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## Human Rights Council

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### Human rights situations that require the Council's attention

## Report of the independent international commission of inquiry on the Syrian Arab Republic\* \*\*

### *Summary*

The conflict in the Syrian Arab Republic has reached new levels of brutality. In the present report, the commission of inquiry documents, for the first time, the systematic imposition of sieges, the use of chemical agents and cases of forcible displacement. War crimes, crimes against humanity and gross human rights violations continue apace. Referral to justice remains paramount.

The present report, submitted pursuant to Human Rights Council resolution 22/24, covers the period from 15 January to 15 May 2013. The findings are based on 430 interviews and other collected evidence.

Government forces and affiliated militia have committed murder, torture, rape, forcible displacement, enforced disappearance and other inhumane acts. Many of these crimes were perpetrated as part of widespread or systematic attacks against civilian populations and constitute crimes against humanity. War crimes and gross violations of international human rights law – including summary execution, arbitrary arrest and detention, unlawful attack, attacking protected objects, and pillaging and destruction of property – have also been committed. The tragedy of 4.25 million internally displaced persons in the Syrian Arab Republic is compounded by recent incidents of these persons being targeted and forcibly displaced.

Anti-government armed groups have also committed war crimes, including murder, sentencing and execution without due process, torture, hostage-taking and pillage. They continue to endanger the civilian population by positioning military objectives in civilian

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\* The annexes to the present report are circulated as received, in the language of submission only.

\*\* The present report was prepared pursuant to an ad hoc request of the Human Rights Council made at its twenty-second session, and was therefore submitted after the deadline for regular documentation.

areas. The violations and abuses committed by anti-government armed groups did not, however, reach the intensity and scale of those committed by government forces and affiliated militia.

There are reasonable grounds to believe that chemical agents have been used as weapons. The precise agents, delivery systems or perpetrators could not be identified.

The parties to the conflict are using dangerous rhetoric that enflames sectarian tensions and risks inciting mass, indiscriminate violence, particularly against vulnerable communities.

War crimes and crimes against humanity have become a daily reality in the country, where the harrowing accounts of victims have seared themselves onto the conscience of the members of the commission.

There is a human cost to the increased availability of weapons. Transfers of arms heighten the risk of violations, leading to more civilian deaths and injuries.

A diplomatic surge is the only path to a political settlement. Negotiations must be inclusive and represent all facets of the cultural mosaic making up the Syrian Arab Republic.

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## I. Introduction

1. As the violence escalates in the Syrian Arab Republic, harrowing accounts of victims continue to sear themselves on the conscience of the international community. It is urgent to de-escalate the conflict and curtail the flow of weapons to allow diplomacy to end the violence.
2. In the present report, the independent international commission of inquiry on the Syrian Arab Republic<sup>1</sup> sets out its findings based on investigations of incidents occurring between 15 January and 15 May 2013.
3. For information on the interpretation of the commission's mandate and its working methods, and its factual and legal findings concerning events in the Syrian Arab Republic between March 2011 and 15 January 2013, reference should be made to the previous reports of the commission.<sup>2</sup>

### A. Challenges

4. Lack of access to the country continued to hamper the commission's ability to fulfil its mandate.
5. On 28 March 2013, the commission addressed a letter to the Permanent Mission of the Syrian Arab Republic in which it reiterated its request for access to the country to seek information with regard to five specific incidents (see annex I). No response was received. Since October 2012, all requests for meetings with the Permanent Representative of the Syrian Arab Republic in Geneva have been unsuccessful.

### B. Methodology

6. The methodology employed was based on the standard practices of commissions of inquiry and human rights investigations, as noted in previous reports.
7. The commission relied primarily on first-hand accounts to corroborate incidents. The present report was based on 430 interviews conducted in the region and from Geneva, including via Skype and telephone with victims and witnesses inside the country. The number of interviews conducted since the mandate began in September 2011 stands at 1,630.
8. Photographs, video recordings, satellite imagery and medical records were collected. Reports from Governments and non-governmental sources, academic analyses and United Nations reports, including from human rights bodies and mechanisms and humanitarian organizations, also formed part of the investigation.
9. The standard of proof was in accordance with that applied in previous reports. This standard is met when reasonable grounds exist to believe that incidents occurred as described.

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<sup>1</sup> The commissioners are Paulo Sérgio Pinheiro (Chairperson), Karen Koning AbuZayd, Vitit Muntarbhorn and Carla del Ponte.

<sup>2</sup> S-17/2/Add.1, A/HRC/19/69, A/HRC/21/50 and A/HRC/22/59. See also the webpage of the commission of inquiry on the website of the Office of the United Nations High Commissioner for Human Rights ([www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx](http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx)).

## **II. Context**

### **A. Political context**

#### **1. Government of the Syrian Arab Republic and the Syrian opposition**

10. The Syrian Arab Republic remains engulfed in an escalating civil war. The Syrian National Dialogue Forum, launched on 24 March 2013 by the Government and the domestically-based opposition to promote national reconciliation, has not shifted the momentum towards a political solution. Similarly, Presidential Decree No. 23 of 16 April 2013, hailed as the most comprehensive amnesty to date, has fallen short of achieving the demobilization of the Government's opponents.

11. The confirmation on 21 April 2013 of the resignation of the President of the Syrian National Coalition, Moaz al-Khatib, like the announcement on 13 May of the creation of a new opposition group, the Union of Syrian Democrats, demonstrated the deep divisions besetting the Syrian opposition abroad. Such divisions stem partly from the opposition's reliance on patrons with often-conflicting agendas.

12. The erosion of political authority and the rule of law in the country continued apace. The Government has not fulfilled its governance duties, as it cannot ensure security for citizens in areas under its rule, and struggles to provide basic services. At the same time, a dangerous stage of fragmentation and disintegration of authority prevailed in areas under the control of anti-government armed groups, despite attempts to fill the vacuum left by the withdrawal of the State by the creation of local councils.

13. One exception was the north-east of the country, where Syrian Kurds have unified under the Kurdish Supreme Council. Syrian Kurds are increasingly running their own affairs, while avoiding, whenever possible, being dragged into the fray.

#### **2. Regional dimension**

14. Military encroachments on sovereignty have opened the possibility of violence consuming the region. The Secretary-General of Lebanese Hizbullah has publicly asserted his group's intervention in the conflict on the side of the Government, while some Lebanese Sunni clerics have called for and recruited volunteers to fight in the Syrian Arab Republic. The proclamation by Jabhat Al-Nusra of its allegiance with Al-Qaida, and the group's public admission of association with Al-Qaida in Iraq, raised concerns about the possibility of the country becoming embroiled in the global jihadist cause. The war in the Syrian Arab Republic affects the domestic political dynamic in neighbouring States and strains the relationship among their diverse communities, threatening their fragile internal stability.

15. The explosion of two car bombs in Reyhanli on 11 May 2013, in Hatay province in Turkey, near the Syrian border, provoked intense public debate concerning the policy of the Government of Turkey with regard to the Syrian Arab Republic. There are fears that violence will spread increasingly to one of the most culturally and religiously mixed areas in Turkey. At a meeting of the Security Council on 30 April, the Permanent Representative of Jordan stated that, at the current pace, the exodus of Syrian refugees could soon represent "a threat to our future stability". Israel has increased its involvement in the Syrian crisis by targeting what it alleges are weapons shipments bound for Hizbullah and other sites inside the Syrian Arab Republic. Exchanges of fire were also reported in the Golan Heights.

#### **3. International dimension**

16. The current political impasse and military escalation are the by-product of the regional and international stand-off between the Government's supporters and its

opponents, translating into arms consignments and political backing to both sides by their respective allies: witness the decision taken by the European Union to allow a ban on weapons deliveries to the Syrian opposition to lapse on 1 June, and the announcement of a shipment by the Russian Federation of S-300 missile batteries to the Government. Other international initiatives include meetings held by the pro-opposition Friends of Syria, and an international conference held in Tehran on 29 May.

