STARVATION AS A METHOD OF WARFARE IN "YARMOUK CAMP" SIEGE IN SYRIA: A PERSPECTIVE OF INTERNATIONAL HUMANITARIAN LAW

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A Thesis presented to the Faculty of Humanities President University in partial fulfillment of the requirements of Bachelor Degree in Law

2015
THESIS ADVISOR RECOMMENDATION LETTER

This thesis entitled “STARVATION AS A METHOD OF WARFARE IN "YARMOUK CAMP" SIEGE IN SYRIA: A PERSPECTIVE OF INTERNATIONAL HUMANITARIAN LAW” prepared and submitted by Jazmi Adlan Bohari in partial fulfillment of requirements for the degree of Bachelor of Law in the Faculty of Humanities has been reviewed and found to have satisfied the requirements for a thesis fit to be examined. I therefore recommend this thesis for Oral Defense.

Cikarang, Indonesia, January 19th, 2015

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Advisor
DECLARATION OF ORIGINALITY

I declare that this thesis, entitled “STARVATION AS A METHOD OF WARFARE IN "YARMOUK CAMP" SIEGE IN SYRIA: A PERSPECTIVE OF INTERNATIONAL HUMANITARIAN LAW” is, to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Cikarang, Indonesia, January 19th, 2015

Jazmi Adlan Bohari
The Panel of Examiners declares that the thesis entitled “STARVATION AS A METHOD OF WARFARE IN "YARMOUK CAMP" SIEGE IN SYRIA: A PERSPECTIVE OF INTERNATIONAL HUMANITARIAN LAW” that was submitted by Jazmi Adlan Bohari majoring in Law from the Faculty of Humanities was assessed and approved to have passed the Oral Examination on Cikarang, Indonesia, February 5th, 2015.

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ABSTRACT

Starvation as a Method of Warfare in "Yarmouk Camp" Siege in Syria:
A Perspective of International Humanitarian Law

In 2012, the Syrian Government besieged Yarmouk Camp during the Civil War to drive out rebellious forces. The Syrian Forces prohibit the entry of food, water, medical supplies, and other objects that are indispensable to people's survival. Nearly 200 people died from starvation and untreatable wounds and diseases. It was only until early 2014; the siege was loosening for a bit, enough for food parcels from humanitarian relief organization to enter the area. Sick and wounded people were also allowed to receive medical treatment. The use of starvation as the method of war is prohibited under the Geneva Convention of 1949, specifically in article 54 (1) of the Addition Protocol I and article 14 of the Protocol II. However, its use under non-international armed conflict is not regulated in the Rome Statute, making it almost impossible to bring the case to ICC. Moreover, the current political climate of Syria makes it impossible to prosecute war criminals using its own criminal law, eliminating the choice of domestic court and hybrid court. Therefore, Ad Hoc Tribunal is the most possible court to prosecute war criminals responsible for intentional starvation as it can constitute intentional starvation as its jurisdiction by using customary laws of armed conflict. Ad Hoc Tribunal will face no problem to prosecute war criminals who are mostly consists of Syrian leaders, such as the president Bashar Al-Assad and other superiors and military commanders. Unfortunately, the Security Council will need to pass a resolution to establish ad hoc tribunals, which is almost impossible due to possible vetoes by Syrian allies, Russia and China. This research aims to discuss starvation under International Humanitarian Law and to provide solution of how war criminals responsible for starvation in Yarmouk can be brought to fair criminal justice which conforms to international standards. This research is a legal doctrinal study using statutory approach and case approach.

Keyword: Starvation, International Humanitarian Law, International Tribunal
ABSTRAK

Kelaparan sebagai Metode Perang pada Blokade “Yarmouk Camp” di Suriah:

Sebuah Perspektif dalam Hukum Humaniter Internasional


Kata Kunci: Kelaparan, Hukum Humaniter Internasional, Peradilan Internasional
ACKNOWLEDGEMENT

*Bismillahirrahmanirrahim.* In the name of Allah the most Gracious and the most Merciful. This thesis is constructed as one of the requirements end in order to obtain my Bachelor Degree of Law in President University. These are several of many people who contributed in this thesis completion and deserve more than millions of thanks:

- I dedicate my greatest gratitude to Allah SWT for the blessing, favor, guidance, and opportunity to finish this thesis research.

- To my parents, who always supported me and never got tired to remind me to take care of my health. You are my biggest inspiration.

- To my sister and brother, who always helped and cheered me up with all those annoyances, jokes and laughter.

- To Ms. Nadya Putri Anggarini, SH, MH for all the times spent to guide and advise me as well as giving needed correction during my thesis writing as being my beloved advisor.

- To Dr. Maria Francisca M, SH, SE, M.Kn as the Head of Law Study Program along with Mbak Sania and Mbak Maya who have helped me completing this thesis.

- To Mr. Kushartoyo Budi Santoso, SH, MH as my internship supervisor in the ICRC Jakarta, who always support me and help me get through things and situations both during inside and outside the workplace with his outstanding suggestions and advises.

- To all staffs of the ICRC Jakarta: Mr. Jerome, Mr. Robin, Mr. Andrew, Mr Nima, Mr. Andres, Mbak Isworo, Pak Iven, Mbak Fitri, Bu Rina, Mbak Dini, Mbak Minuk, Kak Cula, Mbak Rini, Pak Sonny, Pak Freddy, Pak Zezen, Pak Novri, Mbak Melati, Mbak Annisa and Mbak Anisa, Mbak Lana, Mbak Atiah, Mbak Dessy, Mbak Mae, Mbak May, Mbak Mia, Mbak Ana, Pak Mul, Mbak Lidya, Mbak Tuti, Mbak Sugi, Mbak Kokom, Mas Roso, Mas Winarwan, Mas Edi, Mas Bani, Pak Yadi, Pak Tarjo, Pak Iwan, Mas Dodo, and other staffs that I cannot mention one by one. Thank you for having me as a part of your family for 8 months.
• To all my friends in the Law 2011, especially the Infotemen group: Alqabani Syahrizal, Anthony Djordan, Feby Fitahr, Difa Ramadhani Harummas, Libert Habeahan, and M. Fadhly Dzil Ikram. Thank you for the wonderful moment for the past 4 years. Without you guys, I will forever be a geeky nerd!

• To Fitri Habiba Mahmuda, who always hears my continuous complaints about everything and always gives me those snarky but strongly helpful advises. She never brings me down, but when I do get down, she always make the best of her to get me back to my feet. She looks up to me but at the same time I also admire her. I thank you for everything. Things will never be the same without you.

At the end, I finally present this thesis and wish it could be beneficial for all parties who read it. But I really wish that this thesis will be useful for the law students who passionate about international law and the laws of armed conflict.

JazmiAdlanBohari
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CHAPTER I

INTRODUCTION

A. RESEARCH BACKGROUND

Conflict is inevitable among humans. It is one part of the grand design of the development of mankind and civilization. The discovery of conflict may be seen back to the first history of mankind. Without conflict, the world as we know it would be strangely different. Humans, in their lifetime, cannot be separated from conflict, as conflict is one of many ways of human to interact with each other. However, the way humans interact with each other using conflict is by having a friction, disagreement, or discord in their understanding, feelings, or ideology of something that they believe in. Following are the common elements\(^1\) that shape what conflict really is:

- there are recognized opposing interests between parties in a zero-sum situation;
- there must be a belief by each side that the other one is or will act against them;
- this belief is likely to be justified by actions taken;
- conflict is a process, having developed from their past interactions.

From the explanation above, we know that conflict is happened after humans made interaction with each other. Having different beliefs, humans are afraid of other beliefs may threaten theirs. Or, humans need to force their interests

into and defend it from others. Hence, humans need an action of justification to settle which belief is the most prevail than others.

The most often ways to settle this conflict is to take it to the next level, which is using power to prevail over others. By using power, in this context, means implicating a certain degree of loss to the other party. Loss in this context may vary; it could be financial, physical, political, or even all of them combined at the same time. The issue in this point is the way of a party to implicate loss to others. The most common way to do such thing is by using coercive actions. This kind of actions will impact serious major of loss which using a certain attack mechanisms by the parties involved. To this point, this kind of conflict will be called an armed conflict.

As the author mentioned above that conflict had already existed in the first history of mankind, so did armed conflict. To better understand what armed conflict is, following are elements of armed conflict:\(^2\):

1. Use of armed force – use of arms in order to promote the parties’ general position in the conflict, resulting in deaths. Arms: any material means, e.g. manufactured weapons but also sticks, stones, fire, water, etc.
2. Party – a government of a state or any opposition organisation or alliance of opposition organisations.
   a. Government – the party controlling the capital of the state.
   b. Opposition organisation – any non-governmental group of people having announced a name for their group and using armed force.
3. State – a state is:

a. an internationally recognized sovereign government controlling a specified territory, or
b. an internationally unrecognised government controlling a specified territory whose sovereignty is not disputed by another internationally recognised sovereign government previously controlling the same territory.

4. Incompatibility concerning government and/or territory the incompatibility, as stated by the parties, must concern government and/or territory.

a. Incompatibility – the stated generally incompatible positions.

b. Incompatibility concerning government – incompatibility concerning type of political system, the replacement of the central government or the change of its composition.

c. Incompatibility concerning territory – incompatibility concerning the status of a territory, e.g. the change of the state in control of a certain territory (interstate conflict), secession or autonomy (intrastate conflict).

Based on the explanation above, we can conclude that an armed conflict is a conflict using any means of weapons between a State and a non-organizations group, having an incompatibility of certain issues concerning leadership in the government and territorial issues.

Armed conflict is different with war. Although, both of them have many similarities, such as: the use of armed forces, involved parties, and the existence of incompatibility of both parties. J.G. Starke defines the characteristic of armed
conflict with what he called “status theory of war”³, explaining an absolute
element should exist to distinct war and armed conflict. That element is a formal
declaration of war.

By formally declaring war to the other parties, “a state of war”⁴ is established
between two parties. As Starke explained about the status theory of war:

“The nature of war itself has become more distinctly clarified as a formal
“status” of armed hostilities, in which the intention of the Parties, the so
called “animus belligerendi”, may be a decisive factor. Thus a state of
war may be established between two or more States by a formal
“declaration of war”, although active hostilities may never take place
between them... Moreover, the cessation of armed conflict does not,
according to modern practice, necessarily terminate “a state of war”.

The theory explained that a war is an armed conflict between two or more
States and begin with a formal declaration of war in order to establish “a state of
war”. While an armed conflict are not necessarily confined to hostilities involving
States only, but may include a struggle in which non-state entities participate⁵.
Another factor which may be taken into account is an indicator of war based on
the number of death⁶. War should be resulted of 1000 battle-related deaths per
calendar year, while an armed conflict should resulted at least 25 but less than
1000 battle-related deaths per calendar year.

International community has regulated the occurrence of war and armed
conflict in International Humanitarian Law (hereinafter referred as IHL). IHL is a

⁴A state of war is a legal situation following (a) a declaration of war which normally followed by
active hostilities (b) the sudden commencement of hostilities, as cited in Pietro Verri, Dictionary
⁵J.G. Starke, op.cit., p. 529
⁶Uppsala Conflict Data Program, Intensity level of armed conflict,
http://www.pcr.uu.se/research/ucdp/definitions accessed on September 9th 2014
part of international law which regulates about *jus ad bellum* and *jus ad bello*. *Jus ad bellum* is a set of criteria that are to be consulted before engaging in war, in order to determine whether entering into war is permissible; that is, whether it is a just war. While *jus ad bello* means the law that applies during war;

1. The Hague Laws – how to conduct a war;

Standing Committee of IHL of Ministry of Law and Human Rights defines IHL as a series of principles and regulations, both written or unwritten, which covering laws of war and human rights in order to ensure the dignity of man. The key point of IHL is actually to ensure the dignity of man, not just about war and armed conflict. IHL seeks to preserve human dignity even during war and armed conflict, because every human deserves to have dignity regardless the time and place.

When there is law, there is violation. It also applies to IHL, as it called war crimes. War crimes in IHL are mostly about grave breaches of the 1949 Geneva Conventions and its Additional Protocols, which regulates about protection of war victims. The distinction of war crimes and crimes of humanity is that war crimes are only occurred during wartime, while crimes against humanity are not necessarily occurred during wartime. However, when violation of law which falls under crimes of humanity, such as sexual slavery, is occurred during wartime,

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then it automatically falls under war crimes. This does not change the fact that both war crimes and crimes against humanity fall under the jurisdiction of the International Criminal Court (ICC).

One of those war crimes occurred during the Syrian Civil War. The civil war began in 2011 between the administration of President Bashar Al-Assad and the rebellious forces who oppose the government. The civil war itself was influenced by massive revolutionary protests against the government that has been occurring in several Arabian countries, such as Tunisia, Egypt, Yemen, Libya, and Iraq. Syrian people, influenced by dictatorship overthrows in other countries, were demanding Al-Assad resignation due to stagnant political process and the absence of democratic reforms. The protest in 2011 did not go well as the government launched extreme coercive feedback to the protesters. Hence, civilian began establishing rebel forces to combat government violence and sporadic wars have been happening in all regions across Syria. Free Syrian Army (FSA) is the main rebel forces in Syria, together with Liwa al-Asifa, Jabhat Al-Nusra, and Islamic State of Iraq and the Levant (ISIS).

One of the sporadic battles resulted in starvation of civilians that took place in Yarmouk district in the capital city Damascus. Yarmouk is the home of the biggest community of Palestinian refugees in Syria. Its residents comprised some 180,000 Palestinian refugees and several hundred thousand Syrian nationals. During the Civil War, intense and escalating coercive contacts were established in Yarmouk between the Free Syrian Army and Palestinian militant army Liwa al-Asifa on one side, against the Syrian Army and the Popular Front for the Liberation of Palestine – General Command (PFLP-GC) on the other. The clash
between two sides inside Yarmouk was originally lasted only for 2 weeks, which from December 5th, 2012 to December 17th, 2012. However, sporadic clashes aftermath continued and claimed the lives of dozens of civilian.

Since 2012, the Pro-Assad forces have begun to blockade the area of Yarmouk. In July 2013, they prevented all access to Yarmouk, including water, food, medicine, and volunteers who simply wanted to help residents of Yarmouk. Originally, the government allowed a trickle of food supplies, such as small bags of vegetables, to enter Yarmouk. It was far from enough for all besieged people in Yarmouk, who even at that time, had been reduced to only 17,000 to 20,000 people. The Palestinian, who dominated Yarmouk, had fled the area to neighboring countries, such as Lebanon, Egypt, Jordan, and Libya. Some of them made even their way to Asian countries, such as Thailand, Indonesia, and Malaysia. However, as the resistance continued, the Syrian government went mad and decided to shut off Yarmouk from outside.

Yarmouk was on the brink of death. There were no food and water to be found. The residents ate nearby animals or even grass. Power was cut and no alternative power sources were found. People who were injured could not find any medical treatment, which caused many people died from infections or blood loss. If there was any medical worker who wanted to aid the residents, they had been subjected to enforced disappearance. The government forces were also performing random arrests to civilian and many had died under the custody of the government. Nearly 200 civilians died because of the siege. Starvation, lack of adequate medical care, and shootings by snipers are the three main causes of the
increasing death in the area. The similar situation was not only happened in Yarmouk, but also other area under siege by the government.

By January 2014, Free Syrian Army and Liwa al-Asifa controlled 75% of the refugee camp, while the other 25% was controlled by the Syrian Army and the PFLP-GC. Pro-Assad forces insisted that they would not lift the siege unless Yarmouk was free from rebel army. Even though, early negotiations between both sides were successful, which allowed hundreds of sick and wounded civilian together with their family members to leave Yarmouk and those who stayed in the area would receive some food parcels. Positive developments yet had little impact to the area as a whole.

Eventually, the UN Security Council issued a resolution in February 2014 which address humanitarian situation in Syria. The resolution called for the conflicted parties to immediately lift sieges in civilian areas, especially Yarmouk and to end violations of human rights and international humanitarian law. The resolution then led to humanitarian aids that managed to get through into Yarmouk, although somehow only in limited quantities. From January until February 2014, the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) has delivered thousands of food parcels to the area, with each parcel contained food to feed a family for up to 10 days. In addition, hundreds of the most vulnerable individuals have been allowed to leave and be escorted to hospitals.

In the explanation above, the Syrian government committed crimes which included in the violation of both international law on human rights and international humanitarian law. One of them was intentional starvation against
Yarmouk residents. The author would like to explore the particular war crime and review it using international humanitarian law. Also, the author would like to see from the perspective of the Syrian government, which saw this intentional starvation as a method to winning the civil war in Yarmouk. Thus, this thesis would be titled “STARVATION AS A METHOD OF WARFARE IN "YARMOUK CAMP" SIEGE IN SYRIA: A PERSPECTIVE OF INTERNATIONAL HUMANITARIAN LAW”.

B. RESEARCH QUESTIONS

Based on the explanation above, there are two questions that will be raised in this thesis:

1. Did intentional starvation that conforms to the standards of International Humanitarian Law actually take place during the siege of Yarmouk Camp in Syria?

2. How to prosecute those who are responsible for intentional starvation during the siege of Yarmouk Camp in Syria?

C. PURPOSE OF RESEARCH

1. Providing an explanation that answers whether intentional starvation that conforms to the standard of International Humanitarian Law actually took place during the siege of Yarmouk Camp in Syria. Also, the author would like to explain how International Humanitarian Law addresses intentional starvation during the siege of Yarmouk Camp in Syria.
2. Providing an explanation of the implementation of International Humanitarian Law in the situation in Syria, particularly in intentional starvation during the siege of Yarmouk Camp, as well as how intentional starvation can be adjudicated using applied laws of war and armed conflict.

D. BENEFIT OF RESEARCH

This research is expected to be able to give benefit to anyone who reads it. The benefits of this research are:

1. Academically, this research is expected to be used as an input to the knowledge, especially regarding International Humanitarian Law and its mechanisms of enforcement.

2. Practically, this research is expected to be a reference for students majoring International Law or International Relations as well as for those who are interested in International Law, especially International Humanitarian Law and Middle East issue.

E. METHOD OF RESEARCH

1. Type of Research

This research is a legal doctrinal research that provides a systematic exposition of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments. In this context, the author would like to provide an exposition of the International Humanitarian Law in
general and its conventions in particular which mention intentional starvation. The author then would like to analyse the relationship between conventions regarding intentional starvation and explain areas of difficulty on the implementation level. After that, the author would like to provide prediction of future development regarding intentional starvation in Syria as a war crime based on IHL and international law.

2. Research Approaches

This research uses statutory approach and case approach. By using statutory approach, the author studies all laws and regulations, especially international conventions and treaties, which related to the research problems in this thesis. In this case, the author studies all essentials conventions related to the laws of armed conflict, especially the 1949 Geneva Conventions and its Additional Protocols and customs of law of armed conflict. By using case approach, the author studies a certain case in order to be the center of this thesis. Although, there is no positive ruling on this case just yet, this thesis revolves on the reason why there is no proper criminal justice that prosecutes war criminal responsible for intentional starvation in Yarmouk.

3. Source of Materials

The legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials in this research are laws and regulations of International Humanitarian Law. International Humanitarian Law generally is about all provisions related how to conduct war and to protect war victims. There are a lot of
conventions, codes, regulations, treaties, and protocols, both national and international, which stipulates about *jus ad bellum* and *jus in bello*. In this research, the author would like to use many of these regulations, but focus on the main convention of International Humanitarian Law; the 1949 Geneva Conventions. The Conventions consist of four parts and three additional protocols which aim to protect the victims of war and other impacted parties by war. The author also would like to use the Hague Conventions of 1899 and 1907, which aim to regulate how to conduct a war. Last but not least, the author would like to use the Rome Statute, which serves as the legal framework of the establishment of the International Criminal Court. For secondary legal material, the author used several textbooks, paper, and research results regarding theory, concept, and implementation of International Humanitarian Law. Especially on domestic armed conflict such as the Yarmouk case in Syria. For tertiary legal material, the author used several dictionaries/encyclopedia on International Humanitarian Law, international law and human rights law, as well as collected data on the internet.

The necessary data are obtained through literature study, internet research, news and journals related to International Humanitarian Law and Middle East study, especially academic writings related to Syrian Civil War and history of starvation as a method of war.
F. SYSTEMATIC WRITING

In this research, the Author made a systematic writing as follows:

Chapter I Introduction
This chapter is an introduction of this thesis overall. This chapter explains the research background, research problem and purpose, the research methods to be used, and systematic writing.

Chapter II Intentional Starvation and Its Regulating Provisions within the International Humanitarian Law
In this chapter, the author would like to explain elaborately about International Humanitarian Law, specifically on its positive laws and regulations, and intentional starvation and its use throughout the history of war and armed conflict. After that, the author would like to elaborate the provisions of International Humanitarian Law which regulating about intentional starvation.

Chapter III Upholding Criminal Justice for Starvation as Serious Violation of International Humanitarian Law
In this chapter, the author would like to answer the research question. To do so, the author would provide explanation and analysis on what happened in the siege of Yarmouk Camp based on the perspective of International Humanitarian Law. Then, the author would like to provide the solution of how to prosecute war criminals responsible
for starvation in Yarmouk by using three international courts and tribunals which conforms with fair international standards.

Chapter IV  Closing

This chapter presents the conclusion obtained from the answers of this research problem and suggestions that could be given from the results of this thesis research and writing in the future.
CHAPTER II

INTENTIONAL STARVATION AND ITS
REGULATING PROVISIONS WITHIN
INTERNATIONAL HUMANITARIAN LAW

A. STARVATION AND FAMINE

Starvation, in a general term, is a suffering that caused by lack of food\(^\text{10}\). Once starvation is prolonged without any proper treatment necessary, its suffering may even lead to a death. However, if we look closely in the history of its implementation, starvation acts as a result of a widespread phenomenon named famine. According to the World Food Program says famine may occur if a serious food shortage condition is occurred and worsen by the government failure to deal with the situation\(^\text{11}\). Thomas Malthus theorized that famine is an adaptation of the imbalance between available food and population size\(^\text{12}\). The International Famine Centre defines famine as the regional failure of food production and distribution systems, leading sharply increased mortality due to starvation and associated disease\(^\text{13}\). It can be concluded that famine is a regional-scale phenomenon.

Because famine is emphasizing in food shortage, meaning that it implies to a wide range of area and a certain number of population. Also, famine is usually followed

\(^\text{13}\) World Information Transfer, loc.cit.
by soaring food price and deepening recession, which affecting production and exchange, employment, and income of farm, and non-farm household alike. However, famine is not always caused by food shortage. Famine is also caused by the problem on food distributions and poverty. Lacking of access to adequate food supplies is also can causing famine.

Cornelius Walford divided the cause of famine into two: natural cause and artificial cause. In his historical perception, the natural cause of famine include drought, excessive rains and flood, unseasonably cold weather, typhoons, tidal waves, depredations by vermin and insects, and plant diseases. These natural causes deprived the ability of farmers and fishermen to produce food in specific time span, destroying food supplies and causing people to starve. The artificial causes, on the other hand, are mainly consisted of political measures by the government: poor government decisions, misguided or deliberate public policies, and repressive political systems. The focus artificial cause in this context is war and armed conflict. Walford explained that war may bring political and economic instability to a certain area. Manpower, machines, and fertilizers, were strained by the length time of war, reducing cultivated acreage, yields, and production which contribute to famine. Increasing of population of the area as the result of displacement during war may resulting in a defective agriculture, meaning the more crowded the area, the less land that available for producing food via agriculture and plantation. Difficulty of transportation or access to the food, during wartime is also deemed as the cause of famine. Other artificial causes of famine are corruption, misguided economic policies and mismanagement in

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handling food supplies, and trade policies that harm agriculture. Diseases is also contributing to famine which reducing the availability of workforce and creating new vulnerabilities to famine by overburdening poor household.

In the context of armed conflict, starvation\textsuperscript{15} is a forbidden method of warfare consisting in deliberately depriving civilian persons of foods. By depriving, it means to attack, destroy, remove, or render useless objects dispensable to the survival of the civilian populations, such as foodstuffs, facility to produce foodstuffs, crops, livestock, drinking water installations and water supplies, etc., for the specific purpose to diminish the value of the objects towards the civilians or to starve civilians in order to obtain certain purposes. Such method of warfare is allowed if the objects are used solely by military forces as adversaries in an armed conflict or if the objects are used as a direct support of military action. In other words, starvation as a method of warfare is prohibited by any cost if it means to harm civilian persons in such way. Objects that indispensable to the survival of the civilians populations are also cannot be made as objects of reprisal by the adversaries during armed conflict\textsuperscript{16}. This strengthens the impression that International Humanitarian Law does not allow civilian to be deprived from their ability of survival during armed conflict by any means.

B. THE USE OF STARVATION

1. Starvation caused by natural phenomenon


\textsuperscript{16}Ibid.
Starvation is actually as old as the history of mankind. It attacks the very core of human ability to survive and live. There is no record on when humans were suffered from starvation for the first time. However, starvation is allegedly happened during the reign of King Djoser of Egypt on 2670 BC. At that time, Egyptians were expecting for a harvest time as their primary source of food. However, a flood came from the damaged river bank and washed up their entire crop for seven years a row. The people lost their primary food source and suffered from starvation. After that, the Egyptians created an irrigation system to be applied on the Nile River in order to avoid such hazardous disaster in the future. The Mayans also suffered from severe drought that brought down their civilization in sometime between 800-1000 AD, killing millions of Mayans\(^\text{17}\).

In the 18\(^{\text{th}}\) century, one of the most famous famines in the history happened in Ireland. At that time, 33% percent of the Irish population relied on potato for sustenance. It was in 1845 that the population was hit by the disease called “potato blight”, turning the potatoes into a black gooey mess, triggering mass starvation. The Irish population dropped by 2 million which represented 25% of the total population between 1846 and 1850. The figure of 2 million is basically consists of two factors: one million people died from starvation or the disease associated with the famine and the other one million people emigrated to North America or

\(^{17}\) Jessica Cecil, *The Fall of the Mayan Civilization*, http://www.bbc.co.uk/history/ancient/cultures/maya_01.shtml, accessed on September 28\(^{\text{th}}\), 2014
parts of England, such as Liverpool and Scotland\textsuperscript{18}. Similar tragedy also happened in Finland in 1866. Due to bad weather and continuous failure of crop, notably potatoes and root vegetables, the Finnish population suffered from starvation and about 15 percent of them dead\textsuperscript{19}. In the next decade, massive and long drought hit Northern China in 1876, made it one of the most devastating famine in the history\textsuperscript{20}. Five provinces, each with 15 to 25 million inhabitants, were affected by the drought. Three years in a row of sparse rainfall, dry and dusty winds led to a massive crop failure. People ate grass and roots, which only increasing the death toll due to sickness. Diseases such as typhoid fever, typhus, and dysentery was rampant. Many turned to cannibalism at the height of desperation. It was reported that 9 to 13 million people have died in the famine. However, scholars argued that the actual numbers are between 30 to 40 million people\textsuperscript{21}. This famine is one of the last famines with pure natural cause.

2. Engineered-to-kill Starvation

a. Starvation in times of the absence of war

The world’s first, elaborately planned, grand-scale famine was performed by one of the most powerful and murderous dictator

\textsuperscript{18} History Learning Site, The Great Famine of 1845, http://www.historylearningsite.co.uk/ireland_great_famine_of_1845.htm, accessed on September 28\textsuperscript{th}, 2014
\textsuperscript{20} Kirwood Community College, Chinese Famine Epidemic, http://faculty.kirkwood.edu/ryost/Famine.htm, accessed on September 29\textsuperscript{th}, 2014
\textsuperscript{21} World Information Transfer, Famine in China, http://worldinfo.org/2012/01/famine-in-china/, accessed on September 29\textsuperscript{th}, 2014
in history, Joseph Stalin\textsuperscript{22}. During his regime in 1931, one of the first Stalin’s programs after he ascended as the leader of Soviet Union was Five-Year-Plans Industrialization, which covering agricultural cultivation that forces farmers to merge land, livestock, and equipment with state-owned collective farms. Stalin planned to allocate the money from the collective farms to feed his envisioned industrial workers. However, many farmers called Kulaks in Ukraine\textsuperscript{23} rejected the idea, saying that to join the collectivization is the same as returning to the serfdom of earlier centuries. Hearing Ukrainian rejection of the plan, Stalin issued a policy to break down the resistance by forcibly confiscate their lands, livestock, and other property using armed troops and secret polices. By 1932, nearly 75 percent of the farms in Ukraine had been forcibly collectivized.

Stalin ordered mandatory foodstuffs, especially grain, to be shipped outside the Soviet Union to be increased, ensuring that the quota could not be met at all\textsuperscript{24}. Ukrainian Communists pleaded to Stalin’s administration to reduce the grain quotas and food aid to feed Ukrainian people. As respond, Stalin dispatch 100.000 soldiers to purge the Ukrainian Communist Party. The Soviets then created a blockade surrounding Ukraine, preventing any foodstuff


\textsuperscript{23} Ukraine is one of the Soviet Union, merged in 1922

\textsuperscript{24}Holodomor Facts and History, \url{http://www.holodomorct.org/history.html}, accessed on September 30\textsuperscript{th}, 2014
from entering. Soviet police raided houses and seized any stored foodstuffs that they referred as the ‘sacred’ property of the State. Anyone who stole even a single bread from the collective farms was shot to death or imprisoned not less than 10 years. In 1933, there were no food remaining to feed the people inside Ukraine; 30,000 people died every day from starvation. There is no exact number of death toll in this famine, but the estimation falls on six to seven million people, or 25 percent of the population of Ukraine. Ukrainian people call the famine as Holodomor, literally means extermination by hunger.

