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**Human Rights situations that require the Council's attention****“They have erased the dreams of my children”: children's rights in the Syrian Arab Republic\*****Conference Room Paper of the Independent International Commission of Inquiry on the Syrian Arab Republic***Summary*

Children's lives have been scarred by the brutality of the war in the Syrian Arab Republic. Since the start of hostilities, children in the country have been victimized in numerous ways, and left to endure multiple violations of their rights by all parties of the conflict.

Robbed of their childhood and forced to participate in a brutal war, children have been killed and maimed in vast numbers. In addition to regularly targeting children using sniper fire, pro-Government forces have also deployed cluster munitions, thermobaric bombs and chemical weapons, often against civilian objects such as schools and hospitals. Government forces have also detained boys as young as 12, subjecting them to severe beatings and torture, and denying them access to food, water, sanitation and medical care. In detention centres, but also much more broadly, rape and sexual violence have been used against men, women, boys and girls as a tool to punish, humiliate and instil fear among affected communities. Such acts resulted in movement restrictions on girls, with many being removed from school, and compelled families to relocate.

Armed groups targeted schools and carried out attacks on areas under the control of the Government, causing scores of child casualties. Children were also detained and used to extract ransom, or as bargaining chips to initiate prisoner swaps with Government forces and affiliated militias.

The Islamic State in Iraq and the Levant (ISIL) terrorist group subjected girls as young as nine to sexual slavery and other forms of sexual violence and systematically recruited and used children for direct participation in hostilities. The group also launched indiscriminate attacks on towns and villages that killed and injured scores of children. Most emblematically, children were both victims of public executions and forced into the role of executor by the group. In areas under the Hay'at Tahrir al-Sham (HTS) terrorists, boys were also recruited for combat roles and large numbers of girls were prevented from attending school.

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The impact of these violations upon children has been severe. Two million six hundred thousand girls and boys have been displaced in Syria, which has exacerbated pre-existing protection and humanitarian concerns. The mental health of children has been, and will continue to be, deeply affected by the brutality of the conflict. Due to attacks on civilian infrastructure, physical health has also been acutely impacted, in particular for those children who suffer from disabilities because of the war.

Girls and boys also face considerable obstacles related to documentation and are vulnerable to exploitation through child labour or child marriage, often as a result of the death or disappearance of male parental figures. Crucially for their long-term prospects, a huge number of children have missed out on years of education and are currently out of school. This status quo will affect the ability of boys and girls to exercise their basic rights in innumerable ways as they grow older.

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## I. Introduction

1. A six-year-old boy imitated hanging a two-year-old child after witnessing the public execution of a man in Yarmouk camp, Damascus. During the siege of Madaya, Rif Damascus, a mother described to the Commission how her ten-year-old daughter wrote her testament believing that she would die from hunger. Their stories are not uncommon and paint a stark picture of what has been, and continues to be, the grim reality for scores of girls and boys in the Syrian Arab Republic.
2. After eight years of conflict, children in Syria have experienced unabated violations of their rights: they continue to be killed, maimed, injured and orphaned, bearing the brunt of violence perpetrated by warring parties. Children's experiences in the Syrian conflict have been deeply gendered. Females have been disproportionately affected by sexual violence and the threat of rape has resulted in restrictions on their movements. Girls have been confined to their homes, removed from school or faced obstacles to access health care. Boys, in particular those aged 12 and above, have been arrested in a widespread manner and kept in detention facilities, as well as targeted by armed groups and militia for recruitment into their ranks to actively participate in hostilities.
3. For those boys and girls, the unprecedented and recurrent nature of these violations has affected generations to come. The psychological impact of the conflict on children has been a striking feature of the war in Syria with far reaching consequences. As a result of repeated exposure to violence and insecurity, children exhibit signs of trauma, including psychological and behavioural disorders, as well as chronic fatigue and acute stress.
4. As hostilities continue, displacement is pervasive and impacts upon the ability of children to exercise their basic rights. Millions of children now live in situations of protracted displacement, often with severed family ties, unaccompanied and left to survive by themselves without adequate access to schooling or medical care. At the time of writing, approximately five million children in Syria were in need of some form of humanitarian assistance, including nearly half a million of children in hard-to-reach areas due to denials of access by parties to conflict.<sup>1</sup>
5. The effects of eight years of war on the enjoyment of basic human rights, in particular the right to education, has been stark and wide-ranging. Girls have been acutely vulnerable as they are unable to access schools and, as a result, are less likely to return to education due to their families seeking their "protection" through early marriage. With pre-existing gender inequalities further exacerbated, girls with limited access to education are more likely to have reduced power in decision-making processes relating to their own lives. Boys have been used to participate in hostilities, or compelled to take on the role of a breadwinner and engage in petty jobs to secure an income for their families. Children with disabilities encounter significant protection and assistance concerns, especially when relocated to settlements in which access to services is severely limited, which in turn further reduces the possibility for many to resume their studies.
6. Education is a means for the realization of rights and a tool for meaningful participation in the community.<sup>2</sup> When stripped from their fundamental right to education, children are more vulnerable to exploitation and abuse. This will have a significant impact on the ability of Syrian children to contribute positively to society, exercise their rights and participate in civil and political life, as the country moves forward.
7. The information in this report is based approximately 5,000 interviews between 2011 and October 2019 with Syrian children as well as eyewitnesses, survivors, relatives of survivors, medical professionals, defectors, members of the armed groups, healthcare

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<sup>1</sup> See <https://www.unicef.org/emergencies/syrian-crisis>

<sup>2</sup> General Comment No. 13 (1999) on Article 13 on the right to education, of the United Nations Committee on Economic, Social and Cultural Rights, on the right to education: "education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities."

professionals, lawyers and members of affected communities. Their accounts narrate the impact of the war on children in the Syrian Arab Republic and further describe specific violations to children's human rights, which in turn seriously undermine their protection under international law. Whenever possible, interviews with children were conducted in person and parental consent was sought due to the sensitive nature of the subject matter. Only the cases that met the standard of proof of reasonable grounds to believe that incidents and patterns occurred as they were described form the basis of this report.

## II. Applicable law

8. A growing corpus of both treaty-based and customary international law, including international human rights law, international humanitarian law and international criminal law outline obligations on parties to an armed conflict, including non-state actors, which govern the treatment and protection of children. The applicability of international humanitarian law does not replace existing obligations under international human rights law. Rather both regimes remain in force and are mutually reinforcing.

9. As emphasized by the Security Council in resolution 1261 (1999), as well as subsequent resolutions,<sup>3</sup> parties to armed conflict should “undertake such feasible measures during armed conflicts to minimize the harm suffered by children”. Security Council Resolution 1325 (2000) calls on all parties to armed conflict to apply fully the relevant norms of international humanitarian law and international human rights law to women and girls, and to take special measures to protect women and girls from gender-based violence during such periods.

### *International human rights law*

10. During the events analysed in this report, the Syrian Arab Republic remained party to major United Nations human rights treaties and subsequent optional protocols.<sup>4</sup> The Syrian Government did not declare a state of emergency nor otherwise seek to derogate from any of the aforementioned obligations, which consequently remained in effect.<sup>5</sup>

11. All branches of the Syrian Government were therefore bound to respect, protect, promote and fulfil the human rights of all persons present on its territory and within its jurisdiction. The obligation included the right to afford an effective remedy to those children whose rights were violated, including the provision of reparations, and to investigate and bring to justice perpetrators of particular violations.<sup>6</sup> The Syrian Arab Republic was also

<sup>3</sup> Including UN SCR 1261 (1999) of 25 August 1999, 1314 (2000) of 11 August 2000, 1379 (2001) of 20 November 2001, 1460 (2003) of 30 January 2003, 1539 (2004) of 22 April 2004, 1612 (2005) of 26 July 2005, 1882 (2009) of 4 August 2009, 1998 (2011) of 12 July 2011, 2068 (2012) of 19 September 2012, 2143 (2014) of 7 March 2014, 2225 (2015) of 18 June 2015, 2427 (2018) of 9 July 2018 and all relevant Statements of its President, which contribute to a comprehensive framework for addressing the protection of children affected by armed conflict.

<sup>4</sup> The International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights were ratified by the Syrian Arab Republic in 1969, the same year it ratified the Convention on the Elimination of All Forms of Racial Discrimination. The Syrian Arab Republic is also party to the Convention on the Elimination of Discrimination against Women which it ratified in 2003, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment in 2004 and the Convention on the Rights of Child in 1993. The Syrian Arab Republic ratified the Optional Protocol to the Convention on the Rights of Child on the involvement of children in armed conflict in 2003. The Syrian Arab Republic has not ratified the Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

<sup>5</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 178, paras. 105-106, “[t]he protection offered by human rights conventions does not cease in case of armed conflict.” See also *ICJ Nuclear Weapons*, statements concerning international humanitarian law as *lex specialis*, para. 25.

