



Human Rights Institute
GEORGETOWN LAW

NO CHOICE

ATTACKS ON HEALTH AS A DRIVER OF FORCED DISPLACEMENT IN SYRIA



COVER IMAGE

*A Syrian refugee woman outside of her tent.
Original photo by Muhammed Muheisen.*

Georgetown Law Human Rights Institute
Human Rights Fact-Finding Project

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A. Delaroche Designs, LLC

A PUBLICATION OF THE GEORGETOWN LAW HUMAN RIGHTS INSTITUTE

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Washington, DC 20001
www.humanrightsinstitute.net

May 2021

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ACKNOWLEDGEMENTS

The Georgetown Law Human Rights Institute would like to thank the organizations, practitioners, community members, and individuals who made this report possible through their guidance, assistance, and support.

The Human Rights Fact-Finding Project research team would like to thank the Human Rights Institute (HRI) for its continued guidance and support, especially during a pandemic. Through the Human Rights Institute's research and training opportunities, including the Fact-Finding Project, HRI invests in students as they develop the skills necessary to become human rights practitioners. Even as public health concerns required remote instruction, HRI continued to promote excellence in human rights practice. The research team would like to give special thanks to Professor Andrew Schoenholtz for his leadership as HRI's Director and his continued support for the Fact-Finding Project.

We would also like to thank our professors, Melissa Stewart and Scott Gilmore. Beyond adapting and readapting the Fact-Finding Project to a virtual environment, Professors Stewart and Gilmore provided close attention and guidance through the entire process. We are incredibly grateful for their support and for the opportunity to work closely with leading human rights practitioners.

We are thankful for the assistance of our interpreter, whose help was essential to our mission, particularly in navigating languages, time zones, cultural sensitivities, and video conferencing platforms.

We would like to thank the civil society organizations in Syria and working throughout the diaspora. After a decade of conflict, their work is essential to ensuring that Syrians are represented in local, national, and international conversations. In the face of attacks on medical facilities, civil society and nongovernmental organizations play important roles in ensuring the delivery of medical care.

Additionally, we would like to thank the experts and practitioners who provided us with advice as we shaped our mission. We would like to give special thanks to Ambassador Stephen Rapp, Dr. Zaher Sahloul, Mouaz Moustafa, and Omar Alshogre, whose guidance shaped the mission planning and legal analysis. We would also like to thank Jomana Qaddour, Gissou Nia, and Andrew Masloski for their expertise during the project.

Most importantly, we would like to thank our witnesses, who took the time to speak with us. Their fortitude is astounding. We are grateful for their courage in sharing their stories and hope that this report does them justice.



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I. ABBREVIATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CEDAW

Convention on the Elimination of All Forms of Discrimination against Women

COI

Independent International Commission of Inquiry on the Syrian Arab Republic

CPRD

Convention on the Rights of Persons with Disabilities

CRC

Convention on the Rights of the Child

ICC

International Criminal Court

ICCPR

International Covenant on Civil and Political Rights

ICERD

International Convention on the Elimination of All Forms of Racial Discrimination

ICESCR

International Covenant on Economic, Social and Cultural Rights

ICJ

International Court of Justice

ICTY

International Criminal Tribunal for the Former Yugoslavia

IIIM

International, Impartial, and Independent Mechanism on Syria

OHCHR

United Nations Office of the High Commissioner for Human Rights

UN

United Nations

UNHCR

United Nations High Commissioner for Refugees

II. EXECUTIVE SUMMARY

The Syrian government and its allies have directed and carried out attacks on healthcare since the beginning of the Syrian conflict. These attacks have caused health system failures, making it difficult or impossible to access essential medical care. As a result, Syrians had no choice but to flee. Syrians left their homes and their country due, in whole or in part, to their inability to access healthcare. This report explores the critical link between the Government's attacks on healthcare and the forced displacement of 6.7 million people internally and 6.6 million people across international borders through the lens of the crime against humanity of deportation or forcible transfer of population.

In 2021, as the world continued to grapple with the coronavirus pandemic, the Syrian conflict reached a grizzly anniversary: ten years. Since the protests in March 2011, the Syrian government and its allies have violently responded, creating a refugee and humanitarian crisis. The Government has attacked healthcare centers, including hospitals, over five hundred times. Due to this targeted violence, 70% of Syria's health workforce has fled the country, leaving an insufficient number of doctors available to meet the medical needs of the population. Yet, there has been little accountability.

This report is based on interviews conducted with Syrian civilians and medical professionals, as well as with civil society, nongovernmental, and international organizations. It builds on extensive reporting on the Syrian conflict through open source research.

We find that pro-government forces engaged in four patterns of violent actions aimed at denying healthcare services to segments of the population perceived to be opposed to the government:

1. **Syrian security and military forces detained and subjected healthcare workers to acts amounting to torture and extrajudicial killings;**
2. **Security forces and medical workers at state-controlled hospitals physically and psychologically abused patients perceived to be opposed to the government;**

3. **Pro-government forces directed and carried out attacks against hospitals, ambulances, and other civilian healthcare infrastructure;**
4. **Syrian security and military forces prevented civilians from accessing medical care and supplies by restricting their freedom of movement through extensive checkpoints and snipers stationed along roads.**

Each of these acts contributed to the Government's continuous attacks on healthcare. These attacks decimated services, leaving health systems incapable of meeting the civilian population's needs. Specifically, the Government's attacks caused at least three sets of health system failures: there are not enough medical facilities, supplies, or workers. Civilians often have no choice but to leave and obtain care outside of Syria to avoid suffering and death.

This resulting inability to access healthcare was a contributing factor to the internal and cross-border displacement of Syrian civilians. Civilians with acute and chronic healthcare needs left Syria because they could not access healthcare. For other civilians, the lack of access to healthcare was a significant contributing factor in a multidimensional decision to leave Syria.

In this report, we argue that the Syrian government's attacks on healthcare amount to the crime against humanity of forced displacement. The Government used attacks on healthcare to create intolerable living conditions and intimidate civilians, an atmosphere that amounts to a coercive environment under international law. This coercive environment forced civilians to flee and drove displacement, constituting deportation or forcible transfer of population in violation of international criminal law. Although these attacks have taken place in the context of an armed conflict, they cannot be justified under either international law or Syrian domestic law. These conclusions open the door to legal accountability.

Though Syria is not likely to pursue individual accountability for government leaders, the crime against humanity of deportation (i.e., forced displacement across a national border) may be prosecuted by domestic courts in other countries under universal jurisdiction or through the International Criminal Court (ICC). Because avenues for accountability exist, including ICC proceedings, we include recommendations for the following relevant parties: the United States and Jordanian governments, the United Nations Security Council, the Prosecutor of the International Criminal Court, and the international community in general.

III. PURPOSE AND METHODOLOGY

This report examines whether there have been systematic attacks on healthcare in Syria and, if so, whether these systematic attacks contribute to a coercive environment leading to forcible displacement. The findings are based on research conducted by a team of six Georgetown University Law Center students from the Georgetown Law Human Rights Institute Fact-Finding Practicum. The team was advised by two Georgetown Law professors. This study's research methods were guided by the Lund-London Guidelines on International Human Rights Fact-Finding Visits and Reports by Non-Governmental Organizations¹ and the OHCHR Manual on Human Rights Monitoring.²

Georgetown University requires approval of all research involving human subjects. Our research protocol was reviewed and approved by Georgetown's Institutional Review Board (IRB). Georgetown University's IRB requires, in part, that protocols (1) specify sampling methods and (2) include an informed consent process before any interview. Our research relied on direct outreach and "snowball" sampling to obtain interviews. To protect the confidentiality, privacy, and anonymity of potential and actual interviewees, we reached out to "connector" organizations (direct outreach), who shared our contact information with potential interviewees (snowball sampling). Willing interviewees, additionally, shared our contact information with others who may have been willing to speak with us. Keeping in mind the ethical principle of beneficence and security concerns for potential interview subjects, we limited participants to individuals who either (a) currently live outside of Syria, or (b) currently live in opposition-held areas of Syria and have previously spoken publicly against the Syrian government.

For every interview, we began with an informed consent process to discuss (1) the voluntary nature of the interviewee's participation, (2) potential risks from participating in the project, and

1 INT'L BAR ASS'N & RAOUL WALLENBERG INST., GUIDELINES ON INTERNATIONAL HUMAN RIGHTS FACT-FINDING VISITS AND REPORTS BY NON-GOVERNMENTAL ORGANIZATIONS, http://www.ibanet.org/Fact_Finding_Guidelines.aspx.

2 Office of the U.N. High Comm'r for Human Rights, *Training Manual on Human Rights Monitoring*, U.N. Doc HR/P/PT/7/Rev.1 (2011), <https://www.ohchr.org/Documents/Publications/OHCHRIntro-12pp.pdf>.

(3) the lack of any direct benefits from participation. We specified that the interviews would not be recorded but that one of the two team members would take detailed notes to be anonymized, screened for personal information, and shared internally within the Human Rights Institute.

The fact-finding team conducted thirty-nine Interviews over the course of the 2020-2021 academic year, in addition to several background interviews with legal and subject-matter experts. We spoke with Syrians, including healthcare workers, originally from opposition- and government-held areas who were currently living in opposition-controlled Syria, neighboring countries, Europe, and the United States. The team also interviewed human rights advocates, legal and subject matter experts, and a representative from the United Nations High Commissioner for Refugees. Interview notes were coded and stored on a secure file-sharing system accessible only to the team and Human Rights Institute staff. Further, to protect confidentiality, all names used in the Report are pseudonyms.

IV. BACKGROUND AND CONTEXT

Over thirteen million Syrians are currently displaced.³ As of March 2021, there are 6.7 million internally displaced persons within Syria and 6.6 million Syrian refugees.⁴ Violent military campaigns frequently drove displacement.⁵ One hallmark of the violence in Syria is attacks on healthcare.⁶ Through siege warfare, aerial attacks, and chemical weapons attacks—with arbitrary detentions, torture, excessive checkpoints, and the criminalization of healthcare provision—the Syrian government has violently attacked Syria’s healthcare system. Yet, even in the face of these and other acts, international accountability measures have largely failed.

A

Since the 2011 Uprising, the Syrian Government Has Violently Attacked the Civilian Population

Over the last decade, the Syrian government has waged an attack against civilians perceived as opposed to the Assad government. The demonstrations began as relatively non-violent calls for political and economic reform.⁷ However, as protests spread across the country, the Assad government violently cracked down on the protesters.⁸ From mass arrests at checkpoints to detaining and torturing demonstrators, to indiscriminate attacks in civilian-populated areas, the Syrian government escalated the violence and destruction of Syrian society.⁹ A number of political and religious armed opposition groups emerged during the conflict, many of which also perpetuated human rights abuses against Syrian civilians.¹⁰

3 U.N. High Comm'r for Refugees, *Syria Emergency*, <https://www.unhcr.org/en-us/syria-emergency.html>.

4 *Id.*

5 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 10, U.N. Doc. A/HRC/43/57 (Jan. 28, 2020).

6 See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 62, U.N. Doc. A/HRC/36/55 (Aug. 8, 2017) (“Since its inception, attacks against medical facilities and medical personnel have been a tragic hallmark of the Syrian conflict.”); PHYSICIANS FOR HUM. RTS., *ILLEGAL ATTACKS ON HEALTH CARE IN SYRIA* (2021), <http://syriamap.phr.org/#/en>.

7 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 3, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

8 *Id.*

9 *Id.*

10 *Id.* ¶ 6.

The Syrian government's crackdown on protests began with arbitrary arrests and detention, with arrests and detentions remaining "among the root causes, triggers and persistent features of the conflict."¹¹ Arrests, often conducted by intelligence officers, typically took the form of house raids after anti-government protests or at checkpoints.¹²

After arresting protestors and non-protestors alike, the Syrian government frequently transferred civilians to detention centers, where government agents often tortured and extrajudicially killed detainees. Syrian humanitarian organizations and international human rights reports have extensively documented the Syrian government's use of torture, and the resulting death, at detention centers.¹³ These reports include documentation of the detention and torture of women, children, and the elderly.¹⁴ Whether through arrests, detention, or torture, the Syrian government has created a climate of fear aimed at preventing protestors, or those who could be perceived to be protestors, from continuing to voice their dissent.

B**Before 2011, Syria's Health Indicators Were Improving.**

Prior to the Syrian conflict, Syria's healthcare system had made steady improvements in health outcomes for much of the population. Over the course of the three decades before 2011, health indicators showed both the quality and availability of medical care consistently improving.¹⁵ Average life expectancy increased by seventeen years between 1970 and 2009, reaching an average of seventy-three years.¹⁶ Reproductive care similarly improved between 1970 and 2009, with infant mortality rates decreasing from 132 per 1000 births to 17.9 per 1000 births and maternal mortality rates decreasing from 482 per 100,000 births to fifty-two per 100,000 births.¹⁷

Syrians could seek care through government-run public hospitals, which generally provided

11 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 5, U.N. Doc. A/HRC/46/55 (Mar. 11, 2021).

12 HUMAN RIGHTS WATCH, *TORTURE ARCHIPELAGO: ARBITRARY ARRESTS, TORTURE AND ENFORCED DISAPPEARANCES IN SYRIA'S UNDERGROUND PRISONS SINCE MARCH 2011* 12 (2012), https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf.

13 HUMAN RIGHTS WATCH, *TORTURE ARCHIPELAGO: ARBITRARY ARRESTS, TORTURE AND ENFORCED DISAPPEARANCES IN SYRIA'S UNDERGROUND PRISONS SINCE MARCH 2011* 17 (2012), https://www.hrw.org/sites/default/files/reports/syria0712webwcover_0.pdf.

14 *Id.* at 31.

15 Mazen Kherallah et al., *Health Care in Syria Before and During the Crisis*, 2 *AVICENNA J. MED.* 51, 51 (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3697421/>.

16 *Id.*

17 *Id.*

primary care.¹⁸ By 2010, private hospitals and clinics were also becoming increasingly popular.¹⁹ The private sector focused particularly on the provision of secondary and specialized care, though it was more readily available in urban areas.²⁰

Despite this improvement, many Syrians continued to face unequal access to healthcare. Privatization of health facilities contributed to greater inequity in access to health between Syrians living in urban governorates and Syrians living in rural governorates. Syrians living in cities could often afford higher quality care provided by private clinics.²¹ Syrians from low-income backgrounds thus often frequented lower-quality, state-run facilities prior to the start of the conflict.²² Data showed a general inefficiency and an increasingly privatized medical system, further widening the gap in the distribution of medical resources.²³

Overall, however, health indicators suggest that the pre-conflict healthcare system was functioning, accessible, and improving.

C**Starting in 2011, the Government Began to Attack the Healthcare System.**

Since the start of the conflict, the Syrian government has attacked the healthcare system, including at least 500 attacks on healthcare facilities since 2011.²⁴

Between 2012 and 2016, the Syrian government waged war on opposition-held areas through siege warfare, chemical weapons attacks, and aerial bombing, including attacks on hospitals, medical centers, and medical transports.²⁵ One of the Syrian government's most apparent attacks on

18 Sima L. Sharara & Souha S. Kanj, *War and Infectious Diseases: Challenges of the Syrian Civil War*, 10 PLOS PATHOGENS 1 (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4231133/>.

19 Balsam Ahmad et al., *Health System Challenges for the Management of Cardiovascular Disease and Diabetes: An Empirical Qualitative Study from Syria*, 60 INT'L J. PUBL. HEALTH S55, S57 (2015), <https://pubmed.ncbi.nlm.nih.gov/25103457/>.

20 See Sima L. Sharara & Souha S. Kanj, *War and Infectious Diseases: Challenges of the Syrian Civil War*, 10 PLOS PATHOGENS 1 (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4231133/>.

21 Balsam Ahmad et al., *Health System Challenges for the Management of Cardiovascular Disease and Diabetes: An Empirical Qualitative Study from Syria*, 60 INT'L J. PUBL. HEALTH S55, S57 (2015), <https://pubmed.ncbi.nlm.nih.gov/25103457/>.

22 *Id.* at S55.

23 Mazen Kherallah et al., *Health Care in Syria Before and During the Crisis*, 2 AVICENNA J. MED. 51, 51 (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3697421/>.

24 See PHYSICIANS FOR HUM. RTS., ILLEGAL ATTACKS ON HEALTH CARE IN SYRIA (2021), <http://syriamap.phr.org/#/en>.

25 International Rescue Committee, *A Decade of Destruction: Attacks on Health Care in Syria* 7 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonhealthcareinsyria.pdf>.

the healthcare profession was Syrian Counter-terrorism Law 19, which criminalized the provision of medical aid to both opposition groups and those who were perceived to be associated with opposition through the lens of counterterrorism.²⁶ The criminalization of providing healthcare contradicts customary international humanitarian law, which prohibits states from barring medical personnel from acting in accordance with their medical duties.²⁷

Beyond legislative efforts, the Syrian government has led a robust attack on health and healthcare through siege warfare. The Government conducted siege warfare across different non-government-held regions of Syria between 2012 and 2017.²⁸ Lasting anywhere from months to years, these sieges created shortages of food, water, and medical supplies.²⁹ In large part, these shortages can be directly attributed to the Government's refusal to allow humanitarian convoys and aid through, leading to malnutrition and death.³⁰

The Syrian government utilized chemical weapons in attacks throughout the conflict, with a sarin attack in Eastern Ghouta drawing international attention after killing hundreds of Syrian civilians in 2013.³¹ The Syrian government also deployed sarin in Idlib in 2017, killing 83 people, including children.³² Over the course of the ten-year conflict, the United Nations Commission of Inquiry documented at least 32 chemical attacks by the Syrian government.³³

The Syrian government's attacks were not limited to chemical attacks but also included indiscriminate aerial attacks on Syrian civilians and infrastructure. Pro-government forces have repeatedly conducted airstrikes with heavy artillery in civilian-populated, opposition-controlled regions of Syria.³⁴ Moreover, the Syrian government itself has conducted indiscriminate

26 See Mia Swart, *When Care Becomes Criminal: Syrian Health Workers 'Targeted'*, AL JAZEERA, Dec. 4, 2019, (citing PHYSICIANS FOR HUM. RTS., "MY ONLY CRIME WAS THAT I WAS A DOCTOR": HOW THE SYRIAN GOVERNMENT TARGETS HEALTH WORKERS FOR ARREST, DETENTION, AND TORTURE 4 (2019), https://phr.org/wp-content/uploads/2019/12/PHR-Detention-of-Syrian-Health-Workers-Full-Report-Dec-2019_English-1.pdf).

27 INTERNATIONAL COMMITTEE OF THE RED CROSS, *RESPECTING AND PROTECTED HEALTH CARE IN ARMED CONFLICTS AND IN SITUATIONS NOT COVERED BY INTERNATIONAL HUMANITARIAN LAW* 1 (2012), <https://www.icrc.org/en/document/respecting-and-protecting-health-care-armed-conflicts-and-situations-not-covered>.

28 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 45, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

29 See *id.* ¶ 46.

30 *Id.*

31 *Id.* ¶ 9.

32 *Id.* ¶ 15.

33 See *id.* ¶ 32.

34 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 23, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

aerial attacks through ballistic attacks, barrel bombs, and cluster munitions.³⁵ The Government deployed many of these attacks through helicopters, which were unable to accurately target hostile opponents and instead indiscriminately attacked civilian neighborhoods.³⁶ These aerial attacks most often hit civilian objects, such as hospitals, schools, and markets.³⁷

These attacks led to the proliferation of field hospitals. Human rights organizations have estimated that over half of Syria's healthcare infrastructure has been destroyed, creating a gap that field hospitals only partially fill.³⁸ Field hospitals have taken various forms, from abandoned pharmacies and homes to abandoned private hospitals and clinics to underground hospitals.³⁹ Particularly striking has been the reliance on natural, environmental barriers to protect field hospitals from the Syrian government's attacks.⁴⁰ Three types of underground hospitals have developed over the course of the Syrian conflict: basement hospitals, cave hospitals, and newly built underground hospitals.⁴¹ Though underground field hospitals have generally been safer than public hospitals or above-ground field hospitals, the Government has restricted their access to essential medical supplies, such as gauze, anesthesia, and medicines.⁴² Each of these hospital models highlights how far the Syrian government's attacks have pushed medical professionals in their fight to guarantee some level of safe provision of healthcare.

The combination of these attacks has led to a stark decline in health for many members of the Syrian population. In part, this is illustrated through the rise of previously eradicated diseases and epidemics shortly after the start of the conflict, including polio, typhoid fever, and tuberculosis.⁴³ Additional health indicators illustrate the decline in access to health in Syria. Average life expectancy dropped by ten years between 2011 and 2017.⁴⁴ While infant mortality

35 *Id.* ¶ 26.

36 *See id.*

37 *Id.* ¶ 24.

38 *See* HUMAN RIGHTS WATCH, SYRIA: EVENTS OF 2020 (2020), <https://www.hrw.org/world-report/2021/country-chapters/syria>.

39 SYRIAN AMERICAN MEDICAL SOCIETY, SAVING LIVES UNDERGROUND 14(2017), <https://www.sams-usa.net/wp-content/uploads/2017/05/Saving-Lives-Underground-report.pdf>.

40 *Id.*

41 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 62, U.N. Doc. A/HRC/36/55 (Aug. 8, 2017); *Id.* at 22–24.

42 Fares Alahdab et al., Syrian's Alternative to a Health Care System, 4 *AVICENNA J. MED.* 51, 51–52 (2014), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4065459/#__ffn_sectitle/.

43 SYRIAN AMERICAN MEDICAL SOCIETY, SAMS ANNUAL REPORT 2013/2014 9 (2014), <https://www.sams-usa.net/wp-content/uploads/2016/09/SAMS-Annual-Report-for-web.pdf>.

44 Eastern Mediterranean Health Observatory, *Life Expectancy at Birth*, WORLD HEALTH ORGANIZATION, <https://rho.emro.who.int/Indicator/TermID/46>.

rates continued to decrease during this time period,⁴⁵ maternal mortality rates increased from 58 to 68 per 100,000.⁴⁶ The changes in these health indicators illustrate the direct impact of the Syrian government's attacks on healthcare infrastructure and health outcomes.

D

The Government's Attacks Have Forcibly Displaced Parts of the Civilian Population.

The Syrian conflict is also characterized by waves of displacement that have created one of the worst humanitarian and refugee crises of the twenty-first century. Prior to the conflict, Syria had an estimated population of 22 million people.⁴⁷ As of early 2021, more than half of the pre-war population has been displaced—with 6.7 million internally displaced and another 6.6 million displaced across borders.⁴⁸ Four countries accepted about 90% of all Syrian refugees in 2019: Turkey (65%), Lebanon (15%), Jordan (12%), and Iraq (4%).⁴⁹

Numerous factors, including the Government's attacks on health, have contributed to waves of displacement in Syria. The general climate of violence has been a significant driver of displacement, leaving Syrian civilians with no choice but to flee in search of safety.⁵⁰ The Syrian government has also used siege warfare to force residents of opposition-controlled areas to evacuate. During sieges, the Government denied civilians access to medical evacuations, food, and medical supplies in order to force those in charge of the region to enter into an "evacuation" or "reconciliation agreement."⁵¹ The Syrian civilians have then been forced to flee the region.⁵² The Government has

45 Eastern Mediterranean Health Observatory, *Infant Mortality Rate per 1000 Live Births*, WORLD HEALTH ORGANIZATION, <https://rho.emro.who.int/Indicator/TermID/48>.

46 Eastern Mediterranean Health Observatory, *Maternal Mortality Ratio*, WORLD HEALTH ORGANIZATION, <https://rho.emro.who.int/ThemeViz/TermID/148>.

47 See Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 20, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

48 U.N. High Comm'r for Refugees, *Syria Emergency*, <https://www.unhcr.org/en-us/syria-emergency.html>.

49 See Operation Portal: Refugee Situations, *Syria Regional Refugee Response*, U.N. HIGH COMM'R FOR REFUGEES, <https://data2.unhcr.org/en/situations/syria>.

