبدي طول في قياسات الجذع وعرضه وزيادة في حجم الثديين، صغر في حجم الخصيتين وكيس الصفن وصغر في حجم القضيب وغورور القضيب داخل الصفن .
 - كما يلاحظ غياب كامل للإشعار من الوجه والشاربين وتحت الإبطين وناحية العانة.

وتبدي الجثة الإصابات التالية:

- ١- مرمي ناري دخوله من المستوى السفلي الوحشي للعضد الأيسر وخروج بفوهة تقع في الثلث السفلي (الداخلي) للعضد الأيسر.
ثم دخل دخولاً ثانياً إلى البدن في الصدر الجانبي المتوسط وخروج خروجاً بـ ١٠ سم .
- ٢ - مرمي ناري دخل في الخاصرة اليمنى العلوية وخرج في الظهر السفلي الأيمن الوحشي.
- ٣ - مرمي ناري دخوله وخروجه في مستوى الثلث للعضد الأيمن.

ولا تبدي الجثة :

- أية آثار لعنف أو شدة أو مقاومة أو ضرب أو تعذيب من كدمات، سحجات ظفرية، جروح قاطعة طعنبة أو وخزية، كسور عظمية أو خلوع مفصالية أو فوهات لمرامي نارية أخرى سوى ما سبق ذكره بالتفصيل أعلاه .

المتأقمة :

- لقد مُني المتوفى حمزة بثلاثة مرامي نارية أحدها كان له دخولين وخروجين حيث أنه دخل في العضد الأيسر وخرج من العضد ودخل ثانية في الصدر الجانبي الأيسر وخرج من الصدر المتوسط الأمامي بين الحلمتين. والمرمي الآخر دخل من الخاصرة اليمنى وخرج من الظهر الأيمن قرب النهاية السفلية للأضلاع.

- إن ما يميز هذه الفوهات أنها واسعة نوعاً ما وهذا يدل بأن المرمى لم يدخل البدن بشكل مباشر وإنما اصطدم قبل دخوله فتشوه جزئياً أو أن الدخول بشكل جانبي فبدت الفوهات أكبر من الطبيعي قليلاً.
- لقد لاحظنا أن المرمى أصابت المغدور في مواقع متعددة في العضد الأيسر وواحد في الجذع (الخاصرة) وآخر في العضد الأيسر وإن توزع المرامي يدل بأنه قد أصيب من قبل رامي بوضعية الحركة للرامي والمغدور أو أصيب من أكثر من مصدر.
- إن المرميين اللذين أصابا الفتى في صدره وخاصرته هما مرميان قاتلان فوراً وإن المرمي الذي أصاب العضد الأيمن فهو ليس قاتلاً لتوه.
- إن المرامي النارية سببت أذيات : - عظمية .
- حشوية صدرية .
- حشوية بطنية .

أدت إلى الفزيف والوفاة.

- إن الإطلاق هو من قبل الغير والرامي كان لحظة الإطلاق في نفس المستوى الأفقي للمغدور.
- مسافة الإطلاق بعيدة للمرامي الثلاث وهي أكثر من متر واحد كحد أدنى.

النتيجة :

وفاة بتزف شديد ناجم عن إصابة بمرامي نارية ثلاث.

- ١- مرمي ناري دخوله وخروجه في العضد السفلي الأيسر بداية ثم دخل ثانياً في الصدر الجانبي الأيسر وخرج من منتصف القص.
- ٢- مرمي ناري دخوله في الخاصرة اليمنى وخروجه في الظهر الأيمن الوحشي.
- ٣- مرمي ناري دخوله وخروجه في الثلث السفلي للعضد الأيمن مساندة الإطلاق لسبح الرامي جيداً . - متر واحد كحد أدنى.

الإطلاق من قبل الغير ومن عدة مصادر أو رامي واحد بوضعية الحركة والمغدور كان بوضعية الحركة أيضاً وفي نفس المستوى الأفقي .