17. On 7 May, the Minister for Foreign Affairs of the Russian Federation, Sergei Lavrov, and Secretary of State of the United States of America, John Kerry, launched a joint political initiative aimed at convening an international conference to follow-up on the meeting held in Geneva on 30 June 2012, after which a joint communiqué was issued.<sup>3</sup> Although no date has been set, an inclusive conference could break the diplomatic stalemate by delivering a comprehensive political process to end the violence.

## **B. Military context**

18. Hostilities in the Syrian Arab Republic have steadily expanded in recent months to new regions, increasingly along a sectarian divide. Brutal tactics adopted during military operations, particularly by government forces, have frequently led to massacres and destruction on an unprecedented scale. The conflict has become even more complex as violence has spilled over into neighbouring countries, threatening regional peace and stability.

### **1. Government forces and affiliated militia**

19. Government forces continued to prioritize the control of major urban centres and main lines of communication connecting strategic regions. With the exception of Ar Raqqa, the Government has held all major cities despite facing serious challenges in Aleppo, Dara'a and Dayr az Zawr. Recently, it launched ground operations in the Damascus countryside and in Dara'a and Homs governorates to expel armed groups from strategic positions and to maintain the country's main supply routes. In other operations, government forces sought to cut supply lines connecting armed groups with their support networks in neighbouring countries.

20. Meanwhile, the army, supported by "popular committees",<sup>4</sup> has increasingly relied upon its long-standing strategy of denying food and medical supplies to restive localities as a tactic to prevent the expansion of armed groups and to force the displacement of the population.

21. In regions held by armed groups in the northern and eastern governorates, government forces resumed their brutal and often indiscriminate campaign of shelling, using a wide variety of weaponry. Besides the continuous use of aerial bombardments, they fired strategic missiles, cluster and thermobaric bombs. This appears to be part of a broader strategy aimed at eroding civilian support for anti-government armed groups and at damaging infrastructure. The majority of these attacks targeted towns and neighbourhoods controlled or infiltrated by armed groups rather than the military bases of those groups.

22. Defections and casualties affected the strength and cohesion of government forces. To generate combat power, the Government increasingly relied on militia recently transformed into the National Defence Army, a paramilitary force. Drawn mainly from pro-

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<sup>3</sup> See A/66/865-S/2012/522.

<sup>4</sup> See A/HRC/22/59, para. 22.

Government communities, these self-defence forces were systematically engaged in combat operations alongside army units.

23. Recently, Hizbullah fighters are openly supporting the Syrian military during operations conducted near Al Qusayr along the Lebanese border, while members of the General Command of the Popular Front for the Liberation of Palestine have done the same around Yarmouk camp in Damascus.

## **2. Anti-government armed groups**

24. Anti-government armed groups have reinforced their control over regions seized in the northern and eastern governorates, but failed to push further into the key areas of Damascus, Aleppo and Homs. Lacking unity of command, operational discipline and logistical support, they have struggled when facing Government strongholds, where fighting has largely stalemated.

25. The Supreme Joint Military Command Council, created to ensure unity of command at the national level, has failed to centralize different sources of logistical support, integrate command networks and alleviate the influence of radical groups. The inability to support its units logistically has undermined the Council's attempts to unite the armed groups under its authority.

26. Anti-government armed groups have also conducted sporadic shelling of pro-Government areas such as Fou'a (Idlib), and imposed a tight siege on pro-Government villages in northern governorates, such as the Shia localities of Nubul and Zahra in Aleppo.

27. The rise in Government-supported minority militia and the positioning by both sides of bases within their respective supportive communities has fostered hostilities along sectarian lines. Provocative rhetoric, such as recent statements by the spokesperson of the Free Syrian Army (FSA), risks inciting mass, indiscriminate violence against minority communities.

28. Armed groups are still equipped mainly with small arms and light weapons, but there has been an increase in the use of anti-tank and anti-aircraft systems, as well as indirect fire assets, provided predominantly by supporting countries and armed groups in the region. They used mortars and artillery guns to target army positions, but also pro-Government localities, usually those hosting army positions.

29. The ongoing violence has accelerated radicalization among anti-government fighters, allowing radical groups, in particular Jabhat Al-Nusra (also known as the Al-Nusra Front), to become more influential. Jabhat Al-Nusra has been part of, and occasionally co-leads, most major operations conducted by other anti-government armed groups given its better organization and discipline, greater operational efficiency and access to external support. Since the announcement of ties with the Iraqi wing of Al-Qaida, there appears to be growing support for the group from regional extremist groups providing recruits and equipment. Foreign fighters with jihadist inclinations, many from neighbouring countries, continued to reinforce its ranks. Tensions and clashes emerged over governance and authority matters between Jabhat Al-Nusra and local groups.

30. Other radical groups consolidated alliances that engage in significant combat operations in the north and around Damascus. With no permanent affiliation to the Supreme Joint Military Command Council, alliances such as the Syrian Islamic Front and the Syrian Islamic Liberation Front have developed their own governance structures, including security, political and judicial mechanisms.

### 3. Other forces

31. The “People’s Protection Committees” of the Democratic Union Party, officially affiliated to the Kurdish Supreme Council, have reinforced their authority over several Kurdish towns. Trying to avoid the fighting, they have sporadically clashed with both government forces and anti-government armed groups over control of Kurdish localities in the north and north-east of the Syrian Arab Republic. Clashes are becoming more frequent with anti-government armed groups despite local military agreements and occasional coordinated joint operations, such as in Sheikh Maqsood (Aleppo).

## C. Socioeconomic and humanitarian context

32. According to estimates of United Nations humanitarian agencies, 6.8 million people, trapped in conflict-affected and opposition-held areas, and refugees in neighbouring countries are in need of urgent assistance. Half of these are children.

33. Shortages of food, medicine, fuel and electricity, especially acute in besieged cities, have had a grave impact on the fundamental economic and social rights of the Syrian people. Precarious water and sanitation conditions lead to a rising risk of summer epidemics. The destruction of hospitals in the country’s main cities severely undermined the provision of health services, particularly for individuals suffering from chronic diseases. According to the United Nations Children’s Fund, one fifth of the country’s schools are being used for military purposes or have been converted into shelters, affecting education for hundreds of thousands of children.

34. Despite the rapidly growing humanitarian needs, access to people in conflict-affected areas remains severely hindered. Humanitarian workers face bureaucratic and operational obstacles. Besides security risks, the proliferation of checkpoints controlled by the Government and the armed opposition restricts cross-line humanitarian operations. Health-care providers continue to be targeted by government forces and members of some anti-government armed groups.

35. The number of internally displaced Syrians is now 4.25 million. The spread of the conflict to cities once viewed as safe has forced many Syrians into recurrent displacement. Internally displaced persons have been targeted in Homs governorate. To date, 1.6 million Syrians have become refugees.<sup>5</sup> Women in refugee camps face gender-based violence, including rape, forced marriage and sexual exploitation.

36. The situation of Palestinian refugees in the Syrian Arab Republic has deteriorated in recent months. The United Nations Relief and Works Agency for Palestine Refugees in the Near East estimates that 235,000 Palestine refugees are displaced. Some 53,000 fled to Lebanon, 6,000 to Jordan, and 1,000 to Gaza.

37. At the international donors’ conference held in Kuwait on 30 January 2013, donors pledged \$1.5 billion in aid. To date, only \$700 million have been secured.

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<sup>5</sup> According to the Office of the United Nations High Commissioner for Refugees, there are 1,528,924 refugees: 476,838 in Lebanon, 474,405 in Jordan, 350,736 in Turkey, 148,028 in Iraq, 68,865 in Egypt and 10,052 in other North African countries.



### III. Violations concerning the treatment of civilians and hors de combat fighters

#### A. Massacres

38. During the period under review, 17 incidents potentially meeting the definition of massacre<sup>6</sup> were recorded. In the incidents discussed below, the fact of intentional mass killing and, in some cases, the identity of the perpetrator, were confirmed. Other cases remain under investigation.

##### 1. Government forces and affiliated militia

###### (a) *Sanamayn*

39. Government forces attacked Sanamayn (Dara'a) on 10 April 2013. Approximately 300 fighters from the opposition Martyrs of Al-Sanamayn Brigade were inside the city. In accordance with observed patterns, the attack began with shelling followed by a ground invasion. Suffering from a lack of weapons and ammunition, the armed group withdrew from the city after heavy losses.