50 See Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 81, U.N. Doc. A/HRC/43/57 (Jan. 28, 2020); HUMAN RIGHTS WATCH, *THE MEDITERRANEAN MIGRATION CRISIS: WHY PEOPLE FLEE, WHAT THE EU SHOULD DO 6–7* (2015), https://www.hrw.org/sites/default/files/report_pdf/eu0615_web.pdf.

51 See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 7, U.N. Doc. A/HRC/44/61 (Sept. 3, 2020); Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, *Sieges as a Weapon of War: Encircle, Starve, Surrender, Evacuate*, ¶ 3 (May 29, 2018); Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 23–35, U.N. Doc. A/HRC/36/55 (Aug. 8, 2017); Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 93, 104, U.N. Doc. A/HRC/34/64 (Mar. 1, 2017).

52 See Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, *Sieges as a Weapon of War: Encircle, Starve, Surrender, Evacuate*, ¶ 3 (May 29, 2018); Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 104, U.N. Doc. A/HRC/34/64 (Mar. 1, 2017).

used green buses—often pursuant to these reconciliation agreements—to transfer the population, in violation of international human rights, humanitarian, and criminal law.⁵³

The lack of safety for many Syrians perceived to be associated with opposition groups has also heavily contributed to both internal and cross-border displacement, both through transfer effected by the Syrian government's green buses and through Syrians' own movement.⁵⁴ Moreover, the exacerbation of the economic crisis in 2019 has caused severe poverty and a lack of access to jobs, food, and medicines, leading to new waves of displacement, which the COVID-19 pandemic further aggravated.⁵⁵

In a 2019 survey assessing how Syrian refugees think about returning, 63% of those surveyed hoped to eventually return.⁵⁶ While over 380,000 Syrian refugees returned to Syria between 2017 and 2019,⁵⁷ those returning face a healthcare system with less than half of its facilities operational, as well as the ongoing coronavirus pandemic compounding already-existing vulnerabilities.⁵⁸ These vulnerabilities include a lack of adequately trained medical personnel due to the exodus of medical professionals during the conflict, as well as the destruction of medical facilities and hospitals.⁵⁹ Moreover, the supplies and medicines available in Syria are currently prohibitively expensive, which is exacerbated by the fact that 60% of Syrians live in extreme poverty.⁶⁰ Ultimately, though many displaced Syrians have returned to Syria, guarantees of safety would be necessary in order for many more to return.

53 See, e.g., Indep. Int'l Comm'n of Inquiry on the Syrian Arab Republic, *Sieges as a Weapon of War: Encircle, Starve, Surrender, Evacuate*, ¶¶ 3–4 (May 29, 2018); James Denslow, *Syria's Green Buses: Symbol of a Seismic Shift*, AL JAZEERA, Mar. 22, 2017, <https://www.aljazeera.com/opinions/2017/3/22/syrias-green-buses-symbol-of-a-seismic-shift>.

54 James Denslow, *Syria's Green Buses: Symbol of a Seismic Shift*, AL JAZEERA, Mar. 22, 2017, <https://www.aljazeera.com/opinions/2017/3/22/syrias-green-buses-symbol-of-a-seismic-shift>.

55 HUMAN RIGHTS WATCH, *SYRIA: EVENTS OF 2020* (2020), <https://www.hrw.org/world-report/2021/country-chapters/syria>.

56 Ala' Alrababa'h et al., *The Dynamics of Refugee Return: Syrian Refugees and Their Migration Intentions*, IMMIGRATION POLICY LAB, Nov. 17, 2020, at 20, <https://osf.io/preprints/socarxiv/7t2wd/>.

57 U.N. HIGH COMM'R FOR REFUGEES, *GLOBAL TRENDS: FORCED DISPLACEMENT IN 2019* 50 (2019), <https://www.unhcr.org/5ee200e37.pdf>.

58 See, e.g., 3RP REGIONAL REFUGEE & RESILIENCE PLAN, *2020 PROGRESS REPORT 9* (2020) (detailing the impact of the coronavirus pandemic on refugees returning to Syria); U.N. HIGH COMM'R FOR REFUGEES, *PROVISION OF LIFE-SAVING ASSISTANCE AND SUPPORTING COMMUNITIES: END OF YEAR REPORT 2018* 8 (2018) (describing the return of refugees to Syria and the state of the health system); U.N. HIGH COMM'R FOR REFUGEES, *VOICES FROM THE FIELD: END OF YEAR REPORT 2014* 34 (2014) (detailing damaged health facilities, power outages, and shortages of medicines, medical supplies, and qualified healthcare professionals).

59 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 40, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

60 *Id.* ¶ 41. (citing a 2017 study by the World Bank).

E

Pathways to International Accountability Do Exist.

Despite indiscriminate attacks on civilians' lives and livelihoods, international accountability has been difficult to achieve in Syria. In part, this is due to the structure of the United Nations Security Council (UNSC) and those countries allied with Syria. In 2013, over 50 countries petitioned for the UNSC to refer Syria to the International Criminal Court (ICC).⁶¹ However, China and Russia, both members of the UNSC, have continually vetoed Security Council resolutions that call for government accountability, such as the resolution that recommended referring Syria to the ICC.⁶² The United Nations' structure of accountability has thus made it difficult to hold Assad's government accountable.

This does not prevent individual courts from seeking accountability. In February of this year, a German court convicted a former Syrian intelligence officer of aiding and abetting crimes against humanity. The court sentenced the officer to four and a half years in German prison for his contribution to knowingly transporting protestors to detention centers where they were tortured.⁶³ This conviction is the first for a crime against humanity against a former Syrian official.⁶⁴

Legal scholars are also exploring the role third-party states can play in creating ICC jurisdiction. In 2019, the ICC issued a novel pre-trial chamber decision regarding how the Rome Statute's criminalization of cross-border displacement could be a mode of accountability against the Myanmar government, which, like Syria, is not a State Party to the Rome Statute.⁶⁵ Because the Rohingya crisis has led to cross-border displacement into Bangladesh—a State Party to the Rome Statute—the pre-trial chamber decision recognized territorial jurisdiction over the crime against humanity of forcible displacement. Similarly, third-party States Parties to the Rome Statute, such as Jordan, may be able to facilitate criminal accountability against the Syrian government for its role in forcibly displacing its civilian population.

61 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 79, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

62 *Id.* ¶ 81.

63 Ben Hubbard, *German Court Convicts Former Syrian Official of Crimes Against Humanity*, N.Y. TIMES, Feb. 24, 2021, <https://www.nytimes.com/2021/02/24/world/middleeast/germany-court-syria-war-crimes.html>.

64 *Id.*

65 See Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, Case No. ICC-01/19-27, Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar (Nov. 14, 2019), <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/19-27>.

There exists, consequently, a pathway for accountability in Syria for the Government's forced displacement of civilians. This displacement is frequently driven by violent military actions, such as aerial attacks. More broadly, however, the Government's strategy of depriving civilians of access to essential services—including healthcare—suggests that a wider range of actions may leave Syrians with no choice but to flee. The Syrian government has continued to attack the healthcare system, reversing the population's progressive realization toward the highest attainable standard of health. Therefore, given the potential for international criminal accountability for transborder crimes in Syria, this Report evaluates how attacks on health—broadly construed—can lead to forced displacement.

V. FINDINGS

Based on interviews and open source research, there is a reasonable basis to believe that the Syrian government and its allies have directed and carried out attacks on healthcare. These attacks have caused health system failures, making it difficult or impossible to access necessary care. Syrians have no choice but to flee their homes and their country because, in whole or in part, they are unable to access healthcare.

A. PRO GOVERNMENT FORCES HAVE ATTACKED HEALTHCARE SERVICES.

Pro-government forces have engaged in four main patterns of violent actions aimed at denying healthcare services to segments of the population perceived to be opposed to the government:⁶⁶

1. Syrian security and military forces detained and subjected healthcare workers to acts amounting to torture and extrajudicial killings.
2. Security forces and medical workers at state-controlled hospitals physically and psychologically abused patients perceived to be opposed to the government.
3. Pro-government forces directed and carried out attacks against hospitals, ambulances, and other civilian healthcare infrastructure.
4. Syrian security and military forces prevented civilians from accessing medical care and supplies by restricting their freedom of movement.

⁶⁶ “Pro-government forces” may include “regular Syrian military, police and intelligence forces, pro-government militia, both foreign and domestic, and elements of foreign allied forces, such as Iranian Republican Guard forces or elements of Lebanese Hezbollah or other groups operating with the acquiescence of Syrian State authorities.” Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 19 n.27, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

Security and military forces have detained, tortured, and killed healthcare workers.

“It quickly became clear that first aid providers and medics arrested by the Government would never get out.”

— NIZAR (PSEUDONYM)

A doctor in Aleppo, on medics treating anti-government demonstrators.⁶⁷

Since 2011, Syrian security and military forces have detained and subjected healthcare workers to torture and extrajudicial killings.⁶⁸ When discussing anti-government demonstrations early in the conflict, Nizar, a doctor who worked in Aleppo, expressed, “It quickly became clear that first aid providers and medics arrested by the Government would never get out.”⁶⁹ Government security forces have detained doctors, nurses, and ambulance drivers.⁷⁰ At checkpoints, security forces have detained ambulance drivers, pharmacists, and other medical workers, particularly those who were transporting medical supplies.⁷¹ Checkpoint security forces have also detained healthcare volunteers.⁷²

In August of 2012, Farid, a doctor providing medical aid and training to demonstrators in Aleppo, was seized from his car by three pro-government armed attackers.⁷³ They found a medical school student ID card and a list of medical equipment on Farid and detained him. While detained, prison guards dragged Farid out of his cell and blindfolded and beat him.⁷⁴ Farid believes the

⁶⁷ Interview with Nizar (pseudonym) (Jan. 18, 2021).

⁶⁸ See PHYSICIANS FOR HUM. RTS., “MY ONLY CRIME WAS THAT I WAS A DOCTOR” 16, 39 (2019); Fouad M. Fouad et al., *Health Workers and the Weaponisation of Health Care in Syria: A Preliminary Inquiry for The Lancet-American University of Beirut Commission on Syria*, 390 THE LANCET 2516, 2516 (2017).

⁶⁹ Interview with Nizar (pseudonym) (2021).

⁷⁰ PHYSICIANS FOR HUM. RTS., “MY ONLY CRIME WAS THAT I WAS A DOCTOR” 5–6, 17–18 (2019) (describing Government arrests of doctors in the Qalamoun region, Hama, Jobar, Homs and east of Damascus).

⁷¹ See Hum. Rts. Council, *Assault on Medical Care in Syria*, ¶ 26, U.N. Doc. A/HRC/24/CRP.2 (Sept. 13, 2013); see also PHYSICIANS FOR HUM. RTS., “MY ONLY CRIME WAS THAT I WAS A DOCTOR” 19 (2019).

⁷² See AMNESTY INT’L, URGENT ACTION: SYRIAN MEDICAL VOLUNTEER HELD INCOMMUNICADO (2013), <https://www.amnesty.org/download/Documents/16000/mde240332013en.pdf>.

⁷³ Interview with Farid (pseudonym) (Jan. 13, 2021). Here, the term “pro-government” is used because it is clear from the interview that the attackers were aligned with the government but not possible to specify further based on the obtained information.

⁷⁴ *Id.*

Government detained him because officers suspected him of being a physician and of providing medical training to the opposition.⁷⁵

Government security and military forces have also carried out the extrajudicial killing of healthcare workers.⁷⁶ For example, government security and military forces killed ambulance drivers and pharmacists who were delivering medical supplies.⁷⁷ According to Fatima, an NGO worker, government forces at a checkpoint detained her neighbor, a pharmacist, after finding medication in his car.⁷⁸ Fatima later saw her neighbor's corpse. Because of the condition of his body, Fatima believes government personnel killed her neighbor in detention.⁷⁹ She said, "We could see on his face the bruises, and on his fingers, the bruises of torture."⁸⁰

Farid—a doctor detained and tortured in Aleppo—recounted that, three weeks before his own capture, Air Force Intelligence forces detained, tortured, and killed three of his medical task force teammates: "They were arrested after being stopped at a checkpoint—the guard had found surgical equipment in their car. . . . Their fingernails were removed and their hands were tied behind them. They were shot in the head and then burned. Their student, national, and drivers' IDs were then placed intact on their bodies."⁸¹

There is a reasonable basis to believe that government forces have detained and subjected healthcare workers to torture and extrajudicial killings. Like attacks on medical facilities, this pattern suggests that the Government deliberately targeted healthcare workers to "gain military advantage by depriving anti-Government armed groups and their perceived supporters of medical assistance."⁸² The Government treated healthcare provision in opposition-held areas as "material support for terrorism" under Syria's 2012 counterterrorism law and used the law to justify the detention of healthcare workers.⁸³ Government security forces arrested

⁷⁵ *Id.*

⁷⁶ See, e.g., Hum. Rts. Council, *Assault on Medical Care in Syria*, ¶¶ 9, 12, 25, U.N. Doc. A/HRC/24/CRP.2 (Sept. 13, 2013).

⁷⁷ See, e.g., *id.* ¶ 26.

⁷⁸ Interview with Fatima (pseudonym) (Jan. 11, 2021).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Interview with Farid (pseudonym) (Jan. 13, 2021). See also AMNESTY INT'L, CHARRED, MUTILATED BODIES OF SYRIAN MEDICAL WORKERS IS FURTHER EVIDENCE OF GOVERNMENT'S COMPLETE DISREGARD FOR HUMAN RIGHTS (2012), <https://www.amnestyusa.org/press-releases/charred-mutilated-bodies-of-syrian-medical-workers-part-of-life-saving-team-treating-wounded-protesters-is-further-evidence-of-governments-complete-disregard-for-human-rights/>.

⁸² See Hum. Rts. Council, *Assault on Medical Care in Syria*, ¶ 5, U.N. Doc. A/HRC/24/CRP.2 (Sept. 13, 2013).

⁸³ See, e.g., PHYSICIANS FOR HUM. RTS., "MY ONLY CRIME WAS THAT I WAS A DOCTOR" 16 (2019).

and interrogated field hospital patients to obtain information about field hospital personnel and locations.⁸⁴ Interrogators sought to gain information from medical workers about their colleagues.⁸⁵ Taken together, these actions constitute an attack on healthcare services.

2

Security forces and medical workers at military and public hospitals have tortured patients.

“They [the Syrian security forces] would take them [anti-government detainees] to the hospital to kill them, not treat them.”

— NABIL (PSEUDONYM)

Detained several times in Saydnaya prison.⁸⁶

Security forces and medical workers at state-controlled hospitals have physically and psychologically abused patients perceived to be opposed to the government. Security forces interrogated and tortured patients at state and military hospitals.⁸⁷ In some cases the security forces chained injured patients to their beds, beat and electrocuted them, and denied them water and medical attention.⁸⁸ Specifically, security forces brought prison detainees to hospitals, where they subjected detainees to torture and extrajudicial killing.⁸⁹ Additionally, in hospitals, security forces assigned detainees numbers and prohibited them from using their names.⁹⁰ Detainees

84 Hum. Rts. Council, *Assault on Medical Care in Syria*, ¶ 25, U.N. Doc. A/HRC/24/CRP.2 (Sept. 13, 2013).

85 PHYSICIANS FOR HUM. RTS., “MY ONLY CRIME WAS THAT I WAS A DOCTOR” 16 (2019).

86 Interview with Nabil (pseudonym) (Jan. 12, 2021).

87 See, e.g., Adam Ciralsky, *Documenting Evil: Inside Assad’s Hospitals of Horror*, VANITY FAIR, June 11, 2015, <https://www.vanityfair.com/news/2015/06/assad-war-crimes-syria-torture-caesar-hospital>; Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 50, U.N. Doc. A/HRC/S-17/2/Add. 1 (Nov. 23, 2011).

88 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 63, U.N. Doc. A/HRC/19/69 (Feb. 22, 2012).

89 SYRIAN NETWORK FOR HUM. RTS., DOCUMENTATION OF 72 TORTURE METHODS THE SYRIAN REGIME CONTINUES TO PRACTICE IN ITS DETENTION CENTERS AND MILITARY HOSPITALS 33 (2019) https://sn4hr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centers_and_Military_Hospitals_en.pdf. See also Louisa Loveluck & Zakaria Zakaria, “The Hospitals were Slaughterhouses,” WASH. POST, Apr. 2, 2017, https://www.washingtonpost.com/world/middle_east/the-hospitals-were-slaughterhouses-a-journey-into-syrias-secret-torture-wards/2017/04/02/90ccaa6e-0d61-11e7-b2bb-47e331877d9_story.html (addressing torture at 601 Military Hospital in Damascus).

90 SYRIAN NETWORK FOR HUM. RTS., DOCUMENTATION OF 72 TORTURE METHODS THE SYRIAN REGIME CONTINUES TO PRACTICE IN ITS DETENTION CENTERS AND MILITARY HOSPITALS 33 (2019) https://sn4hr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centers_and_Military_Hospitals_en.pdf.

hid their health issues from prison guards to avoid being sent to military hospitals.⁹¹ In military hospitals, guards tied detainees to beds and forced multiple detainees to share beds.⁹²

Rifat, an activist detained twice in Saydnaya Prison, explained that prison guards sent sick and injured detainees to Tishreen Military Hospital. He knew of at least five fellow detainees that government personnel killed at Tishreen.⁹³ He remembered, “Of the people transferred to the hospital, most didn’t come back.”⁹⁴ One fellow detainee went to the hospital to have his wounds cleaned. Instead, a pro-government doctor handcuffed him to a bed and urinated on his wounds. Medical professionals beat other detainees. Rifat and his fellow detainees learned not to say that they were injured in order to avoid going to Tishreen Hospital, and many of them feared going to public hospitals after being released.⁹⁵ For them, the Syrian government had transformed hospitals from a place of healing to a place of torture and death.

Doctors, nurses, and other medical workers have also abused patients perceived to be opposing the government, especially detainees. They allowed unqualified medical personnel to perform advanced surgeries on detainees, withheld anesthesia and pain medication during and after these procedures, and even engaged in behavior such as that described above, where a doctor urinated on a patient’s wounds.⁹⁶ The Syrian Network for Human Rights found that doctors and nurses most often tortured detainees at 601 Military Hospital, Harasta Military Hospital, and Homs Military Hospital.⁹⁷

It is also reasonable to believe that security forces subjected prisoners to extrajudicial killing at Tishreen and Hospital 601 in Damascus because, according to former detainees, prison guards sent other prisoners to these hospitals and they never returned.⁹⁸ Security forces and medical

⁹¹ *Id.*

⁹² Interview with Rifat (pseudonym) (Jan. 15, 2021). *See also id.*

⁹³ Interview with Rifat (pseudonym) (Jan. 15, 2021).

⁹⁴ Interview with Rifat (pseudonym) (Jan. 15, 2021).

⁹⁵ *Id.*

⁹⁶ *Id.* *See also* SYRIAN NETWORK FOR HUM. RTS., DOCUMENTATION OF 72 TORTURE METHODS THE SYRIAN REGIME CONTINUES TO PRACTICE IN ITS DETENTION CENTERS AND MILITARY HOSPITALS 33 (2019) https://sn4hr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centers_and_Military_Hospitals_en.pdf.

⁹⁷ SYRIAN NETWORK FOR HUM. RTS., DOCUMENTATION OF 72 TORTURE METHODS THE SYRIAN REGIME CONTINUES TO PRACTICE IN ITS DETENTION CENTERS AND MILITARY HOSPITALS 33 (2019) https://sn4hr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centers_and_Military_Hospitals_en.pdf.

⁹⁸ *See* Louisa Loveluck & Zakaria Zakaria, “The Hospitals were Slaughterhouses,” WASH. POST, Apr. 2, 2017, https://www.washingtonpost.com/world/middle_east/the-hospitals-were-slaughterhouses-a-journey-into-syrias-secret-torture-wards/2017/04/02/90ccaa6e-0d61-11e7-b2bb-417e331877d9_story.html (recounting how prisoners would stay silent and pretend they were fine when guards asked who needed to go to the hospital because “[p]eople rarely came back from those trips”). *See also* ASSOC. OF DETAINEES & THE MISSING IN SEDNAYA PRISON, PRISON OF SEDNAYA: DURING THE SYRIAN REVOLUTION (TESTIMONIES) 118 (2019) <https://admisp.org/wp-content/uploads/2020/08/Testimonies-EN-1-1.pdf>.

workers at detention centers and military hospitals killed patients.⁹⁹

There is a reasonable basis to believe that both security forces and medical workers at state-controlled hospitals physically and psychologically abused patients to deprive the perceived opposition of access to healthcare and to gain a military advantage.

3

Pro-government forces have attacked healthcare facilities.

*“You see people pointing at the sky, usually children.
There’s a dot—a helicopter—and the distant sound of it.
Then, another dot appears—the barrel. You have about 30 seconds
to disappear and pray that it does not hit you.”*

— ILYAAS (PSEUDONYM)

*A doctor in Aleppo.*¹⁰⁰

The Syrian government and other pro-government forces have directed attacks against hospitals, field hospitals, ambulances, and other civilian healthcare infrastructure since the start of the conflict. These hospital attacks have been well documented.¹⁰¹ Since 2011, pro-government forces have directed and carried out aerial attacks against civilian healthcare infrastructure and ambulances.¹⁰² Amira, an OB/GYN working in M2 Hospital in Eastern Aleppo, explained that government forces bombed her hospital ten to fifteen times during the conflict.¹⁰³ She and her fellow doctors would repair damage to the hospital as quickly as possible after an attack, salvage

99 See, e.g., Anne Barnard, *Inside Syria's Secret Torture Prisons: How Bashar al-Assad Crushed Dissent*, N.Y. TIMES, May 11, 2019, <https://www.nytimes.com/2019/05/11/world/middleeast/syria-torture-prisons.html>; Adam Ciralsky, *Documenting Evil: Inside Assad's Hospitals of Horror*, VANITY FAIR, June 11, 2015, <https://www.vanityfair.com/news/2015/06/assad-war-crimes-syria-torture-caesar-hospital>. See also Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 11, U.N. Doc. A/HRC/S-17/2/Add. 1 (Nov. 23, 2011).

100 Interview with Ilyaas (pseudonym) (Jan. 12, 2021).

101 See Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 62, U.N. Doc. A/HRC/36/55 (Aug. 8, 2017); PHYSICIANS FOR HUM. RTS., FINDINGS OF ATTACKS ON HEALTH CARE IN SYRIA (2021), <http://syriamap.phr.org/#/en/findings>; Fouad M. Fouad et al., *Health Workers and the Weaponisation of Health Care in Syria: A Preliminary Inquiry for The Lancet-American University of Beirut Commission on Syria*, 390 THE LANCET 2516, 2516 (2017).

102 See PHYSICIANS FOR HUM. RTS., FINDINGS OF ATTACKS ON HEALTH CARE IN SYRIA (2021), <http://syriamap.phr.org/#/en/findings>; Fouad M. Fouad et al., *Health Workers and the Weaponisation of Health Care in Syria: A Preliminary Inquiry for The Lancet-American University of Beirut Commission on Syria*, 390 THE LANCET 2516, 2516 (2017).

103 Interview with Amira (pseudonym) (Jan. 13, 2021). See also Physicians for Hum. Rts., *A Map of Attacks on Health Care in Syria*, <http://syriamap.phr.org/#/en>.

any medical equipment and supplies that had not been destroyed, and go back to work. One day when she was not at work, a missile hit the hospital room where she normally examined her patients. If she had been there that day with her patients, “it would have been a massacre.”¹⁰⁴ Amira also stated that, because of the frequent attacks, her patients stopped coming to the hospital when they needed care. Government attacks completely destroyed her hospital in late 2016. According to Physicians for Human Rights, the Syrian and Russian governments carried out 536 attacks on medical facilities between March of 2011 and February of 2020 (90% of all such attacks).¹⁰⁵

Other researchers have argued that the Syrian government deliberately attacked medical facilities to deprive the perceived opposition of access to medical care and gain a military advantage.¹⁰⁶ The Syrian government made no effort to protect medical facilities or give patients and medical personnel inside hospitals advanced warnings of attacks.¹⁰⁷ In northwest Syria, many of the medical facilities attacked by the Syrian government between April 2019 and February 2020 were on a deconfliction list managed by the United Nations; the purpose of the list is, in part, to prevent medical facilities from government attacks.¹⁰⁸

On the other hand, opposition armed groups carried out 34 attacks, including 10 attacks by the Islamic State, three by the Free Syrian Army, two by the Syrian Islamic Liberation Front, two by Jaish al-Islam, one by the Ajnad al-Sham Islamic Union, and 16 by unidentified “anti-Government forces.” International coalition forces carried out four such attacks.¹⁰⁹

104 Interview with Amira (pseudonym) (Jan. 13, 2021).

105 PHYSICIANS FOR HUMAN RIGHTS’ FINDINGS OF ATTACKS ON HEALTH CARE IN SYRIA, <http://syriamap.phr.org/#/en/findings> (last visited Sept. 25, 2020).

