



The Day After Association: Supporting democratic transition in Syria.

Our Vision

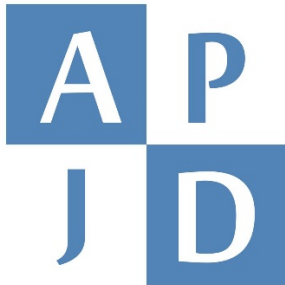
Syrians' rights, peace, stability, and prosperity can only be achieved through a process of democratic political transition and a comprehensive national program for transitional justice that lays the foundations for justice and reconciliation.

Our Mission

Strengthening Syrian civil society and influencing decision-makers in the interest of democratic transition and justice in Syria.

Official email: info@tda-sy.org

- [The Day After \(tda-sy.org\)](http://The Day After (tda-sy.org))



Association for Peace, Justice and Documentation: a Syrian non-profit human rights organization licensed in Turkey, which works on issues relating to the rule of law and peace building.

email: Info@apjd-sy.org

Assembly of Damascus city and countryside IDPs in Azaz

An independent civil social solidarity group, which aims to enhance the capabilities of persons displaced from Damascus governorate to Azaz, and to increase their communication with their host community and enhance community participation. They believe in the principles of justice, equality, freedom, dignity and dialogue in order for a better future for all the components of Syrian society.



Association of Palestinian Displaced Persons in Northern Syria.

Our Vision

Defending the individual and collective rights of displaced Palestinian-Syrians, protecting their Palestinian identity, articulating their demands with one unified voice within Syrian society, of which they constitute an integral part of its national and social fabric.

Our Mission

Organizing Palestinian-Syrian refugees' affairs, who were forcibly displaced to the north of Syria, and representing their demands on various issues and aspects relating to their lives and humanitarian, social, civil and cultural affairs.

Official email:rabeta1948@gmail

General Organization for Aleppo and Idlib IDPs in Jarablus

A humanitarian institution based on competence and specialization



Report to the Human Rights Council

Universal Periodic Review of the Syrian Arab Republic

40th Session of 2021

Submitted by an alliance of civil society organizations that includes: The Day After - General Organization for Aleppo and Idlib IDPs in Jarablus- Association of Palestinian Displaced Persons in Northern Syria- Assembly of Damascus city and countryside IDPs in Azaz- Association for Peace, Justice and Documentation

- General context and recent developments:

1- The last four years witnessed an escalation by the Syrian government against Syrians, taking advantage of the military power of its allies (Iran and Russia). This escalation was evident in the policy of besieging cities and towns that oppose the regime, a siege accompanied by violent bombardment targeting civilians and civilian structures.

2 – The result of this violence towards Syrians was new waves of forced displacement. ⁱ

Additionally, the destruction of Syrian’s properties, the most recent of which was the displacement of 900,000 Syrians from areas in Idlib in 2019, according to a briefing by Special Envoy to Syria, Mr. Geir Pedersen, to the Security Council on February 19, 2020.

3 - The Syrian regime’s violent actions continued with its disregard and rejection of the political process based on Security Council Resolution 2254 of 2015; while formation of the Constitutional Committee in late 2019 did not hinder its disruption of the political process with its refusal to engage seriously in the constitutional process.

4 – The period between the two Reviews witnessed siege, destruction and displacement in several Syrian cities, the most important of which was the destruction of properties and displacement of residents between 2016 and 2018 in Aleppo city, Ghouta in Damascus countryside, and Daraa. The world witnessed the Syrian regime’s systematic displacement for which it employed its “green buses” and left behind entire residential areas it flattened to the ground with the help of its allies : ⁱⁱ

5 - In destroying property, the regime's employed unguided and imprecise weapons (barrel bombs), constituting a war crime as they were fired into densely populated civilian areas.

6 - Surviving Syrians had no choice but to leave the ruins of their homes and accept forced displacement to northern Syria under difficult living conditions, with tents as the only refuge for most of them.

7- Not content with its destruction of property and displacement of the population under military operations, the Syrian regime accompanied this with legal and administrative measures to consolidate the population’s displacement and prevent their return. This was carried out through a number of laws that seized properties, most importantly Law No. 10 of 2018, as well as through administrative procedures that prevent those wishing to return to their homes from doing so. ⁱⁱⁱ

8 - All these violations took place while the international community remained silent, casting a shadow over the Syrian people, bewildered by international indifference towards reaching a comprehensive solution to the conflict in Syria, while a Russian veto opposed any political solution that would bring

justice to Syrians.