40. Civilians fleeing the attack appear to have been targeted and killed. Eleven members of the Al-Itmah family and seven members of the Al-Nassar family were killed when their cars were hit by shells. Multiple allegations of the use of human shields were received, but could not be corroborated. According to multiple, second-hand accounts, government forces were assisted by Hizbullah fighters amid allegations of atrocities against women and children. Such information was not corroborated.

###### (b) *Banias*

41. Government forces and affiliated militia attacked the village of Al-Bayda on 2 May 2013, and a neighbourhood in Banias (Tartous), on 3 May. Video material shows dozens of bodies of women and children apparently killed at close quarters. Evidence gathered indicates that the perpetrators were Government-affiliated militia. The investigation continues.

##### 2. Anti-government armed groups

###### *Dayr az Zawr*

42. Eleven men appear to have executed by gunshot to the back of the head on an unknown date. A known leader of Jabhat Al-Nusra from Saudi Arabia, Qassoura Al-Jazrawi, reportedly shot the men who were kneeling in front of him, hands tied and blindfolded. Al-Jazrawi claimed to be carrying out a sentence handed down by the "Sharia Court for the Eastern Region in Dayr az Zawr".

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<sup>6</sup> See A/HRC/22/59, para. 42.

### **3. Incidents remaining under investigation**

(a) *Abel village*

43. The rural village of Abel (Homs) was allegedly the site of a battle between FSA and government forces in late March. Thirteen people were killed, including five women and four children. The bodies were apparently burned.

(b) *Al-Burj*

44. On 30 March, in Al-Burj (Homs), 11 people, including eight women, were killed in circumstances that could amount to summary execution. Government and armed groups traded accusations.

(c) *Tartous, Homs highway*

45. On 10 April, a Bedouin family staying on a roadside near an Alawite village was attacked and killed. The mother, father and seven children (all under 18 years of age) and the grandmother were murdered in their tents. Locals who filmed the scene blamed Government-affiliated militia, while distant family members appeared on television blaming “terrorist gangs”.

(d) *Jdeidet al-Fadel*

46. Multiple accounts concerned incidents in Jdeidet al-Fadel (south-western Damascus), between 15 and 24 April. Anti-government armed groups were present in the town, which was home to thousands of internally displaced persons. The FSA purportedly overtook a checkpoint outside nearby Jdeidat Artouz, prompting a Government military operation on 15 April by the 100th Regiment and the 4th Division. Access to the area was blocked by Government snipers. As fighting intensified, the civilian population and hundreds of opposition fighters were trapped inside. Individuals fleeing were killed, though it could not be confirmed whether they were fighters or civilians. Multiple allegations of extrajudicial executions of anti-government fighters were recorded.

(e) *Nubul*

47. Nubul, a Shia village in Aleppo, has been under siege by anti-government armed groups since July 2012. In an effort to bring food and medicine to the village, and acting on information that passage would be allowed, 30 to 40 men from Nubul left for Afrin in mid-April. Near Al Ziyara village, the convoy was ambushed and 15 to 20 men were killed; the rest were detained. Evidence indicates that some of the men in the convoy may have been lightly armed for protection against attack. The commission could not confirm the circumstances, and therefore the legality, of their deaths. Allegations that the bodies were mutilated were uncorroborated.

(f) *Khirbat Al Souda*

48. On 15 May, government forces entered Khirbat Al Souda (western Homs) in an apparent effort to attack opposition forces there. Allegations of summary execution were made afterwards based in part on video evidence.

(g) *Execution of prisoners in three governorates*

49. Investigations are ongoing as to whether, in response to an attack by anti-government armed groups, security officials in Gherz central prison in March, Sednaya prison in April and Aleppo prison in May, executed inmates in an attempt to stave off attack.

50. Reasonable grounds exist to believe that the war crime of murder was committed in two massacres perpetrated by government forces and affiliated militia, and one perpetrated by anti-government armed groups. The killing in Baniyas and Sanamayn match the pattern of widespread attacks on a civilian population by the Government and may therefore amount to murder as a crime against humanity. In incidents that remain under investigation, the fact of the killing was confirmed. However, neither the perpetrator nor the circumstances could be determined.

## **B. Other unlawful killing**

### **1. Summary executions and the war crime of murder**

51. Patterns of summary executions and murder have emerged. Detained persons believed to be opposition sympathizers are the most frequent victims of such crimes. Revenge killings have become increasingly common and are a direct violation of the prohibition of reprisals. Killing civilians by sniper fire and the killing of hostages and detainees when a detention centre comes under attack are noted patterns of violations by both pro- and anti-government groups.

### **2. Government forces and affiliated militia**

52. More than 200 bodies have been recovered from a waterway in Queiq (Aleppo) since 81 bodies were first discovered there on 29 January. One doctor described having personally seen 140 bodies. Many victims had gone missing in Government-controlled areas of the city. Some of those recovered had been in detention by either Air Force Intelligence or Military Intelligence. Family members discovered as much by paying bribes to the intelligence agencies for unofficial information or because other detainees released from the facilities confirmed their presence.

53. In January, in Dara'a, two men were detained in a house occupied by Military Security in Al Shajarah. Military Security withdrew on 16 March. The following day, relatives found the men in the house, shot dead and bearing clear signs of torture. In January, two men were shot dead at a checkpoint near Kherbet Ghazalah bridge, and a third was heavily injured. The injured man was then killed by soldiers.

54. Field executions continued to be reported during large-scale military operations. One interviewee, whose regiment conducted operations in Al Waar and Bab Amr (Homs), described executing civilians, including two young children, in their homes so that they would not give away the soldiers' location to nearby FSA fighters.

### **3. Anti-government armed groups**

55. Video footage emerged showing a child participating in the decapitation of two kidnapped men. Subsequent investigation confirmed the authenticity of the video and that the men were soldiers, killed as depicted. It was not possible to identify the perpetrators. Evidence indicates that the Usud Al-Tawhid Brigade committed the initial kidnapping.

56. Three separate incidents of killing by sniper fire attributed to anti-government armed groups were recorded in Damascus. In February, and on 7 and 20 April, three children, including a toddler, were killed in Sayda Zaynab. On 19 April, another youth was killed in Al-Bahdaliya.

57. Government forces and affiliated militia and anti-government armed groups have perpetrated the war crime of murder and the human rights violation of summary execution. Murders by government forces were part of a widespread attack against a civilian population amounting to a crime against humanity. Despoiling bodies of the deceased,

including through burning and mutilation, is a war crime found to have been perpetrated by individuals on both sides.

#### **4. War crime of sentencing or execution without due process**

##### *Anti-government armed groups*

58. During the period under review, armed groups established judicial and administrative mechanisms across Aleppo, Dara'a, northern Idlib, Ar Raqqa, Al-Hasakah, Dayr az Zawr and parts of eastern Damascus governorate, attempting to fill the vacuum created by the absence of Government institutions.

59. In Aleppo, Damascus, Dara'a, Idlib, Dayr az Zawr and Ar Raqqa governorates, civilians and hors de combat Government soldiers were sentenced and executed without due process. Armed groups apply the loose standard of "having blood on one's hands" to denote responsibility for criminal conduct deserving the death penalty.

60. In Dara'a and Ar Raqqa, armed groups used public show trials and executions of detainees affiliated with the Government to assert their authority and instil fear among civilians. In Yarmouk camp, Damascus, two people accused of being Government collaborators were hanged in a public square on 3 March without recourse to a regularly constituted court. On 14 May, fighters claiming to be from the Islamic State of Iraq and the Levant executed three Alawite men in a public square in Ar Raqqa city. The judgement stated that the execution was in retaliation for the massacre in Baniyas and Homs on 2 and 3 May. A series of trials in Ar Raqqa city and in Al-Shajarah (Dara'a) in April had sectarian dimensions. Witnesses stated that captured Alawite soldiers were consistently found guilty and executed, while non-Alawites were imprisoned or released.