106 See Fouad M. Fouad et al., *Health Workers and the Weaponisation of Health Care in Syria: A Preliminary Inquiry for The Lancet-American University of Beirut Commission on Syria*, 390 THE LANCET 2516, 2516 (2017).

107 See, e.g., PHYSICIANS FOR HUM. RTS., FINDINGS OF ATTACKS ON HEALTH CARE IN SYRIA (2021), <http://syriamap.phr.org/#/en/findings>.

108 AMNESTY INT’L, “NOWHERE IS SAFE FOR US”: UNLAWFUL ATTACKS AND MASS DISPLACEMENT IN NORTH-WEST SYRIA 12 (2020), <https://www.amnesty.org/download/Documents/MDE2420892020ENGLISH.PDF> (explaining that deconfliction list is part of a system through which relief groups in Syria shared the locations of medical facilities with Russian, Turkish and US-led coalition forces).

109 PHYSICIANS FOR HUMAN RIGHTS’ FINDINGS OF ATTACKS ON HEALTH CARE IN SYRIA, <http://syriamap.phr.org/#/en/findings> (last visited Sept. 25, 2020).

Security and military forces have restricted the movement of patients and supplies.

“A lot of people were smuggling food and medicine to the village, and they were killed trying to bring supplies.”

— USAMA (PSEUDONYM)¹¹⁰

Pro-government forces have restricted the freedom of movement and prevented civilians perceived to be opposed to the government from accessing medical treatment and supplies.¹¹¹ Checkpoint security officers harassed civilians perceived to support the opposition.¹¹² Usama recounted what it was like to travel from Al-Buwaydah, a village near Homs, to a larger city for hemorrhoid surgery.¹¹³ According to Usama, it was a “dangerous and risky road,” and Usama’s father surveyed the route so Usama would know when it was clear to travel.¹¹⁴ On the way back to his village after his surgery, Usama passed through a government checkpoint.¹¹⁵ Fearing arrest, Usama pretended to be unconscious from the anesthesia.¹¹⁶ Usama believed he made it through the checkpoint because the other passengers were women, and, according to Usama, security forces were less likely to harass women.¹¹⁷ He expressed that “the fear of arrest was so stressful; it was an awful experience.”¹¹⁸

Government snipers actively prevented access to hospitals.¹¹⁹ Aleppo, Syria’s second largest city, was divided from 2012 to 2016, with the opposition controlling east Aleppo and the Government controlling west Aleppo.¹²⁰ Government snipers and planes were abundant along the “corridor

¹¹⁰ Interview with Usama (pseudonym) (Jan. 20, 2021).

¹¹¹ See Hum. Rts. Council, *Oral Update of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 29, U.N. Doc. A/HRC/26/CRP.2 (June 16, 2014) (“Danger to Syria’s civilians comes not only from aerial attacks. Equally dominant in the fears of men, women and children are the ubiquitous checkpoints they must pass through to get food, medical help, see family or to seek safer areas.”).

¹¹² See HUMAN RIGHTS WATCH, *SYRIA: DETENTION, HARASSMENT IN RETAKEN AREAS* (2019), <https://www.hrw.org/news/2019/05/21/syria-detention-harassment-retaken-areas>.

¹¹³ Interview with Usama (pseudonym) (Jan. 20, 2021).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 34, U.N. Doc. A/HRC/22/59 (Feb. 5, 2013); E.D. Cauchi, *Doctors Wage Losing Battle of Aleppo in Syria’s Civil War*, NBC NEWS, Sept. 17, 2016, <https://www.nbcnews.com/storyline/aleppo-children/doctors-wage-losing-battle-aleppo-syria-s-civil-war-n649161>.

¹²⁰ *Profile: Aleppo, Syria’s Second City*, BBC NEWS, Nov. 28, 2016, <https://www.bbc.com/news/world-middle-east-18957096>.

of death,” a one-third-mile stretch of road connecting east and west Aleppo.¹²¹ Every day thousands of civilians in Aleppo risked their lives to travel through the corridor for work, food, and other necessities.¹²² Government snipers were active in other cities and towns as well. Usama, a witness from the village of Al-Buwaydah, described how government snipers shot and killed his neighbor and his neighbor’s brother as they traveled from their village to a hospital in a larger town, seeking medical treatment.¹²³ Zahra, originally from Dara’a, described how she was afraid to leave her home to get medication for her sick daughter because of the presence of government security forces and snipers.¹²⁴

The Syrian government also restricted international and nongovernmental organizations’ access into and within Syria, including for medical evacuations, further harming and killing the civilian population.¹²⁵ According to Amena, a medical worker, “many times, even when people with a clear security status wanted to be evacuated, the Government wouldn’t evacuate them.”¹²⁶

The Government also restricted access to medical supplies.¹²⁷ Pro-government forces removed medical supplies from aid convoys traveling to opposition areas.¹²⁸ They seized or denied the transport of medical supplies, such as insulin and surgical kits, and withheld routine polio vaccines from opposition areas.¹²⁹

In 2014, the UN Security Council authorized cross-border operations into Syria without the Syrian government’s consent given the “arbitrary and unjustified withholding of consent to relief

121 Zaher Sahloul, *How Snipers Assassinated Hamza and Destroyed Syria*, SYRIAN AMER. MED. SOC’y, June 24, 2014, <https://www.sams-usa.net/2014/06/24/how-snipers-assassinated-hamza-and-destroyed-syria/>.

122 *Id.*

123 Interview with Usama (pseudonym) (Jan. 20, 2021).

124 Interview with Zahra (pseudonym) (Jan. 21, 2021).

125 See HUMAN RIGHTS WATCH, *RIGGING THE SYSTEM: GOVERNMENT POLICIES CO-OPT AID AND RECONSTRUCTION FUNDING IN SYRIA 4* (2019), https://www.hrw.org/sites/default/files/report_pdf/syria0619_web4.pdf.

126 Interview with Amena (pseudonym) (Jan. 16, 2021).

127 See Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 124, U.N. Doc. A/HRC/27/60 (Aug. 13, 2014); *Syria: Aid Restrictions Hinder COVID-19 Response: UN Should Reauthorize Assistance from Iraq; Damascus Should Allow Passage*, HUM. RTS. WATCH, Apr. 28, 2020, <https://www.hrw.org/news/2020/04/28/syria-aid-restrictions-hinder-covid-19-response>; Menaka Wilhelm, *Syria Systematically Harasses Medical Aid Convoys*, NPR, Apr. 13, 2018, <https://www.npr.org/sections/goatsandsoda/2018/04/13/600834161/syria-systematically-harasses-medical-aid-convoys>.

128 See Roger Lu Phillips & Layla Abi-Falah, *Criminal Responsibility For the COVID-19 Pandemic in Syria*, 52.2 COLUM. HUM. RTS. L. REV. 523, 534 (2021).

129 Menaka Wilhelm, *Syria Systematically Harasses Medical Aid Convoys*, NPR, Apr. 13, 2018, <https://www.npr.org/sections/goatsandsoda/2018/04/13/600834161/syria-systematically-harasses-medical-aid-convoys> (addressing Government restriction and seizure of medical supplies, including during the 2018 Government siege of Eastern Ghouta); Roger Lu Phillips & Layla Abi-Falah, *Criminal Responsibility For the COVID-19 Pandemic in Syria*, 52.2 COLUM. HUM. RTS. L. REV. 523, 534 (2021) (addressing the Government’s withholding of polio vaccines and the reemergence of polio).

operations and the persistence of conditions that impede the delivery of humanitarian supplies to destinations within Syria, in particular to besieged and hard-to-reach areas.”¹³⁰ The Syrian government has strongly objected to such actions, claiming that humanitarian relief operations do not provide adequate notice of their itineraries or targeted beneficiaries.¹³¹ Further, the Government has claimed that the cross-border aid “sustains those [terrorist] groups just as the umbilical cord sustains a fetus.”¹³²

The COVID-19 pandemic has exacerbated much of these problems. Throughout the pandemic, pro-government forces have deprived civilians perceived as opposition of access to medical care.¹³³ The Government has prevented medical workers from treating the virus in opposition areas and has prevented journalists from covering the virus’ spread and impact.¹³⁴ When comparing the number of COVID-19 tests the WHO sent for Idlib in April of 2020 with the number of tests actually available in the province, it is reasonable to conclude the Government has diverted tests from opposition-controlled areas to government-controlled areas.¹³⁵ According to Human Rights Watch, government restrictions on aid delivery from Damascus have hindered the arrival of medical supplies and personnel into Kurdish-held areas in northeast Syria intended to combat COVID-19.¹³⁶ In addition, according to a U.S.-based cybersecurity firm, government authorities have spied on citizens by planting spyware in peoples’ cell phones through a coronavirus prevention application.¹³⁷

Since the beginning of the conflict, the Government sought to ensure that wounded or sick opposition fighters, and citizens it perceived as aligned with the opposition, did not receive medical treatment or supplies.¹³⁸ The Government’s repeated removal of medical supplies from

130 S.C. Res. 2165, ¶ 15 (July 14, 2014). However, after Russia threatened to veto an extension of the resolution, the Security Council removed al-Yarubiyah and Ramtha from the list of authorized border crossings; the UN decision halted all UN cross-border aid into northeast and southern Syria. *Syria: Aid Restrictions Hinder COVID-19 Response: UN Should Reauthorize Assistance from Iraq; Damascus Should Allow Passage*, HUM. RTS. WATCH, Apr. 28, 2020, <https://www.hrw.org/news/2020/04/28/syria-aid-restrictions-hinder-covid-19-response>.

131 See, e.g., Bashar Ja’afari, *Identical Letters Dated Aug. 26, 2014 from the Permanent Rep. of the Syrian Arab Republic to the United Nations Addressed to the Secretary-General and the President of the Security Council*, ¶ 9, U.N. Doc. A/68/983-S/2014/631 (Aug. 28, 2014).

132 Bashar Ja’afari, *Identical Letters Dated Nov. 16, 2015 from the Permanent Rep. of the Syrian Arab Republic to the United Nations Addressed to the Secretary-General and the President of the Security Council*, U.N. Doc. S/2015/873 (Nov. 18, 2015).

133 See Roger Lu Phillips & Layla Abi-Falah, *Criminal Responsibility For the COVID-19 Pandemic in Syria*, 52.2 COLUM. HUM. RTS. L. REV. 523, 529–30 (2021).

134 *Id.* at 542–43.

135 *Id.* at 546. See also *id.* at 548 (pointing out 89% of WHO goods delivered to northern Syria are stored in a Government-controlled hospital).

136 *Syria: Aid Restrictions Hinder COVID-19 Response: UN Should Reauthorize Assistance from Iraq; Damascus Should Allow Passage*, HUM. RTS. WATCH, Apr. 28, 2020, <https://www.hrw.org/news/2020/04/28/syria-aid-restrictions-hinder-covid-19-response>.

137 Sandy Alkoutami & Khulood Fahim, *Revived by Disease*, CARNEGIE MIDDLE EAST CTR. (2020), <https://carnegie-mec.org/diwan/81755>.

138 See Roger Lu Phillips & Layla Abi-Falah, *Criminal Responsibility For the COVID-19 Pandemic in Syria*, 52.2 COLUM. HUM. RTS. L. REV. 523, 534 (2021).

aid convoys travelling to opposition areas was a component of this strategy.¹³⁹

Therefore, consistent with prior reports, we find that through the detention and torture of medical workers, physical and psychological abuse of patients at state hospitals, direct attacks on healthcare infrastructure, and restrictions on the freedom of movement, the Syrian government has attacked health throughout the conflict.

B. THE GOVERNMENT'S ATTACKS ON HEALTH HAVE CAUSED HEALTH SYSTEM FAILURES, LEAVING MANY CIVILIANS WITH NO CHOICE BUT TO FLEE.

The Syrian government's attacks on health have caused health system failures that leave civilians with no choice but to flee in order to access healthcare. By undermining social determinants of health,¹⁴⁰ system failures can worsen health outcomes. The Government's attacks on health have caused three types of system failures: (1) an insufficient number of hospitals and clinics, (2) inadequate availability of medical supplies, and (3) shortages of trained and experienced medical professionals. Because of these attacks on health, there are not enough hospitals, supplies, or medical professionals to treat the Syrian population.

1 Attacks on health have decimated Syria's physical medical infrastructure.

Because of the Syrian government's patterns of attacks on health, there has not been an adequate number of hospitals or other medical centers to treat the Syrian population. Aerial and chemical weapons attacks against medical infrastructure have disabled essential health services, leading to inconsistent availability of care and making it difficult to build new hospitals.

¹³⁹ Menaka Wilhelm, *Syria Systematically Harasses Medical Aid Convoys*, NPR (Apr. 13, 2018), <https://www.npr.org/sections/goatsandsoda/2018/04/13/600834161/syria-systematically-harasses-medical-aid-convoys>.

¹⁴⁰ According to the World Health Organization:

[The social determinants of health framework] shows how social, economic and political mechanisms give rise to a set of socioeconomic positions, whereby populations are stratified according to income, education, occupation, gender, race/ethnicity and other factors; these socioeconomic positions in turn shape specific determinants of health status . . . reflective of people's place within social hierarchies; based on their respective social status, individuals experience differences in exposure and vulnerability to health-compromising conditions.

WORLD HEALTH ORG., A CONCEPTUAL FRAMEWORK FOR ACTION ON THE SOCIAL DETERMINANTS OF HEALTH 5 (2010). See generally World Health Org. *Social Determinants of Health: Overview*, https://www.who.int/health-topics/social-determinants-of-health#tab_1.

Amira is an OB/GYN from Aleppo. Until 2016, she ran a private clinic in east Aleppo. In July 2016, however, the Government's aerial attacks disrupted the electricity supply, forcing her to close her clinic.¹⁴¹ Amira then moved to M2 Hospital. On July 16, 2016, government forces bombarded M2 Hospital several times, putting the hospital out of service.¹⁴² Video footage documented the blasts from the aerial attacks, the surprise of those in the hospital, and the initial damage to the hospital.¹⁴³

Before the end of 2016, government forces attacked M2 Hospital on three other occasions: twice on September 28th, and once on November 18th.¹⁴⁴ During one of these attacks, Amira had taken the day off. The attacks destroyed the room she used to examine patients. "It would have been a massacre" if she had been there that day, she explained.¹⁴⁵ Following the attacks, she and other medical professionals would work together to restore the hospital to regular operations. Farid, a medical student who worked at another hospital in east Aleppo,¹⁴⁶ and Mohammed, a doctor who supervised operations at several hospitals in Ma'arrat al-Nu'man,¹⁴⁷ described similar efforts to restore operation at their own hospitals.

After the November 18th attack, however, M2 Hospital was damaged beyond repair.¹⁴⁸ On November 20th, the World Health Organization announced that there were no longer any functioning hospitals in eastern Aleppo.¹⁴⁹ Despite the efforts of doctors like Amira, the Syrian government's attacks on hospitals deprived the residents of eastern Aleppo of any hospital infrastructure. This pattern is not unique to east Aleppo; it is widespread. In northwest Syria, only two-thirds of medical facilities remain operational.¹⁵⁰ 90% of the Syrian population lives in a region where the number of available hospital beds fall below emergency standards.¹⁵¹ Patients often die of

141 Interview with Amira (pseudonym) (Jan. 13, 2021). In 2016, airstrikes destroyed generators providing electricity to hospitals. See, e.g., Angela Dewan, Steve Visser, Kareem Khadder & Merieme Arif, *Syria: Aleppo Pounded by "Heaviest Bombardment" Since War Began*, CNN, Nov. 20, 2016, <https://www.cnn.com/2016/11/20/middleeast/syria-aleppo-airstrikes/index.html>.

142 PHYSICIANS HUM. RTS., *ILLEGAL ATTACKS ON HEALTH CARE IN SYRIA* (2021), <http://syriamap.phr.org/#/en> (listed as Omar bin Abdulaziz Hospital).

143 "مركز حلب الإعلامي AMC، لقطات توثق الجريمة "القصف الجوي الذي استهدف مشفى عمر بن عبد العزيز منتصف شهر تموز، 2016" YOUTUBE (Jul. 31, 2016), <https://www.youtube.com/watch?v=dBfCb4OGodI>.

144 PHYSICIANS HUM. RTS., *ILLEGAL ATTACKS ON HEALTH CARE IN SYRIA* (2021), <http://syriamap.phr.org/#/en> (listed as Omar bin Abdulaziz Hospital).

145 Interview with Amira (pseudonym) (Jan. 13, 2021).

146 Interview with Farid (pseudonym) (Jan. 13, 2021).

147 Interview with Mohammed (pseudonym) (Jan. 12, 2021).

148 Interview with Amira (pseudonym) (Jan. 13, 2021).

149 *Eastern Aleppo Without Any Hospitals for More Than 250,000 Residents*, WORLD HEALTH ORG., Nov. 20, 2016, <https://www.who.int/news/item/20-11-2016-eastern-aleppo-without-any-hospitals-for-more-than-250-000-residents>.

150 INTERNATIONAL RESCUE COMMITTEE, *A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 14* (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonehealthcareinsyria.pdf>.

151 *Id.* at 14.

treatable diseases because of the decimated healthcare system.¹⁵² Government forces have destroyed neonatal and pediatric hospitals across the country, leaving countless women and children without access to care.¹⁵³ Moreover, shortages of medication and trained staff have prevented those with chronic conditions from receiving treatment in Syria.¹⁵⁴ As one witness summarized, “public hospitals and the public medical sector are completely destroyed.”¹⁵⁵

Because of attacks on medical centers, medical professionals have not had the infrastructure necessary to provide consistent care. Hussein, a doctor from Dara’a, said that the Government’s attacks prohibited him from providing regular care: “You would work in a clinic for two months and then because of shelling, you would have to leave and start again.”¹⁵⁶ Nizar, a doctor who worked in various field hospitals in east Aleppo, frequently did not have enough beds to meet the urgent need. Once a patient was “good enough,” Nizar and other doctors would discharge that patient to make room for others.¹⁵⁷

The lack of infrastructure, due to the Government’s concerted attacks, has had dire consequences for the Syrian population. Medical workers have cited attacks on health as one of the biggest challenges in providing healthcare.¹⁵⁸ According to a recent report from the International Rescue Committee, a quarter of Syrians surveyed in northwestern Syria reported being unable to receive medical treatment due to an attack on a health facility.¹⁵⁹ In February 2018 alone, attacks on facilities disrupted 15,000 medical consultations and 1,500 surgeries—many of them life-saving.¹⁶⁰

For civilians physically harmed by government attacks, seeking out treatment at medical facilities could lead to death or injury. Nearly one fifth of Syrians have either had a family member injured or killed in a medical facility attack or were themselves injured.¹⁶¹ One witness’s brother was

¹⁵² *Id.* at 13.

¹⁵³ See, e.g., Diane Cole, *In Syria, Reports Of 19 Medical Facilities Bombed Since April 28*, NPR, May 17, 2019, <https://www.npr.org/sections/goatsandsoda/2019/05/17/724281900/in-syria-reports-of-19-medical-facilities-bombed-since-april-28>.

¹⁵⁴ See Muhammad Al Hosse & Madeline Edwards, *COVID-19 Border Closure Cuts Off Idlib Cancer Patients from Treatment*, THE NEW HUMANITARIAN, May 20, 2020, <https://www.thenewhumanitarian.org/feature/2020/05/20/Turkey-Syria-Idlib-medical-treatment-coronavirus>.

¹⁵⁵ Interview with Mahdi (pseudonym) (Jan. 16, 2021).

¹⁵⁶ Interview with Hussein (pseudonym) (Jan. 13, 2021).

¹⁵⁷ Interview with Nizar (pseudonym) (Jan. 18, 2021).

¹⁵⁸ INTERNATIONAL RESCUE COMMITTEE, *A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 12* (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonealthcareinsyria.pdf>.

¹⁵⁹ *Id.* at 2.

¹⁶⁰ WHO: *Alarming Spike in Attacks Against Health Workers, Facilities in Syria*, WORLD HEALTH ORG., Mar. 11, 2018, <https://reliefweb.int/report/syrian-arab-republic/who-alarming-spike-attacks-against-health-workers-facilities-syria>.

¹⁶¹ INTERNATIONAL RESCUE COMMITTEE, *A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 11* (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonealthcareinsyria.pdf>.

a surgeon at a field hospital in a non-government-controlled territory. In 2015, a Government cluster bombing on the facility killed him.¹⁶² Many witnesses shared similar stories, recounting the experience of losing patients and family members due to attacks on hospitals.¹⁶³

Attacks on health further prevented nongovernmental organizations from building new hospitals. Mohammed told us that after a government attack destroyed a hospital run by Médecins Sans Frontières (Doctors Without Borders) in 2012, he was only able to rebuild the hospital on the outskirts of town. Residents refused to live near a new hospital, which they feared would become a potential new target.¹⁶⁴

The Syrian government's attacks on hospitals and other medical centers has crippled Syrian healthcare infrastructure. Not only have these attacks physically harmed Syrian civilians and prevented international organizations from building new hospitals, but they have also led to an insufficient number of hospitals to treat the Syrian population.

2

The Government has prevented the delivery of medical supplies.

The Government has created shortages in the availability of essential medical supplies and medications. These shortages have forced medical professionals and others to obtain supplies through creative cross-border exchanges. The shortages have also reduced the standard of care available to patients. The Government's chokehold on the movement of supplies may exacerbate the coronavirus pandemic.

Ahmad's story is especially illustrative. In 2015, the Government repeatedly attacked Eastern Ghouta.¹⁶⁵ During one shelling, shrapnel severely wounded Ahmad's head and leg. His family took him to the closest emergency healthcare facility. There, he received an operation to stop the bleeding. The facility, however, had no anesthetics available.¹⁶⁶

¹⁶² Interview with Hussein (pseudonym) (Jan. 13, 2021).

¹⁶³ See, e.g., Interview with Farid (pseudonym) (Jan. 13, 2021); Interview with Saad (pseudonym) (Jan. 16, 2021); Interview with Mohammed (pseudonym) (Jan. 12, 2021).

¹⁶⁴ Interview with Mohammed (pseudonym) (Jan. 12, 2021).

¹⁶⁵ See, e.g., AMNESTY INT'L, "LEFT TO DIE UNDER SIEGE": WAR CRIMES AND HUMAN RIGHTS ABUSES IN EASTERN GHOUTA, SYRIA 19–47 (2015), <https://www.amnesty.org/download/Documents/MDE2420792015ENGLISH.PDF>.

¹⁶⁶ Interview with Ahmad (pseudonym) (Jan. 11, 2021).

