

“DO YOU KNOW WHAT HAPPENS HERE?”

An Analysis of Survivor
Accounts of SGBV in Syria



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The title was adapted from an interview SJAC conducted with a survivor. During an interrogation in a government detention center a guard asked her, “Do you know what happens here?” before leading her into a room where a detainee was being sexually assaulted by a guard.



The Syria Justice and Accountability Centre (SJAC) is a Syrian-led, multilaterally supported non-profit that envisions a Syria defined by justice, respect for human rights, and rule of law — where citizens from all components of Syrian society live in peace. SJAC promotes transitional justice and accountability processes in Syria by collecting and preserving documentation, analyzing and cataloging data, and promoting public discourse on transitional justice — within Syria and beyond. Learn more at www.syriaaccountability.org.

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Report designed by Nada Mohamed-Aly.

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Executive Summary

Since 2014, SJAC has increased its efforts to access survivors of SGBV and document their experiences in an attempt to address the gaps in knowledge and understanding of how SGBV was being perpetrated in Syria. As a result, SJAC's Documentation Team and partners have collected interviews from 56 survivors and witnesses of SGBV and from 16 survivors of various forms of forced nudity in detention. This report is the result of an in-depth analysis of SJAC's collection of first-hand interviews aiming to identify patterns among the incidents reported by survivors. The results of SJAC's analysis are remarkably similar to other reports about SGBV in Syria, including findings from the UN Independent International Commission of Inquiry (COI), all suggesting that such abuses are widespread, systematic, and officially sanctioned.

SJAC's interviews present evidence of SGBV at approximately 30 state-controlled detention facilities as well as at government checkpoints and private homes subjected to house raids. The vast majority of SJAC's interviewees reported acts of SGBV occurring while they were held in **government detention centers**, often in the context of arbitrary detention. Interviewees also regularly reported invasive strip searches as part of the intake process and the use of rape and other forms of sexual violence being a routine part of detention center interrogators' attempts to solicit confessions.

Early in the conflict, **home raids** were commonly used by the government to arrest suspected political opponents or conscript men into the military. Interviewees reported cases in which state security forces raided their homes and raped women and girls, sometimes in front of their male family members. Such sexual violence appears to have systematically accompanied home raids. SJAC also analyzed two cases of SGBV committed at government **checkpoints**, including one case in which women who were attempting to pass through a government checkpoint were detained for two days and each raped by multiple perpetrators.

Although none of SJAC's interviews contained specific allegations that non-state armed groups committed SGBV, the COI and others have reported on such abuses, and SJAC remains committed to collecting comprehensive documentation from all survivors of SGBV willing to consent to being interviewed.

SJAC's interviews are a reminder of the long-term efforts that are needed to provide survivors with both medical and psychosocial support and access to justice mechanisms. Survivors are not only vulnerable to serious medical complications and psychological trauma, but may also find themselves stigmatized or shunned when they attempt to return to their community. Training should be provided to medical providers to ensure that they are prepared to treat traumatized survivors, and funding efforts must continue to support service providers who help survivors heal and adjust after their release from detention. Educational programs are also needed in order to raise awareness of the need to end societal stigmatization of SGBV survivors – a huge barrier to survivors' ability and willingness to come forward, seek support, access justice, and, in some cases, return to their family and community.

While these interviews and others like them could someday inform criminal investigations by the recently established International, Impartial, and Independent Mechanism (IIIM) and other justice mechanisms, interviewees were generally unable to identify individual perpetrators, meaning that additional investigations on both perpetrator identification and chain of command will be necessary. However, such interviews could help build the fact-base of cases regarding the systemic nature of SGBV at certain detention centers, as well as inform the efforts of a host of other transitional justice mechanisms, including truth commissions, memorialization efforts, and reparation programs.

The brutality described in the interviews is more than a graphic retelling of several dozen survivor experiences – it is a call to action. State security forces have operated with impunity while the widespread practice of arbitrary detention and torture continues, with men, women, and children vulnerable to SGBV and other grave violations of international law on a daily basis. For every survivor who shares their experience with a documentation group, there are likely many more who fear coming forward or do not have access to investigators. It is imperative that justice actors and human rights defenders continue to shed light on these atrocities and pave the way for both accountability of perpetrators and reform of the institutions where these abuses have occurred unabated.

Background

Since 2011, Syrians have been subjected to grave violations of international law including crimes involving sexual and gender-based violence (SGBV). International media occasionally feature stories about survivors of sexual violence, and among Syrians, rumors about sexual violence are prevalent, with each side of the conflict accusing the other of

committing mass rape against women and girls. In fact, in a study on Syrian perspectives towards SGBV conducted by SJAC in 2015, 39 of the 60 respondents, all of whom were Syrian refugees in Turkey at the time, cited fear of sexual violence as one of the key motivating factors for fleeing Syria¹.

Yet, in 2014, none of the survivor interviews collected by either SJAC or its data source partners presented allegations of SGBV. To eliminate the possibility that this lack of SGBV evidence was due to interviewing styles or techniques which were not tailored to the sensitivity of investigating SGBV crimes, SJAC developed a Gender and SGBV Documentation Policy (Policy) and trained its team on implementation. Following this, SJAC saw a marked increase in the number of interviews presenting SGBV incidents. After two years of implementing its Policy, SJAC had collected 91 interviews from its coordinators and partners flagged as potentially containing SGBV.