<sup>6</sup> See Human Rights Committee, General Comment No. 31 on The Nature of the General Legal Obligation Imposed on State Parties to the Covenant (2004), at paras. 15-19. In this General Comment, the Human Rights Committee considered that the duty to bring perpetrators to justice

bound by relevant rules of international human rights law, which form a part of customary international law, such as the absolute prohibition against torture.

12. Non-state actors cannot formally become parties to international human rights treaties. Armed groups were nevertheless obligated to respect fundamental human rights norms, which form part of customary international law in territory where such actors exercised de facto control.<sup>7</sup> The Commission therefore examined allegations of human rights violations committed by the Syrian Government as well as human rights abuses by armed groups.

#### *International humanitarian law*

13. The applicability of international humanitarian law was triggered when hostilities in the Syrian Arab Republic reached the threshold criteria of an armed conflict.<sup>8</sup>

14. The Syrian Arab Republic is a party to the Geneva Conventions and its Additional Protocol I, as well as to several other international humanitarian law instruments. The Syrian Arab Republic has not, however, ratified Additional Protocol II to the Geneva Conventions, which is specifically applicable during non-international armed conflicts. Customary international humanitarian law nevertheless applies to non-international armed conflict and must be respected when the threshold of non-international armed conflict is met.

#### *The Convention on the Rights to the Child*

15. This report applies the definition of “child” in accordance with the Convention on the Rights of the Child (hereafter, “the Convention”) to which the Syrian Arab Republic is a party. The Convention defines a child as any person under the age of 18.<sup>9</sup> The Commission further notes that as per Article 46 of the Syrian Civil Code, a child becomes an adult when he or she attains the age of 18 years.

16. In the context of an armed conflict, however, the Convention draws its language from the Protocols Additional to the Geneva Conventions, and thus sets the lower age of 15 as the minimum for recruitment or participation in armed forces. When between 15 and 18 years, State parties shall endeavour to give priority to the oldest children.<sup>10</sup>

17. When the Syrian Arab Republic acceded to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in 2013, it made a declaration to ensure that persons who have not attained the age of 18 years are not compulsory recruited into their armed forces.<sup>11</sup> The Syrian Arab Republic, furthermore,

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attaches in particular to violations that are criminal under domestic or international law., For example, torture and similar cruel, inhuman and degrading treatment, summary and arbitrary killing and enforced disappearance. See also the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in December 2005, and the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (which were recognised in a consensus resolution of the Commission on Human Rights in 2005).

<sup>7</sup> See A/HRC/34/64, Annex I, at para 5. For a more expansive view of the application of international human rights law, see Andrew Clapham, *Human Rights Obligations of Non-State Actors* (Oxford, Oxford University Press, 2006). To similar effect, see Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para. 188, available at [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf).

<sup>8</sup> The Commission first determined the existence of a non-international armed conflict in the Syrian Arab Republic beginning in February 2012 (see, e.g., A/HRC/21/50).

<sup>9</sup> Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49, at art. 1.

<sup>10</sup> *Ibid.* at art. 38(3).

<sup>11</sup> Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, adopted and opened for signature, ratification and accession by General Assembly Resolution A/RES/54/263 of 25 May 2000, entry into force 12 February 2002, at art. 2. The Optional

committed to take all feasible measures to ensure that persons who have not attained the age of 18 years do not take direct part in hostilities.<sup>12</sup>

18. The Convention requires that in all circumstances, the best interest of the child should be a primary consideration.<sup>13</sup> The Convention expands the protection afforded to children in armed conflict and obliges State parties to take all feasible measures to ensure protection and care of children in accordance with their obligations under international humanitarian law. The Convention further provides legally binding protections in respect to children's civil, cultural, economic and political rights.

#### *International criminal law*

19. To determine whether parties to the conflict perpetrated war crimes, the Commission referred to violations of treaty obligations of the Syrian Arab Republic, in particular Article 3 Common to the Four Geneva Conventions, as well as other serious violations of international humanitarian law which are considered to entail individual criminal responsibility under customary international law, including during a non-international armed conflict.<sup>14</sup> Customary international criminal law is applicable to all individuals taking part in hostilities.

20. To determine whether parties to the conflict committed crimes against humanity, the Commission conducted its analysis on the basis of article 7 of the Rome Statute of the International Criminal Court, which largely codifies customary international criminal law.

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

#### **A. Killing and injuring of children**

*"I realized that my brother was shot in the head and neck. I witnessed how his soul left his body."*

*Boy, al Houla, witness to the execution of his entire family, 2012*

21. Children's right to life has been blatantly denied by all parties to the conflict.<sup>15</sup> Over the years, the Commission documented attacks countrywide resulting in staggering numbers of girls and boys being killed, maimed and wounded under the most brutal of circumstances.

#### *Pro- Government forces*<sup>16</sup>

22. In the early days of the conflict, children were killed and injured during protests and home raids carried out by Government forces, as part of military ground operations aiming to re-take areas and arrest individuals supporting, or perceived to be supporting, opposition groups. When Government forces moved into towns and villages, usually following shelling, snipers were often positioned on the roofs of residential houses, schools, hospitals or at other

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Protocol further states that non-state armed groups should not recruit or use children in hostilities under the age of 18 under any circumstances.

<sup>12</sup> *Ibid.*, at art. 1.

<sup>13</sup> See *supra* note 10, at art. 3. See also generally General Comment No. 14 (2013) on art. 3 para.1 of the Convention on the Rights of the Child on the right of the child to have his or her best interests taken as a primary consideration.

<sup>14</sup> See e.g. International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Duško Tadić*, Appeals Chamber, Interlocutory Appeal, paras. 96-134.

<sup>15</sup> See International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Volume I: Rules [hereinafter "ICRC Rule"], Rule 135 noting that "Children affected by armed conflict are entitled to special respect and protection." See also International Covenant on Economic, Social and Cultural Rights (ICCPR), art. 6 (1).

<sup>16</sup> "Pro-Government forces" denotes Syrian forces, Russian forces, and/or militia members affiliated with the Government of the Syrian Arab Republic. "Government forces" denotes forces of the Syrian Arab Republic alone.

raised positions. Numerous accounts collected by the Commission indicate that children as young as 10 were killed or injured by sniper fire. For example, a 14-year-old boy was injured in Atarib in February 2012, when he was shot in the legs by a sniper while on his way to buy food at a local market. In Aleppo, a doctor reported that, in October 2013, at least one child was injured each day by sniper fire.

23. Countless children were killed as a result of the use of cluster munitions, thermobaric bombs, improvised munitions such as barrel bombs and improvised rocket assisted munitions, and chemical weapons, often used against civilian objects, such as schools and hospitals.<sup>17</sup> With the rapid increase of large-scale aerial operations and ground offensives, damage to key civilian infrastructure rose dramatically, resulting in alarming numbers of child casualties. For instance, on 26 October 2016, Government forces conducted a series of airstrikes that hit a complex of schools and its surroundings in Haas (Idlib Governorate) killing a total of 36 civilians, including 21 children aged between 7 and 17.<sup>18</sup> An additional 61 children were injured in the attack and interviewees reported that some had limbs amputated while others lost sight in one or both eyes. The Haas school complex was composed of five educational institutions and had over 2,000 students. Following the events, the schools stopped functioning for a period in anticipation of further attacks.

24. Children who had been injured during hostilities feared seeking medical treatment at public hospitals due to widespread arrests targeting youths and those accompanying them.<sup>19</sup> The Commission documented instances of arrest and detention of wounded children in medical facilities in 2012 in Aleppo Governmental hospitals. Authorities claimed that shrapnel or sniper injuries was evidence of participation in activities supporting opposition groups. In the early days of the conflict, in Aleppo, Damascus, Dar'a, Dayr az Zawr, Hama, Homs, Idlib and Ladhqiyyah Governorates, medical staff denied treatment to injured persons for fear of being arrested by Government security forces stationed in or around public hospitals. When a 12-year-old boy was brought to a public hospital in Damascus in July 2012 with shrapnel wounds, in order to receive treatment, he was pressured by his male relatives to say that he was injured after shelling carried out by opposition groups.

25. In other instances documented by the Commission, children, upon admission to hospitals, were subjected to harsh treatment exploiting pre-existing injuries. For example, in early 2012 a 13-year-old child was brought into a military hospital in Harasta with a head injury. The child was beaten with a belt by pro-Government forces and/or militia. Government forces stationed on the rooftop of hospital buildings in various locations including Aleppo, Damascus, Dar'a, Dayr az Zawr, Hama, Homs, Idlib and Ladhqiyyah Governorates also prevented attempts by civilians, including children, to approach hospital buildings by firing at them.