لدى معاينة الصور الضوئية للمأخوذة لجثة المتوفى حمزة الخطيب بتاريخ الوفاة بدمشق وذلك بتاريخ ٢٠١١/٤/٣٠ ومقارنتها مع الصور الضوئية للمأخوذة له بتاريخ ٢٤ / ٥ / ٢٠١١ في مشفى درعا الوطني، تبين لنا الفروقات التالية:

المميزات	في مشفى درعا الوطني	في مشفى تشرين العسكري
١	انتفاخ شديد واموداد وتونم في مستوى الأجزاء والأنف والشفتين وهي تفسخيه بعد الموت	سحجات خفيفة وهي سحجات متقدمة حيائية والجثة ملطخة بالدماء ولا يوجد وذمات
٢	لون أخضر محمر ومناطق مسودة تقع في ناحية الخد الأيمن والصدر العلوي والأطراف وهي تفسخيه بعد الموت	لا يوجد لون أخضر أو مناطق مسودة
٣	انتفاخ شديد في مستوى الصفن مع تلون كيس الصفن بالأخضر المسود وأيضاً في الفخذين والبطن وهي تفسخيه بعد الموت	لا يوجد انتفاخ في مستوى الصفن أو تلون لكيس الصفن باللون الأخضر المسود.
٤	انسلاخات جلدية أكثرها وضوحاً في مستوى اليدين والعنق وهي تفسخيه بعد الموت	لا يوجد انسلاخات جلدية
٥	ظهور الشبكة الوعائية في مستوى الطرفين السفليين والمصدر بشكل واضح ويلون يميل للبنى وهي تفسخيه بعد الموت	لا يوجد شبكة وعائية ظاهرة على جثة المتوفى
٦	آثار سوائل ننتة في مستوى سطح الجثة بشكل كامل وهي تفسخيه بعد الموت	لا توجد آثار لسوائل
٧	ظهور حشفة القضيب بلون أسود مع انسلاخ جلدي في قاعدة الصفن عن التلاقي مع جذور القضيب وظهور النسيج تحت الجلد أصفر وهي	بدت الخصيتان صغيرتين وفي مكانهما الطبيعي والقضيب صغير الحجم وغائر في كيس الصفن ولا يظهر منه إلا الحشفة الواضحة بلون أحمر

المناقشة للفروقات الظاهرة على المقارنة بين الصور المأخوذة للجنة في مشفى تشرين بدمشق بتاريخ ٢٠١١/٤/٣٠ والصور المأخوذة للجنة في مشفى درعا الوطني بتاريخ ٢٠١١/٥/٢٤:

— إن ما ظهر في الصور المأخوذة في المشفى الوطني بدمشق هو عبارة عن تبدلات حدثت بفعل التسخين الرمي بسبب تقادم الزمن على الجثة ما بين لحظة حدوث الوفاة وتاريخ تسليمها إلى مشفى درعا الوطني، وهي تبدلات فيزيولوجية طبيعية تحدث على كل الجثث بعد حدوث الوفاة بفترات زمنية ونتيجة لفعل الجراثيم الهوائية واللاهوائية وهذا كله يؤدي إلى حدوث انتفاخ في الأجواف بفعل انطلاق الغازات التسخينية وحوادث انسلاخات جلدية بمجرد ملامسة الجثة وخروج موائل ننتة من الفوهات ومن الجلد وفي مراحل متقدمة من الزمن سوف يؤدي ذلك إلى انحلال في النسيج العضلي وجميع الأحشاء ولا يبقى سوى الهيكل العظمي من الجثة كلما تقادم الزمن مع العلم أن هذه الخدثية الفيزيولوجية تتبع كما هو معروف في الطب الشرعي للظروف التي وجدت فيها الجثة من ناحية حرارة الجو، مكان وجود الجثة، مع العلم أنه في الحالة التي أمامنا فإن الجثة كانت موجودة في البراد ويتبريد (٥-) تحت الصفر وهذا سيؤخر حدوث التفسخ الرمي ويجعله بطيئاً إلا أن ذلك لا يمنع من حدوثه وهذا ما حصل في حالتنا هذه والذي أدى إلى ظهور الفوارق بين الوصف للجنة في مشفى تشرين وفي مشفى درعا الوطني.

٤- كلفت اللجنة معاون رئيس النيابة العامة بدمشق بتقديم تقرير يبين فيه الإجراءات التحقيقية القضائية التي قام بها حيال جثة الحدث المتوفى حمزة الخطيب فقدم تقريره مطبوعاً موقعاً من قبله مؤلفاً من صفحة واحدة والتي جاء فيه بالحرف الواحد:

في ساعة متأخرة من ليل الجمعة الموافق ٢٠١١/٤/٢٩ تم إعلامنا من مشفى تشرين العسكري بوجود جثة مجهولة الهوية في قسم الطب الشرعي واردة إليهم من محافظة درعا، وعلى الفور وكرتي قاضي الجرائم المشهوددة، توجهت برفقة كاتب الضبط والطبيب الشرعي السيد ململ وقاف وقمنا بإجراء الكشف الطبي والقضائي عليها. وتحديد سبب الوفاة، والتي تبين أنها ناجمة عن المرامي النارية التي تعرضت لها، وقام مصور الأدلة الجنائية بتصويرها بدقة، وقمنا بإعطائها رقم ٢٣/ ولم يشاهد أي آثار شدة أو عنف أو ضرب أو

تحدثت أو كسبهت عارياً، والتقى الكثرة، حثت على...
٢٠١١/٤/٣٠

تشرين العسكري برفقة دورية من الشرطة العسكرية ووصلت بعد حوالي ساعة ونصف إلى براد مشفى درعا الوطني دون علمنا ماذا حصل بعد ذلك.

