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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

阿拉伯叙利亚共和国境内发生的暴力事件持续公然违反基本的国际人道主义法和人权法原则，使全国的平民受到严重影响。报告所涉期间，交战各方不断进行围攻，并将人道主义援助作为一项工具，使平民支助基础难以为继，迫使敌方投降。伊德利布省北部的富阿和卡夫拉亚、大马士革郊区的马达亚和大马士革东部的拜尔宰、卡本和特斯尹等地实现了地方停火，但是与停火相关的疏散协定却导致平民被迫从这些地区迁出。

沙姆解放组织、“伊拉克和黎凡特伊斯兰国”(“伊黎伊斯兰国”)等恐怖主义组织和武装团体战斗员利用汽车炸弹和自杀炸弹、狙击手和绑架等方式袭击宗教少数群体。最容易受到攻击的人群包括境内流离失所者和儿童。没有哪个地方比阿勒颇拉希丁的袭击事件更能说明这一点：从曾经被围攻的两个以什叶派穆斯林居民为主的小镇富阿和卡夫拉亚迁出的平民在阿勒颇拉希丁遭到汽车炸弹袭击，96 人被杀，其中有 68 名儿童。

政府军继续在反对派占领的地区对平民使用化学武器。最为严重的事件是叙利亚空军在伊德利布省汉谢洪镇使用沙林毒气，导致几十人死亡，其中大多为妇女儿童。在伊德利布省、哈马省和大马士革省东古塔，叙利亚部队使用了氯弹。叙利亚和/或俄罗斯部队继续以医院和医护人员为袭击对象。

委员会对国际联盟对平民实施空袭表示严重关切。在阿勒颇 Al-Jinah，美利坚合众国部队在袭击一座清真寺时未采取所有可行的预防措施，以保护平民和民用物体，这违反了国际人道主义法。在拉卡，叙利亚民主力量和国际联盟驱赶“伊黎伊斯兰国”的行动致使 190,000 人流离失所；据报告，盟军的空袭导致大量平民死伤。正在进行这方面的调查。

* 本报告附件不译，原文照发。



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一. 导言

1. 本报告系根据人权理事会第 34/26 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介绍了基于 2017 年 3 月 1 日至 7 月 7 日期间所作调查的结论。¹
2. 委员会采用的方法是基于调查委员会和实况调查方面的最佳做法。
3. 本报告所载信息来自在该地区和从日内瓦进行的 339 次访谈。
4. 委员会对卫星影像、照片、视频和医疗记录作了收集、整理和分析，参考了非政府组织和各国政府提供的资料以及联合国的报告。
5. 委员会在获取可靠信息时满足证据标准，得出的结论是：有足够证据相信发生了描述的事件，所指交战方的确实施了侵权行为。
6. 委员会的调查继续受到阻碍，因为阿拉伯叙利亚共和国拒绝委员会通行。

二. 政治和军事进展

7. 在报告所述期间，因政治和军事活动的步伐都明显有所加快，导致出现了两股不同力量：一股位于国家西部，是三个保证方(伊朗伊斯兰共和国、俄罗斯联邦和土耳其)5 月 4 日阿斯塔纳会谈达成的冲突降级协定的结果；另一股在国家中部和东部，在那里，“伊黎伊斯兰国”继续快速节节败退。冲突降级协定使得一些地区，包括伊德利布、西阿勒颇以及近来南部的德拉省发生武装暴力的程度有所降低。但是，大马士革东部和霍姆斯北部的局势仍然动荡不定。在冲突降级协定覆盖地区以外的平民，尤其是被“伊黎伊斯兰国”控制或曾经控制地区的境内流离失所者遭遇越来越多的暴力行为，因为各方都在力争控制这些地区。
8. 7 月初在阿斯塔纳举行了第五轮会谈，考虑如何落实冲突降级区的模式和实施监测机制，包括可能由三个保证方部署警察或军事部队。虽然阿拉伯叙利亚共和国政府和反对派都没有签署阿斯塔纳协定，但后者坚决反对出于监测目的部署伊朗部队。作为协定的一部分组建的技术委员会继续讨论实施问题，预计 8 月初将进行新一轮讨论。下一轮讨论期间需要对模式进行明确说明，并在保证方的支持下实施。以往的停火协定表明，缺乏执行机制增加了暴力重新泛滥的可能性。
9. 秘书长叙利亚问题特使斯塔凡·德米斯图拉参加了最近几轮阿斯塔纳会谈。他强调，阿斯塔纳会谈和日内瓦进程是“相互支持的行动”，都以促进停火努力为目标。特使在 5 月和 7 月举行了两轮会谈。在 5 月的会谈期间，阿拉伯叙利亚共和国政府和反对派同意讨论“四组”问题，包括政治转型、宪法改革、选举和打击恐怖主义。上一轮叙利亚内部会谈 7 月 15 日在日内瓦结束。尽管特使一再做出努力，但未能进行直接会谈，双方的立场仍然存在巨大差异。阿拉伯叙利亚共和国政府坚持在进行任何有关转型问题的讨论之前先处理打击恐怖主义的问题，而反对派则认为，应优先根据安全理事会第 2254(2015)号决议的规定讨论政治转型问题。第八轮日内瓦会谈定于 9 月举行。

¹ 委员会成员包括：保罗·塞尔吉奥·皮涅罗(主席)、卡伦·科宁·阿卜扎伊德和卡拉·德尔庞特。

10. 俄罗斯联邦和美利坚合众国于 7 月 7 日促成了一项覆盖德拉、库奈特拉和苏韦达几个南方省的停火协议。该协议旨在确保人道主义援助通行，包括设立一个记录违反停火协议情况的监测中心。自协议生效以来，这三个省的敌对事件显著减少。

11. 虽然阿斯塔纳和日内瓦进程取得了一些进展，但由于缺乏有效的执行机制，在各方之间更大的政治框架下也没有一个有关优先事项的更宽泛协议，导致这些进程进展艰难。委员会一再吁请制定一项包容性政治进程，超越地方协议范围，实现全国停火。

12. 在军事活动方面，阿拉伯叙利亚共和国西部前线，尤其是德拉、伊德利布、大马士革东部和霍姆斯北部的冲突降级协定地区普遍保持平静。但是，在哈马省北部，政府军和附属民兵自四月以来加大了努力，试图恢复对包括 Kafr Zeita, Murek 和 Al-Latamneh 在内的“战略三角地带”的控制。在这些地方，地面推进的努力伴随着大范围空袭，在毗邻的南伊德利布也是如此，4 月 4 日，该省汉谢洪镇发生了化学武器袭击事件。² 对三角地带的控制能够使阿拉伯叙利亚共和国政府和附属民兵取代伊德利布武装团体，掌握战略要地。

13. 在伊德利布，各种要素结合在一起，包括越来越多的境内流离失所者更为集中，以及不同武装团体之间的斗争，使平民遭受的暴力风险急剧增加。内斗在过去三个月明显变得更加密集，由恐怖主义组织征服沙姆阵线(以前称为努斯拉阵线)为首领的极端主义派别伞式组织沙姆解放组织与自由沙姆人伊斯兰运动和其他附属团体之间是针锋相对的两个联盟。两个联盟都力图通过直接冲突、绑架和暗杀等方式，控制伊德利布的一些地区。两个联盟还在招募新的战斗员方面相互竞争，包括招募从以前围攻地区疏散的人。流离失所的公务人员，包括地方议会成员和活动分子也面临越来越多的威胁和逮捕，尤其是因为其异见活动被沙姆解放组织威胁和逮捕。虽然伊德利布的空袭有所减少，但委员会仍然对该省的内部局势感到极为关切，因为在内斗的范围和强度增加的地区约有一百万名境内流离失所者，他们勉强过活，得不到足够的人道主义援助。

14. 此外，由于援助被挪用或缺乏获得援助的途径，由政府、武装团体或恐怖分子控制地带的大多数境内流离失所者在获得人道主义援助方面仍然面临困难。在有些地区，单边制裁使地方市场上的物资价格上升，许多重要物品的供应量降低，进一步削弱了人道主义机构提供援助的能力。

15. 与该国西部地区相比，其他地方的前线过去三个月发生了剧烈变化。在冲突降级协定区域以外，阿拉伯叙利亚共和国政府军队及其附属民兵部署战斗员，从“伊黎伊斯兰国”手中收回该国中部和东部的大片失地，尤其是阿勒颇、霍姆斯和拉卡，直至代尔祖尔省的东部边缘。新夺回的领土延伸至伊拉克与叙利亚接壤的战略地带。在此背景下，美国在 5 月 18 日和 6 月 6 日进行空袭，击中了约旦和伊拉克接壤地带战略要地 Tanf 地区的亲政府军车队，使这一争夺激烈地区的紧张局势可能进一步加剧。

² 美国部队对汉谢洪镇的化学武器袭击作出回应，于 4 月 7 日发射巡航导弹，打击 Sha'irat 空军基地。美国称，发射化学炮弹的飞机是从这里起飞的。

16. 在过去几个月中，与“伊黎伊斯兰国”作战的叙利亚民主力量也在“伊黎伊斯兰国”这一恐怖集团自称的首都拉卡取得节节胜利。叙利亚民主力量由库尔德人民保卫军和附属团体组成，其附属团体包括自由叙利亚军和部落成员，该力量已控制拉卡市的一些区域，实际已将该市包围。据报告，随着叙利亚民主力量和“伊黎伊斯兰国”之间的巷战不断加剧，数万平民被困。约有 200,000 人逃离该城，成为流离失所者，他们逃往由叙利亚民主力量控制的地区。委员会对被围在拉卡市的 50,000 至 60,000 平民的命运感到关切。

17. 虽然阿斯塔纳冲突降级协定使暴力行为有所减少，但是随着叙利亚不同地区局势的明显变化，冲突状况也非常分散不均。外部行为者越来越多的介入虽然为当地和平创造了一些机会，但也播下了混乱的种子，因为这些行为者的目标是直接对立的，其目标远非叙利亚人民的利益，而是往往与更广泛的区域或国际利益相关。结束冲突和建设和平的进程应以叙利亚人民的利益为首要目标。

三. 对平民的袭击

A. 围攻

18. 交战双方在冲突中采用围攻战对平民造成的悲剧性影响比任何其他战术都更加严重。目前叙利亚全国有超过 600,000 名男子、妇女和儿童被困在围攻地，处境常常极为危险。在报告所述期间，交战双方继续对被围社区进行围攻，利用人道主义援助作为工具围困平民，以迫使大马士革省、大马士革农村省、代尔祖尔、霍姆斯和伊德利布等省投降。这类围攻行为的特点是：一贯拒绝向被困者提供重要的食品、医疗品和其他基本物品，不加区别或故意袭击医院等民用设施，以削弱受敌方控制者的生存能力。这类战术导致剥夺行动自由权、适足食物权、受教育权和获得医疗服务的权利，许多情况下导致剥夺生命权。

19. 在报告所述期间，对某些地方的围攻行为因为地方停火协议(包括疏散协议，下文有所讨论)而终止。例如，最初于 2015 年 9 月谈判的《四乡镇协定》于 2017 年 4 月执行，协定涉及大马士革农村省的马达亚和扎巴达尼，以及伊德利布省的富阿和卡夫拉亚。《四乡镇协定》是在第三国的协助下，与武装团体达成的谈判。同样，5 月，亲政府官员和调解人与武装团体成员和/或地方议会代表两方谈判和执行了在大马士革东部拜尔宰、特斯尹和卡本的停火协议。附件三概述了这些地方的平民受到围困的情况，同时介绍了谈判详情和这些协议的条款。上述所有停火协议都包括疏散协议，导致数千平民被迫迁离这些地区。

1. 政府和解

20. 在四乡镇和拜尔宰、特斯尹和卡本的敌对行为完全终止，执行停火协议后，亲政府部队提出要求，此前被围攻地区的某些个人若想留在原地，就必须接受和解进程，而另一些人则没有和解的机会。2016 年 7 月第 15 号立法令是和解的基础，其中包括对所有自首和放下武器者，包括对逃犯予以大赦。这些人一般包括因叛变或叛逃被通缉的战斗员和平民。