61. In Aleppo, divisions among armed groups compromised efforts to establish a cohesive justice system. Attempts to establish independent civilian law enforcement structures were obstructed by armed group commanders wary of interference in their interests. Failure to agree on an applicable body of law means order is enforced arbitrarily, and courts are not regularly constituted.

62. Two competing bodies administer justice in Aleppo. The Judicial Council applies legal doctrine derived from regional sources of law, while the Sharia Board applies interpretations of Islamic law. Both have close functional links to the FSA, compromising their impartiality and independence, while the provision of basic guarantees essential to fair trial varies widely. According to one interviewee, the Sharia Board in Aleppo does not permit defence lawyers to participate in proceedings.

63. The war crime of sentencing and execution without due process was committed by armed groups in Aleppo, Damascus, Dara'a, Idlib, Dayr az Zawr and Ar Raqqa. In the cases described, sentences were passed and individuals – who were either hors de combat fighters or civilians – were executed with no previous judgement pronounced by a court providing the judicial guarantees generally recognized as indispensable under international law.

### **C. Arbitrary arrest and detention**

#### **Government forces and affiliated militia**

64. Government forces continue to use deprivation of liberty as a weapon of war, and to collectively punish localities perceived to be supporting the armed opposition.

65. Family members of alleged armed group members are arrested and detained. In one documented incident, on 10 April, a man whose brother was wanted for arrest was detained

by the 1st Division at a checkpoint at the entrance to Kesweh (Damascus) to coerce him into providing information about his brother.

66. Government forces routinely arrest and detain persons as punishment for exercising their basic rights. In mid-January, following a peaceful demonstration in Al-Suwayda, security forces conducted mass arrests. Some of those arrested were children as young as 12 years.

67. In Um Walad (Dara'a), Government military and security forces arrested men at checkpoints on the sole criteria of being of military age. In January, while raiding predominantly Sunni neighbourhoods in Latakia city, government forces detained men, women and children. After holding them for a prolonged period, they were released without charge and without being informed of the reason for their detention.

68. Government forces made widespread arbitrary arrests of persons in areas where they have re-asserted control. In mid-January, government forces arrested students, including children, owing to their perceived loyalty to the armed opposition following a ground assault on Egeirbat (eastern Hama). Government forces carried out a similar wave of arrests in Nawa (Dara'a) in mid-March. In April, during a ground assault on Sunni villages around Al Qusayr (Homs), Hizbullah fighters arrested more than 50 civilians during house searches.

69. The armed forces of the Syrian Arab Republic have broad, unchecked powers to detain civilians they suspect of harbouring opposition loyalties. The arrest or detention of persons as punishment for exercising fundamental human rights is per se arbitrary. Arrests conducted on discriminatory grounds, such as the religious or geographic origin of persons, also violate international human rights law. The arrest and detention of all men of fighting age is an indication of arbitrariness, and the mass arrest of civilians, including women, children and the elderly, in areas perceived as supporting the opposition amounts to collective punishment and is illegal under international humanitarian law.

## **D. Hostage-taking**

70. There has been a dramatic rise in hostage-taking. Often sectarian in nature, it sparks reprisals and fuels inter-communal tensions. Foreigners, including journalists, businessmen and peacekeepers, have also been seized. Families cannot afford the ransom, and the consequences of non-payment have been lethal.

### **1. Government forces and affiliated militia**

71. The commission investigated but did not confirm allegations that the army and popular committees took hostages in Kesweh (Damascus) and Muzayrib (Dara'a), in April. In Muzayrib, in April, civilians held by the army on a bus were threatened with death unless the FSA ceased attacks.

### **2. Anti-government armed groups**

72. Members of the United Nations Disengagement Observer Force (UNDOF) and the United Nations Truce Supervision Organization (UNTSO) were seized on 6 March by the Al-Yarmouk Martyrs Battalion near the Golan Heights. The same group seized four UNDOF peacekeepers on 7 May. A third incident occurred days later, when 18 anti-government fighters held three UNTSO peacekeepers in the area of separation between Israel and the Syrian Arab Republic. In all three cases, the kidnappers were seeking to leverage the hostages to halt a Government attack. All were released unharmed.

73. In February, members of an anti-government armed group abducted a Sunni male in Damascus, mistaking him for an Alawite officer. He was tortured and suffered sectarian and other derogatory language before eventually persuading his captors that he was the wrong man. Nevertheless, his family was forced to pay a ransom.

74. Kidnappings have markedly increased in Aleppo and in the north, in areas beyond Government control. Two lawyers from the besieged town of Nubul were kidnapped in February while returning from Afrin with a delivery of flour. They are still being held by members of Ahrar Al-Sham. A detention facility run by the Al-Badr Martyrs Brigades in Hayan contains dozens of people being held for ransom.

75. On 9 February, two priests from Aleppo (one Greek Orthodox, the other Armenian Catholic) were abducted at an anti-government checkpoint. On 22 April, two bishops from Aleppo (one Greek Orthodox, the other Assyrian Orthodox) were abducted by unidentified gunmen. Their driver was shot and killed. The gunmen have not been identified. Other anti-government armed groups have attempted to find the priests, who remain missing.

76. In Dara'a in mid-May, anti-government armed groups reportedly abducted the 84-year-old father of the Deputy Minister for Foreign Affairs. No group has claimed responsibility.

77. Anti-government armed groups have kidnapped individuals and held them hostage in violation of common article 3 of the Geneva Conventions, amounting to a war crime.

## **E. Enforced disappearance**

### **Government forces and affiliated militia**

78. Enforced disappearances have been carried out by Government officials, including Military Intelligence, and by affiliated militia acting on behalf of or with the support of the Government.

79. Large numbers of individuals, mainly young men, were arrested at Government and affiliated militia-controlled checkpoints throughout the country, including in Shin (Homs), Nawa (Dara'a) and Qatana (Damascus), and held for prolonged periods. Some were taken to unknown locations and have not been heard from since. In other cases, arrests were followed by a refusal by Government officials to disclose the whereabouts of the persons concerned. In most cases, relatives did not try to ascertain the fate of those arrested owing to well-founded fears of reprisals.

80. Such acts place the persons concerned outside the protection of the law, in violation of their fundamental rights to liberty and security, and constitute a threat to their right to life. Such victims face torture and ill-treatment. Depriving detainees of contact with the outside world causes continuing anguish to their families.

81. Government forces and affiliated militia perpetrated enforced disappearance. Where part of a widespread or systematic attack on a civilian population, these enforced disappearances constitute a crime against humanity.

## **F. Torture and other forms of ill-treatment**

### **1. Government forces and affiliated militia**

82. Torture is endemic in detention centres and prisons. At the Military Police headquarters in Latakia, Government security officers beat, slapped repeatedly and kicked an opposition activist. She was humiliated and verbally abused. Other detainees in the same

facility were tortured regularly and held in cramped cells containing vermin and insects. Detainees were stripped naked, subjected to electrical shocks and suspended for prolonged periods from the ceiling by the arms with their toes barely touching the ground (*shabh*). One survivor stated “death is better”.

83. Detainees held at the Latakia Military Security branch are systematically tortured, beaten with batons and cables, punched, kicked and subjected to *dulab*, whereby detainees are forced into a tyre and beaten.

84. Persons detained at the Military Security branch in Dara’a were consistently subjected to electric shocks, beatings and the stretching of limbs (*busat al rih*). Hundreds of detainees were held in dangerously overcrowded conditions, forcing them to sleep standing up. In a facility operated by the 38th Regiment in Bosra (Dara’a), detainees were subjected to *shabh*, had boiling water poured on them and electric shocks administered.

85. In an underground facility in Branch 285, the General Intelligence Directorate in Damascus, hundreds of detainees are held in deplorable conditions in cramped cells. Detainees are denied medical care, and the health and hygiene needs of female detainees are ignored. Victims described how guards routinely beat detainees at 7 p.m. every day and used the *shabh*, *dulab*, *busat al rih* and *falaqa* torture methods.

