



## 人权理事会

## 第三十七届会议

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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

六年多来，委员会一直以独立和公正的方式记录着已导致数十万人丧生的阿拉伯叙利亚共和国冲突各方严重侵犯人权和严重违反国际人道主义法的行为。这些行为导致该国超过一半的人口背井离乡。从一开始，冲突的特点就是冲突各方完全无视他们声称代表的平民，也完全无视国际法。

本报告再次表明，平民不仅是暴力行为的无意受害者，还往往是非法战争手段和方法蓄意针对的目标。数千名被拘留人员遭受了任意逮捕、强迫失踪、酷刑以及性暴力和性别暴力。由于医疗设施、学校和市场反复遭到袭击，重要的民用基础设施遭到毁坏。人道主义援助被用作战争武器，通过围困战和拒绝提供拯救生命的援助来逼迫平民社区和冲突对立方要么投降，要么挨饿。

虽然存在各种各样的侵害行为，叙利亚的受害者无法获得一丝一毫的正义。在报告中，委员会表示打算帮助受害者寻求正义，并根据阿拉伯叙利亚共和国境内局势的变化以及让冲突各方坐到谈判桌前来的各种持续努力大力开展这些工作。这些进展为受害者寻求正义带来了新的挑战，也带来了机遇。但是，这将需要所涉各方肯定，受害者对正义和问责的要求是任何谈判商定的解决办法和任何实现和平的持久解决方案的核心内容。在这个目标和可行的政治解决办法之间不能有任何妥协。

\* 本报告附件不译，原文照发。



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## 一. 任务和方法

1. 本报告根据人权理事会第 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本报告中阐述了 2017 年 7 月 8 日至 2018 年 1 月 15 日所开展调查得出的结论。<sup>1</sup>
2. 委员会采用的方法基于各调查委员会和实况调查团的最佳做法。通过访问阿拉伯叙利亚共和国各种事件的受害者和证人收集了第一手资料。
3. 共面对面和远程进行了 513 次访谈。在受访者的安全方面，委员会面临大量挑战，特别是在伊拉克和黎凡特伊斯兰国(伊黎伊斯兰国)控制的地区。在拉卡和德尔祖尔，委员会访问的很多人使用移动电话和互联网的机会有限。在任何情况下，委员会都始终遵守“不伤害”原则。
4. 委员会收集、审查和分析了卫星图像、照片、视频和医疗记录。委员会还查阅了会员国的来文以及联合国和非政府组织的报告。
5. 当委员会获得可靠的信息，认为有合理理由相信事件如所述那样发生，并且所确认的方面实施了违反行为时，证据标准即得到满足。
6. 委员会仍然无法进入阿拉伯叙利亚共和国，因而其调查受到限制。

## 二. 导言

7. 六年多来，委员会一直以独立和公正的方式记录着阿拉伯叙利亚共和国冲突各方严重侵犯人权的行为，这些行为已导致超过数十万人丧生，还有更多人残废或永久丧失生活能力。超过一半的人口被迫背井离乡，有超过 1350 万人需要人道主义援助。
8. 最初于 2011 年 3 月进行的呼吁改革的和平示威遭到叙利亚国家安全部队和军队的高压回应，悲剧性地演变成一场非国际性武装冲突，并以冲突各方完全无视平民生命和国际法为特点。平民不仅成为盲目暴力行为的无意受害者，而且往往成为数量日益增加的地区和国际行为方使用的非法战争手段和方法蓄意针对的目标。
9. 委员会认真仔细地记录、分析、核实并向人权理事会、秘书长、安理会、大会、区域机构和国际社会提交了有关这场本可以被制止的悲剧的资料。然而，各种区域和国际行为方和捐助方的参与非但没有终止这种冲突，反而导致其延续和升级。
10. 长期以来，委员会一直就系统性侵犯人权和违反国际法行为进行报告，包括任意逮捕，拘留期间的酷刑，强迫失踪，性暴力和性别暴力，对医疗设施、学校和市场的袭击，不加区别地攻击和对平民的蓄意攻击。没有任何一方遵守国际人道主义法或国际人权法所规定的义务，保护平民，保护便利平民生活和生计的基础设施或是构成平民社区支柱的受到特殊保护的地点。人道主义援助被用作战争

<sup>1</sup> 委员会成员包括：保罗·塞尔吉奥·皮涅罗(主席)、卡伦·科宁·阿卜扎伊德和哈尼·梅加利。

武器，通过围困战和拒绝提供拯救生命的援助来逼迫平民社区和冲突对立方要么投降，要么挨饿。

11. 作为调查委员会，委员会成员的主要任务是记录所有的严重侵犯人权行为和战争罪行，揭露责任人，寻求让犯罪者对罪行负责并帮助受害者伸张正义。迄今为止，通过国际刑事法院促进刑事问责的努力一直不太成功，尽管人权理事会、委员会、大量致力于促进国际司法的会员国以及无数民间社会团体都作出了最大的努力。试图将阿拉伯叙利亚共和国的局势转交国际刑事法院的尝试从未成功走出安理会。通过诉诸于普遍管辖权或许能取得更大的成功，我们乐见各种国家管辖权下的这类案件数量正在增加。

12. 此外，大会会员国于 2016 年 12 月通过了第 71/248 号决议，该决议旨在通过设立国际公正独立机制来收集、整理、保存和分析在阿拉伯叙利亚共和国武装冲突期间所犯下的最严重国际罪行的证据，以一种全新的方式促进刑事问责。这么做是为了汇编案件卷宗，以便利愿意起诉在阿拉伯叙利亚共和国的战争期间犯下残暴罪行的犯罪者的国际和国家司法机关中的诉讼。委员会欢迎这项举措，认为这是在促进问责方面的进步，并将密切合作协助该机制实现这项目标。

13. 关于帮助受害者伸张正义的问题，委员会打算在未来的一年里根据阿拉伯叙利亚共和国实地情况的进展以及让冲突各方坐到谈判桌前来的各种持续努力大力开展这项工作。这些进展为受害者寻求正义带来了新的挑战，也带来了机遇。但是，这将需要所涉各方肯定，受害者对正义和问责的要求是任何谈判商定的解决办法和任何持久和平方案的核心内容，而且在这个目标和政治解决办法之间不能有任何妥协。

14. 委员会有义务优先考虑叙利亚人民、在这场毫无意义的冲突中被困或被扣为人质并遭到骇人掠夺和不公正的平民的正义需求和要求。因此，委员会将寻求利用过去六年里累积的知识、获得的知识专长以及确立的核查进程帮助受害者实现迄今为止一直无法实现的正义。

15. 在本报告中，委员会强调必须为其不断记录的侵害行为找到超出刑事司法范围的实际补救办法，并寻找能够在不久的将来实施的解决办法，以便在谈判政治解决办法的各方之间建立信心，或作为国际社会各项倡议的要素，以加大努力为可持续和平确立具体进程。无论是哪种情况，当务之急是将受害者的需求置于倡议和谈判的首要 and 核心地位。

16. 委员会希望提醒冲突各方及其捐助方、和平谈判的协调者以及国际社会，任何旨在结束冲突和实现持久和平的进程都必须处理自冲突开始以来实施的严重侵犯行为。

17. 相应的，委员会希望向人权理事会提出如下原则和倡议，在所有旨在结束冲突的努力中都必须予以遵守。它们还可以在接下来的一年中被作为基准或提醒，说明哪些可以作为建立信心措施立即执行，哪些必须在停止敌对行动之后立刻实施，以及为了确保及时就紧迫的权利问题(其解决将有助于确保可持续的和平)取得进展必须建立哪些机制：

(a) 立即终止针对平民的一切蓄意和不加区别的攻击，包括但不限于劫持人质、失踪、酷刑、即决处决、性暴力和性别暴力以及所有集体性惩罚行为，特别是围困。

(b) 立即无条件地允许独立监测员并至少允许红十字国际委员会等人道主义组织进入所有拘留场所。在这样做的时候，终止隔离关押被拘留者或将其关押在秘密拘留场所的做法，并提供所有被拘留者的完整名单。这么做将使当局开始收集失踪人员的姓名。

(c) 建立一项机制，作为任何谈判商定协议的内容之一，以便迅速释放所有政治犯和被任意拘留的人员，并在协议签署之后即刻开始这项进程。与此同时，在谈判继续期间应特别注意释放最弱势的被拘留人员，包括儿童、妇女、老年人和残疾人。这些可以被视为建立信心措施，并适用于冲突各方。

(d) 确保应对下令实施或执行严重侵犯人权行为和实施战争罪、危害人类罪或灭绝种族等国际罪行负责的人员不会遭到赦免或特赦。

(e) 在任何协议中都确保与在阿拉伯叙利亚共和国的联合国机构密切合作，使人道主义援助可以立刻和及时进入和向受冲突影响的所有地区提供。

(f) 一旦敌对行动停止，立即与相关联合国机构密切合作，推动流离失所的叙利亚人和在该国外部寻求避难的人员安全和有尊严的回返进程。

(g) 实现出生登记，并使有关各方能够在地方和社区各级以简化的登记机制取得或恢复其法律身份，同时考虑到有出生证明或其他身份文件证实的官方承认的身份对于实现最基本的权利至关重要。

(h) 确保叙利亚和国际人权监测员能够进入叙利亚并在各地自由行动，以便他们能够对状况进行评估，就遵守承诺的情况进行报告，并帮助确保权利保障和法治得到维护。

18. 上述原则并不仅仅是表达希望。它们也是可以做到的。委员会一直定期向人权理事会报告检查站网络的情况，这些检查站设立在发生叙利亚人失踪事件的政府控制地区各处。任意逮捕、强迫失踪以及军事法庭、战地法院或反恐法院的虚假指控，数万人因为上述手段而遭到拘留，常常被隔离监禁，而且拘留条件之差已无法加以描述。整个冲突期间，在已知和秘密拘留场所因酷刑、残忍、不人道或有辱人格的待遇而死亡的事件都得到记录。被拘留者的亲属很少能够获悉他们的下落、他们被监禁的理由乃至他们的死亡。因此，数以千计的叙利亚家庭不知道自己的亲属失踪是因为冲突、流离失所、拘留、死亡还是处决。

19. 武装团体和恐怖主义组织也常常毫无理由地拘留人员，除了打算把被拘留者用来讨价还价。平民，包括有亲属在阿拉伯叙利亚共和国武装部队中服役的个人被扣为人质，然后被用来谈判释放他们被拘留的军队中的同事或自己的亲属。被俘者通常属于宗教少数群体，并遭受恶劣的待遇，被关押在不人道的条件下，或遭受酷刑或残忍、不人道或有辱人格的待遇。利用任意的司法程序来证明对一些被拘留者实施即决处决的正确，但这些程序没有任何正当程序的影子，也不符合公平审判标准。

20. 冲突各方早就应该优先释放被任意拘留的人员。这是 2012 年《日内瓦公报》通过以后政治进程的主要基本原则。<sup>2</sup> 要展现结束冲突的意愿，一个明确而直接的起始点是普遍释放所有拘留场所的妇女、儿童、老年人和残疾人。现在就该这么做，不仅在已经开始的交换囚犯行动的背景下，而且应该作为冲突各方的承诺和一项建立信心的措施。

21. 承诺将所有拘留场所向人道主义和人权组织、特别是红十字国际委员会和联合国开放，这是任何谈判达成的解决方案都不可或缺的内容。这应该包括公布全国各地被拘留平民的姓名和被拘留地点的透明做法。

22. 考虑到失踪人员案件数量的大小和规模，建立一个具有国际任务授权的独立而公正的机制，来协调和合并相关申诉，包括与被迫失踪人员有关的申诉，对于向失踪人员家属作出适当的答复至关重要。该机制的任务可以包括确定高效和有效追踪和识别失踪人员所需的关键要素，以帮助合并向各种非政府组织和人道主义组织提交的申诉，并协调与冲突各方主动接触以寻找失踪人员或其遗骸。其中一项关键工作是与失踪人员家属的沟通与合作，以确保一旦有任何消息和最新情况都予以告知。

23. 还应优先考虑旨在减轻影响该国的严重人道主义危机和促进可持续回返的机制。流离失所的平民人口规模达到第二次世界大战以来前所未有的水平，要解决这个问题需要国际社会的共同努力。特别需要一项机制来确保难民和境内流离失所人员的住房权、土地权和财产权得到尊重。阿拉伯叙利亚共和国政府必须确保对现有法律框架的修改同样尊重所有叙利亚人的财产权，并确保任何在意图上或适用中具有歧视性或以其他方式侵犯基本人权的法律都被立即废除。保障希望回返的人员或有家可归的人员能够回返至关重要。这是一个长期的技术性过程，同时也需要仔细审议阿拉伯叙利亚共和国现行的财产法，对这些法律进行的任何修正和改革都必须保障因威胁或需要离开家园的平民的所有权、拥有权和使用权。

24. 根据过去的做法，本报告参考了 500 多次访谈的内容，并概括了阿拉伯叙利亚共和国过去六个月的事态发展趋势，特别侧重于对伊黎伊斯兰国攻击的影响以及对平民人口使用围困战的影响。委员会提出了一套前瞻性原则和倡议，并就如何执行这些原则和建议以改善该国平民的处境并帮助他们实现某种程度的正义提出了建议。

### 三. 政治和军事事态发展

25. 叙利亚冲突已经进入第七个年头。新的军事和政治动态正在形成。为了促进冲突各方间对话并达成一项政治解决方案已经开展了众多国际调解努力。最近亲政府部队取得的军事胜利削弱了反对派力量，影响了和谈。由于各方的根本利益存在分歧，达成国际共识是一项复杂的工作。这些发展趋势最近以军事胜利为特征，包括叙利亚军和叙利亚民主力量在拉卡和德尔祖尔对伊黎伊斯兰国取得的胜利。

<sup>2</sup> 见 A/66/865-S/2012/522，附件。

26. 尽管该国东部地区冲突动态不断演变，伊德利卜以及古塔东部(大马士革农村省)的暴力事件不断增加，但在一些情况下实施的停火减少了暴力。最近，由美利坚合众国、俄罗斯联邦和约旦在 2017 年 7 月促成的停火，导致该国西南部的暴力事件减少，特别是在德拉、库奈特拉和苏韦达。更普遍而言，2017 年 7 月和 8 月，俄罗斯努力与武装团体执行地方停火协议，包括在霍姆斯北部和古塔东部(大马士革农村省)。

