



人权理事会

第二十五届会议

议程项目 4

需要理事会注意的人权状况

阿拉伯叙利亚共和国问题独立国际调查委员会的报告*

概要

本报告述及调查委员会 2013 年 7 月 15 日至 2014 年 1 月 20 日开展的调查。委员会的结论依据的是 563 次访谈和及其收集的其他证据。

逾 25 万人被困在阿拉伯叙利亚共和国，遭受着猛烈的炮击和轰炸。他们得不到人道主义援助、食品和医药等必需品，被迫在投降和饥饿之间做出抉择。围困战大行其道，侵犯人权和违反国际人道主义法的行为令人发指。交战双方无所顾忌，不怕因自己的行为被追究责任。

政府军和亲政府民兵及非国家武装团体实施的违法行为，在规模和地域分布方面存在差异。

政府军和亲政府民兵仍然对平民发动大范围袭击，有计划、有组织地犯下谋杀、酷刑、强奸和强迫失踪等危害人类罪。政府军实施了严重侵犯人权的行为，犯下了谋杀、劫持人质、酷刑、强奸与性暴力、招募和使用儿童参与敌对行动及在狙击战中袭击平民等战争罪。政府军无视医院、医护人员和人道主义工作及文化财产受到的专门保护。整个阿勒颇地区遭到大规模的桶装炸弹袭击，在平民中间造成恐慌。政府军使用燃烧武器，造成过分伤害和不必要的痛苦，违反了国际人道主义法。不加区别的过度空袭和炮击造成大批民众被迫流离失所。政府军和亲政府民兵实施了屠杀。

* 本报告附件不译，原文照发。



本报告提及的非国家武装团体犯下了谋杀、未经正当程序处决、酷刑、劫持人质等战争罪，并实施了各种违法国际人道主义法的行为，包括强迫失踪、强奸与性暴力、招募和使用儿童参与敌对行动、袭击受保护目标及迫使平民流离失所。医护人员、宗教人士和记者遭到袭击。武装团体对平民区进行围困和狂轰滥炸，有时在平民区引爆汽车炸弹，以制造恐慌。被查出的武装团体在拉卡大肆拘留平民并实施酷刑，已构成危害人类罪。非国家武装团体实施了屠杀。

在冲突期间的多起事件中，均发现使用了化学武器，具体而言是沙林毒气。在所有事件中，关于责任人的指证均未达到委员会的最低举证标准。

对阿拉伯叙利亚共和国各个派别施加影响的各国必须采取行动，确保各方遵守国际人道主义法的规则。交战双方在违反规则后仍然逍遥法外，安全理事会对此负有责任。

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一. 导言

1. 本报告依据人权理事会第 22/24 号决议提交。阿拉伯叙利亚共和国问题独立国际调查委员会在报告中阐述了根据 2013 年 7 月 15 日至 2014 年 1 月 20 日开展的调查而得出的结论。¹ 本报告应与委员会先前的几份报告² 一并阅读。

A. 挑战

2. 阿拉伯叙利亚共和国依然拒绝委员会入境，影响了委员会的调查工作。

3. 阿拉伯叙利亚共和国常驻代表团和委员会之间的公文往来载于本报告附件(见附件一)。

B. 方法

4. 委员会采用的方法依据了调查委员会和人权调查的标准做法。委员会主要依靠第一手资料。

5. 本报告所载资料的依据是在该区域和从日内瓦进行的 563 次访谈。从 2011 年 9 月至今，委员会共进行了 2,648 次访谈。委员会还收集分析了照片、视频记录、卫星图像和医疗记录。调查内容还包括政府和非政府来源的报告、学术分析以及联合国的报告。

6. 若委员会有合理依据认为事件经过与描述相符，则达到了证据标准。

二. 冲突动态

7. 由于交战双方在第二次日内瓦会议之前竭力为谈判增加砝码，因此阿拉伯叙利亚共和国境内的冲突愈演愈烈，规模不断扩大。虽然政府间或取得战术上的优势，但是战事已陷入僵局，对国家和各方造成巨大的人力物力损失。主要城市和交通干线周围的敌对行动尤为激烈，作战方法和手段更加残忍。政府主要依靠空军和炮兵的火力优势，而非国家武装团体则越来越多地使用自杀式炸弹和简易爆炸装置袭击等不对称作战手段。

8. 战事已经高度分散并转入地方，在诉求各异的不同派别之间出现了多条战线。这些原计划速战速决的敌对行动愈演愈烈，主要是由于地方作战的具体特点和社会经济特性在推波助澜，与冲突全局关系不大。东北各省的敌对行动是库尔

¹ 委员会委员为保罗·塞尔吉奥·皮涅罗(主席)、卡伦·科宁·阿卜扎伊德、威滴·汶达蓬和卡拉·德尔庞特。

² S-17/2/Add.1、A/HRC/19/69、A/HRC/21/50、A/HRC/22/59、A/HRC/23/58 和 A/HRC/24/46。

德势力与伊斯兰激进武装团体之间的局部冲突，拥有单独的战线和内部军事动态。在许多情况下，中部各省的地方群体自己协调本地的停火安排。

9. 外部因素对冲突局势的影响越来越大。国际利益攸关方在敦促寻求政治解决方案的同时，继续为交战双方提供财物援助，本着各自的利益影响冲突的结果。该区域的私人捐助方和中间方发挥了关键作用，他们通过社交媒体举行筹款活动，支助某些武装团体或指挥所。与此同时，有数千名外国士兵参战，有的公开支持政府，有的秘密加入武装团体；他们的人员组成和经历加深了冲突的教派色彩。

10. 教派分裂更加突出，而且已经越过阿拉伯叙利亚共和国边境，危及邻国的安全与稳定。该区域极有可能陷入更大的动荡，极为令人关切。

A. 政府军和亲政府民兵

11. 政府军使用猛烈炮火，利用大量非正规军和更多的外国士兵参战，收复了几个战略要地。他们控制了大部分重要城市和交通线，逼近反对派武装在大马士革和阿勒颇的大本营。但是，他们未能恢复对被武装团体夺走的农村地区的有效控制。

12. 亲政府的非正规军，无论是准军事部队还是民兵团体，兵力均有所增强，而且越来越多地直接参与作战行动。除国防军外，复兴党部队、人民委员会和沙比哈民兵团体继续在所在地区活动，越来越频繁地支持军方的行动。政府还得到了真主党和伊拉克民兵等外国作战部队的支持，特别是在关键行动中。

13. 为了削弱叛军的力量，打击叛军的群众基础，政府军采取围困战略，包围了几个区域；为加强围困效果，还进行长时间的炮击。为驱逐武装团体实施的局部围困演变成封锁，阻碍了食品和药品等基本物资的运送，成为“用饥饿迫使投降”行动。

B. 非国家武装团体

14. 随着冲突加剧，非国家武装团体(包括所有非政府联合武装团体)重新洗牌，出现内讧。这种分裂局面使令其接受统一指挥、团结一致、遵循明确战略指导的计划成为泡影。意识形态、政治和社会领域长期存在的分歧，导致各方持有不同立场，有时还形成对立。

15. 全国各地的武装团体加强了联系，建立了联盟和指挥所等长期或临时的协调与整合机制。重新结盟的基础是共同的战术目标、共有的意识形态、外部支持者的压力，或者仅仅是出于作战需要。在这种背景下，伊斯兰阵线等地方性伊斯兰联盟已将不受意识形态驱动的团体和温和派团体边缘化，部分原因是某些国家的政府及国民有选择性地提供财政援助。

16. 要反映这种复杂局面，可将非国家武装团体大致分为四类：

- 在国际社会支持的最高军事委员会领导下的叙利亚温和派民族主义武装团体联盟，它们与政府为敌，呼吁组建民主、多元的政府。其中也包括温和的伊斯兰团体和力求实现地方民众诉求的地方武装团体。
- 将意图推翻政府、在国内推行伊斯兰教法、建立伊斯兰国家的作战人员招至麾下的叙利亚伊斯兰武装团体；这类团体包括怀有多种伊斯兰意识形态的作战人员。
- 激进的圣战团体，包括基地组织的两大分支：支持阵线(Jabhat Al-Nusra)和伊拉克和大叙利亚伊斯兰国(ISIS)。人员主要来自萨拉菲圣战分子，也有大量外国作战人员加入或施加影响。这两个团体之间已出现分歧，因为前者仍然与其他叛乱团体一道与政府军作战，而 ISIS 则重点巩固自己控制的地盘，防止其受到任何侵占。
- 库尔德武装团体，主要是人民保卫部队(民保队)。这支部队指挥统一、纪律严明、群众基础牢固，负责保卫和管理自己的地盘。他们与其他武装团体(主要是阿勒颇省、拉卡省和哈塞克省的基地组织分支机构)交战之后，加强了对库尔德地区的控制。

17. 前三类团体的意识形态倾向和政治诉求有所重叠，其人员也不断出现个人或集体的流动，因此它们之间的界限难以做到泾渭分明、一成不变。获得后勤资源，特别是获得资金，已经成为驱动叛乱团体改变组织结构和作战方式的最重要因素。在许多情况下，加入武装团体或联盟往往是为生存所迫，并非真正出于意识形态的考虑。

18. 在这种复杂的背景下，所有各类叛乱团体为了控制地盘和夺取资源(包括道路、过境点、走私路线和自然资源)，内部摩擦不断升级。最近，ISIS 和伊斯兰阵线等其他叛乱团体之间长期酝酿的紧张局势达到顶点，北部和东北部各省出现大范围的激战。

19. 本报告附件载有关于当前政治背景和人道主义背景的介绍(见附件二)。

三. 平民和失去战斗力的作战人员待遇中的侵犯人权行为

A. 屠杀和其他非法杀戮³

1. 政府军和亲政府民兵

20. 政府军继续违反日内瓦四公约共同第三条，非法杀害他们眼中潜在的敌人，包括平民和失去战斗力的作战人员。在大马士革农村省，政府军加紧围困反对派控制的区域，对他们眼中的危险分子采取越来越野蛮的战术。Muadamiyah

³ 另见附件三。

和 Daraya 外围的叙利亚军队杀害通过检查站的人员。据记载，在 Mezzeh 机场附近的第四师检查站和 Summariah 与 Sahnaya 的检查站，均有人丧生。

21. 贝都因人、特别是 Jamlan、Harb、Abadah 和 Na'im 部落，因被视为支持反对派武装，而成为政府军的目标。2013 年 7 月 29 日，三名贝都因男子在大马士革南部 Bley 军用机场附近被政府军逮捕并处决。8 月 7 日，在 Al-Bitariyah 巡逻的叙利亚军士兵枪杀了两名手无寸铁的贝都因男子。9 月初，三名贝都因男子在东胡塔地区和大马士革国际机场之间的检查站被近距离射杀。

22. 政府军将病人和伤员、尤其是寻求治疗的男子作为目标，认为他们受伤说明他们参与了敌对行动。9 月中旬，在政府军士兵进入 Mowasat 医院手术室后，在此接受治疗、伤势并不致命的伤员丧生。士兵命令在场的一名男子出示身份证件，发现他是受害者亲属后将其射杀。10 月 24 日，自由叙利亚军(FSA)士兵在护送一队受伤的平民和士兵离开 Al-Nashabeyah 时遭遇埋伏。第 22 旅的士兵包围上来，近距离射杀了伤员。

23. 政府军在夺回霍姆斯省的战斗中实施了非法杀戮。7 月中旬，霍姆斯省东部的境内流离失所者常常在 Al-Furqlus 遭到第 18 师士兵的逮捕和杀害。7 月 21 日，政府军在沙比哈民兵的帮助下进入霍姆斯省东部的 Sukhnah，在入室搜查期间射杀了 8 名平民。斋月期间，政府军在 Houlah 入室搜查并实施逮捕。搜查期间被捕人员的尸体后来被归还家属。

24. 政府军继续控制着哈马省的大部分地区。8 月 7 日，政府军在国防军的支持下，在 Al-Jadeedah 附近的检查站杀死一名男子。9 月底，沙比哈民兵袭击了 Jalmeh 的一处住宅，杀死了一名叛逃者。

2. 非国家武装团体

1. 构成谋杀这一战争罪的杀戮行为

25. 2013 年 6 月 26 日在 Nubul(阿勒颇省)附近遭到绑架的两名 15 岁男童于 8 月 11 日在 Mayer 被处决，当时 Tal Rifaat 和 Azaz 的 ISIS 埃米尔的要求没有得到满足。他们的尸体被肢解，几乎无法辨认。处决的视频发布在互联网上。9 月，ISIS 袭击了北部风暴旅总部和 Jebel Barsaya 的监狱，处决了一名囚犯。

26. Al-Ghab 山谷(哈马省)的阿拉维派农民频繁遭到在周围逊尼派村庄活动的武装团体的绑架和杀害。自 2013 年 5 月以来，已有数名农民在耕田时遭到射杀。

27. 非国家武装团体处决被俘士兵。9 月 4 日，武装团体分子控制了距 Maaloula (大马士革农村省)两公里的一个政府军事检查站之后，俘获并处决了在此驻扎的士兵。9 月 7 日，武装分子袭击了 Mar Sarkis 大街的一处住所。他们隔离了妇女和长者，然后带走并射杀了 3 名男子。

28. 自 7 月以来，支持阵线不时与其他武装团体合作，在 Al Youssoufiyah、Qamishli 和 Al-Asadia (哈塞克省)对库尔德平民实施了一系列屠杀。在 ISIS、支

持阵线、伊斯兰阵线和自由叙利亚军部队的一次袭击中，作战人员在 Al-Asadia 杀死了一名拒绝皈依伊斯兰教的雅兹迪派库尔德人。

2. 构成未经正当程序处决这一战争罪的杀戮行为

29. 某些武装团体在叙利亚东北部占领地盘时，违反公正审判的保障，公开实施法外处决，违反了日内瓦四公约共同第三条。8 月底，北部风暴旅在 Azaz (阿勒颇省) 公共广场处决了一个身份不明的人。

30. 9 月中旬，从属于自由叙利亚军的自由纳瓦营进入纳瓦(德拉省)，俘虏了 3 名政府军士兵。他们审问这些士兵是否参与了“流血杀戮”，随后将其即决处决。

31. 10 月 7 日，自由叙利亚军霹雳旅在袭击 Jisr Al Shughur (伊德利卜省) 的一个政府检查站时，俘虏了一名士兵。作战人员咨询了伊斯兰教法。联络人指示他们处决士兵，宣称“被俘后投降的人应予处死”。

32. 10 月，自由沙姆人伊斯兰运动(Ahrar Al-Sham)在 Binnish (伊德利卜省) 抓获一名被控实施汽车炸弹袭击者。此人受到审讯和严刑逼供，在“逃兵案法官”主持审判后，遭到即决处决。

33. 9 月，支持阵线和 ISIS 在 Tal Abyad (拉卡省) 执行公开处决。武装团体执行公开处决，是为了在控制一片区域后巩固地盘，造成民众恐惧心理。

B. 任意逮捕和非法拘留

1. 政府军和亲政府民兵

34. 政府军在地面行动期间和之后实施任意逮捕。政府军在以下时间和地点实施了逮捕行动：2013 年 7 月至 9 月，霍姆斯省全境(Al-Qaryatayn、Houlah、Karm Al-Zeytun 和 Dewayer)；7 月，Sinjar (伊德利卜省)；11 月，Al-Jalmeh (哈马省)；9 月，Beit Jin (大马士革农村省) 和 Kafr Shams (德拉省)。虽然儿童、妇女和老人也遭到拘留，但行动的目标是成年和少年男子。

35. 为获取情报或实施报复，政府军和民兵逮捕被怀疑是非政府武装分子的家属，包括阵亡者的家属。这种做法在广大民众中引起恐慌。Muadamiyah (大马士革农村省) 的居民已因此不再发布讣告。

36. 反对派占领区的居民在通过检查站时被逮捕和拘留。7 月，一名妇女在大马士革的一个检查站被捕，原因是身份证显示她曾在德拉省居住。这种做法限制了平民的行动自由，特别是 12 岁以上男子的行动自由。

37. 在哈马省和大马士革，医生和急救人员因帮助“恐怖分子”而遭到拘留。人权维护者和政治活动分子在大马士革被逮捕和拘留，言论自由和见解自由受到限制。

38. 拘留的做法缺乏法律依据，没有允许拘留的正当理由，被拘留者无法获得要求审查拘留合法性的权利。政府军实施任意逮捕和非法拘留，违反了国际人权法。

2. 非国家武装团体

39. 非国家武装团体任意剥夺人身自由，违反了国际人道主义法规定的义务。武装团体不允许独立实体对拘留进行初次审查和定期审查。

40. 2013 年 7 月底，ISIS 作战人员在 Abyad (拉卡省)以种族为由逮捕库尔德平民。8 月，一名医生在阿勒颇市遭到自由叙利亚军逮捕，原因是他为政府军士兵提供了医疗救助。支持阵线、自由沙姆人伊斯兰运动和 ISIS 在阿勒颇省实施任意逮捕和非法拘留。监禁的依据经常是由未达到正当程序保障最低标准的机制下达的即决裁判。

C. 劫持人质

41. 交战双方均劫持人质，违反了国际人道主义法和国际刑法。非国家武装团体、特别是 ISIS 实施的劫持事件越来越多。

42. 作战人员为了获得经济利益或交换敌军手中的俘虏而实施绑架。在有些情况下，犯罪团伙利用冲突的机会敛财。随着绑架日益频繁，平民纷纷逃离家园，以求平安。有些家庭不让妇女和女童出门，限制了她们的行动自由和受教育的机会。

1. 政府军和亲政府民兵

43. 政府军、国防军、人民委员会和沙比哈民兵团体在拉塔基亚省和塔尔图斯省扣押人质，索取赎金。塔尔图斯省的 Al Mashtal 检查站为此臭名昭著。

44. 叙利亚情报机构在 Beit Jin 和 Saesae (大马士革农村省)的检查站绑架妇女儿童，用以交换武装团体手中的士兵。

2. 非国家武装团体

45. 2013 年 6 月 25 日，两名少年在阿勒颇省北部什叶派聚居地 Nubul 和 Zahra 外围被绑架。交换俘虏失败后，两名少年被处决。9 月 23 日和 24 日，两队共计 60 名妇女和儿童在离开 Nubul 和 Zahra 后被 Jamaat Al-Husba 绑架。据报告称，自由沙姆人伊斯兰运动在袭击拉塔基亚省东部的阿拉维派村庄后，劫持了 120 名妇女和儿童做为人质关押。