After successfully increasing documentation of SGBV, SJAC decided to engage in an in-depth examination of its interviews with the aim of identifying and analyzing patterns as well as assessing existing gaps in information for which the Documentation Team could seek more evidence going forward. Without engaging in such analysis, SJAC's interviews would simply constitute stand-alone reports of incidents rather than potential pieces of a widespread and systematic pattern of violence in Syria. Following the close analysis of the 91 interviews, SJAC determined that 56 of them included indications of SGBV related crimes, namely rape, other forms of sexual violence, the threat of rape or sexual violence, sexual harassment, torture of sexual organs, and lack of access to reproductive care in detention. These interviews concern boys, girls, men, and women survivors and span more than 30 detention centers across Syria, describing events from 2012 to date. Another 16 interviews presented evidence of former detainees who were forcibly, repeatedly, and often intrusively stripped as part of detention center searches or subjected to prolonged periods of forced nudity in detention, seemingly for the purpose of increasing their suffering and/or humiliation in detention.



Of 91 interviews SJAC analyzed, 56 included indications of SGBV related crimes and another 16 presented evidence of former detainees who were forcibly, repeatedly, and often intrusively stripped.

¹ *Societal Attitudes toward Sexual and Gender-Based Violence in Syria*, SYRIA JUSTICE AND ACCOUNTABILITY CENTER & SREO (Dec. 2015), <http://syriaaccountability.org/wp-content/uploads/Societal-Attitudes.pdf>.

This report aims to shed greater light on atrocities that are often hidden from view and difficult to discuss due to the taboos and shame survivors can face within their communities. By understanding how perpetrators are using SGBV crimes in the Syrian conflict, SJAC and others can better advocate for justice mechanisms and other programs that target these allegations, thereby addressing survivor grievances and raising awareness among Syrians and the international community. In addition to contributing to increased public awareness, this report will also enable SJAC to adapt its work internally by making informed decisions about how to expand and build upon its SGBV investigation and documentation in the future.

For those who closely follow the Syrian conflict, the findings of this report will not be surprising. In large part, the interviews closely corroborate media reports and documentation from other organizations such as the UN Independent International Commission of Inquiry (COI). In fact, what may be surprising is how closely the facts match those of other reports, demonstrating that these are not isolated incidents, but part of a system of widespread abuse that, at the very least, is turning a blind eye towards systematic sexual violence, if not outright encouraging the practice.

The report first outlines SJAC's methodology for documentation and analysis. It then includes a broad review of the COI's recent comprehensive report on SGBV in the Syrian conflict, highlighting the areas of overlap with SJAC's own evidence. Next, the report describes what the interviews tell us (and do not tell us) about the types of SGBV atrocities identified, and where available, information about the perpetrators of these crimes. After outlining these violations, the report describes the pathways to justice that can be sought for survivors. Finally, the report ends by offering final conclusions and considerations for next steps.

Whether justice is sought in an international court, through national prosecutions, or within local communities, it must first and foremost serve the interests of survivors and be based on a solid understanding of their experiences. SJAC's aim, through this report, is to contribute to a data-driven dialogue, with survivors at its center, in an effort to advocate for justice and eradicate the taboos that prevent survivors, particularly women, from speaking out about their suffering.

What is SGBV?

Sexual Based Violence

These are acts of a sexual nature against a person, by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, or by taking advantage of a coercive environment or a person's incapacity to give genuine consent. Thus, sexual violence includes but is not limited to rape. Forced nudity and other non-physical acts can also be types of sexual based violence.

Gender Based Violence

Gender-based violence are acts committed against persons, whether male or female, because of their sex and/or socially constructed gender roles. These incidents may include non-sexual attacks and persecution on the grounds of gender. Minor/forced marriage, female genital mutilation, honor killings, forced conscription, the denial of resources, and psychological abuse can all be types of gender based violence.

Documentation & Analysis

Methodology

To date, SJAC's primary source of SGBV documentation has been witness interviews with survivors. The first step in conducting an interview is to access the individuals who have experienced or witnessed sexual and gender-based violence. Although SJAC Documentation Coordinators have wide networks of data source partners, Syrian women in particular have been hesitant to come forward about past or ongoing abuse. To connect with women who may have experienced SGBV, SJAC has primarily relied upon partnerships with medical, reproductive health, psychosocial, and women's organizations within the communities in which it works. Men survivors of SGBV, particularly those who experienced the violations during detention, have been easier to access, and SJAC has been able to do so through its regular networks, as well as through medical organizations that treat survivors of torture and other organizations focused on rehabilitating former prisoners in the target community.

To minimize the risk of re-traumatizing survivors, and in line with SJAC's Policy, SJAC coordinators do not interview survivors who have previously been interviewed by other documentation groups operating in Syria. While this approach severely limits the number of people that SJAC can interview, especially because survivors who are known in the community have often already been interviewed one if not several times, it follows from SJAC's Policy, which prioritizes the well-being of survivors over the sheer quantity of interviews obtained. Additionally, interviews are conducted in private, secure locations and the identities of survivors are never shared or transmitted online. SJAC's internal protocols govern how the interview data is secured, preserved, and transmitted to SJAC's headquarters, where they are then catalogued and securely stored until they can be uploaded to an offline version of SJAC's database, Corroborator, a system that is never connected online.