27. 在军事方面，叙利亚军队在富产石油的沙漠地带取得了对伊黎伊斯兰国的重大胜利，重新控制了德尔祖尔。在这种背景下，美国和俄罗斯联邦同意沿幼发拉底河设定“解除冲突线”，幼发拉底河以南的地区归叙利亚政府、俄罗斯联邦和伊朗伊斯兰共和国控制，以北的地区归美国和叙利亚民主力量控制。政府于 2017 年 10 月份表示计划夺回对该国的自然资源控制，之后叙利亚军与叙利亚民主力量因争夺德尔祖尔战略性油田控制权的紧张关系可能升级。

28. 在北方前线，土耳其开始准备对阿夫林(阿勒颇)的叙利亚民主力量开展攻势，并加紧炮击叙利亚北部库尔德控制的城镇，以削弱民主联盟党的影响力。在伊德利卜，土耳其支持的武装团体面对政府的进攻继续退让领土，导致他们被困在相互孤立的小块地区，相互分裂并在政治上被边缘化。这些武装团体的削弱使沙姆解放组织<sup>3</sup>成为伊德利卜的主要力量，他们使沙姆人伊斯兰运动遭受了沉重的军事损失。报告所述期间，沙姆解放组织通过在哈马省和伊德利卜省吸收规模较小、盘踞地方的团体，以及对伊德利卜的民政当局强加控制，努力在叙利亚西北部站稳脚跟。然而，大规模平民抗议活动阻碍了沙姆解放组织控制重要的城市中心。

29. 2017 年 8 月，政府和民主联盟党之间的紧张关系也有所升级，原因是库尔德当局单方面宣布打算举行基层和地方选举，以巩固对库尔德控制地区的行政管理。2011 年爆发的动乱以及随后 2012 年叙利亚当局撤出库尔德领土使民主联盟党得以巩固势力，并为其建立事实上的自治区的项目提供了合法理由。在军事方面，继 2017 年 9 月在美国支持下开展了一次军事行动以解放德尔祖尔之后，库尔德部队继续不断获得对主要油气田的控制权。

30. 继 2017 年 5 月俄罗斯联邦、土耳其和伊朗伊斯兰共和国之间达成协议，设立冲突降级区以减少叙利亚特定省份的暴力事件后，保证国于 9 月 14 和 15 日在阿斯塔纳举行会议，进行了新一轮谈判，以决定在六个月的时间内在霍姆斯北部、古塔东部(大马士革农村省)和伊德利卜执行协议。尽管达成了协议，但由于叙利亚军队的空袭和军事地面行动愈演愈烈，自 2013 年以来一直遭到围困的古塔东部地区的状况继续恶化，围困进一步收紧，超过 39 万名受困平民的人道主义处境也随之恶化。此外，尽管 Faylaq al-Rahman, Jaysh al-Islam 和俄罗斯联邦在 7 月和 8 月谈判达成了停火协议，但武装团体之间的内部斗争仍影响到人民。

31. 2017 年十月，继沙姆解放组织针对政府在哈马北部的阵地实施进攻之后，俄罗斯和叙利亚部队在伊德利卜和哈马的空中行动也升级。这次行动的重点是攻击伊德利卜和哈马北部残余的反对派占领地带，和重新夺回 Abu Duhur 空军基地

<sup>3</sup> 沙姆解放组织是由恐怖主义组织征服沙姆阵线(以前称为努斯拉阵线)为首的极端主义派别伞式组织。

等战略基础设施(见第 76 段)。作为强制执行冲突降级区行动的一部分,土耳其军队开进伊德利卜,同时对沙姆解放组织的阵地进行炮击,以支持自由叙利亚军的一项进攻行动。在该国中心地区,经过长达四个月的军事行动,叙利亚民主力量于 2017 年 10 月 20 日宣布将拉卡从伊黎伊斯兰国控制下解放出来,并成立了一个民政理事会来管理这个城市。

32. 军事行动在 2017 年 11 月加速,叙利亚军在南部取得若干重大胜利,并于 11 月 3 日宣布完全控制了德尔祖尔市。在西北部,沙姆解放组织在两大成员团体(Nour al-Din al-Zenki 和 Jaysh al-Ahrar)叛逃后继续丧失其军事影响力。叛逃行为造成了沙姆解放组织和 Nour al-Din al-Zenki 之间的敌对关系,并引发了阿勒颇西部的暴力冲突。为了结束冲突,两个团体在 11 月中旬签署了一项协议,立即停止敌对行动。

33. 在外交方面,美国和俄罗斯联邦总统于 2017 年 11 月 11 日在越南亚太经合组织峰会上签署了一项声明,强调必须开展宪法改革进程并在阿拉伯叙利亚共和国安排由联合国监督的选举。11 月 21 日,即在阿拉伯叙利亚共和国举行的土耳其—伊朗—俄罗斯三方首脑会议开幕前一天,普京总统和阿萨德总统一致认为,阿拉伯叙利亚共和国内的军事行动即将结束,而且他们强调需要启动一个政治进程,包括在俄罗斯联邦索契举行一次叙利亚全国对话大会。由于俄罗斯和美国关于美军在叙利亚北部未来作用的想法存在分歧,库尔德自决的愿望以及在索契达成政治解决方案的努力将依然是存在争议的问题,并且毫无疑问会影响在国际上就危机的政治解决方案达成共识的努力。沙特阿拉伯也为和平进程的成形作出了努力,该国于 11 月 22 日至 24 日在利雅得举行会议,目的是组建一个能够在下一轮日内瓦和平会谈中代表叙利亚反对派不同派别的联合代表团。会议结束时,叙利亚反对派发表了《利雅得二号声明》,声明中宣布组建一个五十人的团体,参加日内瓦谈判,并无条件地与政府进行直接谈判。

34. 11 月 28 日,秘书长叙利亚问题特使斯塔凡·德米斯图拉在日内瓦开启了第八轮叙利亚内部和平会谈,重点是宪法进程和安排在联合国监督下的选举,以执行安全理事会第 2254(2015)号决议。阿拉伯叙利亚共和国政府代表团在《利雅得二号声明》发表之后,推迟了出发参加会谈的日期,该国政府认为声明中包含要求阿萨德总统离开叙利亚的先决条件。虽然特使将会谈延期至 12 月 15 日,但在政府和反对派之间举行直接会谈的目标没有实现。

35. 2017 年 12 月 11 日,在俄罗斯武装部队参谋长宣布该国已经完全从伊黎伊斯兰国手中解放之后,普京总统访问了侯迈米姆空军基地(拉塔基亚省),宣布俄罗斯部队的特遣部队有一大部分将撤离该国。12 月 21 日和 22 日,哈萨克斯坦政府主持召开了第八轮阿斯塔纳会谈,重点讨论了冲突降级区的情况和释放被拘留者的问题。会议结束时,保证国发表联合声明,宣布开始准备将于 2018 年 1 月 29 日和 30 日在索契举行的叙利亚全国对话大会。作为回应,40 多个反对派组织呼吁抵制索契大会,声称俄罗斯联邦试图绕过由联合国主持的在日内瓦举行的叙利亚内部会谈。



## 四. 伊拉克和黎凡特伊斯兰国的失败

### A. 拉卡

36. 早在 2012 年 2 月，委员会就担心冲突会带来激进化的风险，<sup>4</sup> 从那以后，委员会一直在记录恐怖主义和极端主义团体犯下的侵权行为。这些团体使用不加区分的攻击或对平民的攻击(往往带有宗派色彩)，造成了无数男女和儿童的死亡。2017 年 10 月 2 日，伊黎伊斯兰国在大马士革市米丹居民区制造了一起自杀性爆炸事件，造成 17 人死亡，其中包括数名警察，还有 20 人受伤。恐怖主义集团对逃离拉卡和德尔祖尔战斗的境内流离失所者进行了类似袭击，造成包括妇女和儿童在内的数十人伤亡(见附件三，第 14 段)。

37. 自 2013 年以来，伊黎伊斯兰国优先考虑建设一个“国家”或“哈里发”。通过以地方领袖和活动家为目标，并利用社会分裂和经济上处于绝望状态的社区，该组织迅速获得对叙利亚大块领土的控制权，拉卡市成为其事实上的首都。伊黎伊斯兰国被安全理事会认定为一个恐怖主义团体，成为暴力的代名词。<sup>5</sup> 委员会就伊黎伊斯兰国犯下的灭绝种族罪<sup>6</sup>、危害人类罪和战争罪<sup>7</sup> 报告了调查结果。

38. 2016 年 11 月，叙利亚民主力量宣布将发动“幼发拉底河上的怒火行动”，旨在夺取拉卡省。在迅速推进全省之后，该组织于 2017 年 6 月启动了旨在控制拉卡市的行动最后阶段。他们的地面攻势得到国际联盟密集空袭的支持。<sup>8</sup> 尽管到 10 月中旬，民主力量和国际联盟已经成功赶走了伊黎伊斯兰国，但在拉卡市的战斗中，各方都犯下了侵害行为，并给平民造成了极高的代价。在行动顶峰期间，国际联盟每天进行大约 150 次空袭，导致拉卡市大部分地区遭到破坏，<sup>9</sup> 大量平民伤亡。为了远离暴力，大约 20 万人离开家园，他们别无选择，只能搬到叙利亚民主力量管理的境内流离失所者营地，在那里遭到拘禁(见附件三，第 12-18 段)。少数留在城市中的人被伊黎伊斯兰国用作人体盾牌，以防止敌军向前推进。

<sup>4</sup> 见 A/HRC/19/69，第 124 段。

<sup>5</sup> 见 A/HRC/27/CRP.3。

<sup>6</sup> 见 A/HRC/32/CRP.2。

<sup>7</sup> 见 A/HRC/27/CRP.3。

<sup>8</sup> 自 2014 年以来，由 60 多个国家组成的国际联盟联手通过包括空袭在内的各种手段打击伊黎伊斯兰国。

<sup>9</sup> 联合国训练研究所(训研所)，联合国业务卫星应用项目，“叙利亚：拉卡/拉卡省”，2017 年 10 月 21 日进行的图像分析，2017 年 12 月 1 日公布，可查阅 [http://unosat-maps.web.cern.ch/unosat-maps/SY/CE20130604SYR/UNOSAT\\_A3\\_Raqqa\\_Damage\\_Points\\_20171021.pdf](http://unosat-maps.web.cern.ch/unosat-maps/SY/CE20130604SYR/UNOSAT_A3_Raqqa_Damage_Points_20171021.pdf)。

## 1. 国际联盟的空袭

39. 2017年3月20日至21日夜间大约11时左右，美国领导的联军对当时受伊黎伊斯兰国控制的曼苏拉(拉卡)Al-Badiya 学校进行了空袭。委员会最初在2017年7月报告了这一事件<sup>10</sup>，其结论详见下文附件四(第7-11段)。委员会在空袭后在当地与受害者、救援人员、村民和个人进行了20次访谈，得出结论认为，这所学校自2012年一直在收容境内流离失所的家庭。居住在校的200多名居民有150人死亡。委员会确定了12名幸存者，其中一些人身受重伤，包括严重烧伤和丧失肢体。幸存者中有4名妇女和6名儿童，最小的是一个10个月大的婴儿。

40. 在2017年3月28日的记者通报会上，国际联盟成立的多国联合部队宣布对空袭负责，声称其目标是据其声称正在使用学校的30名伊黎伊斯兰国作战人员。联合部队表示无法证实这所学校为境内流离失所者所用。

41. 委员会收集的信息不支持学校中有30名伊黎伊斯兰国战士的说法，也不支持学校被伊黎伊斯兰国使用的说法。相反，伤亡情况和Al-Badiya 建筑物的性质与国际联盟的评估大相径庭。这所学校的居民为流离失所的家庭，包括大量妇女和儿童，以及学校自2012年便被用于收容境内流离失所者的资料应该很容易为国际联盟的行动小组所掌握。因此，委员会的结论是，国际联盟应该知道目标的性质，但未能采取一切可行的预防措施，以避免或尽量减少平民的意外伤亡和对民用物体的破坏，违反了国际人道主义法。国际联盟进行的后续调查应当能够确定这一事件造成了大量平民伤亡。

## 2. 叙利亚民主力量的地面行动

42. 在整个报告所述期间，作为其控制地区强行征兵活动的一部分，叙利亚民主力量继续征召男子和儿童服役。被征募者包括年仅13岁的儿童，他们仅接受了一些基本训练就被部署到交战激烈的前线。2017年7月，两名15和16岁的男童在Tabaqah(拉卡)被叙利亚民主力量征募。较小的那一个随后在战斗中手臂受伤。另外，一名在2017年7月中旬逃离该市的拉卡居民与他的家人在抵达叙利亚民主力量控制的领土时被一名身穿军装的库尔德少年停下并遭到讯问。虽然更少见，但女童也被招募入伍；2017年10月，一名十几岁的女孩被叙利亚民主力量征募。阿拉伯叙利亚共和国于2003年批准的《儿童权利公约关于儿童卷入武装冲突问题的任择议定书》规定，可直接参加敌对行动、被招募加入武装团体和被政府强制招募加入其武装部队的最低年龄为18岁，没有任何保留。

43. 委员会收到报告称，叙利亚民主力量要求返回Tall Abyad(拉卡)的人员每家出一名男子自愿入伍，这事实上阻止了一些家庭返回自己的家园。还有一些情况是，家庭选择搬离叙利亚民主力量占据的地区以避免因拒绝征兵而遭到报复，包括因此被捕。强制招募男子入伍的情况在境内流离失所者营地也有报告，有些人已经因为拒绝加入叙利亚民主力量而被捕。