46. 7 月 21 日，ISIS 在袭击 Tal Abyad (拉卡省)期间，劫持了数百名库尔德男子为人质，用以交换一名被俘 ISIS 指挥官。7 月和 8 月，支持阵线在 Qamishli 至 Al-Malikiyah 一带绑架库尔德平民，以索取赎金。

D. 强迫失踪

1. 政府军和亲政府民兵

47. 委员会在一份会议室文件中叙述了 2011 年 3 月至 2013 年 11 月在阿拉伯叙利亚共和国发生的强迫失踪事件(见附件四)。目前仍然能收到失踪报告。2013 年 9 月,一名 70 岁的男子在 Nahar Aisha 检查站(大马士革)被情报部门逮捕,现在仍然下落不明。

48. 叙利亚当局一贯拒绝承认剥夺自由的做法,也拒绝通知家属失踪者的命运和下落。家属们往往不敢接触当局。他们从曾被拘留的人员或腐败的官员那里获取信息。

49. 强迫失踪是作为对平民的广泛攻击的一部分实施的,构成危害人类罪。

2. 非国家武装团体

50. ISIS 正在实施有可能导致相当于强迫失踪行为的做法,违反了国际人道主义法规定的义务。2013 年 8 月,一名活动人士在拉卡省失踪;据和他关押在一起的一名拘留人员称,他是被 ISIS 关押的,但 ISIS 对此矢口否认。12 月 9 日,三名活动人士在 Dumah(大马士革省)被捕。他们目前被列为失踪人员,他们的下落和及其关押者的身份依然不明。

E. 酷刑和虐待

1. 政府军和亲政府民兵

51. 政府军和亲政府民兵依然在拘留设施、情报部门、被围困地区周边的检查站和入室搜查期间广泛实施酷刑和其他形式的虐待,作为逼供和对民众实施制裁与恐吓的手段。

52. 官方拘留设施中常常使用酷刑和虐待(见附件五),特别是以下情报机构:阿勒颇省政治安全局、军事情报局 227 分局和 215 分局、Mezzeh 空军情报局、大马士革 Qaboun 军事警察局和 Sednaya 监狱、德拉省 Gharez 中心监狱和霍姆斯省军事情报局。委员会此前记录的猛击头部和身体、长时间悬吊和性酷刑等酷刑手段仍被使用。受害者身上的伤痕符合酷刑特点。

53. 据报告,被围困地区周围的检查站也广泛存在虐待行为,如 9 月在胡塔周围的检查站,以及 9 月前在 Kafr Shams (德拉省)周围的检查站。使用酷刑和虐待是围困战略的一部分,目的是防止当地民众逃亡。

54. 2013 年 9 月在霍姆斯省及 7 月和 10 月在德拉省的入室搜查中发生了殴打和虐待。

55. 拘留条件十分恶劣:食品和水短缺、空间狭小、睡眠不足、卫生和医疗条件差。被拘留者因此而死亡。一名受访者说,他被拘留的亲属每 6 个月才请求探

视一次。原因是他的亲属在接受探视后遭到殴打，每次探视后健康状况均会恶化。由于卫生设施不足，又没有医疗条件，被拘留者屡屡患病。7 月，一名苦苦哀告狱警要求如厕的被拘留者，在其他拘留人员的面前被殴打致死。拘留条件构成残忍、不人道或有辱人格的待遇或处罚。

56. 政府军和民兵在针对平民的广泛攻击中实施酷刑和其他残忍、不人道或有辱人格的待遇或处罚，说明存在一项有组织的政策。广泛使用酷刑意味着对平民的蓄意攻击。政府军和民兵实施酷刑和其他不人道的行为，构成了危害人类罪和战争罪。

2. 非国家武装团体

57. 在非国家武装团体控制的阿勒颇地区，统一旅萨达姆·侯赛因营、北部风暴旅和战斗旅联盟等团体实施了酷刑和虐待。伊斯兰教法委员会以平民为目标，在任意拘留期间采用严酷的刑讯手段并实施殴打。

58. 2013 年 8 月，有平民在大马士革纯粹由于宗教原因被拘留并遭到酷刑。据报告称，非国家武装团体劫持的人质遭受了身心虐待。自 7 月以来，记者在伊德利卜省遭到武装团体的攻击、拘留和酷刑。7 月底，库尔德人在 Tal Abyad(拉卡省)ISIS 和支持阵线、自由沙姆人伊斯兰运动和沙希德·瓦利德·苏克尼营的总部遭到殴打和电击。一名受访者指出，在拉卡省，“每个伊斯兰武装团体都有自己的拘留设施，平民常常在此遭到拘留和酷刑”。2013 年 8 月在大马士革、7 月后在拉卡省和哈塞克省，武装团体把守的检查站都发生了殴打事件，武装人员实施了残酷及有辱人格的待遇。

59. 在阿拉伯叙利亚共和国全境，非国家武装团体在自己控制的区域内、在逮捕和(或)拘留期间对平民造成了巨大的身心痛苦或伤痛。这种做法不断增多，特别是在拉卡省频繁出现，构成对平民的广泛、蓄意攻击。

60. 在 ISIS 及其从属团体控制的区域内，对平民的酷刑和不人道待遇有所增加；据此，有合理的理由认为，这些团体加强了对平民的广泛、蓄意攻击。

61. 上述非国家武装团体在其控制区域内对平民的所作所为构成了酷刑和不人道的待遇这一战争罪，在拉卡省的行径还构成了危害人类罪。

F. 性暴力和基于性别的暴力

62. 性暴力和基于性别的暴力在冲突中持续存在。出于委员会在前几份报告中指明的原因，报案仍非易事。

1. 政府军和亲政府民兵

63. 2013 年 11 月，在大马士革军事情报局 215 分局，一名妇女受到男性军官的贴身搜查，随后又遭受酷刑和性侵犯。12 月，她被转到霍姆斯省军情局，再次遭受酷刑并被迫口交。

64. 2012 年，在哈马省的情报部门，有五名妇女每天都遭受包括电击在内的酷刑，长达一月有余。在同一时期，两名妇女连续 15 天被军官们强奸。2013 年 8 月，一名妇女在 Al-Jadeedah 附近的检查站被剥掉衣物示众，随后又被送至哈马省分局，并遭到强奸。2013 年 12 月，一名 18 岁的少女遭受酷刑和多次强奸。

65. 政府军和民兵在大马士革、霍姆斯省和阿勒颇省对被羁押的男子和男童大肆实施捆绑生殖器 etc 酷刑。2012 年 11 月，一名男子在大马士革 Al Khatib 安全局遭到强奸。2013 年 1 月，霍姆斯省安全局的官员殴打了一名 17 岁的少年，电击他的生殖器并当众对其进行强奸。

66. 在大马士革、拉塔基亚、德拉、霍姆斯和阿勒颇各省的检查站，都发生了强奸和性侵犯妇女和女童的事件。2013 年 1 月，一名 17 岁的少女在大马士革农村省的一个政府检查站遭到轮奸。2013 年 2 月，一名 28 岁的妇女在拉塔基亚省被政府民兵自公共汽车上带走并遭到轮奸。

67. 在大马士革的政府检查站，有男子因性取向遭受酷刑和强奸。2011 年，六名同性恋男子被安全人员用电线恶意殴打，并受到强奸威胁。2012 年 10 月，一名男子被安全人员拦截，因为他伴侣的兄弟是自由叙利亚军成员。这名男子被带到农村，身体受到烟头灼烫，并遭到轮奸。

68. 政府军正在 Bustan Al-Qasr (阿勒颇省)开展狙击战。仅在 10 月份的一天内，医生便收治了五名腹股沟中弹的男子。同月，六名孕妇腹部中弹。

69. 政府军和民兵对男子、妇女和儿童实施强奸、性酷刑和性暴力。这种行为是作为对平民的广泛攻击的一部分实施的，平民成为拘留的目标并遭受蓄意的多重侵犯。这些行为构成危害人类罪和战争罪，而且违反了国际人权法。

2. 非国家武装团体

70. 2012 年，一名来自 Afrin 的库尔德妇女在 Azaz (阿勒颇省)遭到北部风暴旅绑架、单独关押和强奸。2013 年 6 月，一名妇女在拉卡市因“不尊重”伊斯兰教法理事会而遭受酷刑，并受到强奸威胁。2013 年 10 月，一名 26 岁的男子在拉卡省因性取向遭到 ISIS 拘留。他受到殴打，双臂被捆绑吊挂。10 月 31 日，一名女校长在拉卡省因未佩戴头巾遭到 ISIS 的公开鞭打。

71. 非国家武装团体实施的强奸、性酷刑和性暴力违反了日内瓦四公约共同第三条，构成了战争罪。

G. 侵犯儿童权利的行为

1. 政府军和亲政府民兵

72. 亲政府民兵在阿勒颇省、德拉省和塔尔图斯省的检查站武装和使用 13 岁以上的儿童。2013 年 10 月，人民委员会在 Ataman(德拉省)武装和训练 14 岁以上的儿童。

73. 政府军的围困造成 Daraya、Muadamiyah 和 Yarmouk(大马士革省)的幼童严重营养不良。

74. 儿童在阿勒颇省、大马士革省和德拉省由政府军和亲政府民兵控制的检查站遭到逮捕，少年被逮捕的情况尤为严重。有女童报案称，在检查站遭受了性暴力和性骚扰。

75. 在阿勒颇政治安全局和大马士革军事安全局的拘留设施内，儿童和成年人关押在一起，并遭受酷刑。一名被拘留三个月、7 月底才获释的 15 岁男孩每天都遭受酷刑。他身上的伤疤，包括烟头灼烫的痕迹清晰可见。他表现出创伤后应激障碍的明显症状。

76. 在阿勒颇省，儿童成为狙击手蓄意瞄准的目标。一名医生报告称，2013 年 10 月，每天至少有一名儿童被狙击手所伤，他还举出一名 8 岁男孩在搬运面包时被杀的例子。

77. 儿童在政府军的狂轰滥炸和空袭中丧生、受伤，有的终生伤残。从 7 月开始，阿勒颇、拉卡、大马士革、德拉、代尔祖尔、霍姆斯和伊德利卜等省的十几所学校受到轰炸，造成儿童死伤。

78. 政府军和民兵实施了构成战争罪的行为，包括对被拘留的儿童实施酷刑和招募和使用儿童作战。亲政府民兵使用儿童的做法违背了阿拉伯叙利亚共和国根据《儿童权利公约任择议定书》承担的义务。在围困期间切断食品和药品供应，违反了国际人权法和人道主义法规定的义务。不加区分地对学校发动攻击，剥夺了儿童的受教育权。

2. 非国家武装团体

79. 自由沙姆人伊斯兰运动、自由叙利亚军的几个从属团体、支持阵线和 ISIS 均招募和使用儿童。2013 年底，发现有儿童在 Tamoura (阿勒颇省)跟随自由叙利亚军从属团体、在哈塞克省跟随支持阵线、在拉卡省和阿勒颇省跟随 ISIS 作战。有儿童在实战中受伤。

80. 武装团体将招募的 12 岁至 14 岁儿童派遣至检查站，还命令儿童装填弹药。2013 年，在拉卡省的 ISIS 检查站和阿勒颇省的萨达姆·侯赛因营检查站看到未成年人执勤。2013 年 7 月，儿童在 Tal Rifat (阿勒颇省)接受支持阵线的武器训练。2013 年 9 月，ISIS 在 Al Bab (阿勒颇省)利用一所学校作为男童的军事训练营。

81. 2013 年 7 月和 8 月，在 Qamishli (哈塞克省)和 Ayn Al-Arab (拉卡省)出现了未成年民保队员。民保队在 2013 年 9 月 30 日致委员会的信中阐明了不使用未满 18 岁儿童的政策。民保队中央指挥部 12 月 14 日向指挥官下达的命令也重申了这些准则。这项政策的遵守情况继续受到监测。

82. 儿童被一些武装团体拘留，并遭受酷刑。一名 14 岁的男孩称，自由沙姆人伊斯兰运动 7 月份曾在拉卡省对其实施酷刑，威逼他说出叔叔的消息。

83. 儿童在武装团体的狂轰滥炸中丧生。10月5日，一名13岁的男孩和他的伙伴在 Nubul (阿勒颇省)的校园里死于迫击炮袭击。10月31日，大马士革一所学校遭到迫击炮袭击，一名女童因此丧生。

84. 非国家武装团体犯下招募和使用未满15岁的儿童实际参与敌对行动这一战争罪，而且还违反《儿童权利公约任择议定书》，招募和在敌对行动中使用了未满18岁的儿童。它们还犯有对儿童实施酷刑这一战争罪。使用学校作为军事基地和训练营的做法剥夺了儿童的受教育权。

四. 涉及敌对行动的侵犯人权行为

A. 非法攻击

85. 不加区别的过度攻击，主要是炮击和空袭，造成了大量平民伤亡。非法攻击仍然是造成境内流离失所和难民潮的首要原因。

1. 政府军和亲政府民兵

(a) 炮击和空袭

86. 政府军在全国各地使用大炮、迫击炮和坦克火力轰炸平民区。一些地区每天都遭到直升机和战斗机的空袭。直升飞机越来越多地自高空向城区投掷精确度极低而杀伤力极大的桶装炸弹。以这种方式使用桶装炸弹，是不加区分的攻击(见附件六)。

87. 政府军猛烈轰炸有平民居住的各方争夺的战略要地。阿勒颇、大马士革、德拉、伊德利卜和拉卡各省均遭到长期攻击。

88. 攻击的对象不是明显的军事目标。在武装团体分子活动的区域，政府军将分布着多个明显军事目标的密集居住区作为一个整体目标。大面积轰炸在平民中散播恐惧，为国际人道主义法所不容。政府军在攻击前没有发布预警。

89. 阿勒颇省遭到猛烈的狂轰滥炸。在本报告所述期间，阿勒颇市遭到持续轰炸，目前正处于桶装炸弹的轮番轰炸之下，造成数百名平民的伤亡(包括四肢被炸断)。7月，政府军在 Azaz 发射了迫击炮和导弹。8月，政府军战机发射的导弹使包括妇女儿童在内的几十名平民丧生。8月26日，Urem Al-Koubra 的一所学校遭到燃烧弹袭击，导致平民丧生，主要是儿童。9月和10月，Minbij、Al-Safirah 和 Tal Hasel 遭到集中轰炸，空袭炮火包括导弹和桶装炸弹。10月初，Al-Safirah 附近的流离失所者难民营遭到桶装炸弹袭击，致多名平民死亡。2013年11月至2014年1月，阿勒颇省 Abu Taltal 和 Maarat Al-Arteeq 等城镇受到导弹和炮火袭击。12月，Nubul 和 Zahra 的军事据点对 Mayer 村进行了狂轰滥炸。

90. 大马士革省的城镇和村庄长期遭受攻击。9月中旬至10月中旬，在胡塔几乎每日都遭到猛烈的空袭，密集居住区受到毁灭性的打击。同样被围困的

Muadamiyah 和 Daraya 也遭到炮击和轰炸。Qaboun、Dumayr、Beit Jin 和 Zabadani 也受到了非法攻击。11 月和 12 月，政府军在 Qalamoun 地区不加区别的攻击迫使 4,000 个家庭逃离此地。

91. 政府军反复以炮弹和导弹袭击德拉市 Tariq Al-Saad 和 Saharra 这两个居民区。7 月和 8 月，在德拉省的 Nawa、Alma、Naseeb、Dael、Inkhel 和 Yadoudeh 都有不加区别发动攻击的记录，通常是从附近的军事据点进行炮击。

92. 伊德利卜省城镇和村庄遭受的攻击不胜枚举。7 月至 10 月间，Jabal Al-Zawiya 地区，特别是 Saraqib、Kafr Nabl 和 Maarat Al-Numan 这几个城镇遭到猛烈空袭，包括空投桶装炸弹。7 月 21 日，Ariha 的一个集市遭到轰炸，造成大量的平民伤亡。8 月 24 日至 9 月 3 日，Ariha 受到猛烈袭击。两次袭击均造成大量的平民伤亡。

93. 7 月，拉卡市遭到空袭，包括空投桶装炸弹。9 月 29 日，一架战机轰炸了一所学校，造成 16 人丧生，其中 13 人为儿童。

94. 霍姆斯、哈马、哈塞克和代尔祖尔等省也有炮击和空袭的记录。

95. 政府军发动的不加区别的过度攻击违反了国际人道主义法。

96. 政府军继续在 Nubl 和 Zahra(阿勒颇省)等城镇和村庄内部署军事目标，从而让平民陷入危险，并违反了国际法义务。

(b) 狙击手袭击

97. 在阿勒颇市，交战双方划出己方控制的地盘，并部署狙击手监视前线。在阿勒颇市，Bustan Al-Qasr 仍然是政府控制区域和非国家武装团体控制区域之间唯一的通道。政府军狙击手驻扎在阿勒颇市政厅这幢高层建筑之上，居高临下，瞄准、射伤和射杀通过 Bustan Al-Qasr 的平民。

98. 反对派控制下的阿勒颇各医院的医生描述说，自 2013 年 6 月以来，他们治疗的狙击枪伤出奇得多。大部分受害者是平民，他们来自物资匮乏的地区，为了购买更便宜的商品而通过 Bustan Al-Qasr。受害人分布在各年龄段，有儿童、老人和孕妇。一名医生指出，平民被当成“练习瞄准的靶子”。另一家医院的一名外科医生证实存在这种做法，说在某些日子看到的狙击枪伤明显属于一个类型。大部分受害者只有一处由高速子弹造成的伤口，导致“巨大创伤”和大量失血。由于上前施救者会遭到枪击，受害者在受伤后往往在街头无助地流血。