21. 事实上，和解进程使政府能够通过对作战年龄的男性人口(一般为 18-45 岁)进行过滤，按照效忠情况将其分为两类：不能留在当地、如果留在当地就可能被拘留的武装团体成员和被通缉的个人；以及同意向政府效忠者。允许后一群体留

在当地，但他们被强行招募进国防军在当地的分支机构，或准军事部队，或经过六个月通知期后，作为叙利亚军队的一部分被派往前线。据报告，在拜尔宰，一些作战年龄的男子在 15 天内即被招募到一个称为“国家的堡垒”的地方单位。

22. 但是，并非所有平民都可选择和解进程。在马达亚，医护人员因为从事医疗工作，所以不为他们提供和解。能够留在马达亚的平民必须在效忠政府的声明上按下指纹，还有一些人必须接受背景调查。同样，有平民解释说，在拜尔宰，不能接受和解进程的包括地方议会成员、从事救济工作的人员、活动分子和战斗员的家庭成员。能够接受和解的拜尔宰的平民与马达亚的平民接受相同的程序。这些地方的平民还提及因为同情反对派而未被给予和解机会的人员名单。因此，和解进程导致战斗员和异见平民团体以有组织疏散的形式被迫迁离。

2. 疏散协议和被迫迁离

23. 亲政府部队与武装团体之间关于四乡镇的协定(在第三国的协助下达成)以及关于拜尔宰、特斯尹和卡本的协定规定了疏散战斗员和平民的固定数量。非国际武装冲突的各方出于冲突相关原因，可能不会命令平民迁离，除非平民的安全或军事原因要求必须这样做。³

24. 举例来说，基于平民安全的例外可能以防止平民遭遇严重危险为由。如果饥饿等人道主义危机造成的迁离是交战一方本身的非法行为所致，则不允许出于人道主义原因的迁离。⁴ 此外，将受伤或患病者从冲突地区疏散的义务任何时候都存在，因此不仅限于在这类协定规定的疏散期这样做。⁵ 此外，政治动机可能无法成为基于军事必要性疏散平民的理由。⁶

25. 4 月 14 日，载有约 2,350 人的 60 辆大巴车从马达亚出发，去往阿勒颇市 Ramouseh 车库地带，这些人后来被送到伊德利布。同时，载有 5,000 人的 75 辆大巴车从富阿和卡夫拉亚出发，前往西阿勒颇市的拉希丁(见以下第 39-43 段)。4 月 19 日，又有 11 辆载有马达亚、扎巴达尼和周边地带战斗员和平民的大巴车开往伊德利布，使扎巴达尼完全沦为空城。同一天，又有 3,000 名战斗员和平民从富阿和卡夫拉亚迁至拉希丁。

26. 在大马士革东部，5 月 8 日、12 日和 20 日进行了三轮从拜尔宰疏散战斗员和平民的活动。特斯尹所有的战斗员和平民于 5 月 12 日疏散。卡本主要组织了两轮疏散行动：第一轮于 5 月 14 日进行，出动了 70 辆大巴车；后一轮出动了 80 辆大巴车。第二次疏散行动后又于 5 月 15 日组织了几轮小规模行动，每次出动 20 辆大巴车。约有 6,000 名战斗员和平民撤离卡本。5 月 12 日向平民发布了地方停火的条件，给平民疏散的时间只有几天。

³ 红十字国际委员会(红十字委员会)，《习惯国际人道主义法》，第一卷，《规则》，规则 129(b)。

⁴ 见起诉应对 1991 年以来前南斯拉夫境内所犯严重违反国际人道主义法行为负责者的国际法庭，检察官诉 Milomir Stakić 案，上诉判决，IT-97-24-A，2006 年 3 月 22 日，第 287 段。

⁵ 红十字委员会，《习惯国际人道主义法》，规则 109。

⁶ 见红十字委员会，“对 1949 年 8 月 12 日日内瓦四公约的 1977 年 6 月 8 日附加议定书的评论”(日内瓦，1987 年)，第 4854 段。

27. 政府军和武装团体一贯不允许受伤或患病的平民和战斗员进行人道主义疏散，除非投降(停火)和随后组织疏散时才允许这样做，在四乡镇之间谈判交换问题时，只有极为罕见的情况下允许人道主义疏散。例如，据卡本的平民回忆，疏散伤员时使用了连接卡本和大马士革东古塔的隧道，但叛乱派别之间的内斗影响隧道的正常使用。

28. 接受委员会访谈的平民也反映说，他们从原来被围攻地区疏散的决定是非自愿的，接受疏散是因为他们“没有别的选择”。妇女和儿童通常追随他们的男性家长。马达亚的平民强调，他们不想舍弃自己的土地和财产，但因为对政府军没有足够的信任，所以无法留在当地。例如，马达亚的一些妇女指出，不接受和解是因为她们害怕自己的儿子被征兵，大家普遍不信任政府军。另一些平民指出，是恐惧感驱使他们疏散到伊德利布，但同样的恐惧感影响他们返回家园。这些平民害怕出于报复的暴力行为或拘留，他们说，即使可以选择，他们也不会返回家园。其他人大都放弃了希望。还有一些人意识到，他们的房屋已被洗劫或被政府军占用。

29. 同样，卡夫拉亚的受访者也指出，虽然他们希望留在当地，但围攻的状况迫使他们疏散。一名受访妇女说，她眼看着自己的孩子越来越营养不良，另一名受访者说，因为爆发了越来越多的可预防疾病，驱使平民离开该地。卡夫拉亚的受访者还对他们在疏散后能否返回家园表示怀疑。

30. 被反对派占领地区的地方议会为了划分责任，确认自己作为准公务机构当选官员的身份，常常与武装团体签署谅解备忘录。尽管如此，无论是政治领导人，如地方议会代表，还是军队指挥官，如亲政府或武装团体战斗员，都没有代表平民个人签署疏散协议的权力。⁷ 此外，虽然包括阿拉伯叙利亚共和国红新月会在内的一些人道主义组织在马达亚和特斯尹疏散时以各种身份参与行动，为疏散提供便利，但它们的参与并不表示迁离行动是合法的。⁸

31. 政府军将平民，包括医生、从事救济工作的人员、活动分子、民间社会工作人员和地方议会成员等被视为同情反对派者疏散到伊德利布省边界处，是为了实施一项精心筹划的战略：在此背景下进行人口转移——将反对派成员及其支持者转移到阿拉伯叙利亚共和国西北部地区的一个单一地带。只有获得和解机会、发誓向政府效忠的平民可留在家中。总体而言，全国各地开展疏散的模式似乎旨在通过重新划定和巩固政治支持的基础，改变此前被围攻地区人口的政治面貌。

32. 一个车队 4 月 15 日在拉希丁遭到袭击的事件(见以下第 39-43 段)表明，疏散过程是充满危险和绝望的旅途。从马达亚、拜尔宰、特斯尹、和卡本迁离的平民只能携带少量财产，他们不能自己选择最终目的地。不论在途中还是抵达伊德利布后，他们的住宿、卫生条件、医疗、安全和营养等各方面的状况都很糟糕。

⁷ 见前南斯拉夫问题国际刑事法庭，检察官诉 Mladen Naletilić, aka “Tuta”和 Vinko Martinović, aka Štela 案，判决，IT-98-34-T, 2003 年 3 月 31 日，第 523 段。

⁸ 见检察官诉 Milomir Stakić 案，上诉判决，第 286 段；另见检察官诉 Milomir Stakić 案，判决，IT-97-24-T, 2003 年 7 月 31 日，第 683 段。

33. 一些从马达亚和拜尔宰迁出的人开始被安排在伊德利布的一些学校里，但这些学校没有做好接待他们的准备。另外一些人后来转移到境内流离失所者营地，或转移到伊德利布郊区的小镇，据一名被疏散者称，那里的条件“极其糟糕”。整个伊德利布省的平民继续遭遇轰炸，得不到援助，还受到武装团体之间越来越多内斗的影响(见以上第 13 段)。从同情政府的富阿和夫拉亚迁出者的最终目的地为霍姆斯、塔尔图斯和拉塔基亚省属于政府控制的地区。

34. 此外，据报告，政府采取了立法措施，剥夺有异见人群的财产，还制定了法律和行政措施，阻挠流离失所者登记或保留私人财产。近来发布的总统令要求全国范围内由个人亲自登记和证明土地所有权。亲自登记土地权或证明所有权的要求使许多境内流离失所者和难民几乎没有任何可能保护其财产。使用这类法律和行政工具的目的也可能在于迫使某些群体为不丧失财产而接受和解。但是，这类措施可能产生负面影响，可能导致许多人群被剥夺公民权，进而使今后解决冲突和最终实现和解的努力变得更加复杂。

35. 对于每个无法自由决定自己的行动或目的地的平民来说，将其疏散的协议属于非法命令。没有任何迹象表明，疏散属于以平民安全或迫切的军事原因允许的例外情况。因此，命令异见人群迁至马达亚和拜尔宰、富阿和卡夫拉亚的大规模疏散，以及命令特斯尹和卡本的所有平民疏散，均构成强迫流离失所的战争罪行。在扎巴达尼疏散时，委员会收到有关该地平民人口的相互矛盾的信息。

B. 袭击和绑架宗教少数群体成员

36. 与政府军一样，武装团体在冲突期间也鼓动其支持者，表现在宗教间紧张关系加剧，导致带有宗派色彩、针对平民的暴力行为。恐怖主义和极端主义武装团体的出现使这类紧张关系进一步升级。在报告所述期间，恐怖主义团体和武装团体继续此前记录的故意袭击平民的模式，袭击的对象许多为少数宗教群体的妇女和儿童，这些团体还利用其他宗教少数群体成员作为人质。

37. 3 月 11 日中午，在大马士革老城南部一座著名什叶派朝圣地 Bab al-Saghir 墓地附近发生了两起爆炸事件。两次爆炸相隔十分钟，发生在运送朝圣者的大巴车停靠的墓地停车场。第一次爆炸被一辆经过的巴士车引爆。当救护车到达，急救人员在对受害者施救时，一起自杀爆炸又导致更多的朝圣者和几名救援人员丧生。

38. 两起爆炸共导致 44 名平民丧生，其中包括 8 名儿童，另有 120 人受伤，若干妇女和儿童生命垂危。大多数受害者为伊拉克什叶派朝圣者，他么是去参观 Bab al-Saghir 和附近的 Sayeda Zeinab 神坛。主要为急救者的 13 名叙利亚人也在袭击中丧生。第二天，沙姆解放组织宣布对袭击负责，并声称袭击的目标是伊朗民兵和政府军。委员会没有找到该宣称属实的任何证据。

39. 4 月 14 日早间，从富阿和卡夫拉亚疏散(见以上第 19 和 25 段)的平民抵达由反对派控制的拉希丁，该地区位于政府军控制下的阿勒颇市西部。被疏散者第二天待在原地，等待交战双方之间解决争端。据被疏散者回忆，在离开富阿和卡夫拉亚之前，武装团体成员开枪打伤了两名妇女，大家怀着恐惧的心情登上了巴士车。

40. 在拉希丁等待时，被疏散者收到的食品少得可怜。下午三时许，有人从一辆银色车辆中分发小吃，几十名儿童聚集在汽车周围领取食物。大约半小时后来了一辆蓝色皮卡，大多为妇女儿童的被疏散者奔向那辆车，以为该车辆也送来食品。但是，几秒种后，皮卡车爆炸，至少杀死 96 人，包括 68 名儿童和 13 名妇女。另有 276 人受伤，包括 42 名儿童和 78 名妇女，其中至少有一人怀有身孕。当人们尖叫着跑开时，一些旁观者向什叶派受害者叫喊宗教侮辱的语言。一名母亲回忆说，他的丈夫带着两个儿子到银色车辆领取食物，她听到爆炸声后向现场跑去，但武装团体战斗员强迫她回到车队，她后来得知自己 10 岁的儿子被炸死。

41. 虽然大多数伤亡者是从富阿和卡夫拉亚疏散的平民，但至少有 10 名武装团体战斗员在拉希丁丧生。死伤者被送到伊德利布 Bab al-Hawa；阿勒颇 Atareb；伊德利布 Aqrabat；伊德利布 Saraqeb；和阿勒颇 Thawed al-Kemnah 等医院。但是，剩下的被疏散者 4 月 15 日晚从拉希丁被送到阿勒颇 Jibreen，他们不知道自己家人的下落。被疏散者向政府当局提供了失踪者的姓名，一些受伤者后来与家人团聚。至少有 46 人，包括一名 3 岁男孩仍下落不明。

