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#### Human rights situations that require the Council's attention

## Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016- 28 February 2017\*

### Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic

#### *Summary*

After almost six years of conflict, civilians continue to bear the brunt of the brutal violence waged by warring parties in the Syrian Arab Republic. Government and pro-Government forces continue to attack civilian objects including hospitals, schools and water stations. A Syrian Air Force attack on a complex of schools in Haas (Idlib), amounting to war crimes, is a painful reminder that instead of serving as sanctuaries for children, schools are ruthlessly bombed and children's lives senselessly robbed from them. Government and pro-Government forces continue to use prohibited weapons including cluster munitions, incendiary weapons and weaponised chlorine canisters on civilian-inhabited areas, further illustrating their complete disregard for civilian life and international law.

The terrorist group Jabhat Fatah al-Sham persists in carrying out summary executions including of women, and recruiting children in Idlib governorate. Coordinated attacks undertaken by the terrorist group alongside armed groups launched by indirect artillery fire resulted in dozens of civilian casualties, including many children. Life under the so-called Islamic State of Iraq and the Levant (ISIL) rule continues to be marked by executions and severe corporal punishments of civilians accused of violating the group's ideology, and the destruction of cultural heritage sites including the Tetracylon in Palmyra (Homs).

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Armed groups launched numerous indiscriminate attacks with indirect fire artillery systems, including with unguided, locally manufactured weapons, killing and maiming civilians in Aleppo, Idlib and Dara'a governorates. Armed groups based in Idlib further exacted justice through the use of "shari'a courts" which lacked fair trial standards, while other groups carried out arbitrary arrests, detentions, enforced disappearances and committed torture countrywide.

Across northern Syria, Kurdish People's Protection Units (YPG) or Syrian Democratic (SDF) forces have displaced communities in order to clear areas mined by ISIL. In some cases, YPG or SDF forces did not provide adequate humanitarian aid to displaced communities. YPG forces persist in forcibly conscripting men and boys for military service.

Over the period under review, the number of Member States carrying out airstrikes or deploying ground forces on the territory of the Syrian Arab Republic increased, raising concerns regarding the escalation of the conflict and the potential to exacerbate civilian harm.

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## I. Introduction

1. In the present report, submitted pursuant to Human Rights Council resolution 31/17, the Independent International Commission of Inquiry on the Syrian Arab Republic presents its findings based on investigations conducted from 21 July 2016 to 28 February 2017.<sup>1</sup> The present report should be read in conjunction with previous reports of the Commission.<sup>2</sup>

### A. Challenges

2. The Commission's investigations remain curtailed by the denial of access to the Syrian Arab Republic.

### B. Methodology

3. The methodology employed by the Commission was based on standard practices of commissions of inquiry and human rights investigations. The Commission relied primarily on first-hand accounts.

4. The information contained herein is based on 326 interviews conducted in the region and from Geneva.

5. Photographs, video recordings, satellite imagery and medical records were collected and analysed. Reports from Governments and non-governmental sources, academic analyses and United Nations reports were reviewed.

6. The standard of proof is met when the Commission has reasonable grounds to believe that incidents occurred as described, and that violations were committed by the warring party identified.

## II. Conflict dynamics

7. The conflict in the Syrian Arab Republic will soon enter its seventh year. Despite a general reduction in violence achieved by the nation-wide ceasefire agreed by the Russian Federation and Turkey on 30 December, armed violence persists on a number of frontlines. The ceasefire agreement, which came on the heels of the capture of Aleppo city by pro-Government forces, was buttressed by the adoption of Security Council resolution 2336 (2016), which commended Turkish and Russian political efforts and called for an immediate resumption of the political process.

8. Turkey, Iran and Russia sponsored talks in Astana, ostensibly aimed at capitalising on the post-Aleppo battlefield developments by reinforcing the ceasefire. In the final joint communique, the sponsors called for the creation of a trilateral ceasefire monitoring mechanism and for the effective separation of armed groups from United Nations recognised terrorist entities Jabhat Fatah al-Sham (previously Jabhat al-Nusra) and the Islamic State of Iraq and the Levant (ISIL). It also emphasised the need to apply Security Council resolution 2254 (2015) as a road map for a political solution. By reinforcing the ceasefire agreement, the talks were meant to support the February Geneva talks.

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<sup>1</sup> The commissioners are Paulo Sérgio Pinheiro (Chair), Carla Del Ponte and Karen Koning AbuZayd.

<sup>2</sup> A/HRC/S-17/2/Add.1, A/HRC/19/69, A/HRC/21/50, A/HRC/22/59 and Corr.1, A/HRC/23/58, A/HRC/24/46, A/HRC/25/65, A/HRC/27/60, A/HRC/30/48 and Corr.1, A/HRC/31/68 and A/HRC/33/55.

9. The outcome of the Astana talks also had important consequences for the armed groups, particularly in Idlib and western Aleppo governorates. Terrorist group Jabhat Fatah al-Sham considered the final communique of the talks as a declaration of war against it, and proceeded to attack the depots and checkpoints of armed groups that participated in the Astana meeting. Fearing further attacks by Jabhat Fatah al-Sham, many of the Astana associated armed groups joined the Ahrar al-Sham armed group, for protection and formed a new group under its umbrella. In response, the terrorist group united with a number of extremist factions under the name Hay'et Tahrir al Sham (HTS). So far, infighting has led to hundreds of military casualties and is having serious repercussions on the general armed groups' ability to mount offensive operations against government forces.

10. On 23 February parties to the conflict gathered in Geneva as part of the United Nations-sponsored talks mediated by Special Envoy Staffan De Mistura. The opposition was primarily represented by the High Negotiating Committee Bloc (HNC) and headed by Nasr al Hariri from the Syria National Coalition. Two opposition platforms from outside the HNC structure, the Moscow and Cairo groups, also joined. Differing perspectives on immediate priorities prevented direct talks between the Syrian government delegation and the HNC bloc from taking place. While the opposition emphasised an immediate political transition, the Syrian Government pushed for the need to fight terrorism. Talks were considered a relative success to the extent that consultations between the parties and the Special Envoy continued until the official conclusion of the talks on 3 March. A common framework agreement to pursue talks at the end of March was agreed on the basis of Security Council resolution 2254.

11. A number of fronts continue to be intermittently active since January. These are focused on Douma (eastern Damascus countryside), Homs and southern Dara'a governorate. On 25 February, a series of suicide attacks claimed by the HTS reportedly killed 32 people in Homs city including high-ranking government security officials. Thereafter, Syrian Air Force airstrikes hit the besieged town of al-Waer (Homs) and Douma leading to scores of civilian casualties. In the same context, government forces continue active military operations around the besieged areas of Qaboun, Barzeh and Harasta (eastern Damascus). In February, fighting erupted in Dara'a city as parts of the Manshieh neighbourhood were overtaken by armed groups.

12. On 24 August 2016, Turkey initiated a military operation in northern Syria against ISIL.<sup>3</sup> Since then, Turkish troops and affiliated Free Syrian Army (FSA) groups pushed through areas of northern Aleppo governorate as part of the cross-border operation "Euphrates Shield". On 23 February, these forces gained control of the strategic town of al-Bab from ISIL. In eastern Aleppo governorate, Syrian government forces continued to make swift advances at the expense of ISIL successfully connecting to territory controlled by the Kurdish dominated Syrian Democratic Forces (SDF) around the town of Minbij to the west of the Euphrates River. A reported military agreement with the SDF has allowed the entry of Syrian government forces to the vicinity of Minbij thus overtaking a number of villages to the west of the town and effectively facing the Turkish forces to the south. On a different front, SDF forces continue their rapid advance through the northern ar-Raqqa governorate towards the self-proclaimed "capital" of ISIL reaching the outer limits of the city at the time of this writing.

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<sup>3</sup> On 24 August 2016, the Republic of Turkey submitted a letter to the President of the United Nations Security Council (S/2016/739), in which it invoked Article 51 of the Charter of the United Nations concerning the national right to self-defence and informed the President that "Turkey initiated a military operation in the early hours of 24 August 2016" in areas of northern Syria under ISIL control.

13. Facing multiple actors on a number of fronts, ISIL continued to lose territory particularly in the governorates of Aleppo, Homs and ar-Raqqah. Subsequently to the reporting period, on 3 March, government forces regained control of Palmyra (Homs) for the second time in less than a year. The terrorist group's defences also appear to have significantly weakened in eastern Aleppo governorate and to the north of ar-Raqqah. In a major development, SDF forces with the support of international coalition airstrikes, established control of parts of the road connecting ar-Raqqah city to Dayr az-Zawr thus severing one of the last vital supply lines for the terrorist group.

14. During the reporting period, external actors continued to provide material and financial support to the parties inside the Syrian Arab Republic contributing to the protraction of the conflict and with it the suffering of civilians. Involvement of external actors in the war has led to further fragmentation of the political and military landscapes and has contributed to an increase in levels of violence and extremism. While the war on ISIL has achieved tangible results, civilians continue to bear the brunt of the conflict throughout areas investigated by the Commission. The multiplication of active military actors on the ground or groups supported by proxy continues and could become a formidable obstacle to achieving a coherent political settlement.

