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Transitional Justice Coordination Group

*Istanbul - 18/07/2022*

## **Statement and Recommendations**

### **The Transitional Justice Coordination Group**

#### *On Creating a Missing Persons Mechanism*

With the conflict in Syria entering its twelfth year there has been a lack of significant progress in addressing the issue of missing persons. However, with the tireless work and efforts of victims, survivors, family associations and civil society groups, and the efforts of many international bodies in this regard, the United Nations General Assembly Resolution No. 76/228 (which included the establishment of a special mechanism for missing persons) constituted a moment in reviving hope for families in knowing the fate of their loved ones, while also being skeptical about the seriousness of this mechanism and the future of justice and accountability in Syria.

The decision on establishing an independent mechanism with an international mandate to coordinate and standardize claims related to missing persons, including persons subjected to enforced disappearance, was based on the recommendation of the Independent International Commission of Inquiry on Syria, and the information provided by the Secretary-General of the United Nations to the General Assembly on 30 March 2021, in which he indicated that there was no progress on those issues in the absence of an international mandate. The decision was endorsed by the Office of the United Nations High Commissioner for Human Rights on 24 September 2021 to establish an independent mechanism emphasizing on the importance of not tampering with the sites of mass graves in the Syrian Arab Republic. The Assembly's decision concluded by requesting the Secretary-General to conduct a study on how to strengthen efforts, through the existing measures and mechanisms, to clarify the fate and whereabouts of missing persons in Syria, and to identify human remains and provide support to their families, in consultation with the Office of the United Nations High Commissioner for Human Rights and based on the recommendations of the Investigating Commission — with the full and meaningful participation of victims, survivors and their families in consultation with other relevant actors. The Resolution included inviting all member states, and relevant United Nations bodies, international organizations and civil society organizations to coordinate additional efforts, and focus attention on the



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issue of missing persons in Syria, including persons who have been subjected to enforced disappearance, and ensuring the importance of the full and meaningful participation of victims, survivors and their families in these efforts.

In order to enhance these efforts, the Transitional Justice Coordination Group held a meeting on July 18, 2022 in Istanbul, requested by cluster member organizations and associations of victims, survivors and their families, with the intention of consulting on the mechanism and recommendations that can contribute to making this mechanism effective and feasible.

As a result, the efforts made by victims, survivors, family associations and Syrian civil society groups were reviewed so that the creation of a missing persons mechanism became feasible today. A summary of the consultations conducted by the Office of the High Commissioner for Human Rights about the establishment of the mechanism with Syrian and international parties included the dialogue about the mechanism's relevance to other mechanisms, its role, and concerns regarding the failure of all international mechanisms so far to make significant progress in addressing the issue of missing persons, including the International Committee of the Red Cross, the International Commission on Missing Persons, the Working Group on Enforced Disappearances, and the UN Working Group on Arbitrary Detention. What factors must be available for the new mechanism to succeed in achieving what the rest of the mechanisms failed to achieve? All efforts must be focused on making this mechanism effective and feasible.

Determining the causes of the conflict was discussed throughout the meeting, describing the violations and holding the perpetrators accountable, and the necessity of accountability to reach a sustainable solution, and that there is no solution to the Syrian issue without achieving political transition in accordance with Security Council Resolution No. 2254 and its requirements. It is important to discuss the roots of the conflict in Syria since March 2011, during which ten years have passed since the peaceful uprising which was met with brutal violence that led to the escalation of the conflict later and had devastating impact on civilians through gross violations and abuses of international human rights and humanitarian law.

The decision contained strong condemnation of the reported killing of detainees in Syrian military intelligence facilities and the systematic practice of enforced disappearance, arbitrary detention, use of sexual and gender-based violence and torture in detention centers referred to in the committee reports,



including, but not limited to, Branch 215, Branch 227, Branch 251 and The Air Force Intelligence that reports to the Mezzeh Military Airport and Sednaya Prison, in addition to the regime's practice of hanging detainees, and killing them in military hospitals, including Tishreen and Harasta Hospitals.

Grave concerns about the culture of impunity within the Syrian regime over the most serious violations of international law and violations of international law were discussed, and as a result, the Syrian regime must hand over the bodies of missing persons to their families, including those who were executed, and to take all appropriate measures to protect the life and rights of persons who are in its custody, including those who whereabouts are unknown to their families.

The report of the verification committee issued in March 2021, confirms that all parties to the conflict, especially the security forces affiliated with the Syrian regime, have been deliberately involved in large-scale enforced disappearance practices over the past decade. Appropriate international monitoring bodies must be established to access detainees in all prisons and detention centers, and demand the immediate release of all persons who have been arbitrarily or unlawfully detained by the Syrian regime. The resolution emphasizes the importance of accountability for the most serious crimes committed during the conflict in violation of international law, in order to ensure a sustainable solution.

The content of the General Assembly's briefing on missing persons in Syria by the United Nations High Commissioner was also confirmed on April 8, 2022, and included a discussion on enforced disappearance in Syria, and the accompanying violations of human rights and deprivation of freedoms in tragic conditions of torture, ill-treatment and sexual violence. Therefore, amplifying the voices of victims and their families at the center of innovative solutions to address the issue of missing persons, and the right to truth, is an essential step towards accountability and reconciliation.

The meeting concluded with a set of recommendations to make this mechanism effective and feasible:

- I. Support the efforts of victims, survivors and their families to locate/know the whereabouts of their loved ones, and for the mechanism to be established under the umbrella of a comprehensive and sustainable solution through a process that ensures a political transition in accordance with Security Council Resolution No. 2254 and its requirements, while simultaneously launching a transitional justice process.



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- II. The process of self-disclosure should include reporting places of detention, allowing visits and communication with detainees, and guarantees the release of those arbitrarily detained, and address legal and financial implications for breadwinners and access to property documents, bank accounts, inheritance, child custody issues, etc.
  - III. Addressing families' fears of retaliation when reporting cases, and not leaving them vulnerable to extortion and bribes, by establishing a mechanism that would include a direct relationship with the families, aside from the mechanism of submitting lists of the names of missing persons.
  - IV. Develop an effective methodology that takes into account the non-cooperation of the Syrian regime and other potential parties with any international mechanism and to uncover the fate of the missing persons, and to include steps that can be taken in the event that the work of the mechanism is obstructed, including taking all necessary measures possible and penalties to help the process.
  - V. The competence of the mechanism shall include determining the causes of disappearance, and all entities, institutions and individuals causing the disappearance.
  - VI. Ensure that the mechanism coordinates its work with the families of missing persons and all those associated with them, and the relevant civil society organizations.
  - VII. That the mechanism has a coordinating role with concerned Syrian organizations and that it not only collects information but also analyzes it.
  - VIII. Ensure access to all parties, to official and unofficial places of detention, and to potential mass grave sites.
  - IX. To not tamper with mass graves and the remains of the victims, and to only uncover them under international auspices
  - X. Ensure the complementarity and coordination of the work of international mechanisms.
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The Association Of Families Of The Forcibly Disappeared  
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Freedom Jasmine (FJ)  
Prisoners Of Conscience Group  
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