For this project, once the interviews were uploaded to SJAC's offline database, SJAC's Senior Data Analyst proceeded with the preliminary analysis stage. This involved adding appropriate tags to each statement and writing detailed English-translated summaries of the interview statements. These summaries included the context of the

incidents, a description of the allegations, their duration and frequency, location and timing, potential witnesses, and any available information about alleged perpetrators. SJAC then recruited an expert consultant with over 10 years of experience practicing before international, hybrid, and internationalized domestic tribunals, including on numerous cases that included SGBV allegations and evidence, to assist with this project. The consultant advised on the range of tags and labels that should be applied to SGBV interviews and the precise content of the summary descriptions that would assist in their analysis. After the Senior Data Analyst processed the interviews, the expert worked directly in the offline database to evaluate the processed interviews through the lens of an investigator/prosecutor, determining which crimes were being alleged, the strength of the information that had been provided about the incidents, and any apparent gaps in the statements. This report is a result of her assessment of the interviews, in collaboration with SJAC's Senior Data Analyst and members of the SJAC legal team.

By way of summary, SJAC's Documentation Team identified 91 survivor statements potentially presenting allegations of SGBV crimes. Of these 91 statements, 86 were in the form of written statements (not transcripts of interviews) and the other five were video interviews. All of these were obtained in the primary language of the witness, Arabic. It is important to note that the 86 interview statements were not taken according to criminal practice standards, in the sense that they are neither signed witness statements nor transcripts based on audio recordings of the interviews. Similarly, the video interviews were not transcribed. Finally, the translated summary descriptions were not official translations executed by trained, certified translators. As a result, while the statements are generally reliable and while a credibility assessment of each survivor was conducted, the statements do not present the equivalent indicia of reliability as signed witness statements. Rather, they can be considered as pre-interview assessments, meaning that an investigator or prosecutor would assess whether there is generally enough reliable information on the credibility and relevance of evidence about the crimes being investigated which would warrant returning to the survivor

to obtain a formal written statement. Like the COI, SJAC applied the “reasonable grounds to believe” standard to its assessment of its survivor statements.

Through the examination of its survivor statements, SJAC determined that 56 of the 91 interviews included enough information to suggest that SGBV and related crimes may have occurred. The analysis was based on a comparison of the facts alleged in the interviews with the elements of the relevant crimes as set out in the International Criminal Court’s Rome Statute and accompanying Elements of the Crimes document and as interpreted and applied by international criminal jurisprudence. This report presents an assessment of the information contained in these 56 interviews.

Documenting SGBV in Syria

As part of SJAC’s commitment to expand and improve its ability to document SGBV – and recognizing the ethical duties owed to those who choose to come forward – SJAC had established the following practices in its SGBV documentation:

Do No Harm

Survivors come first. If collecting documentation would put the interviewee at risk of harm, or if the interviewee has extreme difficulty telling his/her account of the events, then SJAC’s documenters do not continue.

Confidentiality

SJAC does not share survivors’ information with anyone outside of the organization – unless sharing would further justice and accountability in Syria and the recipient adheres to strict confidentiality protocols as well.

Informed Consent

Prior to conducting any interviews, SJAC’s documentation team first obtains signed informed consent to ensure interviewee understands fully the purposes, benefits, and risks of documentation.

Dual Referral System

SJAC’s documenters try to connect the interviewee with partner organizations that provide tailored support and treatment, including medical, psychosocial, and economic support.

Security

Due to the sensitivity of SGBV documentation, SJAC’s team follows strict security protocols from the interview location to the storage of the data.

Ongoing Support

SJAC provides ongoing support to its documentation team to ensure that they are able to effectively and ethically handle the SGBV cases they encounter.

Corroboration of the COI Report

In March 2018, the UN (COI) on the Syrian Arab Republic published the report *"I lost my dignity": Sexual and gender-based violence in the Syrian Arab Republic*. Although there have been many reports on SGBV in Syria, the COI's report is based on 454 interviews and is the most comprehensive and detailed analysis of how these crimes have been perpetrated by both the Syrian government and armed groups "as a tool to instill fear, humiliate, and punish." Due to the similarities between the objectives of both reports, SJAC carefully reviewed the COI analysis to determine the extent to which SJAC's and the COI's findings corroborate each other.

To SJAC's knowledge, there is no overlap between the victims who provided testimonies to SJAC and the COI. While, as described above, it is SJAC's policy not to re-interview survivors, SJAC does not know whether the COI follows the same practice. From a review of the COI's report, however, there appears to be no indication that any of the same survivors were implicated in both set of investigations. This is particularly significant because the pattern of SGBV crimes described in the interviews SJAC collected follow a remarkably similar pattern as those that were detailed by the COI. Since the COI relied on a considerably larger interview set than SJAC, there were alleged crimes included in the COI report that do not appear in SJAC's interviews. However, after completing its own analysis, SJAC reviewed the COI report and found substantial corroboration and no noteworthy discrepancies. Key examples of overlap in findings include the following:

- Rape was used as a means of punishment in interrogations and on the orders of officers.
- Rapes were committed in front of other civilians, including other detainees and family members.
- Branch 215 has been responsible for humiliating strip searches; however, there were not enough interviews to determine if it was the most notorious in this regard, and other divisions, including the police, were also responsible for humiliating and degrading incidents of forced nudity.
- Survivors often could not identify perpetrators or their affiliations due to the number of militias involved and the fact that intelligence agency officials often wore plain civilian clothes instead of military or police uniforms.

