

Distr.: Restricted
19 June 2015

English only

Human Rights Council

Twenty-ninth session

Agenda item 4

Human rights situations that require the Council's attention

**Oral Update of the Independent International
Commission of Inquiry on the Syrian Arab
Republic***

* Reproduced as received.

GE.15-10053 (E)



Please recycle



I. Introduction

1. The war in Syria has entered its fifth year and shows no signs of abating. It has mutated into a multi-sided and highly fluid war of attrition where the belligerents have repeatedly experienced surges and setbacks. This has served only to fuel the illusion that a military victory remains possible.
2. Civilians are the main victims of an ever-accelerating cycle of violence. Syrians continue to lose their lives, homes, and livelihoods in a conflict in which there is little, if any, attempt to adhere to international law. Beyond their failure to protect civilians, the warring parties' seemingly deliberate decision to put civilians in harm's way has led to unspeakable suffering.
3. This update covers the period from 15 March to 15 June 2015. It examines the impact of the conduct of the warring parties and lack of humanitarian access on civilians. More recently documented incidents reinforce earlier findings that the main cause of civilian casualties, mass displacement, and destruction is the deliberate targeting of civilians, indiscriminate and disproportionate attacks, attacks on civilian and protected objects, and the punitive imposition of sieges and blockades.
4. While this update focuses on violations committed during the conduct of hostilities, it must be emphasised that mass violations concerning the treatment of civilians and hors de combat fighters continued to be received. In particular, corroborated accounts of unlawful killing, torture, sexual violence, enforced disappearance, and the taking of hostages have been documented. Centres of violence include Government detention centres, prisons and checkpoints; ISIS-controlled territory; and recent ground attacks in northern and southern Syria by anti-Government armed groups, sometimes operating in conjunction with Jabhat Al-Nusra. These violations will be detailed in the Commission's official report to the 30th Session of the UN Human Council.

II. Political Situation

5. Over the last three months – and despite efforts on multiple political tracks – prospects for a political solution continued to stall as military activities intensified amongst the various belligerents.
6. Since April 2015, UN Special Envoy to Syria, Staffan De Mistura, has held a number of discussions with local, regional and international actors to gauge their current positions and visions for a political solution. The Special Envoy is expected to present his findings to the Secretary-General in the near future. He has been holding discussions with the Syrian Government in Damascus.
7. Separately, some members of the Syria opposition met in Cairo on 6 June 2015 and produced a road map to reach a political solution. Another conference, attended by a broader pool of political and military actors within the opposition, is anticipated to take place in Riyadh in July 2015.
8. The US and Russia have continued to urge a political solution. The latest meeting between US Secretary of State, John Kerry, and the Russian President Vladimir Putin took place in Sochi on 12 May 2015. Their meeting reportedly focused on avenues for bringing a close to the conflict and means to confront ISIS.
9. The increased polarisation amongst influential regional actors – against the backdrop of the crisis in Yemen – has further weakened the prospect of dialogue on Syria. However,

these regional actors continue to play a key and invaluable role in pushing for a political solution.

10. While parties have emphasised the fact that the June 2012 Geneva Communiqué remains the basis for a negotiated settlement, the prospects for the necessary inclusive political dialogue amongst the parties appears to be even further out of reach. Instead, latest developments suggest that some belligerents believe that an armed resolution to the conflict remains possible.

11. In this context, it is ever more urgent for influential states to promote a political solution as the sole means of bringing an end to the war.

III. Military Situation

12. Armed confrontations continue to rage on a multitude of distinct frontlines involving an increased number of armed actors on all sides. Long-lasting stalemates in the governorates of Idlib, Homs, and Hasakah have been recently interrupted by brutal outbreaks of fighting that expanded to new localities such as Idlib city (Idlib) and Tadmor (Homs).

13. Conflict dynamics have been further complicated by the deepening external interference, accentuating the internationalisation of the conflict. Different states and non-State actors in the region have continued to support militarily their respective protégés and allies among Syrian belligerents, contributing to the constant escalation of armed confrontations. Many have increasingly engaged in mobilising, training, and equipping as well as financing Syrian or foreign fighters engaged on all sides.