86. Detainees held in Adra Prison (north-eastern Damascus) and in Homs Central Prison suffered from inadequate food and water, insufficient sanitary installations and a total absence of medical care. In Adra Prison, detainees were held in inhumane and degrading conditions in cramped cells. Detainees released from the Military Security and Air Force Intelligence prisons in Ar Raqqa city and the Military Security Branch detention centre in nearby Al-Tabqah bear extensive signs of torture.

87. The ill-treatment described by victims detained in Government prisons and facilities amounts to cruel treatment and torture. Government officials wilfully cause great suffering and serious injury to body and health, using torture to instil fear, extract confessions and punish. Such conduct amounts to a violation of common article 3 of the Geneva Conventions and is a war crime. The systemic ill-treatment and torture documented in detention centres across the Syrian Arab Republic are evidence of a State policy of torture, constituting a crime against humanity.

## 2. Anti-government armed groups

88. Torture has been documented in detention facilities run by the Judicial Council and the Sharia Board in Aleppo. Detainees suspected of being members of the *Shabbiha* were subjected to severe physical or mental pain and suffering to obtain information or confessions, or as punishment or coercion.

89. In contested areas, individuals have been beaten at checkpoints controlled by anti-government armed groups. In January, Jabhat Al-Nusra fighters arrested a man on the road from Saraqib (Idlib) to Aleppo on the suspicion that he was Shia. He was detained for three days. When released, he bore extensive bruises and other signs of torture. At an FSA checkpoint in Aleppo city, persons perceived to be supportive of the Government were harassed and subjected to beatings and other ill-treatment.

90. Severe ill-treatment for any reason based on discrimination of any kind amounts to torture and is a violation of international humanitarian law. The war crime of torture and cruel treatment has been perpetrated by Jabhat Al-Nusra fighters and other anti-government armed groups.

## **G. Sexual violence**

91. Sexual violence has been a persistent feature of the conflict. Chronic underreporting has made judging the magnitude of this violation difficult. Fear of rape is a driving motivation for families fleeing the violence.

### **1. Government forces and affiliated militia**

92. In the case of pro-government forces, sexual violence was committed during house searches, at checkpoints and in detention centres, often as part of interrogations by intelligence services. One woman detained in Latakia described how she was threatened with gang rape during her interrogation. She also described other detainees being stripped naked while subjected to electric shocks. In Branch 285, the rape and sexual abuse of male detainees by their interrogators was reported. There were no indications of action taken by senior commanders to investigate, prevent or punish acts of sexual violence.

93. Rape and other inhumane acts, as crimes against humanity, have been committed by government forces and affiliated militia. Rape, torture and inhumane treatment are prosecutable as war crimes.

### **2. Anti-government armed groups**

94. A limited number of interviews described women being segregated during house searches in Aleppo city during joint operations by armed groups, with an implication of possible sexual violence. One interviewee stated that she had been the victim of a sexual assault in Yarmouk (Damascus), in April.

95. During the assault in Yarmouk, the war crime of sexual violence was committed. Based on limited information, it was not possible to reach a finding in relation to the other accounts.

## **H. Violations of children's rights**

### **1. Unlawful killings and injuries**

#### *(a) Government forces and affiliated militia*

96. Children continue to be the victims of shelling and aerial bombardments by government forces. Examples include attacks on Kaljabrin (Aleppo), on 23 January; Al Huwash (Hama), on 7 February; Saa'sae (Damascus) on 28 and 29 March; Al-Houlah (Homs) on 29 March; and Sanamayn (Dara'a) on 10 April. In late February, a 14-year-old child was shot by a sniper positioned in the Ba'ath party offices in Dara'a Al-Balad.

97. Government sieges have led to health and nutrition crises that disproportionately affect children under 5 years and nursing mothers. A clinician in Al-Houlah stated that 13 children had died between August 2012 and April 2013 from malnutrition and lack of medication.

#### *(b) Anti-government armed groups*

98. Children were killed in attacks by armed groups. In April, a 2-year-old boy died after being shot by a sniper firing from an opposition neighbourhood while on a street in Sayda Zaynab (Damascus). A 12-year-old boy in Nubul (Aleppo) was killed during rocket attacks in April by armed groups besieging the town. Child malnutrition increased in Nubul.



## 2. Abductions, arbitrary arrests, detention and torture

### (a) *Government forces and affiliated militia*

99. Government forces and militia detained children at checkpoints and during house raids. Several arrests in Dara'a appeared to target children of suspected FSA members. Others held children as hostage in exchange for detainees held by the FSA. During the attack of 10 April on Sanamayn, children were forced to watch the torture or killing of parents. In April, checkpoint personnel in Rastan (Homs) threatened to shoot two girls aged 9 and 7 who had started crying during their father's interrogation.

### (b) *Anti-government armed groups*

100. In December 2012, a woman and her 6-year-old daughter were kidnapped from Al-Fou'a (Idlib) and held in an underground detention facility in Saraqib. They were released in January on payment of ransom to Jabhat Al-Nusra.

## 3. Recruitment and use of children

### *Anti-government armed groups*

101. Some armed groups recruit and use children for active participation in hostilities. A 14-year-old boy from Homs underwent training in the use of weapons with the Abu Yusef Battalion, which then used him to keep track of soldiers' movements in Al-Waar. Other groups reject underage volunteers. Commanders in Dayr az Zawr refused to accept a 15-year-old boy, calling his parents to come collect him.

102. Casualty statistics indicate that 86 children were killed in hostilities as combatants. Of those, nearly half died in 2013. These figures suggest that the use of children in combat is increasing.

# IV. Violations concerning the conduct of hostilities

## A. Unlawful attacks

103. Civilians bear the brunt of violent and often indiscriminate attacks. Government forces continued their campaign of shelling and aerial bombardment. Instances of armed groups shelling Shia enclaves in Aleppo, Idlib and Damascus governorates were recorded. There were multiple bombings, mainly in Damascus, for which no party claimed responsibility.

### 1. **Government forces and affiliated militia**

104. Government forces conduct their military operations in flagrant disregard of the distinction between civilians and persons directly participating in hostilities. Extensive aerial and artillery capabilities continue to be deployed. Increasingly, even less precise weaponry, such as surface-to-surface missiles, thermobaric bombs and cluster munitions, are being used. There is a strong element of retribution in the Government's approach, with civilians paying a price for "allowing" armed groups to operate in their towns.

105. Attacks by artillery shelling, barrel bombs and aerial bombardment were particularly fierce in heavily contested areas of strategic importance, such as Aleppo and Homs cities. Yarmouk (Damascus) has been heavily shelled, leading to an exodus of Palestinian refugees into Lebanon. Such attacks did not discriminate between military targets and civilian objects, and were conducted across the country in numerous locations. Areas more

firmly under anti-government armed group control, such as Ar Raqqa city and Dayr az Zawr villages, continue to be subjected to shelling and bombardment. There were multiple accounts of surface-to-surface missiles causing massive destruction in the north, such as in the Ard Al-Hamra neighbourhood on 23 February and Hreitan (Aleppo) on 29 March. Thermobaric bombs were used in Al Qusayr on 20 March. Cluster munitions were used in numerous locations, including Qarah, in rural Damascus, between 3 and 6 April.

106. Towns in northern Aleppo and Idlib governorates have been largely emptied of civilians, turning them into de facto military zones. It is clear that the Government could take greater precautions to protect civilians that remain. In May, shortly before the attack on Al Qusayr, government forces dropped leaflets advising civilians to leave the area. In the context of Government attacks, such precautions remain an anomaly.

107. Multiple accounts were received – from former residents of towns across Dara’a, Sha’ar and Ashrafiyah neighbourhoods (Aleppo) and Yarmouk (Damascus) – of snipers targeting persons, without distinction. Casualties included women and children.

108. Government forces consistently transgressed the fundamental principle of the laws of war that they must, at all times, distinguish between civilian and military objectives.

## **2. Anti-government armed groups**

109. Armed groups continue to operate within civilian areas. This endangers the civilian population and violates international legal obligations to avoid positioning military objectives within or near densely populated areas. Some armed groups take precautions to safeguard the civilian population. On 6 February, in Al-Tabqah (Ar Raqqa), fighters warned residents to evacuate the area in advance of an attack. Prior to the attacks on Al Qusayr in May, armed groups assisted in the evacuation of civilians.

