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Human rights situations that require the Council's attention**Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*****Summary*

Since the start of the conflict in the Syrian Arab Republic, hostilities show little sign of abating in several parts of the country with a large number of State and non-State actors participating across different theatres of conflict. Multiple, rapidly shifting alliances among these parties continue to create volatility and power vacuums that facilitate violations of international law. The absence of an effective peace process, coupled with the failure of conflicting parties to provide unfettered access to humanitarian actors and independent monitors, renders distant the prospect of improving the immediate protection environment for civilians.

The operations by Turkish forces and the Syrian National Army, under the moniker Operation Peace Spring, followed the sudden withdrawal of troops of the United States of America in early October. The resulting rapid waves of civilians fleeing from the area between Ayn Isa and Tall Tamr contributed to an already dire displacement situation for many, including children, in areas under the control of the Syrian Democratic Forces.

As battles waged over strategic areas in southern Idlib, Hay'at Tahrir al-Sham terrorists attempted to tighten their grip over the population. Activists, journalists and civilians continue to be unlawfully detained for criticizing the group's mounting interference. Pro-government forces also carried out aerial and ground attacks in southern Idlib against terrorist organizations, striking civilian infrastructure, including protected objects such as medical facilities. Access to medical care for the wounded was thus undermined, while attacks on women's and children's hospitals prevented pregnant women and new mothers from receiving medical care. Between May 2019 and early January 2020, these attacks caused the displacement of 700,000 civilians.

*, * Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

** ** The annexes to the present report are circulated as received, in the language of submission only.

In government-controlled areas, conditions for return remained largely absent with significant barriers in place for civilians to claim their property, including expropriation by the Government. In formerly besieged towns and villages where “reconciliation” agreements have been imposed, ubiquitous checkpoints created fear among the civilian population and restricted freedom of movement and access to basic services.

These circumstances left little respite for those in the Syrian Arab Republic and the multitude of violations outlined in the report demonstrate a stark reality for countless women, men and children. Gender roles, and the inequalities that underpin them, have fuelled and amplified the direct impact of these violations. Women, and in particular those belonging to certain religious and ethnic communities, have been adversely affected by the conflict. In camps in areas controlled by Syrian Democratic Forces, foreign children with alleged familial links to the Islamic State in Iraq and the Levant continued to languish in despair, becoming increasingly vulnerable. As many of their countries of origin refuse repatriation, thousands of children, many unaccompanied, remain in a legal limbo.

All warring parties continue to ignore or deny protection, including guarantees of sustained and unhindered humanitarian assistance, to vulnerable civilians. Despite appeals and recommendations in previous reports for warring parties to take corrective action, the calls have largely gone unheeded.

I. Mandate and methodology

1. In the present report, submitted to the Human Rights Council pursuant to its resolution 40/17, the Independent International Commission of Inquiry on the Syrian Arab Republic presents its findings based on investigations conducted from 11 July 2019 to 10 January 2020.¹ The methodology employed by the Commission was based on the best practices of Commissions of inquiry and fact-finding missions.
2. The information contained herein is based on 233 interviews conducted in the region and from Geneva. The Commission collected, reviewed and analysed satellite imagery, photographs, videos and medical records. Communications from Governments and non-governmental organizations were taken into consideration, as were United Nations reports.
3. The standard of proof was considered met when the Commission obtained and corroborated a reliable body of information sufficient for it to conclude that there were reasonable grounds to believe the incidents occurred as described and that violations were committed by the identified party.
4. While the Commission remains open to discussing its findings with the authorities of the Syrian Arab Republic, its investigations remain curtailed by the denial of access to the country. Protection concerns in relation to interviewees further affected the Commission's inquiry. In all cases, the Commission remained guided by the principle of "do no harm".

II. Political and military developments

5. There were sustained international efforts to revitalize the political process in the reporting period. The Secretary-General announced in late September that the Government of the Syrian Arab Republic and the opposition's Syrian Negotiation Commission had agreed to begin the work of the Constitutional Committee. The Special Envoy of the Secretary-General for Syria characterized the agreement as a "door opener" to a broader political process. The Constitutional Committee was officially launched in Geneva and its 45-member drafting body met on 4 and 25 November. The second gathering ended without the drafting body being convened due to a lack of consensus over the agenda. The pace of developments in the Constitutional Committee highlights the challenge of overcoming the lack of trust among the negotiating parties, and achieving tangible progress in the implementation of Security Council resolution 2254 (2015).
6. The humanitarian situation worsened in many parts of the country. Against this backdrop, on 20 December, the Security Council failed to agree on the renewal of the cross-border and cross-line aid delivery mechanism. The Russian Federation and China vetoed the resolution arguing that it must be adapted to the current situation. The Security Council reached, on 10 January, a last-minute agreement to extend the authorization of cross-border aid delivery through two, rather than the previous four, border crossings and for only six months.² The failure to reauthorize the Ya'rubiyah border crossing to Iraq is expected to severely affect the entry of humanitarian aid into the north-east of the Syrian Arab Republic, in particular medical supplies.
7. In terms of ongoing hostilities, fighting between pro-government forces and armed opposition groups, including Hay'at Tahrir al-Sham, in Idlib, northern Hama, Ladhkiyah and western Aleppo Governorates intensified. The escalation of violence in the north-west continued in July and August when offensives by pro-government forces targeted armed opposition groups near the Al-Ghaab plain, Khan Shaykhun, Ma'arrat al-Nu'man, Saraqib, Ariha and Jisr al-Shughur. Following the collapse of a conditional ceasefire on 5 August, Syrian army units began a major ground offensive. By 21 August, pro-government forces

¹ The Commissioners are Paulo Sérgio Pinheiro (Chair), Karen Koning AbuZayd and Hanny Megally.

² See Security Council resolution 2504 (2020).

had cut off the M5 motorway, encircled the Turkish observation post in Murak and recaptured several towns in northern Hama and southern Idlib.

8. The Russian Federation declared that an agreement had been reached for a unilateral ceasefire by the Syrian Government on 30 August. Despite the truce, air strikes targeting localities in Idlib and Ladhīqiyah persisted throughout September and October. At the international level, following an appeal by 10 Security Council members, the Secretary-General declared the establishment of a board of inquiry to investigate the destruction of, or damage to, facilities on the United Nations de-confliction list and facilities supported by the United Nations in the north-west of the Syrian Arab Republic since April.

9. The President of the United States, Donald Trump, announced that, on 27 October, the leader of ISIL, Abu Bakr al-Baghdadi, had been killed during a raid by United States special forces in Barisha (Idlib Governorate). Meanwhile, protests against the National Salvation Government, which is affiliated to Hay'at Tahrir al-Sham, in parts of Idlib intensified after the terrorist group further restricted political and civil activity and imposed new "taxes".

10. Attacks on territories held by opposition forces and Hay'at Tahrir al-Sham continued in November and December. Airstrikes and shelling peaked in mid-December when pro-government forces began a major offensive against Ma'arat al-Nu'man, Saraqib and surrounding rural areas. The campaign enabled the Syrian army to recapture several locations in southern Idlib around the M5 motorway. Retaliatory attacks by armed opposition groups followed in southern Aleppo and Ladhīqiyah. The ground and air campaigns resulted in civilian casualties and massive displacement. Between May 2019 and early January 2020, these attacks induced the displacement of 700,000 civilians towards the northern parts of the governorate. Areas surrounding Ma'arat al-Nu'man and Saraqib were completely depopulated.

11. In the north-east of the Syrian Arab Republic, following President Erdogan's repeated warnings that Turkey was planning to launch a cross-border offensive against the Kurdish People's Protection Units, the Governments of the United States and Turkey agreed to form a joint operations centre and coordinate the establishment of a "safe zone". Pursuant to the agreement, Syrian Democratic Forces and affiliated forces of the Kurdish People's Protection Units agreed to destroy their positions and withdraw from border areas. While the Government of the United States announced that the "safe zone" agreement would be implemented in stages, Turkish authorities expressed dissatisfaction and affirmed that they would act if Turkish security interests were not addressed.

12. Following a telephone call between the Presidents of the United States and Turkey on 6 October, the White House announced that Turkey would soon be starting an operation in the north of the Syrian Arab Republic and that United States forces would withdraw. On 9 October, President Erdogan declared the launch of Operation Peace Spring by the Turkish Armed Forces, together with the Syrian National Army.³ Turkish forces, supported by the Syrian National Army, began attacking Kurdish positions in several border towns, including Tall Abyad and Ra's al-Ayn. The launch of Operation Peace Spring and the related withdrawal of United States troops had a significant impact on the population with more than 200,000 people displaced in rapid and uncoordinated evacuations. Ayn-Issa camp, in which many women and children with familial links to the Islamic State in Iraq and Levant (ISIL) lived, was almost deserted.