99. Yarmouk 和 Dara'a Al Balad (德拉省)也有狙击手攻击平民的记录。

2. 非国家武装团体

(a) 炮击

100. 武装团体继续使用大炮和土制火箭弹轰炸 Nubul 和 Zahra (阿勒颇省)。在 9 月和 10 月的迫击炮攻击中,有幼童丧生和受伤。Qamishli、Qiro、Ras Al-Ayn 和 Al-Malikiyah (哈塞克省)的库尔德平民遭到炮击。

101. 以大马士革农村省东部 Al Mlihah、Beit Saham 和 Ein Tarma 为基地的武装团体向政府控制的区域,特别是 Jaramana 和 Mezzeh 居民区,发射了土制火箭弹和炮弹,造成平民死亡。11 月 11 日,一枚迫击炮弹击中了 Bab Tuma 的一辆校车,导致 5 名儿童丧生。

102. 非国家武装团体在使用迫击炮、炮弹和土制火箭弹时未对民用和军事目标加以区分,这就是实施了非法攻击。

103. 虽然有记录表明有些武装分子驻扎在远离平民的郊区,但大部分作战人员(包括阿勒颇市和拉卡市的作战人员)驻扎在平民中间,让平民有了遭到攻击的危险,这也违反了避免在密集居住区内或附近部署军事目标的国际法义务。

(b) 汽车炸弹和自杀式炸弹袭击

104. 在本报告所述期间,武装团体在哈塞克、拉卡、霍姆斯、阿勒颇和大马士革各省引爆了汽车炸弹和自杀式炸弹。霍姆斯省也有使用简易爆炸装置的记录。

105. 8 月 15 日,ISIS 在拉卡省 Ahfad Al-Rasoul 旅总部附近的一个火车站引爆了一枚炸弹。11 月 4 日,Al-Thabiytiya(霍姆斯省)的真主党党部遭到自杀式炸弹袭击。这些袭击事件虽然针对军事目标,但是导致了平民伤亡;相比预计取得的军事优势,造成的平民伤亡过大。

106. 9 月 19 日,武装团体遥控引爆了放置在 Jabourin 和霍姆斯市之间一条支线道路上的地雷。三辆民用车被炸,九名平民丧生。11 月 26 日,武装团体在 Al-Sumariyah 总站(大马士革省)引爆了一枚炸弹,炸死平民数十人。这三起袭击事件似乎蓄意以平民为目标,构成战争罪。此类袭击的首要目的在于在平民中散播恐惧,为国际人道主义法所不容。

B. 受到专门保护的人员和目标

1. 医院和医护人员

(a) 政府军和亲政府民兵

107. 政府军继续摧毁医院和医疗单位,并攻击医护人员(另见附件七)。在本报告所述期间,在阿勒颇、大马士革、德拉和霍姆斯各省都有这类攻击的记录。另外还不让患病和受伤的平民和失去战斗力的作战人员接受治疗。

108. 大马士革省东胡塔地区的医院遭到炮击。在 7 月份的一次地面进攻期间，军队摧毁了 Al-Zemaniyah 的一所野战医院。8 月 21 日政府军进攻胡塔之后，炮弹落在收治化武袭击受害者的 Al-Fatih 医院附近，院方被迫令患者出院。11 月初，军队攻击了 Irbeen 的 Al-Rajaa 医院，那里收治了一些武装团体分子。11 月 3 日，空军轰炸了 Beit Jin 一所野战医院。

109. 阿勒颇市和 Al Bab 的医院遭到持续炮击和空袭。2013 年 7 月，阿勒颇市 Jaban 医院毁于炮火。9 月 11 日，一架战机向 Al Bab 野战医院发射导弹，造成一名医生、四名急救员和八名患者等 15 人丧生，多人受伤。医院因炮击而三易其址。

110. 8 月，Naseeb (德拉省)的一所野战医院遭到炮击。2013 年 10 月，政府军向 Al-Qaryatayn 医院(霍姆斯省)发射火箭弹，造成 30 人死亡，100 多人受伤。

111. 医护人员在履行职责时遭到蓄意袭击和杀害。9 月和 10 月，狙击手经常在阿勒颇市向救护车开火。8 月，一名狙击手在阿勒颇 Al-Hilal 医院射杀了一名护士。被怀疑救治反对派或向其提供医疗用品的医护人员遭到拘留和酷刑。12 月 17 日在政府拘留设施中死亡的 Abbas Khan 医生便是这种情况。

112. 政府军对围困地区实行封锁，禁止运入医疗用品和设备。求医的病人在检查站遭到逮捕或阻拦。

113. 政府攻击医院、医疗单位和医护人员，违反了国际人道主义法救死扶伤这条具有约束力的规定，并且犯下了攻击受保护目标这一战争罪。由于医院被毁，医护人员遭到杀害、拘留或者逃亡在外，医疗基础设施已经遭受重创，对平民造成了灾难性的后果。

(b) 非国家武装团体

114. 10 月 21 日至 28 日，武装团体在攻击 Sadad (霍姆斯省)期间劫掠了医院，使之无法营业。11 月 11 日，一枚汽车炸弹在 Ayn Al-Arab (拉卡省)一所库尔德红新月会诊所外被遥控引爆。11 月 19 日，在攻击 Deir Atiyah (大马士革省)期间，一名自杀式炸弹袭击者在医院大厅引爆炸弹，同时其他作战人员处决了九名医护人员。8 月 16 日，一个武装团体在 Ras Al-Ayn (哈塞克省)蓄意袭击了库尔德红新月会的一辆救护车。武装分子先是企图以简易爆炸装置炸毁救护车，随后又向救护车开火，杀死了司机和一名护士。武装团体攻击医院、医疗单位和医护人员，违反了国际人道主义法，并且犯下了攻击受保护目标这一战争罪。

115. 7 月 28 日和 29 日，武装团体在攻击 Tal Hasel (阿勒颇省)期间，在当地的医疗中心周围部署狙击手。在医院部署军事目标，相当于未能采取一切可行的预防措施，保护平民免遭攻击的影响。这种行为也违反了尊重和保护医疗单位的基本义务。

(c) 宗教人士和文化财产

(一) 政府军和亲政府民兵

116. 政府军在具有重大文化意义的目标内部和周围部署军事目标。卫星图像表明，正在早于罗马时期的 **Palmyra** 古城(霍姆斯省)内修建军事岗哨。这些岗哨或将古建筑围入其中，或建在其遗址之上。政府在 **Palmyra** 城内和周围修建和部署军事目标，已经违反了《关于发生武装冲突时保护文化财产的公约》规定的尊重和保护文化财产的义务。

(二) 非国家武装团体

117. 非国家武装团体攻击宗教人士和宗教建筑的事件急剧增加。这种攻击直接威胁宗教自由。

118. 7月28日，**Dall'Oglio** 神父在拉卡市遭到 **ISIS** 绑架，至今下落不明。8月4日，一名阿拉维派伊玛目在拉塔基亚省东部村庄的袭击中被处决。12月2日，武装团体将坐落在 **Maaloula** 的 **Martar** 修道院和教堂的修女转移到 **Yabroud**。虽然转移的初衷似乎是让修女们撤出激烈交火的区域，但她们目前仍被留在 **Yabroud**，若想离开必须接受强加的条件。叙利亚东正教大主教 **Yohanna Ibrahim** 和希腊东正教大主教 **Paul Yazigi** 自4月在阿勒颇被绑架以来，一直遭到拘留。

119. 9月4日，武装团体与政府军在 **Maaloula** (大马士革省)发生冲突。教堂遭到劫掠和破坏。**Mar Sarkia** 和 **Barho** 著名的老教堂被用作军事行动的基地。10月，**ISIS** 破坏了拉卡省 **Saidat Al-Bishara** 教堂，把总部设在此地。武装团体在10月21日至28日攻击 **Sadad** (霍姆斯省)期间亵渎了基督教堂。11月16日和17日，**Mar Michael** 教堂在 **Qara** (大马士革省)的战斗中被毁。政府军夺回 **Qara** 后，武装团体在基督教堂附近部署了武器。

120. 武装团体蓄意破坏和损毁对于阿拉伯叙利亚共和国的文化遗产十分重要的财产，违反了国际人道主义法。

121. 7月28日和29日，**ISIS** 的从属武装团体在攻击 **Tal Hasel** 和 **Tal Aran** (阿勒颇省)期间，在清真寺光塔内部署狙击手，使光塔有遭受非法攻击的危险。

(d) 记者

122. 2013年，有28名记者在阿拉伯叙利亚共和国遇害，使之成为世界上对媒体工作者而言最危险的国家。

(一) 非国家武装团体

123. 阿勒颇和拉卡省的记者直接收到 **ISIS** 的安全恐吓。

124. 12月4日，来自伊拉克的退休自由摄影师 **Yasser Al-Jumaili** 在伊德利卜省被处决。在与半岛电视台最后的通话中，他说自己是被 **ISIS** 关押。

125. 2012 年 12 月 31 日，一名外国记者在阿勒颇省被支持阵线和其他武装团体扣留。他在各种地下拘留中心遭受虐待，直至 2013 年 7 月底成功逃脱。4 月 8 日，两名外国记者在 Al Qusayr (霍姆斯省)被法鲁克旅的一个从属团体拘留，并遭到反复虐待，直至 9 月份获释。7 月 24 日，ISIS 作战人员袭击了 Saraqib (伊德利卜省)一家媒体中心，攻击中心工作人员，并绑架了一名外国记者；据报告该记者于 10 月逃脱，离开了叙利亚。

126. 武装团体特别是 ISIS 持续攻击记者，违反了国际人道主义法。这种攻击也构成对言论自由权的直接威胁。

C. 使用非法武器

1. 化学武器

127. 负责调查在阿拉伯叙利亚共和国使用化学武器指控的联合国调查团在其报告中确认，冲突期间曾多次使用化学武器，具体而言是沙林毒气。⁴ 委员会独立收集到资料，证实了在胡塔(8 月 21 日)、Khan Al-Assal (3 月 19 日)和 Saraqib (4 月 29 日)发生了这种情况。

128. 在对胡塔平民居住区的一次计划周密、不区分目标的攻击中，使用了大量沙林毒气，造成大量人员伤亡。关于 8 月 21 日使用的制剂的性质、质量和数量的现有证据表明，肇事者很可能可以得到叙利亚军方贮备的化学武器，并且具有安全使用大量化学制剂所需的专业技能和设备。3 月 19 日在 Khan Al-Assal 事件中使用的化学制剂，与在胡塔事件中使用的制剂带有同一种标记。

129. 委员会调查的其他关于使用化学武器的指控，其具体情况明显不同，而且事件的规模远小于以上两例。在所有事件中，关于责任人的指证均未达到委员会的最低举证标准。

2. 燃烧武器

130. 8 月 26 日，军方一架战斗机向 Urem Al-Koubra 镇(阿勒颇省)投掷了两枚燃烧弹，其中一枚击中一所学校。炸弹爆炸后成为“火球”，导致十名平民死亡，数十人重伤，大部分都是少年儿童。虽然尚不清楚是否使用了易燃剂，但是炸弹产生的效果类似于凝固汽油燃烧弹。受害者容颜尽毁，二度烧伤和三度烧伤的面积高达体表的 80%；他们遭受了巨大的痛苦；一些受害者还因此丧生。

131. 政府在 Urem Al-Koubra 学校事件中使用燃烧弹，违反了国际人道主义法中禁止使用造成过分伤害、不必要的痛苦或滥杀滥伤性武器的原则。

⁴ A/67/997-S/2013/553。

D. 围困和经济、社会、文化权利

1. 政府军和亲政府民兵

132. 政府采取围困战术，利用人对水、食物、住所和医疗照顾的基本需求，作为军事战略的手段。阿拉伯叙利亚共和国全境的城镇都已受到围困。被围困地区遭到猛烈的炮击和轰炸。政府军限制外科用品等人道主义救援物资的发放，理由是这些物资可以用于治疗叛军士兵。这种战术公然违反了具有约束力的国际人道主义法义务，即救死扶伤，确保人道主义救援物资快速通行、畅通无阻。许多地区长期封锁人道主义救援物资，包括食品援助，导致营养不良和饥饿现象。将让平民挨饿作为战争手段是遭到禁止的。这种行为也违反了适足食物权和享有可达到的最高健康水准权规定的核心义务。

133. 截至 2014 年 1 月，在东胡塔地区(大马士革农村省)的 Dumah、Arbin、Zamalka、Kafr Batna、Harasta、Jisreen、Saqba 和 Al-Mliha 等城镇有 16 万人受到围困。在这个农村地区，采取切断食物这种军事战略最初始于 2013 年 7 月和 8 月，庄稼和农场遭到炮击和焚烧。随着围困加剧，政府军封锁道路，并且在检查站大肆没收食物、燃料和药品。一名一年多没吃过肉和新鲜蔬菜的妇女于 9 月中旬逃脱，她讲述了检查站的士兵如何骚扰被发现携带食物者，士兵还怀疑他们“支持反对派”并将食物毁掉。10 月，Al-Mliha “Tamico” 检查站的士兵拘留了一名妇女，原因是她在衣服里面藏了面包。也是在 10 月，一名试图为家人携带食物的妇女在 Douma 附近的检查站遭到安全官员的骚扰，安全官员说，“你们这些人将像狗一样到处觅食”。狙击手袭击试图绕过检查站进出东胡塔地区的人。

134. 到 10 月初，居民只能依靠焙熟的碎麦、大米和树叶代替蔬菜维生。迄今，供水仍然时常中断，而且水量不足。政府多次拒绝批准在人道主义救援物品中运送外科用品。蓄意阻断医疗用品的做法使病人和伤员陷入悲惨处境。一名伤者讲述了医生如何使用面粉袋为患者包扎。政府检查站阻止需要求医者离开东胡塔地区寻求医治。需要接受紧急救治的人和慢性病患者都无法得到医疗救助，并因此死亡。

(a) *Muadamiyah*

135. 在 2013 年 12 月停战之前，有 12000 人被困在 Muadamiyah。该地区的东面和北面被驻扎在 Mezzeh 机场附近的第四师包围，南面和西面被 Jdaydet Artuz 附近的总统卫队包围。4 月 20 日，由德拉省至 Muadamiyah 的道路被封后，食品供应立即被切断，逐渐导致营养不良和饥饿。居民们讲述，他们在焙熟的碎麦和大米吃光之后，依靠橄榄、树叶、野草和药草维生。曾经一度断水数周。Muadamiyah 的一名居民描述了饥饿带来的羞耻感和痛苦，讲起她三岁的儿子在五月底被杀害时说，“我的孩子临死还饿着肚子”。

136. 患病儿童和被弹片炸伤的儿童无法获得食品和药品，因此而夭折。包括助产士在内的许多医护人员都已逃亡。由于食物匮乏，哺乳的母亲难以喂养新生婴儿，造成营养不良，还至少造成一人死亡。政府军已经封锁这一地区，并部署狙击手攻击企图逃亡的人员。

137. 10 月 13 日，阿拉伯叙利亚红新月会和红十字国际委员会监督 3500 名平民撤出 Muadamiyah。在疏散期间，将男子与妇女和儿童分开，许多男子在 Mezzeh 机场受到排查。几名男子遭到逮捕和拘留。许多作战年龄的男子仍然留在原地，害怕被政府军逮捕、杀害或者“被失踪”。随后在 10 月 15 日和 29 日的疏散行动中，5000 余人离开了 Muadamiyah。尽管 12 月 25 日已经停战，但是 Muadamiyah 仍被围困，人道主义援助依然无法进入。

(b) *Daraya*

138. Daraya 东面被 Mezzeh 机场包围，西南面被 Sahnaya 包围，里面仍有 8000 人遭到围困。检查站的政府人员根据身份证显示的族裔实施逮捕。居民描述了 Daraya 的“人道主义灾难”，食物、燃料或药品都无法运入。营养不良状况在蔓延，对儿童造成显著的影响。

(c) *Yarmouk* 难民营

139. Yarmouk 巴勒斯坦难民营仍有 2 万人被困，食物和医疗用品奇缺。人们得不到食物，已经耗尽了所有储备，不得不以树叶果腹，变卖财产，抢劫废弃的住宅。2014 年 1 月，收到了有人饿死的报告。由于医院和诊所毁于炮击，医疗服务荡然无存。至今没有任何医疗物资可以进入 Yarmouk。1 月 15 日，近东救济工程处一名特使获准进入 Yarmouk 难民营，但只能从仍有战斗发生的北门进入。近东救济工程处特使出于安全考虑，无法成行。自此，人道主义特使可以进入这一区域，但是营地内的政府安全部队不许他们运送食品。

(d) 霍姆斯(古城)

140. 2012 年 2 月，霍姆斯古城被围。包围古城的政治安全局在周边设立了检查站和路障，还建起一公里长的水泥墙，封锁了所有通路。2012 年 10 月，人道主义救援物资获准进入城内。留在城内的 4000 人面临着供水供电不足、食品药品匮乏的局面。经常性的炮击导致人员受伤，伤势得不到治疗又造成了高死亡率。政府狙击手部署在所有路口，限制人员的行动并不加区别地进行攻击。

2. 非国家武装团体

(a) 阿勒颇省

(一) *Nubul 和 Zahra*

141. 非国家武装团体已经包围了 Nubul 和 Zahra, 45000 人受困。实施围困的是伊斯兰阵线、圣战者军、支持阵线和叙利亚革命阵线的从属团体, 他们在该区域周边设立检查站, 并切断了供电和供水管线。这些团体不允许人道主义特使进入该区域, 违反了国际人道主义法规定的义务。这种做法已经导致人道主义状况恶化, 当地居民掘井取水, 由于缺乏卫生条件而罹患疾病。2013 年 6 月, 在一架载有人道主义救援物资和学校用品的直升机遭到攻击后, 政府军不再运送基本必需品。Nubul 和 Zahra 仅存的一家诊所用品短缺, 不得不采用原始手段治疗慢性病患者和在狂轰滥炸中受伤的人员。

142. 该区域的武装团体定期扩大包围圈, 将 Afrin 也纳入包围圈之内, 因为那里有通往 Nubul 和 Zahra 的供应线。7 月 17 日, 由于民保队和武装团体在哈塞克省的冲突加剧, 武装团体再次包围了 Afrin。截至 2014 年 1 月, ISIS 一直阻碍人道主义援助进入 Afrin。