110. There were isolated instances of the shelling of towns and villages by armed groups, usually on the pretext that the attacks were directed against government forces. On 24 April and on 4 and 6 May, Liwa Al-Tawhid, Ghuraba Al-Sham and Jabhat Al-Nusra fired scores of mortars and home-made rockets into Nubul and Zahra (Aleppo). There were multiple civilian casualties, including a 12-year-old boy. In February, armed groups in Aleppo city fired mortars into Government-controlled areas. In March, groups fired mortars into Sayda Zaynab and the surrounding neighbourhoods of Damascus. They shelled Fou’a (Idlib) throughout 2013. All areas attacked had a majority Shia population. There were reports of snipers from armed groups firing into Nubul and Sayda Zaynab throughout early 2013, causing civilian casualties.

111. Anti-government armed groups used mortars, rockets and snipers in a manner that failed to distinguish civilian from military objectives, committing unlawful attacks.

## **3. Undetermined perpetrators**

112. The use of improvised explosive devices (usually car bombs) continued. All but one attack took place in Damascus. The first attack, on 15 January, was the bombing of Aleppo University, which killed more than 80 people. Bombs exploded in Damascus on 21 February near the Ba’ath party headquarters and in the Barzeh neighbourhood; on 21 March, at the Al-Iman mosque; on 8 April, near the Central Bank; on 29 April, near the former Ministry of the Interior; and on 30 April, in central Damascus. No party claimed responsibility.

113. With the exception of the bombing in Barzeh neighbourhood, where the majority of casualties were soldiers, the bombings demonstrated no clear military objective. The attacks spread terror among the civilian population. The large number of civilian deaths and injuries evidenced a disregard for human life.

114. As armed factions in the Syrian Arab Republic proliferate, it is increasingly difficult to determine the perpetrators of such attacks. While these acts constitute crimes under domestic law, they may also amount to war crimes if it is determined that the perpetrators are parties to the conflict.

## **B. Specifically protected persons and objects**

### **1. Historic objects**

115. On 13 April, the seventh century minaret of the Al-Omari mosque in Dara'a was destroyed. On 24 April, the twelfth century minaret at the Umayyad mosque in Aleppo collapsed, after being shelled. Government forces and anti-government armed groups traded blame.

116. Across the Syrian Arab Republic, historic monuments are being damaged and destroyed. No party to the conflict is abiding by its obligation to respect cultural property and to avoid causing damage to it in the context of military operations. Both government forces and anti-government armed groups have rendered sites open to attack by placing military objectives in them.

117. The army has established bases in the ancient citadels of Aleppo, Homs and Hama. Anti-government armed groups are based near the edges of the citadel in Aleppo, placing it at risk of further damage. In Maaret Al-Numan, in north-western Idlib, an armed group based itself in a seventeenth century caravan trading post, which had been a museum. Nearby artefacts were destroyed by shelling.

118. The Roman ruins of Bosra (Dara'a) have been damaged, as have ruins in the ancient desert city of Palmyra. The outer walls of the Krak des Chevaliers, a Crusader fortress in Homs, were marred by rocket fire. According to the United Nations Educational, Scientific and Cultural Organization, five of the country's six World Heritage sites have been damaged.

119. Looting, sometimes committed by parties to the conflict, has ravaged historic sites. Byzantine mosaics in the "dead cities" in the north and the Roman city of Apamea were removed. Interpol lists an Aramaic bronze statue dating back to the eighth century B.C. as having been stolen from the Hama museum.

### **2. Religious objects**

120. On 17 January, the Kafr Nabudah mosque in Hama was shelled. The shelling of the Bilal mosque in Al-Habit (Idlib) on 27 January and 7 February followed. In the attack on 21 April against Jdeidat Al-Fadel (Damascus), government forces burned the mosque. Where attacks on the mosques had no military objective, the war crime of attacking protected objects was committed.

121. In early January, fighters from an anti-government armed group looted and destroyed Al-Husseiniya, a Shia religious centre in Al-Tabqah (Ar Raqqa). On 11 February, a nearby Orthodox church was looted and destroyed. Armed groups in Al-Tabqah committed the war crime of attacking protected objects.

### **3. Hospitals and medical personnel**

122. The deliberate targeting of medical personnel and hospitals and the denial of medical access continue to be disturbing features of the conflict.

123. State and field hospitals in Jasem and Tafas (Dara'a), Adra (Damascus countryside); Hajar Al-Aswad and Yarmouk (Damascus), and Sha'ar and Ansari (Aleppo) have been

shelled and bombarded by government forces. Some, such as the Zarzor hospital in Ansari, have been hit repeatedly. Some State hospitals have been used as military bases by government forces. Snipers are positioned at the Al-Houlah hospital, with tanks and artillery at its entrance.

124. Medical personnel have been attacked. Zarzor hospital staff members went missing and are reportedly being held by Air Force Intelligence in Aleppo. A nurse in a field clinic in Homs was wanted for arrest because he provided medical assistance to armed groups.

125. In Aleppo and Homs, accounts were received of wounded and sick persons being refused medical treatment on political and sectarian grounds. Civilians avoided seeking treatment in Government-administered hospitals owing to a well-founded fear of arrest. One doctor in an Aleppo hospital described the arrest of wounded young men by security forces.

126. Government forces committed the war crime of attacking protected objects and the war crime of attacking objects or persons using the distinctive emblems of the Geneva Conventions.

### **C. Pillaging and destruction of property**

127. Justifying their actions either as “spoils of war” or as retribution for supporting the opposing side, parties to the conflict burn, loot and pillage homes and businesses. The ever-increasing numbers of refugees and internally displaced persons leave behind belongings, which are then appropriated by soldiers and armed groups.

128. Fleeing families frequently have their few possessions stolen at checkpoints or by thieves taking advantage of the lawlessness. While vast amounts of property have been destroyed as a result of shelling, a violation is recorded when reasonably believed to be a deliberate targeting of an opponent’s property. Both pillage and deliberate property destruction are war crimes.

#### **1. Government forces and affiliated militia**

129. In a now familiar pattern, following shelling and ground attacks, government forces and *Shabbiha* secure an area and conduct house searches. While inside homes, they steal valuables, irrespective of whether the occupants are present. At checkpoints, cars and money are taken from those coming from known opposition neighbourhoods.

130. Prolonged fighting in Dara’a has displaced tens of thousands, leaving homes and businesses unguarded. In Dara’a city, Jasem, Musayfrah, Al-Abassiyah (in February and March), Sanamayn and Um Waleed (in April), the homes of suspected anti-government sympathizers were stripped bare. In many cases, theft was followed by the burning of the homes and businesses.

131. In early April, on the outskirts of Hama, an internally displaced woman returned home a month after her village had been bombed and raided by government forces. She found her house and car had been burned, as had those of her neighbours. Items, such as television sets and furniture, had been looted.

#### **2. Anti-government armed groups**

132. During the March fighting in Ar Raqqa city, the Shia and Alawite communities fled. Most have not returned. Their homes were confiscated by armed groups, their properties looted and resulting items sold off. Looting of the homes of loyalists was rampant in Al-Tabqah, when anti-government groups, including Jabhat Al-Nusra, took over

in February. The Orthodox Church and the home of its bishop were looted, and much of the church property destroyed.

133. In Yarmouk (Damascus), armed groups either stole cars and trucks or coerced residents into giving them up. In Aleppo, groups at checkpoints steal from Alawite or Shia civilians.

134. The “Islamist Sharia Commission” in Aleppo and Jabhat Al-Nusra in Yarmouk and in Idlib have attempted to curb such theft, arresting or expelling members of some of the groups involved.

135. Anti-government armed groups and government forces and affiliated militia have committed the war crimes of pillage and destruction of property.

