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## Report of the Independent International Commission of Inquiry on the Syrian Arab Republic<sup>\*</sup>, <sup>\*\*</sup>

### *Summary*

Extensive military gains made by pro-government forces throughout the first half of 2018, coupled with an agreement between Turkey and the Russian Federation to establish a demilitarized zone in the north-west, led to a significant decrease in armed conflict in the Syrian Arab Republic in the period from mid July 2018 to mid January 2019. Hostilities elsewhere, however, remain ongoing. Attacks by pro-government forces in Idlib and western Aleppo Governorates, and those carried out by the Syrian Democratic Forces and the international coalition in Dayr al-Zawr Governorate, continue to cause scores of civilian casualties.

In the aftermath of bombardments, civilians countrywide suffered the effects of a general absence of the rule of law. Numerous civilians were detained arbitrarily or abducted by members of armed groups and criminal gangs and held hostage for ransom in their strongholds in Idlib and northern Aleppo. Similarly, with the conclusion of Operation Olive Branch by Turkey in March 2018, arbitrary arrests and detentions became pervasive throughout Afrin District (Aleppo).

In areas recently retaken by pro-government forces, including eastern Ghouta (Rif Dimashq) and Dar'a Governorate, cases of arbitrary detention and enforced disappearance were perpetrated with impunity. After years of living under siege, many civilians in areas recaptured by pro-government forces also faced numerous administrative and legal obstacles to access key services.

The foregoing violations and general absence of the rule of law paint a stark reality for civilians countrywide, including for 6.2 million internally displaced persons and 5.6 million refugees seeking to return. For these reasons, any plans for the return of those displaced both within and outside of the Syrian Arab Republic must incorporate a rights-based approach. In order to address effectively the complex issue of returns, the Commission makes a series of pragmatic recommendations for the sustainable return of all displaced Syrian women, men and children.

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

\*\* The annex to the present report is being circulated as received, in the language of submission only.

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## I. Mandate and methodology

1. In the present report, submitted to the Human Rights Council pursuant to Council resolution 34/26, the Independent International Commission of Inquiry on the Syrian Arab Republic presents its findings based on investigations conducted from 11 July 2018 to 10 January 2019.<sup>1</sup> The methodology employed by the Commission was based on best practices of commissions of inquiry and fact-finding missions.
2. The information contained herein is based on 271 interviews conducted in the region and from Geneva. The Commission collected, reviewed and analysed satellite imagery, photographs, videos and medical records. Communications from Governments and non-governmental organizations were taken into consideration, as were United Nations reports.
3. The standard of proof was considered met when the Commission obtained and corroborated a reliable body of information sufficient to conclude that there were reasonable grounds to believe the incidents occurred as described and that violations were committed by the warring party identified. The Commission's investigations remain curtailed by the denial of access to the Syrian Arab Republic. Protection concerns in relation to interviewees further affected the Commission's inquiry. In all cases, the Commission remained guided by the principle of "do no harm".

## II. Introductory remarks

4. Extensive military gains made by pro-government forces throughout the first half of 2018 coupled with the agreement to establish a demilitarized zone in the north-west (see paras. 14–15 below) led to a marked decrease in violence during the latter half of the reporting period. Pro-government forces<sup>2</sup> carried out a number of attacks against the demilitarized zone in November, however, which killed and injured numerous civilians, including women and children. The security situation in the north-west also remained critical due to infighting between Hay'at Tahrir al-Sham (Levant Liberation Organization)<sup>3</sup> terrorists and armed groups. While the Commission welcomes the demilitarization agreement, it remains concerned over the impact of continued hostilities on civilians. Elsewhere, including in the eastern part of the country, the Syrian Democratic Forces (SDF) and the international coalition<sup>4</sup> continue to carry out attacks with devastating consequences.
5. For over seven years, the Commission has meticulously documented the flagrant abuse of military power displayed by all parties to the conflict. All territorial gains resulting from these clashes have come at a severe cost in terms of civilian lives and livelihoods, including due to unlawful siege warfare.<sup>5</sup> At the same time, the situation for hundreds of thousands of Syrian women, men and children remains precarious, even in areas where hostilities have abated.
6. In the aftermath of bombardments, civilians in both the demilitarized zone and areas recently retaken by pro-government forces have been suffering the entrenched effects of a

<sup>1</sup> The commissioners are Paulo Sérgio Pinheiro (Chair), Karen Koning AbuZayd and Hanny Megally.

<sup>2</sup> In instances where it was not clear whether it was the Syrian air force or Russian Aerospace Defence Forces that was responsible for a specific attack, responsibility has been attributed to pro-government forces.

<sup>3</sup> The Commission continues to regard the group as a terrorist entity, as designated by the Security Council in its resolution 2170 (2014) and subsequent entries on its sanctions lists (available from [www.un.org/press/en/2018/sc13365.doc.htm](http://www.un.org/press/en/2018/sc13365.doc.htm)). Hay'at Tahrir al-Sham currently comprises Jabhat Fatah al-Sham (also known as Jabhat al-Nusra and previously as the Al Nusrah Front), Ansar al-Sham and Afnad al-Sham, among others. Its estimated military strength is 10,000 to 12,000 fighters.

<sup>4</sup> Since 2014, an international coalition of more than 60 countries joined together to combat Islamic State in Iraq and the Levant through a variety of means, including air strikes.

<sup>5</sup> "The siege and recapture of eastern Ghouta", conference room paper (A/HRC/38/CRP.3), paras. 75–77. Available from [www.ohchr.org/en/hrbodies/hrc/iicisyria/pages/independentinternationalcommission.aspx](http://www.ohchr.org/en/hrbodies/hrc/iicisyria/pages/independentinternationalcommission.aspx).

general absence of the rule of law. Indeed, seven years of prolonged hostilities<sup>6</sup> have spawned numerous security vacuums, elevating the risk of both continued violence in many areas and impunity for serious human rights violations. During the period under review, the Commission documented several incidents of civilians detained arbitrarily by Hay'at Tahrir al-Sham or abducted by members of armed groups and criminal gangs and held hostage for ransom in their strongholds in Idlib and northern Aleppo. Civilians in Idlib also suffered from the lack of a centralized system of governance under the parallel structures of two dominant systems: the opposition's "interim government" and the "salvation government" of Hay'at Tahrir al-Sham. Under the oppressive rule of Hay'at Tahrir al-Sham terrorists, girls in Idlib were also denied access to education.

7. Similarly, with the conclusion of Operation Olive Branch by Turkey in March 2018, arbitrary arrests, detention and pillaging became pervasive throughout Afrin District (Aleppo). The lack of effective complaint mechanisms and a centralized judiciary, coupled with the presence of dozens of armed actors power-sharing on the sub-district level, created confusion among civilians about which institution was responsible for addressing specific grievances, including in cases of detention and property appropriation. Infighting among armed groups and a series of car bombs exacerbated an already unstable security situation. As in Idlib, abductions for ransom by armed group members and criminal gangs prevailed.

8. Civilians in areas recently retaken by pro-government forces similarly suffered from a general absence of the rule of law, including in eastern Ghouta (Rif Dimashq) and Dar'a. As with areas under the control of armed groups and Hay'at Tahrir al-Sham terrorists, arbitrary detention and enforced disappearance were perpetrated with impunity. Detentions were used by government forces as a form of both retaliation and intelligence gathering.