The Scope of International Obligations:

9- Syria is a party to many international conventions relating to human rights and international humanitarian law, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Cultural and Social Rights, as well as the four Geneva Conventions, Additional Protocol I, and the Chemical Weapons Convention.

10 - Syria has not ratified the Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture, or the Second Optional Protocol to the International Covenant on Civil and Political Rights, nor has it accepted the individual complaints procedures under the Optional Protocol to the International Covenant on Civil and Political Rights, nor Article 22 of the Convention against Torture.

Neither has it ratified the Second Additional Protocol to the four Geneva Conventions, the Convention on Cluster Munitions, the Convention on Conventional Weapons or the Rome Statute.

11- Cooperation with human rights mechanisms:

The Syrian government continues to ignore its obligations in terms of cooperation with human rights mechanisms, and has rejected all requests for visits, nor has it cooperated with the Special Rapporteurs regarding complaints received from them. Additionally, it has not yet accepted the visit of the Independent International Commission of Inquiry on Syria.^{iv}

- Constitutional and Legislative Framework:

12 - Despite the slight amendment made to the Syrian Constitution in 2012, it did not make a real difference at the societal level, since the Constitution refers all rights to the laws, which often prevent exercising such right; for example, the Constitution stipulates the right to demonstrate but refers this right to the law, and the law limits approval of demonstrations to the Ministry of the Interior, who changed it with the “Ban of Protests” law.

13- Texts concerning the judiciary still do not allow for its independence, as the Constitution states the President of the Republic is Head of the Supreme Judicial Council and the Minister of Justice is his deputy; the Minister of Justice heads Public Prosecution; and remaining details concerning the judiciary are referred to the law. The Constitution does not even touch on the formation of the Supreme Judicial Council. Furthermore, despite the abolition of Article 8 which states that the Baath Party is leader of state and society, and despite the fact that Judicial Authority Law prohibits judges from affiliation with parties, or even expressing such opinions or political tendencies, the reality is that most Syrian judges are in the Baath Party, in clear violation of the provisions of the Constitution and the law.

14 – As for laws, although the Constitution stipulates that laws must be amended within three years to keep in line with the new Constitution, and despite the fact that nine years have passed since the Constitution was implemented, the laws have not yet been amended.^v

- Non-compliance with International Human Rights and Humanitarian Law:

15-a. Forced displacement: The Second Additional Protocol of 1977 prohibits in Article 17, Paragraph 1 the deportation of populations during non-international conflicts. Paragraph (2) of the same article also prohibits forcing citizens (civilians) to leave their homes for any reason relating to the conflict; and Article 147 lists forcible deportation and transfer among the gravest breaches it prohibits.

16- In the Statute of the Permanent International Criminal Court, the term “deportation and forcible transfer” of populations is included among acts constituting crimes against humanity, in paragraph 1/d of Article 7. Paragraph 2/d of the same article defines deportation or forcible transfer as “forcible deportation of protected persons from the area in which they are lawfully located by expulsion or any other coercive measure, without the justifications permitted under international law.”

17- The Statute of the permanent International Criminal Court also considers forced displacement a war crime. Article 8/2/b/2 stipulates that deportation or forcible transfer of the populations of territories is among other serious violations of laws and customs applicable to international armed conflicts within the established scope of international law. Additionally, Article 8/2/h/8 of the same includes displacement as a war crime.

18- **Forced displacement as a crime against humanity:** the deportation or forced transfer of populations is a crime against humanity, according to Article 7/1/d of the International Criminal Court Statute. The same is also mentioned in the Statute of the Nuremberg Tribunal in Article 2/C^{vi}

19- Therefore, forced displacement is considered a crime against humanity in accordance with the above-mentioned texts, when elements and conditions of this crime are fulfilled. According to the commentary “Elements of Crimes” relating to the Statute of the International Criminal Court, the elements of forced displacement (transfer and forcible removal) as a crime against humanity are in Article 7, Paragraph 2/d:

- The accused deports or forcibly transfers one or more persons to another country or place, by expulsion or any other coercive measure, for reasons not recognized by international law.
- That the person(s) concerned were lawfully present in the area from which they were thus removed or transferred.
- That the perpetrator of the crime is aware of the factual circumstances that prove the legality of this presence.
- That such conduct is committed as part of a widespread or systematic attack directed against a civilian population.
- That the perpetrator knew such conduct was part of a widespread or systematic attack directed against a civilian population, or that such conduct was intended to be part of that attack.