## **D. Illegal weapons**

136. As the conflict escalates, the potential for the use of chemical weapons is of deepening concern. Chemical weapons include toxic chemicals, munitions, devices and related equipment as defined in the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and Their Destruction. The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, which the Syrian Arab Republic has ratified, is also applicable. The use of chemical weapons is prohibited in all circumstances under customary international humanitarian law, and is a war crime under the Rome Statute.

137. The Government has in its possession a number of chemical weapons. The dangers extend beyond the use of the weapons by the Government itself to the control of such weapons in the event of either fractured command or of any of the affiliated forces gaining access.

138. Anti-government armed groups could gain access to and use chemical weapons. This includes nerve agents, though there is no compelling evidence that these groups possess such weapons or their requisite delivery systems.

139. Allegations were received concerning the use of chemical weapons by both parties. The majority concern their use by government forces. In four attacks – on Khan Al-Asal (Aleppo), on 19 March; Uteibah (Damascus) on 19 March; Sheikh Maqsood neighbourhood (Aleppo) on 13 April; and Saraqib (Idlib), on 29 April – there are reasonable grounds to believe that limited quantities of toxic chemicals were used. It has not been possible, on the evidence available, to determine the precise chemical agents used, their delivery systems or the perpetrator. Other incidents also remain under investigation.

140. Conclusive findings – particularly in the absence of a large-scale attack – may be reached only after samples taken directly from victims or the site of the alleged attack have been tested. It is therefore of utmost importance that the panel of experts, led by Professor Sellström and assembled under the mechanism established by the Secretary-General to investigate into the alleged use of chemical and biological or toxin weapons, be granted full access to the Syrian Arab Republic.

## **E. Sieges**

141. Siege warfare has entered the arsenal of the parties to the conflict. Government forces and affiliated militia have systematically employed sieges across the country, trapping civilians in their homes by controlling the supply of food, water, medicine and

electricity. In some instances, anti-government armed groups have also employed this tactic.

142. There is a clear prohibition on the use of starvation as a method of warfare under the laws of war. In the context of a siege, inhabitants must be allowed to leave and the besieging party must allow free passage of foodstuffs and other essential supplies. Parties to the conflict must allow and facilitate the unimpeded passage of humanitarian relief.

#### **1. Government forces and affiliated militia**

143. Government forces lay siege to areas with a heavy presence of anti-government armed groups to contain their operational forces and compel withdrawal. The blockade of Yarmouk (Damascus) was tightened in January. Food and medicine to the remaining 10,000 residents is strictly rationed, with bread limited to two bags for each family, irrespective of its size. The prolonged siege of the Al-Houlah villages (Homs) has harrowing consequences on the lives of civilians trapped therein. A former resident witnessed a baby die of malnutrition, and stated that food shortages had affected nursing mothers. The sick and wounded cannot be evacuated from Al-Houlah, while the lack of medication at the field hospital has forced doctors to resort to desperate measures, including amputation.

144. As a tactic of attrition, government forces also impose sieges upon towns and villages considered sympathetic to the opposition or containing anti-government armed group fighters. Settlements in southern Dara'a have been subject to blockades, where government forces cut off food, electricity, fuel, water and medical supplies. Al-Shajarah town, near Dara'a, was besieged from February to April, following intensive shelling, causing many to flee. Government forces surrounded the remaining civilians, suggesting a punitive element to the deprivation of access to food and medicine. Such sieges appear calculated to render living conditions unbearable, forcing civilians to flee and exposing anti-government armed group fighters as military targets.

145. Towns in strategic locations have also been tightly surrounded and sealed to create a buffer against the infiltration of armed opposition. Cooperating with military forces, Popular Committees have prevented food supplies from entering Nawa (Dara'a) and Kesweh and Qatana (Damascus).

146. Government forces and affiliated militia have imposed sieges and blockades on towns without complying with their obligations under international humanitarian law.

#### **2. Anti-government armed groups**

147. Anti-government armed groups have besieged Shia enclaves in predominantly Sunni areas, claiming that they hosted Government military forces. Since July 2012, anti-government armed groups in Aleppo have surrounded Nubul and Zahra, blocking food, fuel and medical supplies to 70,000 residents. As the siege tightened in recent months, the population, especially women and children, began to suffer from malnutrition. The wounded and sick cannot receive medical treatment. People attempting to leave the villages are often kidnapped, held for ransom or killed.

148. The manner in which anti-government armed groups have laid siege violates their obligations under international humanitarian law.

### **F. Forced displacement**

149. In the Syrian Arab Republic, hundreds of thousands of civilians are on the move, searching for ever-dwindling safe havens. Many are fleeing aerial bombardments and

ground attacks by government forces. Others – often, but not exclusively, from the Alawite, Shia, Druze and Christian communities – are fleeing attack by anti-government armed groups. Within this context, specific instances of forcible displacement have been recorded.

150. In March and April, internally displaced civilians – predominantly from Homs governorate – sought refuge in Deir Atiyah, a town in northern Damascus. Between 19 and 23 April, government forces shelled Deir Atiyah and sent a message to the town authorities that the internally displaced were to be forced to leave the town; failure to do so would result in an attack against the town. In late April, the municipal office of Deir Atiyah informed the displaced that they had four days to leave before their quota of bread was withdrawn. Shortly thereafter, there was an exodus of internally displaced persons, many from Homs city and Al Qusayr, from Deir Atiyah.

151. The indiscriminate bombardment of civilian locations constitutes an attack on a civilian population. Such attacks are widespread in the Syrian Arab Republic, and conducted by government forces pursuant to an organizational policy. The forcible displacement of those who sought refuge in Deir Atiyah was undertaken by perpetrators with knowledge of such attacks, and therefore constitutes a crime against humanity. The war crime of displacing civilians has also been committed.

## V. Accountability

152. A review of the evidence collected since January has satisfied the commission that the gravity of the crimes committed by government forces and affiliated militia and anti-government armed groups, the prevalence of such crimes and the alarming rate at which they continue to be perpetrated lend force to the recommendation made by the commission that there must be a referral to justice at the national and international levels.

153. The discussions surrounding the prospects of an international conference have not included any reference to the issue of accountability. While such diplomatic efforts may signify a significant step towards breaking the impasse in the Syrian Arab Republic, the imperative to stop the violence cannot obscure the reality that there can be no enduring peace without justice.

### 1. Government forces and affiliated militia

154. During the period under review, consistent and corroborated accounts indicated that government forces committed gross violations of their obligations under international human rights law and common article 3 of the Geneva Conventions, perpetrating war crimes and crimes against humanity. The documented violations are consistent and widespread, and evidence of a concerted policy implemented by the leaders of the military and the Government.

155. No convincing domestic efforts have been made to investigate these crimes or to bring those responsible to justice. The international community also bears the burden of having failed to ensure accountability for the perpetrators.

### 2. Anti-government armed groups

156. The evidence collected indicates that several individuals in anti-government groups committed war crimes in violation of their obligations under common article 3 of the Geneva Conventions. The takeover of Ar Raqqa in March ushered in a period of lawlessness in the conduct of anti-government armed groups as they turned to violence to assert their authority. The commanders of anti-government armed groups have consistently

failed to take appropriate disciplinary steps and, in most cases, been directly involved in the commission of crimes.

## **VI. Conclusions and recommendations**

157. There is a human cost to the political impasse that has come to characterize the response of the international community to the war in the Syrian Arab Republic. The desperation of the parties to the conflict has resulted in new levels of cruelty and brutality, bolstered by an increase in the availability of weapons. Increased arms transfers hurt the prospect of a political settlement to the conflict, fuel the multiplication of armed actors at the national and regional levels and have devastating consequences for civilians.

158. The erosion of the State and of political authority in parts of the country is compounded by the fractious nature of the various parties claiming control of the territory. Syrians are confronted with intensifying damage, displacement and despair. War rages at key flashpoints, deepening the sectarian divide and spilling over into neighbouring countries.

159. While the nature of the conflict is constantly changing, there remains no military solution. The conflict will end only through a comprehensive, inclusive political process. The international community must prioritize the de-escalation of the war and work within the framework of the final communiqué of the Action Group for Syria (Geneva communiqué).<sup>7</sup>

160. All parties are obliged to respect human rights and international humanitarian law. Both they and their supporters share the responsibility to commit to a peaceful solution.