9. After years of living under siege, many civilians in areas recaptured by pro-government forces additionally faced numerous administrative and legal obstacles in their access to key services. Countless persons only possess civil documentation issued by armed groups, which is not officially recognized, affecting their access to education, medical care and inheritance. Access of civilians to adequate housing, land and property rights also remained curtailed by the large-scale destruction of infrastructure and homes and was compounded by systemic property seizures under the State's counter-terrorism framework.

10. In areas under the control of SDF, thousands of women, men and children continued to be unlawfully interned or detained, some of them held in deplorable conditions in makeshift camps unfit to meet their basic needs. There is, moreover, a concern that Islamic State in Iraq and the Levant (ISIL) terrorists and their affiliates are being held incommunicado by SDF and United States forces without adequate judicial guarantees, conditions that are conducive to detainee abuse. Others, such as the wives and children of ISIL fighters, continue to be held in legal limbo as their countries of origin refuse to repatriate them.

11. The foregoing violations and general absence of the rule of law paint a stark reality for civilians countrywide, including for 6.2 million internally displaced persons and 5.6 million refugees seeking to return. The Commission notes with concern the continued unstable situation of the internally displaced, including those subsisting in Rukban camp, who are not provided with adequate food, water or living conditions. Moreover, the scope and scale of abductions, arbitrary detentions, enforced disappearances, together with the destruction of vital infrastructure, the lack of effective service provision and civil documentation and extensive property seizures demonstrate that – despite a general winding-down of hostilities in the Syrian Arab Republic – numerous challenges persist regarding the sustainable return of internally displaced persons and refugees.

<sup>6</sup> The Commission first determined the existence of a non-international armed conflict in the Syrian Arab Republic beginning in February 2012 (see, e.g., A/HRC/21/50).

### III. Political and military developments

12. Pro-government forces reasserted their control over vast swathes of the Syrian Arab Republic during the first half of 2018; in turn, international political negotiations continued to stall during the latter half of the year. After weeks of heavy fighting, armed groups in the south-west reached an agreement in early July with government forces to stay hostilities and evacuate from Dar'a Governorate (A/HRC/39/65, para. 12). Pro-government forces subsequently regrouped and widened offensives to areas situated between Dar'a and Qunaytirah, regaining full control over territories adjacent to the Golan Heights. In the north-west, Hay'at Tahrir al-Sham and government forces reached a deal on 19 July to evacuate up to 7,000 civilians remaining in the predominantly Shia towns of Fu'ah and Kafraya (Idlib).<sup>7</sup>

13. In the south, ISIL claimed responsibility for a series of attacks in Suwayda' Governorate on 25 July, which killed and injured hundreds of Druze civilians. Consequently, pro-government forces launched a renewed offensive to oust ISIL terrorists from the region. The success of those battles and evacuations allowed pro-government forces to consolidate control in the south and pivot their attention north-west, as they began regrouping near the last opposition stronghold of Idlib.

14. Following the regrouping, pro-government forces intensified air strikes in Idlib, northern Hama and western Aleppo Governorates, after which Turkey and the Russian Federation began negotiations to avert a full-scale military assault. An agreement between the Presidents of the Russian Federation and Turkey was reached on 17 September to create a demilitarized buffer zone across Idlib, western Aleppo and northern Hama. The agreement led to a significant decrease in tensions and averted a full-scale military operation.

15. Turkey and the Russian Federation announced that the demilitarized zone would be set up in three phases. The first phase would come into effect by mid-October and create a 15-to-20 kilometre demilitarized zone; second, armed groups would remove heavy weapons from the zone and withdraw from civilian areas; and, third, government institutions would resume work in Idlib. To guarantee full implementation, Turkey presented plans to increase troop deployments and to conduct joint patrols alongside Russian military police. Armed groups, including those under the umbrella of the National Front for Liberation (NFL),<sup>8</sup> initially declared they would neither surrender weapons nor concede territory, while key extremist groups, including Hay'at Tahrir al-Sham terrorists, rejected the deal outright.

16. The reluctance of some armed actors notwithstanding, Turkey facilitated the gradual withdrawal of heavy weapons from the proposed area by early October and declared that the demilitarized zone had been established.<sup>9</sup> Despite the establishment of the zone, hostilities in the north-west between pro-government forces and Hay'at Tahrir al-Sham flared up in November. The situation in the east simultaneously deteriorated: after nearly two weeks of heavy fighting, SDF supported by the United States-led coalition succeeded on 23 October in capturing Susah town, located south of Hajin in Dayr al-Zawr, from ISIL. In Ayn al-Arab (Aleppo), the Turkish army shelled positions of the Kurdish People's Protection Units (YPG). As a result, SDF temporarily suspended their offensive against ISIL in the eastern part of the country.

<sup>7</sup> Residents from the two towns were subsequently displaced to government-held areas in Aleppo in exchange for the release of some 1,500 detainees in State custody. The Commission has previously documented the forced displacement of civilians by parties undertaking similar "evacuation agreements" from eastern Aleppo city (A/HRC/34/64, para. 93), Madaya (Rif Dimashq) and Barza, Tishreen and Qabun (eastern Damascus) (A/HRC/36/55, para. 35); see also, generally, Independent International Commission of Inquiry on the Syrian Arab Republic, "Sieges as a weapon of war: encircle, starve, surrender, evacuate" (29 May 2018).

<sup>8</sup> NFL includes the armed groups Ahrar al-Sham, Nour al-Din al-Zanki, Faylaq al-Sham, Jaish al-Ahrar and Free Syrian Army affiliates. Its estimated military strength is 40,000 to 45,000 fighters.

<sup>9</sup> The Russian Federation confirmed that over 1,000 armed group fighters and around 100 units of military equipment had been withdrawn.

17. On the political front, after having served for over four years, Special Envoy of the Secretary-General for Syria, Staffan de Mistura, announced on 17 October that he would be stepping down from his position for personal reasons. The Special Envoy subsequently travelled to Damascus to discuss the establishment of a constitutional committee with the Government. The Syrian Minister for Foreign Affairs stressed, however, that the constitution remained purely a sovereign matter. In another diplomatic push to revive the peace process and ease military tensions, the leaders of Turkey, France, Germany and the Russian Federation attended a summit in Istanbul to discuss developments in the north-west and the demilitarized zone, and the establishment of the constitutional committee. In parallel, the Secretary-General announced the appointment of Geir Pedersen as his Special Envoy for Syria.

18. A host of legal developments also marked the reporting period. In a move seen as an attempt to encourage refugee return, in October the Government issued a new law granting general amnesty to army deserters and those who had evaded conscription without a valid reason for doing so under domestic law. The Government also issued by presidential decree Law No. 42, extending the period under Law No. 10 to prove ownership of property slated for requisitioning from 30 days to one year, in addition to other amendments.<sup>10</sup> In support of accountability, France issued arrest warrants for three senior Syrian intelligence and government officials on charges of war crimes and crimes against humanity.<sup>11</sup>

19. In Idlib, hostilities resumed towards the end of the reporting period. By early December, pro-government forces had begun firing surface-to-surface missiles and artillery shells against Hay'at Tahrir al-Sham defences in the southern countryside of Idlib, as Hay'at Tahrir al-Sham concurrently engaged in fierce clashes with NFL in the demilitarized zone. In parallel, the President of Turkey, Recep Tayyip Erdoğan, affirmed that Turkey would launch a new campaign to target YPG positions east of the Euphrates River.

20. After a three-month-long military campaign, SDF captured Hajin from ISIL, the terrorist group's last stronghold. Following the capture, the President of the United States of America, Donald Trump, stated that ISIL was defeated and consequently ordered the withdrawal of United States troops from the Syrian Arab Republic. Welcoming the decision, the Government of Turkey stated it would postpone for one month its impending operation east of the Euphrates and coordinate with the United States on the withdrawal of United States troops from the area. President Trump later announced that the United States would slow down the pace of troop withdrawal.