- SJAC did not collect interviews with survivors who experienced SGBV during home raids after 2015, which may support the COI's finding that home raids decreased after the government lost territory and Russia initiated an air campaign, but SJAC's evidence is not conclusive in this regard.

There were also key findings from the COI report that SJAC could not confirm through its own interviews. This is most likely a result of the smaller interview set that SJAC obtained and examined. Examples include:

- SJAC interviews did not include incidents of women in detention facilities being forced to take pills that prevented them from menstruating or were suspected to be birth control.
- SJAC interviews did not include claims that the government forced civilians to walk naked in front of tanks in public streets to humiliate them.
- SJAC interviews did not include interviews with survivors who identified opposition or extremist groups as perpetrators of SGBV.
- Due to the lack of information provided about perpetrators during home raids, SJAC cannot determine whether Shia militias were less disciplined and, therefore, more likely to perpetrate SGBV.

Additionally, SJAC's interviews include one case of the rape of an elderly woman. The COI report includes examples of sexual violence and humiliation directed at elderly women, but no cases of rape.

The International, Impartial, and Independent Mechanism (IIIM) for Syria is well-placed to review the entirety of the interviews from the COI, SJAC, and other entities to identify all areas of corroboration and thus build strong cases for war crimes and crimes against humanity based on documentation collected since 2011. The data sharing policies of many entities restrict the sharing of data, except with established justice mechanisms like the IIIM. However, the various independent reports are a strong indication that different groups will corroborate each other's evidence in ways which could prove valuable for ongoing investigations and future prosecutions.

Identification of Perpetrators

Accurate and reliable perpetrator identification is often one of the challenges during investigations of interviews with victims and witnesses. In traditional police investigations, tools like lineups and photographic arrays are used to help identify suspects. Although the reliability of such tools is sometimes called into question, in Syria, access to even these methods is limited if not non-existent.

SJAC's interviewees were most often able to identify specific security sector divisions and, in some cases, specific branches that were responsible for their detention and abuse, but they were seldom able to provide the specific names of the direct perpetrators, namely the guards and officers responsible for the acts in question. Moreover, when a perpetrator was identified by name, the interviewee usually only knew the individual by a nickname; however, when connected to other material, this could lead to proper perpetrator identification in the future. In the rare instances that interviewees identified the individual by their full name, it is nevertheless unclear whether the name given by the perpetrator, or uttered by another guard, was the perpetrator's real name or a pseudonym.

For abuses that occurred outside of detention facilities, such as during home raids or at checkpoints, the identification of groups and individuals responsible was even more challenging and less reliable, particularly when the perpetrators were not wearing uniforms. Since it is reportedly common practice for Syrian security sector officers to wear plainclothes instead of their official uniforms,² it is difficult to ascertain the accuracy of a survivor's identification. For instance, in three cases, interviewees described armed men raiding their homes, some of whom wore military uniforms while others were dressed in all black with black masks covering their faces. Another interviewee alleged the plainclothes individuals who raided her home were *shabiha* (a term used to refer to pro-Assad gangs or militias), but was unable to provide additional information on why she believed them to be a militia rather than state security forces.

Survivors interviewed by SJAC described SGBV crimes as having occurred at various state-controlled facilities including the Political Security Division (Tartous and Latakia branches), the Military Intelligence Division (Harmoush, Hassakeh, Baghiliyah, Tartous, Damascus, Homs, and Palestine branches), the Airforce Intelligence Division (Al Mezzeh airport, division headquarters, and Aleppo branch), and the General Intelligence Directorate (division headquarters and Al Khateeb, Al Tadamun, and Qamishli branches). In addition to these branches, SGBV crimes also occurred at Sydnaya, Homs, Adra, and Al Fahiaa detention centers and police stations in multiple locations. In total, SJAC obtained evidence of SGBV crimes in approximately 30 state-controlled facilities, with the Kafr-Susa and Palestine branches being where the most severe and clear allegations of sexual violence occurred. Finally, SGBV crimes also occurred at checkpoints in numerous locations across the country, in private house raids in various localities, and during the transport and transfer of detainees to detention centers.

SJAC interviews related to SGBV only identified state entities, and these violations primarily occurred during detention. Non-state armed groups that oppose the government did not appear as perpetrators. The lack of such evidence should in no way be seen as a finding that such entities are not responsible for SGBV in the Syrian conflict; in fact, other documentation groups have reported on such cases.³

As was addressed in the COI report "*I lost my dignity*," despite the lack of information about specific perpetrators, the fact that abuses happened over multiple years across numerous locations and divisions indicates that officials knew or should have known that such practices were taking place and that there may have been tacit approval if not official sanction of such acts. SJAC's evidence, when analyzed in combination with other interviews, and information gathered by the COI and others, including with defectors and former officials, tends to indicate a particularly serious pattern of coordinated and condoned sexual violence.

2 Syria: Defectors Describe Orders to Shoot Unarmed Protesters, HUMAN RIGHTS WATCH (Jul. 9, 2011), <https://www.hrw.org/news/2011/07/09/syria-defectors-describe-orders-shoot-unarmed-protesters#> (last visited Dec. 14, 2018); Syrian student protesters rounded up, beaten, THE WASHINGTON POST (Jul. 1, 2011), https://www.washingtonpost.com/world/syrian-student-protesters-rounded-up-beaten/2011/06/30/AGNjbDtH_story.html?noredirect=on&utm_term=.e25a75f3138e (last visited Dec. 14, 2018).