Such a large-scale famine was denied by the Soviet Union, saying that it was never occur. Stalin’s government used many method to prevent words of the famine from spreading, especially by using Western famous journalists and intellectuals to convince the world that the famine was not exist. Mortality and birth records within the Soviet during the famine were falsified. Anyone who voiced the famine inside the Soviet Union, they would be charged with anti-Soviet propaganda. A Pulitzer-prize winner Walter Duranty who served as Moscow correspondent for the New York Times during the famine claimed that “any report of a famine in Russia is today an exaggeration or malignant propaganda. There is no actual starvation or deaths from starvation but there is

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widespread mortality from diseases due to malnutrition\textsuperscript{27}.” The Soviet was covering the famine perfectly and the Ukrainian sought for recognition of the tragic event, but nothing came to success. It was not until 1980 when Robert Conquest’s book “Harvest of Sorrow”\textsuperscript{28}, the publication of report on the Ukraine Famine by the US Commission \textsuperscript{29}, and the findings of the International Commission of Inquiry of 1932-1933 Ukrainian Famine, the world began to see the truth behind Stalin’s propaganda.

The world questioned the famine, whether it may be referred as genocidal act or not. Many of historians, human rights activists, and scholars have claimed the famine was genocide. Although, the European Parliament has recognized the famine as a crime against humanity\textsuperscript{30}, Conquest has claimed that the famine was either a deliberate of mass murder, or genocide committed by Stalin in order to realize his industrialization program\textsuperscript{31}. Mark Tauger, on the other hand, stated that the famine was not man-made; it was only the impact of decreasing harvest from 1932 to

\begin{thebibliography}{9}
\item Arnold Beichman, \textit{Pulitzer-Winning Lies}, \url{http://www.weeklystandard.com/Content/Public/Articles/000/000/002/791vwuaz.asp}, accessed on October 2\textsuperscript{nd}, 2014
\item Ria Novosti, \textit{MEPs recognize Ukraine’s famine as crime against humanity}, \url{http://sputniknews.com/world/20081023/117913361.html}, accessed on October 3\textsuperscript{rd}, 2014
\item Conquest, \textit{Comment on Wheatcroft}. Europe-Asia Studies 51 Issue 8 University of Glasgow, (Glasgow: Routledge, 1999), p. 1479–1483
\end{thebibliography}
1933. However, Tauger’s remark was denied by Steven Rosefielde, saying that grain supplies were sufficient enough to sustain everyone if properly distributed. Rosefielde argued that Ukrainian people died mostly from “terror-starvation, (excess grain exports, seizure of edibles from the starving, state refusal to provide emergency relief, bans on outmigration, and forced deportation to food-deficit locales), not poor harvests and routine administrative bungling.” This topic was a hot debate until now.

On November 2006 the Ukrainian Parliament passed a decree that designated the Holodomor as an act of genocide. Although the Russian government denied it by accusing Ukraine for one-sidedly falsify the history, the Holodomor was recognized as genocide by approximately two dozen nations.

North Korea was also known to use famine for their own purposes. In 1990, North Korea was hit by economic disruption, causing widespread food shortages in the area. North Korea’s biggest trade partner Soviet Union ceased to exist in 1991, provide large contribution to the North’s economical failure. In addition, the country was hit by flood and cold that ruined its agriculture. However, the leader Kim Jong Il had an enormous ego; he did not want to acknowledge that his country was in a dire situation of

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starvation due to mismanagement of the economy. He boasted in his belief that North Korea can achieve self-reliance of food. Kim’s administration had repeatedly rejected offers from willing government and organization. The North even promoted a campaign called “Let’s eat two meals a day” in 1991, which obliged people to eat two meals a day, when there was barely enough food to cover one meal per day.

The government was also known to discriminate food rations during the famine. The government issued a “Military First” policy, which prioritizes the distribution of food to the country’s armed forces. The North’s Public Distribution System (PDS) distributed food according to political standing and degree of loyalty to the state. Industrial workers got much more food rations than two-year-old citizens. The rations were even cut down from average 600 grams/day to 400/grams per day in 1994. The country was running out of food at some points that they could only rely on foreign aids. It was not until 1995 the North agreed to receive 150,000 tons of rice loan from South Korea and publicly announced a food shortage as well as appealed to the World Food Program and other governments for help.\(^{35}\)

North Korea was putting the issue of starvation as their advantage in terms of diplomacy. It held its people on hostage by manipulation of food aid from the United States, Japan, and South

\(^{35}\)http://leda.law.harvard.edu/leda/data/777/LeeD06.html#fn109, accessed on October 5th, 2014
Korea, demanding food aid as a prerequisite to diplomatic relation, and holding its own population to make sure that the United States and others do not have stronger bargaining position. This reflects the North’s desperate desire to hold on to power, despite having its citizens agonized. An NGO called Action Against Hunger claimed that a certain region called Hamgyong, received absolutely no food from the PDS in 1999. The NGO even stated that the government obstructed the group to aid Hamgyong by prohibiting it from establishing its own food distribution system. Action Against Hunger then concludes that the North Korean government intentionally created famine by confining humanitarian organizations to support the needy Koreans; it was a criminal act. The humanitarian group halted all their operation in North Korea on 2000\textsuperscript{36}.

There is no exact number of the death victims in this famine. However, several analysts estimated between 800,000 and 1.5 million people died due to starvation or sickness caused by lack of food\textsuperscript{37}. The North Korea’s Public Security Ministry stated that 2.5 to 3 million people died from 1995 to 1998, however, it is

\textsuperscript{36}ReliefWeb, Action Against Hunger stops its activities in North Korea, http://reliefweb.int/report/democratic-peoples-republic-korea/action-against-hunger-stops-its-activities-north-korea, accessed on October 5\textsuperscript{36}, 2014

possible that the number has been inflated to obtain more food aid.

b. Starvation in times of war

The use of starvation during war is actually an old tactic in the art of warfare. During the Battle of Alesia of 52 BC, Julius Caesar used a siege method against Vercingetorix of the Arveni. Disadvantaged and outnumbered by the strong defense of the hill fort Alesia, the Roman Commanders opted for a siege to the city, hoping to force surrender by starvation. Caesar commanded his soldiers to build 18-kilometer long and 4-meter high fortifications in order to seal Alesia completely. The wall surrounded 80,000 soldiers and local populations. Vercingetorix and his army laid out attacks to Caesar’s wall. However, the soldiers’ morale and energy ran empty due to starvation. Desperate attacks launched to the wall could only added their exhaustion. Realizing the bitter fact that he could not win the battle, Vercingetorix surrendered to Caesar, putting an end to the siege of Alesia.

Another example of starvation used in as a method of warfare is the Blockade of Germany that happened during and after the World War I. At that time, the United Kingdom from the Allied Power, which possessed incredible naval power that overwhelming the opposition, established a naval blockade of Germany on the

outbreak of war in August 1914, operated on the North Sea. The British Naval ships armed with contraband lists, that even foodstuff was considered as the contraband of war. The ships intercepted and detained thousands of merchant ships thought to be harbouring to German shores. According to the British Memorandum to War Cabinet on Trade Blockade of 1917, it was only very few supplies that ever reaching Germany, proving the blockade strategy was a success. By 1915, German imports had declined to 55% from the pre-war levels. The blockade made Germany was short of raw materials for productions and fertilizers for their agriculture. Foodstuffs were so scarce; people started to loot and create food riots not only in the big cities, but also in the small cities as well.

In 1916, the German government established the Hindenburg Program that called for more efficient use of scarce resources for the war effort in order to increase munitions. Soldiers dragged back from the front line to add human power; 1.2 million soldier in September 1916 and 1.7 million in July 1917. However, the program did not fully take effect even after the war ended in 1918, leading to the close seeing Germany on the verge of starvation. German children were suffering due to malnutrition, which led to diseases such as scurvy, tuberculosis, and dysentery. In official records, the blockade was responsible for the death of

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763,000 Germans, mainly because of starvation and diseases. The blockade itself, according to historians, gave a massive contribution to the outcome of war, which was won by the Allied Forces. The blockade was continued for eight months after the war and was completely ended after Germany agreed to sign the Treaty of Versailles in June 1919.

In 1941 during the World War II, Germany came up with the plan to invade the Soviet Union, as they claimed that it was Germany’s destiny to take over East Europe and cleanse it from Jewish people. The plan was given a code name: Operation Barbarossa. To achieve the goal of the operation, Hitler planned to take control of Leningrad, the symbolic capital of the Russian Revolution, home of numerous military factories. Hitler commanded his subordinates that Leningrad must be taken without giving the Russians any chance to surrender. Hitler did not want to let any prisoners alive; Hitler and his Finnish allies planned to encircle the city, sought to starve Leningrad into submission and exhaust their will to fight. The Russians were at pinch in protecting Leningrad; the city was bombarded from above while they were pushed back by the Finnish troops from the north and the Nazis from the south. Eventually, by September 1941, Germany succeeded to cut-off the city’s land communication and destroyed


41 O Grada, op.cit., p. 219
last roads to the city, making Leningrad besieged completely. Subsequently, hunger and cold became the city’s greatest enemy. German bombings destroyed the city’s food stocks. Leningrad’s coal and oil as central heating was depleted fast. Winter quickly froze the water pipes, leaving people without drinking water. Food rations decreased as the siege continued. People was forced to eat dogs, cats, horses, rats and crows in order to relieve them from starving. They were desperate enough to turned into cannibalism.

Fortunately, a glimmer of hope came to the besieged people on November 1941 when the city use the frozen Lake Ladoga as a functional road to brought small yet significant amounts of supplies into Leningrad. The people called it the Road of Life. It was the first time since Leningrad’s isolation on September 1941 that the siege actually had a weak point. Subsequently, 500,000 people were able to get out from Leningrad using the Road of Life. However, at the end of 1941, estimated 350 people died per day of starvation, the number summed up to 11,000.

Even though the German was superior in term of power during the siege, the Nazi could not take the siege lightly as what

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42 The Siege of Leningrad 1941-1944, [http://www.eyewitnesshistor.htm](http://www.eyewitnesshistor.htm), accessed on October 8th, 2014
44 The Siege of Leningrad, [http://www.historylearningsite.co.uk/siege_of_leningrad.htm](http://www.historylearningsite.co.uk/siege_of_leningrad.htm), accessed on October 8th, 2014
Hitler predicted that Leningrad would “fall like a leaf”\textsuperscript{45}. The Soviet fought hard and was able to build a defense mechanism that would make the Nazi frightened. The city, despite its status as a besieged, still continued to produce tanks and automatic weapons that were quickly distributed to the frontlines for the use against German. The Soviet’s attempts to break the encirclement were frequent, but nothing really succeeded. The supplies were only available through the Road of Life. In 1942, the Soviet attempted to break the blockade to establish a reliable supply line into Leningrad, launching offensive operation against the Nazi called the Sinyavino Offensive\textsuperscript{46}. However, at the same time, Germany also dispatched their troops to take control of the city under the name of the Operation Nordlicht, two times larger than the Soviet. The German succeeded to stop the Soviet’s operation, even though its casualties were also high and they abandoned their offensive on Leningrad.

The Soviet tried once more, dispatching a full-scale attack to the German troops called Operation Spark\textsuperscript{47}. This time they were able to rupture the fortification near Lake Ladoga, making it easier for the relief supplies to make enter the city. It was not until 27 January 1944, the siege was completely ended as the last

\textsuperscript{45} Leningrad: 900 Days of Horror, \url{http://www.realclearhistory.com/2014/01/28/leningrad039s_900_days_of_horror_1373.html}, accessed on October 8th, 2014

\textsuperscript{46} Sinyavino Operation, \url{http://www.encspb.ru/object/2855696032?lc=en}, accessed on October 10th, 2014

\textsuperscript{47} Operation Spark: the Relief of Leningrad, \url{http://weaponsandwarfare.com/?p=14329}, accessed on October 10th, 2014
German troops withdrew from the city after the Soviet Leningrad-Novgorod Strategic Offensive, which consisted of Leningrad and Volkhov Fronts as well as Baltic Force, took Leningrad back. The siege lasted for 827 days, the longest siege in history, before it was beaten by the Siege of Sarajevo in 1977. It was reported 1 million or more of civilians died during the siege, which starvation became a huge contributing factor\(^48\). During the whole World War II, 20 million people died from malnutrition and its associated diseases or simply starved to death\(^49\).

The Second World War was over; the Allied Force ended the war as the winner. The Force, consisting of the Soviet Union, the United States, the United Kingdom, and French Republic, held a trial to adjudicate and punish the war criminals that responsible for the death of more than 30 million civilians from both adversaries, called the International Military Tribunal (IMT) held at Nuremberg, German. Nuremberg Trials was a series of trials that lasted from 1945 to 1949. The London Agreement of 8 August 1945 provided the basis of international tribunal for the war criminal, signed by all members of the Allied Forces. All of the 24 war criminals that were brought to the trial are the Nazi Party officials and high ranking military officer along with German industrialists, lawyers, and doctors. Each of the accused was

\(^{48}\) Bloodiest Battle of 20\(^{th}\) Century, [http://necrometrics.com/battles.htm](http://necrometrics.com/battles.htm), accessed on October 10\(^{th}\), 2014

charged with one or more of these prosecution points, namely: Conspiracy to Wage Aggressive War, Crimes against Peace, War Crimes, and Crimes against Humanity. On October 1st 1946, the judgments were read: 12 of the defendants were sentenced to death, 3 sentenced to life imprisonment, 4 given prison sentences ranging from 10 to 20 years, and 3 were acquitted. The trial also declared several organization of German government, the Nazi Leadership Party, the Gestapo, the Schutzstaffel (SS), the Sicherheitsdienst (SD), to be criminal organization.

However, there was no single prosecution point against the 24 defendants that even remotely related to starvation. Historically speaking, The 1863 Lieber Code, drafted by the US former president Abraham Lincoln, stated in article 17 that “It is lawful to starve the hostile belligerent, armed or unarmed, so that it leads to the speedier subjection of the enemy. Whereas, the Siege of Leningrad was the boldest and deadliest German operation, which attacked and even locked down a second largest city in the entire Soviet Union and claimed three times more civilian casualties than the infamous Battle of Stalingrad, which only claimed 750,000 lives of military, prisoners of war (POWs), and civilians combined. The only thing that came close was the IMT remark against German Field Marshal Wilhelm Ritter von Leeb, which stated that:

Bloodiest Battle of 20th Century, loc.cit.
“[a] belligerent commander may lawfully lay siege to a place controlled by the enemy and endeavour by a process of isolation to cause its surrender. The propriety of attempting to reduce it by starvation is not questioned. Hence, the cutting off of every source of sustenance from without is deemed legitimate”\textsuperscript{51}…. “[W]e might wish the law were otherwise but we must administer it as we find it.”\textsuperscript{52}

Indeed, the international community has acknowledged intentional starvation is a violation of the laws and customs of war, which should be subject to criminal prosecution. The statement was written as a recommendation in the 1919 Report of the Commission on Responsibility against the atrocities committed during World War I. Unfortunately, the Report was not carried through the time as the German refused cooperate. Instead of establishing an international tribunal, the German Government suggested to prosecute the war criminals themselves in Leipzig on 1921, hence the Leipzig Trial.

In other words, there was no legal basis that prohibits the use of starvation of civilians as the Report was only an unexecuted recommendation without legal power. It was not until 1977, the Additional Protocol I and II of Geneva Convention was


\textsuperscript{52} David Marcus, \textit{op.cit.}, p.266
established. The Protocols are regulating about protection of civilian during armed conflict, both international and non-international armed conflict.

The tragedy of World War II made international community to contemplate the use of and the reason behind war. Although the provisions of the 1929 conventions were in effect, and Germany was a signatory to that convention, the Red Cross and other agencies could not forestall the large-scale atrocities taking place on the battlefields, and in prisoner of war camps in Europe and the Far East. The international community realized the urge to update the 1906 Geneva Convention which provision on protection of civilian during war was not included. The plan was realized in 1949, where the 1949 Geneva Conventions was established. The Fourth Convention was added which is regulating about the Protection of Civilian Persons in Time of War. However, the number of civil wars was increased since the end of the World War II and the International Commission of Red Cross (ICRC), organization initiate the Geneva Conventions in the first place, felt obliged to adapt to this development. The 1949 Geneva Convention, indeed provides legal protection of victims in conflict, but only applies on international-scale conflict. Thus, in 1977, two additional protocols were added to the Geneva Conventions, namely Additional Protocols I - Protection of Victims of
International Armed Conflicts, and Additional Protocols II - Protection of Victims of Non-International Armed Conflicts.

<table>
<thead>
<tr>
<th>Year</th>
<th>Country</th>
<th>Excess Mortality (million)</th>
<th>% Death Rate</th>
<th>Observations</th>
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<tr>
<td>1693-94</td>
<td>France</td>
<td>1.5</td>
<td>7</td>
<td>Poor harvests</td>
</tr>
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<td>1740-41</td>
<td>Ireland</td>
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<td>13</td>
<td>Cold weather</td>
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<td>Ireland</td>
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<td>12</td>
<td>Potato blight, policy failure</td>
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<tr>
<td>1868</td>
<td>Finland</td>
<td>0.1</td>
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<td>China</td>
<td>9.5 to 13</td>
<td>3</td>
<td>Drought, floods</td>
</tr>
<tr>
<td>1876-79</td>
<td>India</td>
<td>7</td>
<td>3</td>
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<td>1921-22</td>
<td>USSR</td>
<td>9</td>
<td>6</td>
<td>Drought, civil war</td>
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<td>China</td>
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<td>USSR</td>
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<td>7 to 11</td>
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<td>Poor harvests, policy failure</td>
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C. DEFINING STARVATION BEHAVIOR

In its practice, intentional starvation is always deemed as inhuman actions towards another. Such actions to deprived people’s ability to survive by diminishing objects or access to the objects that is indispensable to human lives are actually grotesque and barbaric deeds, which are no longer suitable in this current situation. The international community addresses intentional starvation into three different perspectives that have close proximity towards another yet cannot be categorized as the same thing.

1. Starvation as Genocide

Genocide is perceived as the most heinous and barbaric crimes of all international crimes. Genocide as defined in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), which also stipulated in Article 6 of the Rome Statute of ICC, is
any of the acts listed below committed with the intention to destroy, in whole or in part, a national, ethnical, racial or religious group…:

a. killing members of the group;
b. causing serious bodily harm or mental harm to members of the group;
c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
d. imposing measures intended to prevent births within the group;
e. forcibly transferring children of the group to another group.

Intentional starvation would fit best into point c, which is deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part. According to the Preparatory Commission for the ICC, the term conditions of life in point c may include “deliberate deprivation of resources indispensable for survival, such as food.” The Commentary of the Additional Protocol I mention the use of starvation as a tool in committing genocide: “An action aimed at causing starvation could be… a crime of genocide if it were undertaken with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, according to the terms of the Genocide Convention.” The International Criminal Tribunal for Rwanda (ICTR) also places emphasis on methods that lead to the slow death of victims,

using the deprivation of food as a specific example of genocide.\textsuperscript{55} However, such action should meet the requirement of special intent of genocide, which is to destroy a group in whole or in part. In \textit{Jelisic} case trial in the International Criminal Tribunal for the former Yugoslavia (ICTY) concludes the specific intent that became the characteristic of genocide is the alleged perpetrator of the crime selects his victims because they are part of a group which he wishes to destroy.\textsuperscript{56}

2. Starvation as Crime against Humanity

Crime against humanity is best described in Article 7 of the Rome Statute, which means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

\begin{enumerate}
  \item Murder;
  \item Extermination;
  \item Enslavement;
  \item Deportation or forcible transfer of population;
  \item Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
  \item Torture;
\end{enumerate}

g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

i. Enforced disappearance of persons;

j. The crime of apartheid;

k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Intentional starvation is best fit in point k, as it would not be fit in other point of the definition. Notice the key here is “widespread and systematic” attack and the “knowledge” of attack against “civilian population”. It means that starvation may fall under crimes against humanity if it was part of widespread and systematic plan which affecting civilian population. In addition, starvation as a crime of humanity should not connect to an armed conflict. According to The International Law Commission in its authoritative commentary to the 1996 Draft Code of Crimes stated that “the definition of crimes against humanity…does not
include the requirement that an act was committed in time of war.\textsuperscript{57} The requirement of starvation as a crime against humanity is merely jurisdictional, not a substantive element of the crime which supported by other international instruments or customary law\textsuperscript{58}. Starvation as a result of political decision constitutes crimes against humanity\textsuperscript{59}, which is natural because almost all famines that led to starvation during peace time were caused by bad political decision from government.

3. Starvation as war crime

War crimes are criminal actions, performed by an adversary party of war, that violating the laws or customs of war. On the authority of the United Nations Charter and Judgments of the Nuremburg and Tokyo Military Tribunal and of UN 1950\textsuperscript{60}, war crimes include, but not limited to, the following violations:

a. murder, ill-treatment or deportation to slave-labor of the civilian population of occupied territory;

b. murder or ill-treatment of prisoners of war or shipwrecked persons;

c. taking and killing hostages;

d. plunder of public and private property;


\textsuperscript{58}ICTY, Prosecutor v. Tadic, IT-94-1-A, 15 July 1999, at para. 249.


\textsuperscript{60}Verri, op.cit, p. 123
e. wanton destruction of towns or villages;

f. devastation not justifiable by military necessity.

According to Article 8 of the Rome Statute of the International Criminal Court (ICC), war crimes revolve on grave breaches of the Geneva Conventions 1949 and other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law. The article also emphasized war crimes as the violations of principles of IHL, which protecting persons who are no longer taking part in the hostilities as well as the civilian populations that get caught in the middle of armed conflict.

Intentional starvation in this context is included in serious violations of international law or customs of armed conflict. In article 8(2)(b)(xxv) of Rome Statute, Intentionally using starvation as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions is a war crime and falls under the jurisdiction of the ICC. While under the Geneva Conventions, the use of starvation against civilian population is prohibited by any means.

The Conventions also regulated starvation that occurred under a besieged area. According to Article 23 of the Geneva Convention IV, there

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61 Rome Statute, article 8(a)
62 Ibid., article 8(b)
63 Ibid., article 8(c)
64 Need to be noted that war crimes is a series of criminal actions that violating the laws of armed conflict. It means that war crimes are not war crimes if they are conducted during the peace time. Thus, starvation as the result of famine that caused by food shortage or any reasons that are not related to armed conflict is not a war crime. For example, the Irish Great Famine is not a starvation that included as war crime, it is a pure famine caused by natural disturbances.
65 Rome Statute, article 5.
66 Additional Protocol I, article 54 (1) and Additional Protocol II, article 14
is an obligation to let ‘essential foodstuff’ through the battle lines if intended for ‘children under fifteen and expectant mothers and maternity cases’. However, the obligation to let such supplies to pass is conditioned on there being no serious reason for suspecting\(^67\):

a. that the consignments may be diverted from their destination;

b. that the control may not be effective, or;

c. that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the…consignments for goods which would be provided or produced by the enemy or through the release of such material, service or facilities as would otherwise be required for the production of such goods.

In other words, the occupying party during a siege should, or must, not worry about to whom the supplies are given. It means that the occupying party cannot prohibit the entry of foodstuffs to the besieged area based on their bad prejudice on what has been written in Article 23 point a, b, and c. They do, however, may make the passage of foodstuffs conditional on the distribution and they also have right to prescribe the technical arrangements under which such passage is allowed\(^68\). On the contrary, the occupying party has the duty of ‘ensuring the food and medical supplies of the population; it should, in particular, bring the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory

\(^{67}\)Geneva Convention IV, article 23

\(^{68}\)Ibid.
are inadequate." In fact, the Additional Protocols put the use of starvation more bluntly, stipulated in Article 54 of Protocol I, stated that: “starvation of civilians as a method of warfare is prohibited.”, while in Additional Protocol II, starvation is stipulated in article 14, stated that “starvation of civilians as a method of combat is prohibited.” Experts have called Additional Protocol I a “major accomplishment…that improves the situation [of civilian] dramatically”.

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69 Ibid., article 55
CHAPTER III

UPHOLDING CRIMINAL JUSTICE FOR

STARVATION AS SERIOUS VIOLATION OF

INTERNATIONAL HUMANITARIAN LAW

The siege of Yarmouk camp is the house of largest starvation in Syria during the civil war. Approximately 200 civilians were announced dead due to starvation or diseases that emerge from extreme malnutrition. Aside from starvation, many of civilians inside Yarmouk were victim of aerial bombarding, shelling, and sniping. All of those actions were carried out under the siege in order to driven out rebel forces that were infused with the civilians in Yarmouk. Both Syrian government and rebel forces took significant part in the siege which claimed hundreds of lives. However, the existence of the war crime should be determined before moving forward, despite the news coverage in the media that are potentially biased.

A. ACTUS REUS AND MENS REA AS ELEMENTS OF WAR CRIMES

In international criminal law, a person cannot be found guilty of criminal offense unless two elements are present:

1. Actus Reus/Material Element
Actus reus, or guilty act in Latin, is the existence of state where a physical act is committed. Actus reus also comprises the element of the consequences of what was done by the physical act. The conduct of criminal act must be voluntary. Voluntary includes a certain pressure from a third party, other than the perpetrator’s self-action to commit crimes. Some accidents may be viewed by the court as amounting to involuntary conduct that does not give rise to criminal liability. For example, the UK’s Court of Appeal in 2006, a man was declared guilty for accidentally killed a woman after being heavily drunk from consuming drugs and alcohol. The actus reus in this case was the voluntary act of the man to take drugs and alcohol that made him intoxicated and lose control of his consciousness.

There are three types of crimes based on the nature of their actus reus: action crimes, state of affairs crimes, result crimes. Actus reus in action crimes is simply an act, the consequences of that act being immaterial. In state of affairs crimes, the actus reus consists of certain circumstances and consequences, with no act taken. For example, an actus reus of a crime where a foreigner was found in a certain country whereas he had not given permission to enter the country. The foreigner does not act; he is just simply being a foreigner. The current circumstances of being a foreigner in the country and being caught as consequences establish a criminal offence. While in the result crimes, the actus reus is determined after the perpetrator’s behavior produce a particular result. The most

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concrete example of this crime is murder, where the perpetrator must cause death of a human being.

*Actus reus* is also constituted by omissions or the failure to act. It is similar with the state of affairs crime where there is no act taken at all. In fact, the criminal offence is triggered after the perpetrator failed to act. For example, a man lit a cigarette and fell asleep. Some time later, he woke up to find his mattress on fire. Knowing the mattress was on fire, he did not make any attempt to extinguish the fire. He simply stood up and walked to another room and went back to sleep. The house where he slept was damaged heavily due to the subsequent fire. He was convicted of arson which *actus reus* is the failure to extinguish the fire before it spread out.

2. *Mens Rea*/Mental Element

*Mens rea* is the Latin for “guilty mind”. It means the state of mind of a person who commits a crime. There are two main states of mind which constitute the necessary *mens rea* of a criminal act: intention and recklessness. Intention means that the *mens rea* of a criminal act must be triggered by a certain intention to cause harm to others. An intention to cause harm may be coming directly or indirectly. Direct intention means that a perpetrator commits a criminal act with full knowledge of the consequences and possesses desire to cause harm to others. For example, A shoots B in the head because A wants to kill B. A has the desire to kill B. In order to do so, A shoots B in the head.

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Meanwhile, indirect intention means that a perpetrator is actually do not desire a result of his act but he is certain or has a full knowledge of the consequences of the act. For example, A wants to kill B, who is currently sitting in a public place with many other people. Because the place is crowded, making the attempt to kill B more difficult; A throws a grenade into the crowds in order to kill B. A may not actively want to kill other people aside from B, but knows that it will happen. All of the people in the public place are dead, including B. A killed B with full killing intent but A did not wish to kill other people around B. However, A possessed a full knowledge that throwing grenade into the crowd would kill multiple people. The death of multiple people in this case is an indirect intention, which may constitute *mens rea*.

Recklessness as a constituting point of *mens rea* is similar to indirect intention. A person must always be aware of the risk in order to satisfy the element of recklessness. The difference between recklessness and indirect intention is the cause of the risk taken as a reckless act is more subtle than the one in indirect intentions. Recklessness is confirmed when a perpetrator is consciously taking of an unreasonable or unjustified risk of harm. The risk is less than virtually certain to occur, means that the perpetrator is less sure that the risk of committing an act would cause harm. In indirect intention, the perpetrator possesses full knowledge of the risk he takes for committing an act. For example, A wants to kill B who is currently in a crowded space from a far distance, using a sniper rifle.

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However, A is uncertain if he can accurately hit B in such a crowded area. When A shoots his rifle, A missed the target and hit another person instead. The death of the other person is not virtually certain or inevitable; it’s different with the previous case when A throws grenade to kill B in public place. A recklessly kills the other person instead of B due to his failure to foresee unjustified risk when he committed the act.

According to a Latin phrase *actus non facit reum nisi mens sit rea*\(^7\) which means “an act does not make a person guilty unless (their) mind is also guilty”. The phrase contains a meaning that in order to commit a crime, both *actus reus* and *mens rea* must be exist. If one of them is missing, then the committed act is not a crime and the accused of such act must be acquitted by the court, as in criminal law practice all persons are presumed innocent until proven guilty. Both *actus reus* and *mens rea* are principles of international criminal law and their use is acknowledged in international courts, including those which have jurisdiction in international humanitarian law such as International Criminal Court (ICC) and other international tribunals, Therefore, it is usable in determining war crimes as the focused issue in international humanitarian law.

B. FACTS OF THE SIEGE

In order to find out whether there were actually war crimes during the siege of Yarmouk, we have to lay out several facts related to or directed to criminal offences under International Humanitarian Law.

1. Syria is party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR)

2. Under ICCPR, the Syrian Government has the obligation to respect and protect the right to life, the right to liberty and security and freedom of movement. Meanwhile under ICESCR, Syria is bound by a minimum core obligation to ensure the satisfaction of, at the very least, minimum essentials levels of each of the rights provided in the ICESCR, including: minimum essential food which is sufficient, nutritionally adequate and safe, to ensure freedom from hunger, essential primary health care, including essential medicine; essential basic shelter and housing, including sanitation; access to the minimum essential amount of water, that is sufficient and safe for personal and domestic use to prevent disease.

3. Syria is party to the four Geneva Conventions of 1949 and Additional Protocol I but has not ratified Additional Protocol II.