Ahmad was later moved to a field hospital. He expected further treatment for his leg injury, but the doctors could only provide a temporary fix. The doctors told Ahmad, “[They] couldn’t do anything because [they] don’t have the equipment to fix everything.”¹⁶⁷

Additional research shows that the Syrian government has restricted the delivery of anesthetics to its population.¹⁶⁸ During the early years of the conflict, government forces regularly stripped medical aid convoys traveling to non-government-controlled areas of medical supplies, including insulin and surgical kits.¹⁶⁹ These areas have endured chronic and severe shortages of life-saving supplies for nearly a decade. “It’s easier to get a gun on the street than to find an antibiotic,” explained Dr. Ahmad Tarakji, head of the Syrian American Medical Society.¹⁷⁰ Consequently, in government-controlled areas, smugglers have taken medical supplies from hospitals and transported them to opposition-held territory.¹⁷¹

Other witnesses described the shortages of pharmaceuticals, as well as their efforts to access medications through crossline or cross-border transactions. Fatima, for example, sends medication to her family members who remain in Syria because they are unable to obtain it there.¹⁷²

Amena would smuggle medical supplies for field hospitals into Douma with her sister. After a close incident in 2012, they learned to walk separately and travel through different checkpoints to ensure that one of them would always be able to escape if captured.¹⁷³ In 2012, they were riding the same bus through a checkpoint when a soldier stopped them. They surrendered their IDs and waited. Over four hours later, a different soldier warned them, “Don’t enter Douma through this checkpoint again or you will be arrested.” Unbeknownst to the soldiers, however, they were carrying medicine. “[T]hey would have killed us immediately” if they had found it.¹⁷⁴

¹⁶⁷ *Id.*

¹⁶⁸ See U.N. Secretary-General, *Implementation of Security Council Resolutions 2139 (2014), 2165 (2014), 2191 (2014), 2258 (2015), 2232 (2016) and 2393 (2017)*, tbl.2, U.N. Doc. S/2018/243 (Mar. 20, 2018); Menaka Wilhelm, *Syria Systematically Harasses Medical Aid Convoys*, NPR (Apr. 13, 2018), <https://www.npr.org/sections/goatsandsoda/2018/04/13/600834161/syria-systematically-harasses-medical-aid-convoys>.

¹⁶⁹ Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 46, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

¹⁷⁰ Diane Cole, *In Syria, Reports Of 19 Medical Facilities Bombed Since April 28*, NPR, May 17, 2019, <https://www.npr.org/sections/goatsandsoda/2019/05/17/724281900/in-syria-reports-of-19-medical-facilities-bombed-since-april-28>.

¹⁷¹ Elizabeth Tsurkov & Qussai Jukhadar, *Ravaged by War, Syria’s Health Care System is Utterly Unprepared for a Pandemic*, MEI, Apr. 23, 2020, <https://www.mei.edu/publications/ravaged-war-syrias-health-care-system-utterly-unprepared-pandemic>.

¹⁷² Interview with Fatima (pseudonym) (Jan. 11, 2021).

¹⁷³ Interview with Amena (pseudonym) (Jan. 16, 2021).

¹⁷⁴ *Id.*

Under government blockades, accessing medical equipment was nearly impossible without the assistance of international nongovernmental organizations according to Nizar, a doctor who worked in eastern Aleppo.¹⁷⁵ Others described efforts to compensate for shortages of medical equipment. Qassim, for example, worked at field hospitals in Damascus and Raqqa. In Damascus, he needed an operating table for trauma surgeries, but no operating tables were available. Instead, one had to be manufactured.¹⁷⁶ In Raqqa, Qassim collaborated with others to bring equipment over from Turkey.¹⁷⁷

Interviewees frequently recalled shortages of supplies for treating chronic illnesses and long-term conditions. Amena's father was misdiagnosed with bladder cancer in a field hospital in Idlib because of insufficient equipment.¹⁷⁸ Nizar did not have the supplies necessary to treat cancer patients, instead working with the Syrian Arab Red Crescent to transfer cancer patients out of Aleppo.¹⁷⁹ Saad, a doctor from Idlib, did not have the equipment necessary to perform heart surgeries.¹⁸⁰ For Nada, who has an artificial eye, a lack of medication led to long-term suffering: "It was possible to get treatment in Hamma, which was under government control. But in the non-government-controlled area, it was impossible to get treatment. Because I could not find the specific medication I needed, I got an infection. It spread to my other eye, and even now, I still have a lot of problems with my eyes. I am always suffering, even now."¹⁸¹

MOHAMMED SUMMARIZED THE SHORTAGES SUCCINCTLY:

***"We did not have all the specialties.
We did not have all the needed equipment."***¹⁸²

The shortages of equipment and medications have been particularly harmful in the aftermath of chemical attacks. On August 21, 2013, the Syrian government conducted a chemical attack in

175 Interview with Nizar (pseudonym) (Jan. 18, 2021).

176 Interview with Qassim (pseudonym) (Jan. 12, 2021).

177 Interview with Amena (pseudonym) (Jan. 16, 2021).

178 *Id.*

179 Interview with Nizar (pseudonym) (Jan. 18, 2021).

180 Interview with Saad (pseudonym) (Jan. 16, 2021).

181 Interview with Nada (pseudonym) (Jan. 31, 2021).

182 Interview with Mohammed (pseudonym) (Jan. 12, 2021).

Eastern Ghouta, which injured Maryam and her family.¹⁸³ The chemical attack had irritated her and her husbands' eyes. At one point, her husband could not even recognize his own brother. They held towels to their faces to breathe in less sarin gas. When they reached an emergency medical clinic, there were only enough oxygen masks for one out of every two or three families.¹⁸⁴ Amira had a similar experience while working at an underground hospital in Aleppo: when the Government used chemical weapons against the hospital, there was no oxygen available to treat the victims because the Government's attacks had disabled the necessary generators.¹⁸⁵

Experiences with oxygen shortages after chemical weapons attacks may support recent research on the Syrian government's inadequate response to the coronavirus pandemic. Mahdi explained to us that he believes public hospitals do not have enough oxygen or medications to treat patients with severe COVID-19 symptoms: "People are using alternative means like lemon and honey to try to help themselves."¹⁸⁶ Though we did not find direct evidence of the Syrian government's restriction of supplies to hospitals treating patients with COVID-19 symptoms, research by other organizations may corroborate Mahdi's belief. Human Rights Watch and Amnesty International, for example, have documented the Government's failure to adequately respond to the pandemic.¹⁸⁷ The Commission of Inquiry also identified how attacks on health halted vaccination campaigns in some areas early in the conflict.¹⁸⁸

Government-run checkpoints have restricted the movement of people and aid convoys, which has led many Syrians to rely on supply smugglers, international organizations, and mail from family members outside of Syria in order to obtain medications and other necessary medical supplies. These shortages have reduced the standard of available care, which has been exacerbated by both chemical attacks and the COVID-19 pandemic. The Government's attacks on health, both through violent attacks and through restrictions on movement, have thus caused health system failures in the availability of medical supplies.

183 For more detailed documentation of these attacks, see HUM. RTS. WATCH, *ATTACKS ON GHOUTA: ANALYSIS OF ALLEGED USE OF CHEMICAL WEAPONS IN SYRIA* (2013), https://www.hrw.org/sites/default/files/reports/syria_cw0913_web_1.pdf.

184 Interview with Maryam (pseudonym) (Jan. 11, 2021).

185 Interview with Amira (pseudonym) (Jan. 13, 2021).

186 Interview with Mahdi (pseudonym) (Jan. 16, 2021).

187 See, e.g., *Syria: Aid Restrictions Hinder COVID-19 Response: UN Should Reauthorize Assistance from Iraq; Damascus Should Allow Passage*, HUM. RTS. WATCH, Apr. 28, 2020, <https://www.hrw.org/news/2020/04/28/syria-aid-restrictions-hinder-covid-19-response>; *Syria: Lack of Adequate COVID-19 Response Puts Thousands of Lives at Risk*, AMNESTY INT'L, Nov. 12, 2020, <https://www.amnesty.org/en/latest/news/2020/11/syria-lack-of-adequate-covid-19-response-puts-thousands-of-lives-at-risk/>.

188 See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 35, U.N. Doc. A/HRC/22/59 (Feb. 5, 2013).

3

Attacks on health have forced medical professionals to flee.

Throughout the conflict, Government forces have kidnapped or detained hundreds of medical professionals.¹⁸⁹ They have killed nearly 1,000.¹⁹⁰ In the wake of these attacks, over 70% of healthcare workers have fled Syria.¹⁹¹ The loss of medical personnel “accelerated” the “collapse of the Syrian public health system.”¹⁹² Now, there are too many patients for too few adequately specialized medical professionals. As a result, healthcare workers have been overextended and forced to allocate time and resources primarily to patients who can be easily treated.

While working in eastern Aleppo, Amira, an OB/GYN, would avoid taking days off from work. When she stayed home, a long line of patients would queue for the next day.¹⁹³ Due to the staffing shortages, some medical professionals work upwards of 80 hours a week.¹⁹⁴

Because there were not enough healthcare providers, staff in field hospitals would train personnel to provide emergency and trauma care. Some, like Ilyaas, trained doctors in providing trauma care.¹⁹⁵ Others, like Qassim, trained medical students as nurses.¹⁹⁶

Still others, however, were themselves trained despite never having previously provided medical care. For example, Sarah had never received formal medical training. In Eastern Ghouta, however, she was trained to work as a nurse at a medical center run by a dentist and medical students. In her words, there were no “qualified doctors.”¹⁹⁷ Sarah also worked in clinics staffed by untrained volunteers responsible for providing first aid and preparing patients for medical transport.¹⁹⁸

189 See, e.g., PHYSICIANS FOR HUM. RIGHTS, *Medical Personnel are Targeted in Syria*, <https://phr.org/our-work/resources/medical-personnel-are-targeted-in-syria/>.

190 *Id.*

191 See, e.g., *Syria Anniversary Press Release*, U.N. OFF. FOR THE COORDINATION OF HUMANITARIAN AFFS., Mar. 6, 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/USG%20Lowcock%20Syria%20Anniversary%20PR_%2006032020.pdf.

192 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 80, U.N. Doc. A/HRC/28/69 (Feb. 5, 2015).

193 Interview with Amira (pseudonym) (Jan. 13, 2021).

194 INTERNATIONAL RESCUE COMMITTEE, *A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 14* (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonehealthcareinsyria.pdf>.

195 Interview with Ilyaas (pseudonym) (Jan. 12, 2021).

196 Interview with Qassim (pseudonym) (Jan. 12, 2021).

197 Interview with Sarah (pseudonym) (Jan. 15, 2021).

198 *Id.*

Amer, a lawyer, oversaw similar training in the Aleppo countryside around 2015: medical personnel recruited non-medical professionals to work as nurses after fifteen days of intensive training.¹⁹⁹

Many Syrian territories lack the qualified staff and specialized providers necessary for any population, let alone one experiencing large-scale conflict, displacement, and now a pandemic.²⁰⁰ Health workers surveyed in northwest Syria noted the absence of specialists, and the scarcity of trained staff.²⁰¹ In fact, nearly 40% of health workers have no formal training at all.²⁰²

The lack of trained medical professionals in opposition-held areas has meant that patients have not been able to obtain quality care. Usama, for example, needed hemorrhoid surgery while living in a village near Homs. He knew the local field hospital was not always able to treat non-emergency conditions, but he did not want to obtain care at the public hospital outside of his village. At the field hospital, the doctors lacked the training necessary to perform the procedure and were only able to give him medication for his pain.²⁰³

Amer's mother was unable to access care from specialized doctors when she needed a knee replacement. The available healthcare workers were not experienced in the specialized surgery.²⁰⁴ Nada was unable to access treatment for her eye inflammation because no doctor in Aleppo was adequately trained in providing the necessary care.²⁰⁵

A survey from the Syrian Centre for Policy Research found that 31% of the Syrian population lived in areas where the number of healthcare workers was insufficient, and 27% lived in areas with no healthcare workers at all.²⁰⁶ Without access to qualified care, patients have often died from wounds and diseases that are not typically fatal.²⁰⁷

199 Interview with Amer (pseudonym) (Jan. 31, 2021).

200 See generally UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, 2019 HUMANITARIAN NEEDS OVERVIEW: SYRIAN ARAB REPUBLIC (2019), <https://reliefweb.int/report/syrian-arab-republic/2019-humanitarian-needs-overview-syrian-arab-republic-enar>.

201 INTERNATIONAL RESCUE COMMITTEE, A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 14 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonehealthcareinsyria.pdf>.

202 UK AID, PROTECTING HEALTHCARE IN SYRIA 4 (2018), <https://reliefweb.int/report/syrian-arab-republic/protecting-healthcare-syria-august-2018>.

203 Interview with Usama (pseudonym) (Jan. 20, 2021).

204 Interview with Amer (pseudonym) (Jan. 31, 2021).

205 Interview with Nada (pseudonym) (Jan. 31, 2021).

206 See Fouad M. Fouad et al., *Health Workers and the Weaponisation of Health Care in Syria: A Preliminary Inquiry for The Lancet-American University of Beirut Commission on Syria*, 390 THE LANCET 2516, 2519 (2017).

207 See Elizabeth Tsurkov & Qussai Jukhadar, *Ravaged by War, Syria's Health Care System is Utterly Unprepared for a Pandemic*, MEI, April 23, 2020, <https://www.mei.edu/publications/ravaged-war-syrias-health-care-system-utterly-unprepared-pandemic>.

The lack of specialists has disproportionately impacted women. One witness recalled that, “because of attacks on hospitals, women stopped going to the hospitals when they needed care.”²⁰⁸ Pregnant women have faced a severe shortage of access to obstetrician-gynecologists, and the overwhelming majority of pregnant women have received no prenatal healthcare.²⁰⁹ Recalling her pregnancy in 2015, one witness shared: “It was very difficult. I cannot find words to explain. It was really, really difficult. I was not able to have regular checkups . . . There are no specialized doctors. Only nurses or midwives. Midwives do not have knowledge like a doctor. As women, this is one of the main difficulties that we have.”²¹⁰

Even when medical professionals work in their specialty, however, they have not always been able to provide the necessary care. One trauma surgeon explained that his clinic was sometimes flooded with hundreds of patients following an attack. Without enough medical supplies, specialists, and surgeons, his clinic often had to turn people away.²¹¹ Faced with impossible odds, medical workers have had to make devastating choices. The surgeon explained that because he did not have enough trained staff, he “had to take measures including entire arm amputations, rather than more conservative measures.”²¹²

Sarah observed this system of triage firsthand. While working at a field hospital, she encountered a man crushed by part of a fallen building. She asked a medical student to treat him, to no avail. He replied, “No. I can’t spend this time. There are children who need help who can survive. This man can’t survive.” The patient died after ten minutes.²¹³

The Syrian government has attacked medical professionals both through kidnappings and detention as well as through targeted attacks, leading many trained and experienced medical personnel to flee Syria. The resulting shortage has led non-medically trained professionals to volunteer as nurses while other medical professionals have volunteered to work in specialties in which they were not trained. Even when professionals worked in their area of expertise, however, they were often unable to provide adequate specialized care because of insufficient

208 Interview with Amira (pseudonym) (Jan. 13, 2021).

209 See generally Abdullah Sulieman Terkawi et al., *Women’s Health in Northwestern Syria: Findings from Healthy-Syria 2017 Study*, 9 *AVICENNA J. MED.* 94 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6647916/>.

210 Interview with Nada (pseudonym) (Jan. 31, 2021).

211 *Id.*

212 Interview with Qassim (pseudonym) (Jan. 12, 2021).

213 Interview with Sarah (pseudonym) (Jan. 15, 2021).

supplies. Thus, many patients have received inadequate care, or no care at all. Because of the Government's attacks on health, there have not been enough trained medical professionals to provide quality care.

The Syrian government's attacks on health, therefore, have plagued the Syrian healthcare system with three system failures: insufficient infrastructure, shortages of supplies, and inadequate personnel.

C. ATTACKS ON HEALTH ARE BOTH PRIMARY AND CONTRIBUTING DRIVERS OF DISPLACEMENT.

The Syrian government deliberately created system failures of healthcare infrastructure, effectively destroying the healthcare system in Syria. For some Syrian civilians, the inability to access healthcare has become a primary driver of displacement. For those seeking emergency or specialized care, the destruction of the healthcare system has left them no choice but to leave to other governorates within Syria or other countries where such care was available. At the same time, the Syrian government's destruction of the healthcare system has been a significant contributing factor to the intolerable living conditions—including the persistent threat of armed attacks and abuses—that have left millions of Syrians with no choice but to flee.

1

The Syrian government has deliberately deprived patients of primary, emergency, and specialized care, forcing them to flee.

For civilians with acute or emergency health needs, as well as civilians with specialized needs, the deprivation of healthcare has left them with no choice but to leave Syria.

a. Without a functioning healthcare system, patients needing primary and emergency care have no real choice but to flee.

The Syrian government decimated healthcare infrastructure, depriving civilians of basic emergency and primary care. Several interviewees injured during an attack or who otherwise needed primary or emergency care described how they had to leave Syria to access the necessary care. After

being injured in a shelling in Eastern Ghouta, for example, Ahmad recalled that “the doctor said that he couldn’t do anything because we don’t have the equipment.”²¹⁴ Other witnesses shared that they knew people who had been injured and died from a lack of adequate care. One of Samir’s family members died from blood poisoning from a gunshot wound. When government forces shot Samir several times in April 2012, he knew he had to leave: “At the field hospital, they could not extract the bullets. They just gave me stitches and antibiotics. I saw two other doctors, but there were no specialists. I couldn’t trust their opinions.”²¹⁵ Samir knew that without adequate healthcare, a superficial injury could become a death sentence. This testimony reflects an environment in which basic emergency and primary care was unavailable to Syrian civilians because of the Government’s attacks on health.

Absent the Government’s deliberate system failures, caused by detention, torture, aerial attacks, and restrictions on movement, Syrian civilians would have been able to access primary and emergency care.²¹⁶ By leaving them unable to access treatment within Syria, the Government has been forcing out civilians who have acute healthcare needs.

b. Without a functioning healthcare system, patients needing specialized care have no real choice but to flee.

Civilians with complex health needs have faced a similarly impossible choice. Because of health system failures in most of Syria, patients diagnosed with diseases like cancer had to choose between leaving or dying. While access to treatments may still be available in government-held strongholds, our interviews revealed that civilians perceived to be opposed to the government have routinely been denied or obstructed from access to treatment in Damascus, leaving them with nowhere to go within Syria. Amena’s father was diagnosed with cancer in Ghouta. He was “bleeding out,” and in desperation she tried to arrange a medical evacuation to Damascus. She was told by an evacuation manager that her father could go to Damascus if she came with him and signed a reconciliation agreement with the Syrian government. Amena, a medical worker, declined. She said, “I prefer to kill myself than be arrested by the regime. I was obsessed with the idea that I might be detained, because when medical workers are detained, they are raped, tortured, and killed, and it was my main concern besides my family.”²¹⁷ As her father’s condition

214 Interview with Ahmad and Maryam (pseudonyms) (Jan. 11, 2021).

215 Interview with Samir (pseudonym) (Jan. 24, 2021).

216 See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 59, U.N. Doc. A/HRC/31/68 (Feb. 11, 2016).

217 Interview with Amena (pseudonym) (Jan. 16, 2021).

deteriorated, the family made the painful decision to leave Ghouta for the northwest. Upon arrival, her father was immediately evacuated to Turkey for treatment.²¹⁸

Amena's experience was echoed by others with complex needs. Several witnesses spoke of patients and relatives who left Syria in search of care.²¹⁹ Saad shared that because he does not have access to medicine necessary to treat cancer, his patients "have to leave Syria."²²⁰ In fact, the Syrian American Medical Society estimates that more than 200,000 civilians have died due to noncommunicable diseases such as diabetes and cancer—a significant portion of the 400,000 Syrians estimated to have died in the conflict overall.²²¹

Ali recalled experiencing fever and sweating. He went to several doctors, "but they couldn't find an explanation. Then, a doctor friend told me to go to Turkey and seek medical treatment there."²²² In Turkey, Ali was diagnosed with blood cancer and was able to make a full recovery. These stories illustrate how the Syrian government's attacks on healthcare have restricted access to already limited specialized care. For the witnesses, the inability to access healthcare forced them to leave Syria.

2

The health system failures caused by the Syrian government have created an intolerable environment leaving civilians with no choice but to flee.

While the attacks and subsequent deprivation of access to healthcare have directly led some Syrians to flee, for others, the attacks have contributed to an atmosphere of intimidation and intolerable living conditions created by the Syrian government to force out civilians perceived as opposition.²²³

²¹⁸ *Id.*

²¹⁹ See Interview with Saad (pseudonym) (Jan. 16, 2021); Interview with Mohammed (pseudonym) (Jan. 12, 2021); Interview with Bassam (pseudonym) (Jan. 13, 2021).

²²⁰ Interview with Saad (pseudonym) (Jan. 16, 2021).

²²¹ Noura Hourani, Maher al-Hamdan, & Mateo Nelson, *The Hidden Toll: Preventable Illnesses, Untreated Injuries "Outnumber Those Killed by Bombardment,"* SYRIA DIRECT, June 16, 2016, <https://syriadirect.org/the-hidden-toll-preventable-illnesses-untreated-injuries-outnumber-those-killed-by-bombardment/>.

²²² Interview with Ali (pseudonym) (Jan. 19, 2021).

²²³ See Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 76, U.N. Doc. A/HRC/44/61 (Sept. 3, 2020); Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 52, U.N. Doc. A/HRC/42/51 (Aug. 15, 2019).

Many Syrians reported that they fear accessing healthcare due to attacks on hospitals and other facilities.²²⁴ One doctor explained, “the locals knew that hospitals were a particularly dangerous place to stay . . . the fear of being attacked while in a hospital prevented people from receiving the healthcare they needed.”²²⁵ Another witness explained that because of the attacks, “of course people are afraid to seek medical care—they would only go to the hospital if there was no other solution.”²²⁶ Many witnesses went so far as to say that they did not even want to live near a medical center for fear of being killed or injured in an attack.²²⁷ One witness recalled a conversation with an NGO director, who told him that villagers asked the NGO not to open a hospital near them because it would attract bombing.²²⁸

Witnesses also expressed fear of leaving their homes and traveling to obtain medical care because they feared arrest or detention. One witness, the pregnant wife of a political detainee, was forced to miss her regular prenatal appointments due to a fear of being questioned, humiliated, or detained at checkpoints. About two or three hours after she gave birth, she left the hospital without receiving any medical follow-up. She left because she feared a prolonged stay would lead to interactions with Syrian security personnel.²²⁹ Many witnesses echoed similar stories of a pervasive atmosphere of terror and trauma.²³⁰ This atmosphere is reflected in a recent IRC report, which found that two-thirds of civilians surveyed in northwest Syria alone reported that attacks on health negatively impacted their well-being.²³¹

Syrian civilians were not exercising a genuine choice to leave, but rather responding to the reality that staying would likely lead to torture or death. This was especially true for witnesses in the medical profession who reported leaving because they believed the Syrian government would detain or kill them for carrying out their professional obligation—to provide a certain standard of medical care to their patients regardless of whether they opposed the government.

224 See, e.g., INTERNATIONAL RESCUE COMMITTEE, A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 2 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonealthcareinsyria.pdf>.

225 Interview with Nizar (pseudonym) (Jan. 18, 2021).

226 Interview with Mohammed (pseudonym) (Jan. 12, 2021).

227 *Id.*

228 *Id.*; Interview with Faisal (pseudonym) (Jan. 14, 2021).

229 Interview with Ahmad and Maryam (pseudonyms) (Jan. 11, 2021).

230 Interview with Nabil (pseudonym) (Jan. 12, 2021); Interview with Hassan (pseudonym) (Jan. 12, 2021); Interview with Amer and Nada (pseudonyms) (Jan. 31, 2021); Interview with Qassim (pseudonym) (Jan. 12, 2021); Interview with Bassam (pseudonym) (Jan. 13, 2021).

231 INTERNATIONAL RESCUE COMMITTEE, A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 2 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonealthcareinsyria.pdf>.

In general, the atmosphere of the Homs Military Hospital was very tense. After a few months, there was a separation between two groups working in the hospital. One group was pro-army. They supported the government's forceful response to the demonstrations. The other group was small. They were not happy with what was happening, though they could not say they were opposed because they would be killed for talking openly about their views. Hassan could not hide his feelings or emotions. Because of that, he was under daily scrutiny.