21. The Syrian army meanwhile deployed to villages west of Manbij (Aleppo) after discussions between Damascus and SDF to prevent a Turkish attack in the event of a full United States withdrawal. In the north-west, infighting intensified in Idlib and western Aleppo after the NFL called for mobilization against Hay'at Tahrir al-Sham. Towards the end of the reporting period, clashes between NFL and Hay'at Tahrir al-Sham intensified, with the latter expanding its control in the area. In the north, the possibility of a military operation east of the Euphrates looms.

22. At the time of writing, three broad swathes of territory remain outside of government control: Idlib Governorate and adjacent areas in western Aleppo countryside and northern Hama; Tanf de-confliction zone in Homs, near Rukban camp; and the northern and eastern parts of the country under SDF control.

#### **IV. Protection of civilians**

23. Attacks against civilians and civilian objects in Idlib, Aleppo, Dayr al-Zawr and Suwayda' Governorates, which have killed and injured scores of Syrian women, men and

<sup>10</sup> Other amendments in Law No. 42 include giving claimants more time to appeal verdicts and letting them do so through the courts instead of through a dedicated judicial committee. Those whose properties are already registered in the State land registry are no longer required to prove ownership.

<sup>11</sup> One of the officials, the head of Syrian air force intelligence, was already the subject of an international arrest warrant issued by Germany in June 2018.

children, continued to be documented. Aerial and ground offensives significantly damaged key civilian infrastructure, including hospitals and schools. The emblematic attacks described below were carried out by pro-government forces, armed group members and ISIL terrorists.

### **Idlib Governorate**

24. After benefiting from sweeping offensives in the south, in August pro-government forces turned their focus north-west to the last remaining opposition redoubt of Idlib. Dozens of air raids, which decimated residential areas and specially protected objects, including hospitals,<sup>12</sup> were carried out across the governorate in August and September.

25. On 9 August, government forces began airdropping leaflets across Idlib urging civilians to reconcile with the Government and informing them that the war had ended. However, attacks by pro-government forces continued in densely populated areas, without necessary precautions to avoid harm to civilians. In the mid-morning of 12 August, pro-government forces launched a series of rocket attacks against Tahitaya village, under the control of Ahrar al-Sham and situated some four kilometres from Hish town. The attacks killed one woman and a 16-year-old girl and injured seven other civilians, including one woman and four children. The Commission received conflicting reports on the presence of military targets in Tahitaya.

26. Pro-government forces then carried out at least 13 aerial attacks between 4 and 7 September in Haas, Khan Sheikhoun, al-Tah, Hish and Jisr al-Shughur in southern Idlib, causing dozens of civilian casualties. On 4 September, for example, in the early afternoon, at least 10 air strikes were launched in Jisr al-Shughur town. Air strikes against residential areas in al-Basateen neighbourhood of Jisr al-Shughur killed 12 civilians, including a pregnant woman and six children, and wounded 20 others. The attacks led to the partial collapse of a residential building, rendering it uninhabitable. On the same day and again on 10 September, pro-government forces conducted air strikes, reportedly dispersing cluster munitions over a residential area in Hish town, injuring nine civilians, including four women and a child.

27. Pro-government forces also attacked numerous medical facilities in early September, including in Khan Sheikhoun and Haas towns. On 8 September, for example, at approximately 2.30 p.m., pro-government forces launched an air strike against the Nabl al-Hayat “cave hospital”,<sup>13</sup> located two kilometres from Haas, damaging its entrance, emergency ward, generators and vital medical equipment. Two visitors and a male anaesthetic technician were injured, and the hospital remained closed for at least 10 days thereafter. Following substantial damage to the facility one year ago, Nabl al-Hayat hospital had still been providing emergency, surgery and other medical services to some 7,000 residents of Jisr al-Shughur.

28. Despite the creation of the demilitarized zone, numerous civilians, including women and children, were killed in air strikes launched within the zone, including in Jarjanaz town. On 2 November, at approximately noon, pro-government forces began a ground offensive in Jarjanaz, where some 20,000 to 30,000 civilians reside, including thousands of internally displaced persons. Witnesses described dozens of rockets launched within the span of 15 minutes. The attacks struck a main road and adjacent market street, killing eight civilians including a 12-year-old boy, and wounding eight other civilians. Three of the victims, including the boy, were killed while at a pharmacy struck by a rocket, while four men perished after a building collapsed onto their car. Witnesses recalled how the closest armed group checkpoint was located some 10 kilometres from Jarjanaz.

<sup>12</sup> Since 2013, the Commission has documented how pro-government forces systematically target health-care infrastructure in opposition-held areas to deprive both civilians and belligerents of medical treatment.

<sup>13</sup> Beginning in 2016, numerous hospitals and medical facilities throughout the Syrian Arab Republic have been operating from basements or caves dug into mountains, with the aim of reinforcing them from exposure to attack.

29. On 24 November, in the early afternoon, pro-government forces launched an attack using mortar projectiles near al-Khansaa primary school in Jarjanaz. Some 250 children were playing in the schoolyard when a rocket-assisted mortar projectile exploded approximately 50 metres away, killing at least four boys aged between 8 and 10 years, and two girls aged 10 and 11 years. Numerous other children were injured. A pregnant female teacher, attempting to flee with her spouse and a four-year-old boy, was also killed, while the boy lost a limb during the shelling. One interviewee recalled seeing the dismembered bodies of children, along with their shoes and backpacks, scattered across the schoolyard. The shelling continued throughout the day, and a three-year-old girl was killed later that evening.

30. The Commission finds there are reasonable grounds to believe that, on three occasions, pro-government forces may not have directed their attacks at a specific military objective (see paras. 26 and 28–29 above). Launching indiscriminate attacks resulting in death or injury to civilians would amount to a war crime. In September, pro-government forces committed the war crime of intentionally targeting protected objects (see para. 27).

### **Aleppo Governorate**

#### *Western Aleppo countryside*

31. Armed groups and Hay'at Tahrir al-Sham terrorists also maintained their foothold in western Aleppo Governorate, where sporadic hostilities continued throughout the period under review. On 10 August, for example, pro-government forces carried out a series of air strikes in Urum al-Kubra town, home to some 35,000 residents, including civilians internally displaced from eastern Ghouta, Homs and eastern Aleppo city. Witnesses recalled how, within the span of 15 minutes, three consecutive air strikes were launched, with each strike consisting of four bombs.

32. The three air strikes killed at least 37 civilians, including 9 women, 12 girls and 7 boys, and injured at least 56 others, including 9 women, 6 girls and 12 boys. Damage from the attack spread over 250 metres, with witnesses recalling how up to 40 residential structures were destroyed and some 30 others partially damaged. After the attack, it took rescue workers more than two weeks to clear rubble and debris.

33. Hay'at Tahrir al-Sham and Nour al-Din al-Zanki clashed in the vicinity of Darat Izzah in September, some 30 kilometres from Urum al-Kubra town. The Commission was unable, however, to confirm the presence of armed actors or other legitimate military objectives in areas specifically affected and notes that launching indiscriminate attacks resulting in death or injury to civilians would amount to a war crime.

#### *Afrin and adjacent areas*

34. Credible estimates indicated that over 50 armed groups, including Free Syrian Army affiliates, also remained present throughout northern Aleppo, predominantly in Afrin District and in neighbouring Azaz District. During the period under review, these groups included Ahrar al-Sham, Amshad brigade, Faylaq al-Sham, Jaish al-Nukhba, Jaish al-Sharqiya, Jabhat al-Shamiya, Nur al-Din al-Zanki and Sumina Shah brigade, among others.