13. In response, the Government of the United States declared that it would continue to support Kurdish forces and take action if Turkey took measures that were considered "off-limits". The European Union, the Islamic Republic of Iran and Israel separately called on Turkey to halt the operation, while the League of Arab States adopted a resolution denouncing Turkey's campaign.⁴ The Government of the Syrian Arab Republic called for respect of its territory and deployed troops in key towns across the north-east of the country after reaching an agreement with the Syrian Democratic Forces.

3 On 4 October representatives of various Syrian armed opposition groups announced their formal unification under the umbrella of the Syrian National Army. See A/HRC/42/51, para. 16.

4 Resolution 8454 was adopted by the League of Arab States on 12 October 2019.

14. To contain the escalation of violence in the north-east, on 17 October, Turkey and the United States negotiated a ceasefire to allow forces of the Kurdish People's Protection Units to withdraw. The agreement between the United States and Turkey was followed on 22 October by the signature of a memorandum of understanding between President Putin and President Erdogan that enabled Russian military police and Syrian border guards to enter Turkish-Syrian border areas and facilitate the removal of elements of the Kurdish People's Protection Units.⁵ The Russian Federation and Turkey also agreed to begin joint monitoring patrols in the area. Despite the announcement by the Russian Federation of the complete withdrawal of the Kurdish People's Protection Units, clashes between Turkish forces and Kurdish groups, as well as the Syrian army and Turkish-backed forces, continued. On the issue of the return of Syrian refugees, President Erdogan presented the Secretary-General with a plan for new settlement areas within the 30-km "safe zone".

15. On 17 December, the United States Senate passed the "Caesar Syria Civilian Protection Act" authorizing sanctions against the Government of the Syrian Arab Republic and any other individuals who are "responsible for or complicit in human rights abuses committed against citizens of Syria or their family members". President Trump signed the bill into law on 20 December.

16. The situation in centre and south of the Syrian Arab Republic remained volatile. Throughout the reporting period, ISIL attacks in Dar'a, Homs and Dayr al-Zawr Governorates killed several Syrian soldiers. The terrorist organization regrouped in the east of the Syrian Arab Republic and increased attacks against pro-government forces, in particular around Mayadin and Albu Kamal. Sporadic clashes between the Syrian army and ISIL terrorists were also ongoing around Sukhnah and Tadmur (Homs Governorate) and had a significant impact on the security and freedom of movement of civilians. In Dar'a, following protests, the Government issued an amnesty for those arrested after July 2018, in an attempt to reduce tensions, however, few releases occurred. In July, August and November, air strikes by Israel hit Tal-Haraa in the south of the Syrian Arab Republic, several alleged Hizbullah facilities and Iranian and Syrian positions outside Damascus. These developments continued to contribute to a highly complex protection situation for civilians across the Syrian Arab Republic.

III. Resurging violence against civilians

17. During the period under review, attacks by belligerent parties killed and injured scores of Syrian women, men and children. Fierce battles further destabilized the provision of services, and deprived countless civilians from accessing medical services and education, as well as food and water. As the conflict in the Syrian Arab Republic evolves, it has resulted in the active intervention of a number of Member States in support of and in opposition to the Government, through both direct actions on the ground, and through the provision of logistical, material and financial support to non-State armed groups.⁶

18. Displacement was most often caused by the failure of warring parties to take all feasible precautions to spare the civilian population, or by other unlawful conduct by parties that carried out attacks with little regard for civilian life.

5 The memorandum laid out that, starting 23 October 2019, Russian military police and Syrian border guards would enter the Syrian side of the Turkish-Syrian border, outside the area of Operation Peace Spring, to facilitate the removal of elements of the Kurdish People's Protection Units and their weapons.

6 States have an obligation under common article 1 of the Geneva Conventions of 1949 "to respect and to ensure respect for the present Convention in all circumstances". As common article 3 of the 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 for 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". See conference room paper "Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016–28 February 2017 (A/HRC/34/CRP.3, paras. 99–103). Available from www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx.

A. Idlib, northern Hama and western Aleppo

Pro-government forces

19. Idlib Governorate, where approximately three million Syrian civilians subsist with limited access to basic services, witnessed renewed outbreaks of brutal violence. At least half of these civilians had already fled attacks or been forcibly displaced through “reconciliation agreements”,⁷ while 700,000 of them were displaced between May and early January.

20. Though the announcement of a unilateral ceasefire on 31 August ended a four-month long offensive throughout the “demilitarized zone”,⁸ violence intensified from November into early January. Attacks carried out by pro-government forces targeted civilian infrastructure, including specially protected objects. As a result, civilian areas were rendered uninhabitable, in particular towns such as Khan Shaykhun and Ma’arrat al-Nu‘man, in an apparent effort to accelerate capture of strategic motorways from Aleppo to Hama and Ladhqiyyah.

21. The Commission verified unlawful attacks in Ma’arrat al-Nu‘man, Marat al-Harma, Janudiyah village (Jisr al-Shughur), a medical point located near Al-Khasra, and Al-Bara. The findings that follow are examples of attacks by pro-government forces.

22. Attacks affecting crowded marketplaces continued.⁹ For example, on 22 July, between 8 a.m. and 8.30 a.m., a series of air strikes hit the main market as well as surrounding houses in a densely populated area in Ma’arrat al-Nu‘man. The air strikes killed more than 43 civilians, including 3 girls and 1 boy, and injured at least 109, including 18 children and 15 women. At least 2 four-storey residential buildings and 25 shops were destroyed. Al-Quza'iz School, located some 700 m from the market, was also damaged. Witnesses recounted that there were no military objectives in the vicinity of the market.

23. Civilians and rescuers rushed to the market after the attack. Within minutes, however, at around 8.35 a.m., a “double-tap” air strike hit the same area, killing scores of civilians, including a member of the rescue team. Medical staff described how victims had been brought to a nearby hospital with missing limbs, while others had arrived in various stages of disfigurement. The Russian Ministry of Defence denied that their aircraft had been present in the area on 22 July.¹⁰

24. On 16 August, between 7.15 and 7.30 p.m., air strikes struck a compound for displaced civilians located approximately 2 km from Haas. The compound was situated in a rural area, surrounded by agricultural fields, between Kafr Roma and Haas in southern Idlib, with interviewees recalling that no military objectives were nearby. The attack killed 20 people, including 8 women, one of whom was pregnant, and 6 children, and injured at least 40 others. The air strike caused substantial damage to the area, including to an adjacent square surrounded by commercial vendors. At least two residential buildings and a food storage room were destroyed, while the school and the camp medical centre were damaged.

25. Based on the evidence available, including witness testimonies, video footage, data imagery as well as reports by flight spotters, flight communication intercepts and early warning observation reports, the Commission has reasonable grounds to believe that a Russian aircraft participated in each incident described above. In both incidents, the Russian Air Force did not direct the attacks at a specific military objective, amounting to the war crime of launching indiscriminate attacks in civilian areas (see annex II for a detailed description of the attacks).¹¹

7 On oaths of loyalty and reconciliation, see also A/HRC/36/55, paras. 20–22.

8 A/HRC/40/70, paras. 14–15.

9 A/HRC/28/69, annex II, paras. 2–8; A/HRC/30/48, paras. 34–35; and A/HRC/31/68, para. 77.

10 See http://eng.mil.ru/en/news_page/country/more.htm?id=12243385@egNews.

11 See Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law – Volume I: Rules* (Geneva, International Committee of the Red Cross; Cambridge, United Kingdom, Cambridge University Press, 2005), rule 156.

26. As violence escalated, and pro-government forces consolidated power over strategic areas in southern Idlib, civilians fled en masse, leaving Khan Shaykhun, Kafr Nubl and – later in December – Ma'arrat al-Nu'man and Khan al-Soubul almost completely depopulated. Schools in Janudiyah village in Jisr al-Shughur became shelters for at least 6,500 civilians fleeing areas retaken by pro-government forces. On 20 November, 16 civilians, including 11 children, were killed and 30 were injured when pro-government forces launched a surface-to-surface missile attack consisting of cluster munitions that struck a camp for displaced persons adjacent to Qah village, near the Turkish border. The use of cluster munitions in densely populated camps for displaced civilians constitutes the war crime of indiscriminate attacks in a civilian populated area (see annex II for a detailed description of other attacks).

27. From 15 December onwards, as pro-government forces increased aerial offensives, residents around Ma'arrat al-Nu'man town began fleeing in anticipation of attacks. Residents described departing at night, using the M5 motorway, with their vehicle lights off, to minimize the risk of being attacked. By 1 January, at least 300,000 people had fled their homes, adding to approximately 400,000 civilians previously displaced from southern Idlib between May and August.

