



General Assembly

Distr.: General
2 December 2011

English only

Human Rights Council

Eighteenth special session

2 December 2011

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[2 December 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

No more impunity for crimes against humanity in Syria

For more than eight months Amnesty International has documented extensively crimes against humanity, and other human rights violations, that have been committed and continue to be committed in Syria. We have highlighted the failure of Syrian authorities to investigate and prosecute such crimes and emphasized the consequent need for the Security Council to refer the situation to the Prosecutor of the International Criminal Court as a significant first step to end impunity.

Amnesty International has obtained the names of more than 3,290 people, over 200 of them children, who are reported to have been killed in the unrest in Syria since mid-March. The vast majority are believed to have been killed by the army and security forces, many of them during protests and security operations in residential areas. Over 170 of them are believed to have died in detention in highly suspicious circumstances.

Reports of deaths of members of the army and security forces have been increasing in recent weeks. Many have allegedly been killed in clashes with the Free Syrian Army, formed in July and composed in part of defected army personnel, and others who have taken up arms with the stated intention of protecting their neighbourhoods. Amnesty International has collated the names of more than 300 killed soldiers and members of the security forces provided by Syrian state media. Amnesty International also has the names of 50 civilians reported to have been killed by armed individuals apparently not linked to the state and of more than 100 armed individuals believed to be opposed to the state thought to have been killed in direct clashes with security forces.

The Office of the High Commissioner for Human Rights has put the number of people who have died since the unrest began at more than 4,000. Violence continues to this day, notwithstanding the broken promises of the Syrian authorities to bring an end to it. More than 25 people are reported to have been killed in the last few days.

Thousands of people have been arrested in connection with the unrest, with many of them detained incommunicado in detention centres run by unaccountable intelligence agencies with powers of arrest and detention. Some are believed to have been held in conditions amounting to enforced disappearance as the authorities have effectively concealed their whereabouts from their families. Released detainees commonly allege they were tortured or otherwise ill-treated in such centres and that such ill-treatment is rife.

Amnesty International's most recent report on abuses and crimes being committed in Syria documents how the Syrian government has even turned hospitals into instruments of repression in its efforts to crush opposition. It documents how the Syrian authorities seem to have given security forces free rein to subject wounded patients in at least four government-run hospitals to torture and other ill-treatment.¹ In many cases, hospital staff appear to have taken part in the torture and other ill-treatment. Other hospital workers suspected of treating protesters and others injured in unrest-related incidents have themselves faced arrest and torture.

On 2 November, Syria pledged to abide by the peace plan of the League of Arab States and cease the violence, withdraw its troops from cities, release prisoners, and allow in independent journalists and human rights monitors. These pledges have not been fulfilled.

¹ Amnesty International, Health crisis: Syrian government targets the wounded and health workers (Index: MDE 24/059/2011), October 2011.

In its recently published report the Independent International Commission of Inquiry (the Commission of Inquiry or the Commission) confirmed that gross violations of human rights have been committed by Syrian military and security forces since the beginning of the protests in March 2011.² The Commission also expressed its grave concern that crimes against humanity have been committed by Syrian military and security forces during their violent crackdown on demonstrators this year.

Given its failure to ensure accountability not only during these events, but also over many years, there is little reason to believe that the Syrian authorities will establish independent investigations into the violations, abuses and crimes and prosecute the suspects. On 12 October, the Syrian government said it would establish its own investigation and added that it would cooperate with the UN once the investigation was completed. However, the government has released no information about its investigation. Amnesty International is not aware of any prompt, thorough, independent or impartial investigations having been initiated regarding the crimes against humanity, or other violations, committed in 2011 and it is not aware of a single prosecution of anyone suspected of such crimes.

Victims of crimes against humanity and other human rights violations are entitled to full reparation, including rehabilitation, restitution, compensation, satisfaction and guarantees of non-repetition. As of 2 December 2011, no victims are known to have received any reparation for these crimes.

On 25 November, the UN Committee against Torture stated that it was alarmed by the fact that the “reports of massive human rights violations take place in a context of total and absolute impunity, as prompt, thorough, and impartial investigations have not been undertaken in such cases”. The Committee requested the Government of Syria to provide it with a special report by 9 March 2012.³

In August, the OHCHR fact-finding mission on Syria mandated by the Human Rights Council to, *inter alia*, “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”, concluded that crimes against humanity may have been committed by the Syrian government. The High Commission for Human Rights urged the Security Council to consider referring the situation in Syria to the International Criminal Court.