٥- استدعت اللجنة بتاريخ ٢٠١١/٦/١ للطبيب الشرعي إسماعيل أبو نبوت الموظف بالمشفى الوطني - قسم الطب الشرعي باعتباره هو من أجرى الخبرة والكشف على جثة الحدث المتوفى حمزة الخطيب ووصولاً لحقيقة عملية ساطعة قاطعة لا يتسرب إليها الشك أو الريب، واستدعت أيضاً أعضاء اللجنة الطبية الثلاثية الذين قاموا بالكشف على جثة نفس الشخص والذين سبق ذكرهم أعلاه، وتم إجراء المقابلة بينهم جميعاً وأفهموا موضوع سبب الحضور والمقابلة والغاية من هذا الاجتماع، وبالنقاش الشفوي العلمي والطبي والفني أعلن الطبيب الشرعي إسماعيل أبو نبوت:

" نحن الطبيب الشرعي إسماعيل أبو نبوت طبيب شرعي في محافظة درعا.

بعد الإطلاع على تقرير اللجنة الطبية الثلاثية التي قامت بتاريخ ٢٠١١/٤/٢٩ بفحص المرحوم حمزة الخطيب وكذلك الصور الضوئية المجرأة ٢٠١١/٤/٢٩ في دمشق والصور الضوئية المجرأة بتاريخ ٢٠١١/٥/٢٤ في درعا.

وبعد مقابلة زملاء أعضاء اللجنة الطبية الثلاثية : الدكتور أكرم الشعار والدكتور عصام أحمد والدكتور إسماعيل كيوان وتقرير المقارنة بين الصور المأخوذة لنفس الشخص في دمشق وفي درعا من قبل اللجنة الثلاثية أفيد بما يلي:

أنه كتب في تقرير المؤرخ بتاريخ ٢٠١١/٥/٢٤ أن هناك بتر في القضيبي غير حياتي (أي أنه لم يحدث أثناء الحياة وإنما قد حدث بعد الموت وان الجثة وقت الفحص كانت تبدي تقسحاً حتى في الناحية التناسلية لوجود انتفاخ في كيس الصفن وظهور اللون الأزرق وحدثت انسلاخات جلدية، ولذا أقر بأن الحالة لم تكن حالة بتر بشكل جازم وذلك لوجود التغيرات التفسخية المماثلة مع احتمال إن هذا الضياع المادي الذي نوهت عنه حدث في سياق التفسخ، أو أثناء نقل الجثة أو احتكاك في هذا الناحية وهذه خبرتي".

وبعد أن انتهى بتكوين التقرير بخطة قدمه إلى اللجنة فتمت دراسته ومشاهدته بالاسم والتوقيع لكامل قوام اللجنة كي يأخذ القيمة الرسمية والقوة الثبوتية وبعد ذلك جرى ضم هذا التقرير إلى التحقيقات الجارية حسب الأصول.

٦- تم استدعاء المدعو علي الخطيب والد الحدث المتوفى حمزة الخطيب بتاريخ ٢٠١١/٦/١ وبالمناقشة معه

وتسعين ميلادي -- الدين والمذهب: إسلام -- الرقم الوطني /١٢٠١٠١١٨٩٨٣/ -- الجنس: ذكر -- تاريخ القيد :
١٩٩٨/٥/٢٧ -- الوضع العائلي: عازب -- متسلسل الاسم: (٨٣).

وبعد القيام بهذه الإجراءات المذكورة أعلاه استخلصت اللجنة وبالإجماع النتائج التالية:

١- وصلت الجثة إلى مشفى تشرين العسكري بدمشق بتاريخ ٢٩/٤/٢٠١١ في ساعة متأخرة من الليل وبوشر في إجراء الكشف الطبي والقضائي عليها أصولاً عقب وقت قصير من وصولها بشكل فني وعلمي وقانوني متكامل.