42. 虽然一些失踪者可能仍在住院，但至少有 17 名什叶派成员，包括老年人和儿童在阿勒颇西部的临时医院接受治疗后立即被武装团体战斗员抓为人质。经过漫长的关于交换武装团体高级领导人的谈判后，一些人质被释放，但至少仍有 15 人，包括一名 4 岁男孩仍充当人质。

43. 没有任何一方声称对拉希丁的袭击负责，沙姆解放组织和自由沙姆人伊斯兰运动明确否认参与袭击。虽然指认犯罪者的信息不足，但有大量迹象表明袭击是由武装团体派系或战斗员实施的。有证人说，看见爆炸的蓝色皮卡是从反对派控制的地区开来的，而车队所在地点位于几个武装团体控制区，这些团体包括 Nour al-Din al-Zenki(当时是沙姆解放组织的一部分)、自由沙姆人伊斯兰运动和自由叙利亚军团体。此外，在整个冲突期间，车载简易爆炸装置主要是极端主义派系和某些武装团体的作案手法。由于平民伤亡，尤其是儿童伤亡过多，可明显看出袭击以来自富阿和卡夫拉亚的什叶派平民为目标，这已构成故意袭击平民的战争罪。

44. 5 月 18 日，“伊黎伊斯兰国”民兵袭击了 Aqarib al-Safiyah 镇，并试图在哈马郊区的 Al-Manbouja 村庄附近发起袭击。这两个地区当时都在政府控制之下，都位于“伊黎伊斯兰国”控制的地区边缘，距离 Al-Salamyia 很近。对于试图控制哈马的交战各方来说，Al-Salamyia 都属于战略要地。Aqarib al-Safiyah 和 Al-Manbouja 的大部分居民为伊斯玛仪教徒，是一个什叶派穆斯林少数群体。

45. Aqarib al-Safiyah 的居民 5 月 18 日凌晨 4 时被枪声吵醒。许多居民在试图逃跑时被“伊黎伊斯兰国”部署在村庄水库和屋顶上的狙击手杀死。至少有藏在卧室的两家人在“伊黎伊斯兰国”民兵冲进其房屋后被近距离射杀，受害者中有一名四个月大的婴儿和一名 11 岁的男孩。共有 52 名平民被杀，包括 7 名妇女和 12 名儿童。另有 100 人受伤，包括 2 名女童，她们头部受重伤。大多数受害者是伊斯玛仪穆斯林。据幸存者回忆，“伊黎伊斯兰国”对他们的宗教信仰进行言

辞侮辱。在 2015 年 Al-Manbouja 的一次类似袭击中，“伊黎伊斯兰国”民兵杀害了 46 名平民，其中大多数人也是伊斯玛仪穆斯林。⁹

46. 今年早些时候，为了交换被政府军拘留的武装团体战斗员，一些在大马士革郊区杜马被武装团体羁押超过 3 年的人质获得释放。2013 年 12 月 11 日，包括伊斯兰军和阿兹纳阵线(目前是 Faylaq ar-Rahman 联盟的一部分)在内的几个武装团体冲进大马士革东部的 Adra al-Omalayah 镇。战斗员命令许多阿拉维特家庭，包括年幼的儿童，以及一些伊斯玛仪、什叶派、德鲁兹和基督教家庭待在其公寓的地窖里，实际上是将其拘留在那里。后来，武装团体成员进入地窖，询问男性家庭成员的背景，一些平民受到战斗员的恐吓、言辞攻击，还被轻蔑地称为“努萨里”。有些平民在五、六个月后被武装团体首领告知，他们将被“分配”到武装团体的不同派别中，因为他们被视为“战利品”。

47. 在另一个拘留场所，被重新安置的人质回忆说，男子与妇女儿童被分开关押，但阿兹纳阵线的成员每个月会在其控制下让家庭团聚“一到两次”。被关押的妇女说，她们听到被羁押的男性遭受严厉酷刑的声音。一名阿拉维特妇女 2013 年 12 月 11 日从 Adra al-Omalayah 事件中逃离。2014 年 8 月，一名自称是“人质办公室”领导的武装团体代表与她联系。那名男子称，他的丈夫已经转移到杜马，然后帮助她与她丈夫取得了联系。在后来的两年半里，她有 5 次用手机与她丈夫简短通话。他的丈夫有一次发给她一张他的照片，他在照片中好像“只有原来一半的体重”。被释放的人质也说，Faylaq ar-Rahman 经常不给他们提供食物和医疗。

48. 2017 年获释的另一些人质说，阿兹纳阵线成员强迫这些疲倦的男子在被围攻的杜马挖掘壕沟，供该团体使用，作为通向东古塔的供给通道(见以上第 27 段)。一名妇女说，2016 年 8 月底，政府军炸毁她的儿子正在挖掘的壕沟，她的儿子被炸死。一些男子还被迫挖井，只有老年男子可免于劳动。多达 100 名来自 Adra al-Omalayah 的宗教少数群体成员仍被扣为人质，等待被交换。还有 175 名来自 Adra al-Omalayah 的妇女和儿童仍被羁押。

四. 冲突对儿童的影响

49. 阿拉伯叙利亚共和国全国的儿童仍然极易遭受暴力和虐待。报告所述期间冲突对平民的严重影响表明，儿童仍是各个方面的受害者，仍然得不到在《儿童权利公约》之下享有的保护，而阿拉伯叙利亚共和国是该公约的缔约国。对平民的攻击导致叙利亚儿童缺乏受教育机会，有些儿童被招募为儿童兵。在因汉谢洪镇化学武器袭击和拉希丁自杀炸弹袭击死亡的 179 人当中，54%的死者是儿童。

50. 3 月 7 日上午 9 点 20 分左右，亲政府部队对大马士革东部 Autaya 的一所小学校进行空袭，当时学生正在上课。8 名女学生受伤，一名二年级学生头部受伤。不到一个月之后的 4 月 2 日，该小学再次遭到袭击，但没有儿童受伤。虽然小学校还在那里，但 Autaya 的家长因为害怕再次发生空袭，拒绝把孩子送到学

⁹ 见 A/HRC/30/48 和 Corr.1, 第 128 段。

校。经过 4 月 4 日汉谢洪镇遭到沙林毒气袭击(见以下第 72-77 段和附件二)后,该镇 Ahmel Talhan、Farouk al-Kang、Salh al-Dawadi、Adnan al-Malkwa 和 Tusuremm 等五所学校被迫关闭。对学校的攻击严重侵犯儿童的受教育权,导致叙利亚儿童今后充分参与社区事务的潜力受到严重破坏。

51. 委员会不断收到有关儿童被招募、送入训练营,以及在有些情况下被送到作战前线的大量指控。例如,一名 14 岁的男孩在父母未同意的情况下,于 3 月加入了在拉卡 Tal Abyad 的叙利亚民主力量。他自己与叙利亚民主力量的招募中心接触,被该部队当局接纳,6 月初在拉卡郊区的一次战斗中阵亡。叙利亚民主力量的代表向男孩的家人通知了他的死讯,但不允许其家人埋葬他,而是把他葬在了一个“烈士”墓地。委员会不断收到有关“伊黎伊斯兰国”在拉卡招募、培训和使用儿童的报告。

五. 对受保护物体的袭击

A. 祈祷场所

52. 报告所述期间,除了宗教少数群体受到故意袭击以外,宗教文化场所也遭到袭击,使民众和平表达信仰的能力遭到破坏。举一个最有代表性的实例:3 月 16 日晚上 7 点差几分时,Al-Jinah 的一所宗教场所遭到一系列空袭,38 人丧生,包括一名妇女和五个男孩,其中三个男孩 6 到 13 岁不等,两个男孩 17 岁。还有 26 人受伤,许多人因建筑物倒塌,四肢被压断、头部受伤或遭受窒息。急救人员在空袭后立即开始救援行动,直到第二天早上还不断从瓦砾中挖出尸体。

53. Al-Jinah 是阿勒颇西部郊区的一个村庄,紧邻伊德利布省,由沙姆解放组织、自由沙姆人伊斯兰运动和自由叙利亚军的一些地方军控制。3 月 16 日,美国中央司令部发布一项声明,声称在伊德利布的一个集会地点,“美国部队向基地组织发起了一次空袭(……),杀死若干恐怖份子”。¹⁰ 该司令部后来澄清,声明指的是 Al-Jinah 空袭。媒体机构和非政府组织在后来的几天报告说,所有伤亡者都是在 Omar Bin al-Khatib 清真寺参加一次宗教课程的平民,但是五角大楼否认袭击清真寺和杀死平民。该清真寺离 Al-Jinah 市中心约 1.5 公里,位于 Al-Jinah 和 Ibeen 之间。空袭是美国部队以国际联盟成员的身份进行的。

54. 6 月 7 日,美国中央司令部介绍了对该事件进行后期调查的结果概要,包括对“几十人”的访谈情况,但没有一名受访者在袭击时在 Al-Jinah。¹¹ 中央司令部指出,袭击杀死了一名平民,可能是一名儿童,但这样的结果与有效军事目标是相称的。中央司令部声称空袭击中了一座与一个祈祷场所相邻的建筑,当时基地组织正在该建筑中举行有“区域领导人”出席的会议。

¹⁰ 见 www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1121747/us-forces-strike-al-qaeda-in-syria/。

¹¹ 6 月 7 日,美国中央司令部在推特上发布了其调查结果概要,并为记者举行了一次非公开介绍会,得到广泛报道。一家非政府组织后来在网上发布了介绍会内容的非正式记录,与媒体报道的具体内容相符。

55. 美国中央司令部说，F-15 飞机向与祈祷场所相邻的建筑发射了 10 枚炸弹，一架 MQ-9 无人机向从建筑里出来的目标发射了两枚导弹，所选的武器旨在避免连带损失。中央司令部补充说，行动小组在开展袭击三天前得到与目标相关的信息，但直到袭击当天才开始进行目标规划。中央司令部还承认，行动小组未查明建筑的宗教性质，这个错误本可避免。最后，中央司令部发现在行动小组换岗时发生异常情况，“导致袭击单位成员不清楚现场情况、缺乏信息，相互不了解”。¹²

56. 对空袭相关事件的调查起先侧重于是否存在合法打击目标。委员会收集了出事地点的卫星影像和照片，证实了美国中央司令部关于使用的武器旨在避免连带损失的说法。根据在现场找到的炸弹碎片，委员会确定建筑被若干空投炸弹击中。关于现场碎片、照片、卫星影像的评估及目击者的证词表明，使用了多达 8 枚 GBU-39s 炸弹(导引炸弹)和其他弹药。虽然只找到 GBU-39 炸弹碎片，但根据弹坑深度来看，很有可能还使用了两枚带延时引信的 500 磅联合直接攻击弹药。使用延时引信是为了控制连带损失，因为炸弹会在地下爆炸，在炸毁建筑的同时将冲击波和碎片控制在原地。

57. 用于瞄准建筑某一特定部分的 GBU-39 是一种冲击破和碎片都很少的低当量炸弹。该炸弹被用于摧毁目标，对周围区域，包括对毗邻的祈祷场所造成的连带损失最小。随后使用的两枚地狱火导弹杀死了逃离清真寺的人。的确，现场外发现了地狱火导弹碎片，道路上的碎片分布情况符合地狱火导弹弹头周围有一个碎片套管的特征。

58. Omar Bin al-Khatib 清真寺是一座更大的宗教建筑群的一部分，建筑群包括一所祈祷厅，旁边是一幢服务楼，用于宗教集会。受访者称，这是 Al-Jinah 和附近村庄中最大的一所清真寺，在当地十分知名。目击者还说，服务楼直接被空袭炸弹击中。除会议室以外，服务楼还包括一间为祈祷者准备餐食的厨房、一个用餐区和洗手间。受访者将服务楼视为清真寺的一部分，因为这类建筑的确对清真寺发挥祈祷者的社区教育和社会活动中心的功能至关重要。