As more time passed, the gap between the two groups became clearer and clearer. For example, if there was a detainee arriving at the hospital, and the other side felt like you were not supporting them or that you supported the detainee, they would torture the detainee even more. If hospital staff started disagreeing with everything happening in the hospital, they were afraid they would be detained too. The hospital officers used to write reports on the staff and send the reports to the military and security agencies, accusing staff of being terrorist or opposition sympathizers. This was generally the atmosphere Hassan was working in at the military hospital. As part of the group that wasn't happy to see the government's response to the revolution, he and his colleagues used to receive clear messages and direct threats. Eventually, they reached the point where they could no longer continue and left.

On his last day at the hospital, he learned that he was under investigation. An informant had written a report to the hospital officers, accusing him of sympathizing with demonstrators. Because he had arrived to work a little late that day, the investigator told him to return tomorrow for the start of his investigation.

That day, Hassan walked out of the hospital and left with the clothes on his back. He left all of his belongings, his house, everything. He knew if he stayed in Homs, there would be no option but to be arrested. He took public transportation from Homs to rural Idlib because at the time, there was no security situation there. There were many military checkpoints between Homs and Idlib. He knew he was still under investigation but not yet on a wanted list because the investigation had just begun. His name hadn't been published at the checkpoints, so he thought it was safe to travel through them. Even if there was risk, he took the risk—and he succeeded in reaching Idlib. But he wasn't able to continue living in Idlib, because of the volatile security situation. So, he and his family fled to Turkey.²³²

²³² Interview with Hassan (pseudonym) (Jan. 12, 2021).

Many doctors fled due to fear of governmental retaliation for providing healthcare to civilians perceived to support the opposition.²³³

70%

**IN FACT, OVER 70% OF MEDICAL WORKERS
HAVE FLED SYRIA SINCE THE START OF THE WAR.²³⁴**

Similarly, civilians fled in reaction to a certainty that staying would likely lead to death. One married couple explained what happened when their home was hit by 6 rockets at 11p.m. on August 11, 2016:

Nada was standing at their front door when she saw the airplane overhead that targeted their house. She suddenly heard a big explosion and was blown a few meters away. She saw a lot of blood. She had a seven-month old baby. When she saw blood, she thought the baby got injured. She found blood all over her body.

Amer, her husband, didn't get wounded, but Nada and the rest of their family were all wounded. They received first aid in the maternity and children's hospital before being transferred to another hospital. The maternity and children's hospital was targeted and destroyed later that night.

Amer's aunt was also badly wounded during the targeting of their home. The doctor transferred the aunt to a hospital in Anjara. There, doctors said the aunt could not be treated there and that she needed to be transferred to Turkey for surgery. They tried to cross into Turkey that morning, but the process to cross the border took too long because the previous night, there were intense air strikes and shelling in the area. So, there was a huge line of ambulances in the morning that were evacuated from the area to Turkey. After three hours of waiting to be evacuated into Turkey, his aunt died on the border.

When asked, Amer said that they could not have gone to a hospital in a regime-held area. They would have been arrested on the spot even before they got to the hospital; his aunt would have gotten arrested. Second, there were no direct roads between opposition- and government-

²³³ Interview with Farid (pseudonym) (Jan. 13, 2021); Interview with Nizar (pseudonym) (Jan. 18, 2021).

²³⁴ Syria Anniversary Press Release, U.N. OFF. FOR THE COORDINATION OF HUMANITARIAN AFFS., Mar. 6, 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/USG%20Lowcock%20Syria%20Anniversary%20PR_%2006032020.pdf.

controlled areas. It was almost impossible to go. If they had to go, it would have taken 24 hours. They would have had to avoid checkpoints and military areas in order to access government controlled territories.

Amer's mother was also wounded and traumatized in the air strike that destroyed their house—the shock and injury nearly paralyzed her. Five years later, his mother continues to struggle with the long-term physical and psychological effects of the attack and has been unable to find adequate healthcare.

Amer said he could not resist leaving under pressure from family. The night of the attack on their home, they had to drag their seven-month old baby from the debris. He repeated that there was a lot of pressure on him to leave and said there was nothing left in Syria. He said it was no longer safe for them and the kids. Then, Nada was asking her husband to move to save the young baby and their unborn child.²³⁵

Mohammed explained how the climate of fear, coupled with the decimation of healthcare services, forced him and his family to flee: “I think the biggest contributing factor to people leaving is lack of safety, but the lack of available treatment aggravates the circumstances.”²³⁶

As Bassam explained, “If there is no health care then why would you stay in a place?”²³⁷ According to Nizar: “By attacking health facilities, people have nowhere to go. People become more desperate to leave.”²³⁸ Indeed, attacks on healthcare are correlated with waves of civilian displacement.²³⁹ Ilyaas shared that “many Syrians don’t leave unless there is a huge reason. As long as people are able to eat and there’s medical care, they will stay. If they are deprived of those things, they will leave. People stay if they know there is a physician to take care of their kids.”²⁴⁰

These witness testimonies highlight how the Syrian government has used attacks on healthcare

235 Interview with Amer and Nada (pseudonyms) (Jan. 31, 2021).

236 Interview with Mohammed (pseudonym) (Jan. 12, 2021).

237 Interview with Bassam (pseudonym) (Jan. 13, 2021).

238 Interview with Nizar (pseudonym) (Jan. 18, 2021).

239 INTERNATIONAL RESCUE COMMITTEE, A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 8 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonhealthcareinsyria.pdf>.

240 Interview with Ilyaas (pseudonym) (Jan. 12, 2021).

to intimidate civilians, which has contributed to intolerable living conditions and forced civilians to flee. As violence engulfed life in Syria, civilians fled their homes in desperate search of safety.²⁴¹ More than 6.7 million civilians have been displaced within the country, and over 6.6 million civilians have fled Syria altogether.²⁴²

Recent human rights reporting found that major periods of displacement coincide with attacks on health facilities.²⁴³ In fact, an increase in the relative number of attacks on healthcare foreshadows an escalation of violence, and subsequently, displacement.²⁴⁴ These patterns of violence have interrupted the provision of services and deprived countless civilians of access to healthcare and other necessities, such as education, food, and water.²⁴⁵

In short, our findings show that government and pro-government forces have engaged in the widespread and systematic destruction of the healthcare system for broad swathes of the civilian population. This destruction extends beyond the highly visible and well-documented aerial attacks on hospitals. Since the beginning of the uprising in 2011, the Government has criminalized the provision of medical treatment to opposition members perceived to be terrorists; subjected healthcare professionals to detention, torture, and extrajudicial killings; denied medical care to detainees and turned hospitals into torture centers; directed attacks on health infrastructure; and restricted freedom of movement through siege tactics that block access to healthcare. These attacks on health have contributed to an atmosphere of terror and trauma, which has left Syrians with no genuine choice but to flee for their lives—especially those with acute, complex, or chronic health needs.

²⁴¹ See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 10, U.N. Doc. A/HRC/43/57 (Jan. 8, 2020).

²⁴² U.N. High Comm'r for Refugees, Syria Emergency, <https://www.unhcr.org/en-us/syria-emergency.html>.

²⁴³ INTERNATIONAL RESCUE COMMITTEE, A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 8 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonehealthcareinsyria.pdf>.

²⁴⁴ *Id.* at 10.

²⁴⁵ Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 83, U.N. Doc. A/HRC/43/57 (Jan. 8, 2020).

VI. ATTACKS ON HEALTH DRIVING DISPLACEMENT CONSTITUTE THE CRIME AGAINST HUMANITY OF DEPORTATION

This report draws a link between two distinct phenomena, identifying the deliberate deprivation of healthcare as a significant driver of the forced displacement crisis. The link between attacks on health and displacement has ramifications under international criminal law that create avenues for legal accountability.

The Syrian government has committed the crime against humanity of deportation or forcible transfer. Under customary international law, as reflected in the Rome Statute of the International Criminal Court,²⁴⁶ crimes against humanity are certain acts “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”²⁴⁷ Crimes against humanity include acts such as deportation or forcible transfer, murder, extermination, and other inhumane acts. We focus on the crime against humanity of deportation or forcible transfer as an avenue for the prosecution of forced displacement caused by attacks on health.

Based on our investigation and extensive prior documentation, there is a reasonable basis to conclude that the Syrian government has committed crimes against humanity between 2011 and the present.²⁴⁸ For an act to be a crime against humanity, it must be committed (1) as part of

246 Although Syria has not ratified the Rome Statute, it is bound by customary international law. See INTERNATIONAL LAW ASSOCIATION, STATEMENT OF PRINCIPLES APPLICABLE TO THE FORMATION OF CUSTOMARY INTERNATIONAL LAW 1(i) (2000) (stating a rule of customary international law is “created and sustained by the constant and uniform practice of States and other subjects of international law in or impinging upon their international legal relations, in circumstances which give rise to a legitimate expectation of similar conduct in the future.”).

247 Rome Statute of the International Criminal Court, art. 7(1), July 17, 1998, 2187 U.N.T.S. 90. The crimes that constitute crimes against humanity if “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack,” are murder; extermination; enslavement; deportation or forcible transfer; imprisonment or other severe deprivation of liberty; torture; rape and other sexual violence of comparable gravity; persecution; enforced disappearance; apartheid; and other inhumane acts. Rome Statute of the International Criminal Court, art. 7(1), July 17, 1998, 2187 U.N.T.S. 90.

248 See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 25, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021) (concluding that “there are . . . reasonable grounds to believe that Government and pro-government forces, on multiple occasions, have committed crimes against humanity in the conduct of their use of airstrikes and artillery shelling of civilian areas”); AMNESTY INT’L, CRACKDOWN IN SYRIA: TERROR IN TELL KALAKH 6 (2011), <https://www.amnesty.org/download/Documents/32000/mde240292011en.pdf> (concluding that the actions of security forces “appear to be part of a widespread, as well as systematic, attack against the civilian population involving multiple commission of a range of crimes against a multiplicity of victims in an organized manner and pursuant to a state policy to commit such an attack”); HUM. RTS. WATCH, TARGETING LIFE IN IDLIB: SYRIAN AND RUSSIAN STRIKES ON CIVILIAN INFRASTRUCTURE (2020), <https://www.hrw.org/report/2020/10/15/targeting-life-idlib/syrian-and-russian-strikes-civilian-infrastructure> (concluding that airstrikes and ground attacks committed by the government in Idlib may amount to crimes against humanity because of their “nature and scale”).

a widespread or systematic attack, (2) pursuant to a state or organizational policy, (3) against any civilian population, and (4) by a person with knowledge of the attack.²⁴⁹ Our interviewees' recollections of the frequent and often repeated attacks against hospitals, healthcare workers, and patients—in the various forms those attacks have taken—demonstrate the widespread *and* systematic nature of the Government's attack on health. The Government's attacks have both occurred across multiple locations over an extended period of time—they are widespread²⁵⁰ — and have regularly targeted healthcare infrastructure—they are systematic.²⁵¹

Our investigation and open-source research supports the inference that the Government's attacks on health were likely committed pursuant to a state policy against a civilian population by persons with knowledge of the broader attack. The scale and uniformity of attacks on health suggest a state policy,²⁵² and the attacks were clearly against Syrian civilians. Though our investigation did not aim to identify individual perpetrators, the recent convictions of Syrian intelligence officials for crimes against humanity suggest that individual criminal accountability for acts constituting crimes against humanity is possible.²⁵³ Therefore, there is a reasonable basis to believe that leaders in the Syrian government have knowledge of the attack.

Previous research on crimes against humanity perpetrated by Syrian government officials has focused on aerial and ground attacks, as well as the actions of security forces.²⁵⁴ The United Nations Commission of Inquiry recently suggested that the elements of the crime against humanity of forcible transfer are met:

Many of the more than 6.2 million displaced persons in the Syrian Arab Republic were victims of the crime against humanity of forcible transfer, the war crime of ordering the displacement of the civilian population, or both. Even absent crimes committed for

249 Rome Statute of the International Criminal Court, art. 7(1), July 17, 1998, 2187 U.N.T.S. 90. See also INT'L CRIM. CT., ELEMENTS OF CRIMES 5 (2011).

250 See, e.g., Prosecutor v. Ruto, ICC-01/09-01/11, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ¶ 179 (Jan. 23, 2012); Prosecutor v. Karadžić, Case No. IT-95-5/18-T, Trial Judgement, ¶ 2444 (Int'l Crim. Trib. for the Former Yugoslavia Mar. 24, 2016); Prosecutor v. Stanišić, Case No. IT-03-69-T, Trial Judgement Vol. I, ¶ 971 (Int'l Crim. Trib. for the Former Yugoslavia May 30, 2013).

251 See, e.g., Prosecutor v. Ntaganda, ICC-01/04-02/06, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, ¶ 24 (Jun. 9, 2014); Prosecutor v. Prlić, Case No. IT-04-74-T, Trial Judgement, ¶ 41 (Int'l Crim. Trib. for the Former Yugoslavia May 29, 2013).

252 See, e.g., Situation in The Republic of Kenya, ICC-01/09, Decision Pursuant to Article 15, ¶ 89 (Mar. 31, 2010); Prosecutor v. Fofana, Case No. SCSL-04-14-A, Appeals Chamber Judgment, ¶ 247 (Special Court for Sierra Leone May 28, 2008); Prosecutor v. Naletilić, Case No. IT-98-34-T, Trial Judgement, ¶ 234 n.623 (Int'l Crim. Trib. for the Former Yugoslavia Mar. 31, 2003); Prosecutor v. Blaškić, Case No. IT-95-14-T, Trial Judgement, ¶¶ 750–51 (Int'l Crim. Trib. for the Former Yugoslavia Mar. 3, 2000).

253 See Frank Jordans, *Conviction in Landmark Case over Syrian Government Torture*, AP NEWS, Feb. 24, 2021, <https://apnews.com/article/state-courts-bashar-assad-crime-germany-courts-b7bd09dd16168fff3980d5e4850aa8fd>.

254 See, e.g., Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 25, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021); AMNESTY INT'L, CRACKDOWN IN SYRIA: TERROR IN TELL KALAKH 6 (2011); HUM. RTS. WATCH, TARGETING LIFE IN IDLIB: SYRIAN AND RUSSIAN STRIKES ON CIVILIAN INFRASTRUCTURE (2020).

*the purpose of displacement, the commission of multiple war crimes and violations of international humanitarian law by parties in the course of the conflict prompted many millions to flee internally or to seek asylum abroad.*²⁵⁵

Our investigation builds on this conclusion and prior research by more explicitly connecting attacks on health to displacement through the crime against humanity of deportation or forcible transfer. Deportation or forcible transfer is defined in the Rome Statute as “forced displacement . . . by expulsion or other coercive acts from the area in which [a civilian population is] lawfully present, without grounds permitted under international law.”²⁵⁶ Although our research and analysis focuses on deportation as a mechanism for international criminal accountability,²⁵⁷ evidence suggests that forcible transfer occurred within Syria occurred as well.²⁵⁸ To connect attacks on health with displacement, the critical element in this definition is displacement forced by “other coercive acts,” or a coercive environment.

A. THE GOVERNMENT’S ATTACKS ON HEALTH HAVE CREATED A COERCIVE ENVIRONMENT.

Expulsion or other coercive acts refers to the involuntary nature of the displacement. It does not just include physical force, but “may also include the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.”²⁵⁹

The key factor is voluntariness—the analysis depends on the manifestation of individual intent and consent, taking the context, situation, and atmosphere into account.²⁶⁰ The context, situation

255 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 66, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021) (footnotes omitted).

256 Rome Statute of the International Criminal Court, art. 7(2)(d), July 17, 1998, 2187 U.N.T.S. 90.

257 This is due primarily to the fact that the vast majority of our interview subjects were those who had crossed an international border and were no longer residing in Syria.

258 Matt Brown, *The Evacuation of Eastern Aleppo: Forced Displacement Under International Law?* (2019), http://www.internationalcrimesdatabase.org/upload/documents/20190109T160612-ICD%20Brief_Dec2018Forced%20Displacement%20in%20Syria%20as%20a%20Crime%20Under%20International%20Law.pdf.

259 Prosecutor v. Krstić, Case No. IT-98-33, Trial Judgment, ¶ 529 (Int’l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001) quoting *Report of the Preparatory Commission for the International Criminal Court: Finalised Draft Text of the Elements of the Crime*, UN Doc. PCNICC/2000/INF/3/Add.2, 11 n.12 (July 6, 2000).

260 Prosecutor v. Simić, Case No. IT-95-9-T, Trial Judgment, ¶¶ 125–26 (Int’l Trib. for the Former Yugoslavia Oct. 17, 2003).

and atmosphere creating the “lack of genuine choice may be inferred from . . . threatening and intimidating acts that are calculated to deprive the civilian population of exercising its free will, such as the shelling of civilian objects, the burning of civilian property, and the commission of—or the threat to commit—other crimes calculated to terrify the population and make them flee the area with no hope of return.”²⁶¹

Consent induced by force or threat of force is not real consent: “The mere threat of resorting to force or physical or mental coercion may be enough, if the targeted population facing this coercive climate or these threats, has no other choice but to leave its territory. It is the absence of genuine choice that renders removal unlawful.”²⁶² However, there must be “a link between the conduct and the resulting effect of forcing the victim to leave.”²⁶³

Together, it is the context, situation, and atmosphere that creates a coercive environment. The context, situation, and atmosphere prevailing in Syria created by the attacks on healthcare resulted in a coercive environment, which left them with no choice but to flee.

1

The Government’s attacks on health contribute to an intolerable context.

Caselaw has consistently demonstrated that the context in which a population is displaced is a key consideration when considering the voluntariness of the displacement. The Syrian government and pro-government forces have conducted numerous attacks against healthcare since 2011 that bear similarities to other cases of forcible displacement. In *Prosecutor v. Krstić*, military forces bombarded the Srebrenica enclave with shells, raining destruction on homes, businesses, and “a hospital where 2,000 civilians had gathered for refuge.”²⁶⁴ Military forces also systematically blocked humanitarian aid convoys, razed Bosnian Muslim homes, and subjected civilians to cruel and inhumane treatment, including severe beatings.²⁶⁵

In *Prosecutor v. Brđanin*, Bosnian Muslim and Bosnian Croat civilians’ homes and towns were

261 *Id.* ¶ 126.

262 *Prosecutor v. Prlić*, Case No. IT-04-74-T, Trial Judgement, ¶ 50 (Int’l Trib. for the Former Yugoslavia, May 29 2013).

263 *Prosecutor v. Ruto*, ICC-01/09-01/11, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ¶ 245 (Jan. 23, 2012), https://www.icc-cpi.int/CourtRecords/CR2012_01004.PDF.

264 *Prosecutor v. Krstić*, Case No. IT-98-33, Trial Judgment, ¶ 122 (Int’l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001).

265 *Id.* ¶¶ 26, 30.

shelled and destroyed and they were subjected to looting and dismissal from their jobs.²⁶⁶ Bosnian Serb forces also destroyed religious buildings, separated men from women and children, and confined many to camps or detention centers.²⁶⁷ In *Prosecutor v. Krnojelac*, the Trial Chamber found that Serb military personnel forcibly displaced non-Serb civilians following an attack on the Bosnian municipality of Foča, which constituted the final stage of ethnic cleansing.²⁶⁸ Among those displaced were former prisoners who had been detained in KP Dom prison.²⁶⁹ While detained, Muslim inmates were severely beaten and shot by Serb guards.²⁷⁰ The court in *Krnojelac* held that the prison regime was coercive and the individuals detained were “not in a position to exercise genuine choice.”²⁷¹ Like the military campaigns described in *Krstić, Brđanin, and Krnojelac* that were considered to create a context where the population had no option but to leave, the Syrian government directed and carried out patterns of violent attacks against civilians perceived to support the opposition.

First, Syrian government forces both attacked healthcare workers and subjected patients and detainees to abuse and torture in hospitals. While Bosnian Muslim detainees were beaten and shot in *Krnojelac*, Syrian security forces handcuffed, beat, interrogated, and tortured opposition detainees in hospitals. Where Bosnian Muslim noncombatants were killed as described in *Krstić and Brđanin* (especially men and boys), Syrian pro-government forces have killed thousands of noncombatants for their perceived opposition to the government. These forces have gone even further, labeling protected healthcare workers terrorists and targeting them for detention, torture, and killing because of their provision of medical aid to those the Government viewed as opposition.

Second, many Syrian refugees, as well as UN agencies and human rights organizations, have reported that the Syrian government and its allies have engaged in aerial attacks of hospitals and other medical infrastructure. These well-documented attacks on healthcare facilities echo the shelling of a hospital where 2,000 civilians sought refuge, part of the military campaign described in *Krstić*.²⁷² Other protected buildings, such as homes and religious buildings, were

266 *Prosecutor v. Brđanin*, Case No. IT-99-36-A, Appeals Chamber Judgment, ¶ 315 (Int’l Crim. Trib. for the Former Yugoslavia Apr. 3, 2007).

267 *Prosecutor v. Brđanin*, Case No. IT-99-36-T, Trial Judgment ¶¶ 549–50 (Int’l Crim. Trib. Former Yugoslavia Sept. 1, 2004).

268 *See Prosecutor v. Krnojelac*, Case No. IT-97-25-A, Appeals Chamber Judgment, ¶ 236 (Int’l Crim. Trib. Former Yugoslavia Sept. 17, 2003).

269 *See id.* ¶ 211.

270 *See id.* ¶¶ 231–32.

271 *See id.* ¶ 233.

272 *Prosecutor v. Krstić*, Case No. IT-98-33, Trial Judgment, ¶ 122 (Int’l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001).

destroyed as part of this military campaign to make Bosnian Muslims' and Croats' neighborhoods and towns uninhabitable, similar to the Syrian government's purposeful targeting of medical infrastructure vital to civilians in the targeted towns and cities.²⁷³

Third, Syrian witnesses also described myriad restrictions on movement such as excessive military checkpoints or heavily surveilled and targeted roadways, which prevented members of the population from safely reaching healthcare facilities. Furthermore, these restrictions on movement imposed by Syrian government forces prevented necessary medical and humanitarian aid from reaching opposition-held areas from government-held areas or national borders. This pattern closely mirrors that described in *Krstić*, where military forces also systematically blocked humanitarian aid convoys from reaching civilians in dire need.²⁷⁴

2

The Government's attacks on health have decimated Syria's healthcare system, creating a situation amounting to a coercive environment under international law.

The Syrian government's attacks on healthcare has created a humanitarian crisis that rises to the level of a coercive environment under international law. In *Krstić*, the military's actions plunged Srebrenica's Bosnian Muslims into a "deplorable" and "catastrophic humanitarian situation"—there was little access to food, shelter, or other necessities in the enclave.²⁷⁵ Living precariously in overcrowded, makeshift shelters, some civilians began starving to death.²⁷⁶ In *Brđanin*, Bosnian Muslims and Bosnian Croats were subjected to intolerable living conditions.²⁷⁷ Bosnian Serbs shelled, looted, and destroyed non-Serb towns and houses.²⁷⁸ In addition, non-Serbs were required to relinquish their property without compensation.²⁷⁹

In addition to these examples from caselaw, the Security Council noted in April 2021 that depriving civilians of access to healthcare in violation of international human rights and humanitarian law

273 See *Prosecutor v. Brđanin*, Case No. IT-99-36-T, Trial Judgment, ¶ 551 (Int'l Crim. Trib. for the Former Yugoslavia Sept. 1, 2004). See also *Prosecutor v. Brđanin*, Case No. IT-99-36-A, Appeals Chamber Judgment, ¶ 315 (Int'l Crim. Trib. for the Former Yugoslavia Apr. 3, 2007).

274 *Prosecutor v. Krstić*, Case No. IT-98-33, Trial Judgment, ¶¶ 26, 30 (Int'l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001).

275 *Prosecutor v. Krstić*, Case No. IT-98-33, Trial Judgment, ¶ 566 (Int'l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001).

276 *Id.* ¶¶ 28–30.

277 *Prosecutor v. Brđanin*, Case No. IT-99-36-A, Appeals Chamber Judgment, ¶ 315 (Int'l Crim. Trib. for the Former Yugoslavia Apr. 3, 2007).