4. Syria is only a signatory of the Rome Statute of International Criminal Court, not a ratifying country.

5. President of Syria and Commander-in-Chief of Syrian Armed Forces, Bashar Al-Assad, acknowledged that Syria was in a state of war.

6. Syrian Government began the siege in Yarmouk in December 2012, starting with establishing checkpoints which encircled the area. Only

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75 ICCPR, articles 6, 9, 12  
76 ICESCR, articles 11–12  
77 BBC News, *Syria in state of war, says Bashar Al Assad*, 27 June 2012,  
small amount of food and medicine allowed entering Yarmouk. On July 2013, the Syrian forces prevented all food, medicine, and other supplies from entering Yarmouk.  

7. On January 2013, a man named Ghassan Shihabi was shot dead by a government sniper for entering Yarmouk in order to give bread to other resident of the area. A boy aged 16-17 was also shot dead while searching for food. Several other people were also shot dead by the government when they approached the edge of Yarmouk to seek food.

8. Food was scarce; people were eating grass, cats, and dogs at the height of desperation. Food poisoning and other illness became common among the people, putting the sick, the elderly, young children and pregnant women at risk.

9. Syria was known for establishing a “starvation until submission” campaign in several areas in the country, including Yarmouk.

10. Several medical workers were subjects to enforced disappearance and forcible arrest by the Syrian government, mostly because their intention to bring medicine into Yarmouk or caught by the Syrian government for possessing medicine. There were also medical workers who arrested due to their expertise which considered important for medical treatment inside

79 Ibid.
80 Ibid., p. 10
81 Ibid., p. 11
82 Ibid.
83 Ibid.
84 Ibid.
86 Amnesty International, op.cit., p. 16
Yarmouk. A senior medical worker was beaten by Syrian security official before get taken on September 2013.\(^{87}\)

11. One medical worker reported to have died as an apparent result of torture and other ill-treatment in custody of Syrian government forces. A dentist named dr Firas Abd al-Razzaq al-Jild was found dead on a Yarmouk street after being arrested by the Syrian security forces on December 2012.\(^{88}\)

12. The Syrian government was allegedly launched tactical bombings to hospitals, clinics, and health centres inside Yarmouk. A volunteer stated that the government bombed the hospital two or three times, killing and injuring the medical staffs.\(^{89}\) Such attacks left Yarmouk with a few medical workers, making them unable to handle other injured civilians caused by starvation, other illness, and the government’s indiscriminate attacks. Many medical equipments were broken due to continuous shelling by the government forces.\(^{90}\)

13. The opposition forces were seizing medical supplies and equipments from hospitals for their own use.\(^{91}\) An FSA-linked armed opposition group was seen seizing a hospital’s entire fleet of five ambulance and its medical supplies.\(^{92}\)

14. On February 2014, approximately 450 individuals with serious illness have left Yarmouk to receive treatment in hospitals in Damascus.\(^{93}\)

\(^{87}\) Ibid., p. 12
\(^{88}\) Ibid., p. 13
\(^{89}\) Ibid.
\(^{90}\) Ibid., p. 15
\(^{91}\) Ibid., p. 8, 15
\(^{92}\) Ibid., p. 14
\(^{93}\) Ibid., p. 16
C. DETERMINING THE ELEMENTS OF STARVATION IN YARMOUK AS A WAR CRIME

1. Intentional starvation under the Rome Statute

   As mentioned above, war crimes are stipulated in article 8 of Rome Statute. In article 8(2)(b)(xxv), it is clear that the use of intentional starvation as a method of warfare is prohibited. However, that article is only applied for armed conflict with international character. It means that the use of intentional starvation is prohibited during an international armed conflict between States. The article does not apply to armed conflict with non-international character. Which means the article is not suitable to be applied in the siege of Yarmouk, where the armed conflict is merely internal between Syrian government and opposition armed forces, although there has been a considerable amount of lobbying for its inclusion in the list of crimes committed in non-international armed conflicts. However, there are war crimes stipulated in Rome Statute which may constitute intentional starvation or an attempt to starve civilians, namely:

   a. Article 8(2)(c)(i) – 3 on Cruel Treatment

      This article stated that serious violations of the Common Article 3 of the Geneva Conventions constitute war crimes. Those violations are “acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid
down their arms and those placed *hors de combat*\textsuperscript{94} by sickness, wounds, detention or any other cause: …. cruel treatment….’’ The elements of war crimes for cruel treatments are\textsuperscript{95}:

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
2. Such person or persons were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities.
3. The perpetrator was aware of the factual circumstances that established this status.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

The reason why starvation may be referred as cruel treatment is that it fulfils all the elements above. The *actus reus* of this cruel treatment was deprivation of food and water by besieging civilian populations in Yarmouk. By encircling Yarmouk and stopping the flow of food into the area, the Syrian government has inflicted physical and mental pain to hundreds and thousands of civilians. Moreover, it was causing more long-lasting suffering due

\textsuperscript{94}A combatant is *hors de combat* if (a) he is in the power of an adverse party; (b) he clearly expresses an intention to surrender; (c) he has been rendered unconscious or is otherwise incapacitated by wounds or sickness, and is therefore incapable of defending himself. (Verri, \textit{op.cit.}, p. 57)

to subsequent illness that came from starvation. The siege also can be considered as denial of humanitarian assistance, which could constitute an “outrage upon personal dignity, in particular humiliating and degrading treatment” ⁹⁶. Therefore, starvation fulfils the element of cruel treatment point one and two. For the fourth and fifth point, it is clear that the armed conflict occurred in Yarmouk was non-international armed conflict as the part of Syrian civil war between Syrian government against non-state rebel group.

For the mental element or mens rea, cruel treatment constitutes an intentional act or omission, that is an act which, judged objectively, is deliberate and not accidental and causing physical and mental suffering ⁹⁷. In this context, the mens rea of the siege was the existence of “starvation until submission” campaign by the Syrian government ⁹⁸. Moreover, the Syrian government was aware that they deprived food and water from civilians by encircling the largest Palestine refugee camp in Syria, which settles the third point. Therefore, by fulfilling all elements of starvation as cruel treatment and its actus reus and mens rea as elements of crimes under international law principles, it is legally safe to say that intentional starvation as cruel treatment indeed occurred against civilian populations in Yarmouk.

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⁹⁶ The 1949 Geneva Conventions, Common Article 3(1)(c); Additional Protocol I, Article 75(2)(b); and Additional Protocol II, Article 4(2)(e).

⁹⁷ ICTY Judgement, Prosecutor v. Zejnil Delalic and Others, IT-96-21-T, para. 552.

⁹⁸ UN Commission Inquiry for Syria, loc.cit.
b. Article 8(2)(e)(iv) on Attack on Hospital

This article stated that “Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives”. The elements of crime in this article are⁹⁹:

1. The perpetrator directed an attack.
2. The object of the attack was one or more buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives.
3. The perpetrator intended such building or buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives, to be the object of the attack.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

This is another war crime that plays a great role in the starvation. Although Rome Statute does not stipulate intentional starvation in an armed conflict of non-international character, the

⁹⁹ Dorman, *op. cit.*, p. 458
elements of war crimes of this article are clearly match with intentional starvation in international armed conflict under article 8(2)(b)(xxv), which stated that the perpetrator deprived civilians of objects indispensable to their survival\textsuperscript{100}. By depriving, it also means to “attack, destroy, remove or render useless”\textsuperscript{101}. Indispensable objects, in this context, are included objects that the civilians need for their survivals: foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works\textsuperscript{102}. However, through some debates, although not included in article 54(2) of Additional Protocol I, medicine is also included in the indispensable objects\textsuperscript{103}. It implies that by depriving medical supplies stored at hospitals or clinics, which at that time in Yarmouk were indispensable objects for the civilians, may constitute war crime of intentional starvation.

Attacking hospitals and clinics have rendered medical supplies useless\textsuperscript{104}. Such attacks have been directed to the hospitals, considering dozens of bombs fallen at the same place\textsuperscript{105}. In addition, hospitals and clinics which treating civilians and \textit{hors de combat} shall not be attacked\textsuperscript{106}. Hospitals and clinics can only be attacked when they are used to commit hostilities outside their

\textsuperscript{100}Ibid., p. 363
\textsuperscript{101}Additional Protocol II, article 54(2)
\textsuperscript{102}Dorman, \textit{op.cit.}, p. 365
\textsuperscript{103}Ibid., p.363
\textsuperscript{104}See Facts of the Siege, point 6
\textsuperscript{105}Amnesty International, \textit{op.cit.}, p. 15
\textsuperscript{106}Common Article 3 of Geneva Conventions, article 11 of Additional Protocol II
humanitarian function\textsuperscript{107}. However, there is no evidence that hospitals and clinics inside Yarmouk were used to commit hostilities\textsuperscript{108}. Therefore, the fact that the Syrian government launched multiple bombings to a certain hospital in Yarmouk has determined both \textit{actus reus} and \textit{mens rea}, which concluded the first to third points of this crime.

c. Article 8(2)(e)(i) on Attack on Civilian Populations

This article stated that “intentionally directing attacks against civilian populations as such or against individual civilians not taking direct part in hostilities.” It means that the attack was intentionally directed to civilian as non-combatant. The elements of crime in this article are\textsuperscript{109}:

1. The perpetrator directed an attack.
2. The object of the attack was a civilian population as such or individual civilians not taking direct part in hostilities.
3. The perpetrator intended the civilian population as such or individual civilians not taking direct part in hostilities to be the object of the attack.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

\textsuperscript{107} Article 11(2) of Additional Protocol II
\textsuperscript{108} See Facts of the Siege
\textsuperscript{109} Dorman, \textit{op.cit.}, p. 443
This crime is actually an entirely different case if compared with intentional starvation. However, this crime assisted the effect of siege which strengthened the implementation of starvation against civilian populations. Similar to cruel treatment, this crime needs to be proven whether it really took place and is acknowledged as war crime under Rome Statue.

This article is about intentional or directed attack against civilian populations. As what have been learned from previous chapter, International Humanitarian Law is all about distinction of military target; between combatants and non-combatants. Thus, this article is one of the serious violations of core principle of International Humanitarian Law. Based on the Facts of the Siege point six, the Syrian government indeed conducted tactical shooting against civilians in several occasions during the siege. The act to shoot civilians is undoubtedly the \textit{actus reus} of this crime. Furthermore, all of those bullets were shot based on a simple reason; because they were all searching for food to eat. It determines its \textit{mens rea} at the same time. If it is taken step by step, it would go like this: the Syrian government directed its snipers to shoot the said civilians due to the civilians’ objective that may disrupt the government’s rule and policy. The existence of \textit{actus reus} and \textit{mens rea} has simultaneously determined the first to third point of the elements of crime above, while the fourth and fifth point have been answered in the previous articles of cruel
treatment. Therefore, directed attack on civilians by the Syrian government indeed took place during the siege. The legal basis of this article in the Geneva Conventions is stipulated under article 13(2) of Additional Protocol II, which stated “The civilian population as such, as well as individual civilians, shall not be the object of attack.”

d. Article 8(2)(e)(v) on Pillaging

This article stated that “pillaging a town or place even when taken by assault” is prohibited under Rome Statute. The elements of crime in this article are\textsuperscript{110}:

1. The perpetrator appropriated certain property.
2. The perpetrator intended to deprive the owner of the property and to appropriate it for private or personal use.
3. The appropriation was without the consent of the owner.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Pillaging is another war crime that contributing to starvation. As mentioned before, starvation is all about depriving people from objects that indispensable for their survival. Those objects are including food, water, medicine, and other objects

\textsuperscript{110} Ibid., p. 464
which considered indispensable, depends on the situation of the conflict. For example, blankets can be considered indispensable to survival due to the very low temperature of the region. By depriving the blankets may constitute starvation as a war crime. However, pillaging is a separate crime apart from starvation that applies in both international and non-international armed conflict. Pillaging has its own elements of crime that cannot be equalized with the one that starvation has.

In order to determine whether the war crime of pillaging indeed happened under International Humanitarian Law, its actus reus and mens rea must be determined. The element of this crime point one dictates that the perpetrator appropriates certain property without the consent of the owner. The actus reus of this crime is appropriating certain property, which is the same with seizing and looting. In other words, the material element is fulfilled; according to the Facts of the Siege point 12, the opposition group was seizing and looting a number of medical supplies out of hospitals without the consent of the official owners. The action of seizure and looting is a match with the element point one and three. In addition, International Humanitarian Law prohibits pillaging of “persons who do not take a direct part or who have ceased to take part in hostilities.”\textsuperscript{111} Therefore, by looting hospitals and clinics, which

\textsuperscript{111} Article 4(2)(g) of Additional Protocol II
are not having direct participation in hostilities, the opposition group has violated the laws of armed conflict.

The *mens rea* of this crime is the elements point two. It should be determined the fact that the perpetrator was intended to use the pillaged stuffs for their personal use. A medical worker of a hospital in Yarmouk said that he saw the armed men believed as the member of an FSA-linked armed group seized the medical supplies for their own use\(^\text{112}\). Therefore, the mental element has been fulfilled. It means, the war crime of pillaging has been conducted by the opposition group in the siege of Yarmouk which played significant role in speeding up the effect of starvation.

2. Intentional starvation under Customary IHL

Customary law does exist within the law of armed conflict. It continues to fill the gap that left by international conventions and treaties as a generally practice accepted as law. There are two reasons as to why Customary IHL continues to be relevant in today’s armed conflict\(^\text{113}\). First, in certain case that some States does not ratify the Geneva Conventions; they surely remain bound by the rules of customary law. The second reason was to ensure that all parties of conflict, not just States, remain bound with the law of armed conflict. It means that there are some rules in the Geneva Conventions that applies only in international armed conflict situation and not to a non-international one and that rules are included in

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\(^{112}\) Amnesty International, *op.cit.*, p. 14

Customary IHL. It aims to bring the humanity into every scale of armed conflict without exception.

The prohibition of intentionally starving civilians during armed conflict is indeed stipulated in the Geneva Conventions. In addition, due to its ancient usage as a common method of war found in many cultures across the globe, starvation is also included as Customary IHL. Rule 53 of the Customary IHL stated that “the use of starvation of the civilian population as a method of warfare is prohibited.” which applies to both international and non-international armed conflict. Not only that, the custom also prohibits “attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population…”114. The custom also regulated the obligation of parties to the conflict to facilitate passage of humanitarian relief and to ensure the freedom of movement of humanitarian relief personnel in exercising their duty115. It pretty much the same with what have been stipulated by the Geneva Conventions. Such serious violations to those provisions constitute war crimes116.

As what has been mentioned before in the Facts of the Siege117, Syria is not party of Additional Protocol II. It means that Syria is not obliged to enforce the provision under the Protocol. However, in international law, there is a principle called “universal jurisdiction”. The

115 Ibid., Rule 55, 56
116 Ibid., Rule 156
117 See Facts of the Siege point 3
principle allows states or international organizations to claim criminal jurisdiction over an accused person regardless of where the alleged crime was committed, and regardless of the accused nationality, country of residence, or any other relation with the prosecuting entity. However, if there is a case where a state is unable or unwilling to prosecute alleged perpetrators in their territory or under their jurisdiction, and when international courts cannot exercise their jurisdiction, the exercise of universal jurisdiction by other States, offers a subsidiary basis for ensuring accountability and addressing the impunity gap. Under Customary IHL, States can exercise universal jurisdiction over war crimes committed during international and non-international armed conflicts. Therefore, the fact that there is no regulation or provision under Syrian national penal or military code related to starvation conducted in non-international armed conflict, both Syrian government and opposition groups should not be prevented from being accused as perpetrator of war crimes against civilians in the country.

D. CRIMINAL JUSTICE OF STARVATION AS A WAR CRIME

It is clear that both Syrian government and opposition groups allegedly committed war crimes during the siege of Yarmouk if they are viewed using the war crimes’ physical and mental material as well as the elements under

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International Humanitarian Law. Syrian government committed intentional starvation against civilians by encircling Yarmouk and stop the flow of food and medical supplies. In addition, the Syrian government also committed cruel treatment against civilians, hospital bombings, and wilfully attacking civilians. Meanwhile, opposition groups pillaged hospitals and clinics for their medical supplies to be used for their own purposes, ignoring the fact that the civilians need the supplies most due to wounds and illness brought by the siege. However, considering the main parties to the conflict in this case are organized armed forces possessed a chain of command; there is a possibility to put the individual responsibility into the case.

The most important role and the most responsible one that caused suffering of the civilians due to starvation in this case is the government of Syria. Through its armed forces, Syria managed to barricade Yarmouk, prevented foods, water, and medical supplies from entering the area, causing hundreds of people died due to starvation and malnutrition-related illness. Syria is also responsible to indiscriminate bombings, shelling, and sniping that cause death to numerous civilians. Such crimes indeed conducted by Syrian Armed Forces. However, because international humanitarian law not only recognize collective criminal responsibility but also the individual ones in an armed conflict, it is crucial to find out who give the order to conduct the crime. In this case, it must go to the highest rank of the entire organization of the Syrian Armed Forces; no other than Bashar Al-Assad himself.

The Rome Statute dictates that Individuals are not only criminally responsible for committing a war crime, but also for attempting to commit a war
crime, as well as for assisting in, facilitating, aiding or abetting the commission of a war crime. They are also responsible for planning or instigating the commission of a war crime\textsuperscript{120}. In addition, the Customary IHL dictates that commanders or superiors, whether \textit{de jure} or \textit{de facto}\textsuperscript{121}, are criminally responsible for war crimes committed by their subordinates if they knew, or had reason to know, that the subordinates, were about to commit or were committing such crimes. They are also responsible for war crimes if they did not take necessary actions in their power to prevent such crimes\textsuperscript{122}. In this case, President of Syria Bashar Al-Assad as the armed forces’ commander-in-chief should be named guilty after letting or even allegedly planning its soldiers to conduct war crimes in Yarmouk. As the highest-ranked official in the armed forces, Al-Assad has the responsibility to prevent and prohibit his soldiers to commit war crimes. Not just Al-Assad, other Syrian military commanders and other government officials in the chain of command may be brought before trial as well\textsuperscript{123}. Moreover, the soldiers who knew the act ordered by their commanders was unlawful will not be relieved from criminal responsibility\textsuperscript{124}. When committed by its government officials and its armed forces, Syria is required to make full reparation for the loss or injury caused during the siege\textsuperscript{125}.

\begin{itemize}
\item \textsuperscript{120} Rome Statute, article 25
\item \textsuperscript{121} The Peace and Justice Initiative, \textit{The Doctrine of Superior/Command Responsibility}, \texttt{http://www.peaceandjusticeinitiative.org/implementation-resources/command-responsibility}, accessed on December 25\textsuperscript{th}, 2014
\item \textsuperscript{122} J.M. Henckaerts, \textit{op.cit.}, Rule 153, p. 211
\item \textsuperscript{123} Juan Carlos Portilla, \textit{Prosecuting Bashar Al-Assad: Can The International Criminal Court Exercise Jurisdiction Over Syria?}, \texttt{http://www.fletcherforum.org/2013/09/26/portilla2/}, accessed on December 25\textsuperscript{th}, 2014
\item \textsuperscript{124} J.N. Henckaerts, \textit{op.cit.} Rule 155, p. 211
\item \textsuperscript{125} \textit{Ibid.}, Rule 150, p. 211
\end{itemize}
The question is now how to prosecute those who responsible of such crimes. Such crimes, especially if it was allegedly by the state or the government official, usually should be handled by the ICC. However, there are reasons why the Court may find the case in Yarmouk hard to be put in trial.

1. ICC

ICC is an international court who have jurisdiction on gross violations such as genocide, crimes against humanity, crimes of aggression, and war crimes126. ICC has jurisdiction over persons and shall be complementary to national criminal jurisdictions127. It means that ICC is the last resort if the State is unable or unwilling to prosecute their national who is accused of the four gross crimes128. This principle is made to respect the sovereignty of each State party of the Rome Statute on controlling the criminal prosecutions of their own nationals. Even though the ICC acts as a last resort, the Prosecutor of the ICC has the authority to investigate on his own initiative129. Therefore, the ICC has an extended authority over the State party when it comes to investigating crimes that fall under the jurisdiction of the ICC. However, such authority may only apply to the State party or a State who declares its intention to be bounded to the Rome Statute, while Syria is not a party to the Rome Statute nor has

126 Rome Statute, article 5
127 Ibid., article 1
128 Complementary and the ICC,
129 Rome Statute, article 15(1)
declared any intention to do the latter. It means that the Prosecutor cannot investigate war crimes in Syria on its own initiative.

The ICC has another way to exercise its jurisdiction regardless the status of the State which committed the crimes is a State party or not. According to the article 13(b) of the Rome Statute, the Security Council may issue a referral to the Prosecutor based on the Council’s resolution, which order the Prosecutor to investigate a country. The referral could give the court jurisdiction stretching back to any date up to the day the Rome Statute entered into force on July 1st, 2002.\textsuperscript{130} By the referral, the Council gives the Court jurisdiction to investigate the four crimes committed by all sides, whether by government forces, opposition fighters, or other militias. However, for the past two years since the beginning of the siege, not even a single resolution on Syrian referral to the ICC passed the Council after being vetoed by Russia and China simultaneously.\textsuperscript{131,132} It is unlikely that both Russia and China will change their stances on Syrian referral to ICC in the near future due to their well-known mutual relationship with Syria.

Unlike the ICC, Syria is bounded by the ICJ due to its membership in the UN.\textsuperscript{133} However, only States may be parties in cases before the

\textsuperscript{130} Ibid., article 11  
\textsuperscript{131} Reuters, Russia opposes Syria crisis war crimes court referral, \url{http://www.reuters.com/article/2013/01/15/syria-crisis-russia-idUSL6N0AKCNB20130115}, accessed on December 25th, 2014  
\textsuperscript{132} The Guardian, Russia and China veto UN move to refer Syria to international criminal court, \url{http://www.theguardian.com/world/2014/may/22/russia-china-veto-un-draft-resolution-refer-syria-international-criminal-court}, accessed on December 25th, 2014  
\textsuperscript{133} Charter of the United Nations, article 93(1)
ICJ\textsuperscript{134}. Non-international armed conflict between States and opposition group is inadmissible before the ICJ. Therefore, filing the case to the ICJ is out of the question.

There are a number of types of international court that might be suitable to prosecute starvation as a war crime However, to do that, other war crimes committed by both parties of conflict during the siege must be brought along to strengthen the fact that war crimes indeed happened in the siege. This is necessary in order to maintain the accountability brought through a formal justice mechanism rather than depend on diplomatic and social reconciliation.

2. \textit{Ad Hoc} Tribunals

Since the Nuremberg and the Tokyo Tribunal, the first \textit{ad hoc} tribunal ever, the idea to establish such tribunal become reasonable and necessary choices to prosecute war criminals. In the past, \textit{ad hoc} tribunals that have been established to seek criminal responsibility of war criminals are the ICTY and the ICTR. These tribunals were established by the Security Council under Resolution 827 in 1993 and Resolution 995 in 1994 respectively. Dozens of individuals have been prosecuted in the courts for atrocities they committed, whether they committed war crimes, crimes against humanity, and genocide\textsuperscript{135}.

The Security Council may adopt the \textit{ad hoc} tribunals to establish one for prosecuting those who responsible for war crimes in Syria. \textit{Ad hoc} tribunals enjoyed primacy over national court which is crucial to tackle

\textsuperscript{134} ICJ Statute, article 34(1)
\textsuperscript{135} See lists of cases adjudicated by the ICTR and the ICTY in http://www.unictr.org/en/cases and http://www.icty.org/sid/10095 respectively, accessed on December 26\textsuperscript{th}, 2014
issues on lacking of international support and state cooperation\textsuperscript{136}. They are different from the ICC; it acts as complementary to domestic courts and will only be able to act where a State with jurisdiction is unable or unwilling to act. \textit{As a result, ad hoc} tribunals may conduct investigation on crimes committed in Syria without consent from the Syrian government itself. In addition, the judges, the officials, and staff that make up the courts are international expert not from the countries where the crimes were committed. The tribunals also have been based outside the countries where the crimes took place\textsuperscript{137}. Thus, the credibility of the courts in order to seek criminal justice for the war crimes committed by Syria is highly guaranteed.

Through this tribunal, starvation as a war crime committed in non-international armed conflict may be prosecuted, despite the fact that starvation committed in armed conflict of non-international character is not admissible under the Rome Statute. The Security Council will issue resolution on establishment of the tribunal along with the tribunal’s statute. This statute is made to settle things in detailed manner such as the tribunal’s jurisdiction, organization, presidency, protection of victims and witnesses, even the tribunal’s expenses and annual report, all points are discussed and explained in accordance with international law principle and

\textsuperscript{136} Maria Radziejowska, \textit{Awaiting Justice: Prospects for Prosecuting War Crimes in Syria}, Policy Paper of the Polish Institute of International Affairs No. 31 (79), (Warszawa, November 2013)

the UN Charter. The jurisdiction of the tribunal stipulated in the statute will be in accordance with the crimes committed during the armed conflict, which will include intentional starvation. Therefore, the act of starvation as a method of war will be prosecutable and legitimate under the tribunal’s statute.

However, to establish such court, the same problem might occur similar to the one with the ICC; hampered by Syrian allies in the Security Council. As what have been mentioned before, ad hoc tribunals are established based on the resolutions issued by the Security Council. Therefore, if the resolution failed, the tribunals cannot be established. Such outcome is likely due to possible vetoes by Russia and China in the future.

3. Hybrid Tribunals

Hybrid tribunal as the next type of international tribunal, is known as its jurisdiction which incorporates international law and domestic law. Both the institutional apparatus and the applicable law consist of a blend of the international and the domestic, resulting in a mixed form of justice. The structure of the hybrid tribunal comprises of both national and international judges, prosecutors, and staffs. This type of tribunal will give the local populations a sense of ownership in the proceedings.


139 Ibid.


while at the same time lending international support\textsuperscript{142}. The examples of hybrid tribunals that have been established are the Serious Crimes Panel of District Court of Dili in East Timor, the Regulation 64 Panels in the courts of Kosovo, the Special Courts of Sierra Leone, the Extraordinary Chambers in the courts of Cambodia, and the War Crimes Chamber in the courts of Bosnia and Herzegovina\textsuperscript{143}.

This type of tribunal perhaps can be applied in Syria when it comes to prosecute war criminal. Although the criminal law in Syria is questionable when it comes to judicial independence, it actually codifies many laws similar to those found in international humanitarian law, including murder, torture and injury of civilians\textsuperscript{144}. Missing provisions such as starvation in non-international armed conflict may be perfected with the provision of Customary IHL. By combining a portion of national penal code and international law, hybrid tribunals will give the people of Syria sovereign control to prosecute the perpetrators with their own national legislations, which could be nationally beneficial in the other aspects of conflict resolution outside war crime tribunals: truth-telling, reconciliation, and future peace-building.

The trickiest part is how to establish hybrid tribunal for Syria. Hybrid court establishment is fall under Security Council competence. Even if the Council is unwilling to act, the General Assembly can take the

\textsuperscript{142} The World Outline, \textit{Seeking Justice in Post-Conflict Syria}, \url{http://theworldoutline.com/2013/05/seeking-justice-in-post-conflict-syria/}, accessed on December 26th, 2014

\textsuperscript{143} Nouwen, \textit{op.cit.}, p. 192

\textsuperscript{144} Syrian Penal Code, article 533-536, as cited in Michigan Journal of International Law Blog, \textit{Syria: The Role of National Law in a Post-Conflict State}, \url{http://mjilonline.org/?p=990#edn9}, accessed on December 28th
lead of the establishment, removing the issue of possible veto by Russia and China\textsuperscript{145}. However, unlike Sierra Leone and Cambodia, the current political climate in Syria makes it impossible for the country to request establishment of hybrid tribunal to the UN. In addition, most of the hybrid tribunals are established in post-conflict, where the legitimate government then may request the establishment of hybrid court to the UN. Only in Kosovo and East Timor, hybrid courts were established by the UN-led transitional administration, where there was no legitimate government to begin with\textsuperscript{146}. This tribunal is applicable indeed, but is unlikely under current circumstances.

\textsuperscript{146} United Nations Rule of Law, \textit{Tribunals and Other Mechanism}, \texttt{http://www.unrol.org/article.aspx?article_id=18}, accessed on December 28th, 2014
CHAPTER IV

CLOSING

A. CONCLUSION

1. Intentional starvation did occur in the siege of Yarmouk

It has been proven that starvation against civilian populations as a method of warfare was indeed occurred in the siege of Yarmouk. There are supporting evidences to reach this conclusion. First, the *actus reus* of starvation is that the encirclement itself which implemented by the Syrian government. By besieging the area and prohibiting entry of food, water, medicine, and objects indispensable for civilians’ survival, it led to starvation of civilian populations, which constitute the *actus reus*. Plus, other war crimes that helped the deprivation of indispensable objects, such as attack on hospitals and pillaging. Second, it was a fact that the Syrian government was intended to use starvation as a method of warfare by promoting “Starvation until Submission” campaign in opposition-occupied areas, including Yarmouk. This campaign constitutes the *mens rea*. Lastly, starvation in Yarmouk fulfils the elements of war crime which consists of the *actus reus*, the *mens rea*, and the awareness of the existence of armed conflict in Syria by the adversaries of conflict.

2. Prosecution of war criminals responsible for starvation is hampered by complicated diplomacy and bad political climate

To prosecute starvation in Yarmouk, there are three options of criminal justice: the ICC, *ad hoc* tribunals, and hybrid tribunal. However,
from those options, neither is unlikely to happen. Syria is not a party to the Rome Statute, which means that the ICC cannot initiate investigation of the case. Furthermore, the Rome Statute does not regulate about starvation committed in non-international armed conflict; article 8(2)(b)(xxv) only applies for armed conflict between states. It means the perpetrators cannot be prosecuted in the ICC.

However, it has been proved that both starvation and cruel treatment share similar and consistent elements of crime, making it possible for the prosecutors to use cruel treatment provision under article 8(2)(c)(i) – 3 as a substitute of starvation. In addition, there are war crimes that supporting and reinforcing the effect of starvation by accelerating the deprivation of indispensable objects (food, water, and medical supplies). Those war crimes are directed attack on hospital and medical equipments, directed attack on civilian population, and pillaging of medical supplies, which may be included as supplementary charges for the perpetrators.

