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Human rights situations that require the Council's attention

Written statement* submitted by The Next Century Foundation, a non-governmental organization in special consultative status

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

[29 August 2017]

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

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Treatment of Prisoners of War / Political Prisoners in the Syrian Arab Republic

The Next Century Foundation (NCF) has been concerned about the scale of the killing of prisoners of war in the Syrian Arab Republic and the Republic of Iraq. The difficulty is breaking the cycle of hatred and vengeance; on a large scale atrocity breeds atrocity, just as on a smaller scale in our personal lives resentment breeds resentment.

The Third Geneva Convention (1949) calls for the adequate treatment of prisoners in war and is ratified by all 193 United Nations (UN) member states. In Syria the conflict is not officially classified as an "international armed conflict" (which is when the Geneva Conventions start to apply). Nonetheless Common Article 3 of the 1949 Geneva Conventions and Additional Protocol II (APII) both outline the minimum standards to be observed by all parties to a non-international armed conflict. All parties to a conflict have legal and moral obligations to treat prisoners well. However, the convention is rarely adhered to. In most contemporary conflicts, such as those in Syria or Iraq, prisoners are rarely taken. The few that are taken prisoner are often tortured by their captors in a bid to obtain military and political intelligence before sometimes being executed.

This trend of favouring executions in the field rather than taking prisoners is a consequence of factors that may be tactical, economic and / or predicated on emotion:

1. The practice of not taking prisoners frightens the enemy and may well increase rates of desertion from defensive positions, as seen with the fall of Mosul to ISIS in 2014.
2. Groups simply cannot afford to take prisoners, as prisoners require shelter and food, which is difficult to provide in a war-zone. This is particularly true for uprisings or insurgencies, such as those in Syria and Iraq, where most combatants are not supported by state infrastructure.
3. Uprisings and civil wars often generate intense distrust and even hatred between combatants:
 - a. If family dependents have been killed who might otherwise have been taken as prisoners.
 - b. If there's a sectarian element at play on both sides that fuels bloodshed. In the case of ISIS this is further heightened by the extreme takfiri ideology they espouse by which they would say non-believers/Shiites/Alawites should be put to death.
4. Lack of command and control, poor training, and an array of various militia forces mean that it can be hard to control extra judicial killings among troops.

Even the Peshmerga in Iraq, arguably one of the more professional ground forces in that country, have executed ISIS prisoners (in some instances by beheading). The fact that most armed groups execute many of their prisoners (some groups more than others) in current conflicts in both Iraq and Syria means that those conflicts are far more brutal than they might be; therefore soldiers fight to the death in battle, as surrender is not considered an option.

An important distinction should be made between taking prisoners of war and the practice of imprisoning male refugees or Internally Displaced Persons (IDPs) of fighting age.

Note: At the moment in Iraq you have the mass screening centres where detainees are taken - they'll take all male fighting aged men, check their names, question them and then release or detain them, but it's a slow and flawed process. There are definitely a lot of executions (we advocate imprisonment). If they are caught armed they're probably shot (whereas we are advocating they be made prisoners of war), but they'll often come out with civilians in civilian clothes. If they detain them rather than execute them they go into the justice system. The courts are choked with ISIS prisoners.

In the self-governing area of Syria known as Rojava (Afrin Canton, Jazira Canton and Kobanî Canton), the Syrian Democratic Forces (SDF) have detention camps for 're-education' and have started to release rehabilitated prisoners of war which is exemplary.

Conclusion:

The trend towards summary execution in lieu of taking prisoners has created brutal conflicts, which in turn create chasms between societal groups. Any post-war reconciliation is much harder in such a political climate. The Next Century Foundation believes that international backers and funders of combatant groups should insist that they properly respect the Third Geneva Convention. The execution of prisoners of war is morally repugnant in all circumstances. The NCF believes there will be a need to consider some form of post conflict internal tribunal such as a truth and reconciliation commission or National Justice Commission to address the post conflict demands for justice in Syria, alongside issues of renewal and reconciliation.

Additionally:

Additionally in regard to political prisoners: there should be a mechanism for ordinary citizens of a state to request information as to the status of a prisoner from the government of that state with some expectation of an answer. In Syria today there is no adequate mechanism. In theory a question can be asked of the Minister for Reconciliation – and indeed an answer may occasionally be forthcoming. However there is no formal process and if the prisoner cannot be identified or has died in custody, no answer is generally forthcoming and the family are left uncertain as to whether their son or daughter is dead or missing or whether their question has somehow gone unnoticed. The Government of Syria should be firmly encouraged to answer all questions about prisoners of any kind in a matter of fact way – to state either that they have no current knowledge of the person or that the person concerned died in custody or that the person concerned is still incarcerated and give the place where they are located.

An honest response should be regarded as a genuine humanitarian gesture to help bring closure to families where possible. The Syrian government has started to allow prison visits by the International Red Cross (e.g. the ICRC has visited Damascus central prison in Adra suburb). To answer questions from other genuinely interested parties such as family members about the status of individual prisoners would be a valuable next step.

Of further concern:

We are further concerned by certain current events. We estimate that some nine thousand fighters have congregated in and around Idlib, many of whom are from the group formerly known as Jabhat al Nusra which merged with several other smaller groups to form Hayat Tahrir al-Sham (HTS). HTS is now in control of Idlib city. At some point in the future there will undoubtedly be a confrontation in and around Idlib with these forces.

There is already a battle underway to expel Daesh forces from Raqqa and its vicinity; an offensive being conducted by the United States of America-led, coalition backed, alliance known as the Syrian Democratic Forces in the north, which is largely made up of Kurdish Yekîneyên Parastina Gel or YPG fighters, and the Syrian Army to the south. It would appear that prisoners are not invariably being taken, though the YPG are setting a better example than others as a general rule.

Recommendation:

It might be more practical for small camps or compounds to be set up by combatants and visited by Red Cross/Crescent teams on a regular basis (such visits then becoming a condition of funding for the camps being made available to warring parties). This assumes that each fighting force is open to such a concept. Sadly, the NCF cannot see Daesh being remotely interested. However the Syrian Democratic Forces, most particularly the Yekîneyên Parastina Gel (YPG), should be encouraged to take more prisoners of war where possible. It would mean that surrender became a better prospect for those fighting against the forces backed by the international community and would thus set an example to all. If the war continues in the long term, as sadly it may, these prisoners could become a factor in prisoner exchanges (or rehabilitated and released in amnesties as is sometimes already happening with the YPG). But if the war

comes to an end sooner than anticipated, the rehabilitation of prisoners of war could become an issue for any post conflict internal tribunal such as the truth and reconciliation commission or National Justice Commission already alluded to.

Note: The Next Century Foundation acknowledges the help of the Religious Affairs Advisory Council (RAAC) in the preparation of this submission, some of which is paraphrased from the RAAC report on honour in war.