59. 接受委员会采访的大多数 Al-Jinah 居民、受害者家属和急救人员说，发生事件当晚，清真寺的服务楼正在举行一次宗教集会。该清真寺有数百名信众，定期举行这类活动：祈祷者每个星期四在日落时集体祷告，聆听宗教课程，然后进行晚祷，之后一道进餐。空袭炸弹约在下午 6 点 55 分击中服务楼，当时宗教课程即将结束，正在准备餐食。本来要在 15 分钟后进行晚祷。受访者描述了几枚炸弹如何击中建筑中心，导致建筑坍塌。除了两名幸存者，其他在厨房或洗手间的至少 15 人全部丧生。当人们试图从西侧大门逃离时，一架无人机发射了两枚导弹，这些人被炸死在街头。

60. 在这起事件中，服务楼是清真寺建筑群的一部分，用于宗教目的。根据国际人道主义法，清真寺是受到保护的场所。受保护场所不得作为攻击目标，除非这类场所被用于军事目的，即除非基地组织真的在此举行会议，有区域领导人出席。美国中央司令部没有提供任何有关这一情况的细节。此外，委员会收集到的信息也不支持当时有这类集会的说法。受访者指出，当时的集会是一场纯粹的宗

¹² 同上。

教集会，大多数集会者是 Al-Jinah 居民，其中不少人是境内流离失所者，只有个别是毗邻小镇，如 Atarib 镇居民。

61. 但是，一些受访者表示村子里有沙姆解放组织成员，不能排除该团体一些成员也参加了集会的可能性。委员会就此指出，即使使用了可减少连带损害的炸弹，但美国的行动小组并不了解实际目标，包括不了解目标是清真寺的一部分，祈祷者每个星期四集体祷告。此外，虽然行动小组在袭击前三天取得了有关目标的信息，但并没有做出额外努力，核实目标在那一期间的活动。如果知道那里是一个清真寺，就能够预想到可能的活动。因此，委员会的结论认为，美国部队没有采取一切可行的预防措施，避免或尽可能减少连带平民生命损失、平民受伤或平民物品受到损害，这已经违反了国际人道主义法。

B. 医疗设施

62. 自叙利亚冲突开始以来，袭击医疗设施和医护人员的悲剧就不断发生。为了保护医疗基础设施、医护人员和病人，在反对派控制区域的医院和诊所已转移到地下，在加固的地窖里，有时是在挖的山洞里提供医疗服务。“山洞医院”通常位于叙利亚城镇的郊外，附近没有其他建筑。这些措施旨在提供额外保护，但是，故意袭击地下和山洞医院的事件仍不断上演。

63. 3 月至 4 月期间，叙利亚和俄罗斯部队为了控制哈马北部仅剩由沙姆解放组织和武装部队控制的 Kafr Zeita、Murek 和 Al-Latamneh，加紧了空中行动，对哈马北部和伊德利布南部的医疗设施进行了一系列空袭。这些袭击行动发生在叙利亚部队在同一地区使用化学武器(见以下第 69-70 和 72-77 段)很短时间的之前和之后，借此防止化学武器袭击的受害者获得基本治疗。亲政府部队在一次袭击中使用了氯，在另一次袭击中使用了燃烧弹。委员会此前曾报告亲政府部队使用这类武器袭击东阿勒颇市的医疗设施和医护人员的情况。¹³

64. 3 月 5 日下午，一次空袭袭击了伊德利布南部 Kafr Nabl 的 Al-Sham 地下医院，毁坏了两层楼和一个发电机，一名医院工人受伤。据受访者回忆，因为 2 月 25 日的空袭已导致该医院无法提供服务，否则平民伤亡人数可能会高得多。3 月 25 日下午 1 时许，一架叙利亚军队直升机向 Al-Latamneh 医院投掷了一枚桶装炸弹，杀死三名平民——一名外科医生和两名患者，若干工作人员和患者受伤。委员会收到的废墟照片显示可能使用了简易氯弹。目击者说听到炸弹只发出了轻微的爆炸声，然后释放出一种黄绿色的烟雾，闻起来很像强烈的清洁剂。受害者后来报告的症状也证明使用了氯：至少有 32 人在袭击中受伤，大多数人喉咙和眼睛刺痒、呼吸困难、呕吐，口吐泡沫。一名受访者说，受伤者中有武装部队战斗员。委员会就此指出，在任何情况下，包括在有军事目标的情况下，都不得使用化学武器。

65. 4 月 2 日，Maarat al-Numan 国立医院遭到至少三枚延迟引信空中炸弹袭击(见附件二，第 15 段)。两天后，又一次空袭袭击了汉谢洪镇的 Al-Rahma 医疗点(见附件二，第 17-18 段)。伊德利布南部 Heish 的一家诊所于 4 月 7 日遭到空袭，一名目击者说看到一架飞机投下一枚炸弹，从炸弹中释放出若干小型炸弹，

¹³ 见 A/HRC/34/64，第 33-35 段。

其中几枚击中诊所的燃料发电机，导致起火，诊所被迫搬迁。爆炸废墟的照片显示，诊所被一枚 ShOAB-0.5 集束炸弹和集束燃烧弹击中。4 月 22 日下午 2 时许，一次空袭袭击了伊德利布南部 Abdeen 的一所山洞医院，导致 7 人死亡，其中有一个正在等待手术的六个月大的女婴。她的父母、一名护士和另外三名病人也被炸死。4 月 28 日下午 4 时许，一次空袭袭击了 Kafr Zeita 的外科和孕产妇医院，医院设施遭到破坏。该医院在 4 月 29 日凌晨 2 时又一次遭到空袭，空袭直接影响到急诊室，这所 Kafr Zeita 所剩唯一一家山洞医院被迫将所有病人疏散。那天下午 2 时许，第三次空袭将该医院完全摧毁。在那之前，医院每个月接生 100 多名婴儿。卫星影像显示，空袭对医院的毁坏程度像是一枚 250 公斤的爆炸武器造成的，还有几发未正中目标的炸弹痕迹。

66. 对医疗设施发起袭击的数量和频率，尤其是在从不警告的情况下对相同设施的重复轰炸明显表明，亲政府部队继续有意将这类设施作为打击目标，这是其作战战略的一部分，这样做构成故意攻击受保护物体的战争罪。¹⁴ 故意袭击医护人员也构成故意袭击医疗人员的战争罪。3 月 25 日用氯弹袭击 Al-Latamneh 医院还违反《化学武器公约》。委员会重申，习惯国际人道主义法规定，无论是否存在有效军事目标，都不得使用化学武器，包括不得对敌方战斗员使用这种武器，因为这类武器从性质上讲没有区分能力，旨在造成过分伤害和不必要的痛苦。

六. 使用化学武器

67. 2013 年 3 月至 2017 年 3 月期间，委员会记录了 25 起在阿拉伯叙利亚共和国使用化学武器的事件，其中 20 起是政府军所为，主要用于针对平民。¹⁵ 在报告所述期间，政府军还在汉谢洪镇和汉谢洪南部约 11 公里的 Al-Latamneh 镇以及在东古塔对平民使用了化学武器。

68. 虽然汉谢洪和 Al-Latamneh 由沙姆解放组织、自由沙姆人伊斯兰运动和叙利亚自由军不同团体控制，东古塔主要由 Jaish al-Islam 和 Faylaq al-Rahman 控制。在对汉谢洪和 Al-Latamneh 使用化学武器时，叙利亚和俄罗斯部队正在对哈马北部和伊德利布南部的沙姆解放组织和武装团体进行空袭。

69. 3 月 30 日早晨 6 点 30 许，即 Al-Latamneh 医院受到叙利亚军氯弹袭击(见以上第 64 段)五天后，一架不明战斗机向 Al-Latamneh 村南部的农田投掷两枚炸弹。有受访者说，第一枚炸弹几乎没有发出任何声音，但释放出一种没有任何特殊气味的“有毒材料”，而第二枚炸弹发出了巨大的爆炸声。第一枚炸弹导致至

¹⁴ 见 A/HRC/27/60, 第 109-111 段; A/HRC/33/55, 第 42-65 段; A/HRC/34/64, 第 30-40 段。另见阿拉伯叙利亚共和国问题独立国际调查委员会, “Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016-28 February 2017”, 第 15-19 段。可查阅: www.ohchr.org/Documents/Countries/SY/A_HRC_34_CRP.3_E.docx。

¹⁵ 见 A/HRC/23/58, 第 136-140 段; A/HRC/27/60, 第 115-118 段; A/HRC/28/69, 第 15 和 43-4443 段; A/HRC/30/48 和 Corr.1, 第 39 段; A/HRC/33/55, 第 30 段; 及 A/HRC/34/64, 第 17、34-35、39 和 52-56 段。另见阿拉伯叙利亚共和国问题独立国际调查委员会, “Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016-28 February 2017”, 第 49-51 段。

少 85 人呼吸困难、失去意识、双眼发红和视觉受损。受伤者中有在打击地点 300 米开外的 12 名男性农民，他们中有两名未成年人。九名未使用保护措施治疗病人的医护人员也病倒了。

70. 委员会虽然无法确定 3 月 30 日事件中对受害者使用的确切制剂，但受访者描述了一些症状，包括有一个人脉搏速度非常缓慢，有人瞳孔收缩、窒息、恶心，还有一个人出现痉挛，这些症状指向杀虫剂或神经毒剂等有机磷化学剂中毒。因为没有氯的特别气味，而且为受害者提供治疗的医护人员发生间接中毒，因此支持所用有毒化学剂不是氯剂的结论。由于叙利亚和俄罗斯军队正在该地区完成空中打击，没有证据证明俄罗斯部队曾在阿拉伯叙利亚共和国使用过化学武器，¹⁶ 而叙利亚军多次使用化学武器，所以有合理理由认为，叙利亚空军 3 月 30 日在 Al-Latamneh 使用了化学武器。

71. 作为对拜尔宰、特斯尹和卡本全面围攻的打击措施(见附件三，第 3 段)，政府军 3 月 29 日下午向卡本市中心 Al-Hayat 医院附近的一个居民区和邻近的特斯尹发射三枚火箭。一枚火箭在卡本释放出白色云雾，目击者称有强烈家用氯剂气味的气体扩散。35 人受伤，包括一名妇女和两名儿童。受害者表现出的症状符合氯中毒特征，包括呼吸困难、咳嗽和流鼻涕。最严重的病人接受了氢化可的松和输氧治疗。4 月 7 日中午刚过，Al-Hayat 医院收治了两名症状相似但较轻的男子。7 月第一个星期，政府军三次在大马士革对 Faylaq ar-Rahman 战斗员使用氯剂：7 月 1 日在 Ayn Tarma 使用；7 月 2 日在 Zamalka 使用；7 月 6 日在 Jowbar 使用。总共有 46 名战斗员表现出红眼、缺氧、鼻漏、痉挛性咳嗽和支气管分泌物等症状。

72. 在报告所述期间，对叙利亚军使用化学武器的最严重指控是对汉谢洪镇事件的指控。公开报告称，4 月 4 日早晨的空袭在该镇释放了沙林毒气。据报告，有几十名平民死亡，数百人受伤。俄罗斯和叙利亚官员否认叙利亚军使用化学武器，他们说，叙利亚军当天上午 11 点 30 进行的空袭击中了一所恐怖分子的化学武器库。

73. 为了确认指控的事实，委员会 4 月 7 日向阿拉伯叙利亚共和国常驻联合国日内瓦办事处和瑞士专门机构代表团发出一份普通照会，要求政府提供相关信息。在撰写本报告时还未受到答复。委员会对目击者、受害者、急救者和医护人员进行了 43 次访谈，还收集了卫星影像、¹⁷ 炸弹残片的照片、预警报告和据称受到空袭影响的地区的视频。委员会还考虑了禁止化学武器组织实况调查结果报告的结论。¹⁸ 以下是委员会结论概要，这一结论在附件二中作了全面阐述。

¹⁶ 见 A/HRC/34/64，第 17 段。

¹⁷ 卫星影像分析由业务卫星应用项目提供。可查阅：www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx。

¹⁸ 可查阅：www.opcw.org/fileadmin/OPCW/Fact_Finding_Mission/s-1510-2017_e_.pdf。

74. 受访者和预警报告指出，一架苏霍伊 22 型战斗机(Su-22)在早晨 6 点 45 分左右对汉谢洪镇进行了四次空袭。只有叙利亚军有这类飞机。¹⁹ 委员会发现了三枚常规炸弹，像是 OFAB-100-120 炸弹，还发现了一枚化学炸弹。目击者称后一种炸弹的噪音小，产生的烟雾比其他炸弹少。武器残片的照片显示，空投的是前苏联制造的一种化学炸弹。