35. With the conclusion of Operation Olive Branch on 18 March 2018, civilians in Afrin immediately witnessed an end to large-scale military operations. The reprieve was short-lived, however, as overall security on the ground remained precarious throughout the reporting period. Fighting by armed factions for control over pockets of territory increased significantly. Frequent clashes included the use of car bombs and improvised explosive devices, particularly in the densely populated centres of Afrin and Azaz cities, which killed and injured dozens of civilians, including women and children. On 16 December, for example, a car bomb exploded in al-Hal vegetable market in Afrin city, killing up to 12 civilians and wounding scores of others. In rural areas of Afrin, including the north, the contamination of agricultural lands with landmines and explosive remnants caused further civilian casualties, including among children.

### Suwayda' Governorate

36. Aside from armed groups and Hay'at Tahrir al-Sham, the Commission documented hostilities between July and December against remaining ISIL redoubts in Suwayda' and Dayr al-Zawr Governorates. Though their presence countrywide has diminished considerably, the ability of ISIL terrorists to carry out attacks against civilians continued in both of these areas during the period under review.

37. Immediately upon recapturing the southern Damascus suburbs in late May 2018, government forces entered the area to evacuate ISIL fighters (A/HRC/39/65, paras. 43–44). Scores of ISIL terrorists evacuated from Hajar al-Aswad and the neighbouring Yarmouk basin reportedly later retreated to their stronghold in al-Badia desert near Suwayda' Governorate.

38. In the early dawn hours of 25 July, ISIL terrorists launched a coordinated attack against several villages in Suwayda', the ancestral homeland of the Druze minority sect. Disguised in traditional Druze clothing, including the *shashiyah*, a white headdress, and reinforced by snipers positioned on roofs of houses, ISIL fighters went door to door shooting civilian women, men and children, some of them still asleep. The militants spared one survivor per family, often a woman, to tell the story. While visiting al-Shabki village in the aftermath of an assault where at least 68 persons were killed, one man recalled entering a home to see a slain mother lying alongside the bodies of her three children.

39. Upon expending their ammunition, between approximately 4.30 and 5 a.m., numerous ISIL militants travelled to Suwayda' city and detonated their vests in devastating suicide attacks, including near a crowded vegetable market, killing at least 200 civilians and injuring at least 170 others. Two of the would-be bombers were apprehended by Druze civilians near city hospitals before they could detonate their vests, and they were later publicly hanged by civilians in the provincial capital.

40. During the attacks, ISIL fighters abducted at least 32 Druze women and children, along with a 19-year-old Druze male student whom they later decapitated after the Government refused to comply with prisoner swapping requests, including demands that it release senior members of the terrorist group. Individuals the Commission spoke with described how abducted women and children were forced to walk for 12 hours in the searing heat of the desert before being detained in a makeshift camp. Survivors recalled how the hostages had been transferred numerous times during their captivity, including to a cave, and ultimately were taken to Tadmur (Palmyra) District (Homs), some 470 kilometres north-east of their original point of capture.

41. While detained, women and girls were required to wear headscarves, and boys above the age of 10 years were separated from females, including on occasion from their mothers.<sup>14</sup> Hostages endured inhumane conditions while in captivity: some women and children exhibiting signs of trauma were beaten into silence, and one woman perished due to lack of medical assistance. In addition to a 19-year-old male, two other hostages, including a woman whose execution was filmed by ISIL and uploaded online, were murdered when demands for prisoner swaps were not met. Responding to the events, government forces initiated a military offensive in rural Suwayda' on 6 August.

42. On 20 October, six Druze women and children abducted from al-Shabki village were exchanged for 17 government-held detainees, many with familial ties to ISIL fighters. After having been held hostage for 107 days, the remaining 21 Druze women and children were rescued on 8 November during an operation launched by government forces in Humeima in Tadmur (Palmyra) District, though at least two boys, aged 8 and 13 years, being held hostage were killed in the crossfire. Just over one week later, after successfully clearing the al-Safa plateau in the eastern Badia desert, the offensive by government forces to drive out ISIL terrorists from Suwayda' officially ended on 19 November.

<sup>14</sup> The separation of females from males approaching puberty or thought to be of such an age conforms broadly with the stringent interpretation of Islamic tenets by ISIL.

43. ISIL claimed responsibility for the attacks of 25 July, and the Commission has regularly documented how the terrorist group systematically perpetrates sectarian violence against religious minorities throughout the Syrian Arab Republic, including against members of the Shia, Christian, Yazidi and Druze faiths (see, e.g., A/HRC/36/55, paras. 44–45).<sup>15</sup> There are reasonable grounds to believe that, by attacking and abducting Druze civilians, ISIL militants committed the war crimes of making the civilian population or individual civilians, not taking a direct part in hostilities, the object of attacks,<sup>16</sup> and hostage-taking.<sup>17</sup> By holding women and children in inhumane conditions and executing captives, they further committed the war crimes of cruel treatment and murder.<sup>18</sup> Such attacks underscore the fact that, despite conceding vast swathes of territory to government forces and SDF in 2018, the threat of a prolonged low-level insurgency by the terrorist group in the Syrian Arab Republic remains, including in Dayr al-Zawr Governorate.

#### Dayr al-Zawr Governorate

44. Operations against remaining ISIL targets in the east also continued during the reporting period, particularly in swathes of remote desert terrain bordering Iraq. SDF, with support from the United States-led coalition, reignited its offensive on 11 September 2018.<sup>19</sup> Concerted operations were launched in Hajin – the remaining sliver of ISIL-held territory along the Euphrates River and home to some 15,000 residents, including up to 5,000 ISIL fighters and their family members. SDF advanced from four separate fronts, including Hajin, Susah, Sha’fah and adjacent villages. By 13 September, some 1,400 civilians who had fled the clashes were confined by SDF to a makeshift camp in Hajin, a few kilometres from the frontline.

45. During the early morning hours of 12 October and under the cover of a dust storm, ISIL fighters attacked the makeshift camp and abducted scores of civilians, primarily women and children. The Commission received reports that some abductees were later executed for having left ISIL territory.<sup>20</sup> Prior to the attack, a number of women and children formerly associated with ISIL were reportedly transferred by SDF from the Hajin camp to several different detention facilities throughout Dayr al-Zawr, including in al-Busayra, al-Kasra and al-Sour. Approximately 140 children of ISIL militants and some 80 women associated with ISIL fighters are reportedly confined in al-Kasra, where they endure primitive living conditions with virtually no access to medical assistance. Cases of malnourished children have been reported.

46. To overcome ISIL setbacks, SDF relied heavily on international coalition air power, causing a notable increase in civilian casualties and underscoring the link between explosive weapons in densely populated areas and civilian harm. The Commission received reports that air strikes carried out on 18 and 19 October struck the Ammar bin Yasser and Bin Affan mosques in Susah, reportedly causing civilian deaths and injuries (see A/73/454–S/2018/941). One person interviewed by the Commission provided information of an alleged air strike in Susah village (Dayr al-Zawr) on 27 October that reportedly killed five members of the same family, including two women, two girls and a boy.

47. Similarly, a coalition air strike in al-Boubadran neighbourhood of Albu Kamal on 15 November reportedly killed 18 civilians, including 3 women and 14 children. The

<sup>15</sup> See also, generally, “‘They came to destroy’: ISIS crimes against the Yazidis”, conference room paper (A/HRC/32/CRP.2). Available from [www.ohchr.org/en/hrbodies/hrc/regularsessions/session32/pages/listreports.aspx](http://www.ohchr.org/en/hrbodies/hrc/regularsessions/session32/pages/listreports.aspx).