<sup>10</sup> 见A/HRC/36/55，第79段。

44. 记者和活动人士因报道叙利亚民主力量和国际联盟据称在拉卡市、 Tall Abyad 和 Tabaqah 犯下的侵犯行为而受到恐吓和逮捕。有几次，叙利亚民主力量逮捕了所通缉活动人士的家属并将他们拘留长达六周，以获得活动人士的下落，并向活动人士施压让他们自投罗网。叙利亚民主力量还逮捕了叙利亚自由军和伊黎伊斯兰国成员的亲属进行审讯。这些被拘留者中有一些是妇女和儿童，包括一名 16 岁的女孩和一名 10 岁的男孩。家庭成员报告称被拒绝告知有关被拘留者的信息，包括拘留设施的位置和拘留原因。据报告，一些男性被拘留者遭到殴打和烟头烫，而且无法获得糖尿病等慢性疾病的用药。

### 3. 伊拉克和黎凡特伊斯兰国

45. 2017 年 6 月，叙利亚民主力量及其附属团体，主要包括叙利亚自由军和来自拉卡省的部落成员，<sup>11</sup> 在国际联盟的空中支援下包围并控制了拉卡市的部分地区。截至当时，已有约 20 万名居民离开了城市，但还有约 5 万人仍然被困。大多数可以离开的人已经离开，但其他的老年人和体弱者没有选择，只能留下。一些受访者表示，他们决定留下是因为担心一旦离开，伊黎伊斯兰国便会没收他们的住房。2017 年 6 月末首先有报告称，伊黎伊斯兰国正阻止平民离开，一直到 10 月将伊黎伊斯兰国从拉卡市驱逐的进攻结束，这类报告一直存在。

46. 随着叙利亚民主力量不断赢取领土，平民越来越难以逃离。2017 年 6 月之前，伊黎伊斯兰国允许包括病人在内的一些平民转移到他们控制的拉卡乡下。然而，一旦叙利亚民主力量包围城市，伊黎伊斯兰国便停止这种做法，并下令居住在城市郊区的居民搬到市中心。8 月初，伊黎伊斯兰国下令居住在 Albu Saraya 街区的一家人搬到另一栋楼，两个小时这栋楼遭到空袭。据估计，有 30 名平民在这场袭击中丧生。在叙利亚民主力量围城后，平民利用幼发拉底河上的老桥逃到南方也变得越来越困难，因为该地区已经成为前线，而且伊黎伊斯兰国在它失去控制的地区都埋下地雷，迫使许多平民买通蛇头带领他们通过这些区域。

47. 伊黎伊斯兰国采用各种手段防止平民离开拉卡市，包括下令平民从其丢给叙利亚民主力量的街区搬离，以及使用狙击手和地雷。据报告，一个有 20 多人的大家庭在 7 月中旬叙利亚民主力量接近其街区之后已经离开该市，但伊黎伊斯兰国命令他们转移到仍然由其控制的西部地区。当这家人试图在夜间走老桥逃走时，他们遭到伊黎伊斯兰国狙击手的射击。幸运的是，没有人受伤。8 月初使用同一条路线的另一队人也遭到伊黎伊斯兰国狙击手的射击；还有包括两名妇女和一个 11 岁残疾女孩在内的四个人因地雷爆炸而身亡。

48. 通过要求平民转移到其控制的地区，并以狙击和埋设地雷防止他们离开，伊黎伊斯兰国试图把平民用作人体盾牌，以免让拉卡市遭受更多攻击。通过故意将平民安置在会遭受战斗行动影响的地区，旨在使这些地区免受攻击，伊黎伊斯兰国武装分子在拉卡省犯下了使用人体盾牌的战争罪。<sup>12</sup> 此外，受访者回忆说，从理论角度看，伊黎伊斯兰国认为试图离开拉卡市的人员为离开 dar al-Islam(伊斯兰教地区)前往 dar al-harb(战争地区)的叛教者，因此，他们可以成为攻击目标。

<sup>11</sup> 这些成员主要来自 Al-Sanadid Forces 民兵部队和 Jabhat Thuwar al-Raqqah 前线组织。

<sup>12</sup> 例如，见前南斯拉夫问题国际刑事法庭，检察官诉 Radovan Karadžić 案，案件编号：IT-95-5/18-T，2014 年 3 月 24 日的判决(四卷)，第 199 页，第 525 段。

49. 尽管平民被用作人体盾牌，国际联军的空袭依然与日俱增，导致拉卡市大部分遭到破坏，无数平民死亡，其中许多人被埋在公园等临时墓地。一些受访者表示，他们曾试图从废墟下找回遗体，但往往由于缺乏重型机械而办不到。随着死亡人数上升，国际机构对尸体可能给公众健康造成的危险，包括对疾病的传播表示关切。

## B. 德尔祖尔

50. 和在拉卡一样，从伊黎伊斯兰国武装分子手中夺回德尔祖尔的成功军事行动以协调一致的空袭为特点，主要由亲政府部队开展，但这实际上加重了三年多来一直生活在伊黎伊斯兰国控制下的数千名平民的苦难。2014年6月，伊黎伊斯兰国武装分子包围了德尔祖尔市中政府占领的一些街区，并拒绝向被围困人口提供任何商业和人道主义援助。8月22日，亲政府部队正式发动夺回德尔祖尔的进攻，并于9月5日打破了伊黎伊斯兰国对德尔祖尔市部分地区为期三年的围困。<sup>13</sup>

51. 经过两个月的冲突，叙利亚国防部宣布，政府军已经获得对城市的全面控制。2017年12月6日，叙利亚国家电视台宣布，德尔祖尔省已经从伊黎伊斯兰国手中解放。与之呼应的是，俄罗斯武装部队参谋长同一天也宣布，俄罗斯军队已于11月3日接管德尔祖尔市。尽管发布了这些声明，亲政府力量针对剩余伊黎伊斯兰国目标的空中行动似乎仍在继续，特别是在沙漠地带的某些区域。

52. 得以逃离德尔祖尔的平民回顾了他们亲眼目睹的破坏程度：大多数人一致描述了城市大约80%的部分因空袭遭到严重破坏。<sup>14</sup>许多目击者报告说，亲政府部队毫不区分军事目标，居民区数百名平民在空袭中丧生。

53. 2017年9月之前，伊黎伊斯兰国武装分子采用街头巡逻大力防止平民离开德尔祖尔，行动主要在夜间进行。任何试图离开德尔祖尔的平民都被逮捕并送往最近的 hisbah(伊黎伊斯兰国警察)站，要么被迫因不服从命令缴纳罚款，要么遭受鞭笞的体罚。9月之后，当空袭力度明显加大，伊黎伊斯兰国开始失去对人口的控制，随之而来的混乱使 hisbah 的街头巡逻不再可行，伊黎伊斯兰国便开始使用检查站。和在拉卡一样，伊黎伊斯兰国故意将平民安置在险境，以防止这些地区遭受攻击，这构成了使用人体盾牌的战争罪。

54. 由于无法应付针对他们的攻势，2017年9月，伊黎伊斯兰国开始强行征召新兵活动，下令所有20至30岁之间的男子都必须应征入伍。为了执行这项法令，在城市和农村地区均设了若干检查站。对公交车和出租车进行截查，男性乘客被迫参加宗教忏悔(istitabah)课，接着接受军事训练。几个月后，这些男子便被直接送往前线。

55. 截至9月，由于伊黎伊斯兰国失去了对人口的控制，数万名平民北上前往库尔德人控制的地区(见附件三)。但还有数百人试图乘坐以前用来运输货物、车辆

<sup>13</sup> 例如，见 A/HRC/31/68，第127-129段关于伊黎伊斯兰国围困德尔祖尔的内容。

<sup>14</sup> 训研所，联合国业务卫星应用项目，“叙利亚：德尔祖尔，德尔祖尔省”，2017年11月9日进行的图像分析，2017年11月21日发布，可查阅 [http://unosat-maps.web.cern.ch/unosat-maps/SY/CE20130604SYR/UNOSAT\\_A3\\_Deir\\_Ez\\_Zor\\_Damage\\_Points\\_20171109\\_Optimized.pdf](http://unosat-maps.web.cern.ch/unosat-maps/SY/CE20130604SYR/UNOSAT_A3_Deir_Ez_Zor_Damage_Points_20171109_Optimized.pdf)。

和牲畜的渡轮渡过幼发拉底河。9月11日和12日，亲政府部队袭击了在 Kharita 横渡幼发拉底河的渡轮。9月11日，大约上午10时30分，亲政府部队发动了对 Kharita 渡轮的空袭，当时船上有40到50个人。30名平民丧生，其中很多人是淹死的。目击者坚称，渡轮上没有伊黎伊斯兰国武装分子。

56. 同样，9月9日与10日，在 Al-Bouleel 渡口，亲政府部队对一艘即将开航驶上幼发拉底河的渡轮发动了空袭。9月9日，大约在早上11时，空袭击中了 Shamia al-Jazeera 渡口，试图逃离的平民正在那里等候。至少有32名平民在袭击中丧生，包括妇女和儿童。受访者提供的残骸照片表明，使用的是 RBK-250 和 RBK-500 集束炸弹。在平民人口密集地区使用集束弹药本质上属于滥杀滥伤行为(因为其散布范围广、哑弹率高，会在敌对行动停止后数年内仍然危及平民)。因此，这种弹药为习惯国际人道法所禁止。亲政府力量在德尔祖尔使用这种弹药构成了在平民人口密集区实施不加区分攻击的战争罪。

## 五. 境内流离失所者

57. 至少有650万名叙利亚人因为敌对行动而在阿拉伯叙利亚共和国境内流离失所，其中包括近300万名儿童。2017年流离失所的叙利亚平民远远超过一百万人。流离失所的形式多种多样。有时，亲政府部队不断攻击被围困地区的民用基础设施，导致能够逃离的平民流离失所，还有数以千计的平民因为和解框架而流离失所，因为和解框架往往意味着局部停火和疏散协定。<sup>15</sup>

58. 许多被迫离开反对派控制地区流离失所的平民最后被安排在伊德利卜的一些学校，但这些学校没有做好接收他们的准备。其他人没有选择，只好住在拥挤的营地或陌生的城镇，缺乏基本的资源。在伊德利卜和附近阿勒颇的农村地区，境内流离失所者不断遭受轰炸(见第77-79段)，也没有得到足够的人道主义援助。根据疏散协议，亲政府部队将同情它的民众转移到霍姆斯、塔尔图斯和拉塔基亚省属于政府控制的地区，那里的条件明显要好得多。

59. 在其他情况下，平民因为敌对行动而流离失所，或在冲突发生前便事先逃离。在拉卡和德尔祖尔针对伊黎伊斯兰国的军事行动引发了自2011年以来单次规模最大的一波境内流离失所者。截至2017年6月，数以万计来自拉卡和德尔祖尔的叙利亚人开始了危机四伏的逃亡之旅，他们穿越前线并冒着遭遇地雷的危险，迁移到拉卡和哈塞克省北部叙利亚民主力量管理的营地。逃离拉卡和德尔祖尔的总人数达到32万。在拉卡和哈塞克北部，叙利亚民主力量拘禁了8万境内流离失所者，以审核他们与伊黎伊斯兰国有关联的可能性。尽管以安全威胁为借口，叙利亚民主力量全面拘禁来自拉卡和德尔祖尔的境内流离失所者的做法是没有正当理由的。目前被拘禁的平民中有妇女、儿童、老人和体弱者、残疾人和其他人，他们没有造成任何紧迫的安全威胁，将他们持续拘留无论出于何种理由都显然是没有必要的。在许多情况下，对这些人的持续拘禁构成了任意剥夺自由和对数千人的非法拘留。

<sup>15</sup> 委员会曾记录政府部队强迫平民流离失所的事件，包括从阿勒颇市东部(见 A/HRC/34/64, 第93段)、马达亚(大马士革农村省)、拜尔宰、特斯尹和卡本(大马士革东部)(见 A/HRC/36/55, 第35段)前往伊德利卜省。

## 六. 回返者和回返障碍

60. 除了境内流离失所者的危险处境，还有 60 万名从国外返回的叙利亚人，由于无法返回自己的家园，他们也成为境内流离失所者。在拉卡市的各个角落，伊黎伊斯兰国放置的诱杀装置和地雷以及空袭的遗留爆炸物使平民不可能回返。因为局部停火和疏散协议而被迫迁移到伊德利卜的平民没有一个人返回家园。

61. 许多境内流离失所者因为居住地点发生的冲突或使用权保障方面的困难和不断上涨的食品和住房价格而多次流离失所。除了因为拉卡和德尔祖尔的敌对行动而境内流离失所的数千名者，有大量曾经流离失所居住在伊德利卜的人员在 2017 年 11 月和 12 月再次流离失所。一波又一波的流离失所人群给收容社区造成了限制，因为需求推高了租金和商品价格，同时就业机会仍然有限。流离失所者，尤其是以女性为户主的家庭在享有基本权利，包括适足住房权方面遭受的痛苦特别大。

62. 与冲突有关的风险，包括暴力、歧视或拘留的可能性构成阻止特定群体立即返回原籍地的障碍。此外，全国各地战争遗留爆炸物造成的大规模破坏和污染成为回返的长期障碍，必须付出大量资源和政治意愿才能清除这些遗留物，恢复被污染地区的安全，重建房屋和基础设施，并修复叙利亚各群体分裂的社会结构。

63. 在这方面，委员会不断收到报告指出对有关住房、土地和财产权的法律框架的实际和拟议修改有可能严重限制境内流离失所者和难民返回家园的能力。例如，2017 年 10 月 26 日经总统令批准的 2017 年规范已遗失或损坏所有权契据复原工作的第 33 号法律规定了不动产方面已丢失或损坏所有权契据的鉴定、行政和法律复原的详细标准。<sup>16</sup> 虽然法律条款，特别是其中的通知程序，似乎符合公平审理的权利，但法律似乎并没有解决境内流离失所者的处境，也没有规定当行政和法律上复原所有权的决定涉及他们的利害关系时应通知他们。

64. 还有一些可能影响境内流离失所者享有财产能力的法律正在审议中。例如，有报告称，叙利亚议会最近出台了一份法律草案，其中规定免服兵役需支付 8000 美元，对未报到或支付罚款者将处以经济惩罚，还规定政府可以没收动产和不动产。<sup>17</sup> 虽然在本报告起草时，该法律草案尚未正式颁布，但受访者认为它已经得到非正式的实施。他们强调，境内流离失所者在获取涉及影响产权问题的可靠法律信息时存在困难，这对他们返回原籍地的权利构成了另一种障碍。

## 七. 被拘留和失踪人员

65. 在整个阿拉伯叙利亚共和国，平民继续遭受任意逮捕和酷刑，被关押在不人道的条件下。冲突各方经常剥夺被拘留者享有正当程序和公正审判的权利。2017 年从政府控制设施(包括阿勒颇和大马士革政治安全分局)释放的被拘留者描述

<sup>16</sup> See [www.sana.sy/?p=649244](http://www.sana.sy/?p=649244), “A law regulating the reconstitution of a lost or damaged real estate document”, 26 October 2017.