75. 化学炸弹至少杀死 83 人，包括 28 名儿童和 23 名妇女，另有 293 人受伤，包括 103 名儿童。根据验尸时获得的样本和在邻国接受治疗的一些个人的情况，禁止化学武器组织实况调查者的结论认为，受害者是沙林毒气中毒，或中毒于一种与沙林毒气相似的物质。委员会独立收集的有关受害者症状的大量信息符合沙林毒气中毒的情况。

76. 受访者否认在化学炸弹打击点附近有武器库。委员会指出，空袭导致可能储存在这类建筑内的沙林毒气释放并足以造成记录的死伤数量的可能性不大。首先，如果这类仓库在空袭中被毁，爆炸会销毁大多数建筑内的制剂，或导致建筑坍塌，制剂被吸收，而非大量释放到空气中。第二，如果遭到空袭，该设施如今应该仍然受到污染，但没有这方面的证据。第三，俄罗斯和叙利亚官员描述的情景无法解释出现受害者的时间，即受害者出现于俄罗斯和叙利亚官员提供的空袭时间几小时之前。

77. 鉴于上述情况，委员会认为，有合理理由相信叙利亚军在 4 月 4 日早晨 6 时 45 分左右使用沙林毒气炸弹袭击汉谢洪镇，该做法构成使用化学武器和不加区别袭击平民居住区的战争罪。叙利亚军使用沙林毒气还违反了《关于禁止发展、生产、储存和使用化学武器及销毁此种武器的公约》和安全理事会第 2118(2013)号决议。

七. 正在进行的调查

78. 叙利亚民主力量和国际联盟为了将“伊黎伊斯兰国”从拉卡驱逐出去，不断发起攻击，委员会因此对保护拉卡省平民的问题深感关切。虽然已快速收复了一些地区，但有超过 190,000 名平民被迫迁至拉卡省北部由叙利亚民主力量控制的地区，他们在那里主要居住在 Ain Issa 和 Mabrouka 营地，但营地缺乏为这么多人提供适当照料所需的资源和能力。拉卡市内多达 60,000 名其他平民每天仍然面临遭到空袭的风险。在进行访谈时，保护问题仍是一个关切问题。

79. 委员会目前正在对有关拉卡受到空袭的若干指控进行调查，包括对 Al-Mansoura 村庄的空袭指控，当时该村庄被“伊黎伊斯兰国”控制，据报告，那次空袭导致 200 名平民伤亡。委员会收集到的可信证据表明，3 月 21 日夜，Al-Mansoura 一所自 2012 年以来一直用于境内流离失所者居住的学校遭到空袭。袭击时有 200 多人在这所原来的学校生活，他们大多数是来自帕尔米拉和霍姆斯的家庭，也有来自哈马和阿勒颇的家庭，学校距离村庄约 1.5 公里。一些受害者是近来抵达的，有些人来自阿勒颇 Maskanah，另一些境内流离失所者已在此居住

¹⁹ 见阿拉伯叙利亚共和国问题独立国际调查委员会，“Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016-28 February 2017”，第 27 段。

几年。空袭发生时居民正在睡觉，校内几乎所有人全部被炸死，个别幸存者，包括妇女和儿童伤势严重。目前可获得的消息称，至少有两个“伊黎伊斯兰国”战斗员的家人此前居住在这里，但他们在空袭前一个月离开了。

80. 在从“伊黎伊斯兰国”手中夺回阿勒颇 Manbij 后，叙利亚民主力量需要大量增援，为夺回拉卡做铺垫。因为需要大量“人力”，所以数千平民，尤其是男子和男孩被强征入伍，那些不愿意入伍者被逮捕。正在进行相关调查。

八. 结论

81. 全国平民伤亡仍然是叙利亚冲突导致的主要伤亡，儿童和境内流离失所者仍然是最容易遭受暴力的人群。5 月在阿斯塔纳缔结冲突降级协定后，敌对活动明显减少，先是在伊德利布和阿勒颇西部，近来在德拉、库奈特拉和苏韦达等南部省份的平民伤亡也随之减少。虽然伤亡减少为更广泛的停火提供了基础，但应尽快商定执行协定的模式并有效落实；以往的停火协定表明，执行拖延会破坏这类协定的可持续性，进一步导致流离失所的平民受到伤害。

82. 在阿拉伯叙利亚共和国境内的交战各方继续实施围攻，并利用人道主义援助作为武器，以迫使敌方投降。富阿和卡夫拉亚、马达亚和扎巴达尼，以及拜尔宰、卡本和特斯尹等地的地方停火协定包括疏散协议，导致平民被迫从这些地方迁出。

83. 报告所述期间，沙姆解放组织、“伊黎伊斯兰国”和武装团体战斗员利用汽车和自杀炸弹、狙击手和劫持人质等方式袭击宗教少数群体。在拉希丁，一枚汽车炸弹以来自此前被围攻的富阿和卡夫拉亚什叶派穆斯林小镇的境内流离失所者为目标，杀死 96 人，包括 68 名儿童。袭击后有十多人失踪，武装团体至少劫持 17 名平民作为人质。

84. 政府部队至少四次使用非法化学武器。在最严重的一次事件中，叙利亚军在汉谢洪镇使用沙林毒气，导致几十名平民死亡，大多数是妇女和儿童。亲政府军在汉谢洪周围地区进行空中轰炸，许多医疗设施被毁，加重了遭到沙林毒气攻击的受害者的痛苦。在伊德利布、哈马和东古塔，叙利亚军还使用了氯弹。

85. 在“伊黎伊斯兰国”控制的地区，平民仍然极易遭到暴力，在拉卡，叙利亚民主力量和国际联盟为驱赶“伊黎伊斯兰国”开展的进攻行动快速收回了几个地区。据报告，空袭导致大量平民被杀或受伤。进攻行动还导致 190,000 平民流离失所，其中许多人状况危险。正在进行相关调查。

九. 建议

86. 委员会重申在以往报告中提出的建议，并提出以下建议。

87. 委员会建议所有交战方：

(a) 立即停止主要影响到平民、旨在迫使投降的所有围攻和停火战略，包括饥饿、拒绝人道主义援助、食品、水和药品通行；

(b) 根据国际人道主义法和安全理事会第 2328(2016)号决议将人口从被围攻地区疏散，要求平民的疏散是自愿的，他们可选择最后目的地，并保护所有被疏散的平民，包括以尊严对待他们，防止他们因怕受伤而感到恐惧；

- (c) 今后不再为在政治方面获益而签署导致平民流离失所的疏散协定；
- (d) 确保对所有境内流离失所者予以充分保护，保障境内流离失所者和难民返回的权利，包括保障其安全和财产权；
- (e) 避免攻击未用于军事目的的文化和历史遗迹，为保护这类场所提供积极协助；
- (f) 有效禁止招募儿童和在敌对行动中使用儿童，确保有效保护儿童权利，包括受教育权；
- (g) 采取一切可行的预防措施，在平民居住地区，尤其是在拉卡市和“伊黎伊斯兰国”控制地区开展行动时尽可能降低对平民的伤害；
- (h) 对各自部队的行为进行调查，并将调查结果公之于众。

88. 委员会建议阿拉伯叙利亚共和国政府：

- (a) 立即停止使用化学武器，包括氯弹和沙林毒气，这些武器旨在造成过分伤害和不必要的痛苦；
- (b) 根据在习惯国际人道主义法之下承担的义务和安全理事会第 2286(2016) 号决议，停止袭击医疗设施、医护人员和运输车辆；
- (c) 确保目前和今后与平民个人的法律和行政事务，包括与财产权相关的法律符合国际人权法、难民法和国际人道主义法，平等适用于所有叙利亚人，尤其关注所有境内流离失所者和难民；
- (d) 允许委员会进入该国。

89. 委员会建议反政府武装团体：

- (a) 遵守习惯国际人道主义法，停止故意袭击平民，包括故意袭击宗教少数群体成员；
- (b) 停止绑架和劫持人质，以及与强迫失踪相关行为；
- (c) 立即采取措施，惩戒或开除在其指挥下对这类行为负责任者。

90. 委员会建议国际社会：

- (a) 根据遵守和确保遵守日内瓦四公约之下关于保护国际武装冲突受害者的义务，在预计提供的武器、资金或其他形式支持可能导致支持被用于违反国际人道主义法时，停止向冲突各方提供这类支持，并批准有助于促进在转让武器时遵守国际人道主义法和国际人权法的条约，尤其是《武器贸易条约》；
- (b) 停止采取或执行任何非法并阻碍叙利亚人民充分实现人权的单边制裁(单方面强制性措施)，遵守大会第 68/162 号决议(2013 年)，并确保任何合法制裁具有严格的针对性，包括适当豁免，以便尽可能降低对人道主义援助的影响；
- (c) 鼓励促进问责制的努力，包括根据大会第 71/248 号决议，积极支持设立协助调查和起诉自 2011 年 3 月以来在阿拉伯叙利亚共和国境内犯下国际法所列最严重罪行者的国际公正独立机制。

91. 委员会建议人权理事会支持提出的建议，包括将本报告转交秘书长，以引起安全理事会的注意，以便采取适当行动，并通过一个正式报告程序将报告转交大会和安全理事会。
92. 委员会建议大会支持委员会的建议，并允许委员会定期进行情况介绍。
93. 委员会建议安全理事会：
 - (a) 支持委员会的建议；
 - (b) 将委员会的定期情况介绍作为安全理事会正式议程的一部分；
 - (c) 对所有相关行为者和利益攸关方施加影响，确保实现充分尊重人权和国际人道主义法的全面和包容的和平进程。

Annex II

Inquiry into allegations of chemical weapons used in Khan Shaykhun, Idlib, on 4 April 2017

I. Initial reports and allegations

1. On the morning of 4 April, public reports emerged that shortly after sunrise a series of airstrikes were launched on Khan Shaykhun, a town in southern Idlib which borders northern Hama. Khan Shaykhun is controlled by armed groups including Ahrar al-Sham and Hay'at Tahrir al-Sham (HTS), an umbrella coalition of extremist factions led by terrorist group Jabhat Fateh al-Sham (previously Jabhat al-Nusra). Throughout the day, news outlets and social media reported that dozens of civilians had died and hundreds of residents were suffering from symptoms consistent with exposure to sarin. The allegations would amount to the first sarin attack in the Syrian Arab Republic since 21 August 2013 when approximately 1,000 people were killed in Ghouta due to sarin exposure. Some hours later, between 11.30 and 1.30 p.m., the al-Rahma medical point and civil defence centre in Khan Shaykhun, which neighbour each other, were reportedly hit by airstrikes while treating patients of the alleged sarin attack. The al-Rahma medical point served as the main trauma facility in Khan Shaykhun.

II. Statements by Russian and Syrian authorities

2. During the course of the day on 4 April, Russian and Syrian authorities made public statements concerning the events in Khan Shaykhun. Both denied the involvement of Syrian forces in the alleged sarin attack suggesting instead that terrorist groups were responsible. The Ministry of Defence of the Russian Federation released a statement saying that the Syrian air force had struck a terrorist depot in Khan Shaykhun between 11.30 a.m. and 12.30 p.m., and that the depot included workshops where chemical warfare munitions were produced.¹ The Syrian Army issued a statement denying it had used chemical agents in Khan Shaykhun and that responsibility for the attack lied with militants.²

3. Syrian and Russian officials continued to make statements after 4 April. At a press conference on 6 April, the Syrian Minister of Foreign Affairs repeated the Russian Federation Ministry of Defence claim by saying that the Syrian “army attacked an arms depot belonging to Jabhat al-Nusra chemical weapons”. He denied that Government forces had used chemical weapons instead explaining that the first airstrike carried out by Syrian forces in Khan Shaykhun on 4 April was at 11.30 a.m.³ Subsequently, during an interview on 13 April, President Bashar al-Assad denied that the Syrian army had used sarin and said that the allegations were fabricated, noting “the West, mainly the United States, is hand-in-glove with the terrorists. They fabricated the whole story in order to have a pretext for the attack [on the Shayrat airbase]”. He added that “[i]f they said that we launched the sarin attack from that airbase, what happened to the sarin when they attacked the depots?”⁴

¹ Facebook post titled “Russian Defence Ministry comments on the destruction of a depot with terrorists’ chemical weapons near Khan Sheikhun carried out by the Syrian aviation”, posted by the Russian Federation Ministry of Defence on 4 April 2017, available at https://www.facebook.com/permalink.php?story_fbid=1903432043232876&id=1492252324350852.