(二) 哈马

143. Al-Ghab 山谷是一个农业区, 里面聚居着一些阿拉维派村落, 周围居住的主要是逊尼派民众。政府军在阿拉维派村落中部署的军事据点内炮击周围的区域。非国家武装团体实施报复, 蓄意攻击在田里耕作的农民。频繁的杀戮和绑架使 Mirdash 和 Shatha 的居民无法耕种、丧失了主要的收入来源和谋生手段。对耕作的农民发动攻击, 蓄意阻止他们收获农产品, 这种做法为国际人道主义法所不容。

E. 任意和强迫流离失所

1. 政府军和亲政府民兵

144. 政府发动不加区别的过度空袭和炮击, 造成了大规模的任意流离失所。这种做法违背了国际人权法规定的保护平民免遭流离失所的义务。政府未能遵守国际人道主义法规定的义务, 为流离失所的平民提供住所、卫生条件、医疗服务、安全和食物, 确保同一家庭的成员不会彼此分离。

2. 非国家武装团体

145. 有两起武装团体(按照国际人道主义法的定义)强迫流离失所事件记录在案。

146. 7 月 20 日，ISIS、支持阵线、萨克哈纳旅、“真主的霹雳”组织、伊本·泰米叶旅和自由沙姆人伊斯兰运动在 Tal Abyad (拉卡省)与民保队发生冲突。

147. 7 月 21 日在民保队撤退时，武装团体在 Al-Jisr、Harat Al-Leil 和 Hay Al Shallala 居民区的清真寺进行广播，命令库尔德平民离开城镇，否则将立刻受到攻击。数千名库尔德平民随之逃亡。许多人在周围的检查站被绑架。逃亡者的财产遭到劫掠与焚烧。

148. 7 月 28 日，阿勒颇省 Tal Aran 和 Tal Hasel 的库尔德人聚居区爆发了冲突，一方是 Jabhat Al-Akrad 和民保队，另一方是支持阵线、ISIS 和自由叙利亚军的从属团体。后一组团体控制了 Tal Aran，设立了检查站和狙击哨位。武装分子利用清真寺的喇叭进行广播，命令库尔德人离开此地，并以暴力相威胁。数千人于次日逃亡。

149. 7 月 29 日，战火蔓延至 Tal Hasel，民保队与上述武装团体交战。短暂、激烈的冲突过后，武装团体包围了城镇，对库尔德民居进行搜查，抓捕作战年龄的男子。这些团体利用清真寺的喇叭进行广播，称库尔德人为“异教徒”，宣称“要与决定留在 Tal Hasel 的人兵戎相见”。它们向库尔德妇女和儿童发出威胁，声称留下的人将被视为“圣战者合法杀戮的对象”。

150. 非国家武装团体 7 月份在拉卡省和阿勒颇的所作所为，表现为一场强迫库尔德平民流离失所的协调一致的有计划的行动。所采用的手段(先以暴力威胁，然后实施绑架)表明这是以种族身份为由，蓄意使一个民族流离失所。这种行为构成了强迫流离失所这一战争罪。

五. 结论和建议

A. 结论

151. 阿拉伯叙利亚共和国的行为违反了《经济、社会、文化权利国际公约》、《公民权利和政治权利国际公约》、《消除对妇女一切形式歧视公约》、《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约》和《儿童权利公约关于儿童卷入武装冲突问题的任择议定书》。政府军无视被其控制和拘留者的基本人权。作为一个国家，阿拉伯叙利亚共和国对于由官方认可的人员实施的所有违反其国际条约义务的行为负有责任。

152. 在冲突过程中，阿拉伯叙利亚共和国境内的交战各方未能遵守国际人道主义法规定的义务。它们违反了冲突各方均应遵守的日内瓦四公约共同第三条的基本禁止条款。这种违约行为构成战争罪，引起个人刑事责任。可以根据国际刑法，由行使普遍管辖权的国家，追究作战人员及其指挥官行为的责任。

153. 为交战双方提供财物支持的外部势力承担国际法规定的义务。若武器有可能被用于犯下危害人类罪或战争罪，则各国不应批准此种武器转让。众多记录表明，在阿拉伯叙利亚共和国确实存在这种风险。《制止向恐怖主义提供资助的国际公约》缔约国必须采取措施，防止个人和组织在明知资金将被用于资助攻击平民或未主动参与敌对行动者的情况下，仍然组织募集或捐助。私人捐助方及指导作战的外国顾问人员，对于在其控制下发生的行为和做法负有责任。对阿拉伯叙利亚共和国国内各方施加影响的各国有义务确保它们遵守国际人道主义法的规则。

154. 2013 年 10 月 2 日，安全理事会主席发表声明，谴责叙利亚当局广泛侵犯人权和违反国际人道主义法，并谴责武装团体侵犯人权和违反国际人道主义法。⁵ 本着这一认识，安全理事会必须将此情况提交司法机构，追究犯下这些违法和侵犯人权行为者的责任。

155. 安全理事会通过了第 2118(2013)号决议，展示出有能力在阿拉伯叙利亚共和国采取一致、有效的行动。五个常任理事国未能就其他威胁国际和平与安全的严重侵犯人权行为采取行动。这种不作为使各种势力在阿拉伯叙利亚共和国找到了生存壮大的空间，它们各自为政，促使暴力不断激化和升级。安全理事会对此负有责任。

B. 建议

156. 调查委员会再次提出以往报告中所作的建议，并进一步提出以下各项建议。

157. 调查委员会建议所有各方：

- (a) 确保平民得到保护，切实保障他们的安全；
- (b) 尊重平民获得基本必需品、食品和医疗照顾的权利，允许这些物资畅行无阻；
- (c) 区分军事目标和民用目标，避免一切不加区分的过度攻击；
- (d) 避免使任何人，无论是平民还是作战人员，遭受酷刑或其他残忍、不人道或有辱人格的待遇，包括性暴力；
- (e) 遵守不招募儿童和不使用儿童参与敌对行动的禁令；
- (f) 以人道的方式对待所有被拘留者，允许一个公正、中立、独立的组织定期探访被拘留者；
- (g) 保护救援人员，为救援物资畅通无阻的迅速通行提供便利；

⁵ S/PRST/2013/15.

- (h) 尊重和保护学校和医院，保持它们的民用性质；
- (i) 确保医护人员、医院和救护车能够安全通行、受到保护；
- (j) 承诺确保保存侵犯人权行为和国际罪行的物证，保护叙利亚人民了解真相的权利。

158. 委员会建议阿拉伯叙利亚共和国政府：

- (a) 停止对平民区使用燃烧武器等非法武器和桶装炸弹等非制导武器或非精确制导武器；
- (b) 允许在东胡塔地区、Yarmouk、Muadhamiyah 和霍姆斯古城开展独立的人道主义需求评估；
- (c) 允许委员会进入叙利亚。

159. 委员会建议非国家武装团体：

- (a) 允许在 Nubul 和 Zahra 开展独立的人道主义需求评估；
- (b) 与不遵守国际法的极端分子划清界限。

160. 委员会建议对交战双方有影响力的各国，特别是安全理事会常任理事国，齐心协力向各方施加压力，以结束暴力，并启动包容各方的谈判，以便在叙利亚实现可持续的政治过渡进程。

161. 委员会还建议国际社会：

- (a) 遏制武器的扩散和供应，并解决其根源问题；
- (b) 为人道主义行动提供资金，打开通道让援助能够抵达所有地区的受害者，为扩大人道主义救援行动的范围提供便利。

162. 委员会建议人权理事会支持委员会提出的建议，将本报告转交秘书长，提请安全理事会注意，以便通过向大会和安全理事会报告的正式报告程序，采取适当行动；

163. 委员会建议安全理事会：

- (a) 支持委员会的各项建议；
- (b) 采取适当行动，将此情况提交司法机构，这种机构可以是国际刑事法院，同时铭记只有安全理事会有权将阿拉伯叙利亚共和国的情况提交法院；
- (c) 通过其可以行使的各项权力和可以采取的各项措施，促进国际人权法和人道主义法的执行和落实，以追究所有行为方的责任。

Annex I

[English only]

Mission Permanente
de La
République Arabe Syrienne
Genève

الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمر المتحدة
جنيف

N°

Geneva, 7 September 2013

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to The Office of the United Nations High Commissioner for Human Rights (OHCHR), in its capacity as secretariat of the International Commission of Inquiry on the Syrian Arab Republic (Col), has the honor to inform the Col that the Government of the Syrian Arab Republic extends an invitation to Mrs Carla Del Ponte, in her personal capacity, to visit Syria.

In this context, the Syrian Arab Republic reiterates its readiness to extend all the necessary assistance and cooperation needed to ensure the success of Mrs. Del Ponte's visit to Syria.

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to The Office of the United Nations High Commissioner for Human Rights, the assurances of its highest consideration.



Office of the United Nations High Commissioner for Human Rights
Palais Wilson

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HAUT-COMMISSARIAT



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
Tel: 41-22-9179989, Fax: 41-22-9179007

Independent International Commission of Inquiry on the Syrian Arab Republic established pursuant to
United Nations Human Rights Council Resolutions S-17/1, 19/22, 21/26 and 22/24

The Independent Commission of Inquiry on the Syrian Arab Republic presents its compliments to the Permanent Mission of the Syrian Arab Republic to the United Nations Office in Geneva and specialized institutions in Switzerland.

The Commission has the honour to refer to the Note Verbale from the Permanent Mission dated 7 September 2013, inviting Commissioner Carla Del Ponte to visit the Syrian Arab Republic in her personal capacity.

In this connection, the Commission wishes to inform the Permanent Mission that such a visit would need to be conducted in an official capacity by the Commissioners as a collegial body and that the delegation must include the Chair of the Commission and preferably the full membership of the Commission.

The Commission looks forward to discussing the terms of reference of the visit with the Permanent Mission and avails itself of this opportunity to extend to the Permanent Mission of the Syrian Arab Republic to the United Nations Office in Geneva and specialized institutions in Switzerland, assurances of its highest consideration.

10 September 2013



Permanent Mission of the Syrian Arab Republic
to the United Nations Office in Geneva
and specialized institutions in Switzerland

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HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Independent International Commission of Inquiry on the Syrian Arab Republic established pursuant to
United Nations Human Rights Council Resolutions S-17/1, 19/22, 21/26 and 22/24

26 September 2013

Excellency,

On behalf of the Independent International Commission of Inquiry on the Syrian Arab Republic, I wish to express my appreciation for your letter of 20 September 2013, transmitting the transcript of a recent intercepted telephone conversation. The Commission looks forward to receiving the CD containing the audio version of the conversation, as mentioned in your letter.

Allow me to take this opportunity to welcome the decision of the Government to become a State Party to the 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

As you know, in the context of implementing its mandate of investigating violations of international human rights and humanitarian law, the Commission of Inquiry will continue to investigate the allegations on the use of chemical weapons in Syria. In this regard, the Commission invites the Government to provide it with any other relevant information it may have on the use of chemical weapons in its territory.

In addition, the Commission of Inquiry's investigation will benefit immeasurably from it being given full and unfettered access to the country. It is essential for the voice of the Commission of Inquiry, as an independent and impartial body, be heard on this issue of such significant importance.

I wish to reiterate the readiness of the Commission of Inquiry to engage in a discussion with the Government on the modalities of such a visit.

Please accept, Excellency, the assurances of my highest consideration.

Paulo Sergio Pinheiro

Chair, Independent Commission of Inquiry
on the Syrian Arab Republic

His Excellency
Mr. Faysal Khabbaz Hamoui
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Geneva Switzerland

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The Independent International Commission of Inquiry on the Syrian Arab Republic presents its compliments to the Permanent Mission of the Syrian Arab Republic to the United Nations Office in Geneva and specialized institutions in Switzerland.

The Commission will present its last report as part of its current mandate to the Human Rights Council at its 25th session in March 2014. In this context, the Commission wishes to reiterate its request to visit the Syrian Arab Republic in order to gather relevant information for its investigation.

The Commission wishes to underline the important role that the Government could play, especially at this particular juncture, in providing crucial information relevant to the mandate of the Commission, including on the alleged use of chemical weapons.

In this context, Commissioners Carla del Ponte and Vitit Muntarbhorn, assisted by staff from the Secretariat, would be available to conduct an initial mission to the Syrian Arab Republic in the month of February.

The Commission avails itself of this opportunity to extend to the Permanent Mission of the Syrian Arab Republic to the United Nations Office in Geneva and specialized institutions in Switzerland the assurances of its highest considerations.



Permanent Mission of the Syrian Arab Republic
To the United Nations Office and other
International organisations in Geneva
Geneva, Switzerland

Annex II

[English only]

Political and humanitarian context

Political context

1. Since March 2011, the conflict devolved from a domestic protest movement into a non-international armed conflict. As protests spread from Dara'a governorate to other parts of the country, Government forces resorted to excessive use of force to quell the unrest. In parallel, the Government passed legal and political reforms that failed to diffuse the crisis. As early as July 2011, small groups of army defectors joined by armed civilians engaged with Government forces in restive areas. The Government framed its military response to the unrest in the context of fighting terrorism, while the opposition insisted on its demands for democracy and dignity.

2. In response to the deepening crisis, various opposition currents formed the National Coalition for Syrian Revolutionary and Opposition Forces in November 2012. The Coalition represents a wide array of civilian and political forces including local councils, independent nationalist figures and the Syrian National Council (SNC). The latter forms the largest bloc in the Coalition accounting for 22 of its 66 seats. The Coalition also encompasses the Supreme Military Council (SMC) which is intended to unify armed groups, curb the influence of radical groups and bridge the gap with armed actors. On 25 September 2013, thirteen of the most influential armed groups renounced their affiliation with the SMC and formed the Islamic Front (IF), weakening the credibility of the Coalition. The SNC's latest withdrawal from the Coalition, further undermined the latter's position on the eve of the Geneva 2 talks. Despite broadening its representation base to include the Kurdish National Council (KNC) and members of the internal opposition, some armed and political forces consider that the Coalition lacks effective representation on the ground and it is influenced by external factors. However, the Coalition remains the main political entity, representing the opposition, in the conduct of foreign affairs.

3. Since August 2013, the Islamic State of Iraq and Sham (ISIS) reinforced its control of captured areas in northern Syria, particularly in Al-Raqqah, Aleppo and Idlib countryside as foreign fighters continue to join its ranks. ISIS, an Al-Qaeda affiliate, runs areas under its control through local administrations governed by the strict application of Sharia Law. Those areas are meant to form the foundation of a future Islamic state extending beyond Syria's borders. Over past months, restrictions on civil liberties tightened while human rights violations significantly increased in these areas under the group's control. With the surge of the influence of radical groups, including ISIS, the foreign policy of regional and international actors, is increasingly geared towards addressing the rising threat of extremism.

4. In the Syrian Kurdish regions, this dynamic led to an open conflict between the Salafi Jihadi and Kurdish groups. A PYD-led coalition established an interim Kurdish administration with municipal councils in three provinces, Jazirah, Ayn Al-Arab and Afrin in January 2014. Alongside the KNC's inclusion in the Coalition, both have engaged in policy discussions within the framework of the Supreme Kurdish Council under the auspices of the Kurdish Regional Government in Iraq.

5. The intensity of the conflict reached the threshold of a non-international armed conflict by February 2012 with significant local, regional and international implications. Lebanon's domestic dynamics have been seriously affected by the war in Syria. Political polarization has markedly increased against the backdrop of local parties' conflicting positions on the Syrian conflict. Hezbollah's subsequent direct military involvement on the side of the Government and the mobilization of Sunni fighters to join the ranks of armed opposition groups in Syria aggravated existing sectarian tensions.

6. By the end of 2011, regional cleavages were evident through the positions of various Governments and regional actors either in support of the Syrian Government or the opposition. This regional dynamic increasingly defined the military and political conduct of warring parties and complicated the prospect of a peaceful settlement. On the international stage, differences among the five permanent members of the Security Council prevented an effective approach towards resolving the conflict.

7. The chemical weapons attacks in Damascus governorate on 21 August 2013 and their aftermath have altered the course of international diplomacy vis-à-vis the conflict. As consensus for military action against the Government faltered, a framework agreement was reached between the United States and Russia for the destruction of the Syrian chemical stockpile on 13 September 2013 through Security Council Resolution 2118. Cooperation between the two Governments to broker the agreement signaled a closer approach on the Syrian conflict, particularly on the need for a political settlement. This was a significant departure from their previous positions. International consensus on dealing with the Syrian chemical threat and the need for political settlement led some countries in the region to moderate their approach towards the crisis and accelerated the diplomatic momentum towards the Geneva 2 talks.

8. Despite internal dissension, the Coalition voted in favour of participation in the Geneva II talks which started on 22 January 2014. The basis for the talks, mediated by Joint Special Representative Lakhdar Brahimi, is the June 2012 Communiqué which calls for an immediate ceasefire; the formation of a transitional government with executive powers including representatives from the opposition and the government, maintenance of the territorial integrity of Syria and allowing humanitarian access among other aspects. The nature of the transitional Government and the lack of effective means to enforce a ceasefire on the ground remain serious obstacles. Despite serious impediments, the talks represent the most serious diplomatic initiative so far to resolve the conflict. Emphasis on the need for a political settlement is consistent with the Commission's longstanding position, specifically that there is no military solution to the conflict and that it is only through an inclusive Syrian dialogue that a peaceful transition can be attained.

Humanitarian context

9. Nearly nine million people, more than a third of the population, have fled their homes since March 2011. Of these, over 2.4 million are refugees in neighbouring countries, stretching hosting communities to their limits. One-fifth of Lebanon's population are Syrian refugees. In Jordan, Zaatari camp has become one of the country's largest "cities". Thousands of Syrians are also trying to cross from Egypt or Libya to Italy. Hundreds have perished at sea.

10. An estimated 6.5 million Syrians are internally displaced. Of concern is the situation of approximately 250,000 persons who remain trapped. A third round of vaccinations in response to a polio outbreak was carried out in January 2014, reaching more than two million children. The provision of assistance is, however, increasingly manipulated by all

sides, in breach of the principle of non-discrimination. Humanitarian actors continue to work in dangerous conditions across the country.