28. Four medical facilities were damaged in the span of three days, between 4 and 6 November, in Jisr al-Shughur, Kafr Nubl and Ariha in southern Idlib. On 6 November, at around 1.30 a.m., pro-government forces carried out two air strikes that struck the Ikhlas maternity and paediatric hospital in Shinan, south of Ariha, rendering the facility non-functional. Later that day, at around 4.15 p.m., a series of air strikes conducted by pro-Government forces struck a surgical "cave" hospital in Kafr Nubl, damaging the western entrance and vital medical equipment.

29. In attacking medical facilities, pro-government forces repeatedly committed the war crime of deliberately attacking protected objects and intentionally attacking medical personnel. In attacking hospitals, medical units and health-care personnel, pro-government forces violated binding international humanitarian law to care for the sick and wounded, and committed the war crime of attacking protected objects.

30. The foregoing incidents follow a pattern of attacks against hospitals (including, most recently, between March and May 2019),¹² which strongly suggests that pro-government forces systematically targeted medical facilities. Government officials repeatedly stated that their aim was to remove terrorist elements, including Hay'at Tahrir al-Sham, from the area. The means and methods of warfare, however, were deployed in a way that decimated segments of civilian infrastructure throughout southern Idlib, and may suggest that pro-government forces also targeted the civilian population. During the period under review, repeated attacks further rendered the area completely uninhabitable, eroding the military and fragile political control of Hay'at Tahrir al-Sham.

31. In parts of southern Idlib, including Ma'arrat al-Nu'man, pro-government forces persistently shelled civilian infrastructure in the de-escalation zone, leaving civilians with no choice but to flee. As such, there are reasonable grounds to believe that pro-government forces intended to terrorize civilians,¹³ in an effort to depopulate the zone and accelerate its capture.

Hay'at Tahrir al-Sham¹⁴

12 A/HRC/42/51, paras. 45–46 and para. 52, footnote 16. See also annex II.

13 International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Judgment, 30 November 2006, at paras. 99–109.

14 The Commission continues to regard the group as a terrorist entity, as designated by the Security Council in its resolution 2170 (2014) and subsequent entries on its sanctions lists (available from <https://scsanctions.un.org/consolidated/>). Hay'at Tahrir al-Sham currently comprises Jabhat Fatah al-Sham (also known as Jabhat al-Nusra and previously as the Al-Nusra Front), Ansar al-Sham and Ajnad al-Sham, among others.

32. Armed groups, including Hay'at Tahrir al-Sham,¹⁵ escalated attacks on government-controlled areas causing scores of civilian casualties.¹⁶ On 21 November, armed groups launched a rocket attack on several neighbourhoods in Aleppo, including Salah al-Din that killed 7 civilians and injured 29 others.

33. Alongside attacks by warring parties, the civilian population in restive areas across Idlib Governorate continued to suffer as Hay'at Tahrir al-Sham terrorists attempted to tighten their grip. In an effort to subjugate populations, Hay'at Tahrir al-Sham increasingly took over activities aimed at regulating access to services during the reporting period. The presence of Hay'at Tahrir al-Sham impacted residents' access to health and education, and also resulted in the withdrawal of humanitarian actors. In Kafr Takharim, where approximately 40,000 people lived, attempts by Hay'at Tahrir al-Sham to consolidate power resulted in an increase in the prices of basic commodities, such as bread and fuel. When Hay'at Tahrir al-Sham imposed a "tax" on olive oil production in the town, protests erupted and progressively spread to other areas that historically had a strong civil society presence, including Saraqib, Salqin, Ma'arrat al-Nu'man, and Atarib.

34. In response, Hay'at Tahrir al-Sham fighters launched a rocket attack on Kafr Takharim and in the morning of 7 November they shot at fighters and civilians while entering the town. Some 30 men dressed in military clothing with covered faces stormed a three-storey building where approximately 100 civilians were hiding in the basement, resulting in the death of at least 3 individuals and injuring 10 others, including a 16-year-old boy. Members of the group also prevented injured civilians from leaving and shot at an ambulance transporting the wounded.

35. Hay'at Tahrir al-Sham terrorists continued to recruit and use children to participate in hostilities,¹⁷ targeting primarily young boys who had missed years of schooling as guards or checkpoint personnel in Idlib Governorate. Owing to existing gender norms, boys have also been expected to take on the role of breadwinner, especially within female-headed households, and have subsequently joined Hay'at Tahrir al-Sham to ensure income for their families. A 16-year-old boy in Sarmada joined the terrorist group and participated in hostilities in order to support his siblings after the death of his father. One interviewee described how children underwent religious and military training prior to participating in hostilities.

36. Following an air strike conducted by international coalition forces on 31 August targeting one Al-Qaida facility located north of Idlib,¹⁸ young males were observed among the victims, including boys aged between 12 and 13, who were dressed in military clothing. The children were reportedly being recruited and subjected to religious training by members of Ansar al-Tawhid.

37. Individuals expressing dissent or openly criticizing the presence of Hay'at Tahrir al-Sham, such as activists and media workers, continued to be subjected to persecution. At least six activists were detained between August and September, including one photographer who filmed members of the terrorist group and later released a video reportedly exposing corruption.

38. During the period under review, journalists reported that Hay'at Tahrir al-Sham maintained a list of names and pictures of activists on the basis of which the group detained individuals who had expressed dissent or disagreement. When civilians gathered to protest against Hay'at Tahrir al-Sham in Bab al-Hawa in November, members of the group took photographs of demonstrators to identify them later at checkpoints. In another case, one activist reported receiving a written warning asking him to report to a "security office" linked to the Ouqab prison run by Hay'at Tahrir al-Sham in Idlib. The warning did not state

15 Protection concerns prevent the Commission from disclosing certain information in this paragraph, such as place names, that could potentially be used to identify individual sources. In all cases, the Commission remained guided by the "do no harm" principle.

16 See S/2019/922 and S/2019/987.

17 See Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 137.

18 See

www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/1949406/statement-from-us-central-command-on-us-forces-strike-against-al-qaida-in-syria.

the reason for his summons, though he considered it related to his journalism. Members of Hay'at Tahrir al-Sham threatened another journalist in relation to information she had published online, which criticized the provision of services and other issues in Idlib for which she believed the group bore responsibility. At least one activist was subjected to extrajudicial executions in Ouqab prison, amounting to the war crime of passing sentences and carrying out executions without previous judgment pronounced by a regularly constituted court.¹⁹

B. Afrin and adjacent areas²⁰

39. Cases of detentions, killings, beatings and abductions, in addition to widespread looting and appropriation of civilian homes, by a variety of armed groups operating under the umbrella of the Syrian National Army have been documented, in a consistent, discernible pattern previously documented in Afrin.²¹ While some of those acts, such as abductions, property looting and detentions, suggested financial motivation, the reported incidents primarily affected Kurdish residents in Afrin and adjacent areas.

40. Victims of abduction and detention were predominately male and of Kurdish origin. Certain Kurdish residents were abducted several times. While deprived of their liberty, individuals were subjected to torture and ill-treatment, with little access to food, in poor hygienic conditions.

41. Beyond these violations, large-scale property confiscation and looting of properties have been widely reported. Syrian National Army fighters have placed family members in some of the homes of Kurdish owners who fled the area and provided “rental contracts” to newly accommodated individuals. In other cases, Syrian National Army fighters went to civilians’ houses and requested property deeds from Kurdish owners who had stayed. On occasions, returnees were left with no other option but to share their homes with family members of Syrian National Army fighters who had moved into their residences. When civilians complained to senior members of the Syrian National Army to reclaim their property, they were met by threats and violence. The magnitude of property confiscation prompted the establishment of a complaint mechanism within the structures of the Syrian National Army, although residents indicated that it was largely ineffective.

42. By perpetrating acts of looting and property appropriation, armed groups under the umbrella of the Syrian National Army committed the war crime of pillaging and further violated the right to enjoyment of possessions and property.²² Moreover, the Commission finds that there are reasonable grounds to believe that members of armed groups under the umbrella of the Syrian National Army committed the war crimes of hostage-taking, cruel treatment, ill-treatment and torture.²³

43. In addition, local residents consistently described numerous security threats, which were likely committed by groups opposing the Syrian National Army, including shooting incidents, car bomb explosions and other attacks using improvised explosive devices that led to civilian casualties. In one such attack, on 16 December, a car bomb exploded in the Suq al-Hal, killing at least 8 people and injuring 12 more.

