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SYRIAN ARAB REPUBLIC

Submission by:

Ewelina Ochab ADF
International
28, Ch. du Petit Saconnex 1209
Geneva, Switzerland

Web: www.ADFinternational.org Email:
eoachab@ADFinternational.org

Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report focuses on the right to life and freedom of religion and belief in the Syrian Arab Republic (SAR), and SAR’s shortcomings in promoting and defending these rights.

(a) Right to Life

Background

3. The right to life is not expressly protected in the Constitution of the Syrian Arab Republic of 27 February 2012 (the Constitution). Article 19 of the Constitution protects the human dignity of every individual, stating, “Society in the Syrian Arab Republic shall be based on the basis of solidarity, symbiosis and respect for the principles of social justice, freedom, equality and maintenance of human dignity of every individual.” Furthermore, Article 33(1) of the Constitution protects dignity and security of persons, however, not the right to life itself.¹
4. The SAR became a party to the International Covenant on Civil and Political Rights (ICCPR) on 21 April 1969 by way of accession. The ICCPR came into force for the SAR on 23 March 1976. Despite the fact that the ICCPR was acceded to prior to the first Constitution of the SAR of 13 March 1973, and came into force before the revised Constitution of 27 February 2012, an express protection of the right to life was not incorporated in either of the documents.

Unlawful killings and executions

5. Sparked by the Arab Spring, the Syrian Civil War between the Syrian forces and the opposition to the Assad government, began on 15 March 2011 and is entering its sixth year. The Islamic State (Daesh) has used the ongoing conflict in the SAR for their expansion and caliphate in many regions of Syria.
6. The killings and executions are being committed by both sides of the conflict and by Daesh, Jabhat al-Nusra, and other extremist groups. The exact number of casualties is unknown. It is assumed that as of 24 November 2014, 197,378 people were killed (including 62,347 civilians).² However, according to the Syrian Observatory for Human Rights, there may be 80,000 more deaths that were unrecorded.³
7. Many people are executed as a result of a death penalty imposed by the extremist groups in breach of the rules of due process and fair trial, and often without any trial

¹ Article 33.1: Freedom shall be a sacred right and the state shall guarantee the personal freedom of citizens and preserve their dignity and security.

² Charlotte Alfred, Inside The Advocacy Group That Keeps Track Of Syria's War Casualties, The Huffington Post, 24 November 2014, available at: http://www.huffingtonpost.com/2014/11/24/syrian-observatory-for-human-rights_n_6201182.html

³ Ibid.

at all. Such executions continue and the death penalty is used as a punishment for failing to convert or failing to adhere to sharia law, contrary to international law.

8. Religious and minority groups are specifically targeted by Daesh and Jabhat al-Nusra. Many of the victims are Christians and are targeted by Daesh and other extremist groups because of being Christian.⁴ Examples include three Christian men who were executed for refusing to convert to Islam⁵, a Catholic priest who was beheaded by the rebels⁶, at least 15 Assyrian Christians who were beheaded or shot⁷, three Christians who were executed⁸, and at least 10 people who were executed by a self-proclaimed “religious court” for being Christian.⁹
9. No adequate steps have been taken by the Syrian Government to stop the abuse and unlawful executions and to respect the right to life as protected under international law.

The Right to Life under International Law

10. Article 6(1) of the ICCPR states, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” Furthermore, Article 6(2) of the ICCPR sets out the conditions for applying the only exception to the general rule section 1:

Article 6(2): In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide.

11. The SAR has failed to recognize and protect the right to life in its domestic law contrary to its international obligations. The SAR needs to review its Constitution and incorporate adequate protection of the right to life as a matter of urgency.
12. The SAR needs to introduce measures to prevent further executions and killings from occurring. In particular, the SAR needs to protect religious and ethnic minorities from any acts aiming to destroy these groups, in whole or in part.

(b) The Right to Freedom of Thought, Conscience and Religion

Background

13. As of July 2014, more than 87% percent of Syria’s 17 million people are Muslim, 10% Christian and 3% Druze.¹⁰ In early 2015 the population of SAR was estimated

⁴ This also implicates the right to freedom of religion, which is addressed below in section (b).