20 - **Forced displacement as a war crime:** War crimes are actions that occur during war and constitute a breach or violation of any laws and customs of war, as defined by international norms, charters and treaties. Among these crimes is that of forced displacement (the deportation or illegal transfer of a civilian population), whether occurring within or beyond the territory of the state, and for various purposes.

21- According to Article 6/b of the Statute of the Nuremberg Tribunal, deportation is a war crime. On war crimes, the Statute of the International Tribunal for the Former Yugoslavia, Article 2, relating to grave breaches of the 1949 Geneva Conventions, states: *“The International Court has the power to prosecute persons who have committed or ordered the commission of grave breaches of the Geneva Conventions of August 12, 1949, any of the following acts against persons or properties protected under the relevant provisions of the Geneva Convention...: unlawful removal or transfer, or unlawful confinement of a civilian...”*.

22- Therefore, forced displacement is considered a war crime in accordance with the above-mentioned texts, when elements and conditions of this crime are fulfilled. According to the commentary “Elements of Crimes” relating to the Statute of the International Criminal Court, the elements of forced displacement (transfer and forcible removal) are a war crime ^{vii}

In short, forced displacement can be a war crime if these conditions are met.

23- Forced displacement perpetrated by the Syrian government: According to contexts of events, the Syrian government has followed a widespread and systematic policy against civilians, which aims to displace them from their homes; actions that were accompanied by the commission of war crimes.

24-The methodology is to besiege cities and towns while civilians are inside, subject them to indiscriminate siege and bombardment, resulting in starvation as well as deaths and injuries by indiscriminate bombing; following which an agreement is concluded leading to the population’s deportation to areas in northern Syria . Most civilians chose deportation rather than remain and face retaliation, having heard reports and witness accounts of reprisals, extrajudicial detention, torture and other brutal treatment. Hence, the decision to leave is the only way to survive.

25- Large populations have been displaced including residents of Ghouta and its towns, Daraa, eastern Aleppo city, and others. This has been documented in many international reports, including the Independent International Commission of Inquiry formed by the Human Rights Council.

26- The Syrian government has committed acts that amount to the crime of forced displacement as a war crime and a crime against humanity.^{viii}

27- Assaults on ownership rights: In accordance with the right to property ownership in international covenants, the Universal Declaration of Human Rights affirmed in Article 17 that “everyone has the right to own property alone or jointly with others, and no one may be arbitrarily deprived of his property.”

28- Article 25 of the Declaration, as well as the International Covenant on Economic, Social and Cultural Rights, Article 11, states that “every person has the right to a standard of living sufficient to ensure the health and well-being of himself and his family, especially in terms of food, clothing and housing.”

29- Article 17 of the Covenant on Civil and Political Rights states that “No person shall be subjected, in an arbitrary or unlawful manner, to interference with his privacy, family, home, or correspondence.”

30. The four Geneva Conventions stipulate the inadmissibility of encroachment, destruction, appropriation or pillage of private property.

31. The Pinheiro Principles set forth guidelines for the protection of individual property, its inviolability, and the need to protect it against pillage, destruction, acts of violence, retaliation, destruction or appropriation as a form of punishment; and they laid the foundations for the protection of property, and the return of displaced persons to their properties.

31- The right to property in the Syrian Constitution: Article 15 of the Syrian Constitution stipulates that private property is protected according to the following principles:

- . Public confiscation of funds is prohibited.
- . Private property may only be expropriated for public benefit by decree and in return for fair compensation in accordance with the law.
- . Confiscation of private property can only be imposed by a final judicial decision.
- . Private property may be confiscated for the necessities of war and natural disasters in return for fair compensation.
- . Compensation must be equivalent to the real value of the property.

32. Despite this constitutional provision according to which the right to property is supposed to be preserved, the State's attacks on private property have been extensive, whether within a legal framework that contravenes the Constitution or through procedures that fall outside the law.

33– Patterns of the Syrian Government's violations of the right to property^{ix}: The Syrian government has systematically and extensively committed acts of destruction of property through its military campaigns that target civilians. It follows a policy of complete destruction of besieged areas using unguided weapons (barrel bombs) that target cities and towns, resulting in large-scale destruction.

34- Properties were attacked during raids on towns and cities, through systematic campaigns of property theft.

35- In many cases, after recapturing areas, the Syrian government completed the destruction of properties and prevented residents from returning to them.

36- Human rights reports have documented these practices, as has the International Commission of Inquiry on the Syrian Arab Republic, formed by the Human Rights Council.

37- Issuance of unjust real estate laws: The campaigns of property destruction and population displacement were accompanied by a legislative approach aimed at depriving residents of their properties and preventing their return.