26. Another tactic with devastating effects on children was the frequent use of siege warfare by most parties to the conflict.<sup>20</sup> Albeit each siege was unique, towns and villages were besieged, often for years, regularly accompanied by instances of near-constant shelling and aerial bombardment. These tactics caused scores of casualties, including children, and

<sup>17</sup> As previously noted by the Commission, the pattern of attacks strongly suggest that pro-Government forces intentionally and systematically target medical facilities, repeatedly committing the war crime of deliberately attacking protected objects. Intentionally directing attacks against health-care workers and ambulances amounts to the war crimes of intentionally attacking medical personnel and transport. See A/HRC/27/60, paras. 109-111; A/HRC/33/55, paras. 42-65; A/HRC/34/64, paras. 30-40. A/HRC/36/55 paras. 62-66. See also Independent International Commission of Inquiry on the Syrian Arab Republic, "Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016-28 February 2017", paras. 15-19. This pattern of targeting continues as of the drafting of this report.

<sup>18</sup> See A/HRC/34/CRP.3, paras 21-31.

<sup>19</sup> "Assault on medical care in Syria", conference room paper A/HRC/24/CRP.2, paras 32 – 37.

<sup>20</sup> While siege warfare is not in itself prohibited under international humanitarian law, the laying of sieges must be in conformity with all relevant international humanitarian law rules. The methods employed in Syria to carry out sieges, as documented by the Commission since 2012, however, have amounted to egregious violations of international human rights and humanitarian law and, in some instances, to war crimes. See "Sieges as a weapon of war: Encircle, starve, surrender, evacuate.", 29 May 2018.

further prevented the flow of food and medicine into affected areas.<sup>21</sup> Instances of children dying from malnutrition, dehydration and other preventable deaths linked to the denial of humanitarian assistance have been documented.

*Non-state armed groups and terrorist organizations*

27. Since the start of the conflict, children inside Government-controlled areas endured attacks by armed groups and terrorist organizations that resulted in numerous child deaths, in particular in Idlib and Ladhkiyah Governorates as well as Aleppo and Damascus cities. Many of those victims were killed while on their way to school or when gathered in schoolyards. In one such attack, carried out by armed groups on 11 October 2016 against Tha't al-Nitaqin school in Dar'a city, six children were killed, one of whom was five years old, and 20 others were injured, including an adolescent girl whose right leg was later amputated above the knee.

28. As ISIL expanded its control over large swathes of territory in Syria, girls and boys suffered widespread violations, including public executions where children were both victims of executions and forced into the role of executor.<sup>22</sup> In September 2014, a 16-year-old girl was beheaded by ISIL fighters in Aleppo because she was accused of being a member of the Kurdish People's Protection Unit (YPG). ISIL also launched indiscriminate attacks on towns and villages under Government-control that killed and injured scores of children. Moreover, children were killed or maimed by landmines laid as ISIL retreated from areas of which it had lost control. Hay'at Tahrir al-Sham (HTS) terrorists,<sup>23</sup> an umbrella coalition that united a number of extremist factions in 2016, also conducted attacks causing scores of child casualties. Most recently, on 16 June 2019, HTS launched at least a dozen 120mm Grad rockets towards al-Wadihi village, located in the southern countryside around Aleppo, killing 13 civilians, including four children, all of whom were celebrating a wedding at the time of the events.

*United States-led international coalition*<sup>24</sup>

29. The Commission has repeatedly expressed concerns over the impact that airstrikes by the United States-led international coalition have had on civilians. The coalition's aerial campaign, carried out in support of the Syrian Democratic Forces (SDF) against ISIL, has had devastating consequences on children, in particular given the large-scale destruction of Raqqah and Dayr al-Zawr, further exacerbating the abuses they had suffered when living under the group's control.

30. In one particular incident documented by the Commission, international coalition forces carried out an airstrike on the night of 20 to 21 March 2017 against Al-Badiya school in Mansurah (Raqqah Governorate), an area that was under ISIL control at the time. During the attack, coalition forces failed to take all feasible precautions to avoid or minimize incidental loss of civilian life in violation of international humanitarian law.<sup>25</sup> The attack caused the death of 150 displaced persons housed in the school, leaving few survivors. This included 21 children, all but one of whom was under the age of 11, as well as eight women, one of whom was in the final stages of pregnancy.

<sup>21</sup> See ICRC Rule 55 noting that "The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control".

<sup>22</sup> See A/HRC/27/60, paras 30-38. See, generally, "Rule of Terror: Living under ISIS in Syria", conference room paper A/HRC/27/CRP.3.

<sup>23</sup> In July 2016, "Jabhat al-Nusra" changed its name to "Jabhat Fatah al-Sham", and later joined a number of extremist factions under the umbrella coalition of Hay'et Tahrir al Sham. Notwithstanding the changes in name, the Commission continues to regard Jabhat Fatah al-Sham as a terrorist entity as designated by Security Council resolution 2170 (2014).

<sup>24</sup> Since 2014, an international coalition of more than 60 countries joined together to combat ISIL through a variety of means, including airstrikes.

<sup>25</sup> See A/HRC/36/55, para. 79 and A/HRC/37/72 at para. 39-41 and Annex IV (paras. 7-11).

## B. Recruitment and use of children in hostilities

*“The younger ones are very good fighters. They fight with enthusiasm and are fearless. Fighters who are 14 -17 years old are on the frontline”*

*Person associated with an armed group, Dar’a, 2013*

31. Children, most frequently boys, but also on occasion girls, have been used in hostilities by parties to the conflict for combat roles, to act as spies, informants, or to serve at checkpoints, in violation of international humanitarian law.<sup>26</sup> Children have been forcibly recruited, enlisted or lured into violence out of economic instability or grief, after witnessing violent acts inflicted on their loved ones by belligerent parties. A child’s consent to enlist, and therefore join military ranks voluntarily, is not a valid justification to the use and recruitment of children in armed conflict.<sup>27</sup>

### *Government forces and associated militia*

32. As the conflict intensified and with many young men eligible for conscription fleeing the country, the Government became reliant on paramilitary groups and militia, initially the shabbiha and later in 2013, the National Defence Forces, a pro-Government self-defence force. Recruits were drawn primarily from communities loyal to the Government and children were used to staff checkpoints in Aleppo, Dar’a and Tartous. Teenage boys also joined the National Defence Forces, with interviewees describing how three 17-year-old boys were forcibly recruited in 2013 at checkpoints in Aleppo. One of the boys was sent to the frontlines, and killed within two weeks. In October 2013, in Ataman, Dar’a, children from the age of 14 were armed and trained by popular committees.<sup>28</sup> A defector from a detention facility run by intelligence forces in Homs described how he would often be deployed with members from the National Defence Forces, many of whom were aged 15 and above, to checkpoints in the vicinity of Homs city.

33. Government forces and affiliated militia used children to locate members of armed groups, or act as informants, in violation of international humanitarian law.<sup>29</sup> In the early days of the conflict, multiple accounts from Aleppo described how children as young as six were used as spies or messengers by pro-Government popular committees, exposing them to retaliation and severe punishment if captured by opposition armed groups. One armed group fighter who was interviewed by the Commission in 2014 explained that children would be detained indefinitely as a security measure if apprehended by Government forces and associated militia when suspected of collecting intelligence.

34. Teenage boys faced particular pressure as they attracted the attention of security forces from the early days of the conflict. Interviewees consistently reported how adolescent boys were subjected to harassment or humiliating treatment when crossing checkpoints in Dar’a, with one woman describing how, in 2013, her well-built 14-year-old son would be questioned often about conscription at each one of the checkpoints around her village. Parents interviewed by the Commission described how fears that their children might be drawn into violence, pushed them to relocate their sons outside of the country. In one such case, around 500 unaccompanied children, almost all boys over the age of 14, were registered in 2013 in a refugee camp near the Syrian border.

<sup>26</sup> See ICRC Rule 136 and 137 noting, respectively, that “Children must not be recruited into armed forces or armed groups” and that “Children must not be allowed to take part in hostilities”.

<sup>27</sup> See Special Court for Sierra Leone, *Prosecutor v Brima, Kamara, and Kanu*, (AFRC Trial Judgement), 20 June 2007, para 735.

<sup>28</sup> Armed self-defence groups formed by pro-Government communities who protected their neighbourhoods and localities from anti-Government armed groups and participated in military operations alongside Government forces. They were allegedly armed and equipped by the Government and, in some areas, by external sympathisers.