### **III. Government and pro-Government forces**

#### **A. Attacks against civilian infrastructure**

##### **(i) Hospitals**

15. After six years of violence, airstrikes targeting medical facilities, health-care workers and ambulances show no sign of abating in the Syrian Arab Republic. Repeated bombardments of hospitals and clinics in areas controlled by armed groups destroy vital infrastructure and kill medical personnel. The number of remaining doctors, nurses, and first responders is now so grossly inadequate to meet the needs of the population that many injured civilians die due to lack of access to adequate medical care. In besieged areas, the lack of access to medical supplies, including anaesthetics, surgical equipment, and medication, makes it impossible for hospitals and clinics to provide even the bare minimum care to patients. As previously noted by the Commission, the pattern of attacks strongly suggests that pro-Government forces intentionally and systematically target medical facilities, repeatedly committing the war crime of deliberately attacking protected objects.<sup>4</sup> Intentionally directing attacks against health-care workers and ambulances amounts to the war crimes of intentionally attacking medical personnel and transport.

16. On 6 August, at around 1pm, an airstrike directly hit the al-Almal hospital in Milis (Idlib) killing a total of 13 people including three hospital support staff, an ambulance driver, three children and two women. Another three persons were injured including a midwife and a nurse. This facility, which provided medical services for up to 40,000 people, was destroyed. One interviewee said that occasionally some armed groups fighters met in an area in the vicinity of the attack but that the only location directly hit by the airstrike on 6 August was the hospital.

17. In the early hours of 19 August, one week before the evacuation agreement of Darayya (Damascus), Syrian government helicopters bombarded the centre of town, directly striking the only hospital in Darayya. Twenty-five people were evacuated from the hospital and there were no casualties. An eyewitness recalled that the hospital was hit with

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<sup>4</sup> A/HRC/27/60, paras. 109-111; A/HRC/33/55, paras. 42-65; A/HRC/34/64, paras. 30-40.

barrel bombs containing “a gelatine-like material” he believed to be napalm. This substance was highly flammable and the next day parts of the building were still on fire. Interviewees denied the presence of armed groups in the area claiming that fighters were based in the outskirts of the city defending it.

18. The hospital of Atarib (Aleppo countryside) was repeatedly hit by airstrikes during the reporting period. On 24 July, at around 8pm, shortly after the announcement of the results of local council elections, a series of airstrikes hit the area where the local council and the market are located. As Civil Defence went to the scene, the area was again hit by airstrikes. In total, 22 people were killed, including a first responder. Ambulances took the injured to the hospital, located about 1km from the local council, driving with their lights off to avoid attacks. On the same evening, strafing from an unidentified aircraft injured 25 people, including three women, at the emergency room of the hospital which was closed down temporarily as a result.

19. On 14 November, at 11am, a number of airstrikes hit the hospital of Atarib, the Civil Defence centre, and a celebrations hall. The hospital was hit four times and the building severely damaged forcing the hospital to close down permanently. The attack also destroyed an ambulance, and injured three children.

## (ii) Schools

20. One of the most vicious patterns of the Syrian conflict is the targeting of schools, with attacks in the Syrian Arab Republic estimated to account for half of all worldwide attacks on schools from 2011 to 2015. These attacks have resulted in staggering numbers of children being killed and maimed in brutal circumstances. They have also led to the death of countless teachers and the destruction of school buildings which combined deprive hundreds of thousands of children from accessing education. Whilst schools can lawfully be targeted when used for military purposes, such attacks nevertheless require that prior warning is given when located in densely populated civilian areas. The Commission found no evidence any schools lost their protection during the period reviewed and were therefore not lawful targets.

21. The year 2016 saw one of the deadliest attacks on schools in the Syrian Arab Republic. On Wednesday 26 October, a series of airstrikes hit a complex of schools and its surroundings in Haas (Idlib countryside) killing a total of 36 civilians; 21 were children between the ages of 7 and 17 and six were women. Another 114 persons were injured in the attack including 61 children and 10 women. Some of the injured children had limbs amputated; others lost sight of one or both eyes. Together the schools had over 2,000 students but after the events of 26 October they stopped functioning out of fear of future attacks.

22. The Haas school complex was composed of five educational institutions: one kindergarten, one high-school, two preparatory schools (one for boys and one for girls), and the Kamal al-Qal’ajy co-educational elementary school. Although Haas is in opposition-held territory, the teachers of the schools are Government employees and are paid by Damascus. This complex is situated within Haas town in an area described by all interviewees as residential, without checkpoints or armed groups’ presence. One interviewee said that Haas is considered to be safer than most localities precisely because armed groups are not present. For that reason, 10,000 internally displaced people, approximately one third of the Haas population, have settled there.

23. Eyewitnesses recall that in the morning of 26 October, around 9am, there was a drone hovering in the skies over Haas. Residents had seen the drone on other occasions – children were used to it and called it “the buzzer” – but were not worried because nothing had happened on the other occasions they saw the drone. At 10am the early warning system

reported that a jet fighter was in the area and minutes afterwards a jet fighter dropped two bombs. The first bomb landed 200 meters away from the schools, and the second 50 meters away. Both bombs killed and injured residents in the area. A third bomb hit the entrance of the preparatory school for girls killing at least eight students and three teachers.

24. After the third bomb hit the girls' school, parents and first responders rushed to the scene. At this point, the jet fighter dropped a fourth bomb that landed in the vicinity of the schools killing and injuring parents and first responders. One eyewitness recalled how before this bomb struck he saw a man pick up to a 10-year-old girl who was desperately crying out for her parents. At that moment, shrapnel from the fourth bomb decapitated the girl.

25. Eyewitnesses recalled that after dropping the four bombs the jet fighter left and parents and a Civil Defence team from Kafr Nabl, a neighbouring town, resumed efforts to rescue survivors. Within minutes, however, another jet fighter came to the scene and dropped four bombs in sequence. One of the bombs directly hit the co-educational school and the remaining bombs fell within 150 meters of the school complex. This second wave of bombs killed students, parents, first responders, and residents whose houses were located in the vicinity of the schools. The impact of a total of eight bombs destroyed large parts of the school complex. Lacking the necessary equipment for an effective rescue operation, parents and first responders spent the next two days going through the rubble to retrieve the bodies of victims. On the second day, one child was found alive.

26. The early warning system and some eyewitnesses identified the jet fighters as Sukhoi 22, and footage provided by an interviewee shows a Sukhoi 22 dropping a parachute bomb. The Sukhoi 22 is easy to recognise, and difficult to mistake for anything else. Recognition features include a single vertical stabilizer, swing-wings, and flat intake mounted in the nose. Other witnesses identified the aircraft as a Sukhoi 24. Given that two jet fighters were in the area, it is possible that one jet fighter was a Sukhoi 22 and the other a Sukhoi 24.

27. Photos of remnants provided by interviewees confirm that the bombs were parachute-dropped. The remnants have been identified as parts of FAB-500ShN bombs including remnants of their parachutes. The FAB-500ShN is an unguided 500kg-class "dumb" bomb, meaning it has no on-board guidance capabilities; it is a blast weapon and approximately half of its weight is high explosive. The parachute slows the descent of the bomb so it can be dropped from low altitude and allow the aircraft time to avoid the blast caused by the explosion. Both the Syrian and Russian air forces have FAB-500ShNs in their arsenals, and Sukhois 24 in their fleets; however, the Russia Federation has no operational Sukhoi 22s having stopped their production in the 1990s, and retired them in 1998. The international coalition does not use these bombs or aircraft.

28. Satellite imagery shows minimal evidence of cratering, which is consistent with a blast weapon such as the FAB-500ShN. The lack of deep craters and extensive surface damage are consistent with a general purpose high explosive bomb of this type. These bombs do not use primary fragmentation to do damage, rather relying on the blast wave and secondary fragmentation of the flying debris. The damage to the area where the Haas schools are located is devastating – being unreinforced civilian structures, they were obliterated by the series of large, high explosive bombs.

29. The Russian Federation has denied involvement in the attacks on the Haas schools and claimed that publicly available photographs and footage of the incident are fabricated. Any assertion that the attack did not take place is clearly contradicted by the large body of evidence collected by the Commission which includes eyewitness testimony, satellite imagery and photographs of remnants. Since the Russia Federation does not have Sukhoi



22s and there is no evidence that the Syrian and the Russian air forces conduct combined manoeuvres, it is concluded that Russian forces were not involved in the attack.

30. Without expressly mentioning the schools, Syrian State media reports of 26 October claimed that attacks on Haas targeted opposition fighters and positions. In effect, these reports acknowledge that Syrian forces were conducting operations in Haas on the day the schools were attacked. The involvement of Syrian forces is confirmed by the type of ammunition and aircraft used. The media reports do not specify armed group positions targeted and the Commission did not gather any information to support their existence. The Commission also did not gather information suggesting that any type of warnings were given.