² *Syrian Army rejects claims of chemical weapons use in Idlib, blames militants*, SPUTNIK NEWS, 4 April 2014, available at <https://sputniknews.com/middleeast/201704041052292018-syrian-army-idlib-militants-chemical-weapons>.

³ *Live: Syrian FM Walid al-Moallem, holds press conference in Damascus*, YOUTUBE, video clip uploaded on 6 April 2017, available at <https://www.youtube.com/watch?v=AcaF1vC8SPA>.

⁴ Statement in response to the United States airstrike of 7 April against the Shayrat airbase in Homs.

suggesting the Syrian army's deployment concept for sarin relied on the storage of the agent itself.⁵ Finally, President al-Assad took the position that Khan Shaykhun is not a strategic area and that the Government does not have army or battles there.⁶ On 2 May, the Russian Federation Ministry of Defence said that Soviet ammunition KHAB-250 was never exported outside of the USSR and was never filled with sarin.⁷

III. Methodology

4. To establish the facts surrounding these allegations, the Commission sent a note verbale on 7 April to the Permanent Representative of Syrian Arab Republic to the United Nations requesting information from the Government. At the time of writing, no response has been received. The Commission conducted 43 interviews with eyewitnesses, victims, first-responders, medical workers, and persons who visited the site after the attack. It also collected satellite imagery,⁸ photographs of bomb remnants, early warning reports, videos of the area allegedly impacted by the airstrikes, and reviewed photographs and videos of victims depicting symptoms. The Commission took into account the findings of OPCW report on the results of its Fact-Finding Mission (OPCW FFM).⁹ Taken as a whole, this body of information allowed the Commission to reach the narrative of events and findings below.

IV. Khan Shaykhun's location

5. Khan Shaykhun, a town controlled by armed groups and HTS, is located along the M5 highway. The M5, often described as the most important highway in Syria, connects the country's major cities including Damascus, Homs, Hama, and Aleppo, all of which are currently controlled by Government forces. Owing to its location, warring parties have fought for control over Khan Shaykhun since the early days of the conflict.

6. In March, the area was viewed as having increased strategic value as armed groups and HTS successfully attacked Government positions in Hama. Government forces reacted by carrying out a counter-offensive in southern Idlib, including in Khan Shaykhun, and the neighbouring towns of Kafr Zeita, Murek, and Al-Latamneh in northern Hama. If successful, this offensive would give Government forces control over the only pocket in northern Hama controlled by armed groups and HTS. Interviewees confirmed that in the days leading up to 4 April, numerous airstrikes impacted towns around the area of Khan Shaykhun. The Commission has also investigated and made findings on several incidents using airdropped munition which took place in the area in March and April, including through the use of chemical weapons in Al-Latamneh,¹⁰ and attacks on hospitals in

⁵ Information published by the OPCW about the materials declared by the Syrian Arab Republic as part of its chemical weapons stockpile contradicts this statement. See OPCW documents EC-M-34/DG.1 of 25 October 2013, EC-M-34/DEC.1, para. 2(a)(ii) of 15 November 2013, EC-M-36/DG.4 of 17 December 2013.

⁶ *AFP Interview President Assad on chemical attack*, YOUTUBE, 13 April, 2017, available at <https://www.youtube.com/watch?v=3WyVIhDgM9c>. Transcript of the interview available at <https://www.thepeninsulaqatar.com/article/13/04/2017/Transcript-of-exclusive-AFP-interview-with-Syria-s-Assad-1>.

⁷ Ministry of Defence: Ammunition HUB 250 has never been exported and were not filled with sarin, RUSSIAN REALITY, 2 May 2017, available at <https://rusreality.com/2017/05/02/ministry-of-defence-ammunition-hub-250-has-never-exported-and-were-not-filled-with-sarin>.

⁸ UNOSAT satellite imagery analysis uploaded on the webpage of the Commission at www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx.

⁹ *OPCW Note by the Technical Secretariat, Report of the OPCW Fact-Finding Mission in Syria Regarding an Alleged Incident in Khan Shaykhun, Syrian Arab Republic*, April 2017 (hereinafter: "OPCW FFM report"), S/1510/2017, 29 April 2017, available at https://www.opcw.org/fileadmin/OPCW/Fact_Finding_Mission/s-1510-2017_e_.pdf.

¹⁰ A/HRC/36/55, paras. 69-70.

southern Idlib and northern Hama.¹¹ The latter severely impacted the level of medical care which victims of chemical attacks received.

V. The events of 4 April

7. On the morning of 4 April, the sky was clear. At 6.26 a.m., early warning observers¹² reported that two Sukhoi 22 (Su-22) aircraft had taken off from Shayrat airbase, at least one of which was heading in the direction of Khan Shaykhun. Shayrat is a military airbase in Homs located approximately 120 kilometres south of Khan Shaykhun, and has been used by the Syrian air force throughout the conflict to launch attacks on Homs and Hama. Since late 2015, it is also used as a base by Russian forces. The Commission notes that two individuals interviewed by the OPCW claimed that on the morning of 4 April the early warning system did not issue warnings until 11 to 11.30 a.m., and that no aircraft were observed until that time.¹³ The Commission has not gathered any information to support this claim, but rather the opposite, as detailed below. Eyewitnesses explained seeing a plane over Khan Shaykhun at around 6.45 a.m., and numerous interviewees recalled hearing messages from the early warning system 20 minutes prior to the strikes. As further examined below (paras. 17-18), 11.30 a.m. was the time when the al-Rahma medical point in Khan Shaykhun was attacked by airstrikes including cluster incendiary munitions, though not chemical weapons.

8. At around 6.45 a.m., interviewees recalled seeing an aircraft flying low over Khan Shaykhun, which is consistent with the airspeed of the aircraft and the distance that needed to be covered. In the span of a few minutes, the aircraft, identified by interviewees as a Su-22, made two passes over the town and dropped four bombs. The Su-22 is easy to recognise, and difficult to mistake for anything else. Recognition features include a single vertical stabilizer, swing-wings, and flat intake mounted in the nose.¹⁴ Satellite imagery, photographs, and video footage corroborate witness accounts that air delivered munitions hit the impact points of the four bombs. As previously found by the Commission, only the Syrian air force uses Su-22s,¹⁵ an aircraft which has no night-time capability. The Russian Federation and the international coalition do not operate this type of aircraft. It is therefore concluded that the Syrian air force carried out airstrikes on Khan Shaykhun at around 6.45 a.m. on 4 April.

9. Three of the bombs created loud explosions, causing damage to buildings though apparently only one casualty. Based on crater analysis and satellite imagery, the Commission was able to identify three conventional bombs, likely OFAB-100-120, and the remaining a chemical bomb. The chemical bomb landed in the middle of a street in a northern neighbourhood of Khan Shaykhun, approximately 150 meters from al-Yousuf park, close to a bakery and a grain silo, which interviewees explained was not operational and unused for any purpose after having been hit by an airstrike in 2016. Eyewitnesses further recalled how this bomb made less noise and produced less smoke than the other three bombs, which is confirmed by video footage of the attack. Photographs of the impact site show a hole, too small to be considered a crater, and the remnants of what appears to have been a Soviet-era chemical bomb. The small hole is indicative of a weapon which used a contact fuze and small burster to deploy chemical agents, with the kinetic energy of the bomb's body creating most of the hole. Two parts of the bomb were found at the site, a large piece of the weapon body marked in green for chemical payload and a filler cap for chemical weapons. Although the Commission is unable to determine the exact type of chemical bomb used, the parts are consistent with sarin bombs produced by the former

¹¹ A/HRC/36/55, paras. 63-65.

¹² Early warning observers comprise civilians who monitor aircraft flights to provide other civilians with advance warning prior to an airstrike.

¹³ OPCW FFM report, paras. 5.27-5.29.

¹⁴ A/HRC/34/CRP.3, para. 26.

¹⁵ A/HRC/34/CRP.3, para. 27.

Soviet Union in the 250kg-class of bombs, which would have approximately 40kg of sarin, depending on the munition used.

10. The weather conditions at 6.45 a.m. of 4 April were ideal for delivering a chemical weapon. Data based on historical weather forecasts indicates that the wind speed was just over three kilometres per hour from the southeast, that there was no rain and practically no cloud cover, and that the temperature was around 13 degree Celsius.¹⁶ The OPCW FFM, in the absence of actual weather data recorded for Khan Shaykhun and instead relying on actual weather data recorded at three other locations in the area, concluded that the wind speed was low with uncertain direction, most likely coming from somewhere between the south and east. All available data indicates stable atmospheric conditions without significant turbulence. Under such conditions, the agent cloud would have drifted slowly downhill following the terrain features at the location (roads and open spaces), in a southerly and westerly direction. This is consistent with the observed locational pattern of individuals becoming affected by the agent cloud.

11. The chemical bomb released a cloud which spread over a distance between 300 and 600 metres from the impact point and killed at least 83 persons, including 28 children and 23 women. One interviewee said that most of those severely affected, including many who died, were within 200 meters to the south and west from the impact point of the bomb, while most of the ones less seriously injured were further away. Many of the deceased victims were buried in Khan Shaykhun.

12. Some of the victims died in bed and their bodies were not found until later on 4 April. A single mother who was out farming returned home to find all her four children dead. The body of one orphaned girl was found the following day. Also on 5 April, one interviewee found the body of a woman and her six children in a basement, where they had apparently tried to take shelter from the gas released by the chemical bomb. Another interviewee described how, on the way to his family's home, he witnessed people dying in the street and children desperately crying for the help of their parents. When he arrived at the house, he found his niece dead and his two sisters struggling to breathe. He lost consciousness shortly afterwards and woke up in hospital where he learned his sisters had died. In total, 293 persons, including 103 children, were injured. Medical practitioners expressed particular concern over parturient women and the effects that the toxic agent posed to their unborn babies. A lack of access to adequate medical equipment however prevented doctors from establishing whether foetuses were affected.

13. Upon learning of the airstrikes, civil defence teams from Khan Shaykhun and from neighbouring Heish went on location to assist in rescue efforts. They were unaware at the time of the possibility of the release of a chemical agent so they did not carry respirators or other protective equipment. Several fell ill upon arrival to the scene, and at least two died. When they realised a chemical agent may have been present, rescuers warned incoming teams of first-responders who carried respirators with them. Some of those using respirators reported that, despite this protection, they too felt affected by the gas. First-responders removed the clothes from victims, washed them with water, and provided them with oxygen masks. Several medical workers said that first-responders may have inadvertently exposed victims to additional quantities of sarin by removing the clothes on their upper bodies over their neck instead of cutting them off. By removing their clothes this way, victims would have inhaled sarin as the clothes passed by their mouths and noses.

14. After washing the victims, first-responders used ambulances, cars, and motorbikes to transport victims to several medical facilities in the area, with the al-Rahma medical point in Khan Shaykhun receiving approximately 80 victims. Others were taken to the al-Salam and al-Watany hospitals in Maarat al-Numaan, the Oday hospital in Saraqeb, and hospitals and clinics in Areeha, Ma'arat Misrin, Jarjnaz, Maar Shurin, Abdeen, Tal Minnes, Kafr Nabl, Banesh, Idlib city, Adnan Kewan, Haas, and Bab al-Hawa. Overall, these facilities were ill-equipped to deal with victims of chemical attacks other than chlorine —

¹⁶ See, e.g., *Khan Sheikhoun, Idlib Historical Weather, Syria*, available at <https://www.worldweatheronline.com/khan-sheikhoun-weather-history/idlib/sy.aspx>.

an issue compounded by the large number of victims and the severity of the symptoms from which they suffered.