44. In addition, Tall Rif'at, which is in neighbouring I'zaz District and under the control of the Syrian Democratic Forces, experiences regular shelling. In a shelling incident, allegedly originating from Jariz near I'zaz City, that occurred in the early afternoon on 2

19 Common article 3 of the Geneva Conventions.

20 Protection concerns prevent the Commission from disclosing certain information in this section, such as place names, that could potentially be used to identify individual sources. In all cases, the Commission remained guided by the “do no harm” principle.

21 A/HRC/42/51, para. 55–58.

22 See, for example, International Criminal Court, *Prosecutor v. Germain Katanga*, Case No. ICC-01/04-01/07, Judgment, 7 March 2014, paras. 925–957; see also Universal Declaration of Human Rights, art. 17.

23 See Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 156.

December, 10 civilians were killed, including 2 children, and 12 more suffered injuries. The affected civilians had previously been displaced from the Afrin area.

C. North-east of the Syrian Arab Republic

Operation Peace Spring

45. Since 2015, the Syrian Democratic Forces have been in control of large portions of the north-east of the Syrian Arab Republic. Turkish armed forces, supported by the Syrian National Army, commenced Operation Peace Spring²⁴ on 9 October with the launch of air strikes and artillery shelling on Syrian border towns, including Ayn al-Arab (Kobane), Tall Abyad, Ra's al-Ayn and Qamishli. The ground advance commenced on 10 October.

46. By 21 November, Turkey secured territory that they referred to as a “safe zone”, which consisted of an area stretching between Tall Abyad and Ra's al-Ayn. While major air strikes and artillery shelling scaled down significantly in late November, the area experienced frequent attacks, including sporadic artillery shelling, ground skirmishes, car bombs and the use of other improvised explosive devices.

47. In carrying out aerial attacks, the Turkish air force employed aircraft, including drones, and precise munitions. The Syrian National Army, financially and logistically supported by Turkish forces, formed part of the ground forces and were lightly armed, although some units deployed tanks, light personnel carriers and several types of artillery.

48. The launch of Operation Peace Spring triggered mass waves of displacement. More than 100,000 people had fled by 11 October. This number rose to more than 175,000 displaced individuals by 22 October, including approximately 80,000 children. More than 10,000 civilians fled across the border to Iraq. By mid-October, as hostilities intensified, international humanitarian organizations reduced their presence on the ground, which further compromised civilians' access to services.

49. Most casualties were inflicted in the early days of the offensive, including in areas outside of the territory eventually controlled by Operation Peace Spring forces. On 10 October in Qamishli, in the neighbourhood of Qadour Beck, at around 4.30 p.m., a mortar hit a civilian house resulting in the death of a boy and seriously injuring one girl aged 8 and one boy aged 11. The children were playing outside when the attack took place. The attack also killed an elderly woman who was passing by at the time of the incident. Witnesses described the Qadour Beck neighbourhood as a civilian area, with no military objectives located nearby. Witnesses reported that shells had been launched from the Nseibin area of Turkey, adjacent to Qamishli.

50. Objects necessary for the survival of the civilian population were affected several times by the hostilities. On 9 October, at around 4 p.m., witnesses reported that an artillery strike had hit the area of Aluk water station. The strike destroyed electricity cables and, as a result, water pumping came to a halt and the water supply for 460,000 people was cut off. The area was hit again by ground shelling the following day, damaging the administrative building of the water station. On 17 October, water repair workers attempted to conduct repairs, but were allegedly abducted by armed group fighters from Ahrar al-Sharqiyah (Brigade 123) though later released. It was not until more than a month later, on 13 November, that the water supply was restored following negotiations by humanitarian actors.

24

President Erdogan posted on Twitter “The Turkish Armed Forces, together with the Syrian National Army, just launched Operation Peace Spring Our mission is to prevent the creation of a terror corridor across our southern border, and to bring peace to the area.” See www.tccb.gov.tr/en/news/542/111024/-the-turkish-armed-forces-together-with-the-syrian-national-army-just-launched-operation-peace-spring-. Further on, President Erdogan stated the aim was to create a “safe zone”, stretching some 30 km into the Syrian Arab Republic, in which refugees currently living in Turkey could be resettled. The Government of the Syrian Arab Republic has condemned Turkey's operation, referring to it as an act of aggression and characterizing it as a flagrant violation of international law and a blatant violation of Security Council resolutions (S/2019/806).

51. On 12 October at 6.50 a.m., an ordinance hit a temporary medical point located within a school in Salihiyah, which is between Ra's al-Ayn and Tall Tamr. The noise of an aircraft was heard shortly before the medical point was hit. The attack damaged the building and destroyed a nearby car.

52. In another incident on 12 October, a convoy consisting of between 70 and 80 vehicles, and including up to 400 people, was travelling from Tall Tamr to Ra's al-Ayn. The convoy consisted of private vehicles, mainly minivans and cars, and included journalists and families with children. Interviewees characterized the convoy as civilian in nature, with the purpose of demonstrating "against the Turkish aggression" and showing solidarity. While about a dozen of the participants were carrying rifles, numerous interviewees confirmed that neither military vehicles, heavy weapons nor ammunition were transported by the convoy. At around 3.30 p.m., the convoy was hit by an air strike, targeting the first vehicle, in the centre of Ra's al-Ayn, near the Great Mosque. As a result, 11 people were killed and 74 injured, including 19 women.

53. The Turkish authorities have either denied involvement in or indicated that they have no record of these incidents (paras. 50–52). The Commission continues to investigate these incidents, and calls on the Turkish authorities to launch its own investigations and make the findings public.

54. Beyond active hostilities, civilians in and around Ra's al-Ayn and Tall Abyad were subjected to myriad violations of human rights and international humanitarian law by Syrian National Army fighters consistent with the pattern documented in the Afrin District (see paras. 39–41). These violations instilled fear among Kurdish residents and caused further displacement. Aware of the scale of violations in Afrin, many fled their homes. Anticipating attacks on their community, Yazidi women, men and children, who populated some 13 villages across Ra's al-Ayn District, also left. Videos published on the Internet, purportedly by Syrian National Army fighters, used language comparing their "enemies" to "infidels", "atheists" and "pigs" when referring to civilians, detainees and property, which further amplified fears and created an environment conducive to abuse.²⁵

55. During Operation Peace Spring, the Minister of Defence of Turkey announced that 4,219 km² and 600 settlements were taken under control and checkpoints established on the M4 motorway.²⁶ Interviewees reported that checkpoints within the "safe zone" were controlled by Turkish officers and staffed with Syrian National Army fighters.

56. Civilians in and around Ra's al-Ayn and Tall Abyad reported numerous cases of looting and property appropriation by members of the Syrian National Army, primarily affecting Kurdish residents and, on occasions, Yazidi owners who had fled in October. Schools and businesses, such as bakeries, were also looted or expropriated, along with land for making olive oil, agricultural tools and vehicles.

57. Male Kurdish residents from Ra's al-Ayn and adjacent areas in particular feared returning. However, some Kurdish women were able to access their properties during day trips to gather their belongings. When attempting to return to their properties, individuals found that locks had been changed or Syrian National Army fighters had occupied their homes. This prevented potential returns and further facilitated the transfer of families and communities supported by Syrian National Army fighters to the private residences of displaced persons.

58. In the early hours of 12 October, Hevrin Khalaf, Secretary-General of the Future Party of Syria, was travelling with her driver in a black vehicle from Qamishli on the M4 motorway. At around 7 a.m., between Suluk and Tall Tamr, members of Ahrar Al-Sharqiyah (Brigade 123) of the Syrian National Army executed Hevrin Khalaf together with her driver, after dragging her out by her hair and mutilating her body.²⁷

25 See <https://observers.france24.com/en/20191021-syria-turkey-militia-ahrar-sharqiya-investigation-abuses>. The Commission is unable to verify the authenticity of the footage.

26 See the statement by the Minister of National Defence of Turkey, on 21 November 2019, to the Parliamentary Budget Committee. Available at www.youtube.com/watch?v=H8h9-5AEzZQ.

27 In meetings with the Commission, the leadership of the Syrian National Army indicated that individuals had been arrested in connection with this incident.

59. In conducting the aforementioned acts, the Commission finds that there are reasonable grounds to believe that Syrian National Army fighters perpetrated the war crime of murder and repeatedly committed the war crime of pillaging, further seriously contravening the right to enjoyment of possessions and property. If any armed group members were shown to be acting under the effective command and control of Turkish forces, these violations may entail criminal responsibility for such commanders who knew or should have known about the crimes, or failed to take all necessary and reasonable measures to prevent or repress their commission.²⁸

Areas under the control of the Syrian Democratic Forces

60. Since the final battles over the last remaining ISIL areas south of Hajin, individuals with perceived links to the group have been either transported to displacement camps or transferred to detention facilities scattered in areas controlled by the Syrian Democratic Forces. As many of their countries of origin initially refused to repatriate them, most families of foreign ISIL fighters, including children, are being held in a legal limbo, in squalid living conditions and with meagre prospects to return.