3 Violence Against Women in Syria: Breaking the Silence, FIDH (Dec. 2012), https://www.fidh.org/IMG/pdf/syria_sexual_violence-web.pdf; MADRE, The International Women's Human Rights (IWHR) Clinic at the City University of New York (CUNY) School of Law, & The Women's International League for Peace and Freedom (WILPF), *Seeking Accountability and Demanding Change: A Report on Women's Human Rights Violations in Syria Before and During the Conflict* (July 2014), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SYR/INT_CEDAW_NGO_SYR_17381_E.pdf; Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, U.N. Doc. A/HRC/37/CRP.3 (2018).

Incidents of SGBV in Detention

Incidents of SGBV described in SJAC's interviews can be categorized into three groups: state violence in detention facilities, state violence during home raids, and state violence at checkpoints. The vast majority of these (42/56) occurred in detention centers. The sections below detail SJAC's evidence of the specific violations that occurred in detention.

Context of Detention

Incidents in this category were often in the context of arbitrary detentions whereby interviewees were either unaware of the reason for their arrest or the reason provided was allegedly non-violent political activity or a mere suspicion of anti-government sentiments. In 39 cases, the violence occurred during torture sessions masked as information-gathering. Several interviewees described being repeatedly transferred between various detention centers across the country. In some cases, SGBV occurred at two or more of the centers. Although the precise reason for the transfers is unclear, this practice is corroborated by official state documents obtained by SJAC from state security sector facilities and which include transfer orders and requests between different security branches and divisions.

Strip Searches and Forced Nudity

Upon entering detention facilities, 27 of the 91 total interviewees described strip searches. Strip searches in detention are generally accepted practice in most countries,⁴ but if certain factors are present, they can constitute cruel and degrading treatment and sexual violence. Strip searches should be performed in as private of a setting as possible and in a clean environment, as well as by a person of the same gender, with an approach that minimizes embarrassment.⁵ Although strip searches are not inherently illegal, they put detainees in a vulnerable situation, particularly when searches are not heavily regulated and officers are not held accountable for their actions. In nearly half of these cases (11 of 27), interviewees described humiliating treatment during strip searches. These included

a range of potential abuses, such as searches performed by guards of the opposite gender, searches performed in non-private settings, searches that involved the detainees having to assume certain positions that further exposed their bodies while naked, guards uttering humiliating and degrading phrases during the searches, and guards touching detainees inappropriately during searches. For example, one female detainee reported that guards touched her breasts during the search. The remaining 16 of 27 interviews presented incidents of forced nudity outside the context of strip searches. While these do not constitute acts of sexual violence, they were used as a means to increase suffering through cruel treatment and torture. In most cases, survivors describe being forced to strip, fully or partially, during interrogation and torture sessions. In a different case, a survivor (male) was left naked for thirteen days in a cell; in yet another case, detainees were forced to strip and then were sent outside in snowy weather.

Rape in Detention

Seventeen of the survivor and witness statements alleged rape in detention. Victims included both men and women. The definition of rape varies by jurisdiction, but the ICC Elements of the Crime, which defines the elements of each crime prohibited by the Rome Statute, defines the constitutive elements of rape as:⁶

1. The perpetrator invaded⁷ the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.

4 Hernan Reyes, *Body searches in detention*, INTERNATIONAL COMMITTEE OF THE RED CROSS, https://www.icrc.org/en/doc/assets/files/other/body_searches_in_detention.pdf [hereinafter *Body searches in detention*].

5 *Body searches in detention*, at 8.

6 The contextual elements of rape as a crime against humanity and rape as a war crime are not included. *Elements of Crimes*, ICC (2011), at 8, 28, 36 <https://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/o/elementsofcrimeseng.pdf>.

7 The concept of "invasion" is intended to be broad enough to be gender-neutral.

Although rape requires force, threat of force, or coercion, detention environments have been found to be inherently coercive and, thus, all sexual penetrative acts involving guards and officers in detention can be characterized as rape. The interviews included various forms of rape: penetration by sexual organs, by other body parts, or by foreign objects, such as plastic material, remote controls, a mobile phone, and unidentified sharp objects. There were eight instances of gang rape and one instance where detainees were forced to rape each other. These instances of rape occurred in both offices and interrogations rooms. While most of SJAC's evidence of rape was provided first-hand by survivors, this analysis also includes evidence of eyewitnesses of rape and hearsay evidence of rape. In one such case, the interviewee heard a story from another woman in detention who described rape she had been a victim of during her previous detention at another location. In another instance, the interviewee was told about the rape of a woman after both women had been released from detention.

Other Acts of Sexual Violence

Eleven interviews included other acts of sexual violence. The ICC Elements of the Crime defines this as a situation in which “the perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion . . . or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.”⁸

The ICC Rome Statue also prohibits “other sexual violence of comparable gravity” both as a crime against humanity and as a war crime. As detailed in the ICC Elements of Crime, this crime covers acts of a sexual nature or causing a person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent. In addition, in order for the act to constitute a crime against humanity, the conduct must be of comparable

gravity to rape, sexual slavery, enforced prostitution, forced pregnancy and forced sterilisation and the contextual elements of crimes against humanity must be present. In order for the act to constitute a war crime, the conduct must be of a gravity comparable to that of a serious violation of Article 3, common to the four Geneva Conventions and the contextual elements of war crimes must be present. For both categories of crime, the perpetrator is required to be aware of the factual circumstances that establish the gravity of the conduct.⁹ Unlike rape, the crime of sexual violence covers a broader range of conduct: it is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.¹⁰

In some interviews, survivors only mentioned sexual violence without elaborating on the nature of the violence (either because they were not asked or because they refused to, or were psychologically unable to go into further detail) and in others, the survivors described non-penetrative sexual violence. Survivors allege sexual violence acts including inappropriate touching of sexual organs and other body parts, or in several cases, being forced to strip naked and stand naked while a guard masturbated, and in one case while also being forced to watch a pornographic video.