<sup>17</sup> See [www.sana.sy/?p=656572](http://www.sana.sy/?p=656572), “The People’s Assembly approves a draft law concerning those who have passed the mandatory age for compulsory service and another on linking the public register of workers in the State with the Ministry of Administrative Development”, 8 November 2017.

称，在审讯中他们遭到殴打，以逼迫他们提供信息或招供。<sup>18</sup> 过度拥挤的牢房、缺乏充分的卫生设施和虱子侵扰引发了各种疾病，包括皮肤传染病的传播。在许多情况下，被拘留者在其家属向官员行贿后获释。

66. 在拉卡、德尔祖尔和哈马省各地，伊黎伊斯兰国拘留的人员包括被指控违反其规则或涉嫌通敌的平民、宗教少数群体成员、被控报道该团体所犯侵权行为的记者和活动人士。在 2017 年 7 月末，伊黎伊斯兰国在德尔祖尔省南部逮捕并殴打了一名年轻男子，理由是他拥有互联网电缆，因此指控他协助政府军。在另一起事件中，10 月中旬，该团体在哈马乡村地区逮捕了 40 名德鲁兹教派成员，延续了其任意拘留宗教少数群体的做法。

67. 一些反政府武装团体在所控制地区利用临时拘留场所关押平民。例如，2017 年 11 月 1 日，Nour al-Din al-Zenki 在 Darat Izza(阿勒颇)拘留了三名平民，其中包括义务教育局的一名成员首长。这次逮捕发生在其与沙姆解放组织的冲突期间。在一个月的拘留期间，至少有两个被拘留者遭到殴打，被关禁闭，被迫在供词上按手印。被拘留者中的两人在被带见该武装团体的“军事”法官之后获释。

68. 在拉卡和德尔祖尔的军事行动期间，叙利亚民主力量声称已经拘留了 1397 名“恐怖主义”作战人员，其中大部分是或曾经是伊黎伊斯兰国成员，包括来自多达 30 个国家的数百名外国作战人员。<sup>19</sup> 与伊黎伊斯兰国有关的妇女和儿童也遭到拘留。虽然叙利亚民主力量曾表示正打算将外国作战人员及其配偶和子女遣返原籍国，但他们报告说，迄今为止各国均不同意遣返本国国民，导致他们陷入在法律和行政方面遭到遗忘的境地。被当做伊黎伊斯兰国作战人员关押的叙利亚国民据报告会得到叙利亚民主力量附属“法院”的“审判”。

69. 国际人权法和人道主义法规定了各国和非国际冲突各方在被拘留者的待遇和保护方面的明确义务。不管他们被拘留是否合法性，被拘留者都有权享有尊重其固有尊严的拘留条件，这是日内瓦四公约第三条和习惯国际人道主义法的共同规定。

## 八. 围困下的生活

70. 过去五年里，围困战的使用所影响的平民人数已经超过交战各方所采用的其他任何战术，其一贯特点是剥夺自由迁徙权、食物权、水权、教育权、健康权和生命权。最具破坏性的围困战发生在东阿勒颇，由亲政府部队在 2016 年 7 月和 12 月间发动。<sup>20</sup> 近 42 万名叙利亚平民仍被困在围困地，其中 90% 的人如今在古塔东部(大马士革农村省)的艰难环境中勉强维生。还有 290 万名叙利亚人生活在人道主义行为方难以抵达的地区。亲政府部队、武装团伙和恐怖主义组织经常拒绝向被围困平民提供重要的食品、医疗品和其他基本物品，以迫使负责他们的武

<sup>18</sup> 另见 A/HRC/31/CRP.1。

<sup>19</sup> See People's Defense Units, "2017 Balance sheet of war — Syrian Democratic Forces", press release, 3 January 2018, available at [www.yppgrojava.org/2017-Balance-Sheet-of-War-%E2%80%93-Syrian-Democratic-Forces](http://www.yppgrojava.org/2017-Balance-Sheet-of-War-%E2%80%93-Syrian-Democratic-Forces).

<sup>20</sup> 见 A/HRC/34/64。

装团体投降。正如委员会<sup>21</sup>在2016年1月指出的那样，在围攻马达亚(大马士革农村省)的战争中，政府军以断绝粮食作为战争方法，这构成了战争罪。<sup>22</sup>断绝粮食导致严重急性营养不良，并对孕妇和儿童造成了特殊影响。经常性地拒绝医疗撤离又加剧了营养不良。

71. 对古塔东部的长期围困(详见附件二)目前已进入第五个年头。与阿勒颇市东部的情况一样，亲政府军对古塔东部的围困的特点也是无法获得足够的食物，人道主义援助的提供有限以及拒绝医疗撤离。委员会已经记录了在人口密集地区使用违禁化学武器和集束炸弹和攻击平民和受保护物体，包括学校和医院的事件。虽然医院是受保护物体，但被围困地区的医院一直是反复攻击的目标，勉力在被破坏的设施中运营，<sup>23</sup>而且往往缺少最基本的设备和药物，因为这些设备和药物的运送遭拒。由于担心医院遭到轰炸，孕妇往往选择在家分娩，没有医疗援助。安全理事会通过其第2165(2014)号、第2191(2014)号和第2258(2015)号决议，批准向全国范围内的被围困和边远偏僻地区无条件地运送人道主义援助，包括医疗援助。尽管如此，对古塔东部和大马士革周边地区的野蛮围困仍在继续。

## 九. 对民用基础设施的侵蚀

72. 自叙利亚冲突发生以来，怪诞的是各方一直针对平民和受保护物体进行攻击，违反了国际人道主义法。医院、礼拜场所、民防中心、人口密集的居住区、住宅、面包店、市场，以及学校(情况略好)都被不加区分的攻击夷为平地，或者更常见的是，成为故意攻击的目标。叙利亚各地儿童仍然特别容易遭受暴力侵害和虐待，被剥夺了他们根据《儿童权利公约》所享有的保护，而叙利亚是《儿童权利公约》的缔约国。

### A. 医院

73. 对平民和受保护物体最为明目张胆的攻击要数针对反对派控制地区医院和医疗设施的攻击，包括那些被亲政府军围困的地区。自2015年10月以来，这类攻击的频率显著增加。过去两年里，众多医院和医疗设施已经搬到得到加固的地下室或山里开凿的洞穴中运作，目的是加强对它们的保护，以免遭攻击。由于担心受袭，医疗管理人员已经不再按照国际人道主义法的规定佩戴显眼的标识。

74. 国际人道主义法规定，由于其特殊的人道主义功能，应向医院、医疗单位和医务人员提供特别保护。冲突各方在攻击这些目标时必须采取额外的具体措施。但是，在记录的事件中，亲政府部队或武装团体在攻击医院、医疗单位或民防中心之前从未提供预警。没有预警，医院内部或附近也没有军事目标，这说明亲政府部队是在蓄意攻击医疗基础设施，这是其战争策略的一部分，构成了蓄意攻击受保护物体的战争罪。此外，蓄意攻击医疗人员和救护车也构成了蓄意攻击医务人员和救护车辆的战争罪。

<sup>21</sup> 见 A/HRC/31/68，第 120 段。

<sup>22</sup> 见红十字国际委员会，规则第 156 条。

<sup>23</sup> 见 A/HRC/34/64，第 30-40 段。



75. 在本报告所述期间，委员会记录了亲政府部队蓄意攻击伊德利卜(见附件四，第 2-6 段)、哈马(见附件三，第 21 段)和古塔东部(见附件二，第 25-28 段)医院的持续模式。

## B. 学校

76. 2017 年 9 月至 12 月间，随着政府在阿勒颇和哈马的地面部队从北面、东面和南面向伊德利卜推进，亲政府部队同时向与伊德利卜接壤的阿勒颇农村地区的至少七所学校发动了一系列空袭。除了一次空袭外，其他所有袭击都是在孩子们不在学校时进行的，表明袭击旨在损毁建筑并尽量减少平民伤亡的模式。受影响的学校位于一片军事战略区域，通往 Abu al-Duhur 空军基地和连接阿勒颇和大马士革的铁路。努斯拉阵线武装分子及其附属进行了两年的围困之后，于 2015 年 9 月从政府部队手中夺取了 Abu al-Duhur 空军基地。<sup>24</sup> 关于袭击阿勒颇学校的详细情况见附件四，第 7-18 段。委员会还记录了亲政府部队在围困古塔东部期间袭击学校的情况(见附件二，第 20-23 段)。

## C. 市场

77. 在报告所述期间，袭击影响人员密集市场的模式仍在继续。<sup>25</sup> 例如，2017 年 11 月 13 日，下午 2 时刚过几分钟，Atarib(阿勒颇)的主要市场及周围的房屋还有自由叙利亚军的警察局便遭受了一系列空袭。空袭导致至少 84 人死亡，包括 6 名妇女和 5 名儿童，另有 150 人左右受伤。受袭地点位于一个平民人口密集的居住区。除了商店、餐厅、商业办公楼和家庭住宅，附近还有两所学校(详情见附件四，第 19-31 段)。

78. 可获得的信息表明，袭击是由一架俄罗斯固定翼飞机实施的，使用了包括爆炸武器在内的非制导武器。在平民人口密集地区使用这种武器必定会给平民造成影响。一些受访者称，沙姆解放组织和 Nour al-Din al-Zenki 在阿勒颇省西部一直在进行内讧。委员会还收到了关于可能目标的相矛盾的信息。

79. 冲突中的所有方面必须区分合法的军事目标和平民及民用物体，并使用能以特定军事目标为对象的作战方法或手段。没有证据表明上述袭击是蓄意以平民或 Atarib 市场为目标。但是，在平民人口密集地区使用非制导炸弹，包括爆炸武器，可构成发动不加区别攻击导致平民伤亡的战争罪。

## 十. 建议

80. 除了以下各项建议，委员会还重申在以往报告中提出的建议。

81. 委员会建议冲突各方在军事行动中或作为谈判方的角色中都能做到以下各点：

<sup>24</sup> 见 A/HRC/31/68，第 107 段。

<sup>25</sup> 见 A/HRC/28/69，附件二，第 2-8 段；A/HRC/30/48，第 34-35 段；以及 A/HRC/31/68，第 77 段。

(a) 停止对平民人口的侵害，包括即决处决、劫持人质、任意逮捕、强迫失踪、酷刑以及性暴力和性别暴力；

(b) 披露所有拘留场所的位置，无论是官方、秘密和/或临时拘留场所，同时提供完整的被拘留者名单。

(c) 允许独立监测员无条件地访问所有拘留场所，并至少允许红十字国际委员会等人道主义组织访问；

(d) 依照叙利亚问题特使的呼吁释放所有拘留中心中的儿童、妇女、老年人和残疾人；

(e) 在任何谈判达成的协议中都建立一项机制，以便迅速释放所有政治犯和其他被任意拘留者；

(f) 确保追究犯罪者的责任，确保任何最终和解方案都不包括对严重侵犯人权、种族灭绝、战争罪以及危害人类罪的豁免；

(g) 终止使用围困战术，以确保受冲突影响所有地区都能立刻和及时地获得人道主义援助；

(h) 通过保障所有返回原籍地的行动都是自愿进行并获得知情同意，确保返回权得到充分尊重并为返回提供便利，同时确保所有产权或租赁权得到保护。

#### 82. 委员会建议国际社会：

(a) 支持一项具有国际授权的独立机制，来协调和合并有关失踪人员，包括遭受强迫失踪者的申诉；

(b) 确保联合国各机构以及会员国中的主要捐助方和区域组织在有关问责和人权保护的基本条件得到满足的基础上，提供重建资金和援助以及有关便利。

#### 83. 委员会建议国际联盟

(a) 采取一切可行的预防措施，尽量减少对平民的伤害，包括在开展空中行动时审查与确定目标有关的所有战术准则；

(b) 进一步调查空袭导致平民伤亡的指控，包括访问目击者，并公开调查结果。

#### 84. 委员会建议亲政府部队：

停止在平民人口密集地区使用无制导武器和大规模效应武器，包括集束弹药和爆炸武器。

Annexes

Annex I

[English only]

Map of the Syrian Arab Republic



## Annex II

### Siege of eastern Ghutah (Rif Damascus)

#### I. Evolution of the siege

1. Situated just northeast of Damascus, the rural enclave of eastern Ghutah is administratively part of the Rif Damascus governorate. It had originally been heavily forested, though with the expansion of Damascus, many neighbouring areas, particularly those in the north, were steadily cleared for development. Over the past 50 or so years, due to rising housing costs in Damascus, many people began relocating to villages on the outskirts of Damascus city. As a result, eastern Ghutah eventually became an extension of a greater Damascus. Of the cities in eastern Ghutah, Douma was the largest prior to the 2011 uprising, with a population of 600,000, and, at the time, the seventh largest city in the country. The total population of eastern Ghutah prior to the uprising was 1.5 million individuals. According to the most recent census conducted by the civilian local council in eastern Ghutah, around 390,000 individuals currently subsist in the enclave, comprising less than 70,000 families, with just shy of 100,000 of them internally displaced persons. Over 90 per cent of all besieged Syrian men, women, and children currently reside in eastern Ghutah.

2. Government forces initially laid siege to the opposition-held enclave in April 2013, where after soldiers at checkpoints began imposing stringent restrictions on the entry of humanitarian aid, including by impeding the delivery of food and vital medicine. On some occasions, soldiers demanded bribes to grant entry of even the most basic commodities. For the vast majority of the duration of siege, checkpoints served as opportunities for extortion, with pro-Government forces and armed groups both profiting off the desperation of the confined population.