The only way bring perpetrator of starvation in Yarmouk to the ICC is by the referral issued by the Security Council. However, such circumstance is unlikely due to possible vetoes by Russia and China. The same goes to *ad hoc* tribunals which fall under the capability of the Security Council. Meanwhile, hybrid tribunal can only be established upon request by the Syrian government or having an agreement with the UN. This is very unlikely because the perpetrator itself is the leaders of Syria, including the president Bashar Al-Assad and other superiors and military commanders.
B. SUGGESTION

Therefore, the author would like to propose the followings:

1. **Recommendation for the International Community**

   - Call on the Security Council to refer the situation in Yarmouk in particular and any other areas of Syria in general to the available criminal justice.

   - Prioritize on the establishment of *ad hoc* tribunal for Syria. *Ad hoc* tribunal is the best option for prosecuting war criminals for deliberate starvation as a method of war. The tribunal may include deliberate starvation in its jurisdiction because such war crime is included in Customary IHL, which practice is prohibited in both international and non-international armed conflict. Therefore, the accountability of the perpetrator of deliberate starvation, who caused the death of hundreds of civilians, is guaranteed;

   - Take all necessary steps to encourage Russia, China, and other opposing countries to drop their opposition to prosecute war criminals in Syria, including by publicly stating support for establishment of *ad hoc* tribunal or an ICC referral;

   - Any concerned states should ensure that accountability for serious violations of International Humanitarian Law is central to any transition plan for Syria, including ensuring impartial and independent justice;
• Any concerned states should investigate and prosecute individuals suspected for committing serious crimes under the principle of universal jurisdiction.

2. **Recommendation for the Government of Syria**

• Immediately stop any acts that violates the laws of war, human rights law, and other international law, including deliberate starvation, unlawful killing, and attack on medical buildings;

• The Government of Syria must cooperate with the international community by submitting the alleged perpetrator of the war crimes that befell Yarmouk to justice in proceeding that conform to international fair standards, including Bashar Al-Assad and other superiors and military commanders.

• Provide full cooperation and unlimited access to the independent international Commission of Inquiry to investigate all alleged crimes under international law, international humanitarian law, and international human rights law.
BIBLIOGRAPHY

CONVENTIONS/TREATIES

- The 1949 Geneva Conventions and Its Additional Protocols
- The Rome Statute of International Criminal Court
- The Hague Conventions of 1899 and 1907
- Statute of the International Criminal Tribunal for the former Yugoslavia
- Statute of the International Criminal Tribunal for Rwanda
- Charter of United Nations
- International Conventions on Civil and Political Rights
- International Conventions on Economic, Social, and Cultural Rights
- Statute of International Court of Justice

BOOKS


**JOURNALS**

• Butler, Daniel: *Enforced Starvation: Exploring Individual Criminal Responsibility for State-Induced Famines*, University of Nottingham School of Law Human Rights Law Commentary Vol. 3: 1-20
• Conquest, Robert: *Comment on Wheatcroft*, University of Glasgow Europe-Asia Studies 51 Issue 8: 1479–1483

• Marcus, David: *Famine Crimes in International Law*, the American Journal of International Law Vol 97: 245-281

• Merridale, Catherine: *The 1937 Census and the Limits of Stalinist Rule*, The Historical Journal 39: 225-240


• Radziejowska, Maria: *Awaiting Justice: Prospects for Prosecuting War Crimes in Syria*, Policy Paper of the Polish Institute of International Affairs No. 31 (79): 1-6


REPORTS

• Amnesty International, *Squeezing the life out of Yarmouk – War crimes against besieged civilians*, March 2014

• Human Rights Watch, *Syria: Criminal Justice for Serious Crimes under International Law*, December 2013

• Report of the detailed findings of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea – A/HRC/25/CRP.1


• Report of the Preparatory Commission for the ICC, Part 2, 7. PCNICC/2000/1/Add.2


• World Information Transfer, World Ecology Report Vol. XX No. 4, 2008

WEBSITES

• Arnold Beichman, Pulitzer-Winning Lies, http://www.weeklystandard.com/Content/Public/Articles/000/000/002/791vwuaz.asp, accessed on October 2nd, 2014


Ria Novosti, MEPs recognize Ukraine’s famine as crime against humanity, http://sputniknews.com/world/20081023/117913361.html, accessed on October 3rd, 2014


• The Siege of Leningrad, http://www.historylearningsite.co.uk/siege_of_leningrad.htm, accessed on October 8th, 2014
• Uppsala Conflict Data Program, Intensity level of armed conflict, http://www.pcr.uu.se/research/ucdp/definitions accessed on September 9th, 2014
• http://leda.law.harvard.edu/leda/data/777/LeeD06.html#fn109, accessed on October 5th, 2014
APPENDIX
SQUEEZING THE LIFE OUT OF YARMOUK
WAR CRIMES AGAINST BESIEGED CIVILIANS

AMNESTY INTERNATIONAL
Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.
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1. Introduction

Three years after popular pro-reform then anti-government protests drew a brutal response from the Syrian authorities, leading to the internal armed conflict that continues to rage, around a quarter of a million civilians are living under siege across Syria. Many have endured appalling conditions in their struggle to survive. Most live in areas besieged by Syrian government forces and have been effectively confined for a year or more in areas devastated by bombing and shelling. The besieged people have little food; some have resorted to killing cats and dogs to eat while those who forage for leaves and weeds for their families to consume are prey to government snipers. Meanwhile, in other areas where the government retains popular support, civilians have come under siege from armed opposition forces who have severed much-needed food, fuel and medical supplies.

The areas under siege by Syrian government forces include suburbs and other districts of the capital Damascus, as well as areas within or close to other major cities, such as Homs and Aleppo. Yarmouk, located some 8km from the centre of Damascus, and Eastern Ghouta, on the city’s eastern edge, have both been subjected to repeated attacks and prolonged sieges by troops loyal to President Bashar al-Assad, as have parts of Homs, Syria’s third largest city, and al-Hassaka in the north-east. Fighters opposed to the government have besieged the central prison in the northern city of Aleppo, Syria’s most populous city, and the nearby villages of Zahraa and Nobl, whose inhabitants they perceive as supporting the government.

This report focuses on the situation in Yarmouk, where the siege has been particularly prolonged, has had the harshest impact, and has caused the largest number of deaths from starvation. A highly built-up area of 2km², Yarmouk is situated on the south side of Damascus. Its residents include Palestinians and Syrians; the former are refugees, Palestinians and their descendants who fled or were expelled from their homes during the 1948 conflict that saw the creation of the State of Israel or the subsequent war of 1967 when Israel invaded and occupied the West Bank and Gaza Strip. When the current crisis began in Syria, Yarmouk was home to the country’s largest Palestinian refugee community. It was a densely populated area that resembled a residential district rather than a refugee camp. Its residents comprised some 180,000 Palestinian refugees and several hundred thousand Syrian nationals. Once the conflict took hold, thousands of people displaced by fighting in other parts of Syria arrived to seek shelter in Yarmouk, while thousands of its existing residents left to seek shelter elsewhere, some as refugees and others who remain internally displaced within Syria.

Government forces besieged Yarmouk in December 2012. In July 2013 they began to prevent all access to Yarmouk. Since then, with the exception of some intermittent distribution since 18 January 2014, the Syrian army has prevented the entry of all people, and all food and goods, including medical supplies, into Yarmouk. The civilians who remain, reportedly numbering some 17,000 to 20,000 people, include many who are elderly and sick and families with young children.

Scores of civilians are reported to have died in Yarmouk as a direct result of the siege or have been killed in attacks by Syrian government forces. Amnesty International has obtained
information about 194 individuals, all said to be civilians, who have lost their lives since
government forces tightened the siege in July 2013. Starvation, lack of adequate medical
care and shooting by snipers are the three main causes of death reported to Amnesty
International. Many other Yarmouk civilians have been wounded or maimed, or have fallen
victim to illnesses caused by the severe conditions to which they have been exposed for so
long. Yarmouk’s civilians have been brought to the brink of starvation, forced to forage for any
food that they can find. They have few and diminishing medical facilities available to treat
their sick and wounded. Every day they face uncertainty about their future and what the
Syrian government forces may do to them if and when the siege ends. Elsewhere, other
communities in Syria remain under siege by government troops and face similar privations
and fears.

Within the context of the siege, Syrian security forces have also arrested scores of Yarmouk
residents, many of whom they have subjected to enforced disappearance. Some have died in
custody in suspicious circumstances. Those arrested include at least 12 medical workers; six
of whom were subjected to enforced disappearance and remain unaccounted for and another
who died in the custody of Syrian security forces. All appear to have been targeted by the
Syrian security forces on account of their activities as medical workers. Other medical and
health workers have been killed and injured in apparently targeted or indiscriminate attacks
by the Syrian government forces besieging Yarmouk.

The plight of the Palestinian refugees of Syria is a catastrophe within the wider catastrophe
of Syria. Almost two thirds of Syria’s 530,000 Palestinian refugees have once again been
displaced. Approximately 270,000 Palestinians are internally displaced in Syria. More than
50,000 are reported to have fled to Lebanon, 11,000 to Jordan, 6,000 to Egypt, 1,000 to
Libya, 1,000 to Gaza and others to Turkey, Malaysia, Thailand and Indonesia and other
countries. As early as July 2013, the United Nations Relief and Works Agency for Palestine
Refugees (UNRWA), which provides protection and assistance to some 5 million Palestinian
refugees across Syria, Lebanon, Jordan, the West Bank and Gaza Strip, described the
community as “unravelling and in acute distress”.

This report draws on information provided to Amnesty International by six current residents of
Yarmouk and 12 former residents, now either internally displaced within Syria or living as
refugees abroad and who remain in contact sporadically, and with great difficulty, with family
members and others who remain in Yarmouk. Amnesty International’s interviews with all of
these individuals have been conducted via the internet, Skype and telephone. Additional
information has been obtained from representatives of human rights, humanitarian and
medical organizations as well as through monitoring of video clips and other images
published by residents of Yarmouk and others. Amnesty International is withholding the
identities of all those who contributed information to this report to protect their security.

International humanitarian law – the laws of war – prohibits the use of starvation of the
civilian population as a method of warfare. Syrian government forces and other parties to the
conflict must allow and facilitate rapid and unimpeded passage of impartial humanitarian
assistance to civilians in need. They must also allow civilians in besieged areas to leave and
ensure the freedom of movement of authorized humanitarian relief personnel. The parties to
the armed conflict must ensure that the wounded and sick are collected and cared for
without adverse distinction. Sieges that amount to collective punishment of the civilian
population are prohibited under international humanitarian law.

Amnesty International is calling on the Syrian government and military forces to immediately lift the siege of Yarmouk and other civilian areas, cease shelling and other indiscriminate attacks and direct attacks on civilians, and allow humanitarian organizations and agencies unfettered access to all areas to assist the civilian population without discrimination. This should include cross-border access from neighbouring states such as Turkey into areas under the control of armed opposition forces, as well as access across conflict lines between government and opposition forces. Armed opposition groups, likewise, should allow unfettered access by humanitarian agencies to civilians in areas under their control and refrain from indiscriminate and other unlawful attacks. All sides should respect the role of medical workers and refrain from attacks on medical and other humanitarian workers.

All sides should also respect the international prohibition on torture and other ill-treatment and ensure that all detainees are treated humanely at all times. Anyone detained or imprisoned on account of their legitimate exercise of human rights or on account of their identity should be released immediately.

The UN Security Council should continue to address the dire humanitarian situation in Syria and make clear to all parties that they will be held accountable under international justice for war crimes, crimes against humanity and other gross human rights abuses by the forces under their command. Towards this end, the Security Council should refer without delay the situation in Syria to the Prosecutor of the International Criminal Court.
2. THE SIEGE

2.1 OVERVIEW
When widespread popular protests spread across Syria in 2011 and were met with government repression, the residents of Yarmouk sought to remain on the sidelines, reflecting long-standing efforts by the Palestinian refugee community to avoid entanglement in primarily Syrian political affairs and disputes, and its recognition that the Ba’athist governments of Syria’s current president and his father, Hafez al-Assad, had accorded Palestinian refugees greater rights than other host countries in the region. However, the government’s brutal crackdown on mostly peaceful protests led to the growth of armed opposition groups and armed conflict evolved. Yarmouk was inexorably drawn in.

On 6 June 2011, some 21 people were reported killed when armed members of the Popular Front for the Liberation of Palestine – General Command (PFLP-GC) and Syrian security forces fired on a procession of angry people in Yarmouk. The PFLP-GC had provoked anger by not participating in a demonstration lamenting the killing of people, including individuals from Yarmouk, by the Israeli military at the border with Israel the previous day. Resentment against both the government and the PFLP-GC increased further when Yarmouk came under heavy shelling, apparently by government forces, in August and September 2012, reportedly killing at least 20 people. Soon after this, fighters belonging to armed opposition groups linked to the opposition umbrella group known as the Free Syrian Army (FSA) established a presence in Yarmouk. They recruited a number of local residents into their ranks and engaged in armed clashes with Syrian government forces and the PFLP-GC.

On 16 December 2012, a Syrian government MiG warplane carried out raids on Yarmouk, bombing a number of civilian targets, including four schools – two of which were shelters for internally displaced people (IDPs), a mosque that was also an IDP shelter and the al-Basel Hospital. Reports by local human rights organizations and other sources indicate that the targets were purely civilian, that no members of armed groups were killed or injured and that at least 25 civilians were killed. UN Secretary-General Ban Ki-moon called the air strikes “a matter of grave concern”. The next day, government forces shelled Yarmouk again and, assisted by the PFLP-GC, began the siege that has remained in force ever since. In subsequent days and weeks government forces are reported to have also subjected Yarmouk’s inhabitants to attacks by artillery, mortars and Grad missiles, causing many deaths and injuries, particularly among civilians.

In the weeks surrounding the beginning of the siege at least 140,000 Palestinian refugees as well as tens of thousands of Syrians reportedly fled Yarmouk. Others, however, remained: according to Amnesty International’s sources they included many of the poorest residents and those who had least possibilities to seek alternative shelter, including many Palestinian refugees, for whom it is more difficult to find shelter in other parts of Syria and who face greater obstacles than Syrians in obtaining refuge in neighbouring countries.

Initially, Syrian forces allowed the residents to receive a trickle of food supplies, such as small bags of vegetables, though too little to meet their needs. But as resistance continued they progressively tightened their noose around Yarmouk, allowing in only meagre supplies of
food and water. In or around April 2013, government forces cut the main electricity power supply; since then, residents have had to depend on generators, which are costly to run and lack the capacity to meet more than a fraction of their needs. The lack of a power supply has directly affected the functioning of the area’s hospitals and treatment centres, already hard-pressed with an unceasing flow of casualties from government snipers and bombardments, and people suffering illnesses resulting from the deprivation. In July 2013 the Syrian army began to prevent the entry of all people and all food and goods, including medical supplies, into Yarmouk.

The actions of armed opposition groups that established a presence in Yarmouk – allegedly against the wishes of most Yarmouk residents, who hoped to preserve their “neutrality” amid the Syrian unrest and conflict – added to the problems faced by the besieged civilians. In particular, fighters from some armed groups are reported to have raided medical stores and removed medicines and medical supplies from Yarmouk’s hospitals and clinics, so prioritizing the needs of their own casualties over those of the area’s civilian population. The FSA fighters, who were the first opposition fighters to set up in Yarmouk, had mostly departed by May 2013 in order to join in fighting in other parts of Syria, including in Eastern Ghouta, Qalamoun and Quseyr. Some members of Suqour al-Jolan, an FSA-linked armed group, are said to have remained, however.

As FSA-linked fighters moved out, fighters belonging to other armed groups moved in and used Yarmouk as a base from which to attack the Syrian army. They included fighters belonging to Jabhat al-Nusra and the Islamic State in Iraq and al-Sham (ISIS). Members of these armed groups engaged in fierce fighting with Syrian government forces in July 2013, capturing a number of positions from the Syrian army and forcing it to relinquish ground, but prompting a further tightening of the siege of Yarmouk by government forces, the PFLP-GC and members of a Shi’a pro-government armed group, the Abu Fadl al-Abbas Brigade, many of whom are said to be Iraqi, Lebanese and Iranian.

All current and former Yarmouk residents with whom Amnesty International is in contact say that local people did not support either the entry or the presence of armed groups such as Jabhat al-Nusra and ISIS. Nevertheless, while some members of armed opposition groups are reported to have looted premises and in some cases stolen medical supplies, Amnesty International has not received any reports of armed groups preventing Yarmouk residents from seeking to leave the siege area.

As the ultimately unsuccessful internationally backed negotiations between representatives of the Syrian government and the opposition were about to convene in Geneva in early 2014, local negotiations involving representatives of both sides in the struggle for Yarmouk and the Ramallah-based Palestinian Authority resulted in an agreement that brought some relief to Yarmouk’s desperate residents. Under this agreement, since 18 January 2014 the Syrian government has allowed hundreds of sick and wounded civilians, together with some members of their families, to leave Yarmouk and some food parcels to be taken in to those still under siege. These positive developments, however, have had only limited impact in alleviating conditions for the thousands of civilians who remain under siege in Yarmouk. Those civilians who remain are estimated to number between 17,000 and 20,000 people, and include many who are elderly and sick and families with young children.
Another glimmer of hope emerged when the UN Security Council passed resolution 2139 on 22 February 2014. Three years into the worsening human rights and humanitarian crisis, this was the first Security Council resolution to address the humanitarian situation in Syria. It calls on the parties to the conflict to immediately lift sieges of populated areas, including Yarmouk; end violations of human rights and international humanitarian law; and allow rapid, unhindered and safe access – including across borders and conflict lines – for humanitarian agencies to reach people in need.

As a consequence of recent and ongoing negotiations, several relief convoys have managed to bring vital but limited humanitarian supplies into Yarmouk. From 18 January until 26 February some 7,493 food parcels were delivered by UNRWA, the agency stated, to families at the edge of the Yarmouk. Each parcel contains dry foodstuffs to feed a family for up to 10 days. However, the quantities are inadequate for the desperate needs of the people in Yarmouk. In addition, during the same period, hundreds of the most vulnerable individuals have been allowed to leave and be escorted to hospitals.

According to local and international sources, some 2,000 to 3,000 members of armed opposition groups were present in Yarmouk until early February 2014, when most were reported to have found means to leave the area despite the ongoing siege. As of late February 2014, all individuals inside or from Yarmouk interviewed by Amnesty International said that most if not all members of armed opposition groups had managed to leave Yarmouk via secret routes and there were hopes that the camp would return to its earlier status of neutrality once the siege comes to an end. On 2 March 2014, however, government forces shelled Yarmouk repeatedly following the return of members of Jabhat al-Nusra to Yarmouk. A statement issued by Jabhat al-Nusra and seen by Amnesty International accuses the Syrian government and PFLP-GC of reneging on their commitment towards ending the siege.

2.2 DEATHS UNDER SIEGE

Amnesty International has received information on the deaths of 194 people, all said to be civilians, who are reported to have died between the tightening of the siege in July 2013 and 22 February 2014. Information on these cases is presented in a table in the Appendix to this report. It is likely that some fighters may also have died in Yarmouk during this period, although Amnesty International has only seen information concerning one such death.

The main sources for the deaths are the Palestine Red Crescent Society – Syria (PRCS-S) and several human rights NGOs with a presence or contacts inside Yarmouk, notably the Action Group on Palestinian Syrians (AGPS),12 the Palestinian League for Human Rights (PLHR),13 Group 194,14 and the Palestinian Camp News Network Union (PCNNU)15. For 46 of the reported fatalities, reports are supported by still or video images of the deceased.

In almost all cases, the full names of the deceased have been given, but in several only partial names can be provided and in three cases the individuals’ identities are unknown. Fifty-four of those reported to have died are female, and 139 individuals are male. In one case the deceased’s sex could not be determined. For 16 of the reported fatalities, the sources provided information indicating that the deceased individuals were aged between 60 and 85 years old; a further 25 deceased individuals were reported as being “elderly”, without additional clarification. Twelve infants under 12 months old are among the deceased, in
addition to six children.

Regarding the causes of death, 128 individuals, two thirds of the fatalities listed, are reported to have died as a result of starvation. Lack of proper medical care is also a factor in these deaths, as starving individuals could in other circumstances be treated through administering fluids for intravenous therapy, but such fluids are in very short supply as medical facilities and services have been decimated during the siege. Fifty-one individuals, according to the information received, died from illnesses and injuries that required a degree of medical care no longer available in Yarmouk. Even when individuals have died after suffering multiple injuries from shelling, or potentially life-threatening conditions such as heart attacks, medical workers in Yarmouk told Amnesty International that in most cases their lives could have been saved had proper medical care been available. Ten individuals are reported to have died from wounds they received when they were shot by government snipers; of these, at least two were shot while foraging for food to eat in the small fields adjacent to Yarmouk. Two others were said to have been shot by snipers during protests, one of which followed an incident on 16 January 2014 in which a government helicopter reportedly dropped barrel bombs on Yarmouk.

2.3 STARVATION

From December 2012 to February 2013, the Syrian armed forces at Yarmouk’s checkpoints permitted fewer and fewer individuals to bring in even the smallest amounts of food, such as vegetables, that had occasionally been allowed. Those who tried to bring in food and medicine also put their lives at risk. On 12 January 2013, Ghassa Shihabi sought to drive into Yarmouk with his children and with bread to give to other families. However, when he arrived at a Syrian army checkpoint outside Yarmouk, Air Force Intelligence officers at first prevented him from proceeding before he was cleared to do so by members of the PFLP-GC. His widow told Amnesty International that when he then drove forward, he was shot dead by a government sniper.

From July 2013, Syrian government forces prevented all food, medicines and other supplies from entering Yarmouk, exposing the area’s remaining inhabitants to untold hardship and serious risk. Since the area was sealed, the inhabitants have faced an increasingly difficult struggle to survive. Rampant malnutrition has led to scores of reported deaths from starvation as well as widespread illness, with the sick, the elderly, young children and pregnant women at highest risk.

With the Syrian army and its armed allies blocking the entry of all food supplies, Yarmouk’s markets and shops have run out of stocks. All that could be obtained in the market, one resident told Amnesty International in February 2014, were “spices and a kind of green starch that can be fried and eaten”.

As the impact of the siege took hold, local people had to resort to increasingly desperate measures. First, when there was no more flour to make bread, families baked substitutes using lentils and then crushed bulgur wheat. Then, these supplies too were exhausted or became too expensive – by late 2013, a kilogram of rice cost between 10,000 and 15,000 Syrian pounds (US$70 to $100). One woman told Amnesty International that her brother had
sold packs of cigarettes for the equivalent of US$40-50 each, then used the money “to buy dry foods that last, such as rice and lentils”.

For months residents survived scouring the area for anything that might be edible, including cactus leaves, dandelion leaves and other plants. Hunger has driven many to expose themselves to government snipers while searching for food. For example, a hospital nurse described the case of a boy aged 16 or 17 whose body was brought in after he had been shot dead while collecting leaves to eat. Addressing the lifeless boy, his grieving father said: “You died for the sake of bringing hibiscus leaves for your brothers and sisters.”

A Syrian national who remains in Yarmouk told Amnesty International in February 2014: “I eat anything that I can get my hands on. I eat on average one meal every 30 hours. Either we have to go to the small field areas overlooked by snipers, looking for herbs, or group together to buy a kilo of rice or lentils at 10,000 Syrian pounds and cook it, but we cannot afford to do this each day due to the cost. For a year and two months we have been without electricity. There are some generators but the diesel for it is scarce and expensive. After some recent food deliveries got into the camp, the prices have gone down by about 30%, but they do not reach the markets and are instead sold on the informal market like drugs.”

Other residents told Amnesty International that they have had no fruit or vegetables to eat for many months. Speaking in January 2014, one said: “The last time I ate vegetables was more than eight months ago.”

Another said he had “not eaten fruit for seven months, nor vegetables for six months”, but had eaten a plant known as bird’s foot trefoil that is usually eaten by cows and other livestock. Other residents have also eaten this plant but some have suffered an allergic reaction, including bloating, as a result. Cases of food poisoning and other illnesses became common as many people have been forced to exist on a diet of leaves and weeds. In desperation, some have killed and eaten cats and dogs, a practice reportedly permitted through a fatwa issued by local sheikhs, in some cases suffering food poisoning as a result.18 According to one resident, some people have resorted to drinking dog milk.19 Another resident told Amnesty International that many eat from rubbish bins, and this is also purportedly shown on YouTube video clips. A common “meal” is said to be water mixed with spices.

Many Yarmouk residents have been killed or injured by government snipers while foraging for food, especially in the south where there are some fields. A local human rights activist told Amnesty International in late January 2014 that people had been able to search for food there without being shot at times but that the situation had now changed: “The area is sniped upon by members of the Syrian army. Currently, no one is able to enter the area without being shot at.”

A voluntary medical worker at Palestine Hospital said that people were generally shot and injured daily there, and sometimes killed.20 Despite hopes and expectations around 12 February 2014 that a large food delivery was to arrive at Yarmouk, on that day it was reported that Talal Awad was shot dead by a sniper while foraging for food at the edge of Yarmouk camp.21
2.4 MEDICAL WORKERS, MEDICAL SERVICES AND THE HEALTH OF THE BESIEGED

The long and violent siege has had a devastating effect on the people who remain in Yarmouk, according to health workers inside the area, local human rights activists and residents with whom Amnesty International has been in contact, and representatives of international organizations that have sought to monitor conditions. Medical facilities in particular have been badly hit and medical personnel have suffered both through being targeted as well as through indiscriminate attacks and the collective punishment of the siege.

Among at least scores of individuals arrested during the siege, at least 12 are medical workers. Of these, six are reported to have been subjected to enforced disappearances and one died in custody in suspicious circumstances. Government security forces arrested Dr Hail Hamid, a hospital consultant and professor in the faculty of medicine at Damascus University, at his clinic in Yarmouk on 11 August 2012. His fate is unknown. Dr Aladdin Youssef, a neurological surgeon, disappeared after being arrested at a Syrian military checkpoint on or around 18 December 2012. A volunteer with the PRCS-S told Amnesty International that Dr Youssef was detained after he entered into an argument with security officials at the checkpoint who refused to allow him to exit in order to fetch medicines. The fate of urinary surgeon Dr Nizar Jawdet Kassab, who was detained by government forces at a Yarmouk checkpoint on or around 19 December 2012, is also unknown. The fate of paramedic Hussam Mou’ad, who was arrested on 30 December 2012, is unknown. Salma Abdurazzaq, an engineering student aged 21 who volunteered with the medical scouts (al-Kashafa al-Tibbiya) of the Palestine Liberation Organization (PLO), was also arrested on 30 December 2012 when she was searched at a checkpoint and found to be carrying a small quantity of medicines into Yarmouk. She was taken to the Palestine Branch of Military Intelligence for interrogation, after which her fate is unknown.22 Abd al-Rahman Salameh, an assistant anaesthetist nurse, was arrested on 1 September 2013. His fate is unknown.23 Government forces arrested Mohammed Abu Rughba, a paramedic, in October 2012; he was released in or around late December 2013.

Medical workers in Yarmouk told Amnesty International that many of their colleagues left Yarmouk during this period, fearing arrest. Lack of medical personnel inevitably impacted the services available and put lives of injured and sick patients at greater risk. As the widow of Ghassan Shihabi told Amnesty International: “As soon as I arrived there [at Palestine Hospital], a health worker told me that my husband hadn’t made it. There were no doctors at the hospital because a few days earlier, Dr Aladdin Youssef was arrested and so others were scared to come to the hospital.”24

Other medical professionals who were among those detained include Mohammed Najma, the owner of a medical supplies company who assisted the group of volunteer medical scouts (al-Kashafa al-Tibbiya) of the PLO. They acted as a first response team when rockets fell and people were injured, helping the wounded into ambulances and access emergency medical care. A senior medical worker told Amnesty International that government security officials from the Palestine Branch of Military Intelligence detained Mohammed Najma on 1 September 2013 at his company office, after first beating him with his laptop computer, and then took him away. He was released in or around late November 2013.
At least one medical worker has been named among the scores of detainees from Yarmouk and thousands from elsewhere in Syria who are reported to have died as an apparent result of torture and other ill-treatment in the custody of Syrian government forces during the past three years. Security forces arrested Dr Firas Abd al-Razzaq al-Jild, a dentist, on 21 December 2012 as he sought to enter Yarmouk; his desecrated body was found two days later on a Yarmouk street.

At least three medical volunteers were arrested in the vicinity of the checkpoint at the main northern entrance to Yarmouk on or around 2 February 2014. Ahmed al-Solh, Ahmed al-Qudem and Ahmed Taha all had permission to leave the camp: Ahmed al-Qudem had been granted permission to accompany his injured brother to a hospital while both Ahmed al-Solh and Ahmed Taha had been given permission to leave to register for university. Ahmed al-Qudem, a law student, also worked as a member of the group of volunteer medical scouts (al-Kashafa al-Tibbiya) of the PLO.

Other medical workers have been killed and injured in attacks by government forces on Yarmouk during the siege. Some government attacks, including aerial bombing and tank or artillery shelling, have been indiscriminate, carried out with gross disregard for the civilian population, while others appear to have deliberately targeted civilian objects, such as hospitals and medical centres. Dr Ahmed Nawaf al-Hassan, a surgeon at the Palestine Hospital, died on 17 June 2013 when a rocket apparently fired by government forces struck the hospital. A PRCS-S volunteer who witnessed his killing told Amnesty International: “He died instantly when a rocket fell at the front door of the hospital (about 12m away) and he was sprayed with shrapnel, one piece of which pierced his heart.” Another Palestine Hospital doctor, Mohammed Hemedi, was reportedly killed in a rocket attack outside Yarmouk.