<sup>29</sup> See ICRC Rule 137. See also Special Court for Sierra Leone, *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Judgement, 2 March 2009, para. 1729.

35. At the time of writing, the Commission continued receiving reports of young boys, some considered by people who saw them to not be older than 13 years of age, observed at checkpoints staffed by Government and associated militia in Hama. One interviewee explained to the Commission how one of the boys, aged 16, recalled that the killing of his brothers by ISIL terrorists and members of armed groups motivated him to join the ranks of Government forces.

*Non-state armed groups and terrorist organizations*

36. Armed groups and terrorist organizations, including Jabhat al-Nusra, Ahrar al-Sham, Jund al-Aqsa, Nour al-Din al-Zinki and Sultan Murad Brigades, as well as Free Syrian Army (FSA)-affiliated groups, recruited and used children to participate in hostilities, further endangering their lives and undermining their protection under international humanitarian law.<sup>30</sup> In the early days of the Syrian war, the ranks of anti-Government armed groups primarily attracted defecting adult soldiers, however, boys under 18 also joined, sometimes voluntarily, as the conflict evolved. In 2013, boys as young as 12 were observed at Jabhat al-Nusra and ISIL staffed checkpoints and used to load ammunition in Raqqah and Aleppo, Tel Rifat, Atarib and al-Bab. In the same year, a 14-year-old boy from Homs underwent training in the use of weapons with the Abu Yusef Battalion, which then used him to keep track of soldiers' movements in Al-Waar. Numerous accounts collected by the Commission indicate that young recruits were generally regarded and treated as "adults" when deployed in the battlefield in combat roles along with adult fighters. A 16 year-old boy interviewed by the Commission recalled how a commander from Jabhat al-Nusra gave him an AK-47 after seeing how dedicated he was to fighting.

37. At the time of writing, the Commission continued to receive reports of children being recruited by HTS in Idlib governorate, as pro-Government forces intensified its aerial and ground offensive against residential areas in southern Idlib and northern Hama.<sup>31</sup> In Aleppo governorate, boys between 13 to 17 years of age have joined armed groups. One interviewee described the case of a 14-year old boy who joined Ahrar al-Sham in 2018 along with his older brother in order to participate in operation "Olive Branch". The boy has since been reassigned to a checkpoint in Aleppo.

38. Children have been also used in a variety of unarmed roles, including as cooks, informants, and porters. For example, in 2012 a 13-year-old boy enlisted with an FSA brigade in Dar'a after his school ceased to operate. Before being seriously injured in 2013, the boy was used as a porter and his duties included carrying the wounded and medicine, as well as preparing ammunitions. Members of the armed groups interviewed by the Commission explained that, similar to the practices of Government affiliated militia, when captured, children were often killed or detained by Government forces.

39. Armed groups created financial incentives for boys to join their ranks, and largely took advantage of the quickly deteriorating economic situation in areas under their control. Owing to pre-established gender norms, boys have been expected to take on the role of a breadwinner, especially within female-headed households, following the arrest, detention or disappearance of male parental figures. In Idlib, Hama and Aleppo, boys were promised monthly salaries to join armed groups, with interviewees recalling that numerous children aged 15 and below had been recruited by Jabhat al-Nusra and Jund al-Aqsa between April and May 2016. Exposure to violence and harassment of family members have been another push factor for boys to join the ranks of armed groups. One boy interviewed by the Commission, who joined one FSA-affiliated group when he was 13, explained how he joined after witnessing Government forces humiliating his father at a checkpoint.

40. Contrary to its own commitments,<sup>32</sup> the YPG/ SDF, recruited and accepted girls and boys under the age of 18 into their ranks. The Commission received multiple accounts of the

<sup>30</sup> *Supra* note 27.

<sup>31</sup> See A/HRC/42/5, paras. 39 – 54.

<sup>32</sup> In a letter dated 30 September 2013 addressed to the Commission, the YPG/SDF stated its policy not to use children under 18 and issued an order mirroring these guidelines. Subsequently, in 2015, YPG/SDF pledged to abolish such practices and, in June 2019, the SDF signed an action plan with the Special Representative of the Secretary-General for Children and Armed Conflict to end and prevent the recruitment and use of children. The YPG/YPJ operates under the command of the SDF.

SDF recruiting children for combat and support roles in military operations aiming to oust opposing groups, including Jabhat al-Nusra and, later on, against ISIL. Instances have been documented of boys aged 15 below and, albeit infrequently, girls as young as 16 recruited for participation in hostilities in Aleppo, Hassakah and Ayn al-Arab (Kobane) and Raqqah. Numerous accounts collected by the Commission describe how children were actively recruited, often under the guise of the providing access to education, and deployed to battlefields. One interviewee described witnessing a 10-year-old boy dragging an AK-47 because the weapon was too large.

41. The violations and abuses inflicted by ISIL on children have had a devastating impact on survivors. ISIL used and systematically recruited children for direct participation in hostilities and failed to protect them in the course of its military operations. ISIL established “cubs camps” across its territory where children of various backgrounds, including Yazidi boys as young as seven who were forcibly transferred from Sinjar in northern Iraq in August 2014 and brought into Syria, were trained for combat roles and suicide missions.

### C. Attacks on education

*“Interrupted education is a real issue. There are teenagers of the age 15 or 16 who are illiterate. Families keep fleeing and children keep attending whatever classes are available in their new areas.”*

*Interviewee discussing education in Idlib in 2019*

42. Children’s right to education has been denied by all parties to the conflict. Warring parties have looted and vandalized educational establishments and used schools for military purposes, including as depots, barracks, sniper posts, temporary bases or launching sites. Repeated attacks on educational facilities combined with the complete breakdown of the education system have minimized the opportunities for children to resume their studies and improve prospects for their future.

*Government forces*

43. A large number of schools have been the site of protests and were subsequently targeted by Government forces. This resulted in schools gradually closing down across the country due to fears of military attack. One interviewee described how, in February 2012, in response to anti-Government protests, Government forces fired at Abdita School in Idlib governorate, broke into the classrooms, destroyed school materials and placed graffiti slogans on the walls.

44. In another example, on 24 November 2018, pro-Government forces launched an attack using mortar projectiles near al-Khansaa primary school in Jarjanaz.<sup>33</sup> Some 250 children were playing in the schoolyard when a rocket-assisted mortar projectile exploded approximately 50 metres away, killing at least four boys aged between 8 and 10 years, and two girls aged 10 and 11 years. Numerous other children were injured. As in other cases, the school was closed for a certain time, in anticipation of additional attacks, further reducing access to education countrywide. Most recently, the Commission received credible information that some 70 schools in the demilitarized zone of Idlib have been destroyed or damaged by hostilities, depriving over 200,000 pupils of formal education.<sup>34</sup>

45. Countless teachers, without whom the education system cannot operate meaningfully, have been killed and injured. Over the years, teachers have been also abducted, detained and dismissed from their positions in Dar’a and Suwaydah governorates for perceived affiliation with armed groups. As Government forces re-took areas previously under the control of armed groups in 2018, numerous teachers fled fearing reprisals. This left unqualified individuals to teach pupils who had already missed years of education. Moreover, in Dar’a, interviewees consistently reported overcrowded classrooms with children of various ages and levels studying together in those buildings that could still hold classes.

<sup>33</sup> See A/HRC/40/70, para. 29

<sup>34</sup> See A/HRC/42/51, para. 48.

46. Children faced numerous difficulties to resume their studies in public schools. Reports indicate that Government authorities have accepted the attendance of younger children, however, they are allegedly refusing to acknowledge school certificates provided by armed groups to students in grade nine and above. This is forcing thousands of students to repeat classes and retake exams in order to be enrolled in public schools. Combined with large-scale conscription campaigns and the general collapse of the education system, this enables swift compulsory recruitment of young men, many of whom are illiterate and with meagre prospects for their future, into Government ranks.

*Non-state armed groups and terrorist organizations*

47. Armed groups and terrorist organizations struck schools indiscriminately and often used them for military purposes, including as depots, barracks, or launching sites, further endangering children's lives by changing the institutions' protected statuses, and hindering children's access to education. Indiscriminate mortar and artillery fire caused scores of child casualties in the cities of Aleppo and Damascus, as well as in Idlib governorate. Fearing further attacks, some schools, such as Abdulrahman Al-Khazen School in Al-Fahamy (Damascus), moved classes into basements after Jaish Al-Islam launched mortar shells on the capital in February 2015.