3. Since 2013, inhabitants of eastern Ghutah have been incinerating plastic to generate electricity, when all fuel products coming from Government-held areas ceased. The process was completed by burning the plastic down, distilling and filtering it, and producing kerosene, benzene, and diesel. Civilians further produced natural gas by digging holes, filling them with animal waste, and covering them with plastic. By early 2015, Government forces had cut access to water in Douma. Besieged civilians began digging underground wells. Some 600 wells were dug and manual pumps installed to supply neighbourhoods with water. Children created seesaws on some pumps and played on them, in order to also pump water.

4. Between July 2014 and February 2017, residents of eastern Ghutah primarily relied on an elaborate network of manmade tunnels to smuggle in food and medicine, which helped to alleviate their suffering. Owing to bribery, food and commodities were also occasionally smuggled inside the besieged area through formal routes and sold in local markets at elevated prices. Many of those tunnels were *de facto* closed by pro-Government forces in February 2017 upon their recapturing of large swathes of municipalities in the eastern Damascus area (*e.g.*, Barza, Tishreen, and Qabun), and further closed as part of a local truce implemented between pro-Government forces and opposition groups in Qabun that May (see A/HRC/36/55, annex III, para. 6).

5. Since May 2017, the official closing of tunnels in eastern Ghutah has compounded the effects of the siege to unparalleled levels. International organisations including the United Nations have to seek and obtain Government permission prior to aid deliveries, efforts which are routinely denied. Aid deliveries on 30 October and 12 November were wholly insufficient. Supplies on 30 October, for example, were only granted for 40,000 individuals in the towns of Kafr Batna and Saqba. In December, pro-Government forces did not allow any humanitarian aid into eastern Ghutah. Over the preceding months, aid reached only ten or maximum 20 per cent of people in besieged areas countrywide. Though

intended to be de-escalation zone, aid deliveries into eastern Ghutah have been denied by pro-Government forces more often over the reporting period than in 2016.

6. Eastern Ghutah is currently under the primary control of two armed groups, namely Jaysh al-Islam (the Islam Army) and Faylaq ar-Rahman (the Rahman Legion). Both factions have consistently been attacking Government-held Damascus city with unguided mortars that have killed dozens of civilians, amounting in each instance to the war crime of launching indiscriminate attacks.<sup>1</sup> Other groups present in eastern Ghutah include Ahrar al-Sham, which controls the area of Harasta, and Hay'at Tahrir al-Sham, which maintains control over certain pockets.

7. Infighting between the terrorist group Hay'at Tahrir al-Sham and Faylaq ar-Rahman on one side, and Jaysh al-Islam on the other was rampant in April and May 2016, in April 2017, as well as over July and August 2017. The impact of armed group and terrorist organisation infighting posed grave risks to civilians living under their control. Specifically, civilians were denied freedom of movement within the enclave, which impacted upon their ability to access farmlands. The inability to cultivate land and produce food locally led to an increased reliance on the use of tunnels. Prior to their closing, however, infighting between rebel factions also affected the regularity of tunnel access.

8. In September 2017, Government forces closed the Wafidin crossing point close to Douma, which served as an entry point for goods and which was manned by pro-Government forces on one side and by Jaysh al-Islam on the other. By November, prices for basic commodities surged drastically. One kilogram of sugar now costs between 10,000 and 16,000 Syrian lira. One kilogram of tea costs 100,000, of salt 20,000, of vegetable oil 12,000, and one box of powdered milk between 20,000 and 25,000 lira. Many families in eastern Ghutah currently subsist on \$10 to \$15 USD a day, though the cost of living would require a salary of \$50 to \$100 USD per family per day. While seasonal vegetables remain available, very little red meat or poultry can be found.

9. Just as pro-Government forces markedly heightened aerial and ground operations on eastern Ghutah in September 2017, cases of acute malnutrition become more prominent, with several children having since died of preventable illness such as organ failure exacerbated by malnutrition. The Commission has documented numerous instances in which children suffered immeasurably as a result of malnutrition in eastern Ghutah. Around the same time, women began increasingly experiencing difficulties producing breastmilk due both to malnutrition and stress, further leading to malnutrition of their babies. Many individuals throughout eastern Ghutah are currently subsisting on one meal a day.

10. Siege conditions have further pushed armed actors in eastern Ghutah to loot food and medical supplies from civil society organisations and aid warehouses. Reportedly, on 19 October, at approximately 11 p.m., a group of around 40 armed men wearing balaclavas attacked a Provincial (governorate) Council aid warehouse in Hammourieh. They had spread across the centre of Hammourieh and erected a checkpoint 25 metres away from the warehouse. The armed men broke down the door, stormed the warehouse, and carried stored foodstuffs out and into trucks parked at the entrance. Due to their masks, civilians near the scene were unable to identify any of the armed men. Around one hour after the attack, beleaguered civilians rushed to the warehouse and began taking foodstuffs as well, rendering the warehouse empty of its stocks. On the same evening, another Provincial

<sup>1</sup> Both factions have consistently been attacking Government-held Damascus city with unguided mortars that have killed dozens of civilians. After the tightening of the siege in February, armed groups began increasingly relying on rockets capable of reaching mid- and long-range areas. For example, on 17 November, a woman was left severely disabled after armed groups launched rockets into Damascus. On 19 November, shortly after 3:00 pm, armed groups located in Jobar or Harasta launched an improvised, 20-metre range rocket from the besieged enclave which struck a crowded city street (Mazza 86) on which two schools are located. One witness recalled hearing the typical "whistle" of the rocket, followed by a large explosion. Three civilians were killed in the attack, and their car destroyed. Minutes later, a similar rocket landed in an open area some dozens of meters away. Similarly, dozens more civilians died on 20 November when armed groups launched attacks against Damascus city. The Abdullah bin Rawaha mosque was reportedly damaged on the same day.

Council aid warehouse had been attacked by armed men, as well as a third the next morning. Several similar incidents occurred throughout late October, including in other areas such as Beit Sawa.

11. The United Nations Security Council has issued numerous resolutions calling “on all parties to lift all sieges on populated areas, including in ... Eastern Ghouta” (Res. 2139); expressing deep disturbance “by the continued, arbitrary and unjustified withholding of consent to relief operations and the persistence of conditions that impede the delivery of humanitarian supplies to destinations within Syria, in particular to besieged and hard-to-reach areas” (Res. 2165); and expressing grave concern at the “the use of starvation of civilians as a method of combat, including by the besiegement of populated areas” (Res. 2258). Despite these resolutions, the brutal siege of eastern Ghutah endures.

12. The UN Special Envoy for Syria, Staffan de Mistura, has further commented that “besiegement belongs in the Middle Ages”.<sup>2</sup> The siege of eastern Ghutah has been characterised by pervasive war crimes including the use of prohibited weapons, attacks against civilian and protected objects, starvation as a method of warfare leading to severe acute malnutrition, and the routine denial of medical evacuations. Indeed, Government forces routinely deny humanitarian evacuations for wounded and sick civilians and fighters until surrender (truces) and subsequent evacuation, granting it only in rare instances when successful exchanges can be carried out (see A/HRC/36/55, para. 27).

## II. Use of prohibited weapons

### A. Chemical weapons

13. During the period under review, Government forces continued to use chemical weapons against armed group fighters in eastern Ghutah. After using chlorine against Faylaq ar-Rahman fighters in Ayn Tarma, Zamalka, and Jowbar (Damascus) in early July (see A/HRC/36/55, para. 71), the Commission documented the use of chemical weapons against Ahrar al-Sham fighters in Harasta. In the early morning hours of 18 November, a number of weapons fell on the Harasta frontline. Minutes later, 25 fighters suffered from a combination of symptoms including blurred vision, unconsciousness, contracted pupils, shortness of breath, nasal secretions, vomiting, and headaches. Two other fighters who went to the rescue reported experiencing similar symptoms. Victims were taken to a medical point where their clothes were removed, they were washed with water, and given oxygen, atropine, and pralidoxime. There were no fatalities. Most of the fighters were released from the medical point within 24 hours, though some reported suffering from symptoms up to three days later.

14. The symptoms reported and treatments described are consistent with a small-scale chemical attack involving an organo-phosphorous pesticide. The small number of casualties, the absence of fatalities, and the relatively mild symptomology with quick recovery all suggest that a small dose of chemical agent was released on the Harasta frontline. Some interviewees also reported that it rained shortly after the attack, which would have limited effects farther away.

15. The information available is insufficient to establish the weapons delivery system. Some victims said they did not see the weapon that caused the explosion, which released white smoke, and others said it was caused by an artillery shell. Second-hand information suggesting the agent originated from a hand-grenade, which would be an extremely unlikely delivery system, was denied by victims. While the Commission is unable to establish the delivery system, it notes that the attack follows a pattern of Government forces using chemical weapons against fighters in eastern Ghutah, including in three instances in July, and that there are no documented incidents of armed groups using organo-

<sup>2</sup> UN NEWS CENTRE, *‘Medieval’ sieges, barrel bombs are ‘disgusting reality’ in Syria — senior UN officials*, 23 June 2016, available at [www.un.org/apps/news/story.asp?NewsID=54308#.Wlu0BK6nHIU](http://www.un.org/apps/news/story.asp?NewsID=54308#.Wlu0BK6nHIU).

phosphorous pesticides. Interviewees consistently said they believed the weapon originated from Government forces positions. It is therefore concluded that there are reasonable grounds to believe that Government forces used chemical weapons in Harasta on 18 November.

16. The use of chemical weapons is prohibited under customary international humanitarian law regardless of the presence of a valid military target, including when used against enemy fighters, as the effects of such weapons are designed to cause superfluous injury and unnecessary suffering.

## **B. Cluster munitions**

17. Pro-Government forces further used cluster munitions in densely populated civilian areas on at least three occasions in eastern Ghutah during the period under review, continuing a pattern previously documented in Douma (Rif Damascus),<sup>3</sup> Aleppo,<sup>4</sup> Dayr al-Zawr,<sup>5</sup> and Idlib.<sup>6</sup> All three documented incidents took place over the span of four days. Given their typically wide dispersal pattern and high dud rate, which continues to endanger civilians years after a cessation of hostilities, cluster munitions are inherently indiscriminate weapons when used in densely populated civilian areas. In such cases, including the two incidents described below, their use constitutes the war crime of launching indiscriminate attacks in a civilian populated area.

18. At around 7 a.m. on 15 November, residents in Saqba awoke to the sound of explosions, which injured seven persons, including one girl. Approximately half an hour later, another explosion was heard. Eyewitnesses recalled that a few seconds later, a number of smaller bombs exploded. In total, ten persons were injured including two women and four children under the age of 15. Subsequently, on 18 November, at around 3.30 p.m., three weapons struck a residential area in Hammourieh. When rescuers were arriving to the hospital with those injured by the first weapon, a second weapon released numerous bomblets hitting the vicinity of the hospital, which was located in a residential area. One man was killed and at least 25 persons were injured in the second incident, including three children, one of whom received surgery. Images of weapons remnants taken at the scenes of the 15 and 18 November incidents show multiple 3-O-8 rocket assisted mortar cargo canisters and their O-10 submunitions. These are cluster bombs fired from either the M-240 towed mortar or 2S4 Tyulpan self-propelled mortar gun, both of which are systems that Syrian and Russian forces are known to possess.

19. Throughout the afternoon of the following day, on 19 November, Douma was struck by a series of weapons resulting in the killing of six persons, including one child. The weapons impacted residential areas and al-Quwatly street, one of the city's main shopping streets. Of the 143 injured in Douma throughout that day, 25 were women and 26 were children. The victims sustained varying degrees of injuries with 50 requiring hospitalisation. Photos provided by interviewees display typical fragmentation pattern from cluster submunitions on concrete and a parachute for a O-10 cluster submunitions deployed from rocket-assisted 240 mm cluster bombs.

## **III. Attacks against protected objects**

### **A. Schools**

20. Over the span of three weeks, between mid-October and early November, an alarming number of schools and kindergartens were impacted by bombardments in eastern Ghutah. Incidents that occurred in October were caused by ground shelling; in November,

<sup>3</sup> A/HRC/34/CRP.3, paras. 57 and 59.

<sup>4</sup> A/HRC/34/CRP.3, para. 54; A/HRC/34/64, paras. 33–35.

<sup>5</sup> A/HRC/34/CRP.3, para. 58.

<sup>6</sup> A/HRC/34/CRP.3, para. 56; A/HRC/36/55, para. 65 and annex II, para. 18.

schools were hit with air dropped munitions. Fearing further attacks, the majority of schools were closed down, leaving thousands of children deprived of education. While schools may be made the object of attack when used for military purposes, such attacks require prior warning when the school is located in a densely populated civilian area, as would be the case for the incidents documented. In none of the following incidents, however, were warnings issued.

21. At around 10.40 a.m. on 16 October, a shell fell in a lane next to the Ghosn Zeitoun school in Kafr Batna. More than 150 children were gearing up to leave the school after attending classes, when an explosion was heard, later identified by interviewees as a shell likely fired from pro-Government forces' positions. A female teacher and her 8-year-old daughter who were leaving school were killed by shrapnel, and the teacher's 5-year-old son sustained injuries to one leg and his hands. Following the incident, the school reduced the number of shifts, operating only from 6 to 9 a.m.

22. On the morning of 31 October, at 10.30 a.m., a shell hit the playground of the Mohammad Nasser Ash'Osh primary school for boys in Jisreen. The school, attended by more than 400 pupils, is located in the centre of Jisreen, surrounded by residential buildings. There is a kindergarten across from the school. As with the incident on 16 October on the Ghosn Zeitoun school, students had just finished classes. The shell killed five boys aged eight to 11 years, and an elderly man who was selling candy close by. At least 26 other boys were injured, as well as one girl in the vicinity. Several of the injuries required immediate surgery, with one boy's feet having been amputated. The school's gate and one wall were destroyed. Following the incident, the school adopted an "emergency" schedule, holding only two classes a day.

23. In one single day, on 8 November, three schools were impacted by airstrikes in eastern Ghutah. The same school complex hosting the Ghosn Zeitoun school, previously hit on 16 October, was struck again though this time by an airstrike. At 1 p.m., an airstrike hit the pavement in front of Basma Amal school, also in Kafr Batna, causing severe damage to the classrooms. Shortly afterwards, at 2.30 p.m., an airstrike hit the Tamayoz kindergarten in Hammourieh. About 240 children attend the kindergarten, which is adjacent to a hospital. There were no casualties among pupils in any of the 8 November incidents, as the Education Directorate instructed all schools to close for security reasons just two days prior.