٢- لا يوجد من أثار الشدة والعنف سوى أثار المرامي النارية الموصوفة بمحضر الكشف،

٣- إن سبب الوفاة هو الإصابة بنزف شديد ناجم عن الإصابة بمرامي نارية ثلاث:

أ- مرمى ناري دخوله في العضد السفلي الأيسر بداية ثم دخل في الصدر الجانبي الأيسر وخرج من منتصف القص.

ب- مرمى ناري دخوله في الخاصرة اليمنى وخروجه في الظهر الأيمن الوحشي.

ج- مرمى ناري دخوله وخروجه في الثلث السفلي للعضد الأيمن مسافة الإطلاق لجميع المرامي بعيدة: متر واحد كحد أدنى.

الإطلاق من قبل الغير ومن عدة مصادر أو من رامي واحد بوضعية الحركة والمغдор كان بوضعية الحركة أيضاً وفي نفس المستوى الأفقي .

لقد سببت المرامي أنيابت بليغة حشوية صدرية بطنية وعائية بشدة أدت للموفاة:

والموفاة ناجمة عن المرامي النارية وما تجم عنها.

٤- لا يوجد بتر للعضو الذكري وإنما حصل التباس من قبل الطبيب الشرعي إسماعيل أبو نبوت الذي قام بالكشف على الجثة بدرعا بتاريخ ٢٤/٥/٢٠١١ وصوب قراره في تقريره المعد بهذا التاريخ على ضوء المعطيات الفنية والعلمية والطبية والدراسة المقارنة التي أجرتها اللجنة الطبية الثلاثية بدمشق بين الصور الضوئية المأخوذة للجثة بدمشق وبين الصور الضوئية المأخوذة للجنة في درعا والمناقشة الجارية مع الأطباء الشرعيين الثلاثة الذين قاموا بالكشف على الجثة بتاريخ ٣٠/٤/٢٠١١ .

٦- ثبوت جود جهات معادية ولجنت أشخاصاً لنقل صور مغايرة للحقيقة أو متلاعب بها فنياً لتحقيق مآرب دنيئة يجب متابعتها من الجهات المعنية توصلأ لمعرفةا والقبض على تلك الصور ومنفذيها عامة وفيما يتعلق بهذه الواقعة خاصة.

الخلاصة :

- ثبت بالدليل العلمي والفني والقضائي عدم وجود آثار لأعمال شدة أو عنف أو تعذيب على جئة الحدث المتوفى حمزة الخطيب لا بحياته ولا بعد وفاته سوى آثار المرامي النارية التي أصيب بها.
- كما ثبت عدم وجود بتر العضو النكري لهذه الجئة أيضاً.

يرجى الاطلاع ،

Chronology

15 March – The “Day of Dignity”: Dozens of protesters convene in Damascus and Aleppo. Activists call for the abolition of the state of emergency, in existence since 1963, the implementation of reforms and the release of political prisoners.

23 March –The Syrian president dismisses the Governor of Deraa against the backdrop of the latest protests in the city.

24 March – The Syrian president orders the creation of a committee to raise living standards and explores the lifting of the emergency law.

25 March – Friday of Glory (جمعة العزة): thousands participate in demonstrations in Deraa during a funeral procession.

31 March –The Syrian President orders an investigation into the recent killings in Deraa and the establishment of a panel to examine the nationalization of Syrian Kurds.

1 April – “Friday of Martyrs” (جمعة الشهداء): reports indicate that Deraa is isolated by security forces and the army.

12 April – Baniyas is reported to be “under siege” by security forces. Electricity and phone lines are cut off and food shortages are reported.

April 16: The Syrian President gives a televised speech pledging to lift the emergency law and instate further reforms.

21 April: A number of presidential decrees are issued lifting the emergency law, abolishing the Higher State Security Court and regulating the right to peaceful assembly.

25 April – The army deploys to Deraa, where electricity and water are reportedly cut off and medical supplies and blood stocks are running low.

28 April – 233 members of Syria’s ruling Baath party in Deraa announce their resignation in protest over the deadly crackdown on protesters. The UN Security Council fails to agree on a statement condemning the violence in Syria.

29 April – “Friday of Rage” (جمعة الغضب): the US imposes a series of new sanctions on Syria's intelligence agency and two relatives of President Assad. The Human Rights Council convenes a Special Session and adopts resolution S-16/1 on the situation in Syria where the High Commissioner also calls for the dispatch of an OHCHR Fact Finding mission to the country.

6 May – “Friday of Defiance” (جمعة التحدى): thousands of protesters gather in many cities including Baniyas, Homs, Edleb, al-Qamishli and the Damascus suburbs of Zabadani and Saqba.