31. A number of factors strongly suggest that the area of the schools was deliberately targeted. First, as the employer of the teachers of the Haas schools, the Syrian Government would have known the location of the schools. Second, the attack took place on a day and a time that classes were expected to take place, a Wednesday morning. Third, the lack of warning of a planned attack in a civilian-inhabited area housing five educational facilities. Finally, the absence of any indication of a military target in the schools or their vicinity. On the basis of these, it is concluded that there are reasonable grounds to believe that the Syrian Air Force deliberately targeted the Haas schools complex. This attack constitutes the war crimes of deliberately targeting a civilian object and deliberately attacking civilians.

**(iii) Water sources**

32. On 22 December, Government forces launched an offensive on Wadi Barada (Damascus countryside), an area besieged since November 2013. Home to three water springs, including al-Feijeh spring which provides 70 per cent of all Damascus water, Wadi Barada is of high strategic value for the Government and the opposition. Throughout the siege, armed groups threatened to cut off water on several occasions effectively using control over the springs to prevent attacks by pro-Government forces. On one occasion, in July 2015, the Wadi Barada Shura Council cut off the water supply in reaction to a Government military operation in Zabadani (Damascus countryside), at the time also under siege. One interviewee indicated that as a rule armed group fighters were present in al-Feijeh spring to protect it from Government attacks.

33. On the second day of the offensive, 23 December, an aircraft bombed the al-Feijeh spring. Both sides blamed each other for the attack, which inflicted extensive damage to the structures of the spring and killed at least one armed group fighter. Also on 23 December, the Damascus Water Authority announced it had cut off water supplies because armed groups had contaminated the water with fuel. As a consequence, 5.5 million people were left without regular access to water. In Wadi Barada, people resorted to water from the river and agricultural wells; in Damascus, the Government used backup wells, which provided 30 per cent of the daily water needs of Damascus.

34. Negotiations between the two sides in early January 2017 to allow repairs to the water structure collapsed after a chief opposition mediator was killed; again both sides traded accusations. The al-Feijeh water structure was eventually repaired in early February after an agreement between the warring parties ended the Wadi Barada siege.

35. The Commission investigated the allegation that the water was deliberately contaminated as well as the bombing of al-Feijeh. Regarding the first, there are no reports of people suffering from symptoms of water contamination on or before 23 December nor other indications that the water was contaminated prior to this date. On the contrary, interviewees say that Wadi Barada residents used water up until the bombing of 23 December and no one experienced any symptoms of contamination. Several interviewees, including a person who went to al-Feijeh after the bombing, recalled that shrapnel damaged

the storages of fuel and chlorine, which contaminated the water. It is therefore concluded that the water was not intentionally contaminated by either side.

36. The information examined by the Commission confirms that the bombing of al-Feijeh spring was carried out by the Syrian Air Force. A review of videos of the attack, photographs of the weapons used and damage to the facility, as well as pre and post-strike satellite imagery confirm the damage was caused by at least two airstrikes. Some entry holes in one of the facilities as well as physical damage to the structure are all consistent with high-explosive aerial bombs. Public reports that armed groups destroyed the facility with demolition charges are inconsistent with observable physical evidence. Witness testimony also supports the conclusion the attack was the result of airstrikes: one interviewee who was in the vicinity of the spring at the time of the attack recalled how airstrikes continuously bombed the area throughout the day. At around 10am, he heard an explosion and went to the spring where he saw that the structure had been hit and was severely damaged.

37. The al-Feijeh spring was struck multiple times by the Syrian Air Force, which indicates the spring was purposely targeted. While the presence of armed group fighters at al-Feijeh spring constituted a military target, the extensive damage inflicted to the spring had a devastating impact on more than five million civilians in both Government and opposition controlled areas who were deprived of regular access to potable water for over one month. It is therefore concluded that the damage caused to al-Feijeh spring was grossly disproportionate to the military advantage anticipated or achieved. The attack amounts to the war crime of attacking objects indispensable for the survival of the civilian population, and further violated the principle of proportionality in attacks.

## **B. Attacks directed against humanitarian relief personnel and objects**

38. During the period under review, the Commission continued to document attacks directed at or severely impacting the provision of humanitarian aid to those in need. In addition to the horrific attack on the United Nations/Syrian Arab Red Crescent (SARC) convoy on 19 September in Orum al-Kubra, western Aleppo governorate,<sup>5</sup> the Commission continued to document attacks directly impacting specially protected humanitarian aid workers and humanitarian objects. Such attacks not only kill and maim civilians, but also result in the denial of life-saving humanitarian aid and assistance to civilian populations already suffered from years of deprivation due to the conflict in the Syrian Arab Republic.

39. For example, on 1 February 2017, between 3am and 4am, an airstrike impacted the SARC headquarters in Idlib city injuring the head of the SARC Idlib Branch, destroying part of the building, and rendering the medical point within it inoperable. The building, formerly the Carlton Hotel, had been used by the SARC at its Idlib headquarters since 2012 and had a crescent painted on the roof to identify the building from the air. Photographs of a remnant recovered from the site show a common part used in bombs of Russian or Soviet manufacture although it was not possible to determine the exact weapon from the remnant. The Commission also found that the damage to the building from photographs and an analysis of satellite imagery indicates that a delay-fuse high explosive bomb caused the damage. Early warning reports, satellite imagery, witness testimony and forensic evidence gathered indicate that the attack was most likely perpetrated by either Russian or Syrian aircraft. Given the building's longstanding use as a SARC headquarters and the fact that it was identifiable from the air due to markings, it appears that the perpetrator of this attack intended to deliberately target the building and the SARC staff within, and therefore

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<sup>5</sup> A/HRC/34/64, paras. 79-88.

committed the war crimes of intentionally directing attacks against humanitarian relief objects and intentionally directing attacks against humanitarian relief personnel. The attack also resulted in the denial of humanitarian aid in relation to the services provided at that centre.

40. In another attack directed against humanitarian aid workers, a series of incidents between 19 and 20 February 2017 resulted in firing directed at members of humanitarian aid convoy, theft of humanitarian aid, and ultimately the denial of humanitarian assistance to a besieged community in al-Waer (Homs). The last successful delivery of humanitarian aid to the besieged population in al-Waer by an inter-agency humanitarian convoy took place on 22 October 2016.

41. Following negotiations, a joint International Red Cross Committee (ICRC)/SARC/United Nations convoy attempted to reach al-Waer on 19 February 2017 with the knowledge and after receiving permission of Government authorities and opposition forces. Between 11am and midday, the convoy reached the last Government checkpoint before entering al-Waer and stopped there. Regular Syrian Government forces controlled the checkpoint. A number of vehicles from the convoy reportedly proceeded past the checkpoint and entered al-Waer to meet with the representatives of the population in al-Waer. Civilians expecting aid to be delivered began to gather in the streets. As the vehicles passed through al-Waer town, shooting started, allegedly coming from the “Gardenia” building which overlooks al-Waer from Government-controlled territory. One civilian in the crowd was injured and the vehicles returned to the Government checkpoint.

42. Following the failed attempt to deliver the aid on 19 February, another attempt was made on 20 February. However, due to fighting on the ground, the convoy could not proceed into al-Waer.

43. On 20 February, during the evening, a group of civilians and armed men diverted a number of trucks from the convoy to nearby Mazra’a village. Mazra’a is reportedly controlled by the pro-Government Liwa’ al-Reda militia. While there, the trucks were emptied of the humanitarian aid, although the trucks and the drivers were released unharmed, reportedly early in the morning of 21 February.

44. Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Stephen O’Brien condemned the incident “in the strongest possible terms” in his Statement to the Security Council on the humanitarian situation in the Syrian Arab Republic on 22 February.<sup>6</sup> As of the writing of this report, humanitarian aid had not reached the besieged population of al-Waer.

45. The Commission notes that both the shooting incident on 19 February and the diversion of the humanitarian convoy likely amounted to the war crimes of intentionally directing attacks against humanitarian relief objects and intentionally directing attacks against humanitarian relief personnel. The attacks also resulted in the denial of humanitarian aid for the population of al-Waer.

### C. Prohibited weapons

46. Inherently indiscriminate weapons, including improvised chlorine munitions and cluster munitions continue to be used in civilian-populated areas during the period under review. Such usage is a continuation of trends and incidents reported over the same period

<sup>6</sup> See Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O’Brien, Statement to the Security Council on Syria, 22 February 2017.

in Aleppo city.<sup>7</sup> These weapons were used exclusively by Government and pro-Government forces, in areas of the country subject to concentrated government offensives, causing extreme harm to civilians therein.

47. Government and pro-Government forces continued to target civilian areas deliberately with improvised chlorine munitions, both air-dropped and through the use of improvised rocket-assisted munitions (IRAMs) in the suburbs of Damascus and Idlib Governorate. The Syrian Air Force is responsible for the use of air-dropped munitions while the use of ground to ground IRAMs suggest the use of either Government forces or pro-Government militia. Use of chlorine by Syrian forces follows a pattern observed in 2014, 2015 and 2016.<sup>8</sup> When deployed as a weapon, the dispersal pattern of gas found in chlorine bombs cannot be controlled or limited, rendering the weapon indiscriminate.