## **B. Hospitals**

24. Attacks on medical facilities are one of the longest running patterns of violations of the conflict in the Syrian Arab Republic. In besieged areas, hospitals often operate from damaged facilities that have been made the object of repeated attacks over years (see A/HRC/34/64, paras. 30–40), and without the most basic equipment and medication. Hospitals, clinics, and medical points are regularly attacked for attending to the wounded, as part of a strategy to erode the viability of civilian life in opposition-held areas. Attempts to protect the facilities by changing their names or moving underground have often proved unsuccessful (see A/HRC/36/55, paras. 62–66). Hundreds of medical workers have been killed and injured, and countless others have sought refuge abroad. Together, these factors have resulted in a severe weakening of the medical system countrywide, with devastating impact on besieged civilians, particularly vulnerable groups such as children, expectant mothers, the elderly, and those with chronic illnesses. During periods of intense bombardment, such as the one in eastern Ghutah on 8 November, the hundreds of casualties in need of care far exceed the capacity of hospitals to provide it, resulting in inadequate treatment and preventable deaths.

25. On 13 September, at 1.30 p.m., two artillery shells hit Al-Hekma hospital in Kafr Batna, with two more shells landing in its immediate vicinity. Al-Hekma hospital is the main trauma facility of the area. As the hospital had been hit several times in previous years, medical staff stopped using the building's upper floors, which were more frequently impacted in the other attacks. The 13 September attack resulted in four people being injured, among them two patients, including a woman, and one hospital worker. The



emergency and recovery rooms were also both damaged, as was hospital furniture including beds, tables, and a solar panel. Medical staff said they believed that the attack was carried out as reprisal against them for having treated a large number of civilians who were injured in pro-Government forces' bombardments in the days preceding the shelling.

26. Between 14 and 17 November, 84 people were reportedly killed and another 659 injured. On the afternoon of 20 November, when hospitals were overwhelmed with casualties, shells believed to have been launched from pro-Government forces' artillery positions in Al-Maliha impacted the Kafh hospital and its surroundings in Kafr Batna. One shell hit the roof of the hospital damaging water tanks and electrical installations. A second shell hit the front of the hospital's main entrance injuring a hospital worker in the head. Another two shells landed near the hospital, killing a woman and her four children, including two girls, aged between 2 and 11-years-old.

27. In both incidents, interviewees denied the presence of fighters or other military objectives in the hospitals. No warnings were issued prior to the attacks. Hospitals, medical units, and medical personnel are afforded "special protection" under international humanitarian law as a result of their specific humanitarian function, and parties to a conflict must take additional, specific measures prior to targeting such objectives. Throughout the entire Syrian conflict, in no instances has the Commission documented that pro-Government forces ever gave warning prior to attacking hospitals or medical units. Such attacks constitute the war crime of intentionally targeting protected objects.

#### IV. Medical evacuations

28. Until the initial closures of tunnels in February, only about 80 patients out of 700 estimated to be in need were able to leave eastern Ghutah to obtain treatment in Damascus city. Those who left fell into two categories: one group were patients, such as those in need of open-heart surgeries, who could only obtain treatment in Damascus as it was the only city with the required specialists. The second group were patients, including those requiring dialysis, who could be treated in eastern Ghutah were it not for the fact that siege conditions prevented the required medication and equipment from reaching those in need. In both groups, specific difficulties were faced by men and women. Men under the age of 42 risked being conscripted by Government forces once they reached Damascus city. Further, if a husband left for treatment, life for his wife and children became increasingly difficult. Women and girls in need of medical care faced additional challenges as armed groups in eastern Ghutah only allowed them to travel if accompanied by *mahram* (male guardian). In practice, this meant that a seat for evacuation that could have been taken by another patient was instead used for the *mahram* who did not medically need it.

29. After the complete closure of tunnels in May, all movement of patients was halted, leading to a desperate situation for those sick and wounded. Healthcare practitioners reported that the closure of tunnels led to shortages of medical equipment and medication, which — compounded by malnutrition — exacerbated existing medical conditions for countless civilians.

30. By early October, an estimated 368 patients, including 101 women and 48 children, required urgent medical evacuation. Among them were two girls under the age of three, one requiring heart surgery and the other chemotherapy. Requests for evacuations were submitted to the Syrian Arab Red Crescent (SARC) and followed a heavily bureaucratic process including having to go through the Ministry of Foreign Affairs, the Ministry of Health, and obtaining authorisation by all parties controlling checkpoints along the route patients needed to take. In October, a woman and 14-year-old girl were taken to Damascus for treatment but reportedly only because they were exchanged for a member of Faylaq al-Rahman. Another four patients were reportedly evacuated in October.

31. By December, the number of patients requiring evacuation had risen to 529. In an attempt to assist the gravest cases, 29 patients with severe injuries and chronic diseases were selected for immediate evacuation. While waiting for evacuation, at least two children died, and nine men refused to leave eastern Ghutah because they feared being arrested by Government forces. Their names were replaced with those of other patients. Requests to

pro-Government forces for guarantees that patients would not face reprisals went unanswered. Between 26 and 28 December, 29 patients were evacuated to Damascus in exchange for a number of civilians held by armed groups in Douma (see A/HRC/36/55, paras. 46–48).

## V. Conclusion

32. Entering its fifth year, the siege of eastern Ghutah has been marked by increasingly cynical means and methods of warfare, which have led to the worst documented cases of malnutrition over the course of the Syrian conflict. Characterised by pervasive war crimes, including the use of prohibited weapons, attacks against civilian and protected objects, starvation leading to severe acute malnutrition, and the routine denial of medical evacuations, the siege of eastern Ghutah continues to primarily affect the hundreds of thousands of civilians subsisting in the besieged enclave. The Commission has thoroughly documented how all parties to the conflict use siege warfare in order to erode the viability of life under the control of opposing sides, in an attempt to compel surrender (see A/HRC/36/55, para. 18). On the part of armed groups operating in eastern Ghutah, concerted, indiscriminate attacks using unguided mortars continue to kill and injure dozens of civilians in Government-held Damascus city.

## Annex III

### Internally displaced persons

1. Beyond civilian casualties and destruction of civilian property wrought by campaigns to combat and ultimately defeat ISIL in Raqqah and Dayr al-Zawr,<sup>1</sup> aerial and ground operations during the period under review triggered one of the single largest waves of internally displaced persons since the inception of the conflict. By June, tens of thousands of Syrian men, women, and children from Raqqah and Dayr al-Zawr began perilous journeys to escape both locales by crossing active frontlines and risking landmines, only to relocate to desert camps administered by the SDF in northern Raqqah and Hasakah governorates. The total number of displaced persons who fled Raqqah and Dayr al-Zawr since July stands at over 319,000 individuals — comprising at least 90,000 from Raqqah, and at least 229,000 from Dayr al-Zawr.

2. Beginning in May, the SDF, Asayish (Kurdish civilian police), and Kurdish military intelligence employed a systematic vetting procedure to assess the threat of all individuals fleeing Raqqah and Dayr al-Zawr for possible connections to ISIL. Tens of thousands of individuals who fled clashes were required to cross checkpoints and register in SDF-controlled camps for vetting, where SDF confiscated every encamped individual's identification documents (national card, family booklet, and/or passport). SDF initially established three emergency transit points where displaced persons transferred through prior to being sent on to larger camps: two are located in southern Hasakah (al-Karama and al-Shadadi camps), and one northwest of Raqqah city (al-Twehna camp).

3. As hostilities increased so too did the rate of internally displaced persons, whereupon four larger, informal camps/managed sites administered by SDF began receiving hundreds of daily new arrivals. These camps currently host approximately 20,000 internally displaced persons in each, totalling at least 80,000 individuals. They are scattered throughout desolate areas in Kurdish-held northern Syria, and located in al-Sad near Arisha, and Mabrouka village (Hasakah), and Ain Issa Cotton Factory and Slouk village (Raqqah).

4. Through the use of road closures, checkpoints, and the requirement of transit permits, SDF created a coercive environment whereby Syrians displaced from Raqqah and Dayr al-Zawr who fled north were left with no choice but to transit through camps, amounting to *de facto* detention from the moment of capture. Many were driven to the camps in pickup trucks by armed SDF, while those able to find and pay smugglers evaded the vetting process. During the reporting period, conditions throughout all camps failed to meet satisfactory conditions of shelter, hygiene, health, safety, and/or nutrition.<sup>2</sup> SDF soldiers further regularly extorted money from internally displaced persons in exchange for food, water, and for returning their identification documents to leave the camps. Though located primarily in the Syrian desert, the advent of winter has rendered encamped internally displaced persons more vulnerable to exploitation and abuse.

#### A. Conditions in camps of internally displaced persons

5. Displaced persons in al-Sad, Mabrouka, and Ain Issa Cotton Factory camps frequently reported a lack of even the most basic resources in each, though to varying degree. In al-Sad (Hasakah), some internally displaced persons recalled sleeping on the desert soil upon arrival because no tents were provided to them. Those in need of medical treatment often were not granted medical evacuations to a city hospital in Hasakah unless they could pay SDF camp authorities. One encamped civilian described only witnessing a

<sup>1</sup> See A/HRC/37/72, paras. 36–41 and 50–56.

<sup>2</sup> Guiding Principles on Internal Displacement, United Nations Economic and Social Council, E/CN.4/1998/53/Add.2, 11 February 1998 [hereinafter “UN Guiding Principles”], at Introduction 3(c), and Principles 18–19.

physician onsite when children required care. At times, access to food was limited to one loaf of bread per day. Access to water was also limited, with one 20-litre tank distributed per day per family, which had to be rationed for cooking, drinking, and sanitation.

6. On 22 October, civilians in al-Sad camp organised a protest against SDF, hoping their demonstration would allow them to leave. The protest was ultimately quelled after SDF soldiers fired their guns into the air. Ultimately, once vetted, some internally displaced persons were still forced to pay \$100 to exit al-Sad camp. One family was forced to pay \$100 per vehicle to leave, even though the SDF administration lost their identification documents. The same family was unable to depart towards Kurdish-held areas, and was instead diverted by SDF towards northern Idlib. There, displaced for the second time, they were met again by tents in the winter.

7. Equally inadequate living conditions were echoed by civilians in Mabrouka camp, located in Ras al-Ayn countryside (Hasakah). There, internally displaced persons recalled a lack of access to sufficient food, water, and medical care, though tents, mattresses, and blankets were distributed to new arrivals. Additional water had to be purchased, with 20 litres costing over \$9 USD. Some civilians spoke of the water being unpotable and causing diarrhoea in children. One family recalled being given only four cans of sardines upon arrival. In order to cook, they were forced to burn their clothes to maintain fires, while other families lacked the means to purchase prohibitively expensive food sold by SDF soldiers.

8. Mabrouka camp further lacked sanitary latrines, which prompted open defecation and exposure to infectious disease. In numerous instances, no doctors were onsite, and internally displaced persons recalled being placed under the care of paramedics whose medical assistance was limited to dispersing paracetamol. Expectant mothers in Mabrouka were left particularly vulnerable, as the camp lacked specialised maternity care. Only those women who could afford to pay SDF authorities were taken to a nearby hospital to deliver, while those who could not delivered babies on unhygienic campgrounds with the support of other displaced women. As in al-Sad, civilians in Mabrouka camp also organised a protest against deplorable living conditions on 15 December.

9. Some internally displaced persons in Mabrouka explained how SDF targeted certain families for forced conscription, while those who did not have sons were reportedly made to pay \$300 USD to SDF soldiers. Numerous interviewees described Mabrouka camp as being akin to a “prison”, with complete restrictions on movement and no possibility to receive visitors. One encamped civilian, unable to wait out his vetting, paid \$68 USD to an SDF member in order to obtain a “departure permit”, while others paid up to \$100 USD each.

10. Equally inadequate living conditions were reported by civilians who transited through Ain Issa Cotton Factory camp (Raqqah). There, civilians recalled how one loaf of bread was sold to them by SDF members for \$3 USD. Owing to living conditions inside the camp, specific pathologies emerged including diarrhoea and skin disease. On 24 August, the SDF officially admitted to “a very large shortage of medical staff, medicines, and teachers” at Ain Issa.<sup>3</sup> On 27 August, the SDF further conceded unsatisfactory living conditions when it announced a fumigation campaign to deal with “the problem of snakes, scorpions, and poisonous desert animals” at the camp, which it noted posed a particularly harmful threat to children.<sup>4</sup> Women and girls were also particularly affected due to a lack of adequate latrines, with many recalling having waited until dark to relieve themselves in open areas due to fears of assault, humiliation, as well as the cultural sensitivity of using a latrine which was also being used by males.

11. Civilians further lamented the camp’s desolate location by recalling limited mobile network signals, which inhibited their ability to communicate with family. On the rare occasion journalists were admitted to Ain Issa, they were required to interview encamped residents in the presence of an SDF escort.

<sup>3</sup> FORCES SYRIA DEMOCRACY, *Ain Issa Camp Under Microscope*, available at [www.sdf-press.com/en/2017/08/ain-issa-camp-under-microscope](http://www.sdf-press.com/en/2017/08/ain-issa-camp-under-microscope).

<sup>4</sup> FORCES SYRIA DEMOCRACY, *Insecticide Spraying Campaign Inside Ain Issa Camp*, available at [www.sdf-press.com/en/2017/08/insecticide-spraying-campaign-inside-ain-issa-camp](http://www.sdf-press.com/en/2017/08/insecticide-spraying-campaign-inside-ain-issa-camp).

## B. Internment by Syrian Democratic Forces

12. All individuals who fled from Raqqah and Dayr al-Zawr were forced to reside within fenced, camp-like sites in al-Sad, Mabrouka, and Ain Issa while their identification documents were assessed for individual vetting. Families with identifying documents issued by ISIL were disproportionately affected however, as SDF authorities did not recognise these documents as legitimate which led to more prolonged vetting periods. The transit time for vetting procedures averaged between a few days to eight weeks, though internally displaced persons were not made aware any details of the underlying process. Once cleared, only those individuals or families who were able to locate a *kafil* or “guarantor” in Kurdish-held areas were authorised to leave the camps towards those areas. Similar requirements of “guarantors” were imposed for onward movement towards FSA-held Jarablus (northern Aleppo). The desolate locations of camps and confiscation of mobile phones by SDF soldiers in some camps complicated opportunities to secure a “guarantor” for many internally displaced persons. Many others had no choice but to head west towards Idlib, while SDF have forced some families to return to Raqqah and Dayr al-Zawr after landmine clearances.

