Report: Side Event on
“Death Notifications and Negation of Justice in Syria”

25 February 2019, 16:30 - 18:00
Room XXIII, Palais des Nations
United Nations Office in Geneva

Co-sponsored by the Governments of Belgium, Canada, Denmark, Finland, Liechtenstein, The Netherlands, Sweden
Overview

While the war in Syria is entering in its ninth year, enforced disappearances, indiscriminate arrests and torture continue to be committed on a wide scale throughout the whole country as a tactic of war. Over the course of the last eight years, a consistent country-wide pattern has been established, in which people have been seized by the Syrian security and armed forces, as well as by pro-Assad militias, during mass arrests, house searches, at checkpoints and in hospitals. The magnitude of this phenomenon was made evident during the first half of 2018, when the civil registry offices in Syria began to receive information in bulk, by the Syrian Military Police, that thousands of individuals were deceased. In some cases, lists referencing the deaths were released by the civil registry offices; in other, these offices confirmed deaths to individuals who requested their family status. The documents offer no details about the deaths except a date, while families still want to know how their loved ones died and where their bodies are. Moreover, these offices only provide confirmations of death, though families must still obtain a death certificate, leaving Syrian families in bureaucratic deadlock.

Under Syrian law, families have one month after obtaining a confirmation of death to apply for an official death certificate; without one, they are unable to move forward on legal aspects of the death and face hefty fines; taking into account the number of refugees and IDPs and the risk of facing the same fate for being associated to the disappeared, hundreds of thousands of Syrians are currently not in a position to perform such obligations under law.

The independent international Commission of Inquiry on Syria (CoI) has dedicated several thematic reports to this phenomenon, most recently in November 2018 with the report “Death Notifications in the Syrian Arab Republic”. In this report, it is concluded that “by updating the records of those disappeared, State officials […] admit to having information about the fates, including purported dates of death, of those deceased. To that end, the State is further tacitly admitting to knowing where the individual was at the time of his/her death, as well as to having played a role in deaths in the cases of executions by court order or extrajudicial executions”.

Side Event Summary

1.1 The participants

Panellists of the meeting - co-chaired by Niccolò Figà-Talamanca, Secretary General of No Peace Without Justice, and Hussein Sabbagh, Secretary General Euro-Syrian Democratic Forum - included H.E. Peter Matt, Permanent Representative and Ambassador of Liechtenstein, Ms. Karen Koning Abuzayd, commissioner at the Independent International Commission of Inquiry on the Syrian Arab Republic (CoI), Mr. Fadel Abdul Ghany, chairman of board of directors of the Syrian Network for Human Rights, Mr. Emad Eddin Al Rachid, member of the Syrian Association for Missing and Conscience Detainees and Ms. Ghaffran Kholani, eyewitnesses of the enforced disappearances and arbitrary detention in Syria. Welcome remarks were made by H.E. Anders Samuelsen, Danish Minister of Foreign Affairs. H.E. Terhi Hakala, Permanent Representative and Ambassador of Finland, provided closing remarks.

The side-event offered an opportunity for a chair-moderated debate with eye witnesses, civil society leaders of organisations working on human rights inside Syria, representatives of UN Member States1 and the CoI to share their views on issues related to the status of detainees, victims of enforced and arbitrary detention and their families and the long-terms effects on Syrian society. In particular, this side-event reviewed the fundamental issues of accountability and transitional justice as essential components of any future negotiation on Syria.

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1 List of the countries which attended the side-event: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Estonia, EU Delegation, Finland, France, Georgia, Germany, Greece, Israel, Italy, Liechtenstein, Monaco, Norway, Portugal, Romania, Sweden, Switzerland, The Netherlands, Ukraine, USA.
1.2 The panel discussion

Co-chairs Mr. Figà-Talamanca and Mr. Sabbagh thanked the panellist and introduced the topic under discussion. In particular, they underlined that the need for a comprehensive discussion on the status of detainees, victims of enforced and arbitrary detention and what need still to be done to address the negation of justice in Syria.

In his opening remarks, H.E. Samuelson expressed his concern about the fact that enforced disappearances, torture and indiscriminate arrests remain an inherent part of the Syrian armed forces and pro-Assad militias’ strategies, as the Commission of Inquiry on Syria and several civil society organisations have documented. The regime’s tactic serves to punish large parts of the Syrian population and it also fosters fear amongst families, relatives and whole communities. He underlined the importance of giving voice to some of those who are directly affected, in order to understand that the conflict is not something abstract and in order to remember what needs to be done and why. The Minister also noticed that the latest addition to the regime’s tactic has been the release of thousands of death notices for detained, missing and disappeared people; by releasing these death notifications, the Syrian regime is admitting that they know where the individuals were at the time of their death, without revealing this information to their families. H.E. Samuelson encouraged the UN Special Envoy to bring urgency to the discussions on detainees, as the Astana-format has thus far produced far too few results in this regard and urged UN Member States to continue to provide financial and political support to the IIIM.