<sup>16</sup> See Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law: Volume I – Rules* (Geneva, International Committee of the Red Cross (ICRC); Cambridge, United Kingdom, Cambridge University Press, 2005), rule 156.

<sup>17</sup> See article 3 common to the Geneva Conventions of 12 August 1949; see also, *Customary International Humanitarian Law*, rule 156.

<sup>18</sup> *Customary International Humanitarian Law*, rule 156.

<sup>19</sup> In May 2018, SDF had originally announced operation al-Jazeera Storm against ISIL remnants that had regrouped along the Iraqi border.

<sup>20</sup> From a doctrinal viewpoint, ISIL regards those attempting to leave its territory as apostates who were leaving *dar al-Islam* (the territory of Islam) towards *dar al-harb* (the territory of war).

Commission also received accounts of an alleged air strike on 29 November that struck the Yarmouk women's hospital in Sha'fah city, causing civilian deaths.

48. While information in relation to the foregoing incidents requires further corroboration, numerous attacks by the international coalition resulting in death or injury to civilians, including those striking specially protected objects, such as hospitals and cultural property, raise serious concerns that war crimes and other violations of international law may have been committed.

49. Though SDF captured Hajin from ISIL by mid December, the battles came at an extremely high cost to civilians.<sup>21</sup> The Commission continues to investigate international coalition air strikes carried out between October and December that reportedly resulted in numerous civilian casualties. In areas adjacent to Hajin, clashes between SDF and international coalition forces against ISIL continue.

## V. Life behind the frontlines

50. Compounding civilian suffering caused by ongoing hostilities, thousands of armed group members and their families were evacuated to the north and north-west of the country from areas previously besieged by pro-government forces throughout the first half of 2018. Their arrival, coupled with severe socioeconomic hardship and a general absence of the rule of law, aggravated existing instability in both Idlib and Aleppo Governorates.

### Idlib Governorate

51. Two main umbrella coalitions dominated Idlib during the reporting period: the NFL and the terrorist group Hay'at Tahrir al-Sham. At the time of writing, some 55,000 armed group fighters and Hay'at Tahrir al-Sham militants inhabited Idlib. As they vie for control over limited resources and beleaguered civilian populations, infighting among groups with competing agendas and extremist ideologies continues to have a negative impact on civilian life. An extensive pattern of kidnappings and abductions has emerged, for example, in which members of armed groups and criminal gangs in Idlib abduct affluent civilians, including doctors and humanitarian actors, and hold them for ransom to finance their activities. Victims are most often taken from their workplaces and driven in vans with tinted windows to unknown locations. Some abductees described being held in basements, often in solitary confinement, while others were taken to rural areas. In areas under the control of Hay'at Tahrir al-Sham, numerous civilians continue to be detained arbitrarily for expressing political dissent.

#### *Detention, abductions and torture*<sup>22</sup>

52. One health worker abducted from his office in August by a group of unidentified armed and masked men described being tortured and threatened with execution. The victim was released when his family paid a ransom.

53. The Commission documented a number of instances where ransom demands of up to \$150,000 were made by abductors, resulting in the eventual release of hostages. There appeared to be a correlation between the decrease in funding provided by international donors over the period under review and the extensive pattern of abductions for ransom by members of armed groups for financial gain.

54. Hay'at Tahrir al-Sham has also been arbitrarily detaining civilians in a systematic effort to stifle political dissent. One activist who was detained with another man in September for taking part in public demonstrations against Hay'at Tahrir al-Sham, for example, described being placed in a tyre and beaten with a stick while held in prison. The activist was released two days later, but his friend is still being held.

<sup>21</sup> See, e.g., S/2018/1129; see also S/2018/1009.

<sup>22</sup> Protection concerns prevent the Commission from disclosing certain information in this section, such as place names, that could potentially be used to identify individual sources. In all cases, the Commission remained guided by the "do no harm" principle.

55. Also in September, a man received two written warnings from the self-styled “Salvation government” of Hay’at Tahrir al-Sham, requesting him to report to a particular police station. The warnings did not state the reason for his summons, though he later learned that Hay’at Tahrir al-Sham implemented proceedings against him through the “ministry of justice” and the “office of the prosecutor” of the “Salvation government”, in relation to posts he had made online in which he criticized the situation in Idlib with regard to the provision of services, security, the spate of recent abductions and other issues for which he believed Hay’at Tahrir al-Sham bore responsibility.

56. Pursuant to its ideology, Hay’at Tahrir al-Sham officially denounces democracy and secularism, and arrests and detains those civilians who speak out against its fragile rule. In continuation of a pattern documented by the Commission since October 2014,<sup>23</sup> journalists, activists and other civilians deemed to be violating the group’s stringent interpretation of Islamic law (sharia) are routinely detained arbitrarily, tortured and subjected to ill-treatment while in detention facilities known to be operated by the group, including in Ouqab and Harim prisons. The Commission also received information that a Hay’at Tahrir al-Sham emir heading the Jabal al-Zawiya branch of Ouqab prison was responsible for detaining activists in Kafr Nubl, indicating an organizational policy.

57. The Commission notes that the mass arbitrary detention of political dissenters perpetrated by Hay’at Tahrir al-Sham terrorists constitutes a systematic attack directed against a civilian population. There are reasonable grounds to believe that Hay’at Tahrir al-Sham is perpetrating the crime against humanity of persecution on political grounds. The Commission also notes that, in instituting makeshift courts whose procedures fall far short of fair trial standards, Hay’at Tahrir al-Sham routinely violates the principles of due process<sup>24</sup> and seriously contravenes international human rights norms.

#### *Education and children*

58. Up to 3 million Syrian women, men and children in Idlib Governorate continue to live under the control of armed groups and the terrorist umbrella of Hay’at Tahrir al-Sham, the vast majority of whom endure the absence of a centralized system of governance able to meet their most pressing daily needs. Economic hardship, moreover, often forces families, and in particular female-headed households, to remove their daughters from school and marry them off. Children in Idlib remain disproportionately affected, also by the lack of services.

59. In areas under the control of armed groups local councils and structures of the opposition’s “interim government”, including schools, remained functional, despite numerous challenges. There are currently some 24,000 teachers working in schools throughout Idlib, which are managed by the “education directorate” of the interim government, approximately half of whom receive their salaries from the national Government. In order to obtain their salaries, teachers are forced to go to the Directorate of Education in Hama Governorate. Dozens have been arbitrarily arrested and detained during the process, however, including at government-controlled checkpoints in Qal’at al-Madiq (Hama) and Abu al-Zuhur (Idlib).

60. Lamentable decreases in international donor funding during the period under review also had a disproportionate impact on schools throughout Idlib, specifically limiting the possibility of repairing infrastructure damaged by hostilities and purchasing vital equipment, books and stationery. Some 375 schools in Idlib have closed since 2011 due to the hostilities, increasing the pressure on the remaining schools, which are overcrowded by the influx of tens of thousands of children forcibly displaced to Idlib in the first half of 2018 (A/HRC/39/65, para. 86). During the period under review, the average number of students per class in areas held by armed groups was estimated to be between 50 and 70, as against 25 prior to the influx of displaced pupils in 2017.

<sup>23</sup> In its previous incarnation as the Al-Nusra Front (or Jabhat al-Nusra), Hay’at Tahrir al-Sham perpetrated the same pattern of arbitrary detentions dating back to 2014.