15. Moreover, just one and a half days before the attack, on the evening of 2 April, Syrian and/or Russian forces carried out airstrikes which directly hit the Maarat al-Numan National Hospital, using at least three delayed fuse aerial bombs. The attacks against the hospital destroyed its upper floors where the inpatients room and intensive care unit were located. Most of the hospital's equipment, including incubators, were also destroyed. The Maarat al-Numan hospital, located 24 kilometres north of Khan Shaykhun, is described by medical staff as the main hospital in the area and the one which could have more adequately dealt with cases of patients exposed to chemical agents. Before the strikes, it employed 300 staff including 20 doctors and over 100 nurses, some of which had received training to treat victims of chemical agents and who subsequently trained their colleagues. The hospital also contained large stocks of atropine, hydrocortisone, diazepam, and oxygen concentrators. As a result of the airstrike, the hospital could only treat some 15 victims of the 4 April chemical attack. One victim who was seriously injured by the gas released by the chemical bomb noted that first-responders took him to Maarat al-Numan National Hospital because they were unaware the hospital had been struck two days earlier. The hospital was unable to treat him, and he was subsequently transferred to another hospital.

16. Depending on what the healthcare facilities had available on 4 April, victims of the sarin attack were given atropine to help reactivate their heart rates, and pralidoxime to reverse chemical poisoning, though several medical staff reported that most hospitals did not have the latter or only had it in small quantities. Doctors noted that most of the existing pralidoxime had expired because, after the 2013 attack in Ghouta and the subsequent removal and destruction of Syria's chemical weapons by the Joint Mission of the United Nations and the OPCW in 2013 and 2014, it was announced that chemical weapons such as sarin no longer existed in Syria. For these reasons, hospitals ceased planning for these types of attack. In the absence of alternatives, doctors administered the expired pralidoxime to patients. Owing to the high number of casualties, several hospitals ran out of atropine and requested other medical facilities to provide them with additional medication. To help them breathe, many of the victims were intubated and, where available, placed in respirators. At least 31 persons were taken from medical facilities in the Syrian Arab Republic to hospitals in a neighbouring country, where at least three subsequently succumbed to their injuries and passed away. Several medical workers noted that the combination of lack of appropriate and sufficient medication, overall shortage of staff, extremely reduced capability of Maarat al-Numan National Hospital, and consequent need to take patients to more distant health-care facilities all contributed to the overall high number of fatalities.

17. Al-Rahma medical point and the neighbouring civil defence centre operate from caves in the mountains, located approximately two kilometres from the centre of Khan Shaykhun. Rescuers took many of the victims directly from the area affected to al-Rahma where at least 25 persons died. Several interviewees explained that al-Rahma was not prepared to treat victims of chemical attacks but that patients were only taken there because it was the closest medical facility. Throughout the morning of 4 April, after the 6.45 a.m. airstrikes, interviewees saw drones over the skies in Khan Shaykhun and between 11.30 a.m. and 1.30 p.m., a series of airstrikes directly impacted the medical point and the civil defence centre, which were treating patients of the chemical attack. Airstrikes in Khan Shaykhun were reported until 4.00 p.m. Eyewitnesses further noted that the airstrikes which struck al-Rahma were conducted by jetfighters. As a result of the attack, the al-Rahma medical point was forced to transfer all intensive care patients to other hospitals without ventilators. Due to the lack of sufficient ambulances, many patients were transferred in civilian vehicles.

18. Interviewees further detailed that the medical point was struck at least three times over the span of a few minutes. One of the strikes destroyed the only external building of the medical point and several ambulances. Another strike hit the hospital's upper floor and its warehouse destroying some equipment. Though there were no fatalities from the attack, some medical staff and patients sustained minor injuries. Photographs provided to the Commission show the main building and surrounding area were struck by aerial bombs. The building sustained a direct hit from at least one blast weapon and several shallow

craters pockmark the site. Additionally, burned out remnants of what appear to be ZAB 2.5SM cluster incendiary munitions were found in scorched grasses dotting the area. In view of the fact that the Commission has previously documented Syrian and/or Russian air forces having used cluster incendiary munitions,¹⁷ that international coalition forces do not use these type of munitions, and that Russian and Syrian officials acknowledged that at the time of the strike, between 11.30 a.m. and 13.30 p.m., the Syrian air force conducted airstrikes in Khan Shaykhun, the Commission finds that there are reasonable grounds to believe that either Syrian and/or Russian forces conducted the airstrike against the al-Rahma medical point.

VI. The use of sarin

19. Sarin is a synthetic, odourless liquid nerve agent which can be dispersed in air as an aerosol. Upon release, the agent cloud drifts with the wind as well as following terrain features. Unprotected humans will experience both external contamination (skin, hair, clothing), and absorb the agent via inhalation and via the skin. The symptoms of sarin poisoning vary depending on the dose received (page 32), though a classic symptom is miosis (extreme contraction of the pupils). In severe cases, the symptoms include cramps, muscular contraction, seizures, severe pain, and severe respiratory distress; the cause of death is asphyxiation by blockage of the lung muscles as well as the respiratory centre in the central nervous system. The agent or its characteristic biomarkers can be detected in biomedical samples collected from victims for some time (several days in the case of urine, and weeks in the case of blood or other tissue samples collected from survivors or during autopsies). The agent, its characteristic degradation products, and certain impurities contained in the agent mixture can also be found in environmental samples taken from the impact area.

20. According to the OPCW report,¹⁸ the OPCW FFM attended the autopsies of three alleged victims in a neighbouring country one day after the alleged attack, and visited ten patients in three hospitals four days later to retrieve biomedical samples for analysis. It also conducted several interviews: one patient and one treating physician were interviewed during the hospital visit on 8 April, and subsequent interviews with two patients who had tested positive for sarin exposure were conducted on 31 May and 1 June, respectively. The OPCW FFM also received environmental and biological-environmental samples collected by non-governmental organisations at the alleged incident location, as well as additional biomedical samples collected at medical facilities in opposition-controlled areas. In addition, the OPCW FFM collected information from the Syrian Government during two visits to Damascus, and visited the Scientific Studies and Research Centre (SSRC) in Barza where it received environmental samples and metal fragments from the impact area which the SSRC had previously analysed.

21. While the Commission was unable to collect or test bio-medical and environmental samples, it notes that based on bio-medical samples obtained during autopsies and from individuals undergoing treatment in a neighbouring country the OPCW FFM found that these individuals were exposed to sarin or a sarin-like substance. The OPCW FFM witnessed the acquisition of these biomedical samples and applied chain of custody procedures to demonstrate sample authenticity and integrity, and the analysis was undertaken by two independent Designated Laboratories, both of which have previously demonstrated their competence for this type of analysis in official OPCW Proficiency Tests. This analysis found that the tissue samples collected from the three victims (blood, brain, hair, lung and liver tissue) who had died contained (with the exception of one hair sample) characteristic biomarkers demonstrating the exposure of the victims to sarin or a sarin-like substance. The analytical findings were consistent with the autopsy reports, which had concluded that the cause of death in all three cases had been exposure to a toxic gas.

¹⁷ A/HRC/34/64, paras. 14, 59-60; A/HRC/34/CRP.3, paras. 59-60.

¹⁸ OPCW FFM report, paras. 3.16, 3.52-3.53, 3.64, and 4.7-4.9.

22. Bio-medical samples of seven of the 10 persons undergoing treatment in the neighbouring country showed that they, too, were exposed to sarin or a sarin-like substance. These analytical findings were consistent with the clinical symptoms observed. Furthermore, the OPCW FFM was able to confirm by comparative DNA analysis that two individuals who had been the source of blood samples taken in Syria without the OPCW FFM team present were identical to two patients who had given blood samples in the neighbouring country in the presence of the OPCW FFM team. The Designated Laboratory results of the biomedical samples taken from these two patients on both occasions were consistent, and showed exposure to sarin or a sarin-like nerve agent. This DNA test together with the laboratory findings confirms that there was a link between the individuals from whom biomedical samples were taken in the neighbouring country in the presence of the OPCW FFM, the site of the alleged attack, and the witness testimony.

23. Taken together, the epidemiological data available, the clinical symptomatology reported, the laboratory results of autopsy and biomedical samples taken from alleged victims, and the identity confirmation of two individuals samples of whom had been collected in the presence of the OPCW FFM subject to full chain of custody procedures as well as in biomedical samples collected at medical facilities in Khan Shaykhun¹⁹ leave no doubt that sarin or a sarin-like agent had been released in Khan Shaykhun on 4 April, and that it killed or injured these victims.

24. The OPCW FFM could not independently verify the provenance of the additional samples it received from third parties. It attempted to corroborate the information about the collection of these samples by testimony and by verifying accompanying documents including photographs and videos taken at sample collection. The OPCW FFM reported that, although it was not in a position to categorically verify the entire chain of custody of these samples, the testimony and documentation submitted alongside the samples provided a good degree of confidence.

25. The analysis of biomedical specimen received from the Khan Shaykhun Medical Centre (blood, liver tissue, lung tissue, and hair samples taken at autopsies from three fatalities) undertaken by two OPCW Designated Laboratories confirmed exposure to sarin or a sarin-like substance.

26. The results of the analyses of the additional environmental samples (animal parts, vegetation, and soil from the impact area) showed chemical signatures consistent with a release of sarin or a sarin-like nerve agent: the presence of primary and secondary degradation products of sarin in environmental samples; fluoride regeneration of sarin and the detection of a tyrosine adduct in biological samples confirming the exposure of the dead animals to sarin or a sarin-like agent; and the detection of by-products of sarin synthesis and certain other characteristic impurities in the environmental samples.²⁰

27. The OPCW FFM also received environmental samples (soil, metal fragments, bone, vegetation, and extracts) from the Syrian government, together with a video recording of the sample collection. An unnamed volunteer from Khan Shaykhun had reportedly provided these samples to the Syrian authorities, and the samples had been analysed by the SSRC Barza. The OPCW analysed these samples at its central laboratory in Rijswijk, the Netherlands. Results of the analyses by the two laboratories (OPCW and SSRC) were broadly consistent, showing the presence of sarin and impurities related to sarin synthesis and characteristic degradation products. Both laboratories also found hexamine in some of the samples.²¹ The presence of hexamine was not further explained by the OPCW FFM, but the chemical had also been found in environmental samples collected 2013 after the Ghouta incident. Two competing explanations have been offered in the past to explain the presence of hexamine — either the chemical might indicate the use of an artisanal explosive (RDX) for agent dispersion, or it had been used in the sarin synthesis as an acid scavenger. While the former explanation cannot be ruled out, the latter would be consistent with the

¹⁹ OPCW FFM report, paras. 5.90-5.95.

²⁰ OPCW FFM report, paras. 5.99-5.102.

²¹ OPCW FFM report, paras. 5.103-5.106.

chemicals declared by Syria in 2013 to the OPCW as part of their chemical weapons stockpile,²² as well as with the process used in the past by the Syrian army for employing sarin (binary synthesis shortly before use without subsequent purification of the agent for long-term storage).

28. The Commission has independently gathered extensive information which, in the aggregate, strongly supports the claim that the victims were exposed to sarin or a sarin-like substance. Apart from the fact that none of the victims was observed to have wounds or visible injuries, the symptoms reported are consistent with those suffered by persons exposed to an organophosphorus chemical such as sarin. Those include: foaming from the mouth and nose, contracted pupils, respiratory difficulties, coughing, blue lips, pale or yellow skin, loss of consciousness, dizziness, convulsions, vomiting, paralysis, and diminished heartbeat. First-responders and medical staff recalled suffering from headaches, nausea, congested chests, and blurred vision after treating patients. Five weeks after 4 April, at least four interviewees were still experiencing some of these symptoms.

29. Most of the interviewees at the scene when the agent cloud was released or who arrived on location shortly thereafter stated they did not notice any particular smell, which is consistent with the fact that sarin is odourless. Some interviewees, however, reported a “bad smell”. One interviewee described it as similar to drainage or waste water, while another said it resembled a strong insecticide. It should be noted that there is a fair degree of variability in the sensitivity of humans to smell, so such discrepancies are not unusual. It is also apparent from the analytical results of the environmental samples that the agent released into the atmosphere contained a number of impurities (several phosphor-organic compounds, hexamine, fluorinated compounds), which would explain the insecticide-like or otherwise bad smell perceived by some witnesses.