11. Economic sanctions imposed by some Member States adversely affect the socioeconomic situation. The Syrian Pound has been devalued by over 50 per cent since the outbreak of the crisis. Prices for basic items have risen sharply. Many families are living in abandoned buildings, schools or in makeshift shelters, without sufficient food, water or medicine. Health and sanitation services have deteriorated, leading to the spread of communicable diseases.

12. The second International Pledging Conference for Syria was held in Kuwait City on 15 January 2014. Donors are encouraged to fulfil the \$2.4 billion (of the \$6.5 billion appeal) pledges to help UN agencies and partners provide aid to Syrians affected by the conflict.

Annex III

[English only]

Specific mandate on massacres

1. The Commission continued to carry out its special mandate to investigate all massacres.^a The Commission has not been granted access to conduct investigations on the territory of the Syrian Arab Republic. This has severely hampered its efforts to establish the circumstances of a number of alleged massacres to its evidentiary standard. In many parts of Syria, communication lines, including phone and internet, have been restricted or cut. In the incidents described, the intentional mass killing and identity of the perpetrator were confirmed to the commission's evidentiary standards.

Government forces and pro-Government militia

Qarfah Village, Dara'a, 6 June 2013

2. On 6 June 2013, Government forces and armed men in plain clothes executed five civilians, including a four-year-old girl during an incursion into a private house in Qarfah village. Government forces raided the house after arresting and killing a male member of the family at a military position in Izraa, on the suspicion that he was a member of a non-State armed group.

Al-Zarra, Tal-Kalkh area, Homs, 15 July 2013

3. On 15 July 2013, seven members of a local Reconciliation Committee in the village of Al-Zarra were shot dead by local pro-Government Popular Committee members from a neighbouring Alawite village. The victims were unarmed civilians. Among them were two retired Syrian army officers and a former mayor of a village in the area.

4. The Reconciliation Committee members were killed as they were accompanying unarmed rebels on their way to the State police station in Talkalakh, in order to facilitate their surrender. Their convoy was ambushed near an army checkpoint and attacked by Popular Committee members from a neighbouring village. Neither the Reconciliation Committee members nor those being escorted were carrying arms.

Karnaz, Hama, 26 September 2013

5. On 26 September, eight members of a family were killed in their home by Government forces and pro-Government militia. The massacre occurred as Government forces raided the house in order to confiscate agricultural goods, on the suspicion that they were being used to feed armed opposition fighters. When the mother in the family refused to hand over the foodstuffs, Government forces killed the woman and seven family members.

Non-State armed groups

Jamlah Village (Dara'a), 3 March 2013

^a See A/HRC/22/59, para 42.

6. On 5 March 2013, the Yarmouk Martyrs Brigade executed nine members of the Syrian armed forces who had been captured and were hors de combat. The troops were detained during an attack on a military position in Jamlah village. The captured soldiers were subsequently executed by gunfire.

Khan Al-Assal, Aleppo, 22-23 July 2013

7. On 22 and 23 July NSAGs captured and executed more than 50 government soldiers and a number of civilians during an attack on the town of Khan al-Assal, outside Aleppo. Video material collected online indicates that the detainees were executed by gunfire after their capture by members of the Ansar al-Khilafa Brigade.

Al Hiffa region, Latakia, 4-5 August 2013

8. During the first week of August 2013, more than 100 civilians were killed during a military operation conducted by non-State armed groups. The killings occurred in the context of a military attack that started on 4 August 2013, in which a number of non-State armed groups participated. The operation targeted a cluster of Alawite villages in Al Hiffa, and was referred to by some groups as Operation Liberation of the Coast, or Campaign of the Descendants of Aisha the Mother of Believers by other groups. The main participating non-State armed groups in the operation were Jabhat Al-Nusra, Suqor Al-'Iz, Ahrar Al-Sham, Liwa' Al-Mouhajireen and Harakat Sham Al-Islam, as well as Soqoor Al Sahel Brigade and Western Central Front of SMC. Small local groups from local Sunni villages also participated.

9. Non-State armed groups first attacked a military position on a hilltop around 500 meters from the villages. The position was equipped with tank, rocket launcher and other heavy weaponry, and had been used to fire artillery on the opposition held town of Salma and other areas. After capturing this and other military positions in the area, the fighters moved to attack the nearby villages, including Inbatah, Al-Hamboushiyah and Blouta, in some places engaging Syrian forces in combat, but also firing indiscriminately at civilians and civilian houses. Civilians were killed during this assault, while others were killed while escaping.

10. The victims included men, women and children. During the attack, armed non-State groups also abducted an estimated 200 women and children. Their whereabouts remain unknown. The discovery of mass graves was reported after Government forces regained control of the villages around 16 August 2013. Victims were killed by gunshot or by sharp objects. Several bodies were decapitated, burned or otherwise mutilated.

11. Statements from participating commanders as well as material available online strongly suggest that this specific operation received a financial contribution of 400,000 Euros from an identified individual. A second person of unknown nationality contributed 150,000 Euros to the operation.

Al-Madmouma, Idlib, 26 August 2013

12. On 26 August 2013, several members of a non-State armed group affiliated to Ahrar Al-Sham, attacked the village of Al-Madmouma, near Ma'aret Al-Nu'man. During the night, armed men entered a house and killed 16 civilians, including six children, three women and two elderly men. The killings occurred in the context of disputes between the group and a tribe present in the area.

Maksar Al-Husan, Homs, 10 September 2013

13. On 10 September 2013, 18 civilians were killed in Maksar Al-Husan in the context of a military campaign against a group of three Alawite villages nearby. Non-State armed groups affiliated with Jabhat Al-Nusra and Ahrar Al-Sham Movement conducted the assault. Victims included several elderly women and men, as well as children.

Deir Attiya, Damascus, 20 November 2013

14. Nine medical staff at Basil State Hospital in Qalamoun were taken hostage and killed by members of Islamic State of Iraq and Al-Sham (ISIS) and Al-Khadra Battalion. The killings and the attack on the hospital occurred in the context of an assault against several locations and positions in Deir Attiya city. Government sources reported to have retrieved the bodies of the victims after Government forces regained control of the hospital on 13 November 2013.

Sadad, Homs countryside, 21-28 October 2013

15. On 21 October 2013, multiple non-state armed groups, including Al-Islam Shield battalions affiliated to Maghawir Forces and Jabhat Al-Nusra launched an attack on Government forces based in the Christian town of Sadad. A number of civilians were killed during the ensuing clashes. The perpetrators of the killings have not been established in each incident.

16. Two elderly civilians were shot and killed by members of a non-State armed group. Members of the police force were also killed. Four elderly women were reportedly found shot dead in an area controlled by the armed groups. All killings took place in close quarters.

Unknown perpetrator**Sadad, Homs countryside, October 2013**

17. On 21 October 2013, multiple non-state armed groups launched an attack on Government forces based in the Christian town of Sadad. On 28 October, Syrian Government forces regained full control of Sadad. An entire family, a woman, her two young children, two elderly parents and her mother in law, were later found dead in a well. One of the victims was handcuffed with his arms behind his back and had been gagged with a cloth. All six civilians had been shot in the head. The area in which the victims were found dead had been under the control of the Government. Non-state armed groups had been positioned in a school near the family's home.

Annex IV

[English only]

Without a trace: enforced disappearances in Syria

I. Introduction

1. Women, standing outside detention centres and holding photographs of their disappeared male relatives, have become an enduring image of suffering in Syria. It is an image which speaks to the essence of the violation of enforced disappearance: the taking of a loved one, the desperate search for information through official and unofficial channels, and the torment of those left behind. Those who wait are often the only visible trace of the violation.

2. An enforced disappearance is an arrest, detention or abduction, followed by a refusal to acknowledge the deprivation of liberty or by the concealment of the fate or whereabouts of the disappeared. Cases of enforced disappearances were first documented by the Commission of Inquiry on the Syrian Arab Republic during the pro-democracy protests in March 2011. As the unrest devolved into an armed conflict, the investigation covered practices related to enforced disappearances perpetrated by all parties to the conflict. Investigations uncovered a consistent country-wide pattern in which people – mainly adult males – have been seized by the Syrian security and armed forces, as well as by pro-Government militias, during mass arrests, house searches, at checkpoints and in hospitals. In some instances, the disappearances appeared to have a punitive element, targeting family members of defectors, activists, fighters as well as those believed to be providing medical care to the opposition.

3. Over the last year, specific anti-Government armed groups have begun to abduct certain categories of civilians and hold them hostage. Persons perceived to be supporting the Government, human rights defenders, journalists, activists, humanitarian workers, and religious leaders have been seized by various armed groups and held under the threat of death until their release was negotiated for ransom or a prisoner exchange. Hostage-taking is a war crime, characterized by coercion and the infliction of a threat until the demands of the captor are met.

4. In contrast, enforced disappearance –the subject of this paper– is a denial of the very existence of its victims, placing them outside the protection of the law. Authorities across Syria have refused to provide information about the fate or whereabouts of disappeared. In some instances, there appeared to be a policy of not providing such information to families. Many of those interviewed were too frightened of reprisals to make official inquiries. In some cases, relatives who approached the security services were themselves arrested. The Government has perpetuated a system of arrests and incommunicado detention that is conducive to enforced disappearances. There is also evidence that some anti-Government armed groups have adopted practices that could be considered tantamount to enforced disappearances. This paper charts the major trends and patterns of this phenomenon in Syria from March 2011 to November 2013 and draws from numerous first-hand interviews conducted by the Commission over this period. The Commission regrets that it was not able to access the country. This limited its ability to investigate inside Syria, especially cases of anti-Government armed group abuses.

5. The practice of forcibly disappearing persons is prohibited under customary international humanitarian law, binding all parties to the conflict in Syria. The definition of an enforced disappearance is set out in the United Nations Declaration for the Protection of All Persons from Enforced Disappearance and the International Convention for the Protection of All Persons from Enforced Disappearance, which crystalises custom. Under international human rights law, an act of enforced disappearance is committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, thus resulting in a human rights violation. In the context of international humanitarian law, this requirement must be interpreted to include agents of non-State actors, in order for this prohibition to retain significance in situations of non-international armed conflict such as Syria.

6. Under international human rights law, the prohibition of enforced disappearances is a non-derogable State responsibility. No legitimate aim or exceptional circumstances may be invoked to justify the practice of enforced disappearance. When perpetrated as part of a widespread or systematic attack against a civilian population, with the intent of removing a person from the protection of the law for a prolonged period of time and pursuant to or in furtherance of a State or organizational policy, enforced disappearances can amount to a crime against humanity incurring individual criminal responsibility. Enforced disappearances are continuing human rights violations and crimes, persisting for many years after the initial deprivation of liberty.

7. The Criminal Code of the Syrian Arab Republic does not criminalise enforced disappearances as an autonomous crime. Any act of enforced disappearance violates a number of fundamental rights enshrined in the 2012 Syrian Constitution, the Arab Charter on Human Rights and the International Covenant on Civil and Political Rights, to which Syria is party. These rights include the right to liberty and security of persons, the right not to be arbitrarily detained, the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, the right to a fair trial and the right of all persons deprived of their liberty to be treated with humanity and with the inherent dignity of the human person. Enforced disappearances also violate and imperil the right to life.

8. Enforced disappearance, by definition, requires an absence of information about the fate or whereabouts of a loved one. Investigating this violation presents unique challenges as physical evidence is elusive or entirely absent. It can be years before the fate of the disappeared person comes to light, if ever. The truth regarding the fate of the many disappeared in Syria and the extent of the phenomenon of enforced disappearance will likely only fully be grasped in the aftermath of the conflict.

9. The victims of this violation number far beyond the individuals disappeared. The families and loved ones of those disappeared endure a mental anguish that amounts to a further violation of their human rights. It is a continuous violation that remains unabated until the fate of the disappeared is uncovered. To forcibly disappear a person is to negate their being and deny their relatives' right to know the truth.

II. The deprivation of liberty: a targeted campaign

10. Enforced disappearances have been carried out since the beginning of the uprising in Syria. Most disappearances were perpetrated by intelligence and security officers, as well as by the Syrian army, sometimes in conjunction with pro-government militias acting on behalf of the Government. In all the cases documented, the perpetrators operated with impunity.

11. The violation of enforced disappearance is often a gateway to the commission of other offences, most particularly torture. Survivors of enforced disappearances consistently

described being subjected to torture during their detention. In all the instances documented, the victims were denied their fundamental right to due process. They were deprived of contact with the outside world, including close relatives. No legal assistance was provided. They were placed outside the law, at the mercy of their captors.

A. Silencing the opposition

12. Consistent accounts indicate that in the early days of Syria's unrest, enforced disappearances were employed by the Government to silence the opposition and spread fear amongst relatives and friends of demonstrators, activists and bloggers.

13. Military commanders undertook a coordinated policy together with intelligence agencies to target civilian protesters through mass arrests and enforced disappearances in 2011 and early 2012. A former officer of an army brigade operating in Al-Waer in Homs stated that during the army operations in Bab Amr in January 2012, soldiers attacked protesters in the streets while intelligence officers systematically arrested all those who were not killed. Following the attacks against demonstrators, the same brigade carried out house raids, jointly with intelligence officers, indiscriminately arresting more individuals. Their families were never informed of their whereabouts.

14. One survivor, arrested by the Air Force Intelligence in March 2011 after taking part in a demonstration, was transported to the Mezzeh Airport Prison, where he was interrogated and tortured. Subsequently, he was transferred to the premises of the Air Force Intelligence, where a high-ranking officer openly threatened to kill him should he participate in further demonstrations. Throughout his ordeal and despite repeated attempts to locate him, his family was never notified of his arrest, detention and whereabouts.

15. Another interviewee who, together with his cousin, participated in protests in Jisr El Shoughour, Idlib in June 2011, reported that security forces raided his cousin's house shortly after the demonstration, and abducted him from his bed. His cousin was taken to an unknown location and his whereabouts were never disclosed. The interviewee said "on more than one night, my daughter woke up after she heard her mother crying. Every night, we thought that the security services were coming to get us".

16. Consistent testimonies reveal a pattern; the vast majority of those disappeared in 2011 and early 2012 were young men. A man, who defected from the political security branch of Aleppo in March 2012, reported that officers received orders to arrest every young male and adolescent between 16 and 40 years old that participated in demonstrations.

17. The available accounts indicate a policy targeting civilians executed through various organs of the Syrian Government, aimed at stifling the protest movement. Enforced disappearances were employed to instil fear, oppress and assert control over persons taking part in demonstrations against the Government and were undertaken during coordinated attacks on the civilian population.

B. Enforced disappearance as reprisals and punishment

18. In certain cases, enforced disappearances had a strong punitive element, targeting those perceived to be either supportive of the opposition or insufficiently loyal to the Government.

19. Several interviewees indicated that soldiers who refused to execute orders or were suspected of harbouring opposition sympathies were subjected to reprisals, including disappearance. A former army conscript, who operated in the town of Tseel in Dara'a in November 2011, revealed that four of his fellow soldiers were arrested by their superiors

after they refused to open fire on a group of peaceful demonstrators. The interviewee never saw them again, inferring that insubordination was punished by disappearance.

20. Relatives of those individuals wanted by the Syrian security apparatus have also been victims of enforced disappearances. A young man, who defected from the Republican Guard in June 2011, explained how his superiors came to his village in Dara'a, three weeks after his defection. They arrested his younger cousin, in an apparent reprisal. His cousin was taken to an unknown location and his fate never uncovered. Another protester reported that after he participated in several peaceful demonstrations in Dael, Dara'a, in March 2011, agents of the Political Security raided his house and forcibly disappeared one of his brothers. He stated plainly, "my brother was probably detained because of me". He believed that his brother's abduction was aimed at instilling fear in the relatives of protesters to deter them from participating in demonstrations.

21. Doctors were disappeared as punishment for their perceived support of anti-Government armed groups. An employee of Zarzor hospital in an anti-Government armed group-held part of Aleppo testified about a series of disappearances targeting medical personnel carried out by the Aleppo Air Force Intelligence between June and December 2012. These disappearances appeared to be aimed at punishing doctors who provided medical services in opposition areas, and deterring others who would consider doing the same.

C. A tactic of war

22. As the unrest devolved into a full-blown conflict, those affiliated or perceived to be affiliated with anti-Government armed groups became targets for disappearance. The initial arrests and abductions most often took place during Government searches of restive areas or at the checkpoints encircling those localities.

23. Bab Amr was the scene of mass arrests and disappearances during ground attacks by Government forces between February and May 2013. In March 2013, clashes between the Free Syrian Army and the national army broke out in the Homs city neighbourhood of Bab Amr. Aided by pro-Government militias, the army raided Bab Amr and abducted several residents whose location and fate remain unknown. In May 2013, campaigns of arrest took place in Hama, many of those taken remain disappeared.

24. Men were also abducted at checkpoints manned by Government-affiliated militias and popular committees. One eyewitness described how his neighbours were arrested at a checkpoint controlled by what he believed to be *shabbiha*, in Al Ghantoo, Homs, on 4 April 2013. Men wearing civilian clothing stopped their car and arrested a man. He was subsequently taken to an unknown location. His family does not know where to look for him. On 8 June 2013, a family of internally displaced persons was trying to make their way into Jordan when military forces positioned in the Al-Waer neighbourhood of Homs stopped their car at a checkpoint. The husband was arrested and taken to an unknown location, while his wife and children were ordered to return to their hometown, despite on-going violence. He has not been seen or heard from since.

25. As noted in "Assault on medical care in Syria" (A/HRC/24/CRP.2), wounded civilians perceived to be affiliated with the opposition are being disappeared from hospitals. This alarming phenomenon has significantly increased over the past months. An interviewee from Nabak, Dara'a governorate, explained that due to a lack of medical facilities in FSA-controlled areas, injured civilians were forced to go to governmental hospitals, where many disappeared between April and May 2013.

Without a trace

26. Defectors who participated in mass arrests as well as survivors revealed that in the majority of cases, the officers in charge of the initial arrest took the abductees to the premises of their respective security or military branches. Despite the organised nature of the arrests and detentions, authorities often failed to record the personal details of detainees, including those who died in detention, making it difficult to trace them and inform their families. The family of a person arrested in Idlib in September 2011 attempted to determine his whereabouts. The interviewee described how “Wherever they searched, the authorities said that his name was not recorded”.