38- More than 60 laws were issued that affect real estate ownership, either directly or indirectly, the most important of which were: Decree 66 of 2012, Law 15 of 2015, Law 3 of 2018, and Law 10 of 2018.

39- In addition to many laws which bear the same features and contribute to the violation of Syrians' properties, and to their loss of rights. Features characterizing these laws include:

. The laws contradict the Syrian Constitution and international conventions in terms of protecting the ownership rights. They ignore that half of the Syrian people are displaced from their homes. They ignore legal and administrative shortcomings on the part of the Syrian government before the conflict, which resulted in the fact that half of residences are irregular housing, threatening residents with the loss of their rights.

40- Referring disputes to executive committees, whilst claiming by law they are judicial committees, whereas they are in fact formed by a decision of the executive authority.

41- Carving out large parts of properties at no cost, by including them in regulatory plans without compensation.

42- Not compensating residents with alternative housing as stipulated by law.

43- Issuing a decree that security approval must be obtained in order to carry out any disposal of real estate. This procedure means preventing anybody the security authorities deem to be questionable from exercising their ownership rights.

44- **Terrorism Court:** This is one of the exceptional courts. Terrorism Law No. 19 of 2012 defines a terrorist act as “any act aimed at creating a state of panic among people, disturbing public security, or harming the infrastructure or foundations of the state...”

45- The law defines confiscation as “the permanent deprivation of movable and immovable property, and the transfer of its ownership to the State by virtue of a court ruling.”

46- The law gives the Counter-Terrorism Court the right to confiscate movable and immovable funds; thus, this court has become a tool that the authority can utilize to punish its opponents and seize their properties.

47- This is exacerbated by: the fact that this court is one of the exceptional courts whose judges are appointed by the President of the Republic; one of its members is a military judge (although the court tries civilians); this law states in its seventh article that the court is not bound by the procedures of trial stipulated by the legislation in force, in all roles and procedures of prosecution and trial.

48- **Compulsory Conscription Law:** This law is considered a tool to strip Syrians of their money: Law No. 39 of 2019 was issued to provide for property execution of movable and immovable funds when the owner refrains from paying military service exemption fees within a specified period.

49- The conscription law in Syria provides that an exemption fee of \$8000 must be paid by males over 42 years of age. In the event it is not paid, his money may be seized with a fine of \$200 for each year of delay.

50- Issuing preventive seizure decisions based on instructions from security authorities: Law 63 of 2012 grants security authorities the right to request preventive seizure by the Ministry of Finance of funds belonging to individuals in opposition to the regime. This decree has turned into a tool used by security branches to seize opposition members' money, preventing them from exercising their ownership rights. The judiciary is supposed to be the only authority capable of this.

51- **Demographic change and its impact on property:** The threat to Syrian properties has increased with the displacement of half of Syrians from their homes, and with a number of measures taken by the Syrian government to prevent them from exercising their ownership rights. These include procedures that follow their displacement. Reports indicate changes in administrative and demographic structures of some cities and towns, along with the issuance of regulatory schemes that impose on property owners demands they are unable to meet without access to their properties, whether the reason is displacement, security fears of returning, or lack of documentation due to legal and administrative shortcomings, both current and pre-conflict.

52- The Syrian government's naturalization of foreign fighters and their families, while depriving many Syrians of their right to obtain their civil documents.

53- **Absence of the rule of law and the impact on property:** Laws provide immunity for security members; for example, in Legislative Decree No. 14 of 1969, Article 16 states, "No employee of the State Security Department may be prosecuted for crimes they commit while carrying out the specific tasks assigned to them, nor in the course of their undertaking, except by virtue of a prosecution order issued by the Director".

54- The Military Penal Code gives the Minister of Defense the right to prosecute military personnel for their crimes; as a result, they commit violations as they please without any possibility of prosecution by the judiciary.

55- Under these immunities, citizens are exploited through arbitrary arrests and ransoms imposed for their release, forcing many to sell their properties and pay royalties to government agencies to ward off their evil actions.

56- Additionally, the spread of networks of corruption linked to state agencies, who have become practiced in forgery and transfer of property.

57- **Auctions carried out by security committees:** During 2020 and 2021, the Syrian regime seized agricultural land in the absence of owners who had fled with their lives from the regime's brutality. Security committees were formed after popular protests erupted calling for reform and more freedoms, and using these the regime confiscated lands of displaced persons, renting them to loyalists through public auctions in governorates of Hama, Homs, Aleppo and Idlib. There is information these committees are conducting such auctions in Damascus countryside governorate.^x

58- Arbitrary arrest and enforced disappearance and its impact on property: It has been proven in numerous reports that the Syrian government has adopted the means of arbitrary arrest and enforced disappearance of thousands of Syrian men and women. The government does not declare their fate, and their property is at risk of loss. Families of missing persons cannot defend their properties because there is no evidence that they are alive or dead.