61. In Hawl camp, women and children with familial links to ISIL suffered discrimination on the basis of their perceived affiliation with the group, in violation of international humanitarian law.²⁹ As interned women and children are believed to pose a security threat,³⁰ they face restrictions on their movements and are reliant on the Syrian Democratic Forces to facilitate their access to medical facilities. Interviewees described that, on occasion, access to medical care was denied by guards, or they were not allowed to accompany children to hospitals in Hasakah or Qamishli. Instances of harassment, verbal abuse and looting³¹ of the tents of family members of ISIL fighters by camp guards have also been documented.

62. Compounding the dire living conditions, prevailing insecurity and violence increased, further weakening the most vulnerable segments of the encamped population. Inside the annexed section of Hawl camp, ISIL sympathizers have established a female morality police to monitor adherence to dress codes and enforce punishments on women perceived to be “infidels”. In September, at least two women were stabbed to death following a decision by a makeshift “sharia court” set up by militant women. At least one Syrian Democratic Forces guard was stabbed inside the annexed section.

63. As Operation Peace Spring progressed in October (see paras. 45–52), fear spread among the population in Hawl and Ayn Isa camps. Interviewees recalled that the number of guards at Hawl camp had been reduced significantly, resulting in sporadic outbreaks of violence affecting the annexed section in particular. As instability increased, the only medical clinic servicing the annexed section was closed, depriving thousands of women and children of medical care. Hostilities further affected Ayn Isa camp, where 249 women and 700 children with family links to ISIL were held. While some of the encamped residents escaped and others were transferred to Mahmudi camp in Raqqah Governorate, some of the women appear to have been apprehended by armed groups.

64. Approximately 11,000 male individuals, including 1,000 foreigners from 50 different countries, remain detained in detention sites run by the Syrian Democratic Forces. Men and boys as young as 9 years of age were being held in squalid conditions without adequate access to food or water; they were visibly ill and had untreated conflict-related injuries. Detainees have limited access to the outside world, with many still unaware of the whereabouts of their family members following the battles for control of Baghuz.

65. Elsewhere in areas under the control of the Syrian Democratic Forces, civilians, including children, suffered violations of their rights. Notwithstanding the signing of an action plan between the Syrian Democratic Forces and the United Nations to end and

28 Rome Statute of the International Criminal Court, art. 28. See also Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 153.

29 See Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rules 88 and 118.

30 A/HRC/37/72, annex III, paras. 12–18.

31 See Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 122.

prevent the recruitment and use of children under the age of 18 in June 2019, children aged 16 and 17 continued to be recruited by the Kurdish People's Protection Units throughout the reported period, with multiple accounts emanating from Aleppo Governorate.³²

66. The Syrian Democratic Forces also caused civilian deaths and injuries in other documented events. On 10 August, a 3-year-old child was shot in the back at a checkpoint as his father was parking his car in accordance with the instructions of members of the Syrian Democratic Forces. When a crowd came to protest the killing, members of the Syrian Democratic Forces opened fire and one civilian was injured by bullets in the back and leg. In Tabaqah, on 16 August, members of the Syrian Democratic Forces forced their way into the house of a doctor. The doctor was taken away and his spouse was physically assaulted.

IV. Government-held areas

67. Living conditions remained dire in areas retaken by the Government, with residents, particularly in eastern Ghutah (Rif Dimashq), experiencing limited access to basic services and meagre progress on reconstruction. Where electricity is available, it is prohibitively expensive and often rationed. In Duma, electricity is only available on the main street, while water supplies in eastern Ghutah are unpotable. The movement of construction materials and furniture has also been heavily restricted, in particular between Duma and Misraba, further hampering efforts to rebuild homes. While some schools have reopened, the marginalization of qualified teachers with perceived affiliations to schooling systems that were in place under armed groups has affected the quality of education.

68. Civilians in areas retaken by the Government suffered from a general absence of the rule of law. Arbitrary arrests, enforced disappearances³³ and detentions continued to be commonplace throughout areas such as Dar'a, Duma and eastern Ghutah. During the period under review, large numbers of adult men were also detained purportedly for conscription. In Duma, a group of students travelling on 20 October to university to take examinations was stopped at a checkpoint staffed by officials from the General Security Directorate. Notwithstanding their status as students, the officers took 15 young men away, as their exemption from mandatory military service was deemed invalid.³⁴

69. The Government has also used the arrest and detention of family members to exert pressure during negotiations or to suppress political participation. Relatives of members of the Constitution Committee were detained and interrogated.³⁵ In the lead up to the convening of the forum at the end of October, security services implied that the treatment of relatives in the Syrian Arab Republic was contingent upon conduct during discussions. Women have also been threatened by the State security apparatus to prevent them from taking part in other civil society initiatives.

70. The use of "security reports" allegedly submitted by civilians as the basis of detention by the security apparatus was a concerning trend. People in eastern Ghutah, as well as other areas under Government control, reported living in constant fear of arrest due to denunciations through reports by other members of the community. Interviewees reported that denunciations were often used to settle unsubstantiated and unrelated interpersonal grievances. In July, a man fled abroad from a town in Dar'a Governorate following a request to go to the Military Intelligence Directorate, after he received information that a "security report" had been made that accused him of storing medicine for armed groups.

32 As of the date of submission of the present report, no response had been received from the Syrian Democratic Forces regarding these incidents.

33 The Commission has already documented a pattern of enforced disappearances. Relatives continue to pay large sums of money to intermediaries and individuals representing the State for information on the whereabouts of disappeared persons. See, for example, the conference room paper "Out of sight, out of mind: deaths in detention in the Syrian Arab Republic" (A/HRC/31/CRP.1). Available from www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx.

34 See Legislative Decree No. 30 of 2007, art. 10 (A).

35 Protection concerns prevent the Commission from providing additional details.

71. Notwithstanding the ongoing arrests and detentions by government forces, in addition to the scores of individuals already deprived of their liberty, a number of “amnesties” were issued in the reporting period by the Government.³⁶ However, releases mostly took place in Dar‘a Governorate and amounted to few hundred people who had been held for relatively minor offences.

72. The plethora of actors involved, combined with competing approaches to “reconciliation” in certain areas, such as eastern Ghutah, Qunaytirah or Dar‘a, contributed to a fragile security situation. The commitments made when government forces imposed a “reconciliation” process on previously besieged areas, including fulfilling promises of releasing those that had been arrested and detained, recognizing educational certificates and reinstating teachers, remained largely unfulfilled. Civilians in retaken areas indicated that the lack of respect for the “reconciliation” processes and agreements was a significant factor of current fear and tension among the population.

73. A network of checkpoints remained across “reconciled areas”, including in Dar‘a³⁷ and eastern Ghutah,³⁸ in contravention of the assurances made during “reconciliation processes”. This has severely restricted the freedom of movement of the civilian population, primarily affecting adult men who feared apprehension and forced conscription. Recently, the use of rapidly deployed ad hoc checkpoints in Duma, has instilled additional fear among the population.

74. The ubiquitous checkpoints have further enabled members of the security services to extort residents. One interviewee told the Commission that “even if you are not wanted, you are at risk of being taken at checkpoints. If you need to move, you always need to consider taking some money with you to bribe officials.” These restrictions impeded civilians’ access to basic services, including health care and education, and confined those lacking financial resources to their homes. In Duma City, authorizations are required in order to enter and exit. Without such authorizations, residents reported having to pay large bribes at checkpoints to gain access to hospitals to treat their medical conditions.

75. The right to adequate housing and shelter continued to be widely violated in the Syrian Arab Republic. A lack of clear procedures regarding reclaiming property, and a complex system of overlapping system of laws, created significant barriers to return. Housing land and property frameworks were used to punish individuals broadly perceived to be associated with opposition groups, including activists, who documented violations by government forces.³⁹

76. Interviewees outlined the cumbersome administrative burden upon those wishing to return to their places of origin. Individuals wishing to claim their property in Bayadah, Homs Governorate, were required to present proof of ownership to the Office of the Governorate and then approach the Criminal Security Branch to clear their records. Once cleared, they were required go to the local police. Many people who applied to return were not cleared and the reasons for denial were not specified nor provided in writing, preventing them from challenging the decision.

77. The payment of utility charges further complicated return. In eastern Ghutah, Hulah, Rif Homs and Homs City, those wishing to return to their houses were required to pay utility charges for the entire period of the conflict, including times during which the services were not in place or the individual did not benefit from such utilities. This placed a prohibitively expensive burden upon civilians.