27. A defector told of a mass arrest in Jisr Al Shoughour, Idlib in June 2011, where those detained were taken to a school that was used as an ad hoc detention facility. There, detainees were subjected to painful and humiliating physical treatment. Their names were never registered rendering any attempts to determine their whereabouts futile. In late August 2011, officers of the Military Security in Latakia arrested four family members of an interviewee and took them to an unknown location. Three weeks later, a young man who was arrested together with the interviewee’s cousins informed him that his relatives had been transferred to the military hospital of Latakia. Upon inquiry, it was discovered that their names never appeared in the hospital’s registry.

Anti-Government armed groups

28. In 2013, specific anti-Government armed groups adopted a practice of hostage-taking, targeting civilians perceived to be supporting the Government, human rights defenders, journalists and religious leaders. The emergence of a pattern of abductions and arbitrary deprivation of liberty has characterized the ever-growing presence of certain armed groups, particularly in northern Syria.

29. The fear of such kidnappings and hostage-takings has gripped the civilian populations living under the control of certain armed groups. The perpetrators seize, detain and threaten to kill their victims in order to coerce a third party – whether the families of the kidnapped, their communities or the Syrian authorities – to fulfill their conditions for the release of the hostage. Such acts, motivated by material gain and extortion, intimidate and coerce the families of the kidnapped and their communities.

30. Hostages are taken with the intent to instrumentalise their liberty and security for ransom or prisoner exchange. Such offenses leave families in a state of uncertainty regarding the whereabouts of their relatives, but do not amount to enforced disappearances as the fate of the victims is not denied or concealed. In the current context in Syria, such conduct may amount to war crimes.

31. Information collected in recent months indicates that opposition armed groups such as the Islamic State of Iraq and Al Sham (ISIS) have taken control of territory in northern Syria and begun to adopt practices, such as incommunicado detention, that may lead to disappearances. In one incident, armed men believed to be members of ISIS were reported to have abducted two civilians on grounds of non-adherence to their interpretation of Islamic dress code. The group later denied holding them in captivity. The whereabouts of the detainees remain unknown.

III. Not knowing: the enduring agony of Syrian families

32. The victims of enforced disappearance are not only those who have been disappeared. Enforced disappearances wreak havoc on families, tearing the social fabric of entire communities. Perpetrators intentionally create a paralysing uncertainty that leaves families hanging between hope and despair. Not knowing whether their loved ones are dead and, if so, what has happened to their bodies, they can neither mourn nor adjust to their loss.

A. A climate of fear

33. Enforced disappearances are characterised by situations where family members fear retaliation if they question the authority of the disappeared person's captors. Where the State maintains a climate in which family members are too intimidated to inquire about detentions by security services, this is tantamount to a refusal or a denial of the person's fate.

34. In Syria, silence and fear shroud enforced disappearances. In several cases, individuals who reported a disappearance were themselves detained. The mother of two young men who disappeared in Idlib in June 2011 reported that her eldest son was arrested when he inquired at the Idlib Military Security Branch about the whereabouts of his brothers. He never returned. One interviewee further reported that while detained in Homs prison in 2012, she met a 60 year-old woman who had been arrested after she went to the Homs Security Branch to inquire about the fate of her disappeared son.

35. The result of such a climate of fear is that only a fraction of the number of disappearances is officially reported because relatives of those disappeared fear being targeted and punished by the authorities.

36. In the overwhelming majority of cases, when asked whether they inquired about the disappearance of their relatives, interviewees reported that they could not approach the authorities because of a well-founded fear of reprisal. Families revealed that attempts to locate their relatives would expose them to a fate similar to their loved ones and may subject the disappeared to greater danger. A young man whose brother disappeared in December 2012 in Homs explained, "Families constantly pray for their relatives, but will not risk sending another family member to detention." Another interviewee, whose son was arrested during a house search by Military Security officers in late October 2012 in Damascus, stated that he did not go to the Military Security branch himself, as he feared that by requesting information, he would also be arrested.

37. Reporting on the arrest of his cousin by pro-Government militias and Air Force Intelligence officers in December 2012 in Nabul, Aleppo, an interviewee explained, "If you go to the branch to ask about detainees, they will interrogate you. If you are a man, you will be tortured and detained too. If you are a woman, they will harm you and might detain you instead."

B. A policy of concealment

38. Syrian families are in desperate need of official acknowledgment of what has happened to their relatives. An indication of this desperation are the 30 requests seeking official information from the Government, filed by Syrian families to the United Nations Working Group on Enforced or Involuntary Disappearances, over the course of 2012 (A/HRC/22/45).

39. Those who dared to approach the authorities to inquire about a loved one faced a systematic refusal to disclose the fate or whereabouts of the disappeared or to even acknowledge the deprivation of liberty. One survivor, who was arrested by pro-Government militias and Air Force Military Security officers in Latakia in July 2012, recalled the shock of his family upon his release, “No one informed my family about my detention; no one would dare ask the Air Force Military Security about their relatives. If you asked, no one would tell you.” A relative of a man arrested in Naime, Dara’a, in 2011 stated, “His mother searched everywhere, but received no information from anyone”.

40. The brother of a former Syrian Air Defence Force officer reported that after he decided to defect, in December 2011, his brother called his family expressing serious fears of being arrested or punished. This phone call was the last anyone heard of him. The interviewee explained that his family repeatedly approached all Syrian security services, including the Air Force Intelligence, the police, the army, and the state security services. He further described how they had to use intermediaries to approach the Air Force Intelligence, whose officers were instructed to fire upon anyone who came within 300 metres of their building. Despite the measures taken by the interviewee and his family, each security apparatus denied any knowledge of the arrest, detention or whereabouts of his brother.

41. A doctor who survived a disappearance in 2011 explained that after months of searching, his family managed to locate his place of detention. However, when they directly inquired to the authorities administering the detention facility, the authorities denied that their relative was held there.

42. In a revealing account, a man who defected from the Hama Air Force Intelligence at the end of 2012, described orders he received not to provide information about the whereabouts of detainees or to speak to their relatives. He added that cameras were placed at the gates of the Air Force Intelligence premises, to monitor the officers and deter them from speaking to families inquiring about their relatives.

43. In some instances, the families only discover the fate of the disappeared when their bodies are recovered or in a minority of cases, are returned to them. However, several accounts indicate that Government forces take deliberate steps to conceal the cause and circumstances of the death, violating the families’ right to truth. Interviewees who had lost families members consistently described how their bodies were returned by Government authorities without explanation. In April 2011, a child was arrested in Dara’a, and taken to an Air Force Intelligence facility in Damascus. His family searched for their son in hospitals to no avail, fearing that he had been detained or killed. His body, bearing extensive signs of torture, was returned to his family in June 2011. No information was provided about the grounds for his detention or the circumstances of his death. The father of a young activist, arrested by security forces in late July 2012 in Latakia and whose whereabouts were unknown, received a phone call eleven days after his son’s disappearance. He was asked to go to Damascus to recover the body of his son, who, he was told, had been killed in a car accident. The body bore traces of severe torture.

C. The anguish

44. The heart of the anguish suffered by families lies in the authorities’ systematic refusal to acknowledge the deprivation of liberty or to disclose any information about the relatives. Across Syria, parents, siblings, husbands, wives, children and friends wait anxiously to know the fate or whereabouts of their loved ones. Not knowing whether the disappeared is still alive, and if so in what state of health and under which conditions, causes a level of grief impossible to convey. The secrecy surrounding the fate of the disappeared has the effect of intimidating and punishing families by leaving them in a state of uncertainty and

mental distress. This mental anguish may rise to the level of torture or inhuman treatment and makes entire families the victims of enforced disappearances.

45. The husband of a woman abducted by Military Intelligence officers in Hama in December 2011 and whose whereabouts were never disclosed, explained how traumatized his two-year old daughter has been since, “She cries when she sees a military uniform”.

46. Consistent accounts have revealed that the principal means to obtain information is when a fellow detainee is released. A man held for over a year in the Military Police Branch of Hama described, in a harrowing account, how immediately after his release in May 2013, he was assailed by dozens of women thrusting photographs of their husbands, sons and fathers towards him. Another interviewee, released after a court hearing in Damascus in August 2013, was confronted with hundreds of people waiting outside the court, begging for news of their loved ones, in the hope that he had seen them in detention.

47. The desperation of families has left them vulnerable to extortion. Some pay bribes to those who, often falsely, claim they can provide information. One interviewee reported that his cousin, who had participated in peaceful demonstrations in Latakia, was arrested mid-2011 by Government security forces and taken to an unknown location. His family was too frightened to approach the forces responsible for his arrest. Instead they paid a bribe to a person who claimed to be connected to the security forces. This middleman informed the family that the disappeared was detained in the Air Force Intelligence detention centre. Shortly afterwards, the contact revealed, for more money, that he had been killed.

48. Another interviewee reported that his cousin was arrested by security officers on his way to Damascus in September 2013 and taken to an unknown location. His family learned of his arrest from a taxi driver who witnessed it. The disappeared’s father repeatedly inquired about the fate and whereabouts of his son, to no avail. Only after he bribed one of his contacts was he able to learn that security officers belonging to the 4th Army Division had arrested his son for having published pro-opposition messages on a social media webpage. He was, however, unable to obtain any information about his son’s location or state of health. The interviewee insisted that less privileged families are abandoned to their grief, saying that it was only because his uncle “had money and contacts” that he was able to obtain some information.

49. Besides the grave emotional and psychosocial impact, families also often have to cope with the economic consequences of disappearances. The absence of the main breadwinner creates financial difficulties that add to the extreme vulnerability of families. Women and children face specific hardships. The uncertainty created by the disappearance of their husbands or fathers has social and legal consequences, including on the status of marriage, right to inheritance and social welfare, and the management of the property of the disappeared person. Children of disappeared experience acute suffering with the loss of a parent. One young woman interviewed about the disappearance of her husband stated “I do not know how to live and care for my young children without their father”.

50. Syrian authorities created a climate of intimidation such that families did not dare inquire about their loved ones or file any formal complaints, and systematically denied the disappearance or refused to disclose any information. They also violated their duty to duly investigate enforced disappearances. The Government has further violated families’ non-derogable right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person.

IV. Conclusions and Recommendations

51. The accounts presented in this paper only hint at the scope of the crisis of enforced disappearance in Syria and the state of fear in which ordinary citizens live.

52. Enforced disappearances are perpetrated as part of a widespread campaign of terror against the civilian population. Government forces have engaged in enforced disappearance in violation of their international legal obligations. Given the geographic spread of the documented cases and the consistent manner in which abductions and arrests are carried out, there are reasonable grounds to believe that enforced disappearances were committed by Government forces, as part of a widespread and systematic attack against the civilian population, and therefore amount to a crime against humanity.

53. The direct victims of enforced disappearances were systematically denied their fundamental human rights, more particularly their rights not to be arbitrarily detained, not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, as well as their rights to liberty and security, to be recognized as a person before the law and to be treated with humanity and with the inherent dignity of the human person.

54. By failing to acknowledge the deprivation of liberty, the Government has violated the family's right to the truth. The ensuing mental anguish suffered may breach family members' rights not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Where family members have been arrested when they sought to make inquiries from the authorities, their rights to liberty and security have also been violated.

55. The absence of an autonomous definition of enforced disappearance in the Syrian Criminal Code and the lack of an official register or bureau that manages records of detainees and responds to inquiries made by relatives, contributes to a system that is conducive to enforced disappearances. Moreover, the persistent failure to notify the families of the fate or whereabouts of their loved ones coupled with the systematic practice of withholding information, reprisals, bribery or intimidation in response to the search for information by relatives, and the absence of genuine investigations into allegations of disappearances, constitute the many factors that create an environment of impunity in Syria. Such a climate not only contributes to the perpetuation of the phenomenon of enforced disappearance, but is also a major obstacle to the elucidation of its true extent.

56. International human rights law imposes on Syria the obligation to take all appropriate measures to investigate enforced disappearances and to bring those responsible to justice.

57. Disappearances are losses that cannot be mourned. They bear consequences on the individuals, their families and the community as a whole and will remain among Syria's deepest wounds. The damage inflicted upon the victims, including their relatives, is permanent and irreparable. Reconciliation cannot happen until each individual case of enforced disappearance is clarified and the perpetrators brought to justice. No statute of limitations applies to this violation. Investigating each case of enforced disappearance will remain the responsibility of the Syrian state regardless of the Government in power.

The Commission recommends that the Government of Syria:

- i. Inform families of the whereabouts of all persons in their custody;
- ii. Ensure that all those detained are registered, and afforded legal review of the grounds of their detention;
- iii. When a disappeared person is found dead, return the remains to the family and inform them of the circumstances of the death;

- iv. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and recognise the competence of the Committee under Articles 31 and 32 of the Convention;
- v. Ensure that all cases of enforced disappearance as well as acts tantamount to enforced disappearances are duly investigated, that those responsible are prosecuted, and, where appropriate, punished;
- vi. Ensure that military commanders and civilian superiors enforce the prohibition of enforced disappearances within their ranks and among their subordinates;
- vii. Ensure that those involved in the search for victims of enforced disappearance, notably the relatives, have full and unimpeded access to justice and are protected against ill-treatment, intimidation or reprisal. To that effect, effective victim and witness protection measures, offering guarantees of safety for those who wish to lodge a complaint or testify, should be established;
- viii. Survivors and families of disappeared should also be granted reparations that include rehabilitation, satisfaction, compensation and, in particular, psychological and social support for the relatives;
- ix. To the extent possible, special social and financial support should be provided to dependent women and children.

The Commission recommends that anti-Government armed groups:

- i. Ensure that military commanders enforce the prohibition of enforced disappearances;
- ii. Take all feasible measures to account for persons reported disappeared as a result of the armed conflict;
- iii. Provide the family members of disappeared with any information concerning their fate and whereabouts;
- iv. Register and hold all detainees in a recognized place of detention;
- v. Promptly inform the detainees of the reasons for their detention;
- vi. Ensure that any person deprived of liberty has contact with the exterior, including legal assistance.

The Commission recommends that all parties to the conflict:

- i. Maintain an updated register of all persons deprived of liberty;
- ii. Set up a process to centralize information on persons deprived of liberty, to transmit such information to their next of kin directly or through a neutral intermediary, and to respond to inquiries about the whereabouts of disappeared persons;
- iii. Ensure that any person deprived of liberty is held in a recognized place of detention and has the opportunity to challenge his or her detention before an independent and impartial body.

Annex V

*[English only]***Government detention centres**

1. The majority of detainees interviewed by the Commission stated that they had been tortured or ill-treated during their interrogation. Methods of torture documented by the Commission were consistent across the country. They included mock executions; electric shocks applied to sensitive parts of the body, including genitals; cigarettes burns; and beating with electric cables, whips, metal and wooden sticks and rifle butts. There were multiple reports of detainees being beaten about the head and on the soles of the feet. The Commission also received reports of detainees being placed into prolonged stress positions (shabeh) and the use of vehicle tires to hold hands and feet in uncomfortable positions (dulab) while beatings were administered. In many of the interviews, scars and wounds, consistent with their accounts, were still visible.^b Detainees were denied medical care, left to die of chronic illnesses and untreated wounds and injuries. Children were often detained in the same detention facilities as adults and subject to the same levels of torture. As prisons have become overcrowded, the detention conditions have become deplorable. Sanitary facilities are limited and inadequate, spreading illnesses among detainees. Detainees are not accorded adequate food, leading to reports of starvation and malnourishment.

2. The list presented below identifies the Government detention facilities in which cases of torture have been documented. Others cases of tortures have also been documented in other locations controlled by Government forces, such as ad hoc detention places or checkpoints, which were not included in this list.

Governorate	City	Ministry	Service	Location
Aleppo	Aleppo	Ministry for Internal Affairs	Political Security Directorate	Political Security, Aleppo Branch
		Ministry of Defence	Military Intelligence Directorate	Military Security, "Palestine" Branch 235
			Air Force Intelligence	Air Force Intelligence, Aleppo Branch
Damascus	Damascus	Ministry of Defence	Air Force Intelligence	Air Force Intelligence, Damascus Branch - Bab Tuma
			Military Intelligence	Military Security, Raids Branch 215

^b Para. 77, A/HRC/20/CRP.1.