48. In none of the incidents reviewed did information gathered suggest the involvement of Russian forces in the use of chlorine attacks.

49. On 1 August at approximately 11am, Syrian helicopters dropped chlorine munitions on a residential area of Saraqeb city (Idlib) injuring 28 civilians, including 10 children and at least five women. Witnesses described containers dropped from helicopters and emitted a strong smell. Attending physicians described treating victims suffering difficulty breathing, coughing, nausea, shortness of breath, sweating, and red eyes. Witnesses described the area as civilian inhabited, without the presence of military objects.

50. On 8 January 2017, as part of a broader attack on Bseema village, Wadi Barada (Damascus), the pro-Government forces used chlorine munitions that injured at least six civilians. Witnesses described people vomiting, suffocating, with red irritated eyes, and burning sensations in their lungs as a result of inhaling a gas. Due to the scale of attacks in Bseema village on that date, it was not possible to determine whether the munitions were air dropped or IRAM-delivered.

51. Between 30 January and 21 February 2017, the Commission documented four chlorine attacks in the eastern Ghouta area targeting frontline fighting positions that also killed one person and injured 17 others. For instance, on 30 January, an IRAM with an improvised chlorine payload struck near a frontline position in Sultan al-Marj village injuring 11 men. Treating physicians described severe respiratory distress and dilated pupils amongst the victims. Photographs provided by witnesses show a 107mm rocket remnant that reportedly delivered the munition. In another incident on 9 February, a chlorine attack struck near four men who were cooking in Ghubair mosque area near Erbin in eastern Ghouta, knocking a man into the cooking fire and injuring three others. Treating physicians explains that the man who fell into the fire later died from his burns while the remaining three were treated for respiratory distress, severe coughing and breathing difficulties and later released. It was not possible to determine whether the munitions were air dropped or IRAM-delivered.

52. In addition to violating the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (ratified by the Syrian Arab Republic in 2013), the use of chemical weapons are prohibited in both international and non-international conflicts as they cause superfluous injury and unnecessary suffering and are by their very nature indiscriminate because the effects cannot

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<sup>7</sup> A/HRC/34/64, paras. 51-60.

<sup>8</sup> S/2016/738 and A/HRC/34/64.

be limited in time and space.<sup>9</sup> The attacks on 1 August 2016 and 8 January 2017 noted above also amount to the war crime of indiscriminate attacks in a civilian populated area.

53. The Commission also continued to document the use of cluster munitions by pro-Government forces across the Syrian Arab Republic in addition to the attacks in Aleppo city.<sup>10</sup> Syrian or Russian aircraft continued to deploy cluster munitions in airstrikes on civilian populated areas of Idlib, Douma, Dayr az-Zawr, and Aleppo Governorate. The use of cluster munitions in densely populated areas is inherently indiscriminate (given the typically wide dispersal pattern and high dud rate, which continues to endanger civilians years after a cessation of hostilities) and therefore their use in civilian populated areas constitutes the war crime of indiscriminate attacks in a civilian populated area.

54. In a particularly egregious attack, on 4 August aircraft attacked two internally-displaced persons' camps in Atarib district (Aleppo) using cluster munitions and other ordinance, killing four children and injuring nine others, including three women and four children. Photographs and video of remnants reveal a RBK-500 cluster bomb tail and multiple AO2.5RT cluster bomblets. Witnesses describe the camp populations as largely consisting of women and children, with no fighters present. The attack appears to have deliberately targeted an extremely vulnerable displaced population with indiscriminate weapons.

55. The Russian Federation and the Syrian Arab Republic use predominantly the same aircraft and weapons, thus rendering attribution impossible in many cases. In the following incidents in this section of the report, the Commission determined that either Russian or Syrian aircraft conducted the airstrikes in question. Airstrikes by other forces are dealt with separately in this report.

56. Between 5 and 7 August, a series of airstrikes hit Saraqeb city (Idlib), including civilian populated areas which killed one civilian and injuring 32 others, including one woman and three children. The attacks reportedly impacted civilian areas of the city, damaging the "al-Sakhra School", a medical facility, the water supply network and causing large numbers of civilians to leave the affected area. Photographs of remnants reveal AO2.5RT cluster bomblets as well as an RBK-500 cluster bomb tail and RBK-500 body.

57. In another incident on 10 September, an airstrike using cluster munitions impacted Qwatly street in Douma city (Damascus countryside), killing two civilians, including one woman, and injuring three others. The area is residential and commercial, with one witness describing how he was in a store when the attack commenced. He managed to take cover but the detonations killed one person standing outside the store and injured the store owner and his adult son. He also described small metallic balls remaining after the incident. Photographs of remnants reveal a ShOAB 0.5 cluster bomblet.

58. On 15 September, in Mayadin village (Dayr az-Zawr), an airstrike against ISIL positions using cluster munitions impacted a playground, killing at least 17 civilians, including at least six children and two women, and injuring up to 43 others. Photographs of remnants reveal a ShOAB 0.5 cluster bomblet.

59. On another incident on 10 October, airstrikes using incendiary cluster munitions impacted a civilian neighbourhood in Douma city (Damascus countryside), causing damage to civilian property but no casualties. Photographs of remnants reveal ZAB 2.5 cluster incendiary munitions.

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<sup>9</sup> International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, 2005, Volume I: Rules [hereinafter "ICRC Rule"], at Rule 74.

<sup>10</sup> A/HRC/34/64, paras. 57-60.

60. In each of the incidents using cluster munitions described above, the attacks appeared either directly targeted at civilians or significantly impacted civilian-populated areas. Given the evidence available concerning the types of weapons and location of the incidents, the Commission concluded that either Russian or Syrian aircraft, or both, participated in each incident and that each of the incidents constitutes the war crime of indiscriminate attacks in a civilian populated area.

## **IV. Armed groups**

### **A. Indiscriminate attacks**

61. During the period under review, armed groups continued to launch indiscriminate attacks with indirect fire artillery systems, including improvised, locally manufactured “Omar” rockets, predominantly in Aleppo, Idlib and Dara’a governorates. While parts of Dara’a governorate remain under the control of armed groups, government forces have consistently held parts of fractured Dara’a city. On 11 October, at approximately 11.55 am when pupils were attending morning classes at the Tha’t al-Nitaqin school in Dara’a city, two mortar shells fired by armed group members located in Dara’a al-Balad district struck the schoolyard where students were attending a physical education class. The first shell hit a classroom wall, while a second landed in the yard. Six children were killed by the indiscriminate attack, including two elementary aged children, one of whom was five years old. Another 20 children were wounded including a girl in grade 10, whose right leg was later amputated above the knee. One elderly male street vendor was also killed. Witnesses described how local mosques began appealing for blood donations via megaphones. The school was located at least two kilometres from where the attack originated.

62. By mid-February 2017, a renewed wave of attacks was launched by armed groups against Dara’a city. On 12 February, unguided “Omar” rockets killed an 11 year-old boy in al-Sahari neighbourhood who was on his way to school. His parent’s home was also hit a few days after, destroying a few rooms. These attacks are believed to have been launched from the al-Manshiya neighbourhood of Dara’a city, parts of which were jointly controlled by Jabhat Fatah al-Sham and armed groups at the time. Since mid-February, all schools in al-Sahari neighbourhood have been closed, and up to 300 houses completely destroyed by indiscriminate attacks.

63. Following clashes and in the lead up to attempts by FSA groups to capture the strategic city of al-Bab from ISIL in northern Aleppo countryside, on 10 October, in the village of Tel Btal near al-Bab, indiscriminate shelling launched by FSA group members struck the middle of a makeshift camp for internally displaced persons, killing three adult men all aged in their early twenties. The nearest frontline at the time was situated at a distance of approximately five to six kilometres from Tel Btal, and there were no military targets present in or near the camp.

64. On 22 December, Jabhat Fatah al-Sham acting alongside armed groups launched a coordinated daytime attack from Dara’a al-Balad, al-Moukhayyam, and al-Sad districts against government-controlled neighbourhoods near Dara’a city. Witnesses described a number of “rocket shells falling on civilian homes.” One elderly man died as a result of the attacks, as well as three members of the same family including a father, his son and his nephew. Another boy aged 16 years was killed while walking along a street in residential al-Matar neighbourhood. A further 11 civilians were injured, including a school teacher and at least one child.

65. On 13 January 2017, civilians including internally displaced persons living in Tamanaa, Idlib were caught in the middle of clashes between Jabhat Tahrir al-Sham, an

armed group supported by Jaysh al-Nasr, and the ISIL-affiliated Liwa al-Aqsa group.<sup>11</sup> Liwa al-Aqsa members had breached Tamanaa town at approximately 5am by detonating two vehicle borne improvised explosive devices (VBIEDs). Though the VBIEDs did not cause civilian casualties, Liwa al-Aqsa members subsequently overtook the Hanein medical association which houses a medical institution, three ambulances and a medicine shop, curtailing civilian access to essential medical services. Amidst intense clashes, civilians were told via loudspeakers to remain in their homes for the duration of the armed groups' infighting.