78. In areas such as Qusayr, Dar‘a and Darayya, certain segments of the civilian population were compelled by pro-government forces to sell their property at greatly reduced prices. Moreover, interviewees described that notices were put on houses stating that within a month of the notice the claimant must appear before the cadastral office to file

36 For example, Decree No. 20 of 15 September 2019.

37 Interviewees informed the Commission that the north-west of Dar‘a was under the control of State security, the north under the control of political security.

38 Interviewees informed the commission that Duma was under the control of State security, Misraba and Harasta under the control of the Fourth Division of the Syrian Arab Army, and Irbin, Bayt Siwa, Hammurah and Kafr Batna controlled by Military Security.

39 A/HRC/40/70, paras. 80–82.

a claim. However, the owners of the properties were often barred from entering the city within the time period. In areas such as Qusayr, displaced persons returned to their homes and found their houses being occupied by relatives of members of the security forces or armed groups.

79. In areas such as Qadam, as well as in parts of Qabun, Damascus, displaced residents were prevented by government officials from returning to their properties and visiting their houses to inspect damages. If they were allowed, it was only for a few hours. Other residents were informed by government officials that any permanent return to their homes, or reconstruction of privately owned houses, was prohibited.

80. Under the principles on housing and property restitution for refugees and displaced persons, refugees and internally displaced persons should be protected from discriminatory housing, land and restitution laws.⁴⁰ By imposing arbitrary restrictions on movements and denying freedom of movement, in addition to unlawfully depriving individuals of their property in previously besieged areas, including eastern Ghutah, government forces may have committed the war crime of collective punishment.⁴¹

V. Impact of the ongoing conflict

81. As violence has engulfed life in the Syrian Arab Republic, civilians have fled their homes in desperation searching for safe heavens. Often, individuals suffer on the basis of multiple aspects of their identity, including their gender, age or ethnicity. Displacement fragments communities and causes family separation, thus magnifying the impact of civilians' suffering and shaping negative experiences differently.

82. Violence directed at the civilian population may particularly affect civilian women, including those of particular ethnicities. It can also have devastating consequences for older people, especially when access to basic services remains severely curtailed. Women and children with physical and intellectual disabilities are adversely affected by the conflict, in particular when compelled to relocate to displacement camps where health care is largely absent.

A. Internally displaced persons

83. At the time of writing, displaced women, men and children remain scattered, including hundreds of thousands living in overcrowded makeshift camps that dot the Syrian border, with limited access to food, water, health care and medicine. Elsewhere, displaced civilians remain reliant on already overstretched humanitarian assistance which, if interrupted, will put their lives at risk. Approximately 6.1 million civilians are displaced in the Syrian Arab Republic, while 5.6 million are registered as refugees outside the country.

Northern Idlib

84. Battles waged by pro-government forces caused civilians to flee their homes in fear and desperation. Thousands of Syrian women, men and children were forced to relocate to overcrowded makeshift camps further north, straining already overstretched humanitarian resources. Due to overcrowding, many were compelled to subsist under olive trees, with marginal access to humanitarian assistance and limited access to basic services. Others sought refuge in schools or mosques in Ariha or Saraqib, where access to food, water and health care remained severely curtailed.

Rukban camp

40 See principles on housing and property restitution for refugees and displaced persons, principles 18–19.

41 Special Court for Sierra Leone, *Prosecutor v. Fofana and Kondewa*, Case No. SCSL-04-14-A, Judgment, 28 May 2008, para. 224. See also Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 103.

85. Conditions in Rukban camp continued to deteriorate and children died of preventable causes. Humanitarian actors had limited access or means to provide basic supplies and services, which had a significant impact on the population. Notwithstanding these circumstances, in early September, the United Nations and the Syrian Arab Red Crescent were able to deliver assistance to approximately 15,000 encamped residents. By January, the number of people left in the camp was estimated at just over 12,000.

86. In late September, a joint United Nations and Syrian Arab Red Crescent team supported a departure convoy of 329 people who were willing to be relocated. Those departing the camp were transferred to “reception centres”, including in Ard Dayr Ba’albah School, in Homs Governorate. The Commission received reports that at least 100 individuals who were evacuated from Rukban had been detained by government forces after arrival in Homs.

87. The decision to leave appears to be motivated by the deteriorating camp conditions, further amplified by a harsh winter and scarcity of resources. Others who remain in Rukban cited fears of forced conscription or arbitrary arrest. Ongoing violations throughout government-held areas, including arbitrary detention and forced conscription, impede the right of civilians to voluntary return, in safety and dignity, to their original or another destination of their choice.⁴²

B. Women

88. Women, in particular those belonging to certain religious and ethnic communities, have been adversely affected by the conflict. Within the Kurdish administration, efforts have been made to advance women’s rights and their roles in decision-making processes. Each administrative institution is co-led by a woman and, in addition to all-female councils, a 40 per cent quota reinforces female representation and participation in economic initiatives and civil society organizations.

89. Recent gender-based violations committed against Kurdish women by armed groups with extremist ideologies have, however, demonstrated an attempt to dismantle these efforts. By targeting almost every aspect of Kurdish women’s lives in the Afrin District, and – progressively – in areas affected by Operation Peace Spring – armed groups generated a palpable fear of violence and duress among the female Kurdish population. This resulted in an undermining of women’s ability to meaningfully participate and contribute to their community. Indeed, to avoid being harassed, women described opting to remain at home, relinquish their jobs, or wear a headscarf if venturing outside without a male relative. One interviewee described being sexually harassed and referred to as *kafir* for not wearing a headscarf by members of armed groups at a checkpoint in the Afrin District. Yazidi women in the Afrin District described similar fears.

90. Following the murder of Hevrin Khalaf on 12 October (para. 58), Kurdish women recalled feeling increasingly insecure. Armed groups threatened and harassed women in positions in the political, military, medical and educational sector or otherwise taking active part in civil society.

91. Elsewhere, women’s human rights continued to be undermined, magnifying pre-existing inequalities. In an attempt to ascertain control over Kafr Takharim (paras. 33–35), members of Hay’at Tahrir al-Sham imposed dress codes on teachers and pupils, which systematically discriminated against women and girls.⁴³ In Salqin, Idlib Governorate, one woman was stopped by Hay’at Tahrir al-Sham when travelling without a male relative and subsequently detained with at least 10 other women in a prison-like facility in Salqin, including one woman who had been arrested for attempting to cross the Syrian border without her husband.

42 See Guiding Principles on Internal Displacement, principle 28.

43 See conference room paper “‘I lost my dignity’: Sexual and gender-based violence in the Syrian Arab Republic” (A/HRC/37/CRP.3), footnote 6. Available from www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx.

92. In areas controlled by the Government, the ongoing campaigns of conscripting men has confined adult males to their homes and further inhibited their movement across retaken areas such as eastern Ghutah. Female interviewees displaced outside the Syrian Arab Republic, consistently reported how their spouses, fearing conscription or detention, forced them to return home to assess the status of properties, often occupied or looted by warring parties. As many female returnees have either lost or lack property deeds in their names, they faced obstacles in proving ownership and claiming property rights upon their return.⁴⁴

C. Children

93. Children's lives have been scarred by the brutality of the war in the Syrian Arab Republic. Contrary to the principle of the best interests of the child, countrywide, girls and boys have been victimized in numerous ways, continuously denied the special respect and protection they are entitled to under international humanitarian and international human rights law.⁴⁵

94. As violence increased in the north-east of the Syrian Arab Republic from October onwards (paras. 46–53), approximately 150 schools closed down in Tall Abyad and Ra's al-Ayn, depriving scores of children of access to schooling. Overwhelmed by the growing number of displaced persons, at least 60 schools in Hasakah and Qamishli Cities were temporarily transformed into shelters for displaced persons, which resulted in the suspension of classes for at least 17,000 pupils. Around 20 schools were reported to have been destroyed in Ra's al-Ayn, including Khed Derei school, which was damaged on 11 October. The school hosted approximately 1,500 students.

95. Syrian women with familial links to ISIL fighters continued to face obstacles in registering their children with the competent authorities upon their return to government-controlled areas.⁴⁶ Mothers of children born in areas retaken by the Government, such as eastern Ghutah, encounter similar challenges since authorities do not accept civil documentation provided by armed groups. Such decisions substantially compromise children's right to acquire a nationality,⁴⁷ as well as access to health and education, and further expose them to the risks of child exploitation and trafficking.

96. Children are particularly vulnerable when forced to relocate to displacement camps. As with Rukban camp (paras. 85–87), tens of thousands of children in Hawl, around 1,200 of whom are unaccompanied, remain stranded with marginal access to food, clean water, medical care and education. Girls and boys, many of whom are orphaned, were adversely affected by the continuously deteriorating conditions in the camp, with children suffering from malnutrition, infectious diseases and measles.