278 *Id.*

279 *Id.*

may force displacement.²⁸⁰ By attacking “objects indispensable to the survival of the civilian population,” armed parties may provoke a humanitarian crisis leaving civilians with no choice but to leave.²⁸¹

Deprived of medical care—a fundamental right and necessity—Syrian civilians faced prolonged suffering and death. Witnesses reported shortages of basic necessities, such as water, food, and electricity, in hospitals. The Syrian government deliberately withheld medical supplies such as bandages, medication, and lab equipment. Human rights reports describe how the Syrian government’s attacks have forced nearly 70% of Syria’s health workforce to flee, leaving a gap of qualified medical workers now filled by volunteers and medical personnel without formal training.²⁸²

First, the attacks on health have decimated Syria’s physical medical infrastructure, leaving inadequate numbers of hospitals and other medical centers. Like the civilians whose houses were destroyed in *Brđanin*, patients in eastern Aleppo have been unable to access fundamental services: the Government’s attacks have destroyed all hospital infrastructure. Elsewhere, there have not been enough beds available to meet the civilian population’s needs. Several of our interviewees avoided going to hospitals and clinics for non-emergency treatment—they knew that seeking care could lead to almost certain death. Just as the civilians living in overcrowded shelters in *Krstić*, then, Syrians have been subjected to intolerable living conditions because of the Government’s destruction of hospital infrastructure.

Second, the Government’s attacks have impeded the movement of supplies, making it difficult or impossible to access medications or medical equipment. Syrians like Ahmad, who was injured by an airstrike and then left untreated because anesthesia and supplies were unavailable, risk infection or death if they remain. Like the civilians with no access to food and other necessities in *Krstić*, Syrians have been left unable to access essential medical supplies. To respond to the Government’s chokehold on supplies, some of our interviewees smuggled medications within Syria and across borders to help their families; without cross-line and cross-border exchanges, their families would be unable to remain in Syria. Even during the coronavirus pandemic, the

280 S.C. Res. 2573 (Apr. 27, 2021).

281 S.C. Res. 2573 (Apr. 27, 2021).

282 See *Syria Anniversary Press Release*, U.N. OFF. FOR THE COORDINATION OF HUMANITARIAN AFFS., Mar. 6, 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/USG%20Lowcock%20Syria%20Anniversary%20PR_%2006032020.pdf; Physicians for Hum. Rights, Medical Personnel are Targeted in Syria, <https://phr.org/our-work/resources/medical-personnel-are-targeted-in-syria/>.

Government has failed to adequately respond. Just like the situations in *Krstić and Brđanin*, the Syrian government has created a situation of humanitarian crisis.

Third, nearly 70% of the healthcare workforce has fled Syria in the wake of attacks,²⁸³ leaving the Syrian population without enough adequately trained doctors, nurses, and specialists. Interviewees described being deprived of access to necessary care because of the lack of medical professionals. Such a deprivation—here, of medical professionals essential to providing healthcare—surpasses that in *Brđanin*, where civilians were deprived of their houses and their property. The Government’s attacks led to civilians being unable to find doctors who could treat traumatic injuries or chronic conditions, as well as healthcare professionals who could provide pre- and post-natal care. To deal with the overstretched healthcare workforce, medical students, doctors, nurses, and untrained civilians were all trained to provide emergency and specialized care. This training further proves that the Syrian government has created a humanitarian crisis through its attacks on health.

3

The Government’s attacks on health, in concert with other acts of violence, create an atmosphere of intolerable living conditions.

The Syrian government’s attacks on health, coupled with acts meant to inspire fear, created intolerable living conditions that led to forcible displacement. When actors subject civilian populations to intolerable living conditions, they eliminate any genuine choice a civilian may have to remain in the territory as their very survival depends on their departure. It is this lack of genuine choice that creates the coercive environment that leads to forcible displacement.

Actors create an atmosphere of violence that garners fear when dire circumstances are expounded upon by intimidating conditions, propaganda, and by violent campaigns of terror, all of which function to exacerbate fear among civilians. In *Krstić*, though Bosnian Muslims were evacuated, they did not have a genuine choice to leave because they “reacted reflexively to a certainty that their survival depended on their flight.”²⁸⁴ This reaction followed Bosnian Serbs’ actions that created intimidating conditions.²⁸⁵

283 *Syria Anniversary Press Release*, U.N. OFF. FOR THE COORDINATION OF HUMANITARIAN AFFS., Mar. 6, 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/USG%20Lowcock%20Syria%20Anniversary%20PR_%2006032020.pdf.

284 *Prosecutor v. Krstić*, Case No. IT-98-33, Trial Judgment, ¶ 503 (Int’l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001).

285 *Id.*

For Syrians living outside of Damascus with severe medical conditions, circumstances were dire, as their options for obtaining care were limited to Damascus and Aleppo. Following the Syrian government's violent siege of Aleppo and subsequent decimation of medical facilities in the city, conducted to intimidate civilians and the opposition in order to regain government control of the governorate, those with severe medical conditions were no longer able to obtain care in Aleppo.

Just as the conditions cited in *Krstić* created a certainty for Bosnian Muslims that “their survival depended on their flight,” the siege of Aleppo was conducted to create conditions undermining their very survival that displaced Syrians. This was part of the Government's strategy to regain control of the governorate. Thus, by creating unsurvivable conditions as part of its war strategy, the Syrian government exacerbated the danger of illness or death for those living with severe medical conditions, removing their genuine choice to remain in Syria.

Propaganda campaigns also exacerbated fear among civilians and eliminated their genuine choice to remain. In *Brđanin*, the accused made inflammatory and discriminatory statements in which he called on non-Serbs to leave the territory.²⁸⁶ This propaganda campaign contributed to intolerable living conditions that preceded the displacement of the Bosnian Muslim and Croat population.²⁸⁷ In fact, the trial judgment linked these statements to the consequent deportation and forcible transfer of the civilian population.²⁸⁸ Similarly, the Syrian government used a counterterrorist lens to create a propaganda campaign that dispelled neutral or pro-opposition doctors from practicing in Syria. In the Homs Military Hospital, for example, government officials manufactured a division between hospital staff—those who were pro-army and those who were not. This division created a tense environment in which colleagues reported on each other by accusing them of being associated with terrorist or opposition groups. It is this generated atmosphere, from accusations of terrorism to fear of detention because of these accusations, that exacerbated fears among many Syrian doctors and took away their genuine choice to remain or flee Syria.

However, the Syrian government's intimidating acts conducted to create intolerable living conditions were not limited to the use of counterterrorism propaganda. Government forces also inflicted violence upon the civilian population to inspire fear among those witnessing

286 See Prosecutor v. Brđanin, Case No. IT-99-36-A, Appeals Chamber Judgment, ¶ 315 (Int'l Crim. Trib. for the Former Yugoslavia Apr. 3, 2007).

287 See *id.*

288 Prosecutor v. Brđanin, Case No. IT-99-36-T, Trial Judgment, ¶ 578 (Int'l Crim. Trib. for the Former Yugoslavia Sept. 1, 2004).

the violence. This atmosphere of fear eliminated any genuine choice civilians had to remain. In *Krstić*, “the already miserable physical conditions” of the enclave were “compounded by an active campaign of terror, which increased the panic of the residents, making them frantic to leave.”²⁸⁹ This atmosphere of terror included raping, beating, and killing civilians, and leaving their dead bodies piled for others to see. Soldiers taunted and threatened civilians, selectively destroying their homes and property “with the purpose of frightening the population and also so as to prevent them from coming back.”²⁹⁰ Snipers restricted civilians’ ability to leave, and some became “so terrified that they committed suicide.”²⁹¹

In *Krnojelac*, Serb forces severely beat detainees.²⁹² Detainees’ fears were exacerbated when they heard Serb guards shooting other detainees.²⁹³ In both *Krstić* and *Krnojelac*, the accused instilled fear in civilians by showcasing the violence they inflicted on others. This atmosphere of fear created a coercive environment.

Like the Bosnian Serb’s campaign of terror against Muslim civilians, the Syrian government created an atmosphere of terror. In part, this atmosphere stemmed from similar acts as those in *Krstić*: pro-government forces abusing detainees and indiscriminately beating and killing neutral or pro-opposition civilians. Each of these acts increased panic among Syrian civilians who either witnessed this abuse or had family members who witnessed the abuse.

Additionally, government actors destroyed homes and restricted movement to further instill panic in the Syrian civilian population. The Government’s destruction of homes and civilian infrastructure did not only harm those who owned the destroyed property; it also instilled fear among those who witnessed the aerial attacks that they may be next. This is reflected in witness testimonies in which civilians refused to allow hospitals to be built in close proximity to their homes for fear of aerial attacks that would destroy the hospital and their homes. Moreover, the Syrian government’s use of snipers on roadways restricted movement and instilled panic among those trying to leave one area of Syria or the country altogether. By destroying civilian infrastructure and restricting movement, the Syrian government manufactured fear and panic in the civilian population, making them frantic to leave and consequently removing any genuine choice they had to remain.

289 Prosecutor v. Krstić, Case No. IT-98-33, Trial Judgment, ¶ 41 (Int’l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001).

290 *Id.*

291 *Id.* ¶ 46.

292 Prosecutor v. Krnojelac, Case No. IT-97-25-A, Appeals Chamber Judgment, ¶ 231 (Int’l Crim. Trib. Former Yugoslavia Sept. 17, 2003).

293 *Id.* ¶ 232.

In creating intolerable living conditions, the Government's attacks on health have left Syrians with no real choice but to flee.

The actions of the Syrian government created intolerable living conditions that deprived the civilian population of a genuine choice to remain.

Based on the context, situation, and atmosphere prevailing in Srebrenica, the court in *Krstić* determined that the Bosnian Muslims' subsequent departure from the area was not based on genuine choice and consent, but rather that they "reacted reflexively to a certainty that their survival depended on their flight."²⁹⁴ While the court acknowledged that the Bosnian Muslims were "clamouring to get out of the enclave,"²⁹⁵ it maintained that they were "not faced with a genuine choice as to whether to leave or to remain in the area."²⁹⁶ Rather, the shelling and destruction of Srebrenica, "against the backdrop of the terror campaign,"²⁹⁷ made it clear that "the Bosnian Muslim refugees could only survive by leaving Srebrenica."²⁹⁸

Similarly, Syrian civilians were not exercising a genuine choice to go, but rather responding to the reality that staying would likely lead to death. For example, our witnesses who were also doctors reported leaving because they believed that they would be detained and killed by the Syrian government for providing medical aid to civilians perceived to be opposed to the government.

Other witnesses said they were forced to leave in search of medical care. For example, after sustaining a bullet wound, one witness felt "a lot of pressure to leave" because he knew that without adequate medical attention, a superficial injury could become a death sentence.²⁹⁹ Further, human rights reports found that major periods of displacement coincide with attacks on health facilities.

The context, situation, and atmosphere prevailing in Syria created by the attacks on healthcare resulted in a coercive environment, and this coercive environment was calculated to deprive the population of a genuine choice to remain.

²⁹⁴ Prosecutor v. Krstić, Case No. IT-98-33, Trial Judgment, ¶ 530 (Int'l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001). See Prosecutor v. Brđanin, Case No. IT-99-36-A, Appeals Chamber Judgment, ¶ 315 (Int'l Crim. Trib. for the Former Yugoslavia Apr. 3, 2007) (affirming that "the non-Serbs who left the territory...had 'no option but to escape' and otherwise faced 'intolerable living conditions'").

²⁹⁵ Prosecutor v. Krstić, Case No. IT-98-33, Trial Judgment, ¶ 530 (Int'l Crim. Trib. for the Former Yugoslavia Aug. 2, 2001).

²⁹⁶ *Id.* ¶ 147.

²⁹⁷ *Id.*

²⁹⁸ *Id.* ¶ 133.

²⁹⁹ Interview with Samir (pseudonym) (Jan. 24, 2021).

B. THIS COERCIVE ENVIRONMENT HAS FORCIBLY DISPLACED CIVILIANS IN VIOLATION OF INTERNATIONAL CRIMINAL LAW.

This coercive environment has caused forced displacement internally and across international borders, violating international criminal law. The Government displaced Syrians who were lawfully present in their communities across internal and international borders. This displacement was not permitted by international law because it was neither for the security of civilians nor for an imperative military necessity.

First, forcible transfer or deportation occurs when an individual is compelled to leave their homes or cross an international border.³⁰⁰ Interviewees described being forced to leave their homes to seek medical care. Further, like millions of Syrians, our witnesses were compelled to flee to other countries, including Turkey, Jordan, Lebanon, the United Kingdom, and the United States.

Second, the requirement of lawful presence is only intended to exclude those situations where the individuals are unlawfully or illegally occupying houses or premises.³⁰¹ International law recognizes a right to continue residing in an area where a person is a citizen or long-term resident.³⁰² Witnesses were Syrian citizens or long-term residents. U.N. agencies, independent experts, and human rights organizations analyzing forcible displacement in Syria consistently find this element to be met.³⁰³

Third, the displacement must be without grounds permitted under international law.³⁰⁴ Displacement is without grounds permitted under international law when it is not authorized by international humanitarian law. International humanitarian law only permits deportation or forcible transfer

300 See *Prosecutor v. Stakić*, Case No. IT-97-24-A, Appeals Chamber Judgment, ¶ 317 (Int'l Trib. for the Former Yugoslavia Mar. 22, 2006) (defining forcible transfer); *Prosecutor v. Krnojelac*, Case No. IT-97-25, Trial Judgment, ¶ 474 (Int'l Trib. for the Former Yugoslavia Mar. 15, 2002) (defining deportation).

301 *Prosecutor v. Popović*, Case No. IT-05-88-T, Trial Judgment, ¶ 900 (Int'l Crim. Trib. Former Yugoslavia 10 June 2010).

302 See, e.g., International Covenant on Civil and Political Rights art. 12, Dec. 16, 1966, S. Exec. Doc. E, 95-2, 999 U.N.T.S. 171; *Prosecutor v. Brđanin*, Case No. IT-99-36-T, Trial Judgment, ¶ 556 (Int'l Crim. Trib. Former Yugoslavia Sept. 1, 2004).

303 E.g., MATT BROWN, THE EVACUATION OF EASTERN ALEPPO: FORCED DISPLACEMENT UNDER INTERNATIONAL LAW? 15 (2019), http://www.internationalcrimesdatabase.org/upload/documents/20190109T160612-ICD%20Brief_Dec2018Forced%20Displacement%20in%20Syria%20as%20a%20Crime%20Under%20International%20Law.pdf; AMNESTY INT'L, "WE LEAVE OR WE DIE": FORCED DISPLACEMENT UNDER SYRIA'S 'RECONCILIATION' AGREEMENTS 78 (2017), https://www.amnestyusa.org/wp-content/uploads/2017/11/We-leave-or-we-die_Syria-REPORT.pdf; Kevin Jon Holler, *The ICC and the Deportation of Civilians from Syria to Jordan*, OPINIO JURIS, Mar. 25, 2019, <http://opiniojuris.org/2019/03/25/the-icc-and-the-deportation-of-civilians-from-syria-to-jordan/>.

304 Rome Statute of the International Criminal Court, art. 7(2)(d), July 17, 1998, 2187 U.N.T.S. 90.

for the security of civilians or imperative military necessity and, even then, only temporarily.³⁰⁵ Many witnesses, as well as U.N. agencies, independent experts, and human rights organizations, have reported that neither of these legally permissible conditions were present.³⁰⁶

The Syrian government's patterns of attacks have created a humanitarian crisis that has led to the forcible displacement of millions of Syrians. International criminal law creates an avenue to better understand how attacks on health directly and indirectly contributed to the crime against humanity of forcible displacement. Through this understanding, we find criminal responsibility and accountability.

Yet the Syrian government's attacks on health are so pervasive that they also violate the right to health under international human rights law—a right so foundational that it is owed to all people. The Syrian government's weaponization of healthcare is apparent at every step of the process in obtaining healthcare: from who provides treatment and with what resources to how to physically get to them; and from which hospital to receive care to how long to stay. Moreover, international humanitarian law, the law of armed conflict, illustrates how these attacks cannot be justified as part of the consequences of armed conflict. Through these three international law frameworks, the severity of the Syrian government's attacks on health becomes apparent.

305 See Prosecutor v. Brđanin, Case No. IT-99-36-T, Trial Judgment, ¶ 556 (Int'l Crim. Trib. Former Yugoslavia Sept. 1, 2004); Prosecutor v. Krstić, Case No. IT-98-33, Trial Judgment, ¶ 524 (Int'l Crim. Trib. Former Yugoslavia Aug. 2, 2001).

306 E.g., MATT BROWN, THE EVACUATION OF EASTERN ALEPPO: FORCED DISPLACEMENT UNDER INTERNATIONAL LAW? 15 (2019), http://www.internationalcrimesdatabase.org/upload/documents/20190109T160612-ICD%20Brief_Dec2018Forced%20Displacement%20in%20Syria%20as%20a%20Crime%20Under%20International%20Law.pdf; AMNESTY INT'L, "WE LEAVE OR WE DIE": FORCED DISPLACEMENT UNDER SYRIA'S "RECONCILIATION" AGREEMENTS 78 (2017), https://www.amnestyusa.org/wp-content/uploads/2017/11/We-leave-or-we-die_Syria-REPORT.pdf; Kevin Jon Holler, *The ICC and the Deportation of Civilians from Syria to Jordan*, OPINIO JURIS, Mar. 25, 2019, <http://opiniojuris.org/2019/03/25/the-icc-and-the-deportation-of-civilians-from-syria-to-jordan/>.

VII. SYRIA IS OBLIGATED TO ENSURE SYRIANS' RIGHT TO HEALTH AND NOT INTERFERE WITH SYRIANS' ACCESS TO HEALTHCARE

A. UNDER INTERNATIONAL HUMAN RIGHTS LAW, THE SYRIAN GOVERNMENT IS OBLIGATED TO PURSUE THE HIGHEST ATTAINABLE STANDARD OF HEALTH FOR ALL SYRIANS.

States Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognize the right to health—the right of everyone to enjoy the highest attainable standard of mental and physical health.³⁰⁷ Under the ICESCR's progressive realization framework, States must take active steps that lead to the better protection of rights based on available resources.³⁰⁸

1

Essential elements of the right to health.

Four essential elements of the right to health are availability, quality, accessibility, and acceptability.³⁰⁹ State parties must guarantee an adequate number of facilities, an adequate number of medical professionals, and an adequate level of supplies for the efficient functioning of healthcare infrastructure.³¹⁰ Quality medical care requires adequately trained and experienced providers³¹¹ and healthcare facilities that maintain sanitation norms.³¹² Safe accessibility of

³⁰⁷ See International Covenant on Economic, Social, and Cultural Rights art. 12(1), Dec. 16, 1966, 999 U.N.T.S. 171. See also Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 33, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

³⁰⁸ See International Covenant on Economic, Social, and Cultural Rights art. 2(1), Dec. 16, 1966, 999 U.N.T.S. 171.

³⁰⁹ Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 12(a)–(d), U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

³¹⁰ See *id.* ¶ 12(d).

³¹¹ Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 12(d), U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

³¹² See *id.*

healthcare infrastructure has three important lenses: physical, mental, and economic. The right to healthcare guarantees both that facilities are sufficiently near civilian communities³¹³ and that civilians are guaranteed safe passage to seek care.³¹⁴ The mental aspect of accessibility guarantees safe care at hospitals. Implicit or explicit state policies that create a fear of obtaining care at hospitals likely violate the element of mental accessibility. Economic accessibility obliges state parties to provide quality and safe care to all patients, regardless of their socioeconomic status.³¹⁵ Finally, acceptable care under the right to health requires medical facilities to treat patients in accordance with patients' cultural and religious norms and in accordance with medical ethics.³¹⁶

2

State responsibility for the enjoyment of the highest attainable standard of health.

The ICESCR distinguishes positive and negative state duties. States are obligated to refrain from directly and indirectly interfering with access to healthcare.³¹⁷ When a State deprives its population of access to primary healthcare, the party is failing to meet its obligations under the ICESCR.³¹⁸ In addition, States are obligated to ensure a certain standard of health and healthcare within the community at large.³¹⁹ Furthermore, States must ensure that both quality and access to care is non-discriminatory on the basis of gender, religion, socioeconomic status, and political affiliation.³²⁰ A State that is unwilling to use maximum available resources for the realization of the right to health is in violation of the ICESCR.³²¹

Under international law, the Syrian government is obligated to take active steps for everyone to enjoy the highest attainable standard of mental and physical health.³²² Syria acceded to the

313 *Id.* ¶ 12(b).

314 *Id.* ¶ 3.

315 Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 12(b), U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

316 *Id.* ¶ 12(c).

317 *Id.* ¶ 33. For example, violations of the right to health may arise from policies that limit the accessibility of healthcare for punitive reasons. *See id.* ¶ 48. In addition, violations of the right to health may arise from regulations that unreasonably restrict health. *Id.* ¶ 50.

318 *See generally* Comm. on Econ., Soc. & Cultural Rts., *CESCR General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, ¶ 10, U.N. Doc. E/1991/23 (Dec. 14, 1990).

319 *See* International Covenant on Economic, Social, and Cultural Rights art. 12(2), Dec. 16, 1966, 999 U.N.T.S. 171.

320 Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶¶ 18, 33, 52 U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

321 BEN SAUL ET AL., *THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: COMMENTARY, CASES, AND MATERIALS* PUBLIC INTERNATIONAL LAW 1060 (Oxford Scholarly Authorities on International Law ed., 2014).

322 *See* International Covenant on Economic, Social, and Cultural Rights art. 12(1), Dec. 16, 1966, 999 U.N.T.S. 171.

ICESCR in 1969.³²³ In addition, Syria has ratified other international conventions in which the right to health is recognized;³²⁴ specifically, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CPRD).³²⁵ Furthermore, the right to health is considered customary international law.³²⁶

3

The right to health attaches to additional rights.

The right to health is closely related to and dependent upon the realization of a host of other human rights, including the right to life; the prohibition against torture or cruel, inhuman or degrading treatment; and the freedom of movement.³²⁷ The International Covenant on Civil and Political Rights (ICCPR) recognizes an “inherent right to life” protected by law.³²⁸ The right to life under Article 6 of the ICCPR has both a negative component, as in a right to not be arbitrarily or unlawfully deprived of life by the State or its agents, and a positive component, in that a State must adopt measures that are conducive to allowing one to live.³²⁹ Therefore, States should take measures to prevent and punish deprivation of life by criminal acts and to prevent arbitrary killing by their own security forces.³³⁰ In addition, the ICCPR prohibits torture or cruel, inhuman

323 See United Nations Treaty Collection, *Human Rights: International Covenant on Economic, Social and Cultural Rights*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-3&chapter=4&clang=_en.

324 United Nations Treaty Collection, *Human Rights: International Convention on the Elimination of All Forms of Racial Discrimination*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-2&chapter=4&clang=_en; United Nations Treaty Collection, *Human Rights: Convention on the Elimination of All Forms of Discrimination Against Women*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&clang=_en; United Nations Treaty Collection, *Human Rights: Convention on the Rights of the Child*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-11&chapter=4&clang=_en; United Nations Treaty Collection, *Human Rights: Convention on the Rights of Persons with Disabilities*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-15&chapter=4&clang=_en.

325 International Convention on the Elimination of All Forms of Racial Discrimination art. 5(e)(iv), Dec. 21, 1965, T.I.A.S. 94-1120, 660 U.N.T.S. 195; Convention on the Elimination of All Forms of Discrimination against Women art. 12, Dec. 18, 1979, 1249 U.N.T.S. 20378; Convention on the Rights of the Child art. 24, Nov. 20, 1989, 1577 U.N.T.S. 27531-27541; Convention on the Rights of Persons with Disabilities art. 25, May 3, 2008, 2515 U.N.T.S. 44910-44917.

326 Roger Lu Phillips & Layla Abi-Falah, *Criminal Responsibility For the COVID-19 Pandemic in Syria*, 52.2 COLUM. HUM. RTS. L. REV. 523, 565-566 (2021).