48. Over the years, different armed groups imposed competing curricula in schools in areas under their control. Movement restrictions and widespread fear of arrests at Government checkpoints compelled many parents to confine children to their homes or enrol them in makeshift schools. In areas under SDF control, parents feared that education certificates would not be accepted by Government authorities and opted for home schooling instead. Children enrolled in public schools reported being harassed for wearing school uniforms known to be used in public schools in Government areas. In one case documented by the Commission, a father explained how, after being harassed and fined at one YPG staffed checkpoint, his children subsequently crossed wearing their regular clothes and only put on their school uniform when in Government controlled areas. Threats against parents by YPG members for enrolling their children in Government schools have also been recorded. The Commission received reports that local councils, with the support of Turkish authorities, are supporting the implementation of educational curriculum in schools in Afrin, al-Bab and Jarablus, which includes the Turkish language.

49. Terrorist organizations also extended their control over the educational sector. During its period of extensive territorial control, ISIL used education as a tool for indoctrination with the aim of creating a generation of supporters. Having completed mandatory religious education, girls above the age of 10 were removed from school in Raqqah and Aleppo governorates. Boys, meanwhile, followed a strict school curriculum mirroring the group's ideology. They were given weapons training and routinely exposed to propaganda videos, including beheadings and executions. On 29 May 2014, in an apparent attempt to indoctrinate children and enforce loyalty, ISIL abducted a convoy of buses transporting 153 boys, aged 13 and 14 years, home to Ayn al-Arab (Kobane) from Aleppo city where they sat their final student exams.<sup>35</sup> During their one-month long detention, boys were subjected to religious education, forced to watch videos of beheadings and severely punished if they disobeyed rules, which included speaking in the Kurdish language or attempting to escape. While 15 boys were released on 28 June as part of a prisoner exchange for ISIL members held by the YPG, a further prisoner exchange between the two armed groups, intended to take place on 18 July, failed. The situation then shifted from being one of hostage-taking as ISIL held the remaining children for the purposes of indoctrination, before releasing them in groups in August and September 2014. In Idlib Governorate, members of HTS issued decrees in schools emphasising that female students who did not abide by the dress code would be banned from attending classes.<sup>36</sup>

<sup>35</sup> See A/HRC/28/69, paras. 25-27.

<sup>36</sup> For an analysis of how Hay'at Tahrir al-Sham strictly interprets the tenets of Islamic law (sharia) in a manner that systematically discriminates against women and girls, see A/HRC/37/CRP.3, footnote 6.

## D. Children in detention

*“They [Government forces] are afraid of boys older than 12 at check points. They threaten them with guns and slap them in the face. It doesn’t matter if the boy is wanted or not; he goes to the detention centre.”*

*Woman discussing the situation of boys and young men in southern Syria, 2013*

50. In violation of the special protection afforded to children, parties to the conflict detained girls and boys and subjected them to a myriad of violations, as well as denying them access to psychological support or medical care. Children affected by armed conflict must be treated humanely, protected from violence and situations in which there is a risk to cause them harm, including any form of torture or degrading treatment.<sup>37</sup>

### *Government forces*

51. While parties to the conflict throughout the Syrian Arab Republic committed violations of the most fundamental human rights perpetrated by all parties on the ground through their detention practices, nowhere has the phenomenon been more pervasive than in areas under government control.<sup>38</sup> Since 2011, widespread arrests of men and boys as young as 15 were conducted by security forces or militia acting on behalf of the Government, during mass arrests, house searches or in hospitals. Boys and, on occasions, girls have been detained either unaccompanied or together with male relatives based on their perceived support of opposition groups at checkpoints in Aleppo, Damascus and Dar’a.

52. In detention, as in the case for adults, children were denied the legal protections they are entitled to and were subjected to torture or other cruel, inhuman or degrading treatment. Chilling accounts collected from victims and witnesses over the years demonstrate blatant violations of children’s rights, including perpetrating sexual violence<sup>39</sup> and torture<sup>40</sup> as well as beatings with objects such as pipes.

53. On occasions, children were also deprived of food and vital medical care,<sup>41</sup> whipped and used to coerce confessions from their parents. The presence of male and female detainees as young as 11 was recorded in Security Branches 215, 227, 235 and 248 in Damascus. Torture and rape of minors was reported in Branches 215 and 235. The Commission has documented cases of children as young as seven dying in State custody.

54. Children witnessed the torture or other inhumane treatment inflicted on family members, and, on occasions, were forced to inflict torture on other detainees. One interviewee, detained in 2014 and held in the Qamishli Security Branch, described how a 16-year-old boy was forced to electrocute the genitals of another detainee. Female detainees held with young children recalled being denied medical assistance and food for their babies including in cases when children were visibly ill.

55. Boys and girls have been used by detention authorities and guards to clean the facilities, cook for guards and prisoners and to perform other logistic and support roles for the management of the detention facilities. Interviewees described seeing children cleaning at the Mezzeh Airport Branch, and often hearing them being beaten and crying at night. The Commission received accounts of children born in detention facilities and immediately separated from their mothers with their fate and whereabouts unknown.

### *Non-state armed groups and terrorist organizations*

56. These pervasive abuses are, however, not limited to the auspices of Government forces. Armed groups, including Jabhat al-Islamiyya, Ahrar Al-Sham, and Jabhat al-Nusra,

<sup>37</sup> See ICRC Rule 120 and 118.

<sup>38</sup> See, generally, “Out of Sight, Out of Mind: Deaths in Detention in the Syrian Arab Republic”, conference room paper A/HRC/31/CRP.1

<sup>39</sup> See ICRC Rule 93 noting that “Rape and other forms of sexual violence are prohibited.”

<sup>40</sup> See ICRC Rule 90 stating that “Torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment, are prohibited.”

<sup>41</sup> See ICRC Rule 118 noting that “Persons deprived of their liberty must be provided with adequate food, water, clothing, shelter and medical attention.”

have also arbitrarily detained children as hostages, often along with their mothers, to extract ransom, or to initiate prisoner swaps with Government Forces and affiliated militias. Children reportedly have been detained by Jabhat Al-Nusra and tortured in Harim prison (Idlib). One 14-year-old boy interviewed by the Commission described how he had been tortured by Ahrar al-Sham in ar-Raqqa in July 2013 in an attempt to extract information about his uncle. The body of a 16 year-old-boy, severely tortured, was returned to his parents in Saraqeb in 2012, after being detained at a checkpoint by Jabhat al-Nusra.

57. As SDF gained control over the last ISIL strongholds in eastern Syria, women and children with familial links to ISIL were transferred to SDF-run al-Hol, al-Roj and Ain-Issa camps in eastern Syria, where, at the time of writing, they persist in deplorable living conditions. Men and boys as young as 12 years of age with perceived links to ISIL militants, likely including Yazidi boys forcibly transferred into Syria in 2014, were separated from women and younger children and transferred to SDF-managed detention sites. Most men and boys remained in SDF-run detention facilities, without adequate judicial guarantees in a legal and administrative limbo, conducive to detainee abuse.

58. Throughout 2018 and 2019, the Commission documented numerous cases of abduction of children in the Afrin region. The lack of an effective security apparatus and clear absence of the rule of law in the region resulted in frequent abductions by armed groups and criminal gangs, who also targeted children.<sup>42</sup>

## E. Sexual violence against children

*“The officer took two girls, held their faces down on the desk, and raped them in turn. The girls tried to resist but there was nothing they could do. The officer then told me “you see what I am doing to them, I will do this to your wife and daughter.”*

*Male detainee, Damascus Political Security Branch, 2014*

59. Parties to the conflict resorted to sexual violence as a tool to instil fear, humiliate and punish or, in the case of terrorist groups, as part of their enforced social order.<sup>43</sup> Underreporting or delayed reporting of these flagrant violations is prevalent, thus seriously impacting an assessment of its full magnitude.

### *Government forces and associated militia*

60. Women and girls have been targeted on the basis of their gender since the early days of the Syrian conflict. Rape and sexual violence have been committed against women and girls during house raids often following ground offensives, at checkpoints and, most often, in State custody. Women and girls were raped and sexually assaulted in Government detention facilities, with interviewees consistently reporting that such violations occurred in the investigation branches of the Military Intelligence Directorate and other places of detention administered by the General Security Directorate in Damascus.

61. Girls in detention were subjected to sexual and gender-based violence to extract information, coerce confession or force the surrender of opposition family members. In 2013 in Dar’a, for example, a young student was raped at a checkpoint because her brother was an opposition fighter. Later, the FSA arranged for her to marry someone in order to “protect her honour”. In another case, the nine-year-old daughter of a man suspected to be a member of an armed group was raped after being arrested by Government forces along with all of her relatives.