The PRCS-S volunteer said that government forces appeared to be pursuing tactics designed to cause casualties among medical staff and volunteers: “When a rocket hits a building, the government forces know that the medical staff will run out to save the injured. They wait a few minutes then fire a second and third time knowing the medical staff are likely to be there.”

Medical professionals and volunteers who have sustained injuries include: Khaled Salama, who was wounded in the foot by a rocket explosion; Adnan Qassem, who was injured while driving an ambulance; Ahmed Hassoun, wounded in the foot; Asmaa al-Khayat, who sustained injuries to her back, hand and chest; Majd al-Masri, who was struck in the face by shrapnel; and Wissam Moussa, who received wounds to his shoulder and ribs when he was shot by a government sniper in November 2013.

The Palestine Hospital, run by the Palestinian Red Crescent Society (PRCS), is the main hospital in Yarmouk that continues to function, although it has been damaged by bombing, has lost many of its staff and its capacity has been reduced as a result of the siege. One health worker at the hospital told Amnesty International that it has been bombed a number of times by Syrian government forces: “On one occasion, a rocket hit the fourth floor and destroyed the generator. Another time a bomb fell at the front entrance.” He said that rockets had also struck the area surrounding the hospital several times, including one that hit a nearby building, causing damage to the door of the hospital and wounding one of the hospital’s staff. By February 2014, the Palestine Hospital’s capacity and services had been
severely diminished by the months of siege; it had only two doctors, depended for its electricity on generators that were kept going using diesel fuel provided by residents from their own diminishing stocks, and was running low on medicines and other medical supplies, including fluids for intravenous therapy, locally referred to as “serum”. Yet the hospital continued to receive casualties – victims of shooting by government snipers and people suffering from a wide range of siege-related injuries and illnesses as well as others whose existing ailments have been exacerbated by the shortages of food, water, electricity and medicines arising from the siege.

Before the siege, the Palestine Hospital carried out around 600 surgical operations each month, including plastic surgery, ear, nose, throat and eye operations. Today, however, after months of siege, no surgeons remain and the hospital lacks proper medication for surgery patients; even so, according to a PRCS medical worker in Yarmouk who spoke to Amnesty International, “any necessary surgery is carried out by nurses who are learning by experience and study.” Unsurprisingly, another medical worker said “many have already died here due to a lack of serum and other medication.”

A PRCS-S volunteer told Amnesty International: “People are dying from injuries sustained from being shot by snipers, or in explosions, particularly if they were hit in the head or chest, since there is no one able to treat them. Other civilians are dying specifically due to the lack of medical equipment and supplies such as defibrillators, incubators, blood bags and serum. We also lack gauze and simple sterilizers.” A PRCS worker added that “babies are dying because there is no milk, neither powder nor from their mothers” and that hospital staff were trying to remedy this by arranging for other mothers who were successfully lactating to breastfeed several children in addition to their own.

According to one PRCS health worker, three women and five newborn babies died due to complications during pregnancy and childbirth in December 2013 and January 2014 because the hospital was unable to give them the medical treatment they required. There has been an increase in miscarriages due to food shortages and poor nutrition for pregnant women, and due to the collapse of antenatal facilities and care under the siege. A medical worker told Amnesty International that the hospital possesses an aged ultrasound machine but has no doctor to operate it; consequently, it cannot be used to identify potential foetal problems prior to birth. The lack of gynaecologists and surgeons means that the hospital cannot carry out Caesarean births; at least one pregnant woman is reported to have haemorrhaged to death. The hospital has just two midwives to advise and assist women during pregnancy and birth.

The Palestine Hospital’s two remaining doctors continue to treat patients with internal illnesses or injuries, to provide anaesthetics and first aid, but they have virtually no medical supplies. One of the hospital’s two stores of medical supplies has been exhausted while the other was seized, apparently for their own use, by armed men believed to be members of Suqour al-Jolan, an FSA-linked armed opposition group.

One medical worker told Amnesty International that he witnessed the armed men removing the store of medical supplies provided by the PRCS: “I saw their van full of our medical supplies stamped with ‘Ramallah’ on them.” The same armed opposition group is also reported to have been responsible for seizing the Palestine Hospital’s entire fleet of five
ambulances.

The Palestine Hospital pharmacy is still operating but it is now the only pharmacy in Yarmouk, one medical worker told Amnesty International. Before the siege there were around 100-120 pharmacies.

The Faiz Halawa hospital, where patients requiring surgery were often treated, and which had facilities for conducting X-rays and a paediatrics department, is no longer functioning, having been repeatedly shelled by the encircling government forces. Residents told Amnesty International that the hospital was struck more than 30 times. Such equipment and supplies that remained are reported to have been looted in early 2013 by unidentified armed men, suspected members of one or more of the armed groups that had taken up positions in Yarmouk.

The Deir Yassin medical centre, run by the PRCS, formerly offered a wide range of medical services, including paediatrics, gynaecology, dermatology, physiotherapy, dentistry and primary health care. Today its staff, mainly made up of volunteer paramedics, are able to provide only the last three services.

The small al-Basel Hospital, which now reportedly has only one doctor, provides mostly dental and general medical services, and has had to reduce its hours to mornings only.

These three medical institutions are the only ones still functioning, albeit at a reduced level, and are continuing to provide some assistance to the burgeoning number of wounded, sick and infirm victims of the siege. UNRWA has been forced to close its three clinics in Yarmouk due to damage and the lack of UNRWA medical staff remaining in Yarmouk.

The Rahma Hospital has also closed due to the damage it has sustained and its dangerous location, close to the front line between government troops encircling Yarmouk and the opposition fighters engaged in combat against them.

At the Palestine Hospital, health workers report that they have to contend with new illnesses resulting from the harsh conditions to which besieged residents have been exposed, including a rising incidence of malnutrition-related health problems, including food poisoning. People have become ill after they have been driven by hunger to “eating the stalks of plants that are not always edible”, one PRCS worker told Amnesty International in February 2014, adding that “even those stalks sell for a very high price”. At least three men are reported to have been admitted to Palestine Hospital when they became ill after consuming a waxy mixture of sugar and water that women use to remove body hair, and recently a young girl was brought in suffering from stomach problems after her family had killed and eaten a dog. By mid-February 2014, according to one medical worker at the Palestine Hospital, around 60% of Yarmouk residents were suffering from malnutrition. “For the first time I am seeing small babies with bloated stomachs, skin on bones,” he told Amnesty International. “The old people and babies are suffering the most.”

The same medical worker said that jaundice has been “spreading like wildfire” among Yarmouk residents. Jaundice, which affects the liver, is often a result of food contamination caused by a failure of hygiene. A PRCS-S volunteer told Amnesty International: “Jaundice is
very widespread amongst both children and adults. At the Palestine Hospital we see at
least six or seven cases every day. The other clinics may see more. They can do a simple
urine test to detect it, but the medicine is the problem. Some of the private clinics donate
whatever samples of medicines or vitamins they have, but it is not enough.” According to a
medical expert consulted by Amnesty International, the probable cause is jaundice in
such circumstances is hepatitis A or hepatitis E. Both of these forms of hepatitis are
transmitted from food or utensils contaminated with human sewage and are therefore closely
related to a lack of hygiene. In addition, there has been a rising incidence of skin ailments,
such as scabies and eczema, also apparently caused by endemic malnutrition and lack of
hygiene, as well as keratomalacia, an eye disorder that affects the cornea and is caused by
severe vitamin A deficiency. The hospital has also received several cases of rickets, which is
caused by deficiencies of vitamin D and calcium.

Since 18 January 2014, conditions have been alleviated somewhat by the government’s
agreement that many seriously ill residents could leave the besieged area. On 14 February, a
PRCS health worker told Amnesty International that “most of those suffering from serious
illnesses have left, approximately 450 individuals.” Many were accompanied by family
members and were expected to receive treatment at Damascus hospitals. However, not all
survived the exodus. “One young woman died yesterday at the checkpoint after having been
referred to hospital outside the camp,” according to the PRCS worker. A PRCS-S volunteer
also told Amnesty International the same day that the medical assessments for those being
evacuated from the camp are made at the Palestine Hospital, but must then be approved by
the PFLP-GC and the Syrian government security forces managing the crossing point. On 13
February, they finally agreed to the exit of a pregnant woman whose passage they had denied
for four days. In another case concerning a young girl who had been shot in the forehead with
a bullet, the health worker said “it took 10 days to get approval for her to leave,” although it
was obvious that she was critically wounded.

2.5 ARRESTS, DETENTIONS AND DEATHS IN CUSTODY
Syrian military forces, in some cases assisted by members of the PFLP-GC and other pro-
government groups, are reported to have arrested scores of people during their siege of
Yarmouk, including the 12 medical workers cited above. The Violations Documentation
Center, a prominent Syrian NGO documenting violations committed in Syria since April
2011, has the names of 150 people from Yarmouk arrested since that date and more than
80 names of individuals held as of late February 2014. The actual number is likely to be
higher, possibly much higher; documenting arrests by forces that act with impunity and
frequently detain and hold people in secrecy for indefinite periods invariably presents serious
challenges, and is especially difficult in the context of a protracted siege within a country
gulfed by armed conflict and undergoing an humanitarian crisis. Local activists and
members of human rights NGOs have told Amnesty International that they believe Syrian
forces may have arrested hundreds or even thousands of people from Yarmouk during the
past two years, although they cannot verify this. Some of those seized may have been
opposition fighters but all of Amnesty International’s sources insist that the majority were
civilians not directly participating in hostilities. They include people who went to collect food
parcels that the Syrian authorities had allowed into the besieged area, students who had
received official permission to exit Yarmouk in order to resume their studies in other places,
and humanitarian aid and health workers. Uncertainty surrounds the fate of these individuals; many appear to be victims of enforced disappearance. The Syrian authorities have neither disclosed their number nor their identities, nor where they are held, and there is no independent access to them. It is feared that many will have been taken to the Palestine Branch of Military Intelligence in Damascus, where torture and other abuse of detainees, in some cases resulting in deaths, has long been rife.

Fuelling these fears, the Action Group for Palestinians of Syria, a local human rights group, reported the enforced disappearances or deaths in custody of 29 individuals from Yarmouk between 22 May 2011 and 17 September 2013. In all but one case, the perpetrators were believed to be Syrian government forces or their allies.28 Khaled Bakraawi, a prominent humanitarian worker, was reported to have been arrested on 19 January 2013 by government forces while trying to assist individuals displaced from other locations into Yarmouk. He reportedly died as a result of torture or other ill-treatment on 11 September 2013.29 Further arrests and at least one suspicious death in custody of individuals from Yarmouk are reported to have occurred subsequently. On 2 February 2014, Maher Mohammed al-Sayad was reported by local activists to have died in custody after being seized at a government checkpoint some nine months earlier.

Most recently, Syrian government forces detained dozens of people from Yarmouk in early February 2014. They included 27 people who were arrested on 2 February during an officially authorized food and aid distribution at the Syrian army checkpoint on the northern side of Yarmouk. Some of the 27, whose names were subsequently published by local human rights activists, were among those who went to collect food parcels for Yarmouk’s residents, while others had received official permission to leave for study reasons. All were said to have been taken to the Palestine Branch of Military Intelligence in Damascus; their fate remained unknown as of late February 2014.30 Also arrested on or around the same day was Fuad Amr, who acted as a mediator in the then ongoing negotiations and was reportedly seized by members of the PFLP-GC. He is reported to have been taken to the Palestine Branch of Military Intelligence in Damascus, prompting concerns for his safety.31 On 3 February, members of Fateh al-Intifada, a Palestinian organization that supports the Syrian government, were reported to have seized Mahmoud Mou’ad, a humanitarian aid worker, and taken him also to the Palestine Branch of Military Intelligence. According to the information received, the Syrian authorities have provided no information about him since he was detained; there are fears for his safety.
3. THE SIEGE AND INTERNATIONAL LAW

International law sets strict limits on how sieges may be used by parties to an armed conflict. Government forces are bound both by international human rights law and international humanitarian law. All parties to the armed conflict, including armed opposition groups, must respect the rules of international humanitarian law. The manner in which the siege of Yarmouk has been imposed violates international human rights law and international humanitarian law. Many of these violations committed in the context of pursuing the siege and attacking Yarmouk and its inhabitants constitute crimes under international law, including war crimes and crimes against humanity.

3.1 INTERNATIONAL HUMAN RIGHTS LAW

International human rights law, including civil, cultural, economic, political and social rights, applies both in peacetime and during armed conflict and is legally binding on states, their armed forces and other agents. It establishes the right of victims of serious human rights violations to remedy, including justice, truth and reparations.

Syria is a party to some of the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). Syria is legally bound by its obligations under these international treaties, as well as by relevant customary international law. The International Court of Justice as well as the UN Human Rights Committee have affirmed that international human rights law applies in times of armed conflict as well as peacetime.

Of particular relevance to this context are Syria’s international human rights law obligations related to the right to life, the prohibition of torture and other ill-treatment, the prohibition of enforced disappearance and arbitrary detention, and the right to freedom of movement. The conduct of Syrian government forces in Yarmouk has also breached its obligations to respect, protect and promote the right to an adequate standard of living, including adequate food and housing (ICESCR, Article 11) and the enjoyment of the highest attainable standard of physical and mental health (ICESCR, Article 12). Actions that were aimed towards or were likely to result in the destruction or impairment of infrastructure necessary for the enjoyment of those rights, such as hospitals, are violations for which Syria can be held responsible.

3.2 INTERNATIONAL HUMANITARIAN LAW

International humanitarian law, also known as the laws of war or the laws of armed conflict, contains the rules and principles that seek to protect primarily those who are not participating in hostilities, notably civilians, but also certain combatants, including those who are wounded or captured. It sets out standards of humane conduct and limits the means and
methods of conducting military operations. Its central purpose is to limit, to the extent feasible, human suffering in times of armed conflict.

Syria is a state party to the four Geneva Conventions of 12 August 1949 and their Additional Protocol relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977. Article 3 common to the four Geneva Conventions applies to all parties to non-international armed conflicts, such as that currently in progress in Syria. Many of the specific rules included in these and other international humanitarian law treaties – and all the rules cited in this report – form part of customary international humanitarian law and are thus binding on all parties to any conflict, including Syrian armed and security forces and non-state armed groups. Violations of many of these rules may amount to war crimes.

A fundamental rule of international humanitarian law is that parties to any conflict must at all times “distinguish between civilians and combatants”, especially in that “attacks may only be directed against combatants” and “must not be directed against civilians.” A similar rule requires parties to distinguish between “civilian objects” and “military objectives”. These rules are part of the fundamental principle of “distinction”.

Intentionally directing attacks against civilians not taking direct part in hostilities, or against civilian objects (in the case of non-international conflicts, medical, religious or cultural objects in particular), is a war crime. The corollary of the rule of distinction is that “indiscriminate attacks are prohibited”. Indiscriminate attacks are those that are of a nature to strike military objectives and civilians or civilian objects without distinction, either because the attack is not directed at a specific military objective, or because it employs a method or means of combat that cannot be directed at a specific military objective or has effects that cannot be limited as required by international humanitarian law.

International humanitarian law also prohibits disproportionate attacks, which are those “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.” Intentionally launching an indiscriminate attack resulting in death or injury to civilians, or a disproportionate attack (that is, knowing that the attack will cause excessive incidental civilian loss, injury or damage), constitutes a war crime. Parties are required to take all necessary precautions in attack to spare the civilian population. They must also take precautions to protect civilians under their control from the effect of attacks, including by avoiding locating, to the extent feasible, military objectives within or near densely populated areas.

The use of starvation of the civilian population as a method of warfare is prohibited, as is attacking or destroying objects indispensable to the survival of the civilian population. The parties to the conflict must allow and facilitate rapid and unimpeded passage of impartial humanitarian assistance to civilians in need. They must allow civilians in besieged areas to leave and they must ensure the freedom of movement of authorized humanitarian relief personnel. The parties must ensure that the wounded and sick are collected and cared for without adverse distinction. Sieges that amount to collective punishment of the civilian population are prohibited. Collective punishment and starving civilians by depriving them of objects indispensable to their survival constitute war crimes.
3.3 INTERNATIONAL CRIMINAL LAW

Certain human rights violations, such as torture and enforced disappearance, amount to crimes under international law and states are required to make such violations a criminal offence in domestic legislation. States are also obliged to bring to justice those responsible for these and other serious violations, including extrajudicial executions. Individuals – whether civilians or military – can be held criminally responsible for certain violations of international humanitarian law and of human rights law. All states have an obligation to investigate and, where enough admissible evidence is gathered, prosecute genocide, crimes against humanity and war crimes, as well as other crimes under international law such as torture, extrajudicial executions and enforced disappearances.

According to the Rome Statute of the International Criminal Court, certain acts, if directed against a civilian population as part of a widespread or systematic attack, and as part of a state or organizational policy, amount to crimes against humanity. Such acts include, among others, murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape and other sexual crimes, and enforced disappearances.46

Some of the violations by Syrian forces that are documented in this report constitute crimes against humanity, including extrajudicial executions, enforced disappearances and torture.

All governments have a duty to investigate and prosecute crimes against humanity including by exercising universal jurisdiction over the crimes.
4. CONCLUSION AND RECOMMENDATIONS

The Syrian government has committed numerous war crimes as part of the siege of Yarmouk. Hundreds of civilian residents of Yarmouk have been killed, wounded or have perished as a result of deliberate starvation and destruction of their means of support, direct attacks on civilians and indiscriminate attacks. Other residents have been subjected to enforced disappearance, arbitrary detention and torture as part of a systematic, as well as widespread attack on the civilian population in what amount to crimes against humanity.

The siege of Yarmouk has been particularly vicious and long-lasting, yet it is only one of a number of armed sieges of civilian areas that have been imposed and enforced by the Syrian army and other security forces. A clear pattern has emerged around the country. Areas where local residents oppose the government or where armed opposition fighters are present have been subjected to indiscriminate bombardment by government forces using heavy weapons, causing massive civilian casualties, destruction and displacement – 6.5 million people are now estimated to be internally displaced within Syria and a further 2.5 million have become refugees mostly in neighbouring countries – and long sieges by government troops, effectively seeking to starve the inhabitants into submission.47

In other areas, where loyalty to the government remains strong, armed opposition groups have carried out suicide and other bomb attacks indiscriminately, causing many civilian deaths and injuries. They have also mounted sieges of such areas and sought to interfere with the free flow of food and other necessities to their civilian inhabitants.

To date, internationally driven efforts to secure a ceasefire and negotiate a peace agreement between the government and opposition forces have made little headway and no end to the conflict is in sight. The international community, as represented by the UN Security Council, has been riven by divisions that have paralysed effective action to address the crisis. The Security Council finally agreed a resolution on 22 February 2014 that calls on the parties to immediately lift sieges of populated areas, including Yarmouk; end violations of human rights and international humanitarian law; and allow rapid, unhindered and safe access – including across borders and conflict lines – for humanitarian agencies to reach people in need. While enforcement and accountability measures are lacking, as the first resolution in three years to address the humanitarian situation, it offers the first glimmer of hope to millions in Syria for some improvement. How the international community follows up on ensuring implementation of the resolution will be key to halting the suffering in Syria.

Amnesty International is making the following recommendations:

RECOMMENDATIONS TO THE GOVERNMENT OF SYRIA

- Immediately end the armed siege of Yarmouk and other civilian areas and allow unfettered access by independent humanitarian agencies to assist the civilians suffering in
those areas by providing food, water, medicines and medical aid, and by safely evacuating the sick, elderly, families with children and other civilians who lack shelter or wish to leave the area.

- Cease immediately all indiscriminate shelling or other bombardments by Syrian government forces or those assisting them, in recognition that indiscriminate attacks and direct attacks on civilians or civilian objects (such as hospitals and power supplies) are war crimes.

- End all attacks on medical and other humanitarian workers and instruct all military and security personnel to afford them appropriate protection at all times.

- Release, immediately and unconditionally, all persons detained solely on account of their political opinions, identity or legitimate exercise of freedom of expression or other human rights, and ensure that all other detainees are released without delay if they are not charged and brought to trial fairly and promptly, and without resort to the death penalty.

- Allow free and regular access to all places of detention by representatives of international organizations with appropriate expertise as a means of ensuring the safety of detainees, including their protection against torture and other ill-treatment in custody.

- Ensure that all deaths in detention and allegations of torture are independently investigated, thoroughly, promptly and impartially, and that all military, security and other personnel against whom there is evidence of torture or other serious abuse are removed from their positions and are brought to justice in fair trials without delay.

- Ensure that anyone suspected of ordering or committing war crimes or crimes against humanity is removed from the ranks and promptly brought to justice in proceedings that conform to international fair trial standards.

- Provide full co-operation and unimpeded access to the independent international Commission of Inquiry to investigate all alleged crimes under international law and violations and abuses of international human rights law.

- Allow international humanitarian agencies prompt and unfettered access to Syria, including across borders and across conflicts.

RECOMMENDATIONS TO ALL ARMED OPPOSITION GROUPS IN SYRIA

- End sieges of civilian areas and allow unfettered access by independent humanitarian agencies to assist the civilians in need; and facilitate the safe evacuation of the sick, elderly, families with children and other civilians who wish to leave the area.

- Respect at all times the prohibition in international humanitarian law on direct attacks on civilians, indiscriminate attacks, summary killing of captives and torture, and ensure that all detainees, including captured government soldiers, are treated humanely and all times.
End all attacks on humanitarian workers and instruct all fighters to afford them appropriate protection at all times.

Remove from the ranks any individual suspected of ordering or committing serious violations of international humanitarian law.

**RECOMMENDATIONS TO THE UN SECURITY COUNCIL**

- Refer without delay the situation in Syria to the Office of the Prosecutor of the International Criminal Court in order that the Court is authorized to initiate an immediate investigation into the alleged commission of war crimes and crimes against humanity by the Syrian government and by opposition forces.

- Act on its declared intention in Security Council resolution 2139 to take further steps in case of failure by the parties to comply with the call to immediately lift the siege of Yarmouk and other populated areas, among other measures, by imposing sanctions – including a travel ban and asset freeze – on persons suspected or believed to be responsible for non-compliance with the resolution.

**RECOMMENDATIONS TO COUNTRIES NEIGHBOURING SYRIA**

- Keep their borders open to all persons fleeing Syria, without discrimination, and ensure full access to their territories and to safety.

- Ensure that no persons fleeing Syria are forcibly returned to Syria, in any way whatsoever, including through removal, rejection at the border, expulsion or deportation.

**RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY, IN PARTICULAR STATES WITH THE MEANS TO PROVIDE ASSISTANCE**

- Offer a generous number of emergency resettlement and humanitarian admission places, over and above annual resettlement quotas, to vulnerable refugees who have fled Syria and are currently in neighbouring countries. Priority for resettlement should be given but not limited to: women and girls at risk of violence, persons with serious medical conditions and disabilities, people with family reunification possibilities, persons with physical protection needs including as a result of their political or ethnic profile or their involvement in peaceful humanitarian or other activities, and lesbian, gay, bisexual, transgender and intersex (LGTBI) individuals. Palestinian refugees from Syria should have equal access to resettlement opportunities.

- Refugees from Syria, including Palestinian refugees who resided in Syria, should be able to access refugee protection and the benefits that come with it, a right they have under international law. Key to this is that Syrian refugees should not be disadvantaged by being restricted to a lower humanitarian status according them only short residency periods and excluding them from family reunification. Countries receiving people fleeing Syria should fully respect their rights as refugees.
### 5. APPENDIX: TABLE OF DEATHS UNDER SIEGE

The table presents a summary of the information Amnesty International has received on the cases of 194 people, all said to be civilians, who are reported to have died between the tightening of the siege on Yarmouk in July 2013 and 22 February 2014.

<table>
<thead>
<tr>
<th>Reported date of death</th>
<th>Name</th>
<th>Sex and indication of age</th>
<th>Reported cause of death</th>
</tr>
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<tbody>
<tr>
<td>13/08/2013</td>
<td>Samir Mahmoud Nassar</td>
<td>M</td>
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<td>Starvation</td>
</tr>
<tr>
<td>11/10/2013</td>
<td>Malak Jum'a</td>
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<td>Starvation</td>
</tr>
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</tr>
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</tr>
<tr>
<td>Date</td>
<td>Name</td>
<td>Gender</td>
<td>Condition</td>
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<td>------------------------------------</td>
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<td>Cause of Death</td>
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<td>Lack of medical care (lack of post natal care)</td>
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<td>Date</td>
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<td>Gender</td>
<td>Cause of Death</td>
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<td>Mohammed Ahmed Abd al-Ghani</td>
<td>M</td>
<td>Starvation</td>
</tr>
<tr>
<td>09/01/2014</td>
<td>Aref Abdullah</td>
<td>M (infant)</td>
<td>Starvation</td>
</tr>
<tr>
<td>10/01/2014</td>
<td>Alaa al-Masri</td>
<td>F (infant)</td>
<td>Starvation</td>
</tr>
<tr>
<td>10/01/2014</td>
<td>Maryam Mohammed</td>
<td>F (55 days)</td>
<td>Starvation</td>
</tr>
<tr>
<td>10/01/2014</td>
<td>Awad Mahmoud al-Sa'idi</td>
<td>M (68 years)</td>
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<tr>
<td>11/01/2014</td>
<td>Amal Hussein Shikhu</td>
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<td>11/01/2014</td>
<td>Akram Suleiman al-Al</td>
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<td>11/01/2014</td>
<td>Sa'ida Qaisi Raja or Sa'ida Qais Raja</td>
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<td>12/01/2014</td>
<td>Israa al-Masri</td>
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<td>12/01/2014</td>
<td>Jihad al-Qirbi</td>
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<td>12/01/2014</td>
<td>Bashir Mohammed Shehadeh</td>
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<tr>
<td>13/01/2014</td>
<td>Jamil al-Qirbi</td>
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<td>13/01/2014</td>
<td>Basel Hassan al-Shihabi</td>
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<td>Mahmoud Mohammed al-Sabbag</td>
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<tr>
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<td>Haja Nour [family name unknown]</td>
<td>F (50 years)</td>
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<tr>
<td>14/01/2014</td>
<td>Hussein Nada Nazal</td>
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<tr>
<td>15/01/2014</td>
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<td>15/01/2014</td>
<td>Taysir al-Taba’a</td>
<td>M</td>
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<tr>
<td>15/01/2014</td>
<td>Reem Abd al-Aziz</td>
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</tr>
<tr>
<td>16/01/2014</td>
<td>Mohammed Jum’a</td>
<td>M (40 years)</td>
<td>Starvation</td>
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<th>Date (15/01/2014 - 24/01/2014)</th>
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<th>Gender Age</th>
<th>Cause of Death</th>
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<tr>
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<td>Ahmed Abd al-Hamid Mohammed</td>
<td>M (24 years)</td>
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<td>Mohammed Omar al-Shihabi</td>
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<td>17/01/2014</td>
<td>Isma'il Abdullah</td>
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</tr>
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<td>18/01/2014</td>
<td>Yassin Anis Abu Madi</td>
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<tr>
<td>17/01/2014 - 18/01/2014</td>
<td>Najah Mohammed al-Buqa'i</td>
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<tr>
<td>16/01/2014</td>
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<tr>
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<td>Omar Suhaib al-Qudsi</td>
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<td>Lack of medical care (barrel bomb)</td>
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<tr>
<td>16/01/2014</td>
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<td>M</td>
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<tr>
<td>16/01/2014</td>
<td>Hussam Abu Ahmed</td>
<td>M</td>
<td>Lack of medical care (barrel bomb)</td>
</tr>
<tr>
<td>16/01/2014</td>
<td>Alaa Furaij</td>
<td>M</td>
<td>Lack of medical care (barrel bomb)</td>
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<td>16/01/2014</td>
<td>Mahmoud Abdallah Taha</td>
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<tr>
<td>21/01/2014</td>
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<td>23/01/2014</td>
<td>Subhi al-Sudai</td>
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<tr>
<td>23/01/2014</td>
<td>Sa'id al-Fawaz</td>
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<td>23/01/2014</td>
<td>Khaled Mustafa Karim</td>
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<td>24/01/2014</td>
<td>Zahra Youssef al-Zain</td>
<td>F (68 years)</td>
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<tr>
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<td>Abd al-Aziz al-Khadraa</td>
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<td>24/01/2014</td>
<td>Mustafa Bahtiti</td>
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<td>Date</td>
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<td>Gender</td>
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<td>24/01/2014 - 25/01/2014</td>
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<tr>
<td>25/01/2014</td>
<td>Moussa Mar’ei</td>
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<td>Omar Shafiq Abu Siyyam</td>
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<td>Wael Abd al-Razaq al-Sa’ran</td>
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<tr>
<td>26/01/2014</td>
<td>Sa’id Salim Idris</td>
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<td>26/01/2014</td>
<td>Mohammed Hussein Amayri</td>
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<tr>
<td>26/01/2014</td>
<td>Nejma Jum’a Quwaidar</td>
<td>F (65 years)</td>
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<tr>
<td>26/01/2014</td>
<td>Raifa Mohammed Qar’aish</td>
<td>F (50 years)</td>
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<tr>
<td>26/01/2014</td>
<td>Abd al-Jalil Mohammed Khamis</td>
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<tr>
<td>26/01/2014</td>
<td>Rahma Abd Alyan</td>
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<tr>
<td>26/01/2014</td>
<td>“Abu Marwan”</td>
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<td>Sniper fire during search for food in Hajar al-Aswad area</td>
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<tr>
<td>27/01/2014</td>
<td>Salha Mahmoud Anisi (or Salha Eissa)</td>
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<td>Starvation</td>
</tr>
<tr>
<td>27/01/2014</td>
<td>Mohammed Diyab Mohammed</td>
<td>M</td>
<td>Starvation</td>
</tr>
<tr>
<td>27/01/2014</td>
<td>Mohammed Ibrahim al-Bitar</td>
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<td>Starvation</td>
</tr>
<tr>
<td>27/01/2014</td>
<td>Ahmed Aboud al-Moussa</td>
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<td>27/01/2014</td>
<td>Mohammed Sa’id Ibrahim Jarbu’a</td>
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<tr>
<td>27/01/2014</td>
<td>Sa’ida Hassan Khattab (or Sa’ida Sa’id Khattab)</td>
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<tr>
<td>27/01/2014</td>
<td>Samir Hassan Taha</td>
<td>M</td>
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</tr>
<tr>
<td>27/01/2014</td>
<td>Mohammed al-Hadi Hussein</td>
<td>M</td>
<td>Sniper fire</td>
</tr>
<tr>
<td>Date</td>
<td>Name</td>
<td>Gender</td>
<td>Age</td>
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<tr>
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<tr>
<td>28/01/2014</td>
<td>Hassan Mahmoud</td>
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<td>Starvation</td>
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<tr>
<td>28/01/2014</td>
<td>Fadi Mohammed Shehadah</td>
<td>M (30 years)</td>
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<tr>
<td>28/01/2014</td>
<td>Rahaf Jabli</td>
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<tr>
<td>28/01/2014</td>
<td>Alaa Jum’a Farhan</td>
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<tr>
<td>28/01/2014</td>
<td>Laila Khaled Da’dou</td>
<td>F (4 months)</td>
<td>Lack of medical care (lack of milk)</td>
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<tr>
<td>28/01/2014</td>
<td>Issam Mahmoud Qadoura</td>
<td>M (60 years)</td>
<td>Starvation</td>
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<tr>
<td>29/01/2014</td>
<td>Abd Mahfouz al-Naji</td>
<td>M (42 years)</td>
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<tr>
<td>29/01/2014</td>
<td>Ezzat al-Tab’a’a</td>
<td>M (60 years)</td>
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<tr>
<td>29/01/2014</td>
<td>Razan Khaled Awad</td>
<td>F (child)</td>
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<td>30/01/2014</td>
<td>Nahar Mohammed Shetewi</td>
<td>F (84 years)</td>
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<td>Wassim Zaghmout</td>
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<tr>
<td>31/01/2014</td>
<td>Rawan Riyad Taleb</td>
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<td>Hamda Sa’id Shetewi</td>
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<td>Amouna Eissa Sa’oud</td>
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<tr>
<td>01/02/2014</td>
<td>Ahmed Ata al-Saleh</td>
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<td>Omar Abu Heit</td>
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<td>Starvation</td>
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<td>02/02/2014</td>
<td>Mahmoud al-Sa’di</td>
<td>M</td>
<td>Trampled while waiting for his food parcel</td>
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<td>03/02/2014</td>
<td>Darar Omar Ghubari</td>
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<td>Ahmed Moussa (“Abu Eissa”)</td>
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<tr>
<td>Date</td>
<td>Name</td>
<td>Gender</td>
<td>Age</td>
</tr>
<tr>
<td>------------</td>
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<td>Mohammed Ahmed Qassem</td>
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<td>14 days</td>
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<td>03/02/2014</td>
<td>Hussein Sayel Fares</td>
<td>M</td>
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<td>04/02/2014</td>
<td>Fatima Ali Abwaini</td>
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<tr>
<td>04/02/2014</td>
<td>Jenny Khaled Hasram</td>
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<tr>
<td>04/02/2014</td>
<td>Bassem Khaled Abdullah</td>
<td>M</td>
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<tr>
<td>07/02/2014</td>
<td>Islam Ahmed Shahin</td>
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<tr>
<td>08/02/2014</td>
<td>Harbiya Ali Halawaniya</td>
<td>F</td>
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<tr>
<td>08/02/2014</td>
<td>Mohammed Ahmed Samed</td>
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<tr>
<td>08/02/2014</td>
<td>Zuhair Omar al-Wazir</td>
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<tr>
<td>08/02/2014</td>
<td>Ibrahim Mohammed Dabdoub</td>
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<tr>
<td>08/02/2014</td>
<td>Khalil Qassem Amairi</td>
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<tr>
<td>08/02/2014</td>
<td>Jum'a Munir Khaled</td>
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<tr>
<td>09/02/2014</td>
<td>Ahmed Jum'a Khan</td>
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<tr>
<td>10/02/2014</td>
<td>Muayad Mohammed Darwish</td>
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<td>10/02/2014</td>
<td>&quot;Abu al-Kheir&quot;</td>
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<td>11/02/2014</td>
<td>Talal Awad</td>
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<td>45 years</td>
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<td>Mohammed Fouad Mohammed</td>
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<td>15/02/2014</td>
<td>Mohammed Mahmoud Bani al-Merja</td>
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<td>Sou'ad Hassan Falyoun</td>
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<td>Date</td>
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<td>Hamad Saleh al-Abtah</td>
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<td>Raghd Mohammed al-Masri</td>
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<td>Mohammed Hussein Zaghmout</td>
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<tr>
<td>19/02/2014</td>
<td>Ahmed Mansour Mansour al-Masri</td>
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<td>(64 years)</td>
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<tr>
<td>19/02/2014</td>
<td>Mahmoud Hussein</td>
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<td>(70 years)</td>
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<td>20/02/2014</td>
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<td>(43 years)</td>
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</table>
ENDNOTES