327 Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 3, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000). The comment also mentions the rights to food, housing, work, education, human dignity, non-discrimination, equality, privacy, access to information, and the freedoms of association and assembly, as well as “... other rights and freedoms [that] address integral components of the right to health.” Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 3, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

328 International Covenant on Civil and Political Rights art. 6, Dec. 19, 1966, 999 U.N.T.S. 171.

329 SARAH JOSEPH & MELISSA CASTAN, *THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS: CASES, MATERIALS, AND COMMENTARY* ¶ 8.02 (Oxford Univ. Press ed., 2013).

330 *Id.*

or degrading treatment or punishment.³³¹ Torture is also prohibited under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).³³² Syria is a States Party to the ICCPR and the CAT.³³³

The duty to protect life implies that States parties should take appropriate measures to ensure access to essential health care.³³⁴ In addition, the ICCPR provides that persons deprived of their liberty “shall be treated with humanity and with respect for the inherent dignity of the human person”³³⁵ States have a particular obligation to respect the right to health in situations where state agencies have effective control over individuals’ lives;³³⁶ hence, States have violated international human rights law due to conditions in State prisons.³³⁷

B. THE SYRIAN GOVERNMENT VIOLATED THE RIGHT TO HEALTH UNDER INTERNATIONAL HUMAN RIGHTS LAW.

The Syrian government attacked healthcare workers, medical patients, and healthcare facilities and restricted the movement of medical supplies and of people seeking care. The Government violated its obligations under international human rights law and the Syrian people’s right to health, right to be free from torture and other cruel punishment, and right to life.

331 International Covenant on Civil and Political Rights art. 7, Dec. 19, 1966, 999 U.N.T.S. 171.

332 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, 1465 U.N.T.S. 24833–24846 (entered into force June 26, 1987).

333 United Nations Treaty Collection, *Human Rights: International Covenant on Civil and Political Rights*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en; United Nations Treaty Collection, *Human Rights: Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=_en.

334 Hum. Rts. Comm., *General Comment No. 36: Article 6: Right to Life*, ¶ 26, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

335 International Covenant on Civil and Political Rights art. 10(1), Dec. 19, 1966, 999 U.N.T.S. 171.

336 BEN SAUL ET AL., *THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: COMMENTARY, CASES, AND MATERIALS* PUBLIC INTERNATIONAL LAW 1076 (Oxford Scholarly Authorities on International Law ed., 2014).

337 See *Yekaterina Pavlovna Lantsova v. Russian Federation*, CCPR/C/74/D/763/1997, Communication, ¶ 9.2 (Hum. Rts. Council, April 15, 2002) (violating paragraph 1 of article 6, the right to life, of the ICCPR). See also *Brown v. Jamaica*, CCPR/C/65/D/775/1997, Communication, ¶¶ 6.5, 6.13, 7 (Human Rts. Council, May 11, 1999) (violating article 7 of the ICCPR, protection against inhuman treatment, and article 10(1) of the ICCPR, to be treated with humanity when in detention).

1

Violence against healthcare workers.***a. The Syrian government's attacks on healthcare workers violated the Syrian government's obligations under the right to health and created a shortage of medical professionals.***

The Syrian government's attacks on healthcare workers created a shortage of medical professionals in violation of the Government's obligation to encourage the elements of available and quality care. Attacks on medical professionals led to a mass exodus of personnel from Syria.³³⁸ As recounted above, many medical professionals recalled learning that their hospitals were investigating them, leading to their decision to flee the area.³³⁹

Syrian government attacks on healthcare workers, which punish medical professionals for carrying out their ethical and humanitarian duties, violate the Syrian government's obligations under the right to health.³⁴⁰ Punishing medical professionals for providing care creates a fear of practicing medicine, which leads to flight or refusal to practice.³⁴¹ In interviews, medical personnel recalled being placed on the Syrian government's security forces list or being surveilled by pro-government actors.³⁴² These policies of surveillance and targeting, which function both to punish medical professionals who carry out their humanitarian duties and to deter other personnel from doing similar work, violate the Syrian government's obligation to make health services available.

The Syrian government's torture of healthcare workers violates the Government's obligations under the CAT and the ICCPR. The CAT requires States to prevent acts of torture; the obligation is non-derogable.³⁴³ Torture is prohibited under the ICCPR, and the prohibition is also non-derogable.³⁴⁴

338 See Hum. Rts. Council, *Assault on Medical Care in Syria*, ¶ 29, U.N. Doc. A/HRC/24/CRP.2 (Sept. 13, 2013); Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 40, U.N. Doc. A/HRC/46/54 (Jan. 21, 2021).

339 Interview with Hassan (pseudonym) (Jan. 12, 2021).

340 See International Covenant on Economic, Social, and Cultural Rights art. 12, Dec. 16, 1966, 999 U.N.T.S. 171. See generally Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

341 See WORLD BANK GROUP, *SYRIA DAMAGE ASSESSMENT OF SELECTED CITIES: Aleppo, Hama, Idlib* 19 (2017), <http://documents1.worldbank.org/curated/en/530541512657033401/pdf/121943-WP-P161647-PUBLIC-Syria-Damage-Assessment.pdf>.

342 Interview with Hassan (pseudonym) (Jan. 12, 2021); PHYSICIANS FOR HUM. RTS., "MY ONLY CRIME WAS THAT I WAS A DOCTOR": HOW THE SYRIAN GOVERNMENT TARGETS HEALTH WORKERS FOR ARREST, DETENTION, AND TORTURE 16 (2019), https://phr.org/wp-content/uploads/2019/12/PHR-Detention-of-Syrian-Health-Workers-Full-Report-Dec-2019_English-1.pdf.

343 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 2(1)–(2), *adopted* Dec. 10, 1984, 1465 U.N.T.S. 24833–24846 (entered into force June 26, 1987).

344 International Covenant on Civil and Political Rights art. 4(2), art. 7, Dec. 19, 1966, 999 U.N.T.S. 171.

b. The shortage of medical professionals has led to insufficient quality health care.

Syrian government attacks on health decreased the number of available trained and experienced providers, which violates the Government's obligation to ensure that healthcare meets the element of quality.³⁴⁵ Quality healthcare requires that those providing medical care be adequately trained and experienced in their particular field of care. Syrian government attacks on health led to the mass exodus of numerous trained and experienced medical professionals, both out of fear of detention and fear for their lives.³⁴⁶ Syrian government attacks on health also violate the element of quality under the right to health because untrained, non-medical volunteers who remained in Syria felt compelled to provide care due to the gap created by the exodus.³⁴⁷ This led to volunteers being trained while providing care to injured Syrians, often learning on the job.³⁴⁸

2

Violence against patients.

“Similar to what you hear about Hitler’s doctors.”

— ILYAAS (PSEUDONYM)³⁴⁹

a. Discrimination in the provision of care on the basis of political opinion violates the right to health.

Syrian government policies that discriminate in the provision of healthcare based on civilians' perceived political affiliation violate non-discrimination norms of the right to health.³⁵⁰ Non-discrimination requires that hospital personnel refrain from providing lesser quality care to patients based on a perceived or actual political affiliation.³⁵¹ Many interviewees believe

³⁴⁵ See Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 12(d), U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

³⁴⁶ See *Syria Anniversary Press Release*, U.N. OFF. FOR THE COORDINATION OF HUMANITARIAN AFFS., Mar. 6, 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/USG%20Lowcock%20Syria%20Anniversary%20PR_%2006032020.pdf.

³⁴⁷ See WORLD BANK GROUP, SYRIA DAMAGE ASSESSMENT OF SELECTED CITIES: ALEPPO, HAMA, IDLIB 16 (2017), <http://documents1.worldbank.org/curated/en/530541512657033401/pdf/121943-WP-P161647-PUBLIC-Syria-Damage-Assessment.pdf>.

³⁴⁸ Interview with Sarah (pseudonym) (Jan. 15, 2021). See also PHYSICIANS FOR HUM. RTS., “MY ONLY CRIME WAS THAT I WAS A DOCTOR”: HOW THE SYRIAN GOVERNMENT TARGETS HEALTH WORKERS FOR ARREST, DETENTION, AND TORTURE 15 (2019), https://phr.org/wp-content/uploads/2019/12/PHR-Detention-of-Syrian-Health-Workers-Full-Report-Dec-2019_English-1.pdf.

³⁴⁹ Interview with Ilyaas (pseudonym) (Jan. 12, 2021).

³⁵⁰ See Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 18 U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

³⁵¹ See *id.*

they were discriminated against by public hospital personnel on the basis of their religious or geographic affiliations when seeking healthcare treatment.³⁵² This discrimination created a deep distrust in public hospitals because many non-political or pro-opposition Syrians feared inadequate care or abuse from pro-government medical professionals. Thus, distinctions in perceived or actual political opinion left many non-political or pro-opposition civilians unable to obtain healthcare when needed.

b. Torture at hospitals and prisons violates the right to health and related rights.

Pro-government medical professionals and pro-government forces committed acts of physical and psychological abuse and torture at hospitals and prisons in violation of the right to safe and acceptable healthcare.³⁵³ Civilians' awareness that medical professionals were committing abuses alongside guards in prisons and hospitals led to a greater mistrust of medical professionals across Syria. As a result, civilians avoided public hospitals. Creating a mistrust in public hospital personnel violates the right to access healthcare. Many Syrians avoided public hospitals until absolutely necessary rather than receive care because they feared they may be harmed.³⁵⁴ Government officials exacerbated this fear by heavily surveilling and detaining patients at hospitals.³⁵⁵ This particularly impacted those whose wounds could be perceived to be received at demonstrations—such as injuries from falls or gunshot wounds—or those whose last names were similar to names on security watchlists.³⁵⁶ A formerly detained interviewee recalled his fear of going to hospitals, especially for injuries received while detained.³⁵⁷ Distrust of medical personnel led to a lower attainable standard of care in Syria. State policies that attack the integrity of healthcare facilities, such as policies that encourage medical professionals and government forces to harm patients, violate the right to access healthcare.³⁵⁸

352 Interview with Karam (pseudonym) (Jan. 14, 2021).

353 Interview with Abdullah (pseudonym) (Jan. 11, 2021); Louisa Loveluck & Zakaria Zakaria, "The Hospitals were Slaughterhouses," WASH. POST, Apr. 2, 2017, https://www.washingtonpost.com/world/middle_east/the-hospitals-were-slaughterhouses-a-journey-into-syrias-secret-torture-wards/2017/04/02/90ccaa6e-0d61-11e7-b2bb-47e331877d9_story.html; HUMAN RIGHTS WATCH, IF THE DEAD COULD SPEAK: MASS DEATHS AND TORTURE IN SYRIA'S DETENTION FACILITIES 65 (2015), https://www.hrw.org/sites/default/files/report_pdf/syria1215web_0.pdf.

354 See, e.g., Interview with Ali (pseudonym) (Jan. 19, 2021) (describing avoidance of hospitals out of fear). See also Hum. Rts. Council, *Assault on Medical Care in Syria*, ¶ 18, U.N. Doc. A/HRC/24/CRP.2 (Sept. 13, 2013).

355 E.g., AMNESTY INTERNATIONAL, HEALTH CRISIS: SYRIAN GOVERNMENT TARGETS THE WOUNDED AND THE SICK 8 (2011), <https://www.amnesty.org/download/Documents/32000/mde240592011en.pdf>.

356 AMNESTY INTERNATIONAL, HEALTH CRISIS: SYRIAN GOVERNMENT TARGETS THE WOUNDED AND THE SICK 7 (2011), <https://www.amnesty.org/download/Documents/32000/mde240592011en.pdf>.

357 Interview with Abdullah (pseudonym) (Jan. 11, 2021).

358 See Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶¶ 30, 34 U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000). See also INTERNATIONAL COMMITTEE OF THE RED CROSS, RESPECTING AND PROTECTING HEALTH CARE IN ARMED CONFLICTS AND IN SITUATIONS NOT COVERED BY INTERNATIONAL HUMANITARIAN LAW, 1 (2012), <https://www.icrc.org/en/document/respecting-and-protecting-health-care-armed-conflicts-and-situations-not-covered>.

In addition to violating the right to safe and acceptable healthcare, pro-government forces and medical professionals' torture and abuse of patients and detainees violated the prohibition of torture or cruel, inhuman or degrading treatment under the ICCPR,³⁵⁹ the prohibition of torture under the CAT,³⁶⁰ and the obligation under the ICCPR to treat detained persons with humanity and dignity.³⁶¹ In *Brown v. Jamaica*, prison authorities destroyed a death row detainee's asthma pump and other medication, refused to replace these items, and refused to treat the detainee when he suffered asthma attacks. The Human Rights Committee (HRC) found that Jamaica violated its obligations under Article 7 (protection against inhuman treatment) and Article 10 paragraph 1 (to be treated with humanity when in detention) of the ICCPR.³⁶² In Syria, as explained above, security forces chained injured patients to their beds, beat and electrocuted them, and denied them water and medical attention.³⁶³

In some cases, it is reasonable to conclude that Syrian pro-government forces and medical professionals' torture and abuse of patients and detainees resulted in civilians' death, in violation of the right to life. In *Yekaterina Pavlovna Lantsova v. Russian Federation*, the HRC found that the inhuman conditions under which Mr. Lantsova had been held, which led to his death, violated Mr. Lantsova's right to life under Article 6 of the ICCPR.³⁶⁴ In regard to the right to adequate medical care implied in the right to life, the HRC found that prison authorities' refusal to provide medical care led to Mr. Lantsova's death.³⁶⁵ In Syria, as explained above, security forces brought prison detainees to hospitals where, instead of treating detainees, security forces subjected detainees to torture and extrajudicial killing.³⁶⁶

359 See International Covenant on Civil and Political Rights art. 7, Dec. 19, 1966, 999 U.N.T.S. 171.

360 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 2(2), *adopted* Dec. 10, 1984, 1465 U.N.T.S. 24833-24846 (entered into force June 26, 1987).

361 See International Covenant on Civil and Political Rights art. 10, Dec. 19, 1966, 999 U.N.T.S. 171.

362 *Brown v. Jamaica*, CCPR/C/65/D/775/1997, Communication, ¶¶ 6.5, 6.13, 7 (Human Rts. Council, May 11, 1999).

363 Hum. Rts. Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 63, U.N. Doc. A/HRC/16/69 (Feb. 22, 2012).

364 *Yekaterina Pavlovna Lantsova v Russian Federation*, CCPR/C/74/D/763/1997, Communication, ¶ 10 (Hum. Rts. Council, April 15, 2002).

365 *Id.* ¶ 9.2.

366 See, e.g., SYRIAN NETWORK FOR HUM. RTS., DOCUMENTATION OF 72 TORTURE METHODS THE SYRIAN REGIME CONTINUES TO PRACTICE IN ITS DETENTION CENTERS AND MILITARY HOSPITALS 33 (2019) https://sn4hr.org/wp-content/pdf/english/Documentation_of_72_Torture_Methods_the_Syrian_Regime_Continues_to_Practice_in_Its_Detention_Centers_and_Military_Hospitals_en.pdf. See also Louisa Loveluck & Zakaria Zakaria, "The Hospitals were Slaughterhouses," WASH. POST, Apr. 2, 2017, https://www.washingtonpost.com/world/middle_east/the-hospitals-were-slaughterhouses-a-journey-into-syrias-secret-torture-wards/2017/04/02/90ccaa6e-0d61-11e7-b2bb-417e331877d9_story.html (addressing torture at 601 Mezze Military Hospital in Damascus).

3

Attacks on healthcare infrastructure.***a. The Syrian government's attacks on medical facilities made medical facilities less accessible for civilians.***

The Syrian government's attacks on medical facilities, coupled with government policies restricting the freedom of movement, made hospitals less accessible for civilians in violation of the right to health. Attacks on medical facilities further exacerbated fears associated with these facilities, minimizing the integrity and safety of the facilities. When state policies create a fear of proximity to hospitals, civilians consequently choose to avoid them, making them less accessible.

Syrian government attacks on healthcare facilities have killed Syrians.³⁶⁷ The killing of civilians violates the non-derogable right to life under the ICCPR to which Syria acceded.³⁶⁸

The Syrian government's attacks on medical facilities created a fear of proximity to hospitals. Civilians reported fearing to live near medical facilities because of the repeated, targeted aerial campaigns by government forces.³⁶⁹ Doing so created an environment in which medical infrastructure was located further from civilians.

Many patients have been afraid to seek medical attention at a hospital or medical facility, and instead rely on at-home and informal care from family members or midwives.³⁷⁰ This barrier to health prohibited many Syrians from obtaining the quality care they required.

b. Alternatives to public hospitals provide an inadequate range of services.

The destruction of health facilities also created a subsequent reliance on field hospitals, which limited the variety of services available for injured civilians seeking care in violation of the right to health.³⁷¹ While field hospitals provided one solution to accessing healthcare, clinics and

367 See Physicians for Hum. Rights, Medical Personnel are Targeted in Syria, <https://phr.org/our-work/resources/medical-personnel-are-targeted-in-syria/>.

368 See International Covenant on Civil and Political Rights arts. 4(2), 6, Dec. 19, 1966, 999 U.N.T.S. 171.

369 INTERNATIONAL RESCUE COMMITTEE, A DECADE OF DESTRUCTION: ATTACKS ON HEALTH CARE IN SYRIA 2 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonehealthcareinsyria.pdf>.

370 See, e.g., *id.* at 18; Interview with Nizar (pseudonym) (Jan. 18, 2021).

371 See Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 9, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

pharmacies were another available avenue for care.³⁷² However, pharmacy care in particular was often limited exclusively to access to medicine.³⁷³ The reliance on pharmacies is also indicative of a larger fear of receiving care at hospitals because the Syrian government did not target pharmacies as heavily as known hospitals.

c. Attacks on supplies lead to shortages, in violation of the right to available care.

Pro-government forces' attacks on the transport of medical supplies violated the Government's obligation to encourage available care. Attacks on medical supplies violate the element of supply availability and infrastructure availability under the right to health. Shortages of medical supplies, both through policies that generate a fear of movement and through attacks on convoys and hospitals, violated the Government's obligation to foster available care.

Lack of sanitation at field hospitals and clinics restricted civilians' abilities to obtain quality healthcare. Quality healthcare requires the free flow of water to healthcare facilities because water is a key factor to maintaining sanitation standards.³⁷⁴ The Syrian government's indiscriminate and intentional aerial attacks often led to the destruction of utility infrastructure.³⁷⁵ Witnesses recalled going months without electricity while others recalled relying on INGOs for clean and safe water.³⁷⁶

Human rights treaties, such as the ICESCR, explicitly connect the need for safe, potable water to the right to health.³⁷⁷ Government strategies that destroy these necessary civilian structures inhibit the ability of medical personnel to maintain cleanliness standards at field hospitals, often leading to avoidable complications such as infections.³⁷⁸ These attacks thus function as an attack on quality healthcare for civilians often injured through the Syrian government's other attacks.

372 See e.g., Interview with Sarah (pseudonym) (Jan. 15, 2021); INTERNATIONAL RESCUE COMMITTEE, A DECADE OF DESTRUCTION: ATTACKS ON HEALTHCARE IN SYRIA 18 (2021), <https://www.rescue.org/sites/default/files/document/5648/adecadeofdestructionattacksonehealthcareinsyria.pdf>.

373 Interview with Salim (pseudonym) (Jan. 15, 2021); Interview with Sarah (pseudonym) (Jan. 15, 2021).

374 Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 4, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

375 See, e.g., Hum. Rts. Council, *Human Rights Abuses and International Humanitarian Law Violations in the Syrian Arab Republic*, ¶¶ 15–37, U.N. Doc. A/HRC/34/CRP.3 (March 10, 2017); WORLD BANK GROUP, SYRIA DAMAGE ASSESSMENT OF SELECTED CITIES: ALEPPO, HAMA, IDLIB 31–33 (2017), <http://documents1.worldbank.org/curated/en/530541512657033401/pdf/121943-WP-P161647-PUBLIC-Syria-Damage-Assessment.pdf>.

376 See, e.g., Interview with Zahra (pseudonym) (Jan. 21, 2021).

377 Comm. on Econ., Soc. & Cultural Rts., *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, ¶ 4, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

378 See, e.g., UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, HUMANITARIAN UPDATE: SYRIAN ARAB REPUBLIC 3 (2020), <https://reliefweb.int/report/syrian-arab-republic/humanitarian-update-syrian-arab-republic-issue-09-10-march-2020>.

4

Restrictions on movement blocking access to healthcare.

“Eventually all access roads into west Aleppo closed except for one, known as the ‘death pathway.’”

— SALIM (PSEUDONYM)³⁷⁹

The Syrian government restricted freedom of movement and prevented civilians perceived to be opposed to the government from accessing medical treatment and supplies,³⁸⁰ which violated the Government’s obligations to provide accessible and non-discriminatory healthcare. The International Court of Justice has made explicit the connection between guaranteeing the right to movement and the right to health under ICESCR Article 12.³⁸¹ The right to physical accessibility requires both that states protect civilians’ freedom of movement and that civilian populations are located in close proximity to healthcare infrastructure.³⁸² Curfews, extensive checkpoints, and heavy road surveillance both physically bar patients from seeking care and psychologically deter Syrians from seeking care. Inhibiting freedom of movement has had particularly negative impacts on Syrians from rural backgrounds in need of specialized care only available in larger cities, such as Damascus and Aleppo. These policies target another important aspect of obtaining healthcare—the physical and mental process of accessing it.

a. Curfews in government-held regions of Syria have barred physical access to healthcare.

Government-imposed curfews violated Syrians’ right to health by creating barriers to movement. In order to ensure civilians safely reach healthcare facilities to obtain treatment, states must protect civilians’ freedom of movement. Curfews in government-held regions of Syria often remained in place for days at a time.³⁸³ These curfews garnered fear and prohibited civilians from leaving their homes.³⁸⁴ Based on interviews, it seems unlikely that government actors

³⁷⁹ Interview with Salim (pseudonym) (Jan. 14, 2021).

³⁸⁰ See, e.g., Menaka Wilhelm, *Syria Systematically Harasses Medical Aid Convoys*, NPR, Apr. 13, 2018, <https://www.npr.org/sections/goatsandsoda/2018/04/13/600834161/syria-systematically-harasses-medical-aid-convoys>.

³⁸¹ See Legal Consequences for the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 136, ¶ 134 (July 9) (concluding that when a State Party constructs border walls to inhibit the movement of occupied civilians, the impediment violates the right to health).

³⁸² See Comm. on Econ., Soc. & Cultural Rts., General Comment No. 14: The Right to the Highest Attainable Standard of Health, ¶ 3, 12(b), U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

³⁸³ See, e.g., Interview with Zahra (pseudonym) (Jan. 21, 2021).

³⁸⁴ Interview with Zahra (pseudonym) (Jan. 21, 2021); HUMAN RIGHTS WATCH, “WE’VE NEVER SEEN SUCH HORROR”: CRIMES AGAINST HUMANITY BY SYRIAN SECURITY FORCES 47 (2011), <https://www.hrw.org/sites/default/files/reports/syria0611webwcover.pdf>.

implemented a system to lift curfews for those who needed access to healthcare.³⁸⁵ Instead, injured individuals had to wait until officials lifted the curfew to receive care at healthcare facilities.³⁸⁶ Through strict curfew policies, the Syrian government prohibited civilians from physically accessing healthcare.

b. The Syrian government's use of excessive checkpoints and arbitrary detention has inhibited civilians' ability to access healthcare.

The Syrian government created physical barriers to movement that restricted the freedom of movement and violated the right to health. The Government's use of checkpoints and subsequent arrests, as well as denial of clearance, all functioned as physical barriers to movement that violate the right to health under physical accessibility. The arbitrary arrests of perceived opponents by government forces at checkpoints also violates Article 9 of the ICCPR, which enshrines the right to liberty and security of person.³⁸⁷

c. The Syrian government's use of snipers and aerial attacks on roadways has inhibited civilians' freedom of movement.

Government restrictions on the freedom of movement violated the right to health by compelling Syrians to refrain from travel unless absolutely necessary. Using surveillance policies to instill a fear of movement among Syrians thus violated the right to health by compelling Syrians to refrain from travel unless absolutely necessary. Attacks by pro-government forces, including snipers and aerial attacks that killed civilians, also violate the right to life.³⁸⁸

d. Inhibiting freedom of movement has had disparate impacts on those seeking specialized care.