14. Even while searching for a political solution to the conflict, different influential international stakeholders have intensified their military and logistical support both to the Syrian Government and to the anti-Government armed groups in order to exert more military pressure on the opposing side and force it into the compromise considered as a prerequisite for any political process to succeed. While doing so, they have fed a brutal escalation of armed violence that has taken, and will continue to take, the lives of Syrian civilians.

Government forces

15. Syrian Government forces, alongside their supporting local and foreign militia, have recently suffered a series of military setbacks. Except for consolidating their defensive positions around Damascus, Homs and coastal governorates, they have shown a declining ability and willingness to operate outside of these strategic areas. Their strategy, based on preserving footholds in every possible region of the country through reliance on extensive use of fire power and irregular forces, has proven to be unsustainable, both in terms of human and material resources.

16. Due to a shortage of manpower, Government forces have increasingly relied on pro-regime Syrian paramilitary and, more importantly, on foreign fighters who play a central role on the most critical battlegrounds. Government forces have also relied on ground and aerial bombardment in targeting rebel strongholds, causing extensive damage to these areas and scores of casualties among the rebels and their presumed popular base.

Anti-Government armed groups

17. In recent weeks, anti-Government armed groups have achieved key tactical gains, pressuring the Syrian Government on several fronts. Their improved strategic planning and operational performance allowed them to capture the city of Idlib and win a series of strategic victories in Dara'a and Idlib governorates.

18. These armed groups have recently developed their level of coordination to larger operations and benefitted from increased logistical support provided by their external backers. As political and ideological differences seem to have been at least temporarily disregarded, the coordination and collaboration have been significantly enhanced among different factions, ranging from FSA-affiliated groups to Al-Qaeda affiliate Jabhat al-Nusra.

19. External backers have ameliorated their level of financial and logistical support to the anti-Government armed groups, either as part of direct bilateral initiatives or through joint entities such as the international “Military Operations Rooms” coordinating the provision of lethal and non-lethal support to vetted opposition groups.

Islamic State of Iraq and Al-Sham (ISIS)

20. The self-proclaimed Islamic State of Iraq and Al-Sham (ISIS), or Daesh, has continued to battle simultaneously Syrian Government forces, anti-Government armed groups, and the Kurdish armed group (YPG) on a number of distinct fronts. Since the beginning of the year, the organisation has suffered a string of losses in northeastern Syria at the hands of the YPG, which has been supported by the international coalition airstrikes and a multitude of armed militia including Assyrian and Arab tribal groups.

21. ISIS, however, has recently captured strategic areas in central Syria around the city of Tadmor (Homs), further isolating Government forces in eastern Syria. This has allowed it to open better lines of communications with its positions in the central and southern governorates where it has significantly increased its presence and activities. The group has also conducted attacks in regions beyond the areas targeted to date by the international coalition aerial campaign. It attempted to seize the Yarmouk Palestinian refugee camp in Damascus city’s southern suburbs, attacked rebels in eastern Aleppo governorate, and expanded in areas in Suweida and Dara’a governorates.

People’s Protection Units (YPG)

22. YPG has continued to battle ISIS militants for the control of areas around the Kurdish regions of northeastern Syria. Fighting alongside multiple local armed groups, the YPG have benefitted from the international coalition airstrikes in repelling successive ISIS attacks on Ain Al-Arab (Kobane) and Al-Jazire enclaves. Besides recapturing most of Kobane district, they have recently expanded their control over a large swathe of territory in Hasakah governorate, including the strategic areas of Tal Hamis and Abdelaziz Mountain, previously under ISIS control.

23. Besides recapturing most of Ain Al-Arab (Kobane) district, they have expanded their control over a large swathe of territory in Al-Hasakah governorate, including the strategic areas of Tal Hamis and Abdelaziz Mountain, previously under ISIS control. Most recently, YPG with the support of anti-Government armed groups have captured the border town of Tal Abyad (Raqqah), geographically connecting the Kurdish enclaves of Ain Al-Arab (Kobane) and Al-Jazire. With these latest gains, the YPG has expanded its control over areas inhabited predominantly by Arab tribes.

IV. No Safe Place: Shelling and Aerial bombardment

24. With each passing day there are fewer safe places in Syria, as evidenced by the mass displacement of civilians out of and within the country. Everyday decisions – whether to go to visit a neighbour, to send your child to school, to step out to buy bread – have become, potentially, decisions about life and death. Large numbers of children have been killed in bombardments of their homes, schools, and playgrounds.