2 Most estimates as of late February 2014 lie between 17,000 and 20,000 people remaining in Yarmouk. For example, see UN OCHCR, Living under siege, February 2014 available at http://www.ohchr.org/Documents/Countries/SY/LivingUnderSiege.pdf
4 The PFLP-GC is a Palestinian armed group that was formed in 1968 by Ahmed Jibril as a breakaway from the Popular Front for the Liberation of Palestine (PFLP). Based in Syria, it has been closely allied with and dependent upon the Syrian government throughout its existence. It carried out a number of attacks targeting Israel in the 1970s and 1980s.
6 Statement by Palestinian Centre for Human Rights-Syria (PCHR-S), 17 December 2012; VDC, Forgotten under siege: A special report on the siege of Yarmouk Camp in Damascus and Mo‘ademieh City in Damascus Suburbs, September 2013, p. 5, available at http://www.vdc-sy.info/index.php/en/reports/1379660373#.UwyIOvl_tIU, and communication with displaced residents and human rights activists on 26 and 27 February 2014. One human rights activist told Amnesty International that he estimated as many as 250 people may have been killed in the attack, all of them civilians.
10 Jabhat al-Nusra li Ahl al-Sham min Mujahidi al-Sham fi Sahat al-Jihad (Al-Nusra Front for the People of the Levant from the Levant Mujahideen in Areas of Jihad), generally known as Jabhat al-Nusra, is formally linked to al-Qa‘ida. ISIS is also widely known in English as the Islamic State in Iraq and the Levant. ISIS was also linked to al-Qa‘ida, but al-Qa‘ida’s leadership publicly distanced itself from ISIS in February 2014. For more on these armed groups and abuses committed by ISIS, see Amnesty


14 See its website, [http://group194.net/english](http://group194.net/english).


16 The barrel bomb attack appears to have been a direct attack on civilians. A PRCS-S volunteer told Amnesty International that he knew of at least two others who had died as a result of that barrel bomb attack, while a former resident and human rights activist told Amnesty International that a further seven individuals later died of their injuries. See Action Group for Palestinians of Syria, *Daily report on the situation of Palestinian refugees in Syria*, 16 January 2014 (Arabic only).


18 Al-Hayat, ‘Yarmouk issues a fatwa to allow the eating of cats’, 19 October 2012, available at [http://alhayat.com/Details/563259](http://alhayat.com/Details/563259) (in Arabic). Amnesty International has also seen videos purporting to show a man killing, skinning and eating cats, and of dog skin, assumed to be a result of the animal being killed and eaten, being pulled out of a rubbish bin. Local residents confirmed that both animals are being eaten in Yarmouk.

19 See photo posted on Twitter by the Free Syria Media Hub entitled ‘On the edge' boy tries to milk a Dog in Yarmouk to feed an infant dying of Starvation’, available at [pic.twitter.com/iNLqsQsnd](http://pic.twitter.com/iNLqsQsnd).

20 See video posted by Fajer Press on YouTube, which purports to show children shot at a green area to the south of Damascus, available at [https://www.youtube.com/watch?v=q-3bl47_81c](https://www.youtube.com/watch?v=q-3bl47_81c).

21 See photo posted on Flickr by the Palestinian Refugees News Network in Syria, available at [http://www.flickr.com/photos/117091416@N08/12478364094/lightbox](http://www.flickr.com/photos/117091416@N08/12478364094/lightbox).


25 Amnesty International spoke on multiple occasions in January and February 2014 with two PRCS-S representatives and one PRCS-S volunteer at the Palestine Hospital. It is not identifying the individual in order to protect their safety.

26 According to the medical expert, jaundice, but not its cause, can be detected in urine. There are other
causes for jaundice than hepatitis A or hepatitis E, such as poisoning, other liver diseases and malaria. However, these other causes are not contagious and unlikely to be endemic in Syria. Diagnosis of hepatitis A and hepatitis E is usually made by testing for antibodies in blood. In early stages of the disease, the virus can also be detected in stools. Therapy for such hepatitis is generally directed towards the symptoms, particularly fatigue and muscle ache.

27 See entry on VDC website, available at http://www.vdc-sy.info
29 See entry on VDC website, http://www.vdc-sy.info/index.php/ar/details/martyrs/94769#.UwzLP_mPl0k: AGPS, Khaleed was martyred: Farewell to Khaleed Bakraawi (Arabic only, no publication date given).
30 Yarmouk Camp News and other Yarmouk-connected activists shared names on social media and emails.
31 Statements from various Yarmouk-connected organizations including a PAHR-S/PLHR statement issued on 2 February 2014.
32 ICCPR Articles 2, 6, 9 and 12.
34 ICRC Customary IHL Study, Rule 1; see also Protocol I, article 48 and Protocol II, Article 12(2).
35 ICRC Customary IHL Study, Rule 156, pp.591,593,595-598. See also Rome Statute of the ICC, articles B(2)(b)(i) and (ii) and B(2)(e)(i)(iv) and (xii). See also discussion in ICRC Customary IHL Study, p.27.
36 ICRC Customary IHL Study, Rule 11; Protocol I, Article 51(4).
37 ICRC Customary IHL Study, Rule 12; Protocol I, Article 51(4)(a).
38 ICRC Customary IHL Study, Rule 14; Protocol I, Articles 51(5)(b) and 57.
42 ICRC Customary IHL Study, Rules 53-56.
44 ICRC Customary IHL Study, Rule 103.
46 Rome Statute of the International Criminal Court, Article 7.
WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, AMNESTY INTERNATIONAL CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEeks TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

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SQUEEZING THE LIFE OUT OF YARMOUK
WAR CRIMES AGAINST BESIEGED CIVILIANS

Three years after popular protests drew a brutal response from the Syrian authorities, leading to internal armed conflict, a quarter of a million civilians are living under siege in Syria – some 20,000 of them in Yarmouk. Amnesty International has obtained information about 194 individuals, all said to be civilians, who have died – mostly due to starvation and lack of medical care – since government forces tightened the siege in July 2013.

The government’s starvation of Yarmouk’s civilian population, shelling of medical facilities and detention of medical workers likely amount to war crimes. Other abuses, including enforced disappearances and torture, likely amount to crimes against humanity.

Amnesty International is calling on the Syrian government to immediately lift the siege of Yarmouk and other civilian areas, cease shelling and other indiscriminate attacks and direct attacks on civilians, and allow humanitarian organizations and agencies unfettered access. All sides should respect the role of medical workers and refrain from attacks on medical and other humanitarian workers.

amnesty.org

Index: MDE 24/008/2014
March 2014
Map of Conflict in Syria on March 2014

Map of the siege of Yarmouk

Summary

In the present report, the commission of inquiry covers the investigations conducted from 15 July 2013 to 20 January 2014. Its findings are based on 563 interviews and other collected evidence.

More than 250,000 people are besieged in the Syrian Arab Republic and subjected to relentless shelling and bombardment. They are denied humanitarian aid, food and such basic necessities as medical care, and must choose between surrender and starvation. Siege warfare is employed in a context of egregious human rights and international humanitarian law violations. The warring parties do not fear being held accountable for their acts.

The scale and geographic distribution of violations perpetrated by government forces and pro-government militia and non-State armed groups, differ among violations.

Government forces and pro-government militia continue to conduct widespread attacks on civilians, systematically committing murder, torture, rape and enforced disappearance as crimes against humanity. Government forces have committed gross violations of human rights and the war crimes of murder, hostage-taking, torture, rape and sexual violence, recruiting and using children in hostilities and targeting civilians in sniper attacks. Government forces disregarded the special protection accorded to hospitals, medical and humanitarian personnel and cultural property. Aleppo was subjected to a campaign of barrel bombing that targeted entire areas and spread terror among civilians. Government forces used incendiary weapons, causing superfluous injury and unnecessary suffering, in violation of international humanitarian law. Indiscriminate and disproportionate aerial bombardment and shelling caused large-scale arbitrary displacement. Government forces and pro-government militia perpetrated massacres.

Non-State armed groups, named in the report, committed war crimes, including

* The annexes to the present report are circulated as received, in the language of submission only.
murder, execution without due process, torture, hostage-taking, violations of international humanitarian law tantamount to enforced disappearance, rape and sexual violence, recruiting and using children in hostilities, attacking protected objects and forcibly displacing civilians. Medical and religious personnel and journalists were targeted. Armed groups besieged and indiscriminately shelled civilian neighbourhoods, in some instances spreading terror among civilians through the use of car bombings in civilian areas. In Al-Raqqah, the widespread detention of civilians and their systematic torture by identified armed groups amounted to a crime against humanity. Non-State armed groups perpetrated massacres.

Chemical weapons, specifically sarin, were found to have been used in multiple incidents during the conflict. In no incident was the commission’s evidentiary threshold met with respect to the perpetrator.

States that exert influence on the parties in the Syrian Arab Republic must act to ensure that these parties comply with the rules of international humanitarian law. The Security Council bears responsibility for allowing the warring parties to violate these rules with impunity.
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I. Introduction

1. In the present report, submitted pursuant to Human Rights Council resolution 22/24, the independent international commission of inquiry on the Syrian Arab Republic presents its findings based on investigations conducted from 15 July 2013 to 20 January 2014. The report should be read in conjunction with previous reports of the commission.

A. Challenges

2. The commission’s investigations remain curtailed by the denial of access to the Syrian Arab Republic.

3. The correspondence between the Permanent Mission of the Syrian Arab Republic and the commission is annexed to the present report (see annex I).

B. Methodology

4. The methodology employed by the commission was based on standard practices of commissions of inquiry and human rights investigations. The commission relied primarily on first-hand accounts.

5. The information contained in the present report is based on 563 interviews conducted in the region and from Geneva. Starting in September 2011, a total of 2,648 interviews were conducted by the commission. Photographs, video recordings, satellite imagery and medical records were collected and analysed. Reports from Governments and non-governmental sources, academic analyses and United Nations reports formed part of the investigation.

6. The standard of proof is met when the commission has reasonable grounds to believe that incidents occurred as described.

II. Conflict dynamics

7. The conflict in the Syrian Arab Republic has grown in intensity and scope, as warring parties renewed efforts to strengthen their negotiation positions before the Geneva II conference. Despite intermittent tactical gains by the Government, fighting reached a stalemate, costing the country and the parties’ significant human and material losses. Particularly fierce around major cities and along main lines of communication, hostilities involved more brutal tactics and means. The Government relied extensively on the superior firepower of its air force and artillery, while non-State armed groups increasingly resorted to methods of asymmetric warfare, such as suicide bombings and the use of improvised explosive devices.

8. The war has become deeply fragmented and localized, with the emergence of multiple frontlines involving different parties with shifting priorities. Primarily aimed at limited short-term agendas, these confrontations have been fuelled mostly by local operational and socioeconomic particularities rather than by the broader context of the
conflict. The hostilities in north-eastern governorates saw Kurdish forces fighting radical Islamic armed groups in a distinct subconflict, with its own front lines and internal military dynamics. In many cases, communities in central governorates brokered localized ceasefires.

9. External factors have increasingly driven the course of the conflict. While pushing for a political solution, international stakeholders continued to support the belligerents financially and logistically to influence the outcome of the conflict in line with their respective interests. Private donors and intermediaries from the region played an instrumental role in supporting specific armed groups or operation rooms with fundraising campaigns conducted through social media. Meanwhile, thousands of foreign fighters joined the hostilities, either officially in support of the Government or clandestinely in armed groups, fuelling the sectarian dimension of the conflict with their composition and narratives.

10. Sectarian rifts became more pronounced and expanded beyond the borders of the Syrian Arab Republic, threatening security and stability in neighbouring countries. The danger of further destabilization in the region is real and of serious concern.

A. Government forces and pro-government militia

11. Government forces regained several strategic areas through the use of heavy firepower, the systematic engagement of irregular forces and greater involvement of foreign forces. While maintaining most key urban centres and lines of communication under their control, they threatened armed opposition strongholds in Damascus and Aleppo. They have, however, failed to re-establish effective control of countryside previously lost to armed groups.

12. The ranks of pro-government irregular forces, both paramilitary and militia groups, and their use in direct combat operations grew. Besides the National Defence Forces, the Baath party battalions, popular committees and shabbiha groups continued to operate in their neighbourhoods while increasingly engaged in support of the military on a regular basis. The Government also benefited from the support of foreign combat units, including Hizbullah and Iraqi militia, particularly in critical operations.

13. As part of their strategy aimed at weakening the insurgents and breaking the will of their popular base, government forces besieged several localities, a strategy reinforced by prolonged shelling campaigns. Partial sieges aimed at expelling armed groups turned into tight blockades that prevented the delivery of basic supplies, including food and medicine, as part of a “starvation until submission” campaign.

B. Non-State armed groups

14. As the conflict intensified, non-State armed groups, encompassing all non-government aligned armed groups, engaged in sequential realignments and infighting. Fragmentation thwarted initiatives to bring them under a unified command with a cohesive structure and a clear strategy. Persisting ideological, political and social differences resulted in diverse and sometimes antagonistic positions.

15. Connectivity among armed groups improved across the country, leading to the establishment of permanent or temporary coordination and integration mechanisms, including coalitions and operation rooms. These realignments were based on common tactical objectives, shared ideologies, pressure from external backers or simply operational necessity. In this context, local Islamic coalitions, such as the Islamic Front, have
marginalized the non-ideological and moderate groups, partly owing to the selective financial support provided by certain Governments and their nationals.

16. To describe this complex landscape, non-State armed groups can be classified into four broad, non-exclusive umbrellas:

- Syrian moderate nationalists organised in a conglomeration of armed groups affiliated to the internationally backed Supreme Military Council, fighting the Government and calling for the formation of a democratic and pluralistic State. This also includes moderate Islamic groups and armed groups with local agendas limited to their communities’ aspirations.

- Syrian Islamic armed groups bringing together fighters aimed at the ousting of the Government and militating for the institution of sharia law as the framework of an Islamic State in the country. This category encompasses fighters from a wide Islamic ideological spectrum.

- Radical Jihadist groups, including the two major Al-Qaeda affiliates, Jabhat Al-Nusra, and the Islamic State of Iraq and Al-Sham (ISIS), recruited from Salafi jihadist fighters and with the substantial presence and influence of foreign fighters. A rift has grown between the two groups, as the former remained engaged alongside other rebel groups in fighting government forces, while ISIS prioritized the consolidation of its territorial control against all encroachments.

- Kurdish armed groups, mainly the Popular Protection Units (YPG), who have taken charge of protecting and governing territory, benefiting from a unified command, disciplined members and popular support. They reinforced their control of Kurdish regions after engaging in combat against other armed groups, in particular Al-Qaeda affiliates in Aleppo, Ar Raqqah and Al Hasakah governorates.

17. The overlap in ideological orientation and political aspirations, as well as continuous individual and collective migration among the first three groups, makes it difficult to draw linear or fixed lines of separation among these categories. Securing logistical resources, in particular funding, has become the most important driving factor of structural and operational dynamics among rebel groups. In many cases, joining an armed group or a coalition is more a matter of survival than genuine ideological engagement.

18. In this intricate context, internal strife among rebel groups from all categories has escalated over the control of territories and resources, including roads, border crossings, smuggling routes and natural resources. Recently, long-brewing tensions between ISIS and other rebel groups, including the Islamic Front, culminated in violent hostilities extending across northern and northeastern governorates.

19. A description of the current political and humanitarian context is annexed to the present report (see annex II).
III. Violations in the treatment of civilians and hors de combat fighters

A. Massacres and other unlawful killing

1. Government forces and pro-government militia

20. Government forces continue to unlawfully kill those perceived as potential enemies, including civilians and hors de combat fighters, in violation of common article 3 of the Geneva Conventions. In Damascus countryside, Government forces tightened sieges on opposition-controlled areas, adopting increasingly brutal tactics against anyone perceived as a threat. Syrian forces outside Muadamiyah and Daraya killed persons passing through checkpoints. Killings were documented at the 4th Division checkpoint near Mezzeh Airport, as well as at Summariah and Sahnaya checkpoints.

21. Bedouins, particularly the Jamlan, Harb, Abadah and Na’im tribes, were targeted because of their perceived affiliation with the armed opposition. On 29 July 2013, three Bedouin men were arrested and executed by government forces near Bley, a military airport in southern Damascus. Syrian army soldiers shot two unarmed Bedouin men while patrolling Al-Bitariyah on 7 August. In early September, three Bedouin men were shot at close range at a checkpoint between eastern Ghouta and Damascus International Airport.

22. Government forces targeted sick and wounded persons, particularly men seeking medical treatment, regarding their wounds as indicative of participation in hostilities. In mid-September, persons receiving treatment for non-life-threatening injuries in Mowasat Hospital were found dead after soldiers entered their operating rooms. One male relative who witnessed the soldiers was asked for identification and shot upon discovery of his family ties to the victims. On 24 October, Free Syrian Army (FSA) fighters were escorting a convoy of injured civilians and fighters out of Al-Nashabeya when they were ambushed. Soldiers from the 22nd Brigade approached and killed the wounded at close range.

23. During the campaign to recapture Homs governorate, government forces perpetrated unlawful killings. In mid-July, internally displaced persons in eastern Homs were routinely apprehended in Al-Furqlus and killed by soldiers of the 18th Division. On 21 July, government forces, supported by shabbiha, entered Sukhnah, eastern Homs, and conducted house raids, during which they shot eight civilians. In Houla, during Ramadan, government forces conducted house searches and arrests. Bodies of people arrested during these raids were later returned to their relatives.

24. Government forces continue to control the majority of Hama governorate. On 7 August, government forces, supported by National Defence Forces, killed a man at the checkpoint near Al-Jadeedah. In late September, shabbiha raided a house in Jalmeh, killing a defector.

2. Non-State armed groups

1. Killings that amount to the war crime of murder

25. Two 15-year-old boys, abducted near Nubul (Aleppo) on 26 June were executed on 11 August 2013 in Mayer, when demands of the ISIS Emir in Tal Rifaat and Azaz were not met. Their corpses were mutilated, almost beyond recognition. A video of the execution

3 See also annex III.
was posted on the Internet. In September, ISIS attacked the Northern Storm Brigade headquarters and prison in Jebel Barsaya, executing one prisoner.

26. Alawite farmers in Al-Ghab Valley (Hama) are routinely abducted and killed by armed groups operating from surrounding Sunni villages. Since May 2013, several farmers have been shot while cultivating their fields.

27. Non-State armed groups executed captured soldiers. After armed group fighters took control of a government military checkpoint located 2 kilometres from Maaloula (Damascus countryside) on 4 September, they captured and executed soldiers stationed there. On 7 September, fighters raided a house on Mar Sarkis Street. Fighters separated the women and elderly, then took three men outside and shot them.

28. Since July, Jabhat Al-Nusra, at times in coordination with other armed groups, carried out a series of killings of Kurdish civilians in Al Youssoufiyah, Qamishli and Al-Asadia (Al-Hasakah). During a raid by ISIS, Jabhat Al-Nusra, the Islamic Front and FSA battalions, fighters killed a Kurdish Yazidi man in Al-Asadia who refused to convert to Islam.

2. Killings amounting to the war crime of execution without due process

29. Certain armed groups, in establishing control over areas in north-eastern Syria, conducted public extrajudicial executions in violation of fair trial guarantees, violating common article 3 of the Geneva Conventions. In late August, the Northern Storm Brigade executed an unidentified man in the public square of Azaz (Aleppo).

30. The FSA-affiliated Gathering of Ahrar Nawa Battalions entered Nawa (Dara’a) in mid-September and captured three government soldiers. They were interrogated to determine whether they had been involved in “bloodshed”, then summarily executed.

31. During an attack on a government checkpoint in Jisr Al Shughur (Idlib) on 7 October, the FSA Al Sai’qa Brigade captured one soldier. The fighters sought advice on sharia law. Their contact instructed them to execute the soldier, stating that “those that surrender after being captured will be killed”.

32. In October, Ahrar Al-Sham captured an alleged car bomber in Binnish (Idlib). The man was interrogated and beaten to extort a confession, then summarily executed following a trial conducted by “defector judges”.

33. Jabhat Al-Nusra and ISIS carried out public executions in Tal Abyad (Ar Raqqah) in September. Armed groups conducted public executions to assert their presence after taking control of an area and to instill fear among the population.

B. Arbitrary arrest and unlawful detention

1. Government forces and pro-government militia

34. Government forces conducted arbitrary arrests during or immediately following ground operations. From July to September 2013, government forces conducted a campaign of arrests throughout Homs in Al-Qaryatayn, Houla, Karm Al-Zeytun and Dewayer, as well as in Sinjar (Idlib) in July, Al-Jalmeh (Hama) in November, and Beit Jin (Damascus countryside) and Kafr Shams (Dara’a) in September. Men and adolescent boys were targeted, although children, women and elderly persons were also detained.

35. Families of suspected members of armed groups, including deceased fighters, were detained with the purpose of obtaining information or as retribution. This has instilled fear among entire communities. Consequently, families from Muadamiyah (Damascus countryside) no longer publish death notices.
36. Residents of opposition-controlled areas were arrested and detained when passing through checkpoints. In July, a woman was arrested at a Damascus checkpoint because her identity card indicated her former residence as Dara’a. Such practices have curtailed the freedom of movement of civilians, in particular men and boys over 12 years.

37. Doctors and rescue workers were detained on the grounds that they assisted “terrorists” in Hama and Damascus. Human rights defenders and political activists were targeted for arrest and detained in Damascus, limiting their freedom of expression and opinion.

38. Persons were detained without a legal basis, their detention was not justified on permissible grounds and they were not accorded their right to a review of the grounds and legality of their detention. Government forces conducted arbitrary arrests and unlawful detention, in violation of international human rights law.

2. Non-State armed groups

39. Non-State armed groups arbitrarily deprived persons of their liberty, violating their obligations under international humanitarian law. Armed groups did not afford detainees an initial and periodic review of the detention by an independent entity.

40. In late July 2013, ISIS fighters arrested Kurdish civilians in Tal Abyad (Ar Raqqah) on the basis of their ethnicity. In August, a doctor was apprehended by a FSA brigade in Aleppo city because he had provided medical aid to government soldiers. In Aleppo governorate, people were arbitrarily arrested and unlawfully detained by Jabhat Al-Nusra, Ahrar Al-Sham and ISIS. Summary judgements passed by mechanisms not fulfilling the minimum standards for due process guarantees sometimes formed the basis for imprisonment.

C. Hostage-taking

41. Warring parties engaged in hostage-taking, in violation of international humanitarian and criminal law. There has been a rise in incidents perpetrated by non-State armed groups, in particular by ISIS.

42. Belligerents, motivated by financial gain or to exchange prisoners held by opposing forces, abducted individuals. In some instances, criminal gangs used the conflict as an opportunity for self-enrichment. As abductions accelerated, civilians fled their homes, seeking safety. Some families restricted women and girls to their homes, limiting their freedom of movement and their access to education.

1. Government forces and pro-government militia

43. Government forces, National Defence Forces, popular committees and shabiha groups took hostages for ransom in Latakia and Tartus governorates. Al Mashta checkpoint in Tartus is notorious.

44. In Beit Jin and Saesae (Damascus countryside), Syrian intelligence services abducted women and children at checkpoints to exchange for soldiers held by armed groups.

2. Non-State armed groups

45. On 25 June 2013, two teenage boys were kidnapped outside of Nubul and Zahra, Shia enclaves in northern Aleppo governorate. When a prisoner exchange failed, the boys were executed. On 23 and 24 September, two convoys of 60 women and children were abducted by Jamaat Al-Husba after leaving Nubul and Zahra. In Latakia, following an
attack by armed groups on eastern Alawite villages, 120 women and children were taken hostage and are being held, reportedly by Ahrar Al-Sham.

46. On 21 July, during an ISIS attack on Tal Abyad (Ar Raqqah), several hundred Kurdish men were taken hostage to effect a prisoner exchange for a captured ISIS commander. In July and August, Kurdish civilians were kidnapped for ransom by Jabhat Al-Nusra, in locations stretching from Qamishli to Al-Malikiyah.

D. Enforced disappearance

1. Government forces and pro-government militia

47. In a conference room paper, the commission examined the occurrence of enforced disappearances in the Syrian Arab Republic between March 2011 and November 2013 (see annex IV). Reports of disappearances continue to be received. In September 2013, a 70-year-old man was arrested by intelligence agents at the Nahar Aisha checkpoint (Damascus). His whereabouts remain unknown.

48. Syrian authorities systematically refuse to acknowledge the deprivation of liberty or to notify the families of the fate or whereabouts of their relatives. Families are often afraid to approach the authorities. Means of obtaining information include former detainees and corrupt officials.

49. Enforced disappearance is committed as part of a widespread attack against the civilian population and constitutes a crime against humanity.

2. Non-State armed groups

50. ISIS is adopting practices that may lead to acts tantamount to enforced disappearance, in breach of their obligations under international humanitarian law. In August 2013, an activist disappeared in Ar Raqqah; a fellow detainee indicated that he was being held by ISIS, which denied this. On 9 December, three activists were seized in Dumah (Damascus). Currently listed as missing, their whereabouts and the identity of those holding them remain unknown.