			Directorate	
			Military Intelligence Directorate	Military Security, Branch 227
			Military Intelligence Directorate	Military Security, Damascus Branch – Al Fehar
		Ministry for Internal Affairs	General Security Directorate	State Security, Investigation Branch 285
			Syrian Police	Criminal Division, Damascus Branch
	Qaboun	Ministry of Defence	Syrian Army	Military Police Headquarters
	Sednaya	Ministry of Defence	Syrian Army	Military Prison
	Mezzeh	Ministry of Defence	Air Force Intelligence	Mezzeh Airport Air Force Intelligence Investigation Center
			Syrian Army	Republican Guard Headquarters
			Syrian Army	Military Hospital
	Kafr Sousa	Ministry of Defence	Military Intelligence Directorate	Military Security, Branch 227
		Ministry for Internal Affairs	General Security Directorate	State Security, Kafar Sousa Branch
Dara'a	Dara'a	Ministry of Defence	Military Intelligence Directorate	Military Security, Dara'a Branch 265
		Ministry of Defence	Air Force Intelligence	Air Force Intelligence, Dara'a Branch
	Dara'a	Ministry for Internal Affairs	Political Security Directorate	Political Security, Dara'a Branch
			General Security	State Security, Dara'a

			Directorate	Branch
			Syrian Police	Criminal Division, Dara'a Branch
	Izra'a	Ministry of Defence	Military Intelligence Directorate	Military Security, Izra'a Branch
			Syrian Army	38 th Brigade
	Gharaz	Ministry for Internal Affairs	Prison Division	Gharaz Central prison
Hama	Hama	Ministry for Internal Affairs	General Security Directorate	State Security, Hama Branch
Homs	Homs	Ministry for Internal Affairs	Prison Division	Homs Central Prison
		Ministry of Defence	Air Force Intelligence	Air Force Intelligence, Homs Branch – Bab Tuma
			Military Intelligence Directorate	Military Security, Homs Branch
			Syrian Army	Homs Military Prison
Idlib	Idlib	Ministry for Internal Affairs	Prison Division	Idlib Central Prison
		Ministry of Defence	Military Intelligence Directorate	Military Security, Idlib Branch
	Jisr Al Shughour	Ministry of Defence	Military Intelligence Directorate	Military Security, Jisr Al Shughour Branch
		Ministry for Internal Affairs	Political Security Directorate	Political Security, Jisr Al Shughour Branch
Latakia	Latakia	Ministry of Defence	Military Intelligence Directorate	Military Security, Latakia Branch

		Ministry for Internal Affairs	Political Security Directorate	Political Security, Latakia Branch
Reef Damascus	Adra	Ministry for Internal Affairs	Prison Division	Adra Central prison
	Duma	Ministry for Internal Affairs	General Security Directorate	State Security, Duma Branch
	Harasta	Ministry of Defence	Air Force Intelligence	Air Force Intelligence, Harasta Branch
		Ministry for Internal Affairs	Prison Division	Harasta Central Prison
Tartus	Banyas	Ministry of Defence	Military Intelligence Directorate	Military Security, Banyas Branch
		Ministry for Internal Affairs	Political Security Directorate	Political Security, Banyas Branch
	Tartus	Ministry of Defence	Military Intelligence Directorate	Military Security, Tartus Branch
		Ministry for Internal Affairs	Political Security Directorate	Political Security, Tartus Branch
			General Security Directorate	State Security, Tartus Branch

Annex VI

[English only]

Use of barrel bombs

1. Barrel bombs, also called explosive barrels, are makeshift explosive devices increasingly employed by the Syrian Air Force against opposition strongholds in Syria.
2. The use of barrel-bombs by Government forces was first documented in August 2012 in Homs city and Al-Qusayr in Homs governorate. In September 2012, army helicopters dropped barrel bombs on opposition-controlled neighbourhoods of Aleppo city. Since then, they have increasingly formed part of the arsenal of Government forces, with devastating consequences for civilians and civilian objects.
3. Cheaper than conventional munitions and deliverable by transport helicopters, they are made from simple containers packed with explosives, scrap metal, and in many cases additional incendiary material. Locally made in different shapes, sizes and composition, they lack exact technical specifications available with conventional projectiles, in terms of accuracy and lethality. The enhanced anti-aircraft capabilities of non-State armed groups have forced Government helicopters to fly at higher altitudes, further reducing their accuracy.
4. The use of barrel bombs, in this manner, is indiscriminate. In areas where armed group fighters were present, Government forces treated clearly separate and distinct military objectives located in densely populated areas with high concentrations of civilians, as a single military objective. The use of barrel bombs in this context amounts to 'area bombardment', prohibited under international humanitarian law. Such bombardments spread of terror among the civilian population. Some barrel bombs are constructed as rudimentary incendiary weapons, causing superfluous injury and unnecessary suffering.
5. Since 15 July 2013, barrel-bombs have been dropped on civilian-inhabited areas in Idlib, Hama, Al-Raqqa, Aleppo, Dara'a and Damascus governorates. Aleppo city and Daraya in Damascus countryside suffered intense and highly lethal attacks with barrel-bombs between November 2013 and January 2014.
6. Civilians are killed in the initial blast, in the shrapnel that results and from the collapse of buildings in and around the impact site. Video footage of barrel bomb explosions and their aftermath show the loss of limbs and deep cuts as a result of shrapnel injuries. The impact of the Government's campaign of barrel-bombing of civilian-inhabited areas extends beyond mass civilian casualties.
7. The terror that the Government's barrel-bombing campaigns generate should not be underestimated. Barrel-bombs, particularly when dropped from high altitudes, cannot be properly targeted. Nor is it likely that anyone at the impact site would survive the initial blast. The Government does not provide early warning of attacks and there is little chance of being able to move from the area once a barrel bomb is released from a helicopter overhead. Victims of barrel bombs emphasized the extreme fear and mental suffering they felt as they came under attack. Survivors and witnesses consistently described that as a result of the barrel bombing campaign, much of the civilian population lived in a state of terror.

8. The impact of barrel bombs causes the collapse of buildings around its explosion, leaving neighbourhoods in ruins. Where such buildings are residences, this further contributes to the mass displacement of civilians inside Syria and over its borders.

Idlib governorate

9. On 14 July, a helicopter released three barrel bombs on Al-Bara market and residential areas in Al-Bara. The first barrel hit a truck carrying fuel, causing a massive blaze killing the driver and 5 nearby civilians. The bodies were burnt almost beyond recognition. Others sustained serious injuries, including a loss of limbs. The other two barrels hit residential buildings, destroying them but causing no casualties.

10. In the last two weeks of July, Saraqib came under intense shelling and aerial bombardment by Government forces. This attack included the heavy use of barrel bombs on 18, 19, 20, 27, 28 and 31 July. In the course of this sustained assault, scores of civilians were killed and many more injured. As buildings collapsed under the bombardments, families were buried in the rubble. In the 31 July attack, four civilians, including women and children, were killed when a barrel bomb exploded as it struck their house.

11. Throughout August, the Jabal Al-Zawiya region in southern Idlib countryside was bombarded by barrel-bombs. In two separate instances in August 2013, army helicopters dropped barrel bombs into villages populated by significant numbers of civilians. In the first attack, taking place in the second week of August, two children and a woman were seriously injured. One of the children lost a limb to shrapnel. In the second attack, which took place days later, the bomb hit a residential building. The building was flattened and its occupants, a family of 6 children and their parents, were killed.

12. On 3 August, shortly before the breaking of the Ramadan fast, a helicopter dropped five barrels bombs on civilian houses in Balyoun village. The impact killed a 40-year-old woman and injured three others, including a three-year-old boy. Three buildings were flattened. Two days later, on 5 August, several barrel bombs were dropped on the market in Balyoun, killing 20 people outright and injuring dozens. An unknown number of additional civilians were killed when the building collapsed on them due to the force of the blast. A large number of houses were destroyed, further fuelling the displacement of residents to other areas.

13. On 18 August, two barrel bombs were released over Bdama, a town to the south-west of Jisr Al-Shughour near the Turkish border. The first hit a residential neighbourhood, killing four civilians including two boys, aged 13 and 7 years. An unspecified number of people were injured and there was significant property damage. The second hit civilian homes in a nearby neighbourhood, killing at least 5 and severely injuring 20 people. Further casualties resulted from the collapse of houses near the impact site.

14. On 25 September, barrel bombs were dropped on Maarat Hurmah from a helicopter hovering high overhead. The village lies 13 km south of Ma'rat Al-Numan. Six people were killed, including three women and two children.

15. On 8 October, a Government helicopter dropped a barrel bomb on Bizabur, a village just south of Ariha. In the same month, Government forces used barrel bombs on Al-Hobait in southern Idlib. In one attack, the bomb landed on a family home, killing a woman, her two teenage daughters and two sons.

16. On 11 October, the Government launched a barrel bomb attack on Kansafra, a town with approximately 30,000 inhabitants, situated 20km west of Maarat Al-Numan. The explosion, the shrapnel generated and the collapse of approximately five building caused mass civilian casualties.

Hama governorate

17. Government helicopters, flying at high altitudes, dropped barrel bombs on towns and villages inhabited by civilians in Hama governorate. On 9 August, the Government targeted Al-Hawwash with barrel-bombs, causing significant civilian death and injuries. On 14 October, on Eid Al-Adha, Government helicopters launched six aerial strikes, dropping barrel bombs on each occasion. Two people were killed, including one child while 20 were injured. The next day, helicopters targeted Al-Latamneh with three barrel bombs. One hit a house, killing three children from one family.

Al-Raqqah governorate

18. Government helicopters dropped barrels bombs on Al-Raqqah city in July and August 2013. In all instances documented, there were significant civilians casualties, a high proportion of which were children.

19. On 30 July, shortly before the breaking of the Ramadan fast, a helicopter flew over the Al-Raqqah city twice, dropping two barrel bombs in each sortie. The residential areas of Ta'meer and Badow were hit, killing 13 civilians including 7 children and 3 women. Twenty people were injured and there was significant damage to houses.

20. On 2 August 2013, a helicopter dropped two barrel bombs in two consecutive raids on residential areas. While one hit a vacant park, the other struck a residential building, killing a woman and her brother. Thirty-two others were injured.

21. On 10 August, four barrel bombs were dropped on residential areas, again in Al-Raqqah city, killing 36 people and injuring many more.

Aleppo governorate

22. The campaign of shelling and aerial bombardment of Aleppo governorate has been prosecuted with shocking intensity. The Government's on-going campaign has made liberal use of barrel bombs on Al-Safirah in September and on Aleppo city and the Al-Bab region in particular, between November 2013 and January 2014.

23. Al-Safirah, a town 25 kilometres east of Aleppo city, is home to a large number of internally displaced persons, many of whom live in a camp on the outskirts of the town. In early September, Government helicopters released several barrel bombs over Al-Safirah and its IDP camp. While rebel fighters were present in the town and numbered among the casualties, the majority of those killed were civilians. The shelling and bombardment, including with barrel bombs, continued into October. On 20 October, civilians fleeing the town were killed in barrel bomb attacks on their vehicles.

24. Barrel bombs were dropped by Government helicopters on Aleppo city throughout November and December. Attacks have continued into January 2014. Use of barrels bombs in Aleppo city was documented as taking place on 23 November, on 9, 16, 17, 20, 24, 28 December and on 1 January 2014. Across the span of these attacks, several hundred of civilians have been killed, many of them children.

25. On 23 November, a helicopter targeted Al-Marjeh neighbourhood in Aleppo city with three barrel bombs. Twenty-eight people were killed and 25 others were injured. All the victims were civilians. Ten civilian homes were also destroyed. On the same day, barrel bombs exploded in a vegetable market in Tariq Al-Bab neighbourhood, killing 25 civilians, many of them women and children. The blast caused a fire which led to further civilian casualties and injuries.

26. On 9 December, a barrel bomb exploded near to a school and a medical point in Al-Zabedia neighbourhood. At least four people were killed, including a pregnant woman. All victims were civilians.
27. On 17 December, Government helicopters targeted civilians gathering in a crowded market in Al-Maadi neighbourhood. Twenty people were killed, including three women and five children. Some survivors lost limbs.
28. On 20 December, a barrel bomb was dropped on a family home in Al-Sukkari neighbourhood. Five civilians were killed including one woman and two children. At least forty were injured including a five-year-old boy. Due to shrapnel injuries to the head, the boy now has limited ability to move and speak. Ten residential buildings were destroyed.
29. Again on 24 December, multiple barrel bombs struck Al-Sukkari neighbourhood. The bombs fell on residential areas and the shopping district. At least 30 people were killed and more injured. Twelve residential building collapsed. One bomb hit a gas station, causing deaths by burning as well as serious injuries. Another bomb hit a mosque where children were receiving religious instruction. Consequently many children were killed.
30. At noon on 28 December, a Government helicopter released multiple barrel bombs over Al-Myasser neighbourhood. One of the injured was a 14-year-old boy who received shrapnel injuries to the head. He underwent an operation to remove the shrapnel from his brain but this proved unsuccessful. Consequently, the boy has lost the ability to speak and is partially paralysed. In a separate barrel bomb attack, helicopters dropped barrel bombs on a vegetable market, while civilians sought to buy food. Over 25 people were killed.
31. On 1 January, a helicopter also dropped barrel bombs on Al-Sukkari neighbourhood. The bombs landed in the main shopping area, killing 20 people and injuring many others. Commercial premises were destroyed.
32. Barrel bomb attacks occurred in Al-Bab on 30 November, 1 December and 12 January 2014.
33. Government forces dropped barrel bombs on other civilian-inhabited towns and villages in Aleppo governorate. On 21 November, a helicopter dropped barrel bombs on Souran, killing 14 civilians, including women and children. At least one man, a passenger in a car, lost his leg in a shrapnel injury.
34. On 23 November, helicopters targeted the industrial zone of Sheikh Najar with barrel bombs. Three people – civilian workers – were killed. There were an unspecified number of injuries as well as significant destruction of property. On the same day, helicopters released barrel bombs over Tadeh, south of Al-Bab city killing 15 people. Children were among the dead. One bomb struck a fuel seller. The ensuing blaze burnt people to death and caused serious burns to survivors.
35. On 28 November, a Government helicopter dropped barrel bombs over Dawar Qadi Askar during the day when people were out shopping. At least 14 people were killed including children and one pregnant woman. The barrel bombs caused a residential building to collapse and severed the main water supply line.
36. On 19 December, a nine-year-old girl lost both of her legs in a barrel bomb attack on Hreitan. The girl was playing with some other children on the roof of her apartment block when they heard the sounds of a helicopter overhead. The helicopter was flying too high to be visible. While the other children ran, the girl was the last off the roof and lost her limbs in a shrapnel injury. On the same day, in a barrel bomb attack on Minbij, five civilians, including three children, were killed and nine were injured. A residential building and several cars were also destroyed.

Dara'a governorate

37. December 2013 and January 2014 saw an increase in the use of barrel-bombs.

38. In mid-December, a warship helicopter dropped barrel bombs on Jasem city, killing over twenty civilians. On 3 January 2014, barrel bombs were dropped from helicopters on residential areas in Inkhil and Jasem, following an attack by armed group fighters' on an army checkpoint.

Damascus governorate

39. January 2014 saw a dramatic increase in the use of barrel-bombs on Damascus governorate, with Daraya being particularly hard hit.

40. On 7 January 2014, barrel bombs killed an unspecified number of civilians in Douma, a suburb of Damascus city. On 14 January, Government helicopters dropped barrel bombs on civilian-inhabited areas in Daraya, Arbin and Zabadani, all in the Damascus countryside. This campaign is ongoing.

Conclusion

41. Government forces consistently failed to employ precision weapons when attacking targets in dense urban areas. Repeatedly throughout the reporting period, they deployed highly imprecise munitions with an expansive impact zone. Inevitably, these weapons killed and injured large numbers of civilians. Such weapons included barrel bombs.

42. Where barrel bombs were built as de facto incendiary weapons, they also violated rules of international humanitarian law prohibiting the use of weapons that cause superfluous injury, unnecessary suffering or that are indiscriminate by nature.

43. Government helicopters dropped barrel bombs in the hours before break of fast during Ramadan, on fuel depots, and on busy market areas. The information strongly indicates that the manner in which the attacks were carried out, the timing and duration of the attacks demonstrates that the aim of the Government's campaign of barrel-bombing was to terrorise the civilian population present in the areas attacked, with the clear message that no civilian was safe anywhere at any time of the day or night.

Annex VII

[English only]

Assaults on medical care

I. Introduction

1. The deliberate targeting of hospitals, medical personnel and transports, the denial of access to medical care, and ill-treatment of the sick and wounded, has been one of the most alarming features of the Syrian conflict. According to multiple accounts collected by the Commission of Inquiry, Government forces and affiliated militias interfere with and instrumentalise medical care to further strategic and military aims. Evidence collected by the Commission leads to an overwhelming conclusion: Government forces deny medical care to those from opposition-controlled and affiliated areas as a matter of policy. The policy is implemented through attacks on medical units, by endangering hospitals, targeting medical personnel, and interfering with patients receiving treatment. Victims relay harrowing accounts of the wounded and sick languishing at checkpoints unable to reach medical treatment, coming under renewed attack in hospital and doctors providing impartial aid being arrested and targeted. There is also evidence that some anti-Government armed groups have attacked hospitals in certain areas.

2. Article 3, common to the four Geneva Conventions of 1949, binding all parties to the non-international armed conflict in Syria, requires the wounded and sick be collected and cared for. Customary international humanitarian law also affords special protection to hospitals, medical units and healthcare personnel. Under Syria's constitution, adopted in 2012, the Government must "protect citizen's health and provide means of prevention, treatment and medication." International Human Rights Law prohibits the arbitrary deprivation of life. The right to health, enshrined in the International Covenant on Economic, Social and Cultural Rights, to which Syria is party, contains a non-derogable core obligation to ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups, as set out in General Comment No. 14. 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.

3. The Commission is presenting this thematic conference room paper to the 24th session of the Human Rights Council to highlight an enduring and underreported trend in the ongoing conflict. The findings that follow are emblematic examples documented by the Commission working within its methodological limitations and within the constraints on access imposed by the Government. The incidents described are indicative of wider patterns. The denial of medical care as a weapon of war is a distinct and chilling reality of the war in Syria. By rejecting the irrefutable and universally accepted principle that those wounded in hostilities must be treated, the parties to the conflict in Syria are setting a dangerous precedent.

II. Attacks on hospitals and medical units

4. Since the beginning of Syria's unrest, Government forces have strategically assaulted hospitals and medical units to deprive persons perceived to be affiliated with the

opposition of medical care. In an early example, Special Forces raided and closed down a hospital in Mouadamieh, Damascus because it treated injured protesters. They arrested patients, doctors and nurses.

5. As the violence escalated in early 2012, Government forces bombed and shelled opposition-operated field hospitals providing treatment to the wounded. The pattern of attacks indicates that Government forces deliberately targeted hospitals and medical units to gain military advantage by depriving anti-Government armed groups and their perceived supporters of medical assistance. These attacks continue to date.

6. In Homs, hospitals and medical units came under violent attack throughout 2012. In February and March, Government forces shelled field hospitals in Bab Amr from nearby villages. Three field hospitals providing emergency first aid were hit multiple times, causing considerable damage. The operating room of one field hospital was entirely destroyed. According to one victim, "The only warning was the noise made by the shell as it was fired." Following aerial surveillance by Government helicopters, a field hospital in Al Qusayr received repeated artillery fire throughout May and June. Medical staff explained that the hospital did not use distinctive emblems, so as not to attract fire from Government forces.

7. Government forces repeatedly targeted hospitals in Tal Rifat during military operations in northern Aleppo governorate between April and August 2012. On 5 April, a private hospital was aerially bombarded, reportedly from Mennagh airport. Also in April, Tal Rifat public hospital was destroyed by airstrikes and forced to close. Field hospitals attempted to continue providing care but were attacked by fighter jets from May to early August. There was a strong belief among survivors that the hospitals were targeted because they provided treatment to opposition fighters and civilians affiliated with the opposition.