66. On 8 February 2017, unknown armed group members fired what is believed to be a rocket which struck a SARC aid distribution centre in the Hamadaniyah district of Aleppo city. Four civilians were killed as a result of the attack, including two SARC staff. At least six other SARC staff and volunteers were injured, as well aid beneficiaries present at the time. Damage to the SARC facility caused by the indiscriminate attack also resulted in the denial of humanitarian aid.

## **B. Local governance and justice systems**

67. Civilians continue to suffer due to the behaviour of armed groups in control of territory in which they reside, primarily throughout the stronghold of Idlib and northern Hama governorates. During the reporting period, Syrian men and women expressed their desire to begin sharing control over local governance with armed groups on an array of matters relating to daily life. Residents in Kafr Nbuda, northern Hama, for example, quarrelled with members of Ahrar al-Sham over local governance mechanisms in an attempt to obtain more rights and autonomy through power-sharing. A number of civilians further staged demonstrations during the period under review throughout both localities, with some calling for the withdrawal of armed groups who they increasingly view as imposing rules inconsistent with the needs of the civilian population, and whose presence they feel is increasingly responsible for airstrikes in civilian inhabited areas.

68. Residents living in Idlib also described the variety of "shari'a courts" located throughout the governorate, operated by nearly all armed group factions. Civilians in Idlib explained attending whichever religious court they felt was most suitable to adjudicate their concerns on a given issue relating to either civil disputes or criminal matters. In addition, residents further relayed how a given town in Idlib may have more than one shari'a court entrusted with the capacity to judge an individual when armed groups share control of the town. For example, in Ariha, two separate shari'a courts belonging to both Jabhat Fatah al-Sham and Jund al-Sham operate concurrently. The terrorist group uses the government's previous political branch offices in Ariha as a shari'a court and prison. Such parallel justice systems in Idlib fail to respect due process rights, lack fair trial standards and often result in executions.

## **C. Summary executions**

69. Internal rivalries between armed groups have led to heightened infighting over the reporting period, as well as to scores of summary executions of fighters. On 14 February 2017, members of Liwa al-Aqsa summarily executed at least 128 armed group fighters whom they had been detaining in Khazanat Khan Sheikhoun, a town in the Marat al-

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<sup>11</sup> As at 7 February 2017, the armed group previously known as "Jund al-Aqsa" adopted the name Liwa al-Aqsa. For purposes of consistency, all references made to the ISIL-affiliated armed group throughout the present report are to "Liwa al-Aqsa."

Nu'man district of Idlib. Liwa al-Aqsa members handcuffed, blindfolded and escorted groups of between seven and 10 detainees under the pretext that the detainees would receive Islamic repentance lessons and then be released. Instead, members of Liwa al-Aqsa killed executed fighters by either gunshots to the head or beheadings, amounting to the war crime of attacks against persons hors de combat.<sup>12</sup> The armed group Jaysh al-Nasr issued a public statement confirming that a number of their fighters were among the victims. Victims further included members of Abu al-Nawaeer, Faylaq al-Sham, and al-Firqa al-Wista armed groups, among others. On 22 February 2017, civilians in Khazanat Khan Sheikhoun discovered two mass graves containing the corpses of the armed group fighters. All victims were male, and at least two of them were minors. Fighters who had been able to escape confirmed being detained in a nearby building prior to the executions, and claimed to have witnessed the torture of armed group members.

#### **D. Arbitrary arrest, detention, torture and enforced disappearance**

70. On 27 July, a group of female detainees suffering from illnesses were released from al-Tawba prison in Douma. They had been detained since 11 December 2013, when members of armed groups including Jaysh al-Islam, Ahrar al-Sham and the terrorist group Jabhat Fatah al-Sham (then Jabhat al-Nusra) invaded the town of Adra Oumaliyah in Damascus countryside and took Alawite men, women and children hostage. While imprisoned, armed group elements separated men from women, and all detainees were periodically visited by a sheikh who encouraged them to convert to the Sunni Islam denomination. One female hostage recalled how “the sheikh used to curse Alawites and ask God to exterminate the group and their children.” In the summer of 2014, an additional group of female hostages were brought to the prison, increasing the number of female detainees to 43, along with nine children under the age of 13 years who accompanied their mothers. All female hostages were members of minority religious groups, including Alawite, Ismaili, Druze, and Christian. It is estimated that dozens of additional men, women and children remain under the custody of armed groups in eastern Ghouta. The Commission has previously identified sectarian motivations underpinning violations carried out by Jaysh al-Islam.<sup>13</sup>

71. On 24 August, shortly after FSA groups captured Jarablus city in northern Aleppo countryside from ISIL, armed groups began an intensive campaign of arbitrarily arresting citizens perceived to be sympathetic to the terrorist group. Civilians began accusing one another of being ISIL supporters in order to settle scores, causing FSA groups controlling the town to arbitrarily arrest numerous individuals, where after many were taken to armed group controlled areas in Aleppo countryside, in acts amounting to enforced disappearances.

72. In mid-July, shortly prior to an escalation of hostilities in Aleppo city, a number of residents attempted to flee western Aleppo city. During one attempt to cross to the northern Syrian border, individuals were stopped by Jaysh al-Mujahidin fighters manning the Bab al-Hawa Border Crossing, situated in Idlib countryside. The group of individuals included a 19 year-old man and his mother. The man was immediately arrested, and his mother sent back to Aleppo. Jaysh al-Mujahidin fighters kept the man in Khan al-Assal prison, where he was handcuffed, blindfolded and stripped of his belongings and money. Over the course of two months, he was tortured by being hung from his arms to a ceiling, and beaten

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<sup>12</sup> ICRC Rule 47; see also Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949 (“Common Article 3”), para 1.

<sup>13</sup> A/HRC/31/68, para. 105.



simultaneously. During his confinement, the man also overheard other detainees being tortured. He was able to escape in the beginning of October.

## **V. Jabhat Fatah al-Sham**

### **A. Summary executions**

73. In late August, Jabhat Fatah al-Sham<sup>14</sup> militants stoned to death a woman from Heish village in Idlib countryside, after members of the terrorist group accused her of having had extramarital relations. The woman was apprehended in the home of the unmarried man with whom she was involved, and immediately taken for execution. Upon being informed of her death, the woman's family did not ask for her body, instead regarding the accusation levied against her as a matter of "dishonour." The victim's family moreover voiced their public support for Jabhat Fatah al-Sham's judgment, in order to "cleanse their honour for her crime." The unmarried male was further summarily executed via gunshot immediately upon his arrest.

### **B. Recruitment and use of child soldiers**

74. A number of accounts detailing the recruitment and use of child soldiers by Jabhat Fatah al-Sham were received during the reporting period. For example, in Ariha (Idlib), the terrorist group's forces comprise boys under the age of 18, as well as some aged under 15 years, particularly those manning military checkpoints and other centres.<sup>15</sup> Witnesses described how Jabhat Fatah al-Sham actively recruits children in Idlib: amidst dire economic conditions, many children continue to be recruited for modest salaries to support their families, while children living in towns and villages in Idlib without access to education remain disproportionately vulnerable to recruitment.

## **VI. Islamic State of Iraq and the Levant (ISIL)**

### **A. Disproportionate attacks**

75. ISIL's recurrent use of suicide-bombers remains a feature of its tactics. The group occasionally uses suicide-belts but most commonly resorts to VBIEDs also known as car suicide bombers. Although suicide bombings as such are not prohibited under international humanitarian law, they frequently target civilian objects or cause disproportionate civilian harm vis-à-vis the military objective targeted. In those cases, they amount to war crimes.

76. On 7 January 2017, at around 11am, a fuel truck blast at a checkpoint in the city centre of Azaz (Aleppo countryside) killed at least 48 persons and injured another 60. The town was a stronghold of ISIL until September 2016 when it was retaken by the FSA. Since

<sup>14</sup> Throughout the period under review, Jabhat Fatah al-Sham undertook certain major operations in concert with some armed groups, despite ideological or political divergences. Notwithstanding these operational tactics and its change of name from "Jabhat al-Nusra" in July 2016, the Commission continues to regard Jabhat Fatah al-Sham as a terrorist entity as designated by Security Council resolution 2170 (2014). After the Astana talks, the terrorist group united with a number of extremist factions under the umbrella coalition of Hay'et Tahrir al Sham (HTS), thus severing its links with several armed groups with whom it used to cooperate.

<sup>15</sup> ICRC Rule 136.

losing control of Azaz, ISIL carried out several suicide bombings in the town. The 7 January explosion took place next to a market and a shari'a court and while it reportedly killed six FSA fighters, it took place in an area that was crowded with civilians. One survivor described how the amount of explosives on the truck was such that he saw them before the blast. He ran to take shelter in a shop and remained under the rubble until he was rescued some hours later. Another eyewitness recalled seeing body parts of women and children killed in the aftermath of the explosion.