Threat of Sexual Violence

Some survivors described threats of sexual violence during detention, either as standalone violations or prior to being raped or sexually assaulted in the cases above. In the context of detention, these threats seem to have been used as interrogation and torture techniques to exert psychological pressure to extract confessions. In one case, the interviewee was threatened with rape if she failed to disclose the names of members of armed groups.

Torture of Sexual Organs

Eleven survivors describe being either victims or witnesses to acts of torture targeting their sexual organs. This type of torture falls under the general practice of torture aimed at obtaining intelligence in the form of confessions. Most of the sexual torture evidence obtained was from male survivors who reported repeated beatings and electrocution

8 *ElementsofCrimes*, ICC(2011), at art. 7(1)(g)6(i), <https://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/o/elementsofcrimeseng.pdf>.

9 Article 8 (2) (b) (xxii)-6, para. 3, Article 8 (2)(e)(vi)-6, para. 3 ICC Elements of Crimes.

10 *Prosecutor v. Akayesu*, ICTR-96-4-T, Judgement, 2 September 1998, para. 688.

of sexual organs and anus as the most common forms of torture of sexual organs. One survivor described his sexual organs being repeatedly pulled by pliers, causing permanent damage. SJAC also obtained evidence of women having suffered torture of sexual organs. One female survivor suffered repeated electrocution of her breasts and vagina. Another woman reported that another detainee had been tortured by being hung from her breasts, which was especially painful as she was breastfeeding at the time. In another case, which occurred in Branch 215, an interrogator threatened to strip a female survivor naked and send her into the cells of the male detainees.

Violation of Reproductive Rights and Medical Care

In addition to the right to be free from sexual violence and torture, access to medical care, including specialized care like reproductive and gynecological services, is enumerated in several human rights instruments, and states have an obligation to protect sexual and reproductive rights.¹¹ These include pre-natal care and safe childbirth assisted by a trained professional. Abrogating from this duty can be seen to constitute gender-based violence, and cases of these violations appeared in SJAC's interviews. One interviewee mentioned witnessing a fellow detainee giving birth in prison, shortly after which the child died from breathing difficulties, likely due to lack of medical care. A survivor in another interview explained experiencing a miscarriage in detention, for which she was provided no medical care despite extensive bleeding. The abovementioned case of the breastfeeding woman being hung by her breasts as a form of torture could also be categorized as a violation of sexual and reproductive rights. Although denying detainees access to medical treatment has been a common characteristic of Syrian detention practices,¹² women and girls suffer particular harms when denied reproductive, gynecological or medical care more generally or when they are detained and mistreated while pregnant or breastfeeding. These violations will require additional focus and reporting by documentation groups and current and future justice actors.

Other Degrading and Humiliating Treatment

In addition to acts of SGBV and torture during detention, these interviews often also described other humiliating and degrading treatment, such as confinement to overcrowded cells without enough space to lie down, lice and other unsanitary conditions in the cells, lack of adequate food and water, and very limited access to bathrooms. A separate analysis of and report about poor detention conditions exacerbating the mistreatment of detainees can be undertaken by SJAC or its partners in the future.

¹¹ Sexual and Reproductive Health Rights, AMNESTY INTERNATIONAL, <https://www.amnestyusa.org/pdfs/SexualReproductiveRightsFactSheet.pdf> (last visited Dec. 18, 2018).

¹² "Death Became a Daily Thing": The Deliberate and Systematic Failure to Provide for Health and Medical Care in Syrian Detention Centres, LHDR (Aug. 2018), http://ldhrights.org/en/?p=6400&fbclid=IwAR1BVtS193VWrc2fkRswnm3gjss-q0UEVrUkunuSJoVtwLg_BG1-DwGTMPk (last visited Dec. 18, 2018).

Incidents of SGBV During Home Raids and at Checkpoints

Of the 56 interviews, ten included SGBV outside of detention facilities, eight of which were alleged during home raids and two at checkpoints.

The practice of home raids by government forces occurred largely for the purpose of arrest.¹³ Such practices led to widespread abuse of civilians, including the reported practice of sexual violence. Eight SJAC interviews corroborate these claims. The interviewees generally described how armed men entered their homes and raided them. SJAC's evidence indicates that after the raids, the armed men would beat the men in the house, then separate the women and girls and rape them. This often took the form of gang rape, where multiple perpetrators raped each woman or girl and sometimes also penetrated them with guns or sharp objects. Survivors included minor girls. In other cases, the women and girls were raped in front of their male family members. Multiple survivors reported losing consciousness while being raped, while others became pregnant or suffered serious long-term medical consequences as a result of the violent gang rape.