⁵ Michael Carl, 3 Christians executed after refusing to Convert, available at: <http://www.wnd.com/2013/12/3-christians-executed-after-refusing-to-convert/>

⁶ Patrick Goodenough, Reported Beheading of Syrian Priest Boosts Fear for Christians’ Safety, available at: <http://www.cnsnews.com/news/article/reported-beheading-syrian-priest-boosts-fear-christians-safety>

⁷ Inés San Martín, Syrian Sources say ISIS Executed 15 Christians – with more killing to come, available at: <http://www.cruxnow.com/faith/2015/02/26/syrian-sources-say-isis-executed-15-more-christians-with-more-killing-to-come/>

⁸ Syria: ISIS releases execution video of Christian hostages, available at: http://www.ansamed.info/ansamed/en/news/sections/generalnews/2015/10/08/syria-isis-releases-execution-video-of-christian-hostages_13e82495-c747-4095-9446-d32ecd12b899.html

⁹ Syria: Al Qaeda-led religious court executes 10 in Aleppo, available at: <http://www.hindustantimes.com/world/syria-al-qaeda-led-religious-court-executes-10-in-aleppo/story-yoDR2s5f1rcupBMGfJY9iN.html>

¹⁰ World Fact Book, available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html>

at 20 million. 92.8% of the population was Muslim, 5.2% Christian and 2% other.¹¹ There are no official statistics to confirm current numbers.

14. Syria is number 4 on the 2015 World Watch List ranking the top 50 countries where Christians are persecuted.¹²
15. Freedom of belief (and expression) is protected in Article 42 of the Constitution, which states,
 1. Freedom of belief shall be protected in accordance with the law;
 2. Every citizen shall have the right to freely and openly express his views whether in writing or orally or by all other means of expression.
16. Additionally, Article 33(3) of the Constitution guarantees, "Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed."
17. While there is no official state religion, in accordance with Article 3 of the Constitution, the President must be Muslim and Islamic jurisprudence is one of the main sources of legislation.¹³ This contradicts the guarantee of non-discrimination on grounds of religion and leads to prejudice against minority religious groups.
18. Furthermore, religious minorities in the SAR face persecution because of their religion or belief. Apart from killings and executions, religious minorities are subject to torture, inhuman and degrading treatment, sexual violence, rape, forced displacement and disappearance.¹⁴
19. In September 2013, 36 Muslim religious leaders issued a fatwa allowing Sunni Muslims to seize property belonging to Christians or other non-Muslim religious groups.¹⁵ Numerous Christians and Christian religious leaders became victims of kidnappings. Greek Orthodox Archbishop Boulos Yazigi and Syrian Orthodox Archbishop Yohanna Ibrahim are still missing.¹⁶
20. In September 2013, Jabhat al-Nusra attacked the predominantly Christian town of Maaloula, killing 20 people, abducting 15, and destroying Christian religious places.¹⁷ No Muslims were attacked.
21. In October and November 2013, over 1,500 families in the Christian village of Sadad were being held hostage by Jabhat al-Nusra. 45 people were killed.¹⁸
22. In October 2014 Franciscan Father Hanna Jallouf and 20 Christians were kidnapped by Jabhat al-Nusra.¹⁹ They were eventually freed.

¹¹ Aid to the Church in Need, Persecuted and Forgotten? A Report on Christians Oppressed for their Faith 2013-2015. Syria. Available at: <http://www.acnuk.org/persecuted#countries>.

¹² Open Doors, 2015 World Watch List, available at <https://www.opendoorsusa.org/christian-persecution/world-watch-list/syria/>

¹³ Article 3: "The religion of the President of the Republic is Islam; Islamic jurisprudence shall be a major source of legislation; The State shall respect all religions, and ensure the freedom to perform all the rituals that do not prejudice public order (...)."

¹⁴ Tom Malinowski, ISIL's Persecution of Religious Minorities in Iraq and Syria, <http://www.state.gov/j/drl/rls/rm/2014/231483.htm>

¹⁵ Aid to the Church in Need (n 11).