## **B. Executions, corporal punishments and detention**

77. Throughout the reporting period, ISIL continued to carry out executions and to impose severe corporal punishments against those perceived to violate its strict religious rules, with the harshest punishment, the death penalty, given to women accused of adultery and men accused of sodomy. These practices, which discriminate against victims based on their gender and sexual orientation, have been a hallmark of the group's rule since its inception but are more strictly enforced during the holy month of Ramadan.

78. By July 2016, numerous reports of killings of women and boys continued to emerge from areas throughout ISIL-held ar-Raqqa. One interviewee described how a 16-year-old boy was arrested by al-Hisbah, the ISIL branch responsible for identifying infringers of the group's rules, on charges of smoking. Two weeks after being detained, the boy was accused of sodomy and killed as punishment by being thrown off a building. One interviewee described how also during Ramadan he was detained for smoking and having no beard and lashed 10 times as a result.

79. Also in July 2016, al-Hisbah executed a woman in Zur Shammar, approximately 40km from ar-Raqqa city. The woman was accused of adultery by a male relative and her father and child forced to watch her being stoned to death. She was killed inside a hole dug for that purpose with her hands tied behind her back. Another woman was stoned for adultery in ar-Raqqa city during Ramadan but managed to escape, which was interpreted by the al-Hisbah as a sign that she was not guilty and therefore allowed to live.

80. ISIL continues to punish women accused of breaching the group's strict dress code that requires them to wear a niqab in public. An ar-Raqqa resident describes this rule as being so strict that women are not even allowed to lift an eye piece of the niqab to look at goods in the market. Women are also required to be accompanied by a male relative when out in public, with punishments ranging from fines to corporal punishments.

81. These group's rules for women are enforced by patrols, which in the beginning of ISIL's rule were composed solely of men but overtime have come to be composed of women too. In one instance, one of these patrols insulted and chased a woman in the streets of ar-Raqqa because she was not wearing socks. The woman tried to escape but was arrested by the patrol. In another instance, in Hazima village (ar-Raqqa countryside), a bride was arrested by al-Hisbah because her cloak was considered too short. She was arrested and detained for one week, after which her husband divorced her because he believed she had been raped.

## **C. Human shields**

82. In early August, the SDF made advances into Minbij (Aleppo countryside) and eventually took control of the city, which had been under ISIL rule since January 2014. On 12 August, as ISIL retreated from Minbij to Jarablus, a city then under ISIL control, the group forcibly took at least 500 civilian residents with them. By using Minbij residents to

prevent attacks on the retreating militants, ISIL used civilians as human shields, a war crime under customary international humanitarian law.

83. The sheer size of the convoy retreating from Minbij, made it hard for ISIL to control all vehicles and on 13 and 14 August some civilian cars were able to escape and return to Minbij. Other families however remain under control of the group until they reached Jarablus, at which point they were released. One interviewee recalled how he feared for the fate of his family that was taken all the way to Jarablus, and remained there for several days before being released. ISIL's strategy, which effectively prevented attacks on the militants, raises concerns that the group will resort to this strategy in the future.

#### **D. Destruction of cultural property**

84. Palmyra, an ancient Roman city and a World Heritage Site, has been at the centre of bitter violence for the past two years as Government forces and ISIL battle for its control. Under ISIL control from May 2015 onwards, many of the city's archaeological treasures, including the Temple of Bel, were reduced to rubble. Pro-Government forces retook the city in March 2016 but in December ISIL recaptured Palmyra. Although this proved short lived – by early March 2017, Government forces claimed to have completely retaken the city – ISIL rule once again proved devastating to the rich cultural heritage of the Syrian Arab Republic.

85. Around 18 January 2017, ISIL destroyed two of the four columns of a Tetracylon, a cubic structure with four gateways that formed part of the façade of the second-century amphitheatre. The attack, which was likely carried out with dynamite, did not serve any military purpose and also inflicted damage on the amphitheatre. The attack on the Tetracylon is a particular blow to Syrian culture as in addition to its historic value, the structure has been described by UNESCO as symbolising the spirit and openness of Palmyra.

### **VII. Kurdish People's Protection Units (YPG)**

#### **A. Internal displacement**

86. During the period under review, strategic areas in northern Aleppo countryside continued to serve as flashpoints for control between warring parties. On 31 May, the SDF,<sup>16</sup> with the support of coalition air cover, launched an offensive to capture Minbij city from ISIL, which borders the western bank of the Euphrates River. The offensive lasted until mid-August, when the SDF succeeded in capturing the city.

87. The Minbij offensive was preceded in late December 2015 by a similar SDF offensive to take the Tishreen Dam from ISIL. Both offensives were characterised by waves of mass displacement, whereby SDF forces ordered residents to leave their villages, including in Khirbat Khalid, al-Hamadat, Qashlat Yousuf Pasha, al-Haj Hussain, al-Balashah, al-Asa'adiyeen, and Khirbat Twaina. At least 3,000 residents were displaced to the Abu Qalqal sub-district from the Tishreen Dam area, some 15 kilometres from their homes. Thousands of others have been displaced from Minbij city.

<sup>16</sup> The Syrian Democratic Forces (SDF) is an alliance primarily comprised by YPG forces, and includes their allies among Arab and Assyrian armed groups, the FSA and other opposition groups.

88. By late August, SDF troops began permitting displaced civilians to return to certain villages, including al-Haj Hussain, Mustafa Hammada, Saidin, Shash (al-Bo Banna), Khrbat Khalid, al-Hamaadat, al-Rous, and Jib al-Nashama. Others, however, continue to remain internally displaced, living under dire humanitarian conditions. While some individuals managed to stay with relatives in Abu Qalqal, others continue to live in simple tents. Families with children describe being particularly affected.

89. Residents displaced to Abu Qalqal also express fears of looting of their personal belongings left in their homes. In one instance, a witness described how SDF forces demolished a number of houses near Shash (al-Bo Banna) village, and cut down olive trees to use as firewood. Other residents who were able to briefly sneak back into their villages echoed how some SDF troops had pillaged their property.

90. Since mid-2015, the Commission has noted the indiscriminate presence of anti-personnel landmines, improvised explosive devices and booby traps in civilian inhabited areas captured from ISIL by YPG or the SDF, including in houses and vehicles.<sup>17</sup> Such concealed, improvised bombs continue to be laid by ISIL as part of its withdrawal strategy, with devastating effect. Shortly after the SDF launched operations to seize the Tishreen Dam from ISIL in late December, ISIL militants began laying landmines on roads leading to villages surrounding the dam, as well as in neighbouring areas leading to Minbij. Inhabitants recalled ISIL militants telling them that the plan was “to prevent Kurdish troops from advancing to Minbij, in case the Tishreen Dam fell.” Witnesses further detailed how ISIL used young boys as escorts to lay the mines, in an effort to camouflage their movements. Young boys were made to look like shepherds leading livestock, and at least one boy aged 12 years died as a result of a landmine detonation. The SDF began demining areas throughout Minbij shortly after capturing the town in mid-August.

91. The presence of concealed bombs laid by ISIL justifies ordering the temporary displacement of civilians from the Tishreen Dam and Minbij areas, but only for such time required for SDF troops to take steps necessary to safeguard the security of civilians.<sup>18</sup> Moreover, SDF authorities bore the responsibility to ensure that any temporary displacements were carried out in satisfactory conditions of shelter, hygiene, health, safety and nutrition, and that members of the same family were not separated.<sup>19</sup> Displaced individuals did not receive adequate assistance from SDF or YPG authorities in this regard.

92. Further allegations of displacement continue to be received. On 6 November, the SDF, supported by coalition air cover, attacked the ISIL-held village of Heisha, in ar-Raqqah. Witnesses described how residents were ordered to leave the area by SDF troops, some of whom went house to house demanding that civilians leave on threat of punishment. Families displaced from Heisha village continue to live in dire conditions, lacking even basic necessities. In May 2015, YPG forces overtook Suluk, a town in the Tel Abyad district of ar-Raqqah. Though residents in Suluk and neighbouring villages described fleeing in advance of clashes between YPG and ISIS, they have since been prevented by YPG forces from returning to their homes, as the areas have collectively been declared a military zone by YPG forces who erected barricades and checkpoints. The displacement of Suluk and its environs has also had an impact on access to education, as many schools including one in Roufa village, al-Hasakah, are now being used to house internally displaced persons.

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<sup>17</sup> A/HRC/31/68, para. 97.

<sup>18</sup> ICRC Rule 129(b); see also Guiding Principles on Internal Displacement, United Nations Economic and Social Council, E/CN.4/1998/53/Add.2, 11 February 1998, at Principles 6(3), noting that “[d]isplacement shall last no longer than required by the circumstances.”

<sup>19</sup> Ibid. at Principles 17-19.

93. Though allegations of “ethnic cleansing” continued to be received during the period under review, the Commission found no evidence to substantiate claims that YPG or SDF forces ever targeted Arab communities on the basis of ethnicity, nor that YPG cantonal authorities systematically sought to change the demographic composition of territories under their control through the commission of violations directed against any particular ethnic group.