<sup>24</sup> *Customary International Humanitarian Law*, rule 100.

61. In areas under the control of Hay'at Tahrir al-Sham, its "salvation government" has been increasingly undertaking activities aimed at taking over the provision of services, including education. The Commission has previously documented how, as early as August 2017, members of Hay'at Tahrir al-Sham began circulating decrees throughout schools in areas they controlled, demanding that women and girls over the age of 9 years wear a black or dark brown *jalabiya*, a wide-cut, loose-fitting garment, when venturing outdoors. They could not wear dresses with bright colours, and had to cover their hair. Female students who did not follow the dress code have been banned from attending classes, while others have reportedly been beaten by female *Daiyaat* (Hay'at Tahrir al-Sham morality police). Such edicts demonstrate discriminatory treatment on the basis of sex, in breach of international human rights norms.<sup>25</sup>

62. Elsewhere, the terrorist group continues to recruit and use children – including many from families that are unable to support them financially – to operate checkpoints, such as in Bab al-Hawa, Ma'arrat al-Nu'man and Saraqib. The inability of educational institutions throughout Idlib to provide quality education, frequent targeting of those institutions by pro-government forces,<sup>26</sup> the lack of recognition by the State of educational certificates provided by armed groups and the low income of pupils' families have further fuelled recruitment and use of children by Hay'at Tahrir al-Sham throughout the governorate. The Commission finds that Hay'at Tahrir al-Sham continues to commit the war crime of conscripting or enlisting children under the age of 15 into its armed forces or groups, and using them to participate actively in hostilities.<sup>27</sup>

### Aleppo Governorate

63. As in Idlib, residents throughout the Afrin District of Aleppo consistently described a general absence of the rule of law, with parties in control either unwilling or unable to provide effective redress or, in some cases, extorting bribes from victims in order to do so. Despite changes in administrative, judicial and executive structures in Afrin (see paras. 69–70 below), residents noted how armed groups exercising de facto control over sub-districts lacked discipline and were often involved in pillaging, arbitrary detention and abduction. The Commission was unable to determine whether Turkish authorities were able to control such conduct.

#### *Detention, abductions and torture*

64. Owing to the lack of an effective security apparatus and attendant absence of the rule of law, the most common violations perpetrated in Afrin involved frequent abductions by armed groups and criminal gangs. As in Idlib, numerous physicians, pharmacists and other civilians perceived as affluent or their children were abducted for ransom. In some instances, individuals were re-abducted after having been released. Victims were often unable to identify their abductors, referring instead generally to armed groups, Free Syrian Army affiliates or criminal gangs. Demands for ransom ranged from a few hundred dollars to \$100,000, or more.

65. Strikingly similar circumstances surround the extensive pattern of abductions for ransom by armed groups and criminal gangs in Idlib and Afrin that were corroborated by the Commission, possibly indicative of similar underlying motives (see para. 53 above). Victims and their families in Afrin reported such cases to military police, civilian police and Turkish authorities, with little to no effect.

66. Numerous cases involving arbitrary arrests and detentions by armed group members also included credible allegations of torture and ill-treatment, often targeting individuals of Kurdish origin, including activists openly critical of armed groups and those perceived to

<sup>25</sup> See "I lost my dignity": Sexual and gender-based violence in the Syrian Arab Republic", conference room paper (A/HRC/37/CRP.3), footnote 6.

<sup>26</sup> See, e.g., "Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016–28 February 2017", conference room paper (A/HRC/34/CRP.3), paras. 20–31.

<sup>27</sup> *Customary International Humanitarian Law*, rule 156.

be so. On occasion, arrests were followed by the confiscation of the victim's property, including vehicles and livestock. Similarly, individuals accused of being supportive of the Kurdish Democratic Union Party (PYD) or YPG were detained by members of unidentified armed groups and subsequently interrogated by both armed group members and Turkish officers.

#### *Pillaging and extortion*

67. Residents throughout Afrin regularly provided accounts of pillaging by armed groups and criminal gangs. The cultivation of olive trees remains a major source of income for thousands of farmers in the district, and the mass pillaging of olive harvests by armed group members during peak season deprived many of their livelihoods. In an effort to avoid situations of appropriation, other victims acquiesced to a "tax" levied against them by members of armed groups. The Commission also received reports of harassment, including of women, by armed group members and demands for bribes from individuals wishing to pass checkpoints.

68. While the Commission received accounts that Turkish forces had withdrawn during the period under review, some residents noted the continuous presence of Turkish military troops in Afrin and Azaz, including their alleged use of schools for military purposes in Afrin city. Turkish forces had been arming checkpoints in and around larger cities in the aftermath of Operation Olive Branch, though the vast majority have seemingly been replaced in recent months by armed group members, including those working with the Free Syrian Army.

69. General administration in Afrin also continued to undergo a series of transformations (A/HRC/39/65, para. 25). For example, reports were received that Turkish authorities were controlling, coordinating and financing administrative, judicial and executive structures. Funding for local councils and technical support for the issuance of vital identification documents were reportedly provided by Turkey, while residents also stated that such documentation was required by Turkish authorities as a prerequisite for civilians to move freely within Afrin and to adjacent districts.

70. Residents also pointed out that Syrian judges and lawyers continued to be appointed by, or in coordination with, the Turkish Ministry of Justice (*ibid.*). Others stated that Syrian laws adopted prior to the 2011 uprising were being applied by local and district-level courts. Though Syrian nationals, civilian police officers were reportedly also being selected and trained by Turkish authorities. Even so, interviewees generally described administrative and executive structures as largely ineffective and incapable of addressing grievances with regard to the unlawful conduct of dozens of armed groups.

71. The Commission finds there are reasonable grounds to believe that armed group members in Afrin committed the war crimes of hostage-taking (see paras. 64–65 above), cruel treatment, torture (see para. 66 above) and pillage (see para. 67 above).<sup>28</sup> The Commission remains unable to confirm the precise extent to which Afrin and its environs were under the control of Turkish forces or armed groups at the time of writing, nor whether Turkish forces were capable of exercising actual authority and carrying out governmental functions in Afrin.<sup>29</sup> Due to the glaring absence of the rule of law, it similarly remains unclear whether Turkish forces were capable of exercising overall control over any armed groups present in the district.<sup>30</sup>

#### **Life under government control**

72. Outside of the north and north-west, the success of fierce battles carried out by government forces between January and July 2018 in Aleppo, Damascus, Rif Dimashq,

<sup>28</sup> *Customary International Humanitarian Law*, rule 156.

<sup>29</sup> *Case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Judgment*, *I.C.J. Reports 2005*, para. 173.

<sup>30</sup> International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Duško Tadić*, Appeals judgment, IT-94-1-A, 15 July 1999, para. 131.

Dar'a, Hama and northern Homs (A/HRC/39/65, paras. 13–63) affected conflict dynamics dramatically and facilitated major shifts towards the consolidation of power by the State. Following the cessation of hostilities and the subsequent implementation of local truces in the those areas, government forces regained control over more territory than they had administered since the onset of the conflict. Consequently, and after years under the direction and control of various armed groups, hundreds of thousands of Syrian women, men and children transitioned into a new grim reality during the latter half of the year.

#### *Arbitrary arrests and detention*

73. Upon securing control over Duma (Rif Dimashq), Dar'a and northern Homs government forces engendered a climate of fear through a campaign of arbitrary arrests and detention.<sup>31</sup> Indeed, while arbitrary detention throughout the Syrian Arab Republic continues to be perpetrated by all parties on the ground, the phenomenon has been most pervasive since 2011 in areas under government influence. During the reporting period, activists, civil defence volunteers, conscript deserters, recent returnees and others generally perceived to be opposition supporters were the most likely to be detained arbitrarily. Women with familial ties to opposition fighters or defectors were similarly detained for intelligence-gathering purposes or retribution.