In some cases, the men killed some of the girls and women after raping them. In other cases, they would also kill the men after having raped the women. Although further investigations are required, the evidence SJAC has collected seems to indicate that sexual violence systematically accompanied house raids. In one case, the survivor states that “*shabiha*” entered the house and told her husband that

they would rape the women in front of him and then kill him. The survivor states that they first stripped her daughter and raped her. The survivor ripped her own clothes off and asked them to rape her instead and to let the daughter go, so one of the men then raped the mother. They then also raped the daughter and subsequently slaughtered her. After three hours of torture, “*shabiha*” executed her husband and opened fire in the house, shooting everyone, including an infant. The mother stated that only two of her daughters and her survived the shooting by hiding underneath their family members' dead bodies. In another case, the survivor describes being at her aunt's house when armed men looking for the survivor's aunt's husband conducted a raid. A man she described as the commander gave the order to strip the women naked and search for the husband “inside their bodies.” They also humiliated and beat them, including a 10-year old child. The survivor herself was penetrated with guns and machine guns in the vagina and anus. After that, the “commander” told her to tell the husband that the “*shabiha*” don't want him anymore as they made him pay through torturing the women.

SJAC's interviews included two cases of sexual violence at checkpoints. In one case, a group of families was traveling when they were stopped at a checkpoint at gunpoint in Homs. The children were separated from the group, after which the men were executed. The six women were then raped, each by multiple perpetrators while they were held inside a semi-truck along the road for two days.

¹³ Hugh Naylor, *Desperate for soldiers, Assad's government imposes harsh recruitment measures*, THE WASHINGTON POST (Dec. 28, 2014), https://www.washingtonpost.com/world/middle_east/desperate-for-soldiers-assads-government-imposes-harsh-recruitment-measures/2014/12/28/62f99194-6d1d-4bd6-a862-b3ab46c6b33b_story.html?noredirect=on&utm_term=.b6b8f3542abo (last visited Dec. 14, 2018); Syria: *Sexual Assault in Detention*, HUMAN RIGHTS WATCH (Jun. 15, 2012), <https://www.hrw.org/news/2012/06/15/syria-sexual-assault-detention> (last visited Dec. 14, 2018).

Support and Justice for Survivors

As was explained in SJAC's 2015 report on *Societal Attitudes toward SGBV in Syria*, women who survive SGBV often face shame, abuse, isolation, and abandonment when they return to their communities, as they are perceived to have lost their honor and chastity. Men face a different challenge. While they are sometimes shamed for a perceived loss of manliness, those who return from detention may be welcomed as heroes or ignored, but in either case, they are expected not to discuss the sexual violence they experienced.

Additionally, the prevalence of sexual violence in detention can impact how the community perceives a woman when she returns following detention, regardless of whether she was, in fact, sexually abused. In other situations, a woman may deny that she was sexually abused to ward off negative consequences. In one of SJAC's interviews, a woman who was detained for participating in protests described her interrogation experience as being pleasant with no abuse, but afterwards, she explained that the interrogating offi-

cer told her husband that he had raped her. As a result, her husband left her and denied being the father of her child. During the interview, she vehemently denied that she had been raped. SJAC has no reason to doubt her story, and if true, it is but one example of the need for support services for all former detainees to assist with reintegration following detention. If she is hiding the truth, however, it is an indication that not all survivors will welcome justice efforts and may prefer remaining silent so long as they fear that their families and communities will shun them for the abuses they suffered. Awareness raising to combat the shame and isolation inflicted on survivors by their families and communities has taken place in and outside Syria, but there is still tremendous stigma associated with these crimes, preventing survivors from speaking out.

The harms described by interviewees and their emotional responses during interviews demonstrates an immense need for psychosocial services. In SJAC's experience, such services are few and far between, and the organizations

Survivor Rights

Victims and survivors of the war will have certain rights during the transitional justice process. SJAC will assist victims and survivors in accessing those rights to the extent possible. The list of rights include:

Education

Transitional justice is a complicated topic, and many survivors are unaware of the different options available and the implications of each. It is their right to be educated on these topics so that they can make informed decisions.

Participation

Survivors have a right to meaningfully participate in transitional justice. This participation begins with the initial steps of deciding which mechanisms to pursue and continues throughout the process.

Access to Information

In order to meaningfully participate, survivors require information about the process. Justice mechanisms have an obligation to keep survivors informed about their decision-making and methods of involvement.

Access to Justice

Once the mechanisms are established, survivors have the right to have their cases and stories heard with serious consideration. Even if a prosecutor decides not to move forward with a trial because of lack of evidence, the prosecutor must first weigh a survivor's testimony and facts in an unbiased and thoughtful manner.

Advocacy and Legal Representation

To participate in legal proceedings, survivors require an advocate who can champion their rights and provide legal representation when needed.

Survivor Protection and Support

Even after the war, testifying about SGBV can have consequences, both physical and emotional. Survivors who come forward have a right to protection and psychosocial support. Safe houses can provide survivors with housing if they fear reprisals from perpetrators or family members.

that provide group and individual therapy sessions have limited ability to respond to the demand. In addition to psychosocial support, interviewees described long-term medical complications resulting from the torture and sexual violence they experienced. While access to medical care is available, doctors must be trained to be sensitive to the specific harms suffered by SGBV survivors and must take care not to humiliate their patients during treatment, or violate their privacy. Women who became pregnant, who suffered miscarriages, or who suffered other reproductive harms in prison must receive specialized care. Furthermore, as with the case of the woman being abandoned by her husband simply due to a sexual abuse claim by an interrogation official, some survivors will need economic support to rebuild a life for themselves if they fear going back to their families or if their families no longer allow them in the household. For women who have lost family and now find themselves in the position of primary breadwinner for the first time in their lives and for both men and women who are unable to work due to trauma or disability from SGBV and torture, economic support services can also help survivors get back on their feet and resettle so that economic insecurity does not compound the trauma they suffered.