10 May – The European Union imposes sanctions (including asset freezes, an arms embargo and travel bans) on Syria, naming 13 high-ranking officials on its list. Syria renounces its candidacy for a seat in the Human Rights Council.

11 May –The Syrian Prime Minister announces that the government has established a committee to prepare a new law on parliamentary elections.

18 May – Al Jazeera reports, that their correspondent, Dorothy Parvaz is released after having disappeared for three weeks upon arrival in Damascus. The US expands its sanctions on Syria to include President Assad and six other Syrian officials.

23 May –EU restrictions against Syria are expanded to include President Assad and nine other senior members of the government. Restrictions include a ban from travelling to the EU and freeze on the officials' assets.

27 May – “Home Protector’s Friday” (جمعة حماة الديرار): protests take place in Latakia, Homs, Hama, Qamishli, Deir az-Zour and Damascus.

31 May –Dozens of tanks surround the towns of Rastan and Talbiseh. President Assad issues an amnesty on all political crimes committed before May 31, 2011.

1 June – Members of the Syrian opposition meet during a three-day conference in Antalya, Turkey.

3 June – “Freedom Children Friday” (جمعة أطفال الحرية): more than 50,000 demonstrators gather in the centre of Hama amid heavy security presence.

5 June –Official governmental sources report that armed terrorist groups have attacked state buildings and police centers in the town of Jisr al-Shughour in the Idlib province.

6 June – The Syrian Official News Agency (SANA) reports that armed gangs have killed 120 policemen in an ambush in the town of Jisr al-Shughour.

9 June –Russia and China announce that they will oppose a US-backed UN Security Council resolution on Syria.

12 June: The Syrian army takes control of the town of Jisr al-Shughour. The government stated that it is trying to restore order after 120 security personnel were killed in the town.

16 June: The OHCHR presents its preliminary report on the situation in Syria at the Human Rights Council’s seventeenth session. In the report the High Commissioner, Navi Pillay, expresses grave concern about the deterioration of the human rights situation in Syria and renews calls for allowing access to the Fact-Finding mission in the country.

17 June: According to the UNHCR, the number of refugees in Turkey fleeing from north-western Syria is at 9’600.

20 June : The Syrian President addresses the nation in a one-hour speech at the Damascus University in which he promises to initiate a process of "national dialogue" and a series of economic and political reforms.

21 June: The Syrian state news agency (SANA) reports that Syrian President has ordered a new general amnesty for all crimes committed in the country until 20 June. Syrian authorities organize a tour around Jisr al-Shughour for diplomats.

22 June: Syrian Foreign Minister Walid al-Muallem states that al-Qaeda might be behind some of the violence in the country.

24 June: “Friday of Lost Legitimacy” (جمعة فقدان الشرعية): according to the Turkish foreign ministry, the number of Syrians sheltered in Turkey reached 11,739. The EU expands its sanctions to include three Iranian Officials.

27 June: Around 200 regime critics and intellectuals meet in Damascus to discuss strategies for peaceful transition to democracy in Syria.

1 July: “Friday of Departure” (جمعة الرحيل): large-scale demonstrations are reported in various parts of the country. There are reportedly a million demonstrators in Hama, making it the largest single demonstration so far since the unrest began.

7 July: Secretary-General Ban Ki-moon calls on the Syrian authorities to “stop their bloody crack-down on protesters” and to allow access to the United Nations to assess the Human Rights situation in the country.

8 July: “Friday of No Dialogue” (جمعة اللحوار): hundreds of thousands attend a demonstration in the city of Hama, which according to some estimates reached 500’000. The French and British ambassadors to Syria visit the city. The Syrian government condemns the visit.

11 July: Supporters of the Syrian president attack the French and US embassies. The US secretary of state condemns these attacks and states that President Assad had “lost legitimacy.”

12 July: Secretary-General Ban Ki-moon and the Security Council condemn the attacks against the British and French embassies in the Syrian capital Damascus.

15 July: “Detainees’ Freedom Friday” (جمعة اسرى الحرية): hundreds of thousands demonstrate in various parts of the country including Hama, Aleppo and Damascus.

20 July: Secretary-General Ban Ki-moon calls on the Syrian government “to stop repression immediately” and urges all sides to refrain from violence.

SYRIAN ARAB REPUBLIC



United Nations
Human Rights

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Map created for FFM Syria report : August 2011

Borders do not reflect UN positions and are merely for general display of the location of risk levels