74. Individuals known to be in contact with relatives or friends living in areas under opposition control were also arrested, including in eastern Ghouta. Pursuant to an oath of loyalty required by the Government under the framework of “reconciliation”,<sup>32</sup> civilians throughout eastern Ghouta were prevented from speaking to those in opposition-held areas, including their own family members forcibly displaced north-west under “evacuation agreements” (A/HRC/36/55, para. 35).

75. The Commission recalls that the scope and scale of arbitrary arrests and detention used by government forces as a tool of repression have led to the custodial deaths of thousands of Syrian civilians.<sup>33</sup> In an unprecedented development, during the period under review, State entities provided government civil registry offices<sup>34</sup> with information that thousands to tens of thousands of previously detained individuals were deceased.<sup>35</sup> Civil registry offices in Hama, Ladhīqiyah, Hasakah and Damascus Governorates updated their civil status records accordingly to reflect the deaths.

76. Most interviewees explained that the records they received at civil registry offices concerning their fathers, sons, brothers or spouses referred to natural causes of death, such as “heart attack” or “stroke”. Other detainees who perished shared common death dates, possibly indicating group executions. Families who did not obtain a death certificate were unable to move forward on related legal issues, including inheritance.<sup>36</sup>

77. Whenever a person known to be in State custody dies, the burden is primarily on the State to prove that his or her death did not result from acts or omissions attributable to it. Each custodial death must be independently investigated and the results must be publicly reported (A/68/261, para. 52).<sup>37</sup> Moreover, in the context of death notifications which list the names of individuals otherwise disappeared, the Commission is of the view that the

<sup>31</sup> The Commission has previously documented a widespread and systematic pattern in which men above the age of 15 years had been arbitrarily arrested and detained by government security and armed forces, or militia acting on their behalf, during mass arrests, at checkpoints or during house searches. See, e.g., “Death notifications in the Syrian Arab Republic”, 27 November 2018; see also “Out of sight, out of mind: deaths in detention in the Syrian Arab Republic”, conference room paper (A/HRC/31/CRP.1).

<sup>32</sup> On oaths of loyalty and reconciliation generally, see A/HRC/36/55, paras. 20–22.

<sup>33</sup> See, generally, A/HRC/31/CRP.1.

<sup>34</sup> Administrative bodies operating under the Syrian Ministry of Interior and located in each governorate countrywide.

<sup>35</sup> The vast majority of those individuals are believed to have been detained by State authorities between 2011 and 2014.

<sup>36</sup> See “Death notifications in the Syrian Arab Republic”.

<sup>37</sup> See also, Human Rights Committee, general comment No. 36 (2018) on the right to life.

enforced disappearance as a violation of international law continues as long as families do not know the victim's whereabouts.<sup>38</sup>

#### *Access to basic services*

78. Beyond arbitrary arrests and detention, life in recently recaptured areas was characterized by various obstacles imposed by government forces on civilians, particularly affecting those who had to travel to obtain basic services otherwise unavailable in their places of residence. Persons interviewed in eastern Ghouta, for example, recalled that residents, including men of military age, were often subjected to security checks, with many reportedly having to pay bribes to cross government-controlled checkpoints and have access to services. Moreover, even where certain services, including education and health, were being gradually restored, such as in Dar'a and Duma (eastern Ghouta), the situation in parts of Dar'a and Duma remained dire, with many civilians living in the basements of destroyed buildings or in makeshift shelters.

79. Exacerbating the lack of access to basic services, Syrian authorities do not recognize civil documentation issued by armed groups, including documentation associated with vital events, such as births, deaths or property transactions. In Duma, for example, individuals recalled that, fearing arrest or conscription, they had to risk travelling to Damascus in order to obtain certificates relating to education, medical care or employment. Owing to cultural mores, women, who were less likely to have property issued in their names, faced additional challenges, including to secure inheritance rights.

#### *Housing, land and property*

80. The Commission also documented a number of incidents in which properties in Aleppo, Damascus, Homs, Hama, Rif Dimashq and Suwayda' Governorates were seized by the State pursuant to the counter-terrorism law established by presidential decree, "Law" No. 19/2012. Under Law No. 19, both the movable and immovable property of individuals deemed to have engaged in terrorism activities may be frozen or confiscated (arts. 11 and 12). Some 70,000 Syrians have reportedly faced asset freeze decisions by the Ministry of Finance in the past two years alone. Supporting documentation received by interviewees confirms the Ministry of Finance as the body actively seizing properties.<sup>39</sup>

81. In some cases, decisions by the counter-terrorism court<sup>40</sup> to seize property have been amended to include wives and children, including minors, of males convicted of terrorist acts. It remains unclear whether family members are also being convicted of terrorist offences or simply barred from exercising any claim on the properties seized. In other cases, friends of the individual convicted were also included on amended decisions.

82. The ambit of prohibited acts enumerated under counter-terrorism Law No. 19 appears to be unduly broad and contains catch-all provisions which may potentially affect thousands more Syrian civilians. Additional concerns regarding due process and the right to a fair trial for those whose properties have been seized include the independence of the counter-terrorism judiciary and respect for fundamental judicial guarantees, as well as notification procedures and the right to counsel for refugees and internally displaced persons, with the latter continuing to endure poor conditions of shelter, hygiene, health, safety and nutrition countrywide.<sup>41</sup>

<sup>38</sup> Article 17 (1) of the Declaration on the Protection of All Persons from Enforced Disappearance provides that "acts constituting enforced disappearance shall be considered a continuing offence as long as perpetrators continue to conceal the *fate and the whereabouts* of persons who have disappeared" (emphasis added).

<sup>39</sup> Under article 1 of Presidential Decree No. 63/2012, and for terrorism-related offences enumerated under Law No. 19, the Ministry of Finance is empowered to "take the necessary precautionary measures against movable and immovable property belonging to the accused".

<sup>40</sup> See Presidential Decree No. 22/2012 on Establishing a Counter-terrorism Court.

<sup>41</sup> See Guiding Principles on Internal Displacement, para. 3 (c) and Principles 18–19.

## VI. Internally displaced persons and refugees

83. Battles waged throughout 2018 by pro-government forces, other State actors, armed groups and terrorist entities caused over 1.5 million civilians to flee their homes in fear and desperation. Thousands of other civilians were forcibly displaced pursuant to “evacuation agreements” negotiated among warring parties. The plight of displaced persons now affects more than 5.6 million refugees who have fled the country and more than 6.2 million internally displaced civilians inside the Syrian Arab Republic.

### Rukban camp

84. Despite discussions between Jordan and the Russian Federation in early November to close Rukban camp, some 41,000 Syrian women, men and children remain confined in the southern desert near the border with Jordan. The majority of encamped civilians subsist in exceptionally dire conditions, with little to no access to basic services, including medical care, education and basic sanitary services. Due to the absence of security guarantees from tribal community leaders and armed groups overseeing the camp, as well as the routine, arbitrary denial of consent for aid deliveries by Syrian authorities, humanitarian convoys have been repeatedly halted.

85. Following the closure by pro-government forces of at least one unofficial supply route used to smuggle vital foodstuffs and medicine, living conditions in Rukban deteriorated significantly towards the end of September. As the cost of food correspondingly soared, civilians suffered a large-scale humanitarian disaster. At least one young woman aged 20 died of malnutrition induced by economic hardship.