25. Indiscriminate attacks on civilian-inhabited areas are committed across Syria by most, if not all, of the warring parties. The Government, with its superior firepower and control of the skies, inflicts the most damage in its indiscriminate attacks on cities, towns, villages and neighbourhoods not under its control. Non-State armed groups continue to launch attacks on Government-held localities, usually from nearby ground positions, causing civilian deaths and injuries.

26. The trauma experienced by civilians who live under indiscriminate fire, and who, therefore, cannot predict when a deadly attack might arrive, cannot be underestimated. These bombardments spread terror among the civilian population.

27. Since the beginning of the year, Government airplanes and helicopters have fired missiles and dropped barrel bombs on localities to the north of Aleppo city. This has included towns, such as Tal Rifat and Kafra Hamra, held by anti-Government armed groups. The Government has also bombarded areas of eastern Aleppo governorate such as Al Bab and Azaz where the majority of residents are civilians. Eastern neighbourhoods of Aleppo city, such as Al Shaar, Al Sakour, Baidin, Al Maadi, Al Hayderia and Al Moyaser are suffering bombardments – mostly barrel bombings – on a near daily basis.

28. In recent months, there has been an intensification of aerial bombardments of towns and cities in Dara'a and Idlib governorates. In Dara'a, Jasem and Inkhil remain under continuous attack, as does Tariq Al-Sad neighbourhood of Dara'a city. On 19 April 2015, Government forces dropped barrel bombs on Al-Karak, causing civilian casualties. In Idlib, Government helicopters and jets have launched frequent attacks on armed group-held Maarat Misrin, prompting mass displacement of civilians from the area. In early May 2015, the Government dropped barrel bombs on Taftanaz. Government forces have also bombarded towns and villages in ISIS-controlled Dayr Az-Zawr.

29. Army positions at bases and checkpoints fire artillery rounds and mortars into nearby restive areas. Pro-Government militia in Nubul and Zahra (Aleppo) fired artillery shells into surrounding armed group-held villages, such as Mayer. In the Idlib countryside, Government positions in Fou'a and Kafria villages fired on surrounding villages. As discussed below, armed group-held villages also fired into Government-held villages, killing and injuring civilians. Where the villages are populated by Syrians of different ethnic or religious backgrounds, the continuing cycle of attacks and counter-attacks from warring parties embedded in each locality has inflamed sectarian tensions and created localised conflicts.

30. While areas under armed group control contain multiple military objectives, such as fighters, bases, and checkpoints, the pattern of attacks and manner in which they were carried out demonstrates an apparent lack of precautions taken by the Syrian Government and a lack of distinction between military and civilian targets. In Aleppo city, for example, the majority of bombardments occur in residential areas, far from the front lines.

31. As previously documented, the Government continues to direct attacks towards locations where civilians are likely to congregate, among them, bus stations, marketplaces, and bakeries. In Aleppo city, areas such as Al Haydaria and Baidin, where civilians gather to take local buses, have suffered multiple attacks. On 5 February 2015, a barrel bomb hit two buses and an ambulance at the Baidin bus gathering point, killing almost 50 civilians including a number of children. In March 2015, a man was injured outside a bakery during the bombardment of Abteh village in Dara'a countryside. Marketplaces in Idlib and Aleppo cities continue to suffer aerial bombardments, killing mainly women and children.

32. Government forces have consistently failed to employ precision weapons when attacking targets in dense urban areas, causing mass civilian casualties and destruction of civilian infrastructure. In particular, the continuing use of barrel bombs in aerial campaigns against whole areas, rather than specific targets, is in violation of international humanitarian

law and, as previously documented, amounts to the war crime of targeting civilians. The flight paths of helicopters responsible for the dropping of barrel bombs are being documented. Those in command of the bases and airstrips where helicopters are loaded and from where they take off must be held accountable, as well as those who work in the manufacture of these weapons.

33. Anti-Government armed groups continue to use ground positions to shell civilian-inhabited areas under Government control indiscriminately. The weaponry varies somewhat according to the capabilities of each group. Those under bombardment have reported the use of mortars, artillery shells, and homemade rockets fashioned from domestic gas cylinders.