## **B. Violations and abuses**

94. YPG forces continue to forcibly conscript men and boys for military service. In one instance, a 17 year-old boy was arrested by Asayish (Kurdish police) forces at a checkpoint located between Tal Brak and al-Hasakah city in the summer of 2015, and held until September 2016 on the accusation of supporting ISIL for not joining the YPG. The boy described inhuman conditions at a detention facility in al-Hasakah city, as he was initially held in a bathroom instead of a cell, and tied to a metal bar with his arms above his head. The boy claimed to have been both physically and psychologically tortured during interrogation, while blindfolded, and later held with other boys aged 13 to 17 years.

95. During the recapture of eastern Aleppo city by pro-Government forces in December, YPG forces temporarily took control of certain northern districts, and began searching abandoned homes for potential intelligence. Witnesses described seeing YPG forces confiscate computers and telephones from residences in Sheikh Fares, in addition to burning down some individuals’ properties.

## **VIII. International coalition**

96. The Commission continues to take note of airstrikes carried out by the international coalition that impacted civilians in Syria that raise concerns regarding distinction, proportionality, and precautions in attacks under international humanitarian law.

97. For example, on 4 October in Taltana village, Aleppo Governorate, a United States coalition aircraft targeted ISIL fighters killing up to 25 people. Multiple sources reported that up to 13 of those killed were civilians, including nine children while only between two and four ISIL fighters were killed. Local sources reported that ISIL fighters had forced local people to gather to watch the implementation of a punishment when the airstrike occurred. In the Combined Joint Task Force - Operation Inherent Resolve Monthly Civilian Casualty Report published on 1 December 2016, the coalition “assessed that one civilian was inadvertently killed as a result of the blast following the strike.”<sup>20</sup> Although the casualty figures are disputed, the Commission acknowledges the public reporting effort of the coalition, while noting that this airstrike raises concerns regarding the proportionality, and precautions in attacks under international humanitarian law.

98. Likewise, in a series of airstrikes in early February 2017, international coalition aircraft likely conducted a series of airstrikes on bridges and infrastructure around Raqqa city, cutting transport routes for both ISIL fighters and civilians alike. Operation Inherent Resolve claimed in its daily “Strike Release” press statements between 2 and 10 February that dozens of airstrikes impacted 36 different “supply routes”, corresponding to the information provided by witnesses and affected residents. The Commission notes that while bridges and other transportation routes may be legitimate military targets, the decision to

<sup>20</sup> See Combined Joint Task Force - Operation Inherent Resolve Monthly Civilian Casualty Report, Release No: 16-177, 1 December 2016.

target such infrastructure must be based on military necessity and should not be disproportionate in relation to the impact on the civilian population.

## IX. Obligations of States

99. As the conflict in the Syrian Arab Republic continues to evolve, it has resulted in the active intervention of a number of Member States through both direct actions on the territory of Syrian Arab Republic in support of and in opposition to the Government and through the provision of logistic, material, and financial support to non-state armed groups. The Commission notes that neither the Syrian Arab Republic nor the major third party states providing support to the Syrian Government or to groups opposed to the Government are party to the 2014 Arms Trade Treaty which for specific restrictions on the transfer of arms on the basis of respect for international humanitarian law and international human rights law.

100. The Commission recalls however, that all states have an obligation under Article 1 Common to the Four Geneva Conventions “to respect and to ensure respect for the present Convention in all circumstances”. As Article 3 Common to the Four Geneva Conventions is part of each of the four “present” Conventions as well, this obligation extends as a matter of treaty obligation to the minimum guarantees provided in Common Article 3 in situations of “armed conflict not of an international character occurring in the territory of one of the High Contracting Parties.” The ICRC Commentary to Common Article 1 of 1952 as well as the updated ICRC Commentary of 2016 indicate that the High Contracting Parties’ obligations “to respect and ensure respect for” the Conventions are required both in respect to their own forces as well as the forces of other parties to a conflict in situations of both international and non-international armed conflict.

101. The obligation to ensure respect by others, according to the ICRC Commentary of 2016 entails both positive and negative obligations.<sup>21</sup> The positive obligations require High Contracting Parties to take actions to prevent violations of international humanitarian law by other parties to a conflict, within the confines of the United Nations Charter. The negative obligations require High Contracting Parties to refrain from encouraging, aiding, or assisting other parties in the commission of violations of international humanitarian law,<sup>22</sup> including through the provision of funding and arms when there is an expectation that the funding or arms may be used to perpetrate violations.<sup>23</sup>

102. Thus, in addition to the specific obligations under international humanitarian law of all parties engaged in the conduct of hostilities on the territory of the Syrian Arab Republic, the Commission reiterates that every state providing arms, funding, and other forms of support is required to refrain from providing such support if there is an expectation based on past conduct of the recipients that it will encourage the commission of violations of international humanitarian law.<sup>24</sup>

<sup>21</sup> Customary international humanitarian law imposes a positive and negative requirement that states must ensure respect for international humanitarian law *erga omnes* according to the ICRC Rule 144.

<sup>22</sup> See ICRC Commentary of 2016, Article 1: Respect for the Convention, at paras 158-163; see also *Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America)*, International Court of Justice, Merits, Judgment, 1986, at para. 220.

<sup>23</sup> See ICRC Commentary of 2016, Article 1: Respect for the Convention, at para. 161.

<sup>24</sup> Article 16 of the International Law Commission’s Draft Articles of State Responsibility (2001) on the provision of aid or assistance in the commission of an internationally wrongful act notes that a State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) That State does so with knowledge of the

103. The Commission also notes that situations of occupation under international humanitarian law apply in “all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance” under Article 2 Common to the Geneva Conventions. The Commission therefore reminds States of the obligations under the 1907 Hague Regulations, the Fourth Geneva Convention, Additional Protocol I to the Geneva Conventions, and customary international humanitarian law.

## X. Conclusions and recommendations

### A. Conclusions

104. Throughout most of the reporting period, the warring parties continued to resort to tactics of war that violate basic principles of international humanitarian law with disastrous consequences for civilians with women, children and elderly persons being disproportionately affected by armed violence.

105. Vicious attacks on civilian infrastructure, including hospitals, schools and water sources have resulted in astounding numbers of civilian casualties and the massive destruction of buildings meant to provide essential services to the population. The deliberate targeting of medical facilities and workers by pro-Government forces, amounting to war crimes, has led to a severe weakening of health-care infrastructure, which after almost six years of conflict is already depleted to impossibly low levels. Prevented from accessing life-saving treatments, civilians are the main casualties of this practice.

106. A ruthless airstrike carried out by the Syrian Air Force on a complex of schools in Haas (Idlib) killed 21 children, some as young as seven, and left another 61 injured. In the absence of information suggesting that there was a legitimate military target present inside the schools or in their vicinity, coupled with the lack of prior warning given, this attack amounted to the war crimes of deliberately targeting a civilian object and deliberately attacking civilians. In another instance, the Syrian Air Force carried out an attack on a water spring in Wadi Barada, a besieged area. The airstrikes severely damaged the water structure and deprived more than five million people from regularly accessing potable water. While there were armed group fighters at the water structure at the time of the attack, the military advantage gained by the attack - one fighter was killed - was grossly disproportionate to the impact it had on the civilian population, amounts to the war crime of attacking objects indispensable for the survival of the civilian population

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circumstances of the internationally wrongful act; and (b) The act would be internationally wrongful if committed by that State. Moreover, the ILC’s Commentary to Article 16 clarifies that “a State may incur responsibility if it [...] provides material aid to a State that uses the aid to commit human rights violations. In this respect, the General Assembly has called on Member States in a number of cases to refrain from supplying arms and other military assistance to countries found to be committing serious human rights violations.” See Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, International Law Commission, at pp. 65-67, Article 16, and para 9 (internal citations omitted), available at [http://legal.un.org/ilc/texts/instruments/english/commentaries/9\\_6\\_2001.pdf](http://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf).

107. Pro-Government forces continued to use prohibited weapons including improvised chlorine munitions and cluster munitions in civilian-inhabited areas. The use of chlorine, which causes superfluous injury and unnecessary suffering, is inherently indiscriminate because its effects cannot be limited in time and space. Similarly, the use of cluster munitions in densely populated areas is inherently indiscriminate given their wide dispersal pattern and high dud rate, which continues to endanger civilians years after a cessation of hostilities. As such, pro-Government forces use of chlorine and cluster munitions constitutes the war crime of indiscriminate attacks.

108. Armed groups launched indiscriminate attacks with indirect fire artillery systems, including with unguided, locally manufactured weapons, killing and maiming civilians, many of them children, in Government-controlled areas of Aleppo, Idlib and Dara'a governorates. Armed groups based in Idlib further exacted justice through the use of shari'a courts lacking fair trial and due process standards, while in other governorates armed groups conducted arbitrary arrests, detentions, enforced disappearances and committed torture. Indiscriminate attacks including the use of car bombs killed and maimed scores of civilians.