62. Boys in detention have been particularly vulnerable to sexual violence. Sexual torture, including the tying of genitals, has been systematically perpetrated against men and boys in detention in Damascus, Homs and Aleppo. For example, in January 2013, security forces beat and electrocuted the genitals of a 17-year-old boy detained at a place of detention run

<sup>42</sup> See A/HRC/40/70 paras. 64 – 66 and A/HRC/42/51 para. 59.

<sup>43</sup> See “I lost my dignity’: sexual and gender-based violence in the Syrian Arab Republic”, conference room paper A/HRC/37/CRP.3

by intelligence forces in Homs. Later, the boy was raped by security agents while others watched.

63. Survivors were seldom provided with immediate care after the assault had taken place, and were rarely able to seek treatment and psychological support upon release due to the stigma and social pressure attached to violations of a sexual nature. The Commission received numerous accounts of survivors becoming suicidal, suffering guilt and shame, as well as developing reproductive health problems.

64. The threat of rape and other forms of sexual violence was used to spread fear amongst young girls and their families. In late 2012 for example, when Government forces took over Harak village, Dar'a governorate, graffiti stating "your men in our prisons, your women in our laps" began to appear. A few months later, Government forces went to a school in Harak. When inside the school they told female pupils to warn FSA fighters that if the group started shooting the girls would be kidnapped. Parents subsequently removed the girls from school. Rape and the threat of rape was also cited as a reason for families to send their daughters abroad to displacement camps, or for families to flee in Aleppo, Dar'a, Hama and Homs governorates.

65. Children were also harassed, insulted and subjected to intimate searches at checkpoints in Damascus, Dar'a and Homs. At an Air Force Intelligence checkpoint in Dar'a in November 2013, security services asked a young girl, who was travelling with her mother, whether she was already married and threatened to perform a virginity test on her. In a separate incident in Homs, 10 boys aged between 14 and 17 were taken out of a bus at a Political Security Branch staffed checkpoint and forced to strip naked.

*Non-state armed groups and terrorist organizations*

66. Instances of rape and sexual violence perpetrated by armed groups have also been recorded. Women and girls were subjected to sexual and gender-based violations most often with elements of revenge, sectarianism or exploitation. The Commission recorded numerous cases of families forced to allow the marriage of their minor daughters with members of armed groups in rif Damascus. Such alliances often resulted in the girl being abandoned shortly thereafter, and later prevented from returning to her family home as she had been "dishonoured."

67. Harmful practices, such as child, early and forced marriage, have been documented in areas close to Damascus, including in Yarmouk camp by Jabhat al-Nusra and in areas controlled by ISIL. Some of these marriages were imposed on girls as young as 14. Moreover, thousands of Yazidi girls, some as young as nine, were sold in slave markets in Raqqah, Aleppo, Homs, Hasakah and Dayr al-Zawr Governorates. While in captivity, Yazidi girls endured brutal rapes and physical violence, were denied access to adequate food and medicine, and severely punished by severe beatings and gang rapes when they attempted to escape.

#### **IV. Impact of the conflict on children**

*"They have erased the dreams of my children. They have destroyed what we have built during our whole life; my daughter was so depressed when she found out that our house was burnt down. My other child, a three-year-old boy, is traumatized by the crisis. He is continuously drawing tanks"*

*Interviewee discussing attacks on her village in Idlib, March 2012*

68. Eight years into the conflict, children are adapting to a grim reality where the restriction of their basic rights, including health, education and documentation, has become routine. The unprecedented and recurrent nature of the myriad violations endured by each girl and boy, as a victim or a witness to the violence of the Syrian war, have affected young people in a plethora of ways.

69. Starting in 2012, displacement figures rose dramatically and have remained at extremely high levels throughout the war.<sup>44</sup> From those displaced inside Syria, an estimated 2.6 million are children.<sup>45</sup> Approximately 2.5 million girls and boys are living as refugees. Accordingly, the protection and assistance concerns of children remain precarious throughout Syria, in particular when relocated to settlements where access to basic services is limited, non-existent or restricted by parties to the conflict. In the first half of 2018 alone, more than one million Syrian men, women and children were displaced when warring parties carried out battles in Aleppo, northern Homs, Damascus, Rif Damascus, Dar'a and Idlib Governorates.<sup>46</sup> In March 2019, at the peak of the United States-led coalition's support for SDF's operation to oust ISIL, the destruction of towns and villages in and around Hajin city and Baghouz town in Dayr al-Zawr Governorate led to the displacement of tens of thousands of people. The displaced, who were predominantly women and children with familial links to ISIL, ended up living in displacement camps, including al-Hol in Hasakah Governorate.<sup>47</sup> In Idlib governorate, escalating battles, forced up to 600,000 women, men and children to seek refuge in communities in Idlib, western Aleppo, and Hama Governorates.<sup>48</sup> Lastly, in late 2019, approximately 80,000 children were displaced due to fighting in Northeast Syria.

70. Violations were particularly widespread in large camp settings where prolonged displacement is prevalent, including in al-Hol, Ain-Issa,<sup>49</sup> al-Roj, Atma and Rukban camps. Adolescent girls were disproportionately affected by sexual and gender-based violence, child marriage and exploitation. Often left without a guardian, children suffered from malnutrition, war-related injuries, and preventable diseases caused from the lack of medical care and medicine.

71. Children's access to education has been blatantly denied by parties to the conflict. In addition to schools being repeatedly damaged and destroyed, education facilities have been used for military purposes, including as depots, barracks or launching sites. In conflict-impacted areas, even where schools still operate, parents were compelled to keep children at home, fearing for their safety. Qualified teachers have been killed or have fled many areas of the country, curricula have been modified, and, even in situations where a child has managed to finish steps in their formal education, authorities often do not recognise educational certificates issued by others.

72. To date more than 2.1 million girls and boys within Syria have ceased to attend school on a regular basis. When children do attend formal education, issues of overcrowding are significant with the Commission receiving reports that some classes comprise 120 children. In al-Hol camp for example, access to education remains insufficient, with 26,000 children out of school. These children had missed years of education prior to their displacement. In Rukban, scores of children have missed classes for the past five years, with many are reportedly illiterate.

73. With medical facilities repeatedly damaged countrywide and regularly put out of service, children's access to healthcare has been severely undermined. Most acutely, the complete breakdown of health services in many areas has affected prenatal and postnatal care for women and their children, which, combined with poor water and sanitary services as well as the absence of routine vaccinations, resulted in numerous cases of preventable deaths. In camp settings, health conditions remain deplorable with food, medicine and other life-saving supplies scarce or no longer available. For example, in the "annexed" section inside al-Hol

<sup>44</sup> Peaks of displacement have been reached during 2013 as well as 2017 with up to 3.5 million and 2.9 million new displacements per year respectively.

<sup>45</sup> See <https://www.unicef.org/mena/media/4086/file/SYR-FastFacts-En.pdf>

<sup>46</sup> Towards the end of 2018, 1.6 million new displacements have been registered in Syria. Thousands of other civilians were forcibly displaced pursuant to "evacuation agreements" negotiated between warring parties. See therefore also [https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/PolicyPaperSieges\\_29May2018.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/PolicyPaperSieges_29May2018.pdf) at page 6.

<sup>47</sup> See A/HRC/42/55, para. 83

<sup>48</sup> See [https://reliefweb.int/sites/reliefweb.int/files/resources/nw\\_update\\_sitrep\\_9-\\_final.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/nw_update_sitrep_9-_final.pdf)

<sup>49</sup> Renewed hostilities in the northeast in October 2019 led to reports that the camp was abandoned. At the time of writing, the Commission was in the process of obtaining additional details regarding the events.

camp, interviewees described being denied food and prevented from accessing medical care, including for their infant children. Some of these children bore visible shrapnel injuries, suffered acute malnutrition and eventually perished. The impact on medical care in Syria will likely endure long after the conflict has ceased, in particular for those boys and girls who have suffered disabilities because of the war.

74. Regarding the mental health of those affected by over eight years of armed conflict, the impact of the war on children and their caregivers has been enormous. Numerous accounts were received by the Commission detailing the negative effects on the mental health of boys and girls. Children have described to the Commission the impact of losing their parents, siblings and friends. The witnessing of extreme violence, long periods of detention as well as the experience of torture and ill-treatment compounds the trauma that is experienced when living under siege for years, while fleeing or in protracted displacement. The Commission has documented the disruption of the normal everyday reference points for children, including the destruction of social, familial and schooling routines. Many boys and girls have described how they suffer from serious sleeping disorders, as well as feelings of insecurity, abandonment, revenge, frustration and fear. Several generations of children are used to living in distress with devastating psychological and developmental consequences for children and their caregivers.