Physical barriers to movement had disparate impacts on those seeking specialized care because they were unable to receive the care they needed at clinics or smaller hospitals closer to their homes. Government attacks on medical facilities violated the government's duty to ensure safe travel to access a range of healthcare services as well as a violation of the right to physical accessibility.

³⁸⁵ Interview with Zahra (pseudonym) (Jan. 21, 2021).

³⁸⁶ *Id.*

³⁸⁷ International Covenant on Civil and Political Rights art. 9, Dec. 16, 1966, 999 U.N.T.S. 171.

³⁸⁸ See *id.* at art. 6.

VIII. THE SYRIAN GOVERNMENTS' ATTACKS ON HEALTHCARE ARE WITHOUT LEGAL JUSTIFICATION

The Government's attacks on healthcare are without justification under international humanitarian law or domestic law. The humanitarian principles of proportionality and distinction, as well as the protection of healthcare personnel, facilities, and objects, apply to the Syrian government. Applied to attacks on healthcare, these principles provide no valid defense for the Government's acts. Further, the domestic counterterrorism law through which it approves attacks on healthcare does not justify the attacks as a matter of international law.

A. INTERNATIONAL HUMANITARIAN LAW PRINCIPLES APPLY TO ATTACKS ON HEALTHCARE IN SYRIA.

Under Common Article 3 of the Geneva Conventions, parties to a non-international armed conflict must treat non-combatants humanely and without discrimination.³⁸⁹ Common Article 3 prohibits murder; mutilation; cruel treatment and torture; hostage taking; humiliating and degrading treatment; and extrajudicial executions.³⁹⁰ In addition, Common Article 3 mandates care for the wounded and the sick.³⁹¹ The provisions of Common Article 3 are customary international law.³⁹² Because Syria ratified the Geneva Conventions, it is bound by Common Article 3.³⁹³

389 Geneva Convention Relative to the Treatment of Prisoners of War art. 3(1), Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

390 *Id.* at art. 3(1)(a)–(d).

391 *Id.* at art. 3(2).

392 See generally Int'l Comm. of the Red Cross, IHL DATABASE: CUSTOMARY IHL, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul.

393 Int'l Comm. of the Red Cross, *Treaties, States Parties, and Commentaries*, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=SY.

1 Proportionality and distinction.

Proportionality prohibits attacks against military objectives “expected to cause incidental loss of civilian life, injury to civilians, [or] damage to civilian objects . . . which would be excessive in relation to the concrete and direct military advantage anticipated.”³⁹⁴ Therefore, some collateral damage to civilians or civilian objects, such as vehicles, homes, businesses, or other buildings, is permitted under IHL. However, if such collateral damage is calculated to outweigh the military advantage gained (due to the type of attack, weapon used, targeted location, or something else), the attack is unlawful.

Distinction requires that parties to an armed conflict always “distinguish between the civilian population and combatants and between civilian objects and military objectives” and accordingly only direct attacks against combatants or military objectives.³⁹⁵ Perhaps the most critical IHL principle to this report, distinction renders any attacks directed against civilians or civilian objects inherently unlawful. While proportionality allows for some level of incidental harm to civilians or civilian objects, making them the primary target of the attack automatically violates IHL. Furthermore, under the principle of distinction, indiscriminate attacks that do not differentiate between civilian and military targets are also prohibited.³⁹⁶

2 Protection of medical workers.

Under Rule 25 of customary international humanitarian law (IHL), as defined by the International Committee for the Red Cross, medical workers carrying out “exclusively” medical duties must be “respected and protected in all circumstances” and may not under any circumstances be targets of military attacks.³⁹⁷ This protection is only revoked if they commit acts harming a party to the conflict, such as participating in hostilities.³⁹⁸

394 *Int'l Comm. of the Red Cross, Proportionality*, in *HOW DOES LAW PROTECT IN WAR?* (2021), <https://casebook.icrc.org/glossary/proportionality>.

395 *Id.*

396 *Int'l Comm. of the Red Cross, Proportionality*, in *HOW DOES LAW PROTECT IN WAR?* (2021), <https://casebook.icrc.org/glossary/proportionality>.

397 *Int'l Comm. of the Red Cross, Rule 25. Medical Personnel*, Customary Int'l Humanitarian Law Database, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule25.

398 *Id.*

B. THE SYRIAN GOVERNMENT'S ATTACKS ARE WITHOUT JUSTIFICATION.

While international humanitarian law is only applicable during an armed conflict, it is clear and widely accepted that the situation in Syria has constituted a non-international armed conflict (NIAC) for years. Therefore, international humanitarian law relating to NIACs is applicable.³⁹⁹

A potential counterargument the Syrian government could make is that, though attacks on health may have contributed to a coercive environment leading to forcible displacement, the Syrian government cannot be held liable because those acts were lawful under applicable international humanitarian law. However, the Government cannot justify its violence against healthcare workers and patients or attacks on healthcare infrastructure by arguing that its acts were lawful strategies of war because these patterns in fact violate humanitarian law principles, which have only contributed further to the creation of a coercive environment.

Another potential argument the Syrian government could make is that it cannot be held liable because attacks on health were lawful under Syrian domestic law. However, as explained below, the Government's attacks on health violate Syria's obligations under Common Article 3, and Syria may not invoke the provisions of its domestic law as justification for its failure to perform its treaty obligations.⁴⁰⁰

1**Patterns of violence against healthcare workers are not justified under international humanitarian law.**

Violence against healthcare workers has violated the Syrian government's obligations under Common Article 3 because government forces subjected healthcare workers—protected non-combatants—to extrajudicial killing; torture; and cruel, humiliating, and degrading treatment.⁴⁰¹ Violence against healthcare workers has violated the protection of medical personnel and the principle of distinction. The Syrian government has characterized healthcare workers helping

399 While there is some argument that the armed conflict in Syria has or has had an international character, it is widely viewed as a non-international armed conflict, and this report treats the Syrian conflict as such and considers humanitarian law applicable to NIACs. See Rule of Law in Armed Conflicts Project, *Non-International Armed Conflicts in Syria*, GENEVA ACADEMY OF INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS, <https://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-syria>.

400 See Vienna Convention on the Law of Treaties art. 27, opened for signature May 23, 1969, 1155 U.N.T.S. 331. Syria acceded to the Vienna Convention on October 2, 1970.

401 See Geneva Convention Relative to the Treatment of Prisoners of War art. 3(1), Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

political opposition, whether peaceful demonstrators or armed groups, as “terrorists” and has effectively made it a crime to provide such aid.⁴⁰² This rhetoric seems to suggest an argument that these healthcare workers are not protected under Common Article 3 and customary international humanitarian law because their work is somehow not exclusively health-related and they have become combatants.

However, testimony from interviewees and other documentation of violence against healthcare workers demonstrates otherwise. Over the course of the ten-year Syrian conflict, at least 930 medical professionals have been killed, with 91% of those deaths attributed to the Syrian government or its Russian allies.⁴⁰³ It is highly improbable that all of those killed had stopped performing ‘exclusively’ medical duties and become involved in hostilities, thereby becoming targetable. Interviewees recounted the detention, torture, and disappearance of medical workers.⁴⁰⁴ In all of these cases, the healthcare workers in question had been performing exclusively medical work and not committing “acts harmful to the [Syrian government,]” therefore retaining their protected status under Common Article 3 and Rule 25 of customary IHL.⁴⁰⁵ Because these healthcare workers were civilians as well as specially protected, the Syrian government’s actions also violate the principle of distinction, which prohibits the targeting of civilians and protected persons.⁴⁰⁶ Therefore, the Syrian government cannot use IHL as a legal justification for these actions.

2

Patterns of violence against patients are not justified under international humanitarian law.

Violence against patients violated the protection of non-combatants⁴⁰⁷ and the principle of distinction.⁴⁰⁸ Again, the Syrian government has characterized such patients as ‘terrorists’ and combatants, thus rendering them legitimate targets. However, many of these patients are

402 See PHYSICIANS FOR HUM. RTS., “MY ONLY CRIME WAS THAT I WAS A DOCTOR”: HOW THE SYRIAN GOVERNMENT TARGETS HEALTH WORKERS FOR ARREST, DETENTION, AND TORTURE 4 (2019), <https://phr.org/wp-content/uploads/2019/12/PHR-Detention-of-Syrian-Health-Workers-Full-Report-Dec-2019-English-1.pdf>.

403 PHYSICIANS FOR HUM. RIGHTS, *Medical Personnel are Targeted in Syria*, <https://phr.org/our-work/resources/medical-personnel-are-targeted-in-syria/>.

404 See, e.g., Interview with Fatima (pseudonym) (Jan. 11, 2021); Interview with Farid (pseudonym) (Jan. 13, 2021).

405 Geneva Convention Relative to the Treatment of Prisoners of War art. 3(1), Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Int’l Comm. of the Red Cross, *IHL Database: Rule 25. Medical Personnel*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule25.

406 See INT’L COMM. OF THE RED CROSS, *Distinction*, in *HOW DOES LAW PROTECT IN WAR?* (2021), <https://casebook.icrc.org/glossary/distinction>.

407 See Geneva Convention Relative to the Treatment of Prisoners of War art. 3(1), Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

408 See INT’L COMM. OF THE RED CROSS, *Distinction*, in *HOW DOES LAW PROTECT IN WAR?* (2021), <https://casebook.icrc.org/glossary/distinction>.

civilians and therefore not targetable. Even injured or sick members of armed opposition groups are protected and not targetable because they are considered hors de combat, or not capable of participating in hostilities anymore.⁴⁰⁹

Many of the individuals we interviewed described mistreatment of patients by military, security, or intelligence forces, especially if they were detainees. Several interviewees experienced or witnessed this mistreatment themselves. Qassim, a doctor in a military hospital near Damascus, treated people detained by security forces. When visiting patients post-surgery, he witnessed security forces unwrapping their bandages, removing external fixators, and putting toilet water on their wounds. In addition to violating customary IHL protecting civilians and anyone recognized as hors de combat, government forces have also violated the principle of distinction by targeting civilians as though they were combatants. Furthermore, the Syrian government has also arguably violated the principle of proportionality because the abuse described by interviewees had no military benefit while also causing unnecessary suffering to protected civilians.⁴¹⁰ Because of this, the Syrian government cannot use IHL as a legal justification for such actions.

3

Patterns of attacks on healthcare infrastructure are not justified under international humanitarian law.

Government attacks on healthcare infrastructure, which have killed and severely injured numerous non-combatants, violate Common Article 3.⁴¹¹ Government attacks on healthcare infrastructure have flagrantly violated customary IHL protecting medical personnel and objects as well as the principles of proportionality and distinction. Russian and Syrian officials have argued that they are not bombing actual hospitals, but are rather targeting “so-called hospitals” that militants are using as “human shields” and have thus lost their protection as exclusively medical objects.⁴¹²

Russian and Syrian officials’ argument is belied by extensive documentation as well as interview testimony. There have been 628 attacks on medical facilities carried out since the beginning of the Syrian conflict, and Physicians for Human Rights has attributed at least 529 of them to

409 See Int’l Comm. of the Red Cross, *IHL Database: Rule 25. Medical Personnel*, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule25.

410 See INT’L COMM. OF THE RED CROSS, *Proportionality*, in *HOW DOES LAW PROTECT IN WAR?* (2021), <https://casebook.icrc.org/glossary/proportionality>.

411 See Geneva Convention Relative to the Treatment of Prisoners of War art. 3(1), Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

412 Ellen Frances, *Even in a Bunker Under a Mountain, Syrian Hospital Knocked Out by Strikes*, REUTERS, Oct. 3, 2016, <https://www.reuters.com/article/us-mideast-crisis-syria-hospital-idUSKCN1231RQ>.

Syrian government or Russian forces.⁴¹³ Hundreds of medical workers have been injured or killed in these strikes. Furthermore, hundreds of medical facilities were added to a UN humanitarian deconfliction/no-strike list and shared with Syria and Russia to prevent their forces from accidentally targeting them. Instead, with the knowledge of these medical facilities' locations, dozens of hospitals and clinics were subsequently damaged in Russian or Syrian attacks in the span of six months.⁴¹⁴ These attacks show that Syrian and Russian forces had knowledge that the locations they targeted were protected hospitals and clinics, and deliberately chose to target and attack them.

Based on this evidence, government forces have violated Rule 25 of customary IHL designating medical personnel as protected. They have also violated the principle of proportionality because even if Syrian forces launched such attacks to pave the way for subsequent sieges on opposition-held areas, the attacks have created long-lasting collateral damage to civilians and civilian objects.⁴¹⁵ Most important, this pattern of attacks, just like those described above, violates the principle of distinction because Syrian (and Russian) forces have clearly and deliberately targeted purely civilian objects with civilians inside them.⁴¹⁶ Given the extensive pattern of attacks on healthcare infrastructure and the resulting violations of IHL, the Syrian government cannot justify this conduct contributing to a coercive environment as otherwise legal under international humanitarian law.

4

The fact that Syrian domestic law permits de jure or de facto certain attacks on health does not render them lawful under international law.

The Syrian government cannot justifiably argue that attacks on health are lawful under Syrian domestic law. The Syrian government has characterized healthcare workers helping political opposition, whether peaceful demonstrators or armed groups, as 'terrorists' and has effectively made it a crime to provide such aid.⁴¹⁷ Article 1 of Law Number 19, the domestic counterterrorism

413 Physicians for Hum. Rts., *A Map of Attacks on Health Care in Syria*, <http://syriamap.phr.org/#/en>.

414 Evan Hill, *The U.N. Tried to Save Hospitals in Syria. It Didn't Work.*, N.Y. TIMES, Dec. 29, 2019, <https://www.nytimes.com/2019/12/29/world/middleeast/united-nations-syria-russia.html>.

415 *Syrian and Russian Forces Targeting Hospitals as a Tactic of War*, AMNESTY INTERNATIONAL, Mar. 3, 2016, <https://www.amnesty.org/en/latest/news/2016/03/syrian-and-russian-forces-targeting-hospitals-as-a-strategy-of-war/>.

416 See INT'L COMM. OF THE RED CROSS, *Distinction*, in *HOW DOES LAW PROTECT IN WAR?* (2021), <https://casebook.icrc.org/glossary/distinction>.

417 See PHYSICIANS FOR HUM. RTS., "MY ONLY CRIME WAS THAT I WAS A DOCTOR": HOW THE SYRIAN GOVERNMENT TARGETS HEALTH WORKERS FOR ARREST, DETENTION, AND TORTURE 4 (2019), <https://phr.org/wp-content/uploads/2019/12/PHR-Detention-of-Syrian-Health-Workers-Full-Report-Dec-2019-English-1.pdf>.

law, defines a terrorist act as “any action aimed to cause panic among people, disturb public security or harm the State’s infrastructure . . . by means of any tool that serves [this] purpose.”⁴¹⁸ However, Syria may not invoke the provisions of its domestic law as justification for its failure to fulfill binding international obligations under the Geneva Conventions⁴¹⁹ and customary international humanitarian law.⁴²⁰ Attacks on healthcare workers, patients, and medical facilities—more specifically, murder; mutilation; extrajudicial killing; torture; and cruel, inhuman and degrading treatment—all violate Syria’s obligations under Common Article 3.

⁴¹⁸ See VIOLATIONS DOCUMENTATION CENTER IN SYRIA, SPECIAL REPORT ON COUNTER-TERRORISM LAW NO. 19 AND THE COUNTER-TERRORISM COURT IN SYRIA 37–40 (including an unofficial English translation of Law No. 19). The law prohibits “Financing and Training Terrorist Acts (art. 4)” and “Promoting Terrorist Acts (art. 8)” and provides for the confiscation of “ . . . movable and immovable property [of perpetrators] and the proceeds thereof, as well as the objects used or prepared to be used in committing the crime. (art. 12),” See *id.* at 38–39 (including an unofficial English translation of Law No. 19).

⁴¹⁹ See Vienna Convention on the Law of Treaties art. 27, opened for signature May 23, 1969, 1155 U.N.T.S. 331 (stating, “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty . . .”).

⁴²⁰ Compare Case Concerning the Gabčíkovo-Nagymaros Project (Hung. v. Slov.), Judgment, 1997 I.C.J. 7, ¶¶ 42, 46 (Sept. 25) (noting the Vienna Convention on the Law of Treaties, in many respects, reflects customary international law and “some” of the Convention provisions “might” be considered codified customary international law), with Restatement (Fourth) of the Foreign Relations Law of the United States § 301, reporters’ note I (2018) (recognizing that although the U.S. is not a party to the Convention, it accepts many provisions are binding customary international law).

IX. SUMMARY OF FINDINGS

Based on interview and secondary source research, there is a reasonable basis to believe that the Syrian government and its allies have directed and carried out attacks on healthcare. These attacks have caused health system failures, making it difficult or impossible to access necessary care. Syrians have no choice but to flee their homes and their country because, in whole or in part, they are unable to access healthcare.

A. PRO GOVERNMENT FORCES ATTACKED HEALTHCARE SERVICES.

Pro-government forces engaged in four main patterns of violent actions aimed at denying healthcare services to segments of the population perceived to be opposed to the government.

1. Syrian security and military forces detained and subjected healthcare workers to acts amounting to torture and extrajudicial killings.
2. Security forces and medical workers at state-controlled hospitals physically and psychologically abused patients perceived to be opposed to the government.
3. Pro-government forces directed and carried out attacks against hospitals, ambulances, and other civilian healthcare infrastructure.
4. Syrian security and military forces prevented civilians from accessing medical care and supplies by restricting their freedom of movement.

B. THE GOVERNMENT'S ATTACKS ON HEALTHCARE CAUSE HEALTH SYSTEM FAILURES.

The Syrian government's attacks on health have caused health system failures that leave civilians with no choice but to leave in order to access healthcare. The Government's attacks on health have caused three types of system failures.

1. Attacks on health have decimated Syria's physical medical infrastructure. Because of attacks on health, there is not an adequate number of hospitals or other medical centers to treat the Syrian population. Aerial and chemical weapons attacks against medical infrastructure have disabled essential health services, leading to inconsistent availability of care, and making it difficult to build new hospitals.
2. The Government prevents the delivery of medical supplies. The Government has created shortages in the availability of essential medical supplies and medications. These shortages have forced medical professionals and others to obtain supplies through creative cross-border exchanges. The shortages have also reduced the standard of care available to patients.
3. Attacks on health force medical professionals to flee. Finally, over 70% of healthcare workers have fled Syria in the wake of Government attacks on healthcare. Throughout the conflict, government forces have kidnapped or detained hundreds of medical professionals, and killed nearly 1,000. The loss of medical personnel accelerated the collapse of the Syrian public health system. Now, there are too many patients for too few adequately specialized medical professionals.

C. THE GOVERNMENT'S ATTACKS ON HEALTHCARE AND RESULTING SYSTEM FAILURES LEAVES CIVILIANS WITH NO CHOICE BUT TO FLEE.

The Syrian government deliberately created system failures of healthcare infrastructure, effectively destroying the healthcare system in Syria. The resulting inability to access healthcare contributed to the cross-border displacement of Syrian civilians.

1. For some Syrian civilians, the inability to access healthcare has become a primary driver of displacement. For those seeking emergency or specialized care, the destruction of the health care system left them no choice but to leave to other areas or countries where such care was available.
2. While the attacks and subsequent deprivation of access to healthcare directly led some Syrians to flee, for others, the attacks contributed to an atmosphere of intimidation and intolerable living conditions created by the Syrian government to force out civilians perceived as opposing the regime.

X. CONCLUSIONS

A. THE SYRIAN GOVERNMENT HAS COMMITTED THE CRIME AGAINST HUMANITY OF DEPORTATION OR FORCIBLE TRANSFER BY ATTACKING HEALTH, LEAVING CIVILIANS WITH NO REAL CHOICE BUT TO FLEE.

Through its attacks on health, the Government has created a coercive environment leaving civilians with no choice but to flee in violation of international criminal law. The key characteristic of a coercive environment is voluntariness: Syrians were unable to choose whether to remain because of an intolerable context, situation, and atmosphere:

- The four patterns of attacks on health have contributed to an intolerable context.
- Attacks on health have caused system failures which, together with the attacks themselves, have created a humanitarian crisis. This situation amounts to a coercive environment under international law.
- This coercive environment has fueled intolerable living conditions, leaving civilians with no choice but to flee.

Because of this coercive environment, civilians have been forced from their homes and out of Syria, satisfying the elements for both deportation and forcible transfer.

For individual criminal accountability, the chapeau elements are likely met:

- Attacks on health are both widespread and systematic because they have occurred across multiple locations over a decade and regularly target healthcare infrastructure.
- The scale and uniformity of the attacks suggest that they are committed pursuant to a state policy.
- The attacks are committed against a civilian population.
- Based on open source materials, there is a reasonable basis to believe that leaders within the Syrian government have knowledge of these attacks.

B. THE SYRIAN GOVERNMENT HAS VIOLATED ITS OBLIGATIONS TO PROTECT, RESPECT, AND PROMOTE THE HIGHEST ATTAINABLE STANDARD OF HEALTH UNDER INTERNATIONAL HUMAN RIGHTS LAW.

The Syrian government has failed to protect, respect, and promote the right to health and other rights on which the right to health depends because:

- Attacks on healthcare workers led to a mass exodus of medical professionals from Syria and created a shortage of medical professionals, which violated the right to available and quality care.
- The Syrian government's torture of healthcare workers violated the right to be free from torture under the CAT and the ICCPR.
- By providing discriminatory care, government hospital personnel violated non-discrimination norms that attach to the right to health.
- The torture of patients and detainees in hospitals violated the right to safe, quality care and violated Syria's obligations under the CAT and the ICCPR.
- Syrian government attacks on medical facilities violated the right to accessible healthcare and, when civilians were killed in attacks, the right to life.
- The Syrian government violated the right to accessible healthcare by restricting freedom of movement and preventing civilians from accessing medical treatment and supplies. The Syrian government violated the right to life when roadway snipers and aerial attacks killed civilians.

C. THE SYRIAN GOVERNMENT'S ATTACKS ON HEALTH ARE WITHOUT JUSTIFICATION.

In June of 2012, the Assad government issued Law No. 19 under which it criminalized the provision of healthcare to people perceived as opposition. With the law as its justification, the Syrian government labeled opposition members and their supporters "terrorists." As explained in this report, the Government used the existence of supposed terrorists to justify attacks on medical workers, patients, and health facilities, and to restrict the movement of supplies and of people seeking healthcare.

However, attacks on medical professionals, patients, and health facilities, and restrictions on the movement of healthcare supplies and of people seeking treatment, violate fundamental principles of humanitarian law. Under international law, it is prohibited to justify violations of humanitarian law on the basis of domestic laws. The actions of the Syrian government are without justification.

XI. RECOMMENDATIONS

A**United States Government**

To respond to the Syrian government's weaponization of healthcare, which has violated Syrians' rights to health and contributed to the displacement of civilians in violation of international human rights, criminal, and humanitarian law, this report makes the following recommendations to the Government of the United States.

The United States Government should:

- Lead a General Assembly resolution establishing the creation of a hybrid tribunal. Although this would be an unprecedented move as creation of a hybrid tribunal has traditionally been with the participation and consent of the target state—there has been discussion about whether a supermajority of the Assembly could bypass the Security Council's political powerlessness and move forward towards a tribunal committed to bringing justice and accountability to the Syrian conflict.
- Support the establishment of a reparations program — expanding the idea of justice beyond criminal accountability—and recognizing the harm suffered by the victims. These reparations measures can be done in a monetary or nonmonetary way—perhaps as a form of acknowledgement of the crimes committed by the Syrian government.⁴²¹
- Ratify the Rome Statute and remove sanctions against and restrictions on the ICC Prosecutor and other ICC officials. Model full cooperation with international criminal investigations.

⁴²¹ See generally SARETA ASHRAPH, REPARATIONS FOR VICTIMS OF GENOCIDE, WAR CRIMES AND CRIMES AGAINST HUMANITY 746–770 (Carla Ferstman et al. eds