E. Torture and ill-treatment

1. Government forces and pro-government militia

51. Torture and other forms of ill-treatment by government forces and pro-government militia continue to be perpetrated extensively at detention facilities, by intelligence agencies, at checkpoints around besieged areas, during house raids, as a means to extract information and to punish and inflict terror on the population.

52. Torture and ill-treatment are routinely committed in official detention facilities (see annex V), in particular intelligence agencies such as the Political Security Branch in Aleppo, the Military Intelligence Branch 227 and Military Intelligence Branch 215, the Mezzeh Airforce Intelligence facility, the Qaboun Military Police Branch and Sednaya Prison in Damascus, the Gharez Central Prison in Dara’a and the Military Intelligence Branch in Homs. Methods of torture, including severe beatings about the head and body, prolonged hanging by the arms and sexual torture continue, as previously documented by the commission. Victims showed physical injuries consistent with a pattern of torture.

53. Abuses were also widely reported at checkpoints surrounding besieged areas, around Al-Ghouta in September, as well as the checkpoints around Kafr Shams (Dara’a) until September. The use of torture and ill-treatment is part of the siege strategy, employed in order to contain the local population.
54. Beatings and ill-treatment were perpetrated during house raids in Homs in September and Dara’a in July and October 2013.

55. Conditions of detention were characterized by a lack of food, water, space, sleep, hygiene and medical care. Such conditions led to the death of detainees. One interlocutor stated that a detained family member had requested only one visit every six months, because he was beaten after visits and his health had greatly deteriorated after each visit. With inadequate sanitary facilities and no medical care, detainees frequently fell ill. In July, a detainee shouting in agony asking the prison guards to take him to a toilet was beaten to death in front of other detainees. Conditions of detention constitute cruel, inhuman or degrading treatment or punishment.

56. Government forces and militia perpetrated torture and other forms of cruel, inhuman or degrading treatment or punishment as part of a widespread attack directed against a civilian population, indicating the existence of an organizational policy. Widespread recourse to torture denotes a systematic attack on the civilian population. Torture and other inhumane acts as crimes against humanity, as well as war crimes, were committed by government forces and militia.

2. Non-State armed groups

57. Areas of Aleppo under the control of non-State armed groups were the scene of incidents of torture and ill-treatment by groups such as the Saddam Hussein Battalion of the Al-Tawheed Brigade, the Northern Storm Brigade and the Coalition of Al-Kifaa’ Brigades. Civilians were targeted by the Sharia Board, employing harsh interrogation techniques and beatings during arbitrary detention.

58. In Damascus, civilians were detained and tortured in August 2013 for their religion alone. Hostages taken by non-State armed groups reported being subjected to physical and psychological torture. In Idlib, journalists have been targeted, detained and tortured since July by armed groups. In Tal Abyad (Ar Raqqah), in late July, Kurds were beaten and electrocuted by ISIS and Jabhat-al-Nusra, Ahrar Al-Sham and Shahid Walid Al-Sukhni Battalion at their headquarters. An interlocutor noted that, in Ar Raqqah, “every Islamist armed group has its own detention facility where civilians are routinely detained and tortured”. Beatings and harsh and humiliating treatment occurred at checkpoints manned by armed groups in Damascus in August 2013, in Ar Raqqah after July and in Al-Hasakah.

59. Non-State armed groups throughout the Syrian Arab Republic inflicted severe physical or mental pain or suffering on civilian populations in areas under their control, during apprehension and/or detention. The increase in such patterns, particularly in the context of events in Ar Raqqah, constitutes an emerging widespread and systematic attack on the civilian population.

60. The rise in torture and the inhumane treatment of the civilian population in areas controlled by ISIS and affiliated groups provide reasonable grounds to believe that such groups promote the widespread and systematic attack on the civilian population.

61. The acts committed by non-State armed groups identified above in areas under their control against the civilian population constitute torture and inhuman treatment as a war crime and, in the context of Ar Raqqah, as a crime against humanity.

F. Sexual and gender-based violence

62. Sexual and gender-based violence persists in the conflict. Reporting remains a challenge for the reasons identified by the commission in previous reports.
1. **Government forces and pro-government militia**

   63. In November 2013, in Damascus Military Intelligence Branch 215, a woman underwent an intimate body search by a male commander before being tortured and sexually assaulted. In December, she was transferred to Military Intelligence in Homs where she was tortured and orally raped.

   64. In 2012, in an intelligence branch in Hama, five women were tortured daily, including by electrocution, for more than a month. During the same period, two women were raped by officers in command for 15 consecutive days. In August 2013, a woman was stripped and exposed at a checkpoint near Al-Jadeedah before being taken to the Hama branch, where she was raped. In December 2013, an 18-year-old girl was tortured and repeatedly raped.

   65. Sexual torture, including the tying of genitals, has been systematically perpetrated against men and boys in custody in Damascus, Homs and Aleppo. In November 2012, a man was raped in Al Khatib security branch, Damascus. In January 2013, at the Homs Security Branch, security agents beat and electrocuted the genitals of a 17-year-old boy and raped him while others watched.

   66. Rape and sexual assaults targeting women and girls occurred at checkpoints in Damascus, Latakia, Dara’a, Homs and Aleppo. In January 2013, a 17-year-old girl was gang raped at a government checkpoint in Damascus countryside. In February 2013, a 28-year-old woman was taken off a bus by government militia in Latakia and gang raped.

   67. Men were tortured and raped on the grounds of their sexual orientation at government checkpoints in Damascus. In 2011, six homosexual men were beaten viciously with electric cables by security agents and threatened with rape. In October 2012, a man was stopped by security because his partner’s brother was a member of the FSA. The man was taken to a rural area, where cigarettes were stubbed on his body and he was gang raped.

   68. Government forces are conducting a sniper campaign in Bustan Al-Qasr (Aleppo). On one day alone in October, doctors treated five men shot in the groin. The same month, six pregnant women were shot in the abdomen.

   69. Rape, sexual torture and sexual violence were perpetrated by government forces and militia against men, women and children. This conduct was committed as part of a widespread attack, where civilians were targeted for detention and systematically subjected to multiple violations. These acts constitute crimes against humanity, war crimes and violations of international human rights law.

2. **Non-State armed groups**

   70. In 2012, a Kurdish woman from Afrin was kidnapped, held in solitary confinement and raped by the Northern Storm Brigade in Azaz (Aleppo). In June 2013, a woman was tortured and threatened with rape in Ar Raqqah city for “disrespecting” the Sharia Council. In October 2013, a 26-year-old man was detained on the grounds of his sexual orientation. He was beaten and hung by his arms from a ceiling by ISIS in Ar Raqqah. On 31 October, a school headmistress was publicly lashed by ISIS in Ar Raqqah for not wearing a hijab.

   71. Rape, sexual torture and sexual violence perpetrated by non-State armed groups are in violation of common article 3 of the Geneva Conventions and constitute war crimes.
G. Violations of children’s rights

1. Government forces and pro-government militia

72. Pro-government militia armed and used children from the age of 13 at checkpoints in Aleppo, Dara’a and Tartus. In October 2013, in Ataman (Dara’a), children from the age of 14 were armed and trained by popular committees.

73. Government sieges resulted in the severe malnutrition of young children in Daraya, Muadamiyah and Yarmouk (Damascus).

74. Children, particularly adolescent boys, were arrested at checkpoints controlled by government forces and pro-government militia in Aleppo, Damascus and Dara’a. Girls reported sexual violence and harassment at checkpoints.

75. Children were detained with adults and subjected to torture inside the Aleppo Political Security Branch and the Military Security Branch detention facilities in Damascus. A 15-year-old boy, who spent three months in detention until late July, was subjected to daily torture. Scars, including cigarette burns, were visible on his body. He demonstrated marked signs of post-traumatic stress.

76. In Aleppo, children were the subject of deliberate targeting by snipers. A doctor reported that, in October 2013, at least one child was injured daily by a sniper, and cited a case of an 8-year-old boy killed while carrying bread.

77. Children have been killed, injured and suffered permanent disabilities through indiscriminate shelling and aerial bombardment by government forces. Starting in July, a dozen schools were shelled, leading to the death and wounding of children in Aleppo, Ar Raqqah, Damascus, Dara’a, Dayr az Zawr, Homs and Idlib governorates.

78. Government forces and militia perpetrated acts that constitute war crimes, including torture of children in detention and the recruitment and use of children. Use of children by pro-government militia violates the commitment of the Syrian Arab Republic to the Optional Protocol to the Convention on the Rights of the Child. Denial of food and medical care during sieges is in violation of international human rights and humanitarian law obligations. Children’s right to education has been denied through indiscriminate attacks on schools.

2. Non-State armed groups

79. Children were recruited and used by Ahrar al-Sham, several FSA affiliated groups, Jabhat al-Nusra and ISIS. In late 2013, children were observed in combat roles with FSA-affiliated groups in Tamoura (Aleppo), with Jabhat Al-Nusra in Al-Hasakah, and with ISIS in Ar Raqqah and Aleppo. Children were wounded during active combat.

80. Armed groups assigned child recruits from the age of 12 to 14 years to checkpoints and used children to load ammunition. In 2013, minors were seen at ISIS checkpoints in Ar Raqqah and at Saddam Hussein Battalion checkpoints in Aleppo. Children received weapons training by Jabhat Al-Nusra in Tal Rifat (Aleppo) in July 2013. ISIS used a school in Al Bab (Aleppo) as a military training camp for boys in September 2013.

81. Underage YPG fighters were seen in Qamishli (Al-Hasakah) and in Ayn Al-Arab (Ar Raqqah) in July and August 2013. In a letter dated 30 September 2013 addressed to the commission, the YPG stated its policy not to use children under 18. An order issued on 14 December from its central command to YPG commanders echoed these guidelines. Adherence to this policy continues to be monitored.
82. Children have been detained and tortured by some armed groups. A 14-year-old boy stated that he had been tortured by Ahrar Al-Sham in Ar Raqqah in July in an attempt to extract information about his uncle.

83. Children have been killed in indiscriminate shelling by armed groups. On 5 October, a 13-year-old boy and his friend were killed by a mortar attack while in their schoolyard in Nubul (Aleppo). On 31 October, a mortar attack on a school in Damascus killed a girl.

84. Non-State armed groups have perpetrated the war crime of enlisting and using children below the age of 15 to participate actively in hostilities, and have recruited and used children under the age of 18 years in hostilities contrary to the Optional Protocol to the Convention on the Rights of the Child. They also committed the war crime of torture on children. Children’s right to education has been denied by the use of schools as military bases and training camps.

IV. Violations concerning the conduct of hostilities

A. Unlawful attacks

85. Indiscriminate and disproportionate attacks – predominantly shelling and aerial bombardments – caused mass civilian death and injuries. Unlawful attacks continue to be the primary reason for internal displacement and refugee flows.

1. Government forces and pro-government militia

(a) Shelling and aerial bombardment

86. Across the country, the Government shelled civilian areas with artillery, mortars and tank fire. In some areas, aerial bombardment by helicopters and jet fighters was a daily occurrence. There was a marked increase in the use of highly imprecise and lethal barrel bombs dropped into urban areas from helicopters at high altitudes. The use of barrel bombs in this manner is indiscriminate (see annex VI).

87. Government forces fiercely bombarded contested civilian-inhabited areas of strategic importance. Aleppo, Damascus, Dara’a, Idlib and Ar Raqqah governorates came under sustained attack.

88. Attacks were not directed at distinct military objectives. In areas where armed group fighters were present, government forces treated clearly distinct military objectives located in densely populated areas as a single target. Area bombardment spreads terror among the civilian population and is prohibited under international humanitarian law. Government forces did not issue warnings prior to attack.

89. Aleppo governorate was the subject of intense indiscriminate attack. Aleppo city suffered bombardments throughout the period under review, culminating in an ongoing campaign of barrel bombing, which caused hundreds of civilian deaths and injuries, including the loss of limbs. Government forces fired mortars and missiles in Azaz in July. In August, dozens of civilians, including women and children, were killed by missiles fired by government jets. On 26 August, civilians, predominantly children, were killed in an incendiary bomb attack on a school in Urem Al-Koubra. September and October saw concentrated aerial bombardments, including missiles and barrel bombs, on Minbij, Al-Safirah and Tal Hasel. The camp for displaced persons near Al-Safirah was attacked with barrel bombs in early October, causing many civilian deaths. Between November 2013 and January 2014, towns in Aleppo, including Abu Taltal and Maarat Al-Arteeq, were hit by
missiles and artillery shelling. In December, Mayer village was indiscriminately shelled from army positions in Nubul and Zahra.

90. Towns and villages in Damascus governorate came under incessant attack. Between mid-September and mid-October, Al-Ghouta suffered intense, often daily, aerial bombardment, which had a devastating impact on the densely populated area. Muadamiyah and Daraya, also under siege, were shelled and bombarded. Qaboun, Dumayr, Beit Jin and Zabadani were also unlawfully attacked. In the Qalamoun region, indiscriminate attacks by Government forces during November and December forced more than 4,000 families to flee.

91. Government forces repeatedly fired shells and missiles on the Tariq Al-Saad and Saharra neighbourhoods of Dara’a city. In July and August, indiscriminate attacks – usually shelling from nearby army positions – were documented in Nawa, Alma, Naseeb, Dael, Inkhel and Yadoudeh in Dara’a governorate.

92. Attacks on villages and towns in Idlib governorate are too numerous to detail. The region of Jabal Al-Zawiya and, in particular, the towns of Saraqib, Kafr Nabl and Maarat Al-Numan, came under intense aerial bombardment between July and October, including by barrel bombs. On 21 July, a market in Ariha was bombarded, resulting in mass civilian casualties. Ariha was heavily attacked between 24 August and 3 September. In both attacks, there were significant civilian casualties.

93. Ar Raqqah city came under aerial bombardment, including the use of barrel bombs, in July. On 29 September, a jet bombarded a school, killing 16 people, 13 of whom were children.

94. Shelling and aerial bombardments were also documented in Homs, Hama, Al-Hasakah and Dayr az Zawr governorates.

95. Government forces launched indiscriminate and disproportionate attacks in violation of international humanitarian law.

96. Government forces continued to position military objectives inside towns and villages, including Nubul and Zahra (Aleppo), thereby endangering the civilian population and violating international legal obligations.

(b) Sniper attacks

97. In Aleppo city, warring parties demarcated areas under their control, positioning snipers overlooking the front lines. Bustan Al-Qasr remained as the sole passage between government-controlled and non-State armed group-controlled areas of Aleppo city. Government snipers positioned on Aleppo City Hall, a high-rise building providing an vantage point, target, maim and kill civilians crossing Bustan Al-Qasr.

98. Doctors in hospitals in opposition-controlled Aleppo described having treated an unusually high number of sniper injuries since June 2013. Most victims were civilians coming from areas affected by shortages, crossing Bustan Al-Qasr to have access to cheaper goods. Victims were of all ages, including children, the elderly and pregnant women. One doctor stated that civilians were being used “for target practice”. A surgeon operating in another hospital confirmed this practice, explaining that, on certain days, he saw a clear pattern to sniper injuries. Most victims had a single wound from a high-velocity gunshot, causing “enormous amounts of damage” and heavy bleeding. Maimed, the victims were often left to bleed in the street, as anyone who approached to help would be shot.

99. Sniper attacks targeting civilians were also documented in Yarmouk and Dara’a Al Balad (Dara’a).
2. Non-State armed groups

(a) Shelling

100. Armed groups continued to shell Nubul and Zahra (Aleppo) using artillery and home-made rockets. In mortar attacks in September and October, young children were killed and wounded. Kurdish civilian populations in Qamishli, Qiro, Ras Al-Ayn and Al-Malikiyah (Al-Hasakah) were shelled.

101. Armed groups based in Al Mlihah, Beit Saham and Ein Tarma in eastern Damascus countryside launched home-made rockets and artillery shells into government-controlled areas, notably Jaramana and Mezzeh neighbourhoods, causing civilian deaths. In Bab Tuma, on 11 November, a mortar hit a school bus, killing five children.

102. Non-State armed groups used mortars, artillery shells and home-made rockets in a manner that made no distinction between civilian and military objectives, thereby committing unlawful attacks.

103. While instances were recorded of armed fighters positioned on the outskirts of towns away from civilian populations, most fighters, including those in Aleppo and Ar Raqqah cities, were based among civilians, exposing them to attack and violating international legal obligations to avoid positioning military objectives within or near densely populated areas.

(b) Car and suicide bombings

104. Armed groups exploded car and suicide bombs in Al-Hasakah, Ar Raqqah, Homs, Aleppo and Damascus governorates during the period under review. The use of improvised explosive devices was also documented in Homs.

105. On 15 August, ISIS exploded a bomb at a train station in Ar Raqqah, near the headquarters of the Ahfad Al-Rasoul Brigades. On 4 November, a suicide bombing targeted a Hizballah office in Al-Tabiytiya (Homs). These attacks, while directed at military objectives, resulted in a loss of civilian life and injury to civilians, which was disproportionate in relation to the military advantage anticipated.

106. On 19 September, armed groups remotely detonated landmines placed along a bypass road between Jabourin and Homs city. Three civilian vehicles were hit and nine civilians killed. On 26 November, armed groups exploded a bomb in Al-Sumariyah main station (Damascus), killing dozens of civilians. These three attacks appeared designed to target civilians, a war crime. Such attacks, the primary purpose of which is to spread terror among civilians, are prohibited under international humanitarian law.

B. Specifically protected persons and objects

1. Hospitals and health-care personnel

(a) Government forces and pro-government militia

107. Government forces continue to destroy hospitals and medical units and to target medical personnel (see also annex VII). During the period under review, attacks were documented in Aleppo, Damascus, Dara’a and Homs governorates. Sick and wounded civilians and hors de combat fighters were also prevented from having access to medical treatment.

108. In Damascus, hospitals in eastern Ghouta were shelled. During a ground invasion in July, forces destroyed a field hospital in Al-Zemaniyah. After the attack on Al-Ghouta on 21 August, shells landed near Al-Fatih hospital, which was treating victims of the chemical
attack, forcing the hospital to discharge its patients. In early November, the army attacked Al-Rajaa hospital in Irbeen, where armed group fighters were being treated. On 3 November, the airforce bombarded a field hospital in Beit Jin.

109. Hospitals in Aleppo city and Al Bab came under sustained shelling and aerial bombardments. In July 2013, Jaban hospital in Aleppo city was destroyed. On 11 September, a jet fired a missile at Al Bab field hospital, killing 15 people, including a doctor, four paramedics and eight patients, and injuring many others. The hospital had moved its location three times owing to shelling attacks.

110. In August, a field hospital in Naseeb (Dara’a) was shelled. In October 2013, government forces fired rockets on Al-Qaryatayn hospital (Homs), resulting in 30 casualties and more than 100 wounded.

111. Medical personnel were targeted and killed while performing their duties. Snipers regularly shot at ambulances in Aleppo city in September and October. In August, a sniper shot and killed a nurse in Al-Hilal hospital, Aleppo. Medical staff suspected of treating or providing medical supplies to the opposition were detained and tortured, as in the case of Dr. Abbas Khan, who died in government detention on 17 December.

112. Government forces blocked medical supplies and equipment from besieged areas. People seeking medical treatment have been arrested or turned back at checkpoints.

113. In attacks on hospitals, medical units and health-care personnel, the Government violated binding international humanitarian law to care for the sick and wounded and committed the war crime of attacking protected objects. As hospitals have been destroyed, and medical personnel killed, detained or fled, the health-care infrastructure has been severely weakened, with disastrous consequences for the civilian population.

(b) Non-State armed groups

114. During the attack on Sadad (Homs) from 21 to 28 October, armed groups looted the hospital, rendering it dysfunctional. On 11 November, a car bomb was remotely detonated outside a Kurdish Red Crescent clinic in Ayn Al-Arab (Ar Raqqah). In an attack on Deir Atiyah (Damascus), on 19 November, a suicide bomber exploded in the hospital lobby, while other fighters executed nine medical personnel. On 16 August, an armed group targeted a Kurdish Red Crescent ambulance in Ras Al-Ayn (Al-Hasakah). After attempting to destroy it with an improvised explosive device, fighters fired on the ambulance, killing its driver and a nurse. In its attacks on hospitals, medical units and health-care personnel, armed groups have violated international humanitarian law and committed the war crime of attacking protected objects.

115. During an attack on Tal Hasel (Aleppo) on 28 and 29 July, armed groups positioned snipers around its medical centre. Placing military objectives in hospitals constitutes a failure to take all feasible precautions to protect civilians from the effects of attack. Such acts also contravene the fundamental obligation to respect and protect medical units.

(c) Religious personnel and cultural property

(i) Government forces and pro-government militia

116. Government forces placed military objectives in and around objects of great cultural significance. Satellite imagery showed military posts being constructed in the pre-Roman city of Palmyra (Homs). Such posts incorporate ancient structures or were built on their remains. The Government, in building and positioning military objectives in and around Palmyra, has breached its obligations to respect and protect cultural property under the Convention for the Protection of Cultural Property in the Event of Armed Conflict.
(ii) *Non-State armed groups*

117. There was a dramatic increase in attacks on religious personnel and buildings by non-State armed groups. Such attacks directly threaten freedom of religion.

118. On 28 July, Father Dall’Oglio was abducted in Ar Raqqah city by ISIS; his fate remains unknown. On 4 August, an Alawite Imam was executed during an attack on villages in eastern Latakia. On 2 December, nuns were moved from the Martar Monastery and Church in Maaloula to Yabroud by an armed group. While this move appeared initially intended to remove them from the area of active fighting, the nuns remain in Yabroud with conditions imposed for their release. The Syriac Orthodox and Greek Orthodox Archbishops, Yohanna Ibrahim and Paul Yazigi, remain detained following their abduction in Aleppo in April.

119. On 4 September, armed groups clashed with government forces in Maaloula (Damascus). Churches were looted and destroyed. The historic churches of Mar Sarkia and Barhos were used as bases for military operations. In October, ISIS damaged the Church of Saidaat Al-Bishara in Ar Raqqah and established their headquarters there. During the attack from 21 to 28 October on Sadad (Homs), armed groups desecrated Christian churches. On 16 and 17 November, during fighting in Qara (Damascus), the Mar Michael church was damaged. As government forces retook Qara, armed groups positioned weaponry near Christian churches.

120. Armed groups wilfully damaged and destroyed property of great significance to the cultural heritage of the Syrian Arab Republic, in contravention of international humanitarian law.

121. During an attack on Tal Hasel and Tal Aran (Aleppo) on 28 and 29 July, ISIS-affiliated armed groups positioned snipers in mosque minarets, exposing the building to lawful attack.

(d) *Journalists*

122. In 2013, 28 journalists were killed in the Syrian Arab Republic, making it the world’s deadliest country for media workers.

(i) *Non-State armed groups*

123. Journalists in Aleppo and Ar Raqqah governorates received direct threats to their safety from ISIS.

124. On 4 December, Yasser Al-Jumaili, a veteran freelance cameraman from Iraq was executed in Idlib. In his last conversation with Al Jazeera, he stated he was being held by ISIS.

125. On 31 December 2012, a foreign reporter was held by Jabhat Al-Nusra and other armed groups in Aleppo. He was ill-treated in various clandestine detention centres until he managed to escape in late July 2013. On 8 April, two foreign journalists were detained in Al Qusayr (Homs) by a group affiliated to the Al-Farouk Brigade and repeatedly tortured until their release in September. On 24 July, ISIS fighters attacked a media centre in Saraqib (Idlib), assaulting its staff and kidnapping a foreign journalist, who reportedly escaped in October and left the country.

126. In continued attacks on journalists, armed groups, notably ISIS, violated international humanitarian law. Such attacks also constitute a direct threat to the right of freedom of expression.
C. Use of illegal weapons

1. Chemical weapons

127. In its report, the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic confirmed that chemical weapons, specifically sarin, had been used in multiple incidents during the conflict. The commission independently collected information, confirming this finding in the case of Al-Ghouta (21 August), Khan Al-Assal (19 March) and Saraqib (29 April).

128. In Al-Ghouta, significant quantities of sarin were used in a well-planned indiscriminate attack targeting civilian-inhabited areas, causing mass casualties. The evidence available concerning the nature, quality and quantity of the agents used on 21 August indicated that the perpetrators likely had access to the chemical weapons stockpile of the Syrian military, as well as the expertise and equipment necessary to manipulate safely large amount of chemical agents. Concerning the incident in Khan Al-Assal on 19 March, the chemical agents used in that attack bore the same unique hallmarks as those used in Al-Ghouta.

129. Other allegations of chemical weapons use investigated displayed markedly different circumstances and took place on a significantly smaller scale. In no incident was the commission’s evidentiary threshold met with regard to the perpetrator.

2. Incendiary weapons

130. On 26 August, an army fighter jet dropped two incendiary bombs on the town of Urem Al-Koubra (Aleppo), one of which landed on a school. The bomb created “a ball of fire” that killed 10 civilians and severely injured dozens of others, mostly children and teenagers. While it remains unclear what flammable material was used, the bomb caused napalm-like effects. Victims, some of whom did not survive, were disfigured, with second- and third-degree burns on up to 80 per cent of their bodies, and suffered extreme pain.

131. By using incendiary bombs in the Urem Al-Koubra school incident, the Government violated rules of international humanitarian law prohibiting the use of weapons that cause superfluous injury, unnecessary suffering or that are indiscriminate by nature.

D. Sieges and economic, social and cultural rights

1. Government forces and pro-government militia

132. The Government employs siege warfare, instrumentalizing basic human needs for water, food, shelter and medical care, as part of its military strategy. Sieges have been imposed on towns across the Syrian Arab Republic. Besieged areas have been relentlessly shelled and bombarded. Government forces have restricted the distribution of humanitarian aid, including surgical supplies, on the grounds that they can be used to treat injured combatants. Such tactics are in direct breach of binding international humanitarian law obligations to ensure that wounded and sick persons are collected and cared for, and to ensure the rapid and unimpeded passage of humanitarian relief. The denial of humanitarian, including food aid, has been protracted in many areas, leading to malnutrition and starvation. The use of starvation of the civilian population as a method of warfare is prohibited. Such acts also violate core obligations under the right to adequate food and the right to the highest attainable standard of health.

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133. As at January 2014, 160,000 people were besieged in the towns of Dumah, Arbin, Zamalka, Kafr Batna, Harasta, Jisreen, Saqba and Al-Milha in eastern Ghouta (Damascus countryside). The denial of food as a military strategy in this agricultural area began during July and August 2013, when crops and farms were shelled and burned. As the siege was tightened, government forces blocked access roads and systematically confiscated food, fuel and medicine at checkpoints. A woman, who fled in mid-September and had not eaten meat or fresh vegetables for more than a year, reported how soldiers at checkpoints would harass anyone caught carrying food and destroy it on suspicion that they were “aligned with the opposition”. In October, soldiers at the Al-Milha “Tamico” checkpoint detained a woman because she was carrying bread hidden under her clothes. Also in October, a woman attempting to bring in food for her family was harassed by security officers at a checkpoint near Douma and told, “you people will be looking for food like dogs”. Snipers targeted persons who attempted to leave or enter eastern Ghouta without passing through checkpoints.

134. By early October, residents relied on bulgur wheat, rice and tree leaves as substitutes for vegetables to survive. To date, water is available sporadically and in insufficient quantities. The Government has repeatedly refused to approve the delivery of surgical supplies in humanitarian shipments. This deliberate obstruction of medical supplies has led to harrowing conditions for the sick and wounded. One injured man described how doctors used material from flour sacks for bandages for patients. Government checkpoints prevented those in need from leaving eastern Ghouta to seek medical treatment. Both those needing emergency treatment and with chronic medical conditions were denied medical access, resulting in deaths.

(a) Muadamiyah

135. Prior to the military truce in December 2013, 12,000 people were trapped inside Muadamiyah. The area was besieged from the east and the north by the 4th Division stationed near Mezzeh Airport, and from the south and west by the Presidential Guard near Jdayet Artuz. Once routes from Dara’a to Muadamiyah were blocked on 20 April, food supplies were cut off, leading to gradual malnutrition and starvation. Residents described surviving off olives, tree leaves, wild grass and herbs once bulgur wheat and rice supplied had run out. The water supply was cut off for weeks at a time. A resident of Muadamiyah described the humiliation and agony of starvation, explaining that, when her three-year-old son was killed in late May, “my child died hungry”.

136. Children suffering from illnesses and shrapnel injuries had no access to food or medication, resulting in their premature death. Many health-care personnel, including most midwives, have fled. Owing to lack of food, nursing mothers were unable to feed their newborns, leading to malnutrition and at least one death. Government forces had sealed the area and positioned snipers targeting those trying to flee.

137. On 13 October, the Syrian Arab Red Crescent and the International Committee of the Red Cross supervised the evacuation of 3,500 civilians from Muadamiyah. During the evacuation, women and children were separated from the men, many of whom were screened at Mezzeh Airport. Several were arrested and detained. Many fighting-age men remained inside, fearing being arrested, killed or “disappeared” by Government forces. During subsequent evacuations, on 15 and 29 October, 5,000 more people left Muadamiyah. Despite the truce on 25 December, Muadamiyah remains besieged and no humanitarian access has been granted.

(b) Daraya

138. In Daraya, surrounded to the east by Mezzeh Airport and by Sahnaya to the southwest, 8,000 people remain under siege. Government personnel at checkpoints arrested
persons on the basis of their origin as indicated on their identity cards. Residents describe the “humanitarian disaster” in Daraya, with no food, fuel or medicine allowed inside. Malnourishment has spread, drastically affecting children.

(c) Yarmouk camp

139. 20,000 people remain besieged in Yarmouk Palestinian Camp, with no food and medical supplies. People have nothing to eat, having exhausted all their supplies and resorted to eating plant leaves, selling their belongings and looting abandoned houses. In January 2014, reports of deaths from starvation were received. With hospitals and medical clinics damaged by shelling, there is a complete lack of health care. No medical supply shipments have been allowed into Yarmouk to date. On 15 January, an UNRWA convoy was authorized to enter Yarmouk only from the northern gate, where there were ongoing hostilities. The UNRWA convoy could not proceed because of insecurity. Since then, humanitarian convoys have been able to access the area but have been prevented from delivering food supplies by Government security forces inside the camp.