109. The terrorist group Jabhat Fatah al-Sham continued to carry out summary executions including stoning of women accused of extramarital relations. The group continues its practice of recruiting and using children, some younger than fifteen, throughout Idlib governorate. Throughout the period under review, coordinated attacks with armed groups launched by indirect artillery fire resulted in dozens of civilian casualties including of many children.

110. Civilians living in ISIL-controlled territory continue to fall victim of the terrorist group's extreme ideology. ISIL often applies the death penalty for infringements to its strict rules, resulting in savage public executions. Women and girls accused for adultery are stoned to death and homosexual men and boys thrown from high-buildings. The group also uses civilians for military purposes as only too clearly demonstrated by its use of hundreds of civilians as human shields during its retreat from Minbij. During its brief retake of Palmyra, ISIL once again detonated a cultural heritage site, partially destroying an ancient Tetracylon and damaging an ancient Roman amphitheatre, following a pattern of attacking ancient cultural sites of invaluable cultural and historic significance.

111. Across northern Syria, SDF or YPG forces displaced communities in order to clear areas mined by ISIL during their withdrawal. In some cases, SDF or YPG forces did not provide adequate humanitarian aid such as tents or water to displaced communities. YPG forces further continue to forcibly conscript men and boys for military service.

112. Operations carried out by the international coalition have in some cases harmed civilians during airstrikes, although to date the coalition is the only entity to provide regular public assessments of its own conduct in relation to civilian protection. Over the period under review, the number of Member States carrying out airstrikes or deploying ground forces on the territory of Syria increased, raising concerns regarding the escalation of the conflict and the potential to exacerbate civilian harm.



## **B. Recommendations**

113. **The Commission reiterates the recommendations made in previous reports. It also makes the recommendations below.**

114. **The Commission recommends that all parties:**

(a) **Distinguish military from civilian objectives, refraining from all indiscriminate and disproportionate attacks that result in loss civilian life and destroy objects indispensable to the survival of the civilian population;**

(b) **End attacks against humanitarian workers, including medical personnel and first responders, and safeguard the sanctity of hospitals and medical transport;**

(c) **Undertake investigations into the conduct of their forces and make their findings public;**

(d) **Allow rapid, safe, sustained, unhindered and unconditional access to humanitarian aid, particularly to besieged and hard-to-reach areas;**

(e) **Prohibit and prevent the use of prohibited weapons and related arms trade and trafficking;**

(f) **Ensure the right to return of all those internally displaced by the conflict including by guaranteeing their safety and property rights;**

(g) **Refrain from attacking cultural and historic sites and assist in the safeguarding of these sites;**

(h) **Strengthen measures and ensure more effective cooperation against terrorists listed by the Security Council.**

(i) **Continue engaging and pursuing political dialogue with a view to end the conflict in the Syrian Arab Republic.**

115. **The Commission recommends that the Government of the Syrian Arab Republic:**

(a) **Abide fully by human rights and international humanitarian law, as well as Security Council resolutions;**

(b) **Allow the Commission access to the country.**

116. **The Commission recommends that anti-Government armed groups comply with customary international humanitarian law;**

117. **The Commission recommends that countries with influence over the warring parties, in particular the permanent members of the Security Council, work in concert to engage with the parties to end the violence, in the pursuit of an all-inclusive and sustainable political transition process in the country.**

**The Commission recommends that the international community:**

(a) **In compliance with their obligations to respect and to ensure respect for the Geneva Conventions, to refrain from providing arms, funding, or other forms of support to parties to the conflict when there is an expectation that such support may be used to perpetrate violations of international humanitarian law, and also to ratify treaties that promote respect for international humanitarian law and international human rights law when transferring arms, in particular the Arms Trade Treaty;**

(b) **Promote efforts to ensure accountability, including by actively supporting the establishment of the International, Impartial and Independent**

**Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, in accordance with General Assembly resolution 71/248;**

(c) **Urges all Member States to reinforce the international legal framework on civilian protection, including by ratifying relevant treaties, such as the Convention on Cluster Munitions and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;**

(d) **Sustain and expand funding and other supports for humanitarian operations;**

(e) **Protect the human rights of all persons, including migrants, asylum seekers and refugees, which are part of customary international law, and comply with obligations under international human rights treaties, the Convention relating to the Status of Refugees and the Protocol thereto and other relevant instruments;**

118. **The Commission recommends that the Human Rights Council support the recommendations made, including by transmitting the present report to the Secretary-General for the attention of the Security Council in order that appropriate action may be taken, and through a formal reporting process to the General Assembly and to the Security Council.**

119. **The Commission recommends that the General Assembly support its recommendations and enable the Commission to offer regular briefings.**

120. **The Commission recommends that the Security Council:**

(a) **Support its recommendations;**

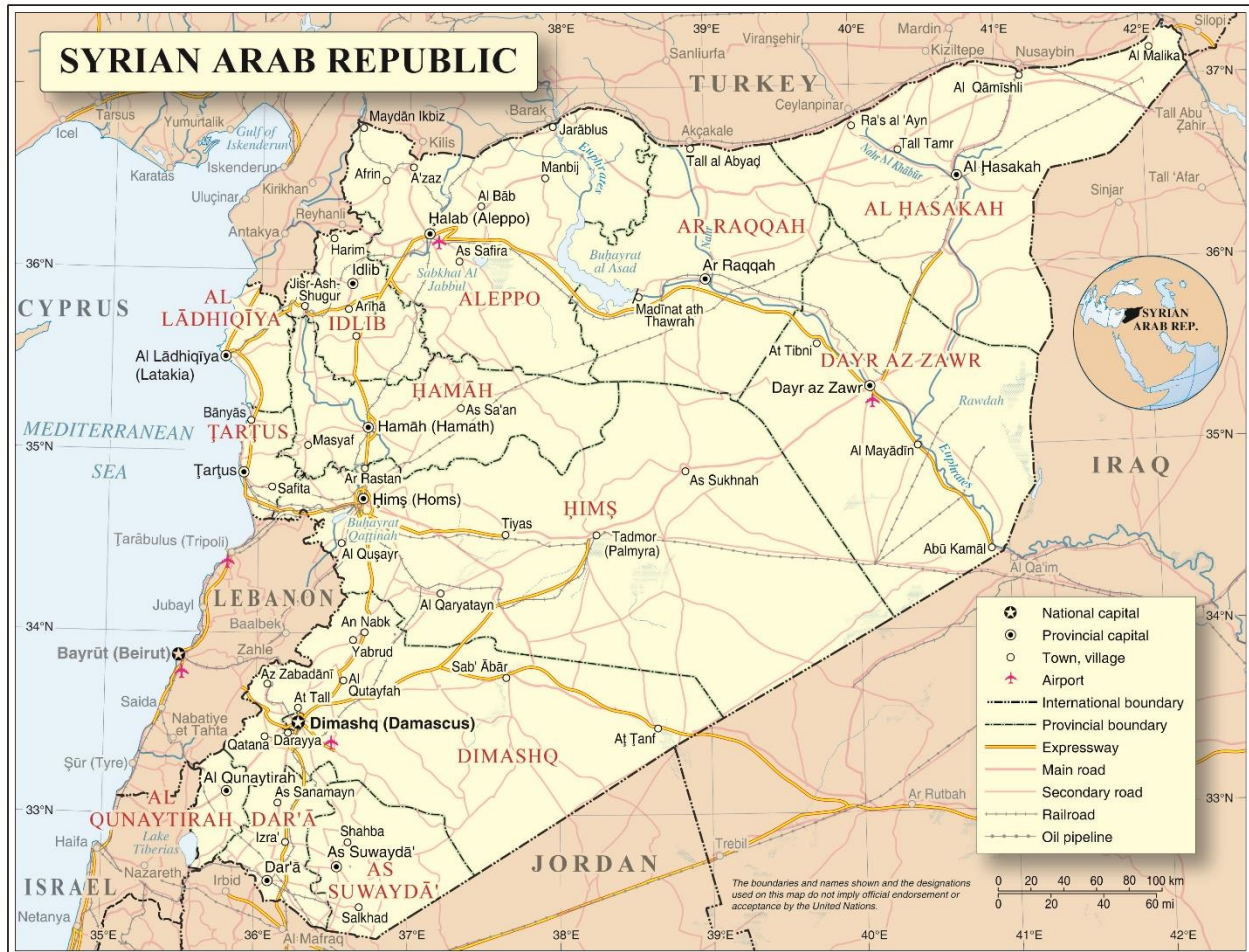
(b) **Include regular briefings by the Commission as part of the formal agenda of the Security Council;**

(c) **Take appropriate action by referring the situation to justice, possibly to the International Criminal Court or an ad hoc tribunal, bearing in mind that, in the context of the Syrian Arab Republic, only the Security Council is competent to refer the situation;**

(d) **Leverage its influence with all relevant actors and stakeholders to ensure a comprehensive and all-inclusive peace process that maintains due respect for human rights and international humanitarian law.**

Annex

Map of the Syrian Arab Republic



Map No. 4204 Rev. 3 UNITED NATIONS April 2012

Department of Field Support Cartographic Section