34. Government-controlled neighbourhoods of Aleppo and Damascus cities continue to be indiscriminately shelled by anti-Government armed groups. The shelling of the neighbourhoods of Soulaymaniyeh, Bustan Kalb, and Al-Jamiliyeh in Aleppo city has been documented, with the consequent loss of civilian life. In early February 2015, Jaysh Al-Islam, based in eastern Ghouta, publicly threatened to shell Government-held areas of Damascus city. Within 24 hours, homemade rockets were fired in neighbourhoods near the SANA news agency. A mortar fell inside the University of Damascus, killing a female student. Other areas of Damascus city, including Jaramana and Halboon, continue to be shelled by anti-Government armed groups, reportedly based in eastern Ghouta. In most instances, civilian casualties, including the death of children, have been recorded.

35. Towns and villages held by the Government continue to be shelled. These include Nubul and Zahra in northern Aleppo governorate, which are said to be fired upon from armed group positions in nearby villages such as Mayer. Similarly in Idlib governorate, armed groups have shelled the predominantly Alawite village of Ishtabraq and the Shia villages of Foua'a and Kafria from nearby positions. Since January, multiple armed groups including Jaysh Al-Islam and Jabhat Al-Nusra have shelled Latakia city and the village of Sqoubin, which lies within range of armed group-held areas of Salma and Ghmam.

36. While there are often military objectives within Government-held areas, notably checkpoints, armed groups take no precautions and make no effort to distinguish between military and civilian objectives. The result has been mass civilian casualties and the terrorising of communities that cannot predict when the next lethal attack may occur.

37. In its recent attack on Tadmor (Homs), ISIS indiscriminately shelled the civilian-inhabited town in advance of moving in its ground forces. In Al-Hasakah, fierce fighting between ISIS and the YPG and supporting Assyrian and Arab militia has been recorded. Reports of indiscriminate shelling by all parties are being investigated.

38. While the scale of the attacks, the weaponry used, and the consequent number of casualties differs between the indiscriminate attacks committed by the Government and the armed groups, the motivation behind the attacks have much in common. In no instance have the warring parties shown any commitment to their obligation under international law to distinguish between civilian and military objectives. Regardless of the faction involved, the majority of attacks are either directed at a specific military objective or fail to employ a method or means of combat which cannot be directed at specific military objective.

39. In no instance have any feasible precautions been taken to avoid or minimise incidental loss of civilian life, injury to civilians, and damage to civilian objects. Additionally both the Government forces – including its paramilitary and foreign and local supporting militia – and the multiple armed groups in the conflict continue to locate military objectives within or near densely populated civilian-inhabited areas.

40. The Government's campaign of shelling and aerial bombardment occurs alongside the besieging of areas and the arrest and disappearance of predominantly fighting-age

males from restive areas at its checkpoints. The larger strategy appears to be one of making life unbearable for civilians who remain inside armed-group controlled areas. The Government's relentless bombardment of areas held by armed groups has spread terror among the civilian population and prompted the arbitrary displacements of thousands. Those fleeing tend to be women and children, as men and boys above the age of 15 are more likely to be detained at checkpoints.

41. Shelling of civilian-inhabited areas by non-State armed groups has terrorised men, women and children living in areas held by the Government. As a show that they are still a force to be reckoned with, these attacks also appear to be launched with the intention of punishing civilians for their perceived support of the Government. Where these attacks are launched on areas with minority communities, they create further divisions within Syrian society and risk inflaming sectarian tensions.

V. Hospitals & Heritage: Attacks on Specifically Protected Objects

42. Government forces have continued to bombard hospitals and medical units in order to deprive civilians living in armed group-held areas – and assumed to be affiliated with the opposition – of medical care. The previously documented pattern of attacks indicating that Government forces have deliberately targeted hospitals, medical units, and ambulances remains an entrenched feature of the conflict. In April and May 2015, multiple attacks were recorded on hospitals and health clinics in Aleppo city. Medical care in Aleppo city has come under sustained attack, with the consequence that there are few places where civilians can receive medical attention.

43. Anti-Government armed groups have also attacked medical facilities. On or around 21 February 2015, a suicide bomber exploded in Al-Qirdaha hospital in Latakia, killing two members of staff and injuring patients.