86. For the first time since January 2018, the United Nations and the Syrian Arab Red Crescent delivered aid to encamped residents, on 3 November, followed by a one-off exceptional delivery from Jordan on 9 December. In addition to difficulties in access to basic services, the plight of civilians in Rukban is compounded by a complete lack of law enforcement and the lack of complaint mechanisms within the camp.

87. Women and girls in Rukban have been disproportionately affected by rampant sexual and gender-based violence, child marriage and exploitation at the camp. For women, pregnancy complications are also commonplace, and expectant mothers have been forced to wait for hours at the border to have access to the closest medical facility.

88. The situation of children is particularly extreme: of the camp’s roughly 10,000 children, many of whom lack civil documentation and are effectively stateless, at least half lack access to basic education, with several among them reportedly illiterate. One man displaced from Homs Governorate underscored the prevalence of child malnutrition leading to preventable deaths, describing how desperate parents were forced to nourish their infants with a mixture of water and sugar instead of milk. At least four malnourished infants unable to receive medical treatment died between October and December. Aside from lack of access to sustained humanitarian aid, incidents of the recruitment and use of children by armed groups and child labour have generated additional human rights abuses.

### Aleppo Governorate

89. Patterns of hostilities, arbitrary arrest and suppression of political dissent by armed groups in Afrin District (Aleppo) also triggered civilian displacement towards government-controlled areas and to areas under Kurdish control in the east. At the same time, tens of thousands of civilians returned to Afrin during the period under review, many only to find their homes pillaged. In other cases, returnees found their homes appropriated by fighters and their families (see also A/HRC/39/65, para. 30). The Commission is currently reviewing allegations that those displaced from Afrin are required to initiate a court process to regain access to their properties. Investigations are ongoing.

### Dayr al-Zawr Governorate

90. As hostilities in and around Hajin intensified (see paras. 44–49 above), civilians trapped in the city and adjacent sub-districts of Sur, Basira, Dhiban and Susah recalled the

intensity of aerial and ground attacks and described an unfolding catastrophic humanitarian situation. By 13 September, and only days after the Hajin offensive commenced, up to 1,400 individuals fled bombardments and were rounded up and confined by SDF in a makeshift camp in Hajin (see para. 44 above), amounting to de facto detention from the moment of capture. The camp was established only two kilometres from the combat zone, in violation of international humanitarian law.<sup>42</sup> Indeed, humanitarian access to the camp was severely curtailed due to hostilities and the unstable security situation. As a result, the majority of encamped individuals, comprising women and children, including ISIL family members, lacked access to adequate food and potable water and received only minimal medical care. The preventable deaths of at least three children owing to these conditions were documented. Furthermore, most of the residents in the camp possessed no recognizable civil documentation and, like those in the Rukban camp (para. 88), were effectively stateless.

91. In September, 7,000 civilians were displaced from Hajin to SDF-controlled areas, where they stayed in makeshift camps near Kharayij and Abu Khashab towns and al-Bahara village without health-care services and with only minimal humanitarian assistance from SDF. Exposure to the elements, including torrential rains causing flooding, aggravated their situation. SDF denied camp residents freedom of movement, unless they paid bribes, ranging from \$700 to \$1,200.

92. The question of the lawfulness of their confinement notwithstanding, at all times those detained in camps administered by SDF were entitled to conditions of detention that respected their inherent dignity. Furthermore, all detained displaced persons had the right to an adequate standard of living, including the rights to food and water, as well as the right to health.<sup>43</sup> By failing to provide adequate food, water and living conditions to encamped persons in Kharayij, Abu Khashab and al-Bahara camps, SDF continues to violate these rights. The failure to provide appropriate medical care or assistance to encamped residents also constitutes a violation of the prohibition of cruel, inhuman or degrading treatment,<sup>44</sup> as well as the right to health.

93. By October, up to 10,000 Syrian women, men and children remained trapped in Hajin, living under near-constant bombardment without access to adequate food or medicine. When a humanitarian corridor was opened leading from Hajin into SDF-controlled areas on 5 December, up to 1,300 people, predominantly women, children and elderly persons, managed to flee.

## VII. Ongoing investigations into chemical attack

94. The Commission received information concerning an alleged chemical attack in Aleppo at approximately 9.50 p.m. on 24 November. Affected areas are said to have included Jamiyet al-Zahraa and Khalidiyyeh neighbourhoods. Up to 100 civilians were reportedly injured. One person reported having smelled chlorine and required treatment for inhalation. Investigations are ongoing.

<sup>42</sup> *Customary International Humanitarian Law*, rule 121, noting that “persons deprived of their liberty must be held in premises which are removed from the combat zone and which safeguard their health and hygiene”.

<sup>43</sup> See United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rules 24–26. 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 SDF could not wholly transfer these obligations onto humanitarian organizations. See, e.g., *Mukong v. Cameroon* (CCPR/C/51/D/458/1991), para. 9.3; and Inter-American Commission on Human Rights, *Leroy Lamey et al. v. Jamaica* (case Nos. 11.826, 11.843, 11.846 and 11.847), decision of 4 April 2001, para. 203.

<sup>44</sup> See European Court of Human Rights, *Keenan v. the United Kingdom* (application No. 27229/95), judgment of 3 April 2001, para. 111; Inter-American Court of Human Rights, *Tibi v. Ecuador*, judgment of 7 September 2004, para. 157; African Commission on Human and Peoples’ Rights, *Huri-Laws v. Nigeria* (communication No. 225/1998), decision of 6 November 2000, para. 41.

## VIII. Recommendations

95. The Commission reiterates the recommendations it made in previous reports, with particular emphasis on the protection of civilians in areas where hostilities are ongoing.

96. The current situation throughout the Syrian Arab Republic undermines the feasibility of the return of internally displaced persons and refugees. Any plans for the return of those displaced both within and outside of the Syrian Arab Republic to their places of origin or habitual residences must be made in accordance with a rights-based approach that ensures sustainable solutions.

97. Such an approach should not only address the root causes of the conflict but also help to end the cycle of violations that perpetuate the current situation on the ground.

98. To effectively address the complex issue of returns, the Commission emphasizes the need for:

- (a) The substantial and permanent reduction of hostilities;
- (b) Rapid, safe, unimpeded, unconditional and sustained access to humanitarian and medical relief for civilians in need and guarantees for the protection of aid and health workers;
- (c) Genuine guarantees by all parties that returnees will not face persecution, discrimination, arbitrary detention, torture or any other form of mistreatment and that their human rights will be respected and protected;
- (d) Immediate disclosure of the fates of detained, disappeared and missing individuals, as well as the implementation of Security Council resolutions 2254 (2015) and 2258 (2015), in which the Council calls on the parties to the conflict to release any arbitrarily detained persons, particularly women and children;
- (e) The restoration of critical infrastructure and access to basic services;
- (f) Ensuring that protection and assistance concerns of displaced and returnee women and girls, including their access to basic services and key rights, are addressed in an effective and sustainable manner;
- (g) Efficient, accessible and affordable mechanisms to address housing, land and property issues, including with regard to women's inheritance rights;
- (h) The implementation of simplified administrative procedures for civil registration of vital events, so that individuals, including children, are not prevented from exercising key rights;
- (i) Legislation and legal and administrative mechanisms to process civil acts and property registration that comply with international human rights law and which are equally accessible and affordable to all Syrians, in particular women, regardless of their place of residence;
- (j) Returnees to be able to effectively participate throughout the process of return and reintegration.