H.E. Matt expressed his gratitude to the organisers of the side-event, which give voice to the very concerning issue of death notifications. He stressed how the Syrian government made use of enforced disappearance and arbitrary detention in a systematic way and how this has an impact on families of the disappeared. First, he expressed his concern about the government practice of updating civil registries without providing families with more information about the death. In fact, in May 2018, for the first time, civil registry offices registered the deaths and subsequently updated family records: but if in some cases, lists referencing the deaths were released by these offices, in other cases, the offices confirmed deaths to individuals who requested their family status. In any case, the government offices provided only confirmations of death, though families must still obtain a death certificate. The Ambassador also underlined that the lack of an official death certificate has many potential deleterious effects for the human rights of relatives of the deceased, including their housing, land, and property rights. Finally, he pointed out that, by updating the records of those disappeared, State officials including high-ranking members of the Military Police corps of the Syrian Arab Army admitted to having information about the fates, including purported dates of death, of those deceased. H.E. Matt recalled some of the international community’s accountability efforts, illustrating the mandate of the IIIM, saying that it is the only avenue for the accountability in Syria or at least a key actor. He also reminded that, in August 2018, Liechtenstein, Qatar and other States sent a letter to the President of the UN Security Council and to the President of the UN General Assembly, addressing the violations of the international humanitarian and human rights laws occurring in Syria. He closed out recommending more comprehensive investigations and stressing the need to make accountability and reconciliation part of the post-conflict landscape of Syria. He also thanked Denmark for the generous contribution to the 2019 budget of the IIIM and he expressed his hope to see the budget increased by the 2020.

Ms. Koning Abuzayd illustrated the mandate of the CoI and the information gathered in its reports. She said that while arbitrary detention throughout Syria continues to be perpetrated by all parties on the ground, nowhere has the phenomenon been more pervasive than in areas under Government control. The CoI has previously documented a widespread and systematic pattern in which men above the age of 15 years had been arbitrarily arrested and detained by Government security, armed forces, or militia acting on their behalf during mass arrests, at checkpoints, or during house searches. After being taken to Government-run detention facilities, detainees were often severely beaten, many of whom later perished due to torture, inhuman living conditions, lack of adequate medical assistance, or willful neglect. She stressed the fact that in several instances, families were compelled to pay bribes to learn the whereabouts
of their relatives and that in other occasions, they were never informed of their whereabouts and never saw them again. Even if the Government updated the data on the civil registry and issued death notifications, they did not provide any details on the cause, time and circumstances of the deaths, which are essential for families. Many Syrians are not in the position to have their right heard in justice and – she stated – the violation of the international law will continue as long as the families will remain in the dark about the fate of their relatives and the bodies of the death not returned to the families. Ms. Koning Abuzayd underlined that pursuing justice and accountability is the international community responsibility since the national authorities are not willing and able, and that justice must be built holistically, starting from taking more small steps already now. She also urged the Assad regime to reveal publicly the fates of those detained and disappeared without delay, and to allow international independent humanitarian organisations to work in the Syrian territory, in order to help families to clarify the status of their relatives. In fact, this is a challenging task for families: she explained that under Syrian law and for deaths occurring inside the country, families have one month after obtaining a confirmation of death to apply for an official death certificate with the civil registry office. Without one, they are unable to move forward on legal aspects of the death. If they fail to apply for a death certificate within one month, they could be fined 3,000 Syrian pounds, and if they fail to apply within one year, a police report is required and the fine increases to 10,000 Syrian pounds. (art. 68 Civil Status Law). She closed out stressing the need to prioritise this problem in the peace negotiations. Concluding her remarks, Ms. Koning Abuzayd noted that no progress can be made in reaching a political settlement and a lasting peace in Syria based on the Geneva Communique, without urgently confronting the justice-based needs of Syrian victims and survivors as well as their families.