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

23. In January 2015, it was reported that the Armenian Catholic Father Michel Kayyal and Greek Orthodox Father Maher Mahfouz were killed.²⁰
24. In February 2015, Daesh seized 35 Assyrian Christian villages, kidnapping over 300 Christians. Daesh released 23 people in March 2015 and demanded £15 million for the release of 230 remaining people.²¹ The remaining villagers, amounting to over 1,200, fled to other villages (Hassake and Qamishli), leaving the 35 villages deserted for months. They started returning in June 2015 when Christian and Kurdish fighters took over the villages.²²
25. Persecution on a mass scale continues and the Syrian Government has failed to take the necessary measures to prevent these atrocities.

Freedom of Thought, Conscience and Religion under International Law

26. Freedom of thought, conscience and religion is protected under Article 18 of the ICCPR.
27. It is clear that the wording used in Article 42 of the Constitution is very narrow and incompatible with Article 18 of the ICCPR. Article 42 does not guarantee or protect freedom of religion but only freedom of belief (and expression). Freedom of belief is much narrower than the internationally recognized freedom of thought, conscience and religion.
28. As confirmed by the Human Rights Committee in its General Comment No. 22:

The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief.²³

29. As Article 42 of the Constitution is incompatible with Article 18 of the ICCPR, Article 42 needs to be amended to meet the international standard of recognizing and protecting freedom of thought, conscience and religion. Furthermore, the SAR is obligated to take active steps to protect Christians and other religious minorities from persecution.

(c) Persecution of Christians as Genocide

30. As explained above, religious minorities in the SAR are facing persecution on a large scale. This persecution is at increase as far as Christians and Yazidis in Syria are concerned. The above described acts committed by both sides of the conflict, Daesh, and other extremist groups are likely to amount to genocide.
31. The SAR is a party to the Convention on the Prevention and Punishment of the Crime of Genocide (the CPPCG) by way of accession since 25 June 1955. Article II of the CPPCG defines genocide as:

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Human Rights Committee, General Comment No.22, 1

- (a) Killing members of the group;
 - (b) Causing serious bodily or mental harm to members of the group;
 - (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - (d) Imposing measures intended to prevent births within the group;
 - (e) Forcibly transferring children of the group to another group.
32. It has been argued that Christians and Yazidis in Syria are specifically targeted for eradication based on their religion and belief.²⁴ This view is based on evidence showing:
- assassination of Church leaders; mass murders; torture; kidnapping for ransom in the Christian communities of Iraq and Syria; its sexual enslavement and systematic rape of Christian girls and women; its practices of forcible conversion to Islam; its destruction of churches, monasteries, cemeteries, and Christian artifacts; and its theft of land and wealth from Christian clergy and laity alike.²⁵
33. As a result of the extermination campaign against Christians and Yazidis in Syria, their population dramatically has decreased by way of both forced migration, killings, and executions.
34. To date, no adequate steps have been taken to respond to the situation of Christians in Syria. In order to change the situation, the international community first must recognize the persecution of Christians as genocide and not as unrelated single events of persecution or discrimination. Once the genocide is recognized, the international community will be better positioned to come to the aid of persecuted minorities by way of international cooperation.

(d) Recommendations

35. In view of the above, ADF International recommends the following:
- Recognize the right to life of all and introduce its protection under Syrian domestic law in accordance with Article 6 of the ICCPR;
 - Investigate and prosecute unlawful killings and executions of civilians and of religious or ethnic minorities;
 - Recognize freedom of thought, conscience and religion in accordance with the international standard and as per Article 18 of the ICCPR;
 - Investigate and prosecute discrimination against and persecution of religious and ethnic minorities in Syria;
 - Recognize the persecution of Christians as genocide;
 - Take steps to ensure the fulfilment of their obligations under the CPPCG;
 - Investigate and prosecute all acts of genocide.

²⁴ Joint letter to the Honorable John F. Kerry, Secretary of State, U.S. Department of State, 4 December 2015, available at: <https://www.hrw.org/news/2015/07/27/joint-letter-secretary-state-john-kerry>

²⁵ Ibid.



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