161. Accountability must be re-emphasized at all levels.

162. Humanitarian access should be sustained and enlarged, with full commitment from all parties.

163. The commission of inquiry renews the recommendations made in its previous reports, and highlights those below.

164. The commission recommends that the international community:

(a) Support the peace process based on the Geneva communiqué and the work of the Joint Special Representative of the United Nations and the League of Arab States for Syria;

(b) Ensure that any peace negotiation is conducted within the framework of international law, cognizant of the urgent need for a referral to justice at the national and international levels;

(c) Commit to ensure the preservation of material evidence of violations and international crimes to protect the right to truth of the Syrian people;

(d) Counter the escalation of the conflict by restricting arms transfers, especially given the clear risk that the arms will be used to commit serious violations of international human rights or international humanitarian law; States that exercise

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<sup>7</sup> A/66/865-S/2012/522.



influence on the parties to the conflict must take real and tangible steps to curb the increasing influence of extremist factions;

(e) Sustain and increase the funding for humanitarian agencies and operations inside the country, and help neighbouring countries affected by the situation and secure the \$1.5 billion of aid pledged at the donor conference held in Kuwait on 30 January 2013.

165. The commission recommends that all parties:

(a) Reject sectarian rhetoric as a tactic of war;

(b) Commit to ensuring the preservation of material evidence of violations and international crimes to protect the right to truth of the Syrian people;

(c) Allow immediate and full humanitarian access by humanitarian organizations to all areas affected by fighting.

166. The commission recommends that the Government of the Syrian Arab Republic:

(a) Participate constructively in the peace process guided by a commitment to human rights, democracy and a genuine desire for peace;

(b) Allow the commission of inquiry and the mechanism established by the Secretary-General to investigate into the alleged use of chemical and biological or toxin weapons to enter the country and to conduct investigations;

(c) Respect human rights and international humanitarian law, upholding such basic principles as the need to prevent indiscriminate attacks on the population.

167. The commission recommends that the anti-government armed groups:

(a) Join the peace process in a constructive spirit, presenting a unified position guided by shared commitments;

(b) Reject extreme elements and compel all groups to respect human rights and international humanitarian law.

168. The commission recommends that OHCHR and other United Nations agencies:

(a) Consolidate the presence of OHCHR in the region, in coordination with other United Nations agencies, in the pursuit of peace, democracy and human rights;

(b) Reinforce the protection of civilians through an effective, inter-agency United Nations presence in the country.

169. The commission recommends that the Human Rights Council:

(a) Support the recommendations of the commission and its access to the Security Council;

(b) Transmit the report of the commission to the Security Council through the Secretary-General.

170. The commission recommends that the General Assembly:

(a) Support the work of the commission, inviting it to provide regular updates;

(b) Uphold the recommendations of the commission and exert its influence towards a peaceful solution for the country.

171. The commission recommends that the Security Council:

- (a) Support the work of the commission and give it access in order to provide periodic briefings on developments;
- (b) Facilitate and underpin a comprehensive peace process for the country, with the full participation of all stakeholders;
- (c) Commit to ensure the accountability of those responsible for violations, including possible referral to international justice.

## Annex I

[English only]

## Correspondence with the Government of the Syrian Arab Republic

NATIONS UNIES  
HAUT COMMISSARIAT AUX  
DROITS DE L'HOMME



UNITED NATIONS  
HIGH COMMISSIONER FOR  
HUMAN RIGHTS

Tel: 41-22-9179989, Fax: 41-22-9179007

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

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

The Human Rights Council has extended the mandate of the Commission for a period of one year by resolution 22/24. As a new phase of its work begins, the Commission wishes to express once again its full commitment to the principles of independence, impartiality and objectivity, as well as its sincere willingness to cooperate with the Government of the Syrian Arab Republic. The Commission reiterates its request to access the country in order to conduct its investigations.

The Commission acknowledges the Government of the Syrian Arab Republic as a central source of information regarding incidents that have occurred on Syrian territory and fall under the mandate of the Commission. To advance the investigation, the Commission seeks information with regard to five specific incidents set out below. Investigations into these incidents are on-going and the Commission intends to present its findings at the twenty-third session of the Human Rights Council in May/June 2013. All information provided by the Government of the Syrian Arab Republic will be taken into account.

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

28 March 2013  
AW

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

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HIGH COMMISSIONER FOR  
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- 1) The Commission has noted the explosion at the Iman mosque in Damascus on 21 March 2013, and the numerous deaths and injuries caused. In seeking to establish the facts of the attack, our investigation would be considerably aided by any information regarding the criminal investigation undertaken by Syrian law enforcement agencies, including any forensic findings.
- 2) The Commission is investigating allegations of the use of chemical weapons in Khan al-Asal in Aleppo province on 19 March 2013. We welcome and support the UN Secretary General's Mechanism (SGM) for the investigation of an alleged use of chemical, biological and toxin weapons, as mandated by the UN General Assembly in its resolution 42/37C of 1987 and reaffirmed by the UN Security Council through its resolution 620 (1988). The Commission looks forward to the findings of the SGM, and welcomes any information from the competent organs of the Syrian Arab Republic regarding the alleged use of chemical weapons.
- 3) The Commission is investigating the 15 January 2013 attack on Al Haswiya, Homs, which reportedly resulted in the deaths of scores of people. In its most recent update (A/HRC/22/CRP.1), the Commission noted that the investigation into this incident is on-going. In order to establish the facts of the attack in Al Haswiya, information regarding the victims of the attack, eyewitness testimony, forensic findings regarding the nature of victim's injuries, the pattern of the attack and any other information that could be of relevance would be welcome. The Commission is already in possession of footage from media and online sources, yet being unable to access the crime scene, we would welcome any information from your law enforcement, judicial or military organs regarding the scene of the incident and any analysis of the events.
- 4) The Commission has received footage from the Permanent Mission of the Russian Federation in Geneva depicting the beheading of two victims, one of which is beheaded by a child. From initial investigations and information gathered from other sources, the case appears to be related to allegations of the beheading of Colonel Fou'ad Abd al-Rahman and Colonel Izz al-Din Badr in Dayr az Zawr, following their kidnapping in August 2012. The Commission is seeking to verify the date and location of the incident. Moreover, the Commission continues to investigate the impact of armed group conduct on children and the alleged

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use, conscription and enlistment of children by armed groups. Any additional information that the competent organs of the Syrian Government may have on this incident are also welcome.

- 5) The Commission's most recent report (A/HRC/22/59), in Annex XI, paragraphs 26 - 28, reported on Syrian Government conduct of hostilities on 4 and 10 August 2012 in Tal Rifaat, Aleppo.

The investigation determined that the attacks were carried out near Al-Shaheed Mohamed Aboud School in Tal Rifaat, which fighters from an armed group calling itself the Free Syrian Army (FSA) had been using as accommodation.

In establishing the legality of the attack, the Commission stated in its report,

"On 4 August, the house of the Elbaw family was hit around 6:00 by a "barrel bomb" dropped from a fighter jet, killing seven persons, including women and children. The commission was unable to ascertain whether the aerial bombardment of the Elbaw family house was excessive in relation to the concrete and direct overall military advantage of attacking the nearby school, which was used by the FSA, and is thus unable to find sufficient grounds that the attack was disproportionate."

The Commission requests that the competent organs of the Government of the Syrian Arab Republic provide information regarding the targeting assessment undertaken in the conduct of aerial hostilities on Tal Rifaat in August 2012. In order to conduct an assessment of the proportionality of the attack, information regarding the assessment that was made on the day of the attack regarding the concrete and direct overall military advantage of attacking Al-Shaheed Mohamed Aboud School, which was used by the FSA would be needed. The Commission is also grateful for any information regarding the guiding procedures employed by the Air Force and military forces in ensuring the proportionality in their conduct of hostilities. Finally, information concerning any precautions that were taken in order to minimize the impact of the attack on the civilian population would be most welcome.

## Annex II

[English only]

## Map of the Syrian Arab Republic