Mr. Abdul Ghany illustrated the work that his organisation has done so far on the issue of detainees and death certificates and illustrated the methodology used by SNHR to map the ongoing violation in the Syrian prisons, which let to identify and document, so far, 878 cases of individuals arrested and killed in Syrian detention facilities Mr. Abdul Ghany recalled how in April 2018, for the first time the Syrian regime began issuing death certificates in which it acknowledged the fate of dozens of those who were forcibly disappeared, confirming their deaths. He also pointed out that the Syrian regime did not returned the body of any of these individuals to their families, which means that, under international law, all these people are still categorised as forcibly disappeared, with the Syrian regime bearing responsibility for this, adding that all of these cases constitute crimes against humanity. In concluding his intervention, Mr. Abdul Ghany recommended some steps to be taken at the international level urging the UN High Commissioner for Human Rights to seriously follow these cases; stressing the need for an emergency meeting of the UN Security Council to discuss the issue of the tens of thousands of disappeared Syrians; and urging UN Member States to focus on the issue of detainees and enforced disappeared.

Ms. Kholani provided her testimony by recalling the harrowing story of the detention of killing in prison of her four brothers. Majid and Abdulssatar Kholani were arrested in July 2011 and transferred to Sednaya prison. She explained that usually, when people are detained by the regime, they disappear and their families struggle to trace them. Kholani’s family was lucky enough to be told, by people who had been released, that Majid and Abdulssatar were in the prison. Under the regime’s rule, those held in prison are not allowed visits, but Kholani’s family obtained a visitor permit by paying bribes. Ms. Kholani recalled how she could not recognise Abdulssatar when they met in the prison. Toward the end of 2012, other two brothers of Ms. Kholani, Bilal and Mouhamed, were also arrested. Upon his release, on 22 April 2013, Bilal informed the rest of the family that Mouhamed had been killed in front of him in prison. When the “Caesar report” was published, the Kholani’s family identified Mouhamed’s picture and realised what happen to him. The Syrian Military Police informed the family that Mouhamed died from a stroke, this made Ms. Kholani even more anxious for the fate of the other two brothers, who were still in detention. For months the family continued asking for information the police and those who were released from the Sednaya prison and ultimately learned that Majid and Abdulssatar were killed in a mass execution inside the prison. Ms. Kholani closed her intervention stressing the importance of continuing the narrative of truth telling and to show the reality of the Syrian regime: under Bashar al-Assad the people of Syria will never have human rights, no civil rights and women will certainly have no rights at
all. She also urged the international community to never forget what the regime has done and to take into account the death certificate issue.

Mr. Al Rachid expressed his concern about the situation of disappeared and detainees in Syria and his gratitude for being among the panellist of this high-level event, which is a clear message of the centrality and importance of this issue and a continuation of ongoing efforts underlining the international emphasis on the need to ensure accountability and prevent impunity. In particular, he wanted to bring attention to the children situation and the system of rape in prison, and he urged the international community to take steps in order to fight against these atrocities. Joining the other panellists, Mr. Al Rachid stressed how the notifications issued by the regime – that showed violations occurred even after the Caesar dossier - reflect the sense of impunity of the regime who has never been prosecuted.

In her closing remarks, H. E. Hakala underlined how the Syrian people have the fundamental right to truth and justice, which risks being lost in the humanitarian catastrophe of the war in Syria. The recent release of death notifications by the Assad regime is a further sign for the international community to do more to ensure that justice and accountability become central elements of the negotiations around Syria.

1.3 Discussion from the floor
During the open debate, Permanent Missions in Geneva and civil society representatives took the floor to thank the panellists, underscore their commitment and ask them a series of questions. H.E. Geert Muylle, Permanent Representative and Ambassador of Belgium, stressed the role that the international community gave to the CoI and the IIM to ensure accountability for the crimes committed in Syria and underlined the need for more discussions on accountability also within the Astana process. H.E. Nathalie Olijslager, Deputy Permanent Representative of The Netherlands, thanked the panellists and commended Ms. Kholani for her bravery. She underlined that the call for justice coming from the Syrian people needs to be heard and stressed the importance of diversity as a critical element that needs to be considered during the future transitional process. Mr. Robin Wettlauber, Canada, stressed the critical importance of the work done by international mechanisms and civil society organisations on documentation, while Mr. Oscar Ekéus, Sweden, underlined that justice and accountability must be part of any durable peace in Syria. H.E. Mark Cassayre, Deputy Permanent Representative of USA, underlined the fundamental role and bravery of Syrian Human Rights Defenders and the importance to fully support the work of the UN Special Envoy on Syria. Mr. Michel Kilo, Syrian opposition leader, underlined how in Syria the rule of law does not exist and that people and persecuted and punished not for their crimes but simply for their ideas and for the expectation that they might go against the regime. He closed his remarks by saying that the international community should think seriously to the questions raised during this side event and take positive steps to respond to them. Mr. Samir Sattouf, Union of Syrian Coordinators around the world (USCAW), underlined how the issue of detainees should be at the front of any humanitarian discussion over Syria and the international community should to do more to ensure that the cases of detainees and disappeared become a key element of the Astana process.