Recommendations:

1- Ratifying the conventions that the Syrian Arab Republic has not ratified, especially the Rome Statute and the Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture, and the Second Optional Protocol to the Covenant on Civil and Political Rights.

2 - Acceptance of individual complaints procedures under the International Covenant on Civil and Political Rights and the Convention against Torture.

3- Acceptance of visits by the International Investigation Committee to find out the truth about the violations committed.

4 - Delivery of due reports to Treaty Bodies.

5- The Syrian state's commitment to agreements it has ratified, or those that fall within the framework of customary international law; the cessation of violations, especially those related to forced displacement, particularly right of movement; prohibition of arbitrary arrest; and cessation of hostilities targeting civilians.

6 - Cessation of indiscriminate attacks and the use of prohibited weapons in accordance with the provisions of international humanitarian law.

7- To stop targeting civilian structures such as hospitals, health centers and others, as well as residents' homes.

8- Facilitate access to information within special procedures mechanisms, and respond to special rapporteurs, especially with regard to dealing with individual complaints.

9- Repeal all legislation that contradicts the Constitution or provisions of international law, especially those concerning attacks on individual property, protecting them from any physical or legal assault, including: Decree No. 66 of 2012

Law 15 of 2015

Law 3 of 2018

Law 10 of 2018

10- Abolish exceptional courts, especially military and terrorism field courts, and limiting the role of military judiciary so that civilians are not tried before it.

11- Repeal any legislation, including Article 16 of the Law on Establishing State Security Administration issued by Legislative Decree No. 14 of 25/1/1969, and Article 74 of the Law on Internal Organization of State Security Administration and Rules of Service for its Personnel issued by Legislative Decree No. 549 of 25/5/1969, and Legislative Decree No. 69 of 2008, that grants security personnel immunity from prosecution; as well as a true application of the principle of the rule of law, ensuring that violators are referred to justice.

12- Ensuring the independence of the judiciary amid non-interference of the executive authorities, and applying the provisions of the Judicial Authority Law to ensure that judges affiliated with the Baath Party do not remain in the judiciary.

13- Repeal all exceptional laws, or laws that limit the independence of the judiciary.

14- Implement all Security Council resolutions, especially Resolution 2254, and engage in a political process that guarantees democratic transition.

ⁱ – TDA’s Study on Forced Displacement

<https://tda-sy.org/wp-content/uploads/2020/03/Forced-Displacement.pdf>

ⁱⁱ TDA’s recently published study of the real estate problem and the reality of property issues in Syria - <https://tda-sy.org/wp-content/uploads/2020/04/Property-Issue-and-its-Implications.pdf>

ⁱⁱⁱ <https://tda-sy.org/wp-content/uploads/2020/04/Property-Issue-and-its-Implications.pdf>

^{iv} <https://undocs.org/ar/A/75/743>

^v <https://www.ohchr.org/AR/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24585&LangID=A>

^{vi} , as well as Article 5 of the Statute of the Court of the Former Yugoslavia, and Article 3 of the Statute of the Tribunal of Rwanda.

^{vii} See Article 8, paragraph 2/a/7: of the Statute of the International Criminal Court.

^{viii} TDA survey [Mass-forced-displacement_AR.pdf \(tda-sy.org\)](#)
[Forced-Displacement.pdf \(tda-sy.org\)](#)

^{ix} <https://tda-sy.org/wp-content/uploads/2021/04/HLP-EN.pdf> واقع حقوق الملكية والأراضي والسكن في سوريا

× <https://pro-justice.org/ar/justice/we-cannot-do-anything-displaced-syrians-watch-as-government-auctions-their-land.html>

<https://pro-justice.org/en/justice/we-cannot-do-anything-displaced-syrians-watch-as-government-auctions-their-land.html>

Resources: **Resources:**

- 1- <https://www.ohchr.org/AR/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26756&LangID=A>
- 2- <https://pro-justice.org/ar/justice/we-cannot-do-anything-displaced-syrians-watch-as-government-auctions-their-land.html>
- 3- <https://pro-justice.org/en/justice/we-cannot-do-anything-displaced-syrians-watch-as-government-auctions-their-land.html>