44. Customary international humanitarian law affords special protection to hospitals, medical units and healthcare personnel. The Syrian Government has a non-derogable core obligation to ensure the right of access to health facilities, goods and services on a non-discriminatory basis, as part of the right to health, enshrined in the International Covenant on Economic, Social and Cultural Rights. While intentionally directing attacks against hospitals and places containing the sick and the wounded and against medical units using the Red Cross or Red Crescent emblem is a war crime in non-international armed conflict, those who worked in medical facilities, particularly in areas under attack by Government forces, indicated that they no longer displayed these emblems, fearing they made them a target of attack.

45. Also under attack is Syria's cultural heritage. On-going investigations suggest that much of the damage to some heritage sites – notably the Aleppo citadel (Aleppo) and Krak des Chevaliers (Homs) is a result of cross-fire between the warring parties as well as by indiscriminate attacks. In some instances, Government forces have based in historic citadels such as the Aleppo citadel or the fort above Tadmor, rendering them military objects. It is not determined that that such exposure of historic sites to damage or destruction was imperatively required by military necessity.

46. Neither the Government nor anti-Government armed groups nor groups such as ISIS and Jabhat Al-Nusra have taken any special care in their operations to avoid damage to historic monuments, as they are obliged to do under international law. The Syrian Government is in breach of its obligations under the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (also known as the Hague Convention),

and in particular its Second Protocol, to take steps to protect cultural heritage in the event of armed conflict.

47. ISIS, in particular, has attacked, and in some cases, destroyed, objects of great importance to the cultural heritage of the Syrian people. In late February 2015, ISIS launched attacks on Assyrian villages in the Tel Tamer region of Hasakah governorate. During these attacks, they destroyed several Assyrians churches, at least one of which was a cultural heritage site. They have also destroyed historic Sufi shrines in Dayr Az-Zawr governorate.

48. There is increasing information that where the cultural objects do not offend ISIS ideology, they are excavated and sold illegally to international buyers. Payments received are used to fund ISIS operations, including the financing of further excavations. Any form of theft, pillage or misappropriation or, any acts of vandalism directed against property of great importance to the cultural heritage of the Syrian people is prohibited under international law.

VI. Surrender or Starve: Sieges and Denial of Humanitarian Assistance

49. Government forces, anti-Government armed groups, and ISIS employ the use of sieges to devastating effect.

50. Government sieges are imposed in a coordinated manner. Soldiers at checkpoints regularly conduct arbitrary arrests, confiscate food and other basic supplies, and prevent sick and wounded persons from seeking medical attention. The Government's resources have allowed them to effectively maintain their grips on encircled areas, resulting in the conflict's longest and most deadly sieges.

51. The Government continues to besiege Yarmouk camp in Damascus and the area of eastern Ghouta and Zabadani in Damascus countryside. These sieges are on-going for over two years and have resulted in civilians starving to death, or dying from chronic illness or injuries sustained in aerial bombardments. With access to medical supplies curtailed, there is little or no medical care available, resulting in deaths from normally treatable injuries and conditions. Interviewees from inside Yarmouk camp describe eating domestic animals and leaves in an attempt to survive. It is estimated that 40% of the children in Yarmouk camp suffer from malnutrition. Those who were willing to risk passing through Government checkpoints – mainly women and children – have fled. The denial and obstruction of food and other items indispensable to the survival of the civilian population aims to force restive areas into submission, as part of the Government's continuing strategy of 'surrender or starve'.

52. Additionally the Government continues to obstruct the delivery of urgently needed humanitarian assistance to displaced persons and civilian residents in areas affected by conflict. In particular, Government forces have refused to allow aid deliveries of essential medicines and surgical supplies. In continuing a policy of denying medical care on the grounds that it may be used to treat injured combatants, Government authorities act in direct breach of binding international humanitarian law obligations to ensure that wounded and sick persons are collected and cared for, and to ensure the rapid and unimpeded passage of humanitarian relief.

53. Anti-Government armed groups have imposed sieges around the towns of Nubul and Zahra in Aleppo and, more recently, around Foua'a and Kafria in Idlib. The situation in these Idlib towns is reportedly dire – with little, if any, food or medicine available to civilians. In particular, milk for infants is desperately needed. Additionally, anti-

Government armed groups have deliberately impaired the electricity and water supply to Government-held neighbourhoods of Dara'a and Aleppo cities, depriving civilians of access to potable water and sanitation. International humanitarian law prohibits attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population. Such acts violate the right to safe and clean drinking water and sanitation.