97. Inside camps in areas under the control of the Syrian Democratic Forces, foreign children with familial links to ISIL fighters continued languishing in despair while increasingly vulnerable to abuse, years after they were brought into the country. Given the deplorable decision of many Governments of origin to refuse repatriation,⁴⁸ thousands of children from over 50 countries, the majority of whom are younger than 12 years of age, remain in a legal limbo waiting to be able to return.

98. In a welcome development, boys, primarily of Syrian nationality, previously unlawfully interned by the Syrian Democratic Forces, have been placed in Al-Houri juvenile rehabilitation centre in Hasakah, pursuant to decisions emanating from makeshift judicial bodies affiliated to the Syrian Democratic Forces. This is one of few viable options given the refusal by States to repatriate their nationals, including children who remain at

44 A/HRC/42/51, para. 92.

45 See Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 135.

46 A/HRC/42/51 paras. 93–94.

47 Convention on the Rights of the Child, arts. 2 and 7. See also the International Covenant on Economic, Social and Cultural Rights, art. 24.

48 As of November, 17 countries had repatriated children. See

www.unicef.org/press-releases/governments-should-repatriate-foreign-children-stranded-syria-its-too-late.

risk of statelessness, and the record of crimes committed by the Government of the Syrian Arab Republic.⁴⁹ In the absence of parallel measures at the State or international level to deal effectively with children with perceived links to ISIL, and the threats posed by young men of fighting age associated with ISIL fighters, the Commission notes that any such measures undertaken by non-State actors (the Syrian Democratic Forces) must adhere to juvenile justice standards, including incorporating the best interests of the child.⁵⁰ Investigations into that matter are ongoing.

VI. Recommendations

99. The Commission reiterates the recommendations made in its previous reports, with particular emphasis on the protection of civilians, including displaced populations, especially in areas in which there are ongoing hostilities.

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

- (a) **Allow unfettered access for independent humanitarian, protection and human rights organizations in every part of the country;**
- (b) **Release all those unlawfully detained, including individuals denied the right to challenge the basis for their detention before a court of law, within a reasonable time;**
- (c) **Cease all forms of incommunicado detention or other forms of unlawful deprivation of liberty, including in conditions amounting to enforced disappearance; and disclose the locations of all official and unofficial places of detention, with a full list of the names of all those held in detention;**
- (d) **Facilitate the freedom of movements of civilians in retaken areas and prevent arbitrary detention at checkpoints, in particular to allow access to medical care;**
- (e) **Review conscription laws to ensure that they adhere to international standards, and apply them in a manner consistent with such standards;**
- (f) **Implement the recommendations of the Committee on the Elimination of Discrimination against Women, including general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations; and recognize its obligations under Security Council resolutions 1325 (2000) and 2122 (2013), reaffirming the need to protect women and girls from sexual and gender-based violence;**
- (g) **Ensure that legislation and processes for reclaiming property comply with the principles on housing and property restitution for refugees and displaced persons and are equally accessible and affordable, in particular for women.**

101. **The Commission recommends that pro-government forces:**

- (a) **Cease attacks on civilians and civilian objects, in accordance with their obligations under international humanitarian law, in particular against medical facilities, personnel and transport, and comply with their obligation to take all feasible precautions to minimize harm to the civilian population;**
- (b) **Conduct independent, impartial and credible investigations into incidents in which their forces are implicated and ensure that those responsible are held accountable. The findings of such investigations should be made public;**

49 See, for example, “Out of sight, out of mind: deaths in detention in the Syrian Arab Republic”.

50 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).

(c) Cease using unguided weapons and weapons with wide-area effects, including cluster munitions and blast weapons, in densely civilian populated areas.

102. The Commission recommends that non-State armed groups:

(a) Cease all kidnappings, hostage-taking and arbitrarily detaining civilians, in particular individuals expressing dissent;

(b) Effectively ban the recruitment of children and their use in hostilities and ensure access to appropriate rehabilitation services;

(c) Comply with customary international humanitarian law and cease attacks against civilians, including members of religious and ethnic minorities;

(d) Investigate all allegations of violations and crimes committed by their fighters, take urgent measures to discipline or dismiss individuals responsible for such acts, including in cases of looting and property appropriation, and make their findings public;

103. The Commission recommends that the international community and individual Member States:

(a) Take all feasible precautions, when conducting operations in the Syrian Arab Republic, to minimize harm to the civilian population, including by reviewing tactical guidelines related to targeting in the conduct of operations, and conduct independent, impartial and credible investigations into incidents in which their forces are implicated to ensure that those responsible are held accountable. The findings of such investigations should be made public;

(b) Take urgent steps to end violations of international humanitarian law committed by State forces and non-State armed groups receiving any form of support in relation to the armed conflict, in accordance with the obligations of all States under common article 1 of the Geneva Conventions of 1949, and encourage such entities to investigate all allegations of crimes and violations and make their findings public;

(c) Ensure unfettered humanitarian access to all civilians in the Syrian Arab Republic based on the needs of the population, in particular those subsisting in the north-west of the country;

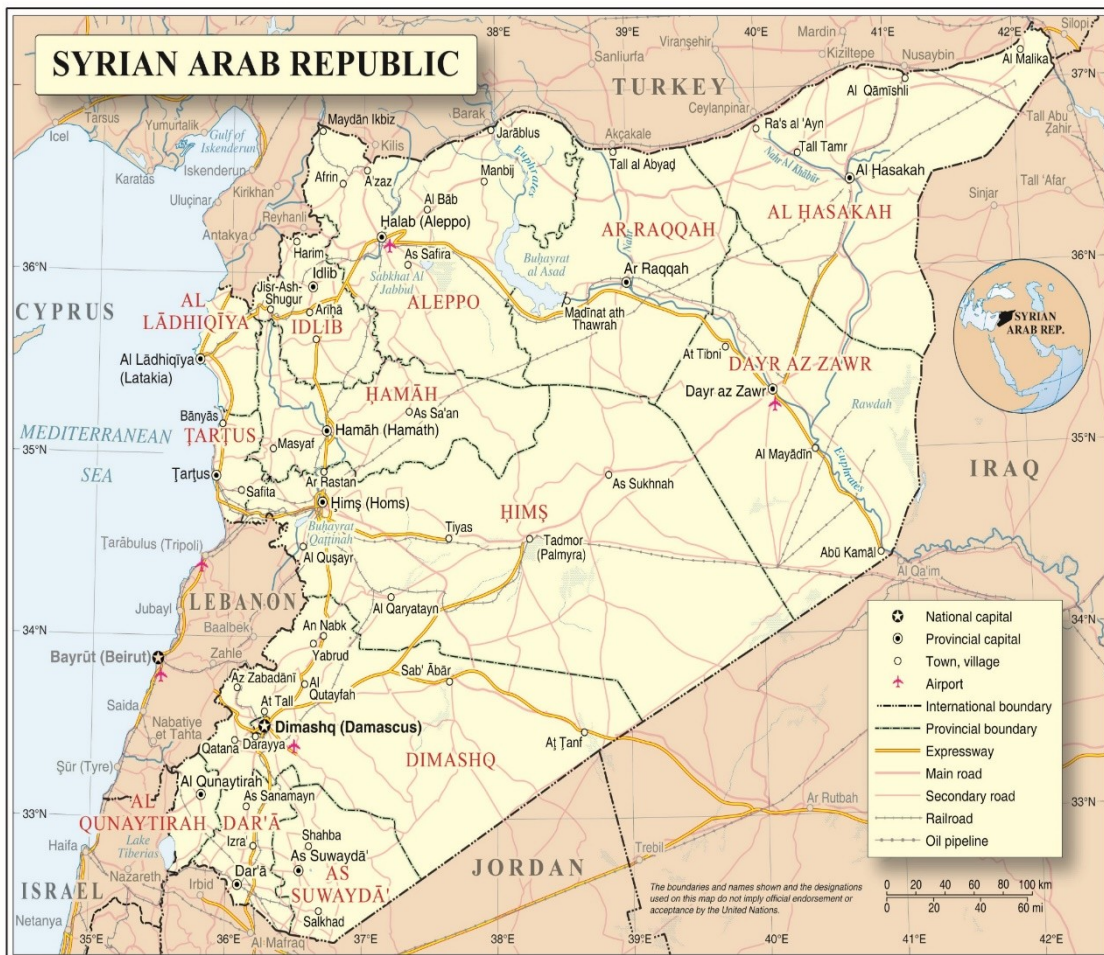
(d) Ensure unfettered access for independent humanitarian, protection and human rights organizations in every part of the country;

(e) Repatriate foreign nationals in the Syrian Arab Republic who are allegedly associated with ISIL, in particular children with their parents, in accordance with the best interests of the child;

(f) Use all available diplomatic means to de-escalate violence in the north-west of the Syrian Arab Republic, including through an inclusive and Syrian-led political process, in accordance with Security Council resolution 2254 (2015).