VII. Findings

30. The extensive body of information gathered by the Commission indicates that a Syrian Su-22 conducted four airstrikes in Khan Shaykhun at approximately 6.45 a.m. on 4 April. Photographs of remnants taken at the sites along with satellite imagery corroborate eyewitness testimony identifying the impact points of the four aerial bombs. Eyewitnesses and early warning reports identified the aircraft as a Su-22, which only the Syrian air force operates.

31. The Commission identified three of the bombs as likely OFAB-100-120 and one as a chemical bomb. Interviewees consistently stated that this latter bomb produced less noise and less smoke than the other three, and that it released a gas which spread over a distance between 300 and 600 meters. Photographs of remnants provided to the Commission by interviewees further indicate an aerial chemical bomb was employed. Further, weather conditions at 6.45 a.m. on 4 April were ideal for delivering a chemical weapon. The wind speed was just over three kilometres per hour, with no rain and practically no cloud cover. Under such conditions, the agent cloud would have drifted slowly downhill following the terrain features at the location (roads and open spaces), in a southerly and westerly direction.

32. At least 83 persons, including 28 children and 23 women, were killed, and an additional 293 persons including 103 children were injured after being exposed to gas released by the chemical bomb. Based on bio-medical samples obtained during autopsies and from individuals undergoing treatment in a neighbouring country, the OPCW FFM found that these individuals were exposed to sarin or a sarin-like substance. Information gathered by the Commission from victims, eyewitnesses, and medical personnel on the symptoms suffered by victims is also consistent with exposure to sarin. None of the victims had wounds or visible injuries, and all experienced a combination of the following

²² OPCW request for expression of interest (EOI), initially posted on the OPCW website on 20 November 2013, EOI reference OPCW/CDB/EOI/01/20913, OPCW document S/1142/2013 of 22 November 2013. This EOI listed chemicals from the declared Syrian chemical weapon stockpile and included binary chemical weapons components as well as 80 metric tonnes of hexamine.

symptoms: foaming from the mouth and nose, contracted pupils, respiratory difficulties, coughing, blue lips, pale or yellow skin, loss of consciousness, dizziness, convulsions, vomiting, paralysis, and diminished heartbeat.

33. In its investigation, the Commission considered and investigated all potential scenarios, including claims put forward by Russian and Syrian officials. The Commission has not, however, found any evidence to support the claim that HTS or armed groups had a weapons depot in the area where the chemical bomb impacted. Satellite imagery shows damage to a structure at a nearby grain silo which could correlate with the area where the victims of the sarin release were found, though the silo and a nearby bakery were empty following airstrikes last year. Furthermore, the Russian Federation Ministry of Defence and the Syrian Minister of Foreign Affairs argue that the weapons depot was hit between 11.30 a.m. and 12.30, while the evidence laid out above overwhelmingly indicates that the sarin gas was released at around 6.45 a.m.

34. Though the Commission cannot discount the possibility that interviewees did not acknowledge the existence of a weapons depot out of fear of retaliation or out of loyalty to HTS or armed groups, it notes that it is extremely unlikely that an airstrike against such a depot could release sarin stored inside that structure in amounts sufficient to explain the numbers of casualties recorded. First, if there had been such a sarin weapons depot destroyed by an airstrike, the explosion would have burnt off most of the agent inside the building or forced it into the rubble where it would have been absorbed, rather than released in significant amounts into the atmosphere. Second, the facility would still be heavily contaminated today, for which no evidence exists. Third, the scenario suggested by the Russian Federation Ministry of Defence and the Syrian Minister of Foreign Affairs does not explain the timing of the appearance of victims of sarin exposure — well before the time, 11.30 a.m., that the Russian Federation Ministry of Defence and the Syrian Minister of Foreign Affairs provided for the attack. Finally, the impurities identified in the environmental samples analysed by the OPCW indicate that the released agent had not been purified. This rules out long-term storage of large amounts of sarin, which would have required agent purification. If, on the other hand, the facility had stored the precursor materials for sarin, an explosive destruction would not have released sarin into the air. Moreover, had there been sarin production going on at the time of the attack, the amount of agent would have been small and almost all of the agent would have been burnt off or ended up as local contamination though not in the atmosphere — some agent release into the atmosphere in such a scenario cannot be ruled out but it would not nearly be sufficient to explain the number of casualties.

35. In view of the above, the Commission finds that the claim that airstrikes hit a depot producing chemical munitions or that the attack was fabricated are not supported by the information gathered. On the contrary, all evidence available leads the Commission to conclude that there are reasonable grounds to believe Syrian forces dropped an aerial bomb dispersing sarin in Khan Shaykhun at around 6.45 a.m. on 4 April. The use of chemical weapons is unequivocally banned under international humanitarian law. The use of sarin in Khan Shaykhun on 4 April by Syrian forces constitutes the war crimes of using chemical weapons and indiscriminate attacks, and violation of the prohibition on the use of weapons designed to cause superfluous injury and unnecessary suffering. The manufacture, storage, and use of sarin also violates the Chemical Weapons Convention and Security Council resolution 2118 (2013).

36. As noted above, the Commission further investigated the airstrikes which impacted Khan Shaykhun after 11.30 a.m. It found that these airstrikes struck the al-Rahma medical point while it was functioning solely as a civilian healthcare facility treating victims of the chemical attack. Based on the fact that the medical point was struck with cluster incendiary munition, which only Syrian and Russian air forces use, and that Russian and Syrian officials acknowledged that after 11.30 a.m. the Syrian air force conducted airstrikes in Khan Shaykhun, the Commission finds that there are reasonable grounds to believe that either the Syrian and/or Russian forces conducted the airstrike against the al-Rahma medical point. By bombing the al-Rahma medical point, which also destroyed ambulances, Syrian and/or Russian forces committed the war crimes of deliberately attacking protected objects, and intentionally attacking medical personnel and transport.

Characteristics of sarin²³

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CHARACTERISTICS OF NERVE AGENTS AND SARIN

Properties of Nerve Agents

Sarin belongs to a group of organophosphorus chemical warfare agents called nerve agents, which are chemically and structurally related to organophosphorus pesticides. They are absorbed by inhalation, ingestion or through the skin. For volatile nerve agents such as sarin, inhalation is considered to be the primary route of entry.

In their purest form, nerve agents are colourless and odourless liquids, however colouration can vary from pale yellow to dark brown depending on the level of impurities present. Sarin is one of the more volatile nerve agents and evaporates at a similar rate to water. It breaks down fairly quickly in the presence of water (hydrolysis) to give characteristic breakdown products.

Nerve agents are particularly toxic when absorbed by inhalation, but can be absorbed following ingestion, dermal, or eye contact.

Nerve agent vapour is denser than air and therefore has a tendency to accumulate in low-lying areas.

Effects on Humans

Nerve agents exert their toxic action through the sustained inhibition of the enzyme acetylcholinesterase (AChE). When AChE is inhibited, it is unable to break down the neurotransmitter acetylcholine (ACh). This causes a build-up of neurotransmitter at the nerve synapse which in turn causes excessive stimulation of the nervous system.

Nerve Agent absorbed through lungs or skin causes cramps, muscular contraction, seizures and severe pain, the effects on diaphragm is to lock the lungs in place, causing asphyxiation and subsequently death.

Local effects such as miosis (pin point pupils), may occur in the absence of systemic poisoning.

Dependent on the concentration exposed to and the duration of the exposure, nerve agents can cause the following symptoms:

- Mild symptoms include headache, nausea, miosis, blurred vision, tearing (lachrymation) and painful eyes; runny nose, excess salivation, sweating, muscle weakness and agitation, chest tightness.
- Moderate symptoms include dizziness, disorientation and confusion, sneezing coughing and/or wheezing, marked drooling and excess mucous production, vomiting and diarrhea, marked weakness, difficult in breathing.
- Severe symptoms include severe respiratory distress, pulmonary oedema, convulsions, ventricular arrhythmias, unconsciousness, involuntary urination or defecation.

Medical treatment and antidotes

- Atropine: antagonises the effects of ACh, it is particularly effective in decreasing secretions and treating bradycardia (slow heart beats).
- Oximes: reactivation of inhibited enzymes, thereby decreasing the amount of excess ACh.
- Diazepam: Central Nervous System protector, useful to control agitation and convulsions.

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²³ OPCW FFM report, Annex 5.

Annex III

Life under siege and truces

1. In the Damascus countryside mountain town of Madaya, the Commission first documented Government forces using starvation as a weapon of war in late 2015.¹ Government forces alongside Hizbullah encircled Madaya in June 2015 as part of a military offensive against the neighbouring town of Zabadani, tightening their siege around Madaya in September, and imposing a complete blockade on goods into Madaya, Zabadani, and neighbouring Bqine. Anti-personnel landmines were used to trap civilians inside Madaya, while pro-Government snipers shot at those attempting to reach the water spring in Bqine, including young children. By December 2015, residents in Madaya resorted to eating grass, leaves, and cats which religious leaders were forced to officially sanction as permissible (*halal*). Others recalled drinking boiled water seasoned with salt and cumin for breakfast and dinner to stave off hunger pangs.

2. In March 2015, armed groups primarily under the Jaish al-Fatah formation overtook Idlib city and laid siege to the predominantly Shi'a towns of Fu'ah and Kafraya. They immediately cut-off water and electricity to the besieged population. Though Government forces were occasionally able to airdrop aid, armed groups only allowed humanitarian aid convoys to enter the enclaves sporadically over the previous over two years, leaving up to 20,000 individuals in a perilous situation. Hospitals and clinics had no supplies, which led to some women dying while giving birth. The United Nations, International Committee of the Red Cross (ICRC), and Syrian Arab Red Crescent (SARC) were last granted access to deliver humanitarian assistance to Madaya and Bqine, and Fu'ah and Kafraya in 14 March 2017, though aid had not been granted prior to that since November 2016.

3. Similarly, in the eastern Damascus municipalities of Barza, Tishreen, and Qabun, Government forces intensified an aerial campaign in February, decimating large swathes of civilian infrastructure. By mid-March, they recaptured segments of a road between Barza, Qabun, and Tishreen, severing any connection between the neighbourhoods, and, by May, fully besieged all three areas whereafter no humanitarian aid was allowed to enter any of the neighbourhoods. One interviewee in Qabun recalled the shortage of food, noting civilians "did not even have dried bread to eat".

4. In order to draw an end the crippling effects of these sieges, a truce initially negotiated in September 2015 was implemented in April this year concerning Madaya and Zabadani (Damascus countryside), and Fu'ah and Kafraya (Idlib), collectively known as the "Four Towns" agreement. Similarly, in May, local truces were implemented in Barza, Tishreen, and Qabun (eastern Damascus). All truces have been finalised in either oral or written forms, and, while the terms of each are unique to the besieged locality surrendering, details provided by interviewees reveal numerous similarities between them which have been observed over the period under review.

5. The "Four Towns" agreement was entered into between Hay'at Tahrir al-Sham and Ahrar al-Sham on the side of terrorist and armed groups, and Hizbullah, Iran, and Qatar on the other. Elements of the agreement included: the departure of fighters and an unspecified number of civilians from Madaya, Zabadani, and Bloudan towards Idlib (though the Commission notes at least 5,000 left); departure of up to 8,000 pro-Government forces and civilians and from Fu'ah and Kafraya; exchange of prisoners and corpses; and the release of 1,500 detainees by Government forces, primarily women. The agreement also included evacuation of fighters from Yarmouk camp (Damascus), among other details.

6. Local truces in Barza, Tishreen, and Qabun were all negotiated between Government forces and armed groups, sometimes with the assistance of local council

¹ A/HRC/31/68, paras. 120 and 129; *see also* International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Volume I: Rules, at Rule 53.

members, and implemented in May. In Barza, the initiative to negotiate a local truce stemmed primarily from the 1st Brigade of Damascus (a Southern Front affiliated armed group). It stipulated that fighters would surrender heavy weapons, and that a set number of the population would leave to Idlib. In Tishreen, virtually the same conditions were applied, though the entire civilian population was to evacuate. In Qabun, the local truce was negotiated between Government forces and armed group leaders together with local council delegates. The agreement was orally agreed to, and stipulated that fighters would surrender heavy weapons, all tunnels leading to eastern Ghouta would be closed, and all civilians and fighters would evacuate to Idlib. Though negotiations over prisoner exchanges occurred in some cases, such exchanges were ultimately not carried out in these three municipalities.