75. Pre-existing gender roles have been exacerbated as a result of the conflict. Girls have been forcibly married due to protection concerns and have been prevented from attending school, which further entrenches their role in society. Boys have been compelled to take up the role of the main breadwinner, especially in female-headed households. While armed groups created financial incentives for boys to join their ranks, others engaged in petty jobs to secure an income for their families such as selling peanuts or working in mechanic shops. The lack of educational opportunities and economic hardship further exacerbated this situation. Moreover, children have been used for other forms of work that is highly detrimental to their development, including boys being used as smugglers, as workers at construction sites or as porters. Homeless children have also regularly been forced to beg. All these outcomes are highly detrimental to the survival and development of children and expose them to additional forms of violence and exploitation.

76. The conflict in Syria has further amplified pre-war challenges for individuals, most acutely children, to obtain valid civil documentation. Financial constraints and widespread corruption among Government officials have prevented parents from initiating birth and marriage registration procedures, which in turn, obstructed children's right to a legal identity and a nationality. These documentation challenges also impeded children's right to access education, medical care or property. Children whose parents went missing as a result of widespread arrests and detention, often amounting to enforced disappearances, have faced particularly acute challenges.<sup>50</sup>

77. Girls and boys born in former opposition-controlled areas also faced numerous obstacles to obtain civil registration, since documents provided by armed groups are not recognized by competent Government authorities. The situation of displaced children, in particular girls and boys persisting in al-Hol or al-Roj camps with familial links to ISIL fighters, is particularly precarious. Of some 45,000 children who were at al-Hol camp at the time of writing, including those born as a result of rape, a large number lack birth registration documents, either due to lost documents or an inability to register. This, in turn, jeopardizes their rights to a nationality, hinders family reunification processes and puts them at a higher risk of exploitation and abuse. The situation of those born in other camps is also problematic as births were never officially registered with competent authorities, resulting in lack of civil documentation and rendering children effectively stateless. Moreover, stripping parents of their nationality has negatively impacted children, including their ability to exercise basic human rights. Proposals by States to repatriate children without their mothers may also run counter to the principle of the "best interests of the child."

78. While more than half of the population remains displaced, numerous challenges persist regarding the sustainable return of internally displaced persons and refugees, in

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<sup>50</sup> See A/HRC/42/51, paras. 92-93.

particular children. In light of this, the situation at the time of writing throughout Syria continued to undermine the feasibility of the return of internally displaced persons and refugees. The physical impact of the conflict, along with attacks on educational personnel and displacement, will have a significant impact on education that will endure for years to come. This will severely affect a number of generations and impact upon their ability to exercise their rights and to positively contribute to communities and societies in the future.

## V. Conclusions

79. Children throughout the Syrian Arab Republic remain acutely vulnerable to violence and abuse. The overwhelming impact of the conflict on civilians revealed that children remain victimized on multiple grounds, and continue to be denied the protection to which they are entitled under international humanitarian and international human rights law.

80. Syrian children were killed and maimed as a consequence of attacks against civilians, indiscriminate attacks, and the use of tactics incompatible with the best interest of the child, such as siege tactics. The Commission documented attacks carried out by Government and pro-Government forces in densely populated areas without an apparent military objective, which caused scores of child casualties. These attacks amount to the war crime of launching indiscriminate attacks resulting in the death or injury of civilians.

81. In numerous aerial and ground attacks, Government forces targeted schools and caused widespread destruction of educational establishments. While schools can lawfully be targeted when used for military purposes, any attack in densely populated civilian areas requires effective advance warning, unless the circumstances do not permit. As previously documented by the Commission, Government forces often failed to provide such warnings prior to conducting attacks. The Commission further documented instances where Government forces deliberately attacked schools, and therefore committed the war crimes of deliberately targeting a civilian object and deliberately attacking civilians.

82. Through its widespread and systematic campaigns of arrests and detention targeting civilians broadly perceived to be supporting opposition groups, Government forces and associated militia detained children and subjected them to torture and ill-treatment, including rape and sexual violence. These acts, when committed after the start of the armed conflict, amount to the war crimes of murder, cruel treatment, torture, rape, sexual violence and outrages upon personal dignity. Furthermore, as previously established by the Commission, these acts constitute the crimes against humanity of murder, rape and other sexual violence, torture, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, enforced disappearance and other inhuman acts.

83. Government forces and associated militia perpetrated rape and other forms of sexual violence against both girls and boys. Rapes and other acts of sexual violence at checkpoints and the imprisonment and rapes in detention that followed also formed part of a widespread and systematic attack directed against a civilian population, and amounted to crimes against humanity. When these acts were committed in the context of a non-international armed conflict, rape and other forms of sexual violence perpetrated by Government forces and affiliated militias at checkpoints also constituted the war crime of rape and other forms of sexual violence, including torture and outrages upon personal dignity. Furthermore, these acts amount to serious violations of international human rights law, including violations of the right to life, liberty and security of person, the right to freedom from torture and other forms of cruel, inhuman, or degrading treatment, and the right to the highest attainable standard of physical and mental health.

84. Children were recruited and used to actively participate in hostilities. Government forces and associated militias are responsible for using children under the age of 18 in hostilities, undermining their protection in armed conflict and exposing them to further risks to their life. Armed groups recruited and used children under the age of 18 in hostilities, exposing them to additional risk to their lives. Where those children are under the age of 15,

those enlisting or conscripting them, or using them in active hostilities, may be individually liable for war crimes under international criminal law.<sup>51</sup>

85. Armed groups also launched attacks against civilians, often indiscriminate in nature, thereby committing the war crime of launching indiscriminate attacks resulting in the death or injury of civilians. Attacks on schools and the use of educational facilities by armed groups further endangered children's lives and impeded access to education for scores of children living in areas under their control.

86. While detaining children, non-state armed groups were responsible for torture and other forms of ill-treatment. When these acts were committed in the context of a non-international armed conflict, they constitute the war crimes of abduction, cruel treatment and torture.

87. By perpetrating rape and other forms of sexual violence, armed groups committed war crimes of rape and other forms of sexual violence, including torture and outrages upon personal dignity. These acts contravene international human rights norms including the right to life, liberty and security of person, the right to freedom from torture and other forms of cruel, inhuman, or degrading treatment, and the right to the highest attainable standard of physical and mental health. Forced marriages may also amount to crimes against humanity.<sup>52</sup>

88. Girls living in areas under the control of HTS terrorists suffered severe psychological harm due to restrictions on their movement and religious dress codes imposed by the group. Edicts formally delivered to populations living under the control of HTS disproportionately affected adolescent girls and demonstrated discriminatory treatment on the basis of sex, in breach of fundamental international human rights norms.

89. Between 2013 and 2016, ISIL terrorists publically executed children and thereby committed the war crime of murder. ISIL forced girls as young as 14 to marry the group's fighters. Forced marriages constitute sexual violence and amount to the war crimes of cruel treatment and, in many instances, rape. When committed as part of a widespread or systematic attack directed against a civilian population, forced marriage may also amount to a crime against humanity. These acts also constitute serious abuses of the international human rights of women and girls including the rights to freely choose a spouse and enter into marriage only with free and full consent.<sup>53</sup>

90. The Commission has previously reported on Yazidi women and girls taken into ISIL held areas in the Syrian Arab Republic.<sup>54</sup> ISIL did not allow their members who "owned" Yazidis to sell the Yazidi children separately. This rule was changed in mid-2016 and resulted in the separation of children from their mothers and subsequent sale of young boys as house servants, and girls as young as nine years as sexual slaves. Such children were often then given Muslim names. Identifying their ancestry remains problematic.

## VI. Recommendations

91. Eight years of conflict has not only left an enormous trauma on the physical and mental well-being of an entire generation of Syrian girls and boys, but also destroyed the social, economic and cultural fabric required for Syrian communities to start healing. As a

<sup>51</sup> The Optional Protocol to the Convention, which the Syrian Arab Republic adopted in 2003, sets – without reservation – 18 years as the minimum age for participation in hostilities, for recruitment into armed groups, and for compulsory recruitment by governments.

Under Article 8(2)(b)(xxvi) and (e)(vii) of the Rome Statute of the International Criminal Court, conscripting or enlisting children under the age of 15 years or using them to actively participate actively in hostilities amounts to a war crime in non-international armed conflict.

<sup>52</sup> See, e.g., Extraordinary Chambers in the Courts of Cambodia, Case 002 Closing Order, 15 September 2010, at para. 1443; see also *The Prosecutor v. Dominic Ongwen*, Decision on the confirmation of charges against Dominic Ongwen, Pre-Trial Chamber II, No.: ICC-02/04-01/15, 23 March 2016, at para. 95.

<sup>53</sup> Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, at Art. 1(b).