8. As anti-Government groups took control of eastern and southern Aleppo city on 19 July 2012, Al Zarzou Hospital in Ansari neighbourhood came under mortar fire by Government forces, damaging the fifth floor and forcing an evacuation of patients. The hospital became administered by the opposition-affiliated Aleppo City Medical Council and was subsequently attacked by Government mortars in December 2012 and aerially bombarded in February and March 2013, causing considerable damage.

9. Aleppo's Dar Al Shifa public hospital also suffered repeated attacks between August and November 2012. On 12 August, helicopters fired artillery shells at the hospital, and in early October rockets hit the hospital. On 12 November, the hospital was targeted by a missile strike. These attacks injured and killed civilians receiving treatment in the hospital and medical personnel, significantly damaged the hospital's infrastructure and substantially reduced its ability to treat patients. On 11 August 2012, the state hospital in Tafas, Dara'a was attacked after helicopters surveyed the area. Patients receiving treatment at the time were evacuated, while others were killed in the attack. On 20 June 2013, a fighter jet dropped a bomb on the National Hospital of Al Raqqa, causing the total destruction of the intensive care unit and injuring three medical staff members.

10. In June 2012, Government forces began a concerted targeting campaign on field hospitals in Al Haffe, Latakia. One field hospital, located in a private home in Jingil village, was shelled on 5 June, and another field hospital, operating from a mosque in Al Zankoufa village, was hit on 13 June. The field hospitals were providing first aid to the sick and wounded and were staffed by volunteers and several doctors and nurses. Throughout December 2012 and January 2013, Government forces attacked field hospitals in Yarmouk Camp, Damascus. Fayiz Halwa and Al Basil hospitals were repeatedly hit with mortar fire, causing extensive damage to their infrastructure and ability to provide medical aid.

11. Al Huda private hospital in Sbaneh, Damascus was shelled on 25 July 2012. As well as a floor dedicated to wounded fighters, the hospital contained a maternity ward and an

emergency trauma care unit. Survivors and eyewitnesses believed the hospital was deliberately shelled from a Government military base in Mount Qassioun. The Al Majana private hospital in Ariha, Idlib, was hit by rocket fire on 28 August 2012. The attack damaged the emergency wing. The following day on 29 August, Government and pro-Government forces raided the hospital, destroying equipment, harassing the medical staff and accusing them of providing medical treatment to anti-Government armed group fighters. One doctor present during the attack explained, "If doctors treated opposition fighters, they were considered to be part of the opposition." Al Saeed private hospital in Al Arfi, Dayr az Zawr treating wounded civilians and fighters alike was repeatedly targeted between 19 July and 26 November by Government forces positioned on the bank of the Euphrates River. It was shelled on five occasions, injuring numerous patients and medical personnel. The hospital closed due to damage suffered.

12. In 2013, hospitals in Dara'a came under concerted attack. Since February, after Government forces withdrew from Jasem, field hospitals inside the town have been repeatedly shelled and aerially bombarded. Doctors and medical volunteers operating the field hospitals have been forced to relocate every few days to avoid being targeted. Since February, field hospitals in Tariq Asad in Dara'a Al Balad have been shelled almost continuously, killing doctors and patients. As such attacks continue, field hospitals have literally been driven underground, forced to operate in the basements of houses.

13. Anti-Government armed groups have also attacked medical facilities. On 14 April 2012, 250 Al Farouk Brigade fighters attacked the National Hospital in Jurat Al Shayyah, as part of a military offensive on Homs city. After several days' resistance from Government forces, the Al Farouk Brigade took control of the hospital. The Brigade took no precautions to avoid civilian casualties or to protect the sick and wounded during the attack. Government forces responded with aerial bombardment, which largely destroyed the hospital on 17 April.

14. In a recent incident, in late May 2013, anti-Government armed groups attacked the National Hospital in Dara'a, causing considerable damage. A member of the FSA brigade that carried out the attack on the hospital said that his group believed that there were approximately 50 patients in the hospital, and that all were affiliated with the Government. When orders were given to attack the hospital, none of the fighters involved protested that it was a protected object and no warnings were given prior to the attack.

III. Endangering hospitals

15. Placing military objectives in hospitals constitutes a failure to take all feasible precautions to protect civilians from the effects of attack. Such acts also contravene the fundamental obligation to respect and protect medical units. Using hospitals, outside their humanitarian function for acts harmful to the enemy, such as sheltering able-bodied combatants, storing arms or ammunition, as military observation posts or shields for military action, leads to a loss of their protection, exposing such hospitals to a risk of attack. This may prevent the impartial provision of medical treatment, endanger patients and medical professionals, and compromise the humanitarian function of medical facilities. Ultimately, this has a grave impact on the fulfillment of the obligation under common article 3 to care for the sick and wounded. Further, failing to respect the emblem of the Geneva Conventions undermines its protective purpose.

16. On 22 March 2011, Government forces entered the National Hospital in Dara'a city, cleared the hospital of non-essential medical staff and positioned snipers on the roof of the hospital overlooking the Omari mosque. The following day, the snipers fired on protesters. Snipers remained stationed on the National Hospital until May 2013, firing on sick and

wounded persons attempting to approach the hospital entrance. Security forces also continued to occupy the hospital until that date, ensuring only Government soldiers or civilians from Government-controlled areas of Dara'a received care. In late May 2013, anti-Government armed groups attacked the National Hospital in Dara'a.

17. As Government forces withdrew from Jasem in February 2012, Military Security retained control of Amal Hospital until 28 April 2013. At least three tanks were stationed in its courtyard, yet the hospital remained operational.

18. In Homs, Government forces conducted hostilities from several hospitals. In April 2012, Government forces established two military checkpoints at the perimeter of Al Rastan hospital. Following attacks by opposition fighters, Government forces occupied the hospital, positioning military personnel, snipers and tanks within the hospital grounds. By October 2012, the sick and wounded could not approach the hospital for fear of being fired upon, stating, "the hospital has become a military base." Since at least December 2011, Government armed forces have been positioned inside the National Hospital in Al Qusayr, Homs Governorate. In 2012, wounded and sick persons seeking medical care were hit by sniper fire from the hospital. Passersby and nearby residents were also targeted. As the Government began its Al Qusayr operation in May 2013, it positioned tanks and heavy artillery within the hospital. Snipers, tanks, armoured personnel carriers and heavy artillery were also placed around and inside Abdul Qadir Al Shaqfa Military Hospital in Al Waer, Homs. According to former hospital staff, the hospital was used to launch attacks on Al Waer and Jurat Al Shayyah neighbourhoods in May 2013.

19. Accounts from June 2012 describe the occupation of the National Hospital in Al Haffe, Latakia by soldiers and military personnel. Snipers positioned on the hospital roof targeted all those approaching the hospital, preventing access to medical treatment.

20. In September 2012, a Free Syrian Army (FSA) brigade in Mo Hassan, Dayr az Zawr, established a compound in an elementary school, exposing the field hospital located in the adjacent high school to attack. On 9 September and 29 September, the schools were targeted by airstrikes from fighter jets, causing significant damage to the field hospital. During the FSA offensive on Hefaya, Hama, around 18-20 December 2012, another FSA brigade attacked checkpoints surrounding the National Hospital, gaining control of the hospital. The National Hospital had been used as a base by Government forces.

IV. Targeting of medical personnel and transport

21. One of the most insidious trends of the armed violence in Syria has been the targeting of healthcare personnel. Ambulance drivers, nurses, doctors and medical volunteers have been attacked, arrested, unlawfully detained, and disappeared. Anti-terrorism laws issued on 2 July 2012 effectively criminalised medical aid to the opposition. Laws 19, 20 and 21 contravene the customary international humanitarian law rule that under no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

22. From April to June 2011, Government forces carried out a wave of arrests against medical professionals in Damascus. In April, five doctors working at Al Fateh Hospital and Al Mowasah University Hospital were arrested and detained after they refused to comply with Military Intelligence orders to deny treatment to injured protesters. Three doctors were tortured in Air Force Intelligence custody. Security forces arrested and mistreated a pharmacist in Mouadamieh, accused of providing treatment to protesters. In June 2011, two doctors working at the Tishrin Military Hospital were summoned to Military Security Branch 291 in Kafr Sousa, where they were detained, interrogated about their activities in

support of demonstrators and ill treated. Upon release, the Military Services Administration discharged them from duty.

23. Intelligence and law enforcement agencies have forcibly disappeared medical personnel providing treatment to perceived opposition supporters. From June 2011 until early 2012, Government security services repeatedly raided Bab Sbaa National Hospital in Homs, arresting doctors and nurses. One nurse explained that “at one point there were no more doctors left in the hospital.” During 2012, Government forces conducted a wave of arrests and extra-judicial executions of medical personnel working at Aleppo’s opposition affiliated Al Zarzou Hospital. In June 2012, Air Force Intelligence arrested three medical professionals at the hospital. Their burned bodies were found three days later. In July 2012, Dr. Nur Maktabi, a senior doctor at Al Zarzou Hospital went missing. In December 2012, he was found dead. A surgical assistant at Al Zarzou Hospital disappeared in October 2012. In mid-December 2012, the hospital’s anaesthetist disappeared at a Government-controlled checkpoint on his way home from Aleppo.

24. In early 2012, a doctor was arrested by soldiers of the 6th Division while treating patients at a state hospital in Idlib. In February 2012, Government forces arrested a doctor who treated FSA soldiers at Meydani Hospital in Latakia. On 28 June 2012, police in Damascus arrested, detained and subjected a nurse to psychological torture while interrogating her about patients she had treated.

25. Persons who received treatment in field hospitals often faced arrest and interrogation as to the names and locations of the hospitals and doctors who provided them with medical care. This has led to the arrest of doctors, as recorded in Dara’a in April and July 2011. In 2012 and 2013, doctors operating in field hospitals in Homs were allegedly declared wanted persons by Government security forces for providing support to the opposition. After a Government forces ground operation on Al Haffe, Latakia in June 2012, pro-Government militia fighters killed a doctor working at the field hospital operating in a mosque in Al Zankoufa village.

26. Persons delivering medical supplies have also been targeted. In March 2012, Government security forces reportedly listed a pharmacist who established first aid clinics in Idlib as a wanted terrorist and member of the armed opposition. In August 2012, officers at a Government checkpoint in Athman, Homs, stopped and searched an ambulance delivering medical supplies. The driver of the ambulance was taken to an intelligence service detention facility. Two weeks later, the National Hospital in Dara’a released his body, bearing extensive injuries consistent with severe torture.

27. Since the beginning of the conflict, at least 20 Syrian Arab Red Crescent volunteers have been killed, in some cases by sniper fire, while aiding the wounded or delivering relief supplies. Dozens others have been arrested and detained by the Government. On 7 September 2011, a Red Crescent ambulance evacuating wounded civilians was attacked next to a Government checkpoint in Al Hamediyah, Homs, killing one paramedic and injuring three others. In May 2012, the Syrian Arab Red Crescent unit in Azaz, Aleppo discontinued frontline work having suffered consistent sniper fire while attempting to evacuate the wounded. Also in May, the Red Crescent office in Azaz was shelled. In July 2012, a Red Crescent volunteer was killed by a sniper near Abdel Aziz mosque in Dara’a city’s Al Mahatta neighbourhood, while carrying out humanitarian duties. On 24 August 2012, a Government sniper shot and injured a Red Crescent nurse near Al Omari mosque in Dara’a. The sniper was located 200 metres away and would have seen his uniform and distinctive emblem. In early September 2012, a sniper in Al Midan neighbourhood in Aleppo city shot a medical emergency worker in full medical uniform and holding a medical bag bearing the Red Crescent logo. In March 2013, Government forces seized a Red Crescent ambulance in Jobar, Damascus. The ambulance personnel, all in uniform

bearing the Red Crescent emblem, were arrested and detained by security services for 10 days.

28. Recently, a Syrian surgeon working in an Aleppo hospital operated by Médecins Sans Frontières, was killed. His body was found on 3 September 2013. He had been treating victims of the conflict.

29. The clearly established pattern indicates that Government forces deliberately target medical personnel to gain military advantage by depriving the opposition and those perceived to support them of medical assistance for injuries sustained. While Government harassment and targeting of medical personnel continues, it appears to have diminished in 2013 because a considerable number of doctors have left the country or accepted the restrictions that security forces imposed on hospitals.

30. Other doctors have left Government-controlled areas and attempted to ensure continuity of medical care in opposition-controlled areas. However, there are increasing indications that certain anti-Government armed groups also fail to respect medical personnel. In late April 2013, the head doctor of a field hospital in northern Aleppo city was detained by members of Jabhat Al Nusra after he refused to display their banner in the hospital, insisting that the hospital was a neutral space. The doctor was held by the Sharia Committee for several days.

31. The Commission documented one case in which an armed opposition group targeted an ambulance. This occurred on 16 August 2013, when Hamad Abd al Jalil Battalion fighters attacked a Kurdish Red Crescent ambulance in Al Hasakah, killing the patient, the ambulance driver and paramedic. Before firing upon the clearly marked ambulance, the fighters had targeted it with an IED on the Ras Al Ain - Desbasiyeh road.

V. Interference with care and ill-treatment

32. Security forces have arrested and detained wounded persons in medical facilities, claiming bullet or shrapnel wounds as evidence of participation in opposition activities. The overbroad formulation of Law 19, article 10 allows its application in a manner that requires doctors to inform on patients in all cases, which is inconsistent with international humanitarian law's insistence that "persons engaged in medical activities shall not be compelled to perform acts or to carry out work contrary to medical ethics or to other medical rules designed for the benefit of the wounded and sick". In several instances, medical personnel refused to treat persons for fear of arrest. In Aleppo, Damascus, Dara'a, Dayr az Zawr, Hama, Homs, Idlib and Latakia governorates, wounded and sick persons were denied treatment on sectarian or political grounds by Government forces. Healthcare has become militarized to the extent that many in need elect not to seek medical assistance in hospitals for fear of arrest, detention, torture or death. Through such measures, the Government has deliberately obstructed the efforts of the sick and wounded to receive help.

33. In exploiting medical care to further strategic and military aims, Government forces have engaged in agonizing cruelty against the sick and wounded. The Commission has recorded consistent accounts spanning the conflict of the ill-treatment and torture of persons in military hospitals. There are strong indications of collusion between military hospitals and various security agencies in the use of torture.

34. Between April and August 2011, security officers, at times with the involvement of medical personnel, beat persons in the emergency trauma ward of the Military Hospital of Tishrin, Damascus. Most victims of this ill-treatment were protesters that had been injured by Government forces.

35. The Military Hospital of Aleppo contains a detention ward operated by the Aleppo Military Security branch. According to former doctors and medical personnel who worked in the hospital between November 2011 and December 2012, patients in this ward are heavily guarded by security officers, chained to their beds and blindfolded. Security personnel act as intermediaries between patient and doctor, often obstructing medical care as a torture and interrogation tactic.

36. Former patients, doctors and medical personnel have consistently described the alarming treatment of persons in Military Hospital No. 601 in Al Mezzeh, Damascus. Accounts indicate that some medical professionals have been co-opted into the maltreatment. Since 2011, Military Security, Military Intelligence, Air Force Intelligence, the Security Department of the Syrian Army's 4th Division and the Republican Guard have brought detainees to separate security wards inside the hospital. Detainees, including children, have been beaten, burned with cigarettes, and subjected to torture that exploits pre-existing injuries. Many patients have been tortured to death in this facility.

37. Consistent accounts from Abdul Qadir Al Shaqfa Military Hospital in Al Waer, Homs, indicate that security officers tortured persons brought for medical treatment from April 2011 to September 2012. Doctors were ordered to keep victims alive so that they could be interrogated further. Eyewitnesses describe how patients were chained to their beds and blindfolded, provided minimal food and water and subjected to harsh treatment.

VI. Conclusion

38. Violence against healthcare has significant compound effects, causing dramatic increases in mortality among the sick and wounded. The breakdown of medical services in wartime disproportionately affects vulnerable segments of the population, such as children under the age of five, nursing mothers, the disabled and elderly. In Syria, their suffering is exacerbated by the conduct of the parties to the conflict. As documented in the Commission's previous reports, both Government forces and anti-Government armed groups have employed siege warfare, preventing the passage of humanitarian aid and basic necessities, including medicine and medical supplies. Such tactics have long-term repercussions on the ability of entire communities to treat war-related and chronic healthcare problems.

39. Syria's healthcare system has fragmented along conflict lines. According to UNRWA, 32 of the country's 88 public hospitals have closed. Twenty-six of those closed are in Aleppo, Damascus, Homs and Dayr az Zawr, the four governorates most affected by the conflict. The Government reported in March 2013 that 10-15% of doctors have left the country. In contested areas, the healthcare system has largely fallen apart and is being replaced by an improvised, inadequate system, constantly at risk of attack by Government forces. Hospitals that remain operational under Government control often lack impartiality.

40. Government forces have abused the vulnerable, the wounded and the sick, exploiting their need for medical aid to further military aims. By attacking medical facilities, using hospitals as bases for military action, targeting medical personnel and interfering with patients receiving treatment, Government forces have perpetrated a concerted policy of denying medical aid to those affiliated with or part of the armed opposition. The first efforts to humanise warfare focused on the protection of the sick and wounded and those providing them with care. The incidents and patterns recorded reveal that the actions of the Syrian Government from 2011 to date have been a cynical betrayal of this fundamental principle.

41. The documented incidents of anti-Government armed group attacks against hospitals are of grave concern, as they demonstrate a disregard for the specially protected status of

healthcare facilities and a failure to take precautions to avoid civilian casualties and protected the sick and wounded.

42. The Commission of Inquiry on the Syrian Arab Republic reaffirms its recommendations (A/HRC/24/46) regarding the need to ensure the protection of civilians and compliance with international humanitarian law. The parties to the conflict must respect the special protection afforded to medical facilities and personnel. The Commission entreats the Government to fulfill its obligations under international human rights law to ensure the right to health, a right that is closely and inextricably linked to the rights to life, human dignity, non-discrimination, equality and the prohibition against torture and ill-treatment.

Annex VIII

[English only]

Map of the Syrian Arab Republic