54. ISIS is imposing a siege on Government-held areas of Dayr Az-Zawr city, home to a population of approximately 300,000 people, the majority of whom are civilians. In March 2015, ISIS called on civilians to leave the area. Those who attempted to leave were prevented from doing so by Government forces. In March 2015, a man reportedly drowned in the Euphrates River as he attempted to cross in order to get food for his family. With no medical supplies allowed in, casualties have resulted. In March 2015, an old woman and a child are said to have succumbed to easily treatable conditions.

55. Sieges and the protracted denial of humanitarian aid, including food, have led to malnutrition and starvation. Rather than serving to weaken the military forces of the opposing side, it is the civilians living in these areas who have suffered. Sieges and denial of aid have provided fatal for the most vulnerable. The elderly, infants and young children, those suffering from chronic illnesses, and those injured in shelling or bombardments are the most likely to die. As sieges persist, the circle of casualties expands relentlessly. Trapped in an area without food and often under bombardment, a sense of desperation has gripped the civilian population. Severe psychological trauma characterises these besieged communities.

56. The use of starvation as a method of warfare is prohibited. Such acts violate core obligations with regard to the right to adequate food, the right to the highest attainable standard of health and the right to life.

VII. Gas Attacks: Use of Illegal Weapons

57. New reports were received of the use of chlorine and/or phosgene gas during attacks on the towns in Idlib governorate, including Saraqib, Sarmin, and Idlib city, in March and April 2015. These incidents are currently under investigation.

58. In its resolution 2209 (2015) the Security Council condemned in the strongest terms any use of chlorine as a weapon in Syria, deciding that in the event of future non-compliance with its earlier resolution 2118, it would impose measures under Chapter VII of the UN Charter.

VIII. The Way Forward

59. The parties to the Syrian conflict have conducted the hostilities with little regard to their obligations under international law. An unconscionable number of civilian men, women and children have been killed and injured as a result of the warring parties' continuing failure to distinguish between those who directly participate in hostilities and those who do not. By their conduct, the belligerents signal a seemingly deliberate decision to expose civilians, unnecessarily, to lethal force.

60. Indiscriminate attacks, attacks on specifically protected person and objects and the use of sieges have come to characterise this brutal war. The use of sieges and denial of humanitarian access to civilians has forced Syrians to suffer extreme deprivations for months, sometimes years. Unthinkable as it is, some – including children – have died from starvation, dehydration and disease, as a result. The lifting of sieges and the ensuring of

unimpeded humanitarian access is crucial and must be a condition for any continuing support of the warring parties.

61. The intensification of these attacks in recent months is, in part, a foreseeable consequence of the continuing financial, logistical and in some cases military supports provided to the warring parties by external actors. The current theatre of battle emphasises the growing international dimension within the Syrian conflict.

62. Such actors have obligations under international law. In particular, States should not authorise the transfer of arms if there is a risk that they will be used in the commission of crimes against humanity or war crimes. States that exert influence over the parties in the Syrian Arab Republic have an obligation to ensure their compliance with the rules of international humanitarian law.

63. Fearing no consequences of their conduct, there is little incentive for the parties to the conflict to bring their acts and omissions in line with international law. Recourse to accountability is urgent and essential. It will serve not only to provide a path to justice for victims but may impact on how this war continues to be fought to the benefit of civilians still inside Syria. The absence of decisive action by the community of States, as a whole – and the Security Council in particular – has nourished a now deeply entrenched culture of impunity. States sitting on the Security Council must open a path to justice for victims and refer the situation in Syria to the International Criminal Court.

64. The Syrian people deserve an unambiguous commitment to helping them to return their country to peace. Influential states must make their continued political support conditional on parties' willingness to compromise and negotiate. To create conditions amenable to negotiations is a shared responsibility. This cannot be achieved without the setting aside of the narrow national interests of a few and the coming together of a community which holds within itself not only the ideals of human rights, but also a deepening realisation that, without peace and justice in Syria, all the world will suffer the consequences.