<sup>54</sup> See “‘They came to destroy’: ISIS crimes against Yazidis”, conference room paper A/HRC/32/CRP.2

matter of priority, the Commission urges all parties to the conflict to respect, protect and fulfil the human rights of all Syrian girls and boys. Specifically, and in order to alleviate the suffering of the children, the Commission calls for the below actions.

92. **First, as a matter of priority and in terms of immediate action, the Commission recommends that:**

(a) **all parties to the conflict commit in writing to the well-established principles under international law that grant all children special protection in times of war and conflict, and to adhere to the principle that all children in armed conflict are first and foremost victims and not perpetrators. The international community should provide support to implement those commitments that have already been made by parties to the conflict;**

(b) **the Government of the Syrian Arab Republic, as the primary duty bearer to protect children at all times, including during armed conflict, ensures that due protection is granted to all children;**

(c) **parties to the conflict urgently integrate the best interest of the child into all considerations of their military planning, policies and practices and consider child rights in every single military operation they conduct in Syria;**

(d) **all parties to the conflict immediately put an end to the recruitment, use and enlistment of girls and boys;**

(e) **injured children receive the appropriate health treatment, including the provision of mental health and psychosocial support;**

(f) **all parties urgently identify all children born in places of detention and currently deprived of liberty, reunify them with their mothers where they have been separated and provide the necessary documentation to protect their rights;**

(g) **all parties immediately identify, investigate and prosecute/discipline those responsible for the ill-treatment, torture, abuse and killing of children in detention, and that legal aid is provided to children and their families to enjoy their right to file complaints and legal proceedings against the perpetrators;**

(h) **all parties immediately identify all children who died in custody and communicate to their families the facts about the death of the children, and provide all the necessary documentation to guarantee and protect the right to truth and reparations;**

(i) **the Government of the Syrian Arab Republic enforces domestically incorporated international law in relation to children's rights and takes action to ensure domestic accountability for child rights violations. At all times ensuring that all internationally recognized fair trial rights are respected;**

(j) **the Government of the Syrian Arab Republic ratifies Optional Protocol 3 of the Convention of the Rights of the Child on a Communication Procedure, as a measure to improve accountability for child rights under domestic and international human rights law;**

(k) **Members States prioritize that unaccompanied children in situations of displacement be repatriated to their country of nationality and reunified with their families; mothers should be repatriated along with their children to ensure adherence with the best interests of the child principle. Any subsequent legal processes against parents should be undertaken with due regard to international human rights law;**

(l) **affected Member States take measures to put an end to situations of statelessness created during the armed conflict;**

93. **In relation to killing and injuring of children, the Commission recommends that:**

(a) **all parties to the conflict comply to the highest extent with standards and principles of international humanitarian law, particularly those regarding distinction and proportionality, in order to reduce child casualties;**

(b) **children living with disabilities due to the amputation of limbs and conflict-related physical and psychological wounds participate and benefit from**

adequate access to services, including gender and age-sensitive support programs, in accordance with Security Council resolution 2475 (2019).

94. In relation to recruitment and use of children in hostilities, the Commission recommends that:

(a) the Government of the Syrian Arab Republic ensures that persons who have not attained the age of 18 years are not compulsory recruited into armed forces.

(b) all parties to the conflict with children in their ranks should identify them and proceed to reunify those children with their families;

(c) all parties to the conflict grant access to United Nations mandated mechanisms to verify and oversee the process of demobilisation. United Nations agencies, international non-governmental organizations and local non-governmental organizations should be integrated in a holistic response to the reintegration of children;

(d) children formerly associated with parties to conflict who are currently in situations of detention should be allowed to reintegrate with their families and communities in the Syrian Arab Republic and holistic reintegration projects should be designed with the participation of the children and their communities;

95. In relation to attacks on education, the Commission recommends that:

(a) all parties to the conflict immediately halt the targeting schools and educational facilities, and enforce special protection regulations granted to schools, education personnel and students. Moreover, the Commission urges the Government of Syria to endorse and implement the Safe School Declaration;

(b) all parties to the conflict should immediately put an end to the military use of schools and return the infrastructure to educational authorities in place with the aim of assigning the infrastructure to the original purpose;

(c) all parties prioritize the right to education in the current negotiations, prioritising initiatives with a child-centred political reconciliation process;

(d) Government of the Syrian Arab Republic should immediately review the status of teachers and educational staff dismissed since 2011 with a view to reintegrate them into the educational system;

(e) all parties to the conflict should immediately take steps to prioritize damaged schools among reconstruction efforts on the basis of an inclusive process that takes into account the views of children and youth.

96. In relation to children in detention, the Commission recommends that:

(a) all parties to the conflict immediately release all children in all places of detention; this measure should include all individuals who at the time of the arrest and detention were below 18 years old;

(b) all parties take measures aimed at designing and implementing programs for the physical and psychological recovery, as well as social integration, of boys and girls survivors and victims of torture and ill-treatment during detention;

(c) all parties ensure that all children are treated first as victims and not perpetrators. In cases where they are detained, it is only as a measure of last resort and, in such exceptional cases, are held for the shortest appropriate period of time, and that they are separated from adult detainees;

(d) all parties allow unconditional access for independent monitors and humanitarian organizations to all places of detention, in particular where children are deprived of their liberty.

97. In relation to sexual violence against children, the Commission recommends that:

(a) all parties to the conflict immediately cease the perpetration of sexual and gender-based violence against girls and boys, as well as facilitating the meaningful provision of services for boy and girl survivors of sexual and gender-based violence;

(b) investigations and prosecutions are conducted against those that bear individual criminal responsibility for committing acts of rape and sexual violence against children;

(c) resources are made available by Member States to prepare communities to reintegrate children who have suffered sexual violence and that communities facilitate the return of child victims of sexual violence and work with humanitarian organisations to assist survivors;

(d) the Government of the Syrian Arab Republic implement the recommendations of the Committee on the Elimination of Discrimination against Women, including general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations; and recognize its obligations under Security Council resolutions 1325 (2000) and 2122 (2013), reaffirming the need to protect women and girls from sexual and gender-based violence.

98. In relation to children in situations of displacement, the Commission recommends that:

(a) internally displaced children shall not be interned in or confined to a camp, and, where absolutely necessary, internment shall not last longer than required by the circumstances;

(b) all parties allow specialized humanitarian organisations access to displaced children to ensure all needed services are provided in terms of health, protection and (re)establishment of contacts and familial links between the child and families;

(c) all parties ensure that unaccompanied children in situations of displacement return to their areas of origin and are reunified with their families;

99. In relation to the issue of birth registration and civil documentation, the Commission recommends that:

(a) all children living in the Syrian Arab Republic, as well as refugee children wishing to return, receive free-of-charge official documents, including birth and educational certificates, that will grant them full and unimpeded access to health, education and social services, and will prevent discrimination and exclusion;

(b) the Government implements simplified administrative procedures for civil registration of vital events, so that individuals, including children, are not prevented from exercising key rights;

(c) countries of origin of foreign fighters take immediate steps for the simplified registration of their nationals born in Syria with the ultimate aim to repatriate them and their caregivers as soon as possible and in light of the principle of the best interest of the child; countries of origin should also refrain from stripping parents of their nationality in light of the impact on children;

(d) documentation indicating birth or other vital events provided by non-state actors is considered as a valid proof, together with witness testimonies, for obtaining official civil documentation; the possession of documentation provided by armed groups should in not any way result in negative consequences for children.

100. In relation to access to justice and accountability, the Commission recommends:

(a) any process aimed at achieving lasting peace in the Syrian Arab Republic should include a child-centred approach to access to justice in which crimes against children receive the proper attention;

(b) any political settlement should be rooted in ensuring access to justice for victims of crimes against children as a key component;

(c) **current and future investigative and prosecutorial strategies conducted by international or domestic tribunals pay particular attention to crimes against children.**

101. **Further, the Commission recommends that:**

(a) **the Government and other relevant parties prioritize putting in place mechanisms to support mental health needs of children and youth (emotional, social, educational, physical, and cognitive) affected by the conflict, including providing support to parents and caregivers;**

(b) **a child-sensitive approach should guide current and future engagement with survivors and victims of crimes and grave violations anchored in the best interest of children and the respect for their rights;**

(c) **Syrian youth should be enabled to participate in the political process and request representation and meaningful participation in any peace negotiations;**

(d) **the United Nations Security Council calls on all parties to the conflict to respect the rights of children and hold a dedicated debate on the situation of children in Syria;**

(e) **the Human Rights Council clearly prioritises the investigation and documentation of crimes involving children and child rights violations in accountability mechanism mandates and resolutions.**

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