13. Internment, or administrative detention, for the purposes of vetting civilians believed to pose a security threat may only be justified when absolutely necessary to address “imperative reasons of security”,<sup>5</sup> and a case-by-case evaluation must take place in relation to every individual prior to detaining him or her. The internment of civilians may not be used solely for interrogation or intelligence gathering. All internees must have been informed promptly, in a language he or she understood, of the reasons for internment, and all had the right to challenge, with the least possible delay, the lawfulness of his or her detention in these camps. The review of lawfulness of internment must be carried out by an independent and impartial body.<sup>6</sup>

14. The threat of ISIL attacks against Kurdish-held areas was exemplified on 3 May, when ISIL militants attacked Rajm as-Salibi camp (Hasakah) just before dawn, killing at least 30 civilians including women and children. Similarly, on 12 October, ISIL militants detonated two vehicle-borne improvised explosive devices at Al-Malha checkpoint in Abu Fas village, bordering Hasakah and Dayr el-Zawr, where approximately 7,000 internally displaced persons were gathered for initial SDF screening. The suicide attack killed 40 internally displaced persons, including women and children, and injured dozens of others. Several suspected ISIL terrorists have since been identified as a result of SDF-run vetting. The SDF is currently detaining nearly 1,400 “terrorist” fighters, primarily ISIL militants identified as such, including hundreds of foreign fighters from up to 30 countries.<sup>7</sup>

15. Irrespective of this threat, the blanket internment of all civilians from Raqqah and Dayr al-Zawr cannot be justified by SDF. Among those civilians currently interned are women, children, elderly, infirm, disabled persons, and others who did not represent an imperative security threat and whose continued detention is manifestly unnecessary on any grounds. In many instances, the on-going internment of these individuals amounts to

<sup>5</sup> The Commission concurs with the International Committee of the Red Cross that “both customary and treaty international humanitarian law contain an inherent power to intern”, and considers “imperative reasons of security” the permissible grounds standard applicable to situations of non-international armed conflict. *See, e.g.,* INTERNATIONAL COMMITTEE OF THE RED CROSS, *Commentary of 2016, Article 3: Conflicts Not of an International Character*, at para. 728, available at [www.ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D004BA0EC](http://www.ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D004BA0EC).

<sup>6</sup> *Ibid.* at para. 723.

<sup>7</sup> PEOPLE’S DEFENSE UNITS, *2017 Balance Sheet of War — Syrian Democratic Forces*, 3 January 2018, available at [www.yppgrojava.org/2017-Balance-Sheet-of-War-%E2%80%93-Syrian-Democratic-Forces](http://www.yppgrojava.org/2017-Balance-Sheet-of-War-%E2%80%93-Syrian-Democratic-Forces), Press Release.

arbitrary deprivation of liberty, and therefore the unlawful confinement of tens of thousands of individuals.<sup>8</sup>

16. The *de facto* Kurdish self-administration and SDF moreover sought to rely on humanitarian aid from non-governmental organisations as well as the United Nations to sustain their internment camps. The aid received however continues to be vastly insufficient to support the soaring numbers of internally displaced persons received from Raqqah and Dayr al-Zawr. Notwithstanding the lawfulness of their detention, at all times internees were entitled to conditions of detention which respected their inherent dignity. All internees further had the rights to an adequate standard of living, which includes the rights to food and water, as well as the right to health.<sup>9</sup> At the very least, the minimum core of these obligations applied irrespective of the economic situation or budgetary considerations of the detaining power, and therefore the SDF could not wholly transfer these obligations onto humanitarian organisations.<sup>10</sup> By failing to provide adequate food, water, and living conditions to any internees, SDF continue to violate these rights in Mabrouka, al-Sad, and Ain Issa camps.

17. The Commission is aware of infirm civilians from al-Sad, Mabrouka, and Ain Issa Cotton Factory camps having been granted medical evacuations only when they paid for them, while SDF actively denied urgent requests for such evacuations in certain instances. In other cases, strict bureaucratic procedures imposed by SDF prevented civilians from being able to medically evacuate when most needed. The failure to provide appropriate medical care or assistance to internees constitutes a violation of the prohibition of cruel, inhuman, or degrading treatment,<sup>11</sup> as well as the right to health. Once vetted and cleared, the additional burden of requiring all individuals and families to locate a “guarantor” prior to leaving the camps towards Kurdish and FSA-held areas constitutes a denial of freedom of movement. Finally, SDF soldiers extorting money from individuals prior to allowing them to leave al-Sad and Mabrouka similarly amounts to a denial of freedom of movement.

18. Though the responsibility to provide food, water, and adequate living conditions to persons displaced from Raqqah and Dayr al-Zawr governorates rests with the SDF authorities interning them, humanitarian organisations have played an auxiliary role to ameliorate the sizeable crisis. The presence of local and international humanitarian organisations and the impartial assistance they provide has reduced the harm interned internally displaced persons in the foregoing sites have been exposed to, though such assistance has thus far been insufficient to meet the mounting humanitarian and protection needs of tens of thousands of interned, internally displaced persons at risk.

### C. Persons internally displaced from Hamah

19. During the period under review, pro-Government forces renewed offensives in Hamah, steadily attacking remaining opposition-held pockets of the governorate currently under the control of Hay’at Tahrir al-Sham and various armed groups including Faylaq al-

<sup>8</sup> As Article 3 Common to the Geneva Conventions is silent on the procedural safeguards for persons interned in non-international armed conflict, the Commission applies core human rights obligations to the SDF, an armed group exercising *de facto* control over territory in Syria and who must therefore respect the fundamental rights of persons interned in that territory. *See, e.g.*, Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka, 31 March 2011, at para. 188, available at [www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf); International Covenant on Civil and Political Rights, United Nations, *Treaty Series*, vol. 999, p. 171 [hereinafter “ICCPR”], at art. 9; *see also* UN Guiding Principles, *supra* note 34, at Principle 12(1) and (2).

<sup>9</sup> *See* United Nations Standard Minimum Rules for the Treatment of Prisoners, 13 May 1977, at Rules 24–26.

<sup>10</sup> *See, e.g.*, *Mukong v. Cameroon*, Views, Human Rights Committee, Communication No. 458/1991, 21 July 1994, para. 9.3; *Leroy Lamey et al v. Jamaica*, Decision, IACHR, Case nos. 11.826, 11.843, 11.847, 4 April 2001, para. 203.

<sup>11</sup> *Keenan v. the United Kingdom*, Judgment, App. no. 27229/95 (ECtHR, 3 April 2001) para. 111; *Tibi v. Ecuador*, Judgment, IACtHR, 7 September 2004, para. 157; *Huri-Laws v. Nigeria*, Decision, African Commission on Human and Peoples’ Rights, Communication no. 225/1998, para. 41.

Sham and Jaysh al-Izza. Aerial and ground offensives have thus far led to the displacement of tens of thousands of civilians from those areas: since October, hostilities in the north and north-east of Hamah led to the displacement of over 90,000 individuals, particularly those from areas under Hay'at Tahrir al-Sham control. Over 30,000 have been displaced since early November from al-Saan, Hamra, and Oqeirbat sub-districts. Civilians from Oqeirbat — an area comprising 73 villages and located 70 kilometres east of Hamah city — were primarily displaced towards northern Hamah, southern Idlib, and Atarib (Aleppo).

20. By mid-July, and with air support, Government ground forces and affiliated militias began advancing from the west towards Oqeirbat. Owing to the heightened intensity and frequency of attacks, many fleeing civilians gathered in Wadi al-Azib (Hamah), a desert terrain near the Salamiyah-Raqqah highway, hoping that evacuations would be facilitated. Instead, those internally displaced ended up trapped with very little food or water as Government forces blocked all roads and laid landmines surrounding both sides of the highway. Up to 10 children perished under severe living conditions in the area, including due to heatstroke, in addition to three elderly persons. By August, civilians unable to subsist in Wadi al-Azib began to risk fleeing at night. Pro-Government snipers targeted fleeing civilians, killing and injuring dozens. On 25 August alone, pro-Government snipers killed at least 70 internally displaced persons. Others were killed in landmine detonations, while up to 25 civilians were arrested by pro-Government forces and have not been heard from since.

21. Oqeirbat is now under Government control, and no civilians remain in the sub-district. Those displaced described how schools, pharmacies, shops, and residential areas were all but destroyed by aerial and ground attacks. Some came to know that pro-Government militias looted their homes, or set fire to them in acts of reprisal. Fearing revenge attacks, civilians displaced from Oqeirbat maintained they would not return to the area even if given the opportunity. On 19 September, armed groups led by Hay'at Tahrir al-Sham launched a large-scale offensive on Government-held areas north of Hamah city, with pro-Government forces' counteroffensives having since killed and injured dozens. On 26 September, in al-Sheikh al-Hilal village, a pro-Government forces ground attack reportedly killed over 60 internally displaced persons, and injured many more. On the night of 12 November, the Syrian Expatriate Medical Centre in al-Jezdaniya, eastern Hamah countryside, was destroyed in an airstrike. While no civilians were affected, an ambulance centre endured severe material damage, and vital medical supplies were damaged. Pro-Government forces continue to deliberately target medical infrastructure as part of a warring strategy, constituting the war crime of intentionally targeting protected objects. Deliberate attacks against ambulances further amount to the war crimes of intentionally attacking medical transport. At the time of writing, fighting in Hamah rages on.

## Annex IV

### Erosion of civilian infrastructure

1. Since the inception of the conflict in the Syrian Arab Republic, attacks against civilian and protected objects have been a near constant feature, in violation of international humanitarian law. Places of worship, civil defence centres, homes, bakeries, markets, and to a lesser extent, schools, have regularly been made the object of attack by all warring parties.

#### A. Hospitals

2. On 19 September, pro-Government forces launched an aerial attack against al-Rahma hospital in Khan Sheikhoun (Idlib), where around 80 patients were being treated. Al-Rahma is a “cave hospital” on the outskirts of Khan Sheikhoun, which was previously attacked on 4 April while treating victims of a sarin attack carried out by Government forces (A/HRC/36/55, annex II, paras. 17). Between approximately 10:00 and 10:15 a.m., two airstrikes were launched; though the first did not cause extensive damage, the second struck the hospital’s entrance, completely destroying an ambulance reception area, as well as three ambulances. The strike also hit the warehouse of the hospital, causing a fire, and damaging vital trauma unit equipment. As jets continued to circulate, rescue efforts were put on hold for a further ten minutes until clear skies could be confirmed. Witnesses recalled noticing an unusual number of flights over Khan Sheikhoun that morning, and therefore evacuated the hospital in anticipation of a possible attack. As such, no casualties were endured. At 3:00 p.m., a primary care clinic in Khan Sheikhoun was also attacked.

3. The walls of al-Rahma cave further cracked due to the force of the blasts. Images and video footage of the aftermath of the attack show widespread bomb damage from blast weapons of varying sizes, including the tail section of an unguided OFAB 100-120 blast bomb, consistent with bombs used by both the Syrian and Russian air forces.

4. On the same day, just before noon, pro-Government forces launched an aerial attack against al-Rahman Charity Hospital, an obstetrics hospital in Tah village (Idlib). Approximately 30 individuals were present at the hospital at the time, including 12 in-patient children receiving treatment and whom their mothers were accompanying. Six babies were in incubators, while an additional 40 patients remained outside receiving clinical services.

5. The first bomb damaged the south-eastern corner of the hospital, which served as a children’s ward, and further destroyed a section for incubators. The second-floor extension to the hospital collapsed, while a pharmacy including medicine stocks were severely damaged. Generators and electricity supplies also sustained severe damage. Outside, one ambulance and two private vehicles were damaged. Photos of remnants indicate that the airstrikes were carried out using multiple blast weapons, and the damage sustained is consistent with unguided OFAB aerial bombs used by both Syrian and Russian forces.

6. Approximately ten minutes before the airstrikes took place, staff at the hospital received warnings of a possible attack from a civilian observatory, and were able to evacuate the vast majority of staff and patients. One female hospital cleaner was immediately killed as a result of the attack, however, and the hospital’s male administrative manager suffered an arm injury.

#### B. Schools

7. On the night of 20 to 21 March, at approximately 11 p.m., an airstrike hit the Al-Badiya school in Al-Mansoura (Raqqah) killing at least 150 persons. Al-Badiya school, located approximately 1.5 kilometres from the village, was a large, isolated, three-storey building, save for a few houses and tents in the vicinity. The area was controlled by ISIL at



the time. During a briefing of journalists on 28 March, the Combined Joint Task Force (CJTF) of the international coalition took responsibility for the strike noting that it had targeted 30 ISIL fighters using the school, and that it could not corroborate the allegation that internally displaced persons used the school.<sup>1</sup> On 7 July, the Task Force announced that, upon further review of available information, it assessed there was insufficient information to find that civilians the strike harmed civilians.<sup>2</sup>

8. The Commission initially reported on this incident in July 2017 (see A/HRC/36/55, para. 79). As part of its investigation, it conducted 20 interviews with survivors, relatives of victims, rescuers, village residents, and individuals onsite after the airstrikes. Interviewees all explained that, since 2012, Al-Badiya school housed internally displaced families from Palmyra (Homs), al-Sukhna (Homs), al-Qaryatayn (Homs), al-Khafsa (Aleppo), Maskanah (Aleppo), al-Bab (Aleppo), and Hamah countryside. Some of the residents were recent arrivals while other internally displaced persons had been living in the school for years. More than 200 people were estimated to be living in the school at the time of the airstrike, of which only a few survived. One-hundred and fifty bodies were retrieved from the site though others remained under the rubble as, three days after the airstrike, on 24 March, ISIL prevented rescuers from continuing searches.