(d) Homs (Old City)

140. A siege was imposed on the Old City of Homs in February 2012. Checkpoints and barricades, and a 1 km concrete wall erected next to the Political Security Branch contour the Old City, blocking all access. Humanitarian aid was last allowed to enter in October 2012. The 4,000 people remaining inside were faced with insufficient water and electricity, and a lack of food and medical supplies. Periodic shelling caused injuries that remain untreated and result in high mortality rates. Government snipers, positioned at all access points, limited movement and indiscriminately targeted persons.

2. Non-State armed groups

(a) Aleppo

(i) Nubul and Zahra

141. Non-State armed groups have encircled Nubul and Zahra, besieging 45,000 people. The siege is imposed by groups affiliated to the Islamic Front, Jaish Al Mjahideen, Jabhat Al-Nusra and the Syrian Revolutionary Front by checkpoints erected around the area and by cutting off their electrical and water supply lines. These groups have denied access to humanitarian convoys, in violation of their obligations under international humanitarian law. This has led to dire humanitarian conditions, with residents digging wells for water and suffering illnesses due to the lack of sanitation. After a helicopter with humanitarian aid and school supplies was attacked in June 2013, government forces ceased the delivery of basic necessities. The sole remaining health-care clinic in Nubul and Zahra has few supplies, using primitive means to treat persons with chronic illnesses and those wounded in the indiscriminate shelling of the towns.

142. Armed groups in the region have periodically extended the siege to include Afrin, as it provides a supply line to Nubul and Zahra. As the conflict between the YPG and armed groups intensified in Al-Hasakah on 17 July, the siege on Afrin was re-imposed. As at January 2014, ISIS was preventing humanitarian access to Afrin.

(ii) Hama

143. Al-Ghab Valley, an agricultural area, contains a cluster of Alawite villages surrounded by a predominantly Sunni population. Government military positions deployed within the Alawite villages shell the surrounding area. Non-State armed groups have retaliated by deliberately targeting farmers working the fields. Repeated killings and
Abductions have made it impossible for the residents of Mirdash and Shatha to cultivate their land, depriving them of their main source of income and sustenance. Carrying out attacks against farmers cultivating their land with the specific purpose of preventing them access to agricultural produce is prohibited under international humanitarian law.

E. Arbitrary and forcible displacement

1. Government forces and pro-government militia

144. By launching indiscriminate and disproportionate aerial bombardment and shelling, the Government has caused large-scale arbitrary displacement. In doing so, it has failed in its obligations under international human rights law to protect civilians from such displacement. It has failed to comply with its duties under international humanitarian law to provide displaced civilians with shelter, hygiene, health, safety and nutrition and to ensure that members of the same family are not separated.

2. Non-State armed groups

145. Two instances of forcible displacement by armed groups, as defined under international humanitarian law, were documented.

146. On 20 July, ISIS, Jabhat Al-Nusra, the Al-Sakhana Brigades, Saw’aq Al-Rahman, the Ibn Taimia Brigades and Ahrar Al-Sham clashed with YPG forces in Tal Abyad (Ar Raqqah).

147. On 21 July, when YPG forces withdrew, armed groups broadcast orders from mosques in Al-Jisr, Harat Al-Leil and Hay Al Shallala neighbourhoods, instructing Kurdish civilians to leave the town or face immediate attack. Thousands of Kurdish civilians subsequently fled. Many were abducted at checkpoints encircling the area. The property of those who fled was looted and burned.

148. In Aleppo, on 28 July, clashes erupted in the Kurdish enclaves of Tal Aran and Tal Hasel between Jabhat Al-Akrad and YPG forces on the one side, and affiliated groups of Jabhat Al-Nusra, ISIS and FSA on the other. The latter groups seized control of Tal Aran, setting up checkpoints and sniper positions. Using mosque loudspeakers, armed group fighters ordered the Kurdish population to leave, under threat of violence. Thousands fled the following day.

149. On 29 July, the fighting spread to Tal Hasel, with the YPG engaging in hostilities with the above-mentioned armed groups. After short, intensive clashes, the armed groups encircled the town and conducted raids on Kurdish houses, abducting fighting-age men. Using mosque loudspeakers, the groups called Kurds “unbelievers”, declaring that “swords are between us and those who decide to stay in Tal Hasel”. Specific threats were directed against Kurdish women and children, saying that those who remained would be considered “halal for the mujahideen”.

150. The pattern of conduct perpetrated by non-State armed groups in Ar Raqqah and Aleppo in July indicates a coordinated and planned campaign to forcibly displace Kurdish civilians. The methods employed, the threat of violence and subsequent abductions demonstrate the deliberate displacement of a population on the basis of its ethnic identity. Such conduct amounts to the war crime of forcible displacement.
V. Conclusions and recommendations

A. Conclusions

151. The Syrian Arab Republic has acted in breach of the International Covenant on Economic, Social and Cultural Right, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict. Government forces have disregarded the basic human rights of people under their control and in their custody. As a state, the Syrian Arab Republic is responsible for all acts committed by its officially sanctioned agents, in breach of its international treaty obligations.

152. In the course of the conflict, the warring parties in the Syrian Arab Republic have failed to comply with their obligations under international humanitarian law. They have violated the fundamental prohibitions of common article 3 of the Geneva Conventions, which are binding on all parties to the conflict. Such violations amount to war crimes, incurring individual criminal responsibility. Individual fighters and their commanders may be held accountable for their acts under international criminal law and by States exercising universal jurisdiction.

153. External actors that support the belligerents financially and logistically have obligations under international law. States should not authorize the transfer of arms if there is a risk that they will be used in the commission of crimes against humanity or war crimes. In the Syrian Arab Republic, as has been repeatedly documented, this risk is real. States parties to the International Convention for the Suppression of the Financing of Terrorism must take measures to prevent persons and organizations that collect or donate funds knowing that they will be used to finance attacks on civilians or persons taking no active part in hostilities. Private donors, as well as foreign advisers providing operational assistance, are responsible for acts and conduct that occur under their control. States that exert influence over the parties in the Syrian Arab Republic have an obligation to ensure their compliance with the rules of international humanitarian law.

154. On 2 October 2013, the Security Council President issued a statement in which he condemned the widespread violations of human rights and international humanitarian law by the Syrian authorities, as well as any human rights abuses and violations of international humanitarian law by armed groups. Building on this acknowledgement, the Security Council must seek a referral to justice to hold the perpetrators of these violations and abuses accountable.

155. The Security Council, in adopting resolution 2118 (2013), demonstrated its capacity for unified and effective action in the Syrian Arab Republic. The five permanent members have failed to take action on other grave violations that equally threaten international peace and security. Such inaction has provided the space for the proliferation of actors in the Syrian Arab Republic, each pursuing its own agenda and contributing to the radicalization and escalation of violence. The Security Council bears this responsibility.

5 S/PRST/2013/15.
B. Recommendations

156. The commission of inquiry reiterates the recommendations that it made in its previous reports. It further makes the recommendations below.

157. The commission of inquiry recommends that all parties:

   (a) Ensure the protection of civilians, guaranteeing their safety and security effectively;

   (b) Respect civilians’ right of access to basic necessities, food and medical care, and allow unhindered passage of such goods;

   (c) Distinguish military from civilian objectives, refraining from all indiscriminate and disproportionate attacks;

   (d) Not submit anyone, civilian or combatant, to torture or other cruel, inhuman or degrading treatment, including sexual violence;

   (e) Adhere to the ban on the recruitment and use of children in hostilities;

   (f) Treat all persons in detention humanely and provide an impartial, neutral and independent organization with regular access to persons in detention;

   (g) Protect aid workers and facilitate the rapid and unimpeded passage of relief supplies;

   (h) Respect and protect schools and hospitals, and maintain their civilian character;

   (i) Ensure safe passage and protection for medical personnel, hospitals and ambulances;

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

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

   (a) Cease using illegal weaponry, such as incendiary weapons and other weapons such as barrel bombs, that are unguided or poorly guided, on civilian areas;

   (b) Allow access for an independent humanitarian assessment of needs in eastern Ghouta, Yarmouk, Muadhamiyah and Old Homs City;

   (c) Allow the commission access to the country.

159. The commission recommends that non-State armed groups:

   (a) Allow access for an independent humanitarian assessment of needs in Nubul and Zahra;

   (b) Detach themselves from extreme elements that fail to comply with international law.

160. The commission recommends that countries with influence over the warring parties, in particular the permanent members of the Security Council work in concert to put pressure on the parties to end the violence and to initiate all-inclusive negotiations for a sustainable political transition process in the country.

161. It further recommends that the international community:

   (a) Curb the proliferation and supply of weapons, and address the sources thereof;
(b) Sustain funding for humanitarian operations, open up access to victims in all areas and facilitate expansion of humanitarian relief operations.

162. The commission recommends that the Human Rights Council support the recommendations made, including by transmitting the present report to the Secretary-General for the attention of the Security Council in order that appropriate action may be taken, and through a formal reporting process to the General Assembly and to the Security Council.

163. The commission recommends that the Security Council:

(a) Support its recommendations;

(b) Take appropriate action by referring the situation to justice, possibly to the International Criminal Court, bearing in mind that, in the context of the Syrian Arab Republic, only the Security Council is competent to refer the situation;

(c) Enhance the enforcement and implementation of international human rights and humanitarian law through the range of powers and measures at its disposal as part of the imperative of accountability, pertaining to all actors.
Annex I

Geneva, 7 September 2013

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

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

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

Office of the United Nations High Commissioner for Human Rights

Pulice Wilson

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

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

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

10 September 2013

Permanent Mission of the Syrian Arab Republic to the United Nations Office in Geneva and specialized institutions in Switzerland
26 September 2013

Excellency,

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

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

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

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

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

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

Paulo Sergio Pinheiro

Chair, Independent Commission of Inquiry on the Syrian Arab Republic

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

The Commission will present its last report as part of its current mandate to the Human Rights Council at its 29th session in March 2014. In this context, the Commission wishes to reiterate its request to visit the Syrian Arab Republic in order to gather relevant information for its investigation.

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

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

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

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

[English only]

Political and humanitarian context

Political context

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

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

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

4. In the Syrian Kurdish regions, this dynamic led to an open conflict between the Salafi Jihadi and Kurdish groups. A PYD-led coalition established an interim Kurdish administration with municipal councils in three provinces, Jazirah, Ayn Al-Arab and Afrin in January 2014. Alongside the KNC’s inclusion in the Coalition, both have engaged in policy discussions within the framework of the Supreme Kurdish Council under the auspices of the Kurdish Regional Government in Iraq.
5. The intensity of the conflict reached the threshold of a non-international armed conflict by February 2012 with significant local, regional and international implications. Lebanon’s domestic dynamics have been seriously affected by the war in Syria. Political polarization has markedly increased against the backdrop of local parties’ conflicting positions on the Syrian conflict. Hezbollah’s subsequent direct military involvement on the side of the Government and the mobilization of Sunni fighters to join the ranks of armed opposition groups in Syria aggravated existing sectarian tensions.

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

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

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

**Humanitarian context**

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

10. An estimated 6.5 million Syrians are internally displaced. Of concern is the situation of approximately 250,000 persons who remain trapped. A third round of vaccinations in response to a polio outbreak was carried out in January 2014, reaching more than two million children. The provision of assistance is, however, increasingly manipulated by all sides, in breach of the principle of non-discrimination. Humanitarian actors continue to work in dangerous conditions across the country.
11. Economic sanctions imposed by some Member States adversely affect the socioeconomic situation. The Syrian Pound has been devalued by over 50 per cent since the outbreak of the crisis. Prices for basic items have risen sharply. Many families are living in abandoned buildings, schools or in makeshift shelters, without sufficient food, water or medicine. Health and sanitation services have deteriorated, leading to the spread of communicable diseases.

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

Specific mandate on massacres

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

Government forces and pro-Government militia

Qarafah Village, Dara’a, 6 June 2013

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

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

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

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

Karnaz, Hama, 26 September 2013

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

Non-State armed groups

Jamlah Village (Dara’a), 3 March 2013

* See A/HRC/22/59, para 42.
6. On 5 March 2013, the Yarmouk Martyrs Brigade executed nine members of the Syrian armed forces who had been captured and were hors de combat. The troops were detained during an attack on a military position in Jamlah village. The captured soldiers were subsequently executed by gunfire.

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

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

**Al Hiffa region, Latakia, 4-5 August 2013**

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

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

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

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

**Al-Madmouma, Idlib, 26 August 2013**

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

**Maksar Al-Husan, Homs, 10 September 2013**

13. On 10 September 2013, 18 civilians were killed in Maksar Al-Husan in the context of a military campaign against a group of three Alawite villages nearby. Non-State armed groups affiliated with Jabhat Al-Nusra and Ahrar Al-Sham Movement conducted the assault. Victims included several elderly women and men, as well as children.
Deir Attiya, Damascus, 20 November 2013

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

Sadad, Homs countryside, 21-28 October 2013

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

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

Unknown perpetrator

Sadad, Homs countryside, October 2013

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

[English only]

Without a trace: enforced disappearances in Syria

I. Introduction

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

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

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

4. In contrast, enforced disappearance – the subject of this paper – is a denial of the very existence of its victims, placing them outside the protection of the law. Authorities across Syria have refused to provide information about the fate or whereabouts of disappeared. In some instances, there appeared to be a policy of not providing such information to families. Many of those interviewed were too frightened of reprisals to make official inquiries. In some cases, relatives who approached the security services were themselves arrested. The Government has perpetuated a system of arrests and incommunicado detention that is conducive to enforced disappearances. There is also evidence that some anti-Government armed groups have adopted practices that could be considered tantamount to enforced disappearances. This paper charts the major trends and patterns of this phenomenon in Syria from March 2011 to November 2013 and draws from numerous first-hand interviews conducted by the Commission over this period. The Commission regrets that it was not able to access the country. This limited its ability to investigate inside Syria, especially cases of anti-Government armed group abuses.
5. The practice of forcibly disappearing persons is prohibited under customary international humanitarian law, binding all parties to the conflict in Syria. The definition of an enforced disappearance is set out in the United Nations Declaration for the Protection of All Persons from Enforced Disappearance and the International Convention for the Protection of All Persons from Enforced Disappearance, which crystallises custom. Under international human rights law, an act of enforced disappearance is committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, thus resulting in a human rights violation. In the context of international humanitarian law, this requirement must be interpreted to include agents of non-State actors, in order for this prohibition to retain significance in situations of non-international armed conflict such as Syria.

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

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

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

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

II. The deprivation of liberty: a targeted campaign

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

11. The violation of enforced disappearance is often a gateway to the commission of other offences, most particularly torture. Survivors of enforced disappearances consistently
described being subjected to torture during their detention. In all the instances documented, the victims were denied their fundamental right to due process. They were deprived of contact with the outside world, including close relatives. No legal assistance was provided. They were placed outside the law, at the mercy of their captors.

A. Silencing the opposition

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

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

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

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

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

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

B. Enforced disappearance as reprisals and punishment

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

19. Several interviewees indicated that soldiers who refused to execute orders or were suspected of harbouring opposition sympathies were subjected to reprisals, including disappearance. A former army conscript, who operated in the town of Tseel in Dar’a in
November 2011, revealed that four of his fellow soldiers were arrested by their superiors after they refused to open fire on a group of peaceful demonstrators. The interviewee never saw them again, inferring that insubordination was punished by disappearance.

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

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

C. A tactic of war

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

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

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

25. As noted in “Assault on medical care in Syria” (A/HRC/24/CRP.2), wounded civilians perceived to be affiliated with the opposition are being disappeared from hospitals. This alarming phenomenon has significantly increased over the past months. An interviewee from Nabak, Dara’a governorate, explained that due to a lack of medical facilities in FSA-controlled areas, injured civilians were forced to go to governmental hospitals, where many disappeared between April and May 2013.
Without a trace

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

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

Anti-Government armed groups

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

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

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

31. Information collected in recent months indicates that opposition armed groups such as the Islamic State of Iraq and Al Sham (ISIS) have taken control of territory in northern Syria and begun to adopt practices, such as incommunicado detention, that may lead to disappearances. In one incident, armed men believed to be members of ISIS were reported to have abducted two civilians on grounds of non-adherence to their interpretation of Islamic dress code. The group later denied holding them in captivity. The whereabouts of the detainees remain unknown.
III. Not knowing: the enduring agony of Syrian families

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

A. A climate of fear

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

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

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

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

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

B. A policy of concealment

38. Syrian families are in desperate need of official acknowledgment of what has happened to their relatives. An indication of this desperation are the 30 requests seeking official information from the Government, filed by Syrian families to the United Nations Working Group on Enforced or Involuntary Disappearances, over the course of 2012 (A/HRC/22/45).
39. Those who dared to approach the authorities to inquire about a loved one faced a systematic refusal to disclose the fate or whereabouts of the disappeared or to even acknowledge the deprivation of liberty. One survivor, who was arrested by pro-Government militias and Air Force Military Security officers in Latakia in July 2012, recalled the shock of his family upon his release, “No one informed my family about my detention; no one would dare ask the Air Force Military Security about their relatives. If you asked, no one would tell you.” A relative of a man arrested in Naime, Dara’a, in 2011 stated, “His mother searched everywhere, but received no information from anyone”.

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

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

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

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

C. The anguish

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Commission recommends that the Government of Syria:

i. Inform families of the whereabouts of all persons in their custody;

ii. Ensure that all those detained are registered, and afforded legal review of the grounds of their detention;

iii. When a disappeared person is found dead, return the remains to the family and inform them of the circumstances of the death;
iv. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and recognise the competence of the Committee under Articles 31 and 32 of the Convention;

v. Ensure that all cases of enforced disappearance as well as acts tantamount to enforced disappearances are duly investigated, that those responsible are prosecuted, and, where appropriate, punished;

vi. Ensure that military commanders and civilian superiors enforce the prohibition of enforced disappearances within their ranks and among their subordinates;

vii. Ensure that those involved in the search for victims of enforced disappearance, notably the relatives, have full and unimpeded access to justice and are protected against ill-treatment, intimidation or reprisal. To that effect, effective victim and witness protection measures, offering guarantees of safety for those who wish to lodge a complaint or testify, should be established;

viii. Survivors and families of disappeared should also be granted reparations that include rehabilitation, satisfaction, compensation and, in particular, psychological and social support for the relatives;

ix. To the extent possible, special social and financial support should be provided to dependent women and children.

The Commission recommends that anti-Government armed groups:

i. Ensure that military commanders enforce the prohibition of enforced disappearances;

ii. Take all feasible measures to account for persons reported disappeared as a result of the armed conflict;

iii. Provide the family members of disappeared with any information concerning their fate and whereabouts;

iv. Register and hold all detainees in a recognized place of detention;

v. Promptly inform the detainees of the reasons for their detention;

vi. Ensure that any person deprived of liberty has contact with the exterior, including legal assistance.

The Commission recommends that all parties to the conflict:

i. Maintain an updated register of all persons deprived of liberty;

ii. Set up a process to centralize information on persons deprived of liberty, to transmit such information to their next of kin directly or through a neutral intermediary, and to respond to inquiries about the whereabouts of disappeared persons;

iii. Ensure that any person deprived of liberty is held in a recognized place of detention and has the opportunity to challenge his or her detention before an independent and impartial body.
Government detention centres

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

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

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\textsuperscript{b} Para. 77, A/HRC/20/CRP.1
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Use of barrel bombs

1. Barrel bombs, also called explosive barrels, are makeshift explosive devices increasingly employed by the Syrian Air Force against opposition strongholds in Syria.

2. The use of barrel bombs by Government forces was first documented in August 2012 in Homs city and Al-Qusayr in Homs governorate. In September 2012, army helicopters dropped barrel bombs on opposition-controlled neighbourhoods of Aleppo city. Since then, they have increasingly formed part of the arsenal of Government forces, with devastating consequences for civilians and civilian objects.

3. Cheaper than conventional munitions and deliverable by transport helicopters, they are made from simple containers packed with explosives, scrap metal, and in many cases additional incendiary material. Locally made in different shapes, sizes and composition, they lack exact technical specifications available with conventional projectiles, in terms of accuracy and lethality. The enhanced anti-aircraft capabilities of non-State armed groups have forced Government helicopters to fly at higher altitudes, further reducing their accuracy.

4. The use of barrel bombs, in this manner, is indiscriminate. In areas where armed group fighters were present, Government forces treated clearly separate and distinct military objectives located in densely populated areas with high concentrations of civilians, as a single military objective. The use of barrel bombs in this context amounts to ‘area bombardment’, prohibited under international humanitarian law. Such bombardments spread of terror among the civilian population. Some barrel bombs are constructed as rudimentary incendiary weapons, causing superfluous injury and unnecessary suffering.

5. Since 15 July 2013, barrel-bombs have been dropped on civilian-inhabited areas in Idlib, Hama, Al-Raqqa, Aleppo, Dara’a and Damascus governorates. Aleppo city and Daraya in Damascus countryside suffered intense and highly lethal attacks with barrel-bombs between November 2013 and January 2014.

6. Civilians are killed in the initial blast, in the shrapnel that results and from the collapse of buildings in and around the impact site. Video footage of barrel bomb explosions and their aftermath show the loss of limbs and deep cuts as a result of shrapnel injuries. The impact of the Government’s campaign of barrel-bombing of civilian-inhabited areas extends beyond mass civilian casualties.

7. The terror that the Government’s barrel-bombing campaigns generate should not be underestimated. Barrel-bombs, particularly when dropped from high altitudes, cannot be properly targeted. Nor is it likely that anyone at the impact site would survive the initial blast. The Government does not provide early warning of attacks and there is little chance of being able to move from the area once a barrel bomb is released from a helicopter overhead. Victims of barrel bombs emphasized the extreme fear and mental suffering they felt as they came under attack. Survivors and witnesses consistently described that as a result of the barrel bombing campaign, much of the civilian population lived in a state of terror.
8. The impact of barrel bombs causes the collapse of buildings around its explosion, leaving neighbourhoods in ruins. Where such buildings are residences, this further contributes to the mass displacement of civilians inside Syria and over its borders.

**Idlib governorate**

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

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

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

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

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

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

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

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

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

Al-Raqqa governorate

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

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

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

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

Aleppo governorate

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

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

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

25. On 23 November, a helicopter targeted Al-Marjeh neighbourhood in Aleppo city with three barrel bombs. Twenty-eight people were killed and 25 others were injured. All the victims were civilians. Ten civilian homes were also destroyed. On the same day, barrel bombs exploded in a vegetable market in Tariq Al-Bab neighbourhood, killing 25 civilians, many of them women and children. The blast caused a fire which led to further civilian casualties and injuries.
26. On 9 December, a barrel bomb exploded near to a school and a medical point in Al-Zabedia neighbourhood. At least four people were killed, including a pregnant woman. All victims were civilians.

27. On 17 December, Government helicopters targeted civilians gathering in a crowded market in Al-Maadi neighbourhood. Twenty people were killed, including three women and five children. Some survivors lost limbs.

28. On 20 December, a barrel bomb was dropped on a family home in Al-Sukkari neighbourhood. Five civilians were killed including one woman and two children. At least forty were injured including a five-year-old boy. Due to shrapnel injuries to the head, the boy now has limited ability to move and speak. Ten residential buildings were destroyed.

29. Again on 24 December, multiple barrel bombs struck Al-Sukkari neighbourhood. The bombs fell on residential areas and the shopping district. At least 30 people were killed and more injured. Twelve residential building collapsed. One bomb hit a gas station, causing deaths by burning as well as serious injuries. Another bomb hit a mosque where children were receiving religious instruction. Consequently many children were killed.

30. At noon on 28 December, a Government helicopter released multiple barrel bombs over Al-Myasser neighbourhood. One of the injured was a 14-year-old boy who received shrapnel injuries to the head. He underwent an operation to remove the shrapnel from his brain but this proved unsuccessful. Consequently, the boy has lost the ability to speak and is partially paralysed. In a separate barrel bomb attack, helicopters dropped barrel bombs on a vegetable market, while civilians sought to buy food. Over 25 people were killed.

31. On 1 January, a helicopter also dropped barrel bombs on Al-Sukkari neighbourhood. The bombs landed in the main shopping area, killing 20 people and injuring many others. Commercial premises were destroyed.

32. Barrel bomb attacks occurred in Al-Bab on 30 November, 1 December and 12 January 2014.

33. Government forces dropped barrel bombs on other civilian-inhabited towns and villages in Aleppo governorate. On 21 November, a helicopter dropped barrel bombs on Souran, killing 14 civilians, including women and children. At least one man, a passenger in a car, lost his leg in a shrapnel injury.

34. On 23 November, helicopters targeted the industrial zone of Sheikh Najar with barrel bombs. Three people – civilian workers – were killed. There were an unspecified number of injuries as well as significant destruction of property. On the same day, helicopters released barrel bombs over Tadef, south of Al-Bab city killing 15 people. Children were among the dead. One bomb struck a fuel seller. The ensuing blaze burnt people to death and caused serious burns to survivors.

35. On 28 November, a Government helicopter dropped barrel bombs over Dawar Qadi Askar during the day when people were out shopping. At least 14 people were killed including children and one pregnant woman. The barrel bombs caused a residential building to collapse and severed the main water supply line.

36. On 19 December, a nine-year-old girl lost both of her legs in a barrel bomb attack on Hreitan. The girl was playing with some other children on the roof of her apartment block when they heard the sounds of a helicopter overhead. The helicopter was flying too high to be visible. While the other children ran, the girl was the last off the roof and lost her limbs in a shrapnel injury. On the same day, in a barrel bomb attack on Minbij, five civilians, including three children, were killed and nine were injured. A residential building and several cars were also destroyed.
Dara’a governorate

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

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

Damascus governorate

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

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

Conclusion

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

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

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

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

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

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

II. Attacks on hospitals and medical units

4. Since the beginning of Syria’s unrest, Government forces have strategically assaulted hospitals and medical units to deprive persons perceived to be affiliated with the
opposition of medical care. In an early example, Special Forces raided and closed down a hospital in Mouadamiyeh, Damascus because it treated injured protesters. They arrested patients, doctors and nurses.

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

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

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

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

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

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

11. Al Huda private hospital in Sbáneh, Damascus was shelled on 25 July 2012. As well as a floor dedicated to wounded fighters, the hospital contained a maternity ward and an
emergency trauma care unit. Survivors and eyewitnesses believed the hospital was deliberately shelled from a Government military base in Mount Qassioun. The Al Majana private hospital in Ariha, Idlib, was hit by rocket fire on 28 August 2012. The attack damaged the emergency wing. The following day on 29 August, Government and pro-Government forces raided the hospital, destroying equipment, harassing the medical staff and accusing them of providing medical treatment to anti-Government armed group fighters. One doctor present during the attack explained, “If doctors treated opposition fighters, they were considered to be part of the opposition.” Al Saeed private hospital in Al Arfi, Dayr az Zawr treating wounded civilians and fighters alike was repeatedly targeted between 19 July and 26 November by Government forces positioned on the bank of the Euphrates River. It was shelled on five occasions, injuring numerous patients and medical personnel. The hospital closed due to damage suffered.

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

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

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

III. Endangering hospitals

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

16. On 22 March 2011, Government forces entered the National Hospital in Dara’a city, cleared the hospital of non-essential medical staff and positioned snipers on the roof of the hospital overlooking the Omari mosque. The following day, the snipers fired on protesters. Snipers remained stationed on the National Hospital until May 2013, firing on sick and
wounded persons attempting to approach the hospital entrance. Security forces also continued to occupy the hospital until that date, ensuring only Government soldiers or civilians from Government-controlled areas of Dara’a received care. In late May 2013, anti-Government armed groups attacked the National Hospital in Dara’a.

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

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

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

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

IV. Targeting of medical personnel and transport

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

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

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

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

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

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

27. Since the beginning of the conflict, at least 20 Syrian Arab Red Crescent volunteers have been killed, in some cases by sniper fire, while aiding the wounded or delivering relief supplies. Dozens others have been arrested and detained by the Government. On 7 September 2011, a Red Crescent ambulance evacuating wounded civilians was attacked next to a Government checkpoint in Al Hamediyah, Homs, killing one paramedic and injuring three others. In May 2012, the Syrian Arab Red Crescent unit in Azaz, Aleppo discontinued frontline work having suffered consistent sniper fire while attempting to evacuate the wounded. Also in May, the Red Crescent office in Azaz was shelled. In July 2012, a Red Crescent volunteer was killed by a sniper near Abdel Aziz mosque in Dara’a city’s Al Mahatta neighbourhood, while carrying out humanitarian duties. On 24 August 2012, a Government sniper shot and injured a Red Crescent nurse near Al Omari mosque in Dara’a. The sniper was located 200 metres away and would have seen his uniform and distinctive emblem. In early September 2012, a sniper in Al Midan neighbourhood in Aleppo city shot a medical emergency worker in full medical uniform and holding a medical bag bearing the Red Crescent logo. In March 2013, Government forces seized a Red Crescent ambulance in Jobar, Damascus. The ambulance personnel, all in uniform
bearing the Red Crescent emblem, were arrested and detained by security services for 10 days.

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

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

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

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

V. Interference with care and ill-treatment

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

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

34. Between April and August 2011, security officers, at times with the involvement of medical personnel, beat persons in the emergency trauma ward of the Military Hospital of Tishrin, Damascus. Most victims of this ill-treatment were protesters that had been injured by Government forces.
35. The Military Hospital of Aleppo contains a detention ward operated by the Aleppo Military Security branch. According to former doctors and medical personnel who worked in the hospital between November 2011 and December 2012, patients in this ward are heavily guarded by security officers, chained to their beds and blindfolded. Security personnel act as intermediaries between patient and doctor, often obstructing medical care as a torture and interrogation tactic.

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

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

VI. Conclusion

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

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

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

41. The documented incidents of anti-Government armed group attacks against hospitals are of grave concern, as they demonstrate a disregard for the specially protected status of
healthcare facilities and a failure to take precautions to avoid civilian casualties and protected the sick and wounded.

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

Map of the Syrian Arab Republic