Annex I

Map of the Syrian Arab Republic⁵¹



Map No. 4204 Rev. 3 UNITED NATIONS
April 2012

Department of Field Support
Cartographic Section

51 The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Annex II

Attacks in Idlib and northern Hama

22 July, attack on a market in Marat al-Numan

1. On 22 July, a series of air strikes hit a market and its surroundings in Marat al Numan in southern Idlib, killing at least 43 civilians, including three girls and one boy, and injuring at least 109 others, including 18 children and 15 women. Most of the victims suffered severe injuries, with some being later brought to the Marat al-Numan hospital decapitated, badly burned or without limbs. Family members were forced to identify their loved ones based on birth marks, clothing or other similar features.
2. The market was located on the Marat al Numan main road, in-between residential buildings and around 40 commercial shops. Interviewees recalled that it was a popular market, operating during the entire day, with peak-time known to be between 8:00 a.m. and 1 p.m.
3. In the morning of 22 July, at around 08:00 a.m., flight spotters and early warning observers reported that jet aircraft had departed from Hmemim airbase and were circling in the skies over the Idlib countryside. Minutes later, at least two jet aircraft carried out two consecutive air strikes, dropping at least three munitions in densely populated areas in Marat al Numan. The first two munitions hit a residential house and a prison. At 8:17 a.m., a third munition struck another residential building situated in the southern part of the town's market, known to be busy with visitors in the morning hours, located some 800 meters away from the first location.
4. Eyewitnesses described that approximately 10 to 15 minutes after the attack on the market, civilians and first responders rushed to the scene. Within minutes, however, flight spotters⁵² announced that a jet aircraft was coming back to the impacted area. At this point, that jet aircraft launched a "double-tap attack" killing scores of civilians, including at least one member of the rescue team. After the attack, flight spotters reported that jet aircraft, possibly different aircraft, were still circling above the area.
5. Interviewees who visited the impacted market site recalled seeing a large crater on the main street and a number of dismembered bodies scattered nearby. At least two four-storey residential buildings had collapsed and 25 commercial shops were destroyed, whilst the windows of al-Quza'iz school located some 700 meters away from the market, were shattered. A member of the rescue team described hearing the screams of a girl who was trapped under the rubble of one of the destroyed buildings. While the team managed to retrieve the girl and her older brother alive, they also found the dead bodies of their parents. Civilians and first responders spent more than one day retrieving the victims' bodies from under the rubble.
6. Consistent with witnesses testimony, early warning reports and flight spotters reports indicated that at least two Russian fixed wing-aircrafts, departed from Hmemim airbase on 22 July at around 8:03 a.m. and circled near the target area at the same time of the attack. The Commission further obtained flight communication intercepts conducted in the Russian language for the period between 07:40 and 09:59 a.m. The communications confirm that, between 8:17 and 8:35 a.m., two Russian aircraft operated in Idlib airspace, and reported on the progress of on-going aerial attacks in Idlib.
7. Documentary material, including satellite imagery, video footage and photos provided to the Commission show a large crater on the main road of the market. It also shows damage to the roof of one residential building, and that at least one building that has collapsed.
8. Information obtained by the Commission does not indicate that, during the time and day of the attack, the Syrian Air Force engaged in target coordination or carried out attacks in Idlib governorate.

52 Flight spotters or early warning observers comprise civilians who monitor aircraft flights to provide other civilians with advance warning prior to an air strike

16 August, Haas compound for displaced civilians

9. On 16 August, between 7:15 and 7:30 p.m., a series of air strikes hit a compound located two kilometres from Haas in southern Idlib, where displaced civilians from Dayr al-Zawr, Hama, Homs, rural Damascus and Dar‘a lived. The attack caused substantial damage to areas where civilians often gathered, including children. The attack killed at least 20 people, including eight women, one of whom was pregnant, and six children, and injured 40 others.
10. One interviewee described that, as hostilities in southern Idlib intensified, many civilians were compelled to relocate to the Haas compound as they were unable to afford travel costs to go to the camps along the Turkish border, generally considered to be safer. Fearing attacks, though unable to relocate due to financial constraints, families were left with no other choice but to settle in Haas compound.
11. The Haas compound for displaced civilians was located in a rural area, and was described by witnesses as residential, without checkpoints or armed groups’ presence, and situated near agricultural fields. The compound was composed of several residential buildings, where at least 150 families lived. Interviewees described how, during the summer, they would often gather in an open area in the compound in between residential buildings and commercial shops, while children would be playing. The compound also included commercial areas, a non-operational medical centre, a kindergarten, and a makeshift secondary and primary school catering for some 290 pupils, as well as a prayer room.
12. Eyewitnesses recalled that at around 7 p.m. at sunset, before evening prayer, a reconnaissance plane was circling over the Haas compound. As it was not uncommon for encamped residents to witness aircraft, many remained outside in an open area. Minutes later, flight spotters⁵³ reported that a jet aircraft was in the area and, at approximately 07:25 p.m. a series of air strikes struck the compound killing at least 20 civilians and injuring at least 40 more.
13. Interviewees narrated that a jet aircraft dropped at least two bombs on the compound, primarily impacting the open area to the south-west, located between residential units and commercial shops, where civilians had gathered together. At least two of these buildings, along with the food storage room, were completely destroyed. The windows and doors of the health centre and the school were completely shattered from the blast.
14. Approximately 10 minutes after the attack, civilians and rescuers rushed to the scene and began removing victims from under the rubble. One interviewee described that most of the victims suffered severe burns following the air strikes, and many succumbed to their wounds after being transported to nearby hospitals.
15. Witnesses and flight spotters identified the aircraft as Russian Sukhoi Su-24. Early warning system observation reports indicated that at least two Russian fixed-aircraft departed Hmemim airbase on 16 August, at 7:02 p.m. and were then circling in the area near the Haas compound. Flight communication intercepts – conducted in the Russian language – confirmed that, on 16 August, at the time of the attack, at least two Russian aircrafts operated in Idlib airspace, and reported progress regarding the attacks. Analysis of the intercept data further clarifies that both of the Russian aircraft requested and confirmed having received target coordinates between 7:17 p.m. and 7:44 p.m., with one of the aircraft engaging in an attack at 7:24 p.m.
16. The Commission received no reports indicating the presence of Syrian aircraft during the day and time of the attack on the Haas compound. Consistent with eyewitnesses’ statements, video footage, picture material and satellite imagery show a deep, large impact crater in an open area in the Haas compound. The impact and the damage indicate the use of a blast weapon with wide-area effects, such as highly explosive fragmentation bombs. This includes OFAB-250 or KAB-500 bombs, both of which are unguided blast fragmentation munitions, known to be carried by Russian aircraft, and Russian Sukhoi Su-24 in particular.

53 Flight spotters or early warning observers comprise civilians who monitor aircraft flights to provide other civilians with advance warning prior to an air strike

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17. Given the evidence available, including witness testimonies, video footage, data imagery as well as reports by flight spotters, flight communication intercepts and early warning observation reports, the Commission concluded that a Russian aircraft participated in each incident as described above, and that each of the incidents the Russian Air Force did not direct the attacks at a specific military objective, amounting to the war crime of launching indiscriminate attacks in civilian areas

20 November, attack on Qah camp for displaced civilians

18. In the evening hours on 20 November, pro-Government forces launched a surface-to-surface missile attack consisting of cluster munitions on a camp for displaced civilians located along the Turkish border, where hundreds of families displaced from eastern Ghutah, Dar'a and Homs resided. The camp was situated near Qah village, approximately four kilometres from another major camp in Atma, and was recently expanded to accommodate tens of thousands Syrian women, men and children who had fled the on-going offensive on southern Idlib and northern Hama. Witnesses described hearing one large explosion at 7:19 p.m., followed by a number of smaller bomblets that exploded over the camp, setting numerous tents on fire and damaging the Qah hospital located some 25 meters away. The attack killed 18 civilians and injured at least 40 others, including 17 children.
19. The Commission analysed photographs and video footage of remnants which revealed the use of an OTR-21 missile. The overall size and shape of the blast site was compatible with the OTR-21 "TOCHKA" system, a large tactical ballistic missile system that the Syrian army has in its repertoire.
20. Although the Syrian Arab Republic is not a party to the Convention on Cluster Munitions, 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 prohibited by customary international humanitarian law. For this reason, their use in densely populated camps for displaced civilians, constitutes the war crime of indiscriminate attacks in a civilian populated area.
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