In the face of the brutal repression occurring in Syria, it is outrageous that some UN member states continue to obstruct efforts here and elsewhere in the United Nations to bring an end to these crimes against humanity - crimes over which any state may exercise universal jurisdiction.⁴

Certain permanent and elected members of the UN Security Council, some aspiring to permanent status, have consistently blocked peaceful measures that would contribute to ending the crimes against humanity in Syria. It took until 3 August for the Security Council to be able to make a modest non-binding “Presidential Statement” on the situation.

While these same countries were less obstructive when the Third Committee of the General Assembly condemned the continued grave and systematic human rights violations by the Syrian authorities, they continue to block measures in the Security Council that would help to end those very same violations, thereby effectively shielding those responsible from justice and offering them the opportunity to continue committing crimes against humanity and other human rights violations with complete impunity.

² U.N. Doc. A/HRC/S-17/2/Add.1 of 28 November 2011.

³ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11646&LangID=E>.

⁴ U.N. Doc. A/HRC/12/48, para. 1975 (a).

On 4 October, the UN Security Council failed to adopt draft resolution S/2011/612 which would have required the Syrian authorities, *inter alia*, to cease all violations of human rights and the use of force against civilians. The Security Council failed to do so because of a veto by the Russian Federation and China. Brazil, India, Lebanon and South Africa abstained from the vote.

Despite having thereby acknowledged the gravity of the situation in Syria, those countries continue to block robust measures under the pretext of displeasure with what was done in Libya. Even if it might appear that NATO transformed the Responsibility to Protect in Libya into a vehicle for getting rid of Mu'ammār al-Gaddafi, it is unacceptable that those countries make Syrian civilians pay the price.

Amnesty International is pleased that other states are acting to stem the violence in Syria. The League of Arab States has acknowledged the gravity of the situation and sent a clear signal to the Syrian authorities that they must stop the gross and systematic human rights violations. We welcome the human-rights-based elements of the League's "roadmap", notably the calls for an end to the violence, to free persons detained for participating in peaceful protests, and to provide for scrutiny of the situation by accepting international observers. With the League's decisive action, it is now time for the UN, including the Security Council, to deliver an effective international response to Syria's human rights crisis.

Recommendations:

Amnesty International urges all Member and Observer States of the Human Rights Council to contribute to ensuring that the United Nations will take and will be able to take more effective measures to bring an end to the violence in Syria. It urges the Human Rights Council to adopt a resolution that:

Urges the Syrian government to:

- implement without delay the recommendations addressed to it by the Commission of Inquiry and to immediately cooperate with the Commission, and other UN human rights mechanisms including by granting unimpeded access to the country;
- cooperate with humanitarian organizations, including granting them full and unfettered access to the country;
- allow full access, including to human rights NGOs, to Syria for thorough human rights investigation and monitoring;
- provide all victims with full reparation, including rehabilitation, restitution, compensation, satisfaction and guarantees of non-repetition, for crimes against humanity and other human rights violations.
- Condemns reports of reprisals by Syrian authorities against human rights defenders and those who cooperate with and provide information to the Commission of Inquiry and other UN human rights mechanisms, and urges the immediate halt to such reprisals.
- Recommends to the Security Council that it immediately refers potential crimes under international law within the jurisdiction of the ICC, including crimes against humanity committed by the Syrian government, to the ICC Prosecutor; requires tracing, freezing, seizing and forfeiting of the assets abroad of President Bashar al-Assad and his senior associates; and imposes an arms embargo on Syria.
- Requests that the UN Secretary-General transmit the report of the Commission of Inquiry to the Security Council pursuant to his authority under Article 99 of the UN Charter.

- Reminds states that crimes against humanity are crimes over which any state may exercise universal jurisdiction.
 - Reminds states of their obligations under international law with regard to refugees and asylum-seekers; and
 - Decides to appoint a Special Rapporteur to begin work as soon as the Commission of Inquiry's mandate ends to ensure monitoring of the situation and of the implementation of the Commission's recommendations.
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