In addition to the aforementioned support services, access to justice is an ongoing gap for survivors of SGBV as well as other gross international criminal law and human rights violations in Syria. To date, the International Criminal Court (ICC) remains unable to investigate because it has no jurisdiction over the situation in Syria. Syria is not a State Party to the ICC, and Russia has vetoed any attempt by the UN Security Council to refer the situation. Several cases have been filed in European countries under the principles of universal and extraterritorial jurisdiction,¹⁴ but to SJAC's knowledge, none of the cases to date have included allegations of SGBV. Despite two arrest warrants issued in Germany and France in 2018, high level perpetrators in Syria remain inaccessible to European law enforcement which is unable to carry out arrest warrants in Syria. In December 2016, the UN General Assembly created the International, Impartial, and Independent Mechanism (IIIM) to investigate atrocities in Syria in order to fill the justice vacuum and enable the collection of evidence and building of case files until a more comprehensive avenue for justice is established. The IIIM has made SGBV investigations a stated priority, but it is still too early to determine whether survivors will have greater access to justice as a result of its work. SJAC anticipates that the IIIM and domestic jurisdictions will benefit from reports such as this one and will continue to engage with SJAC, its partners, and other similar documentation centers in investigating the widespread SGBV allegations in Syria.

In the future, other transitional justice mechanisms with specific programs in place to meet the needs of SGBV survivors must be created. Reparations programs could include collective measures to institute the types of support services described above. A truth commission could investigate and make public a full account of the crimes committed by state officials and non-state armed groups. Memorialization programs could be specifically tailored to address SGBV crimes, helping to destigmatize the experience of survivors and create greater space for them to come forward. Finally, a comprehensive institutional reform process in Syria is necessary. Such a reform would establish enforcement and accountability mechanisms so that institutional abuses are no longer tolerated and condoned. Perpetrators who use their positions to exploit people in detention, in their homes, or at checkpoints must be prosecuted to the full extent of the law. In the meantime, the International Committee of the Red Cross (ICRC) and other similar monitoring groups must be given unrestrained access to Syrian detention centers and police stations where SGBV is reported to have occurred. All of these programs must be designed and created with an understanding of the evidence and in close collaboration with survivors to ensure that they are attuned with their visions and needs.

14 Syrian Civil/Criminal Cases & Investigations of War Crimes (Compiled March 2018), CENTER FOR JUSTICE AND ACCOUNTABILITY, <https://cja.org/wp-content/uploads/2018/06/Syria-Cases-Updated-March-2018.pdf> (last visited Dec. 18, 2018).

Conclusion and Next Steps

Fifty-six interviews that SJAC collected contained reasonable grounds to believe that rape, other forms of sexual violence, the threat of sexual violence, sexual harassment, torture of sexual organs, and lack of access to reproductive and medical care occurred in detention facilities, during home raids, and at checkpoints, with the vast majority occurring during detention. Incidents of SGBV are not easy to document, analyze, or report on for either the survivors or the interviewers. The brutality described in the interviews is more than a graphic retelling of several dozen survivor experiences, it is a call to action. State security forces have operated with impunity while detention continues, with men, women, and children still vulnerable to SGBV and other grave violations of international law. Those who have emerged from detention with the physical and psychological scars of their abuse require support in order to continue the process of healing and an avenue to access justice mechanisms that can address their grievances. In addition, SJAC calls for:

- Immediate, unrestricted access to detention centers in Syria by the ICRC and similar organizations;
- The UN Special Envoy for Syria to make the release of detainees and detention facility monitoring a foremost priority in negotiations and to support the inclusion of a transitional justice framework in any final peace agreement;
- When safe to do so, survivors to be included in the peace process so they can share their experiences directly with the negotiating parties and participate in the design of justice processes;
- The UN Security Council to refer the situation in Syria to the International Criminal Court;
- The IIIM to continue to make SGBV a priority and to work with SJAC, other documentation and civil society groups, and survivors themselves to obtain evidence and investigate crimes;
- Continued training in SGBV investigations, particularly on how to conduct sensitive investigations while obtaining necessary detail for criminal prosecutions (i.e., asking difficult follow-up questions when faced with reluctant witnesses);
- Other documentation groups to adopt informed consent policies that include sharing interviews with the IIIM and other justice actors so that this evidence is usable in criminal investigations and prosecutions;
- All human rights groups and justice actors working on documenting SGBV and other gross violations of international law in Syria to build relationships with service providers and refer those they interview to survivor support services;
- Continued funding for the investigation and reporting of both detention center abuses and the commission of SGBV in Syria;
- Support for awareness-raising activities to help address the societal stigma associated with SGBV.

For every survivor who shares their experience with a documentation group, there are undoubtedly many more who either fear coming forward or do not have access to investigators. Using the lessons from the analysis of the interviews described in this report, SJAC will make adjustments to its interviewing and documentation methodology in order to access survivors and witnesses of SGBV and collect more detailed and targeted information. By doing so, SJAC will collect stronger evidence enabling it to continue analyzing and reporting on SGBV in the Syrian conflict, calling for survivor-centered justice and institutional reform that will put an end to impunity in the interests of both those who have come forward and those who feel they have no choice but to remain silent.

Syria Justice and
Accountability Centre