9. Of the more than 200 residents at the school, only 12 survivors were identified by the Commission, and several of them sustained serious injuries such as severe burns and the loss of limbs. Survivors reported being blasted through windows during the explosions and landing outside of the school, which saved them from being crushed under the rubble. The vast majority of survivors were women and children, namely four women and six children, the youngest a 10-month-old baby. Interviewees identified the fatalities they knew personally, the majority of them relatives. These included eight women, one of whom was in the final stages of pregnancy, and 21 children, all but one under the age of 11.

10. The school was hit by three airstrikes, each using multiple bombs that destroyed most of the building rendering it uninhabitable. Photos provided by interviewees show evidence of a massive airstrike, and multiple impacts from aerial bombs show delayed fuzing aimed at bringing down the entire building. Photographs of remnants also show fragments of Hellfire missiles, which the Commission has previously documented being used by the international coalition to target survivors of airstrikes (see A/HRC/36/55, para. 57). While many interviewees said that they did not see ISIL members in the school, one survivor who arrived at the school days before the strike said that his family was registered by an ISIL member shortly after moving in, but that the fighter did not reside in the school. Initial information that two families of ISIL fighters had lived in the school but left one month before the strike has not been corroborated (see A/HRC/36/55, para. 79).

11. Information gathered by the Commission does not support the claim that 30 ISIL fighters were in the school at the time of the strike, nor that the school was otherwise being used by ISIL. Rather, the status of casualties and nature of Al-Badiya building is widely divergent from the international coalition's assessment. Information that residents of the school were internally displaced families, including a large number of women and children, and that the school had been used to shelter internally displaced persons since 2012 should have been readily available to the coalition's targeting team. The Commission therefore concludes that the international coalition should have known the nature of the target and failed to take all feasible precautions to avoid or minimize incidental loss of civilian life, injury to civilians and damage to civilian objects, in violation of international humanitarian

<sup>1</sup> News Transcript, Department of Defense Briefing by Gen. Townsend via Telephone from Baghdad, Iraq, 18 March 2017, available at [www.defense.gov/News/Transcripts/Transcript-View/Article/1133033/departments-of-defense-briefing-by-gen-townsend-via-telephone-from-baghdad-iraq](http://www.defense.gov/News/Transcripts/Transcript-View/Article/1133033/departments-of-defense-briefing-by-gen-townsend-via-telephone-from-baghdad-iraq).

<sup>2</sup> Combined Joint Task Force — Operation Inherent Resolve Monthly Civilian Casualty Report Release No: 17-258 July 7, 2017, available at [www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1239870/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty](http://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/1239870/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty).

law. The subsequent investigation conducted by the international coalition should have been able to identify the high number of civilian casualties resulting from this incident.

12. In the latter half of 2017, pro-Government forces began a concerted campaign to decimate schools throughout Aleppo countryside, which were located in a militarily strategic area leading up to Abu al-Duhur airbase (Idlib) and the railway connecting Aleppo and Damascus. On 26 September, at approximately 12:30 p.m., about 15 minutes after all children had been dismissed from classes, pro-Government forces launched a series of airstrikes against Tanatya school in Knater village, Atarib, where nearly 4,000 civilians reside. Up to 11 aerial attacks were carried out over the span of one hour, striking Tanatya school and the surrounding residential area. Tanatya school teaches children in grades 1 to 9 in two buildings, though one was completely damaged as a result of the attack. Students, many of them severely traumatised, have since been relocated to the remaining building.

13. The next day, on 27 September at 2:00 a.m., pro-Government forces carried out an aerial attack against the Baraem al-Thawra school in Batbo village (Aleppo). As an all-girl school, Baraem al-Thawra teaches hundreds of female students in grades 1 to 9. No civilian casualties occurred as the attack took place after midnight. The school included six classrooms, four of which were completely damaged. One individual who went to assess the damage described how a “missile” had entered through the roof and caused a crater two metres in depth. The attack led to the near-complete destruction of the school, rendering it completely out of service. Windows of nearby homes were also shattered by the blasts. A non-governmental organisation and a Free Syrian police station engaging solely in civilian matters are located near the site of Baraem al-Thawra school.

14. On the night of 6 November, at approximately 9 p.m., pro-Government forces attacked the Tel Aldaman secondary school in Monbetah village (Aleppo). Prior to the attack, approximately 200 students, aged six to 16 years, attended the school, which was located on a compound that further comprised a training centre for teachers. Witnesses described how the attack rendered the school and training centre completely out of service, and how this and similar attacks have crippled both students and their families with fear; of the village’s 200,000 original inhabitants, only approximately 10,000 remain. The premises of the school were reportedly attacked again in an airstrike carried out ten days later.

15. Pro-Government forces further carried out at least five separate aerial attacks against three schools in Aleppo in December. On 4 December, in Sumeiryya village, 45 kilometres south of Aleppo city, pro-Government forces attacked the eastern and western schools in Has compound shortly after 9:00 a.m. Images of the aftermath show remnants of an RBK-250 cluster bomb containing sub-munitions. No students were present during the attack, though approximately 30 teachers had gathered to collect their salaries. It is unclear whether pro-Government forces were aware of the presence of civilians at that time, as the announcement for salary collections was transmitted to teachers digitally the day prior. One female teacher and two male teachers sustained minor injuries. The use of cluster munitions in civilian populated areas is inherently indiscriminate (given their typically wide dispersal pattern and high dud rate, which continues to endanger civilians years after a cessation of hostilities), and therefore prohibited by customary international humanitarian law. For this reason, their use by pro-Government forces in Sumeiryya village constitutes the war crime of indiscriminate attacks in a civilian populated area.

16. On 6 and 7 December, pro-Government forces launched an aerial attack on Bayaiya primary school in Tel Aldaman. Airstrikes were carried out at 11:00 p.m., and again shortly after midnight the following day. More than 150 children in grades 1 through 6 attend Bayaiya primary school. The school further hosted an internally displaced husband and wife couple, though neither was injured. The building sustained physical damage, though continues to operate.

17. Similarly, on 9 December, at 9:20 a.m., airstrikes carried out by pro-Government forces hit a private school in al-Hanouteh village (Aleppo). Unlike the foregoing attacks, children were present on the morning of the attack, and a few children were mildly injured as a result. The school was partially damaged, and reportedly attacked again in an airstrike at 3:00 a.m. the following morning.

18. Repeated bombardments, lack of warnings, and the absence of military objectives in and around all schools strongly suggest pro-Government forces intentionally targeted them as part of a strategy to force dissenting communities to leave by rendering their neighbourhoods uninhabitable, amounting in each instance above to the war crime of intentionally attacking civilian objects.

### C. Markets

19. A pattern of attacks affecting crowded market places continued during the reporting period (see A/HRC/28/69, annex II, paras. 2–8, A/HRC/30/48, paras. 34–35, A/HRC/31/68, para. 77). For example, on 13 November, minutes after 2 p.m., a series of airstrikes hit the main market, surroundings houses, and the Free Syrian police station of Atarib (Aleppo). The impacted sites covered an area 250 meters long, with the police station being adjacent to the market. One commercial street was all but flattened by the attack. Based on satellite imagery, an area of approximately 5,000 square meters was damaged or destroyed. The airstrikes killed at least 84 individuals including 6 women and 5 children, and injured around another 150.

20. The population of Atarib, estimated at 30,000 inhabitants in 2011, has grown substantially in recent years as many internally displaced persons from previously besieged areas were forced to leave their homes and settled there. Atarib market, previously hit by airstrikes in April 2014 and July 2016, is itself located in a densely populated area. In addition to shops, restaurants, commercial offices and family homes, two schools operate from a building located 100 meters from the market, where an estimated 450 children were attending classes when the airstrikes were carried out.

21. Being located in western Aleppo governorate, Atarib was part of zone 1 of the de-escalation zones memorandum agreed in May and implemented in September by the three guarantors of the Astana talks, Russia, Iran and Turkey. The main Russian news outlets did not report on the events as they normally do. Yet, on the same day of the strikes, the spokesperson of the Humaymim airbase denied on social media that Russian aircraft committed a massacre in Atarib.<sup>3</sup> Humaymim airbase is located in Ladhqiqyah, approximately 160 kilometres from Atarib, and used exclusively by Russian forces. A few hours after the airstrikes, media reports claimed that a meeting between Hay'at Tahrir al-Sham and Nour al-Din al-Zinki took place in Atarib on 13 November.

22. Interviewees, video footage, and photos indicate that it was a clear day. Eyewitnesses saw one aircraft flying at high altitude. In less than ten minutes, the aircraft conducted three waves of airstrikes dropping two weapons in each. Interviewees consistently said that the aircraft remained at high altitude while conducting the strikes and that they received no warning that airstrikes were imminent. On the contrary, interviewees recalled that there had been no airstrikes in Atarib since the de-escalation zones agreement and that they had no reason to believe the town would be targeted.

23. The weapons destroyed the police station and killed at least 13 police officers and six detainees. One survivor who was pulled from the rubble described how the first explosion penetrated the roof of the police station all the way to the ground floor. Some four minutes later another weapon hit the area destroying a three-storey building. A third weapon hit the vicinity of the police station but did not explode. Interviewees denied that the police station was associated with armed factions and maintained it dealt with civilian related matters including acting as traffic police. None of the information gathered suggests that the station was used for military purposes or that any of its officers actively participated in hostilities although some officers carried light weapons. Therefore, the station and the officers remained civilian and were not lawful military objectives.

<sup>3</sup> At the time of writing, this remained the only statement by a Russian official.

24. According to local residents and shop owners, the third wave of strikes directly hit a market street killing and maiming civilians and destroying vegetable and clothing shops as well as nearby residential buildings. These accounts are corroborated by video footage and satellite imagery. Shop owners explained that, at the time of the attack, the market was crowded with people who had left work, most of whom were men since many women had stopped going to the market after the earlier attacks. Similarly, as is customary in the country, shopkeepers were mostly male. Due to the high number of casualties, serious cases were transferred from Atarib hospital to Bab al-Hawa hospital (Idlib). Among the approximately 150 injured were first-responders, including an ambulance driver, who was seriously injured by an airstrike while responding to the first wave of strikes on the police station. The driver died in hospital some days later, his ambulance having been destroyed in the attack. Rescue efforts continued over subsequent days. In some instances, rescuers were unable to identify the deceased because they were internally displaced persons who had moved to Atarib in recent months, including former residents of eastern Aleppo city. In other cases, identification was not possible because only body parts were retrieved.

25. While some interviewees said they only saw one aircraft — with fixed-wings at the back — others recalled seeing a second aircraft they believed to be a reconnaissance aircraft because it circled above the location while the other conducted the strikes. All information available indicates that a Russian fixed-wing aircraft that took off from Humaymim airbase conducted the strikes. Early warning observers monitored the take-off of a fixed-wing aircraft, whose pilots communicated in Russian, from Humaymim airbase at 1:37 p.m. and tracked the aircraft going south and then to the northeast all the way to Atarib where it arrived at 2:07 p.m. No Syrian aircraft were observed in the area in the two hours preceding the airstrikes.

26. As to potential military objectives, many interviewees, including shop owners and local residents, said that due to efforts by the local council, there were no armed groups present in Atarib. Others, however, claimed that — from 9 November onwards — there was on-going infighting between Hay'at Tahrir al-Sham and Nour al-Din al-Zinki in western Aleppo governorate countryside, including in Atarib, Abzemo, and Orum al-Kubra. On 11 November, civilians took to the streets of Orum al-Kubra to protest against the confrontations between the two groups. The protest was violently repressed and three children were shot dead.

27. Some interviewees claimed that there was on-going infighting between Hay'at Tahrir al-Sham and Nour al-Din al-Zinki in western Aleppo governorate. The Commission received conflicting information about a possible target, including unconfirmed reports of a meeting between armed groups and tribal elders. Analysis of the site and other information indicate that a specific location was targeted.

28. Multiple airstrikes in Atarib employed at least two types of aerial bombs — blast weapons and earth penetrators. Images and videos from the site show evidence of at least six impacts. Widespread damage is consistent with blast weapons such as the unguided OFAB-500 causing devastating surface damage that destroyed a large part of the market area. Additionally, at least one bomb carrying multiple smaller earth penetrating munitions caused several impacts collapsing multiple buildings. One entry hole was found containing an unexploded bomblet. Evidence at the scene and video evidence is consistent with a BeTAB-500 unguided “bunker buster” carrying 12 rocket-assisted penetrators. The Russian Air Force has used the BeTAB throughout Aleppo province. The impact points show that unguided bombs roughly fell in a line with a 250 m dispersion which suggests that the aircraft lined up on the target dropping weapons into an area that formed a target box rather than conducting a precision strike against the point target.

29. The likely use of unguided weapons in a densely populated area such as the one hit in Atarib raises the issue of how accurate the weapons were. Circular Error Probable (CEP) is the measure of precision for a guided bomb. It means that 50 per cent of bombs fall within a circle the size of the CEP and 50 per cent outside of it — so a weapon with a 10 m CEP will fall within 10 m half the time and farther than 10 m half the time. When precision weapons miss they usually have close misses. In contrast, unguided bombs do not measure accuracy with CEP. Their accuracy varies greatly depending on a number of factors including aircraft, altitude, speed, heading, training of the pilot, and wind.

30. Unguided bomb accuracy is not officially measured in CEP but military studies have produced estimates of their accuracy using CEP as a rule of thumb. Using visual targeting, CEP is estimated as 122 m at an altitude of 3000 m. As the altitude increases, the accuracy of unguided bombs diminishes greatly. Using an advanced targeting computer, Russian sources estimate that aircraft are able to reliably attain a 25 m CEP with unguided bombs. Even assuming that the Russian estimate that its unguided bombs have a 25 m CEP is correct, this means that 50 per cent of the weapons would fall within a 25 m CEP and the remaining 50 per cent outside of that. Using such weapons in a densely civilian populated area was certain to impact civilians.

31. All sides in a conflict must distinguish between legitimate military targets on the one hand and civilians and civilian objects on the other and use methods or means of combat that are able to be directed at a specific military objective. There is no evidence to indicate that this attack deliberately targeted civilians or the Atarib market. Through the use of unguided bombs, including blast weapons in a densely civilian populated area, however, this attack may amount to the war crime of launching indiscriminate attacks resulting in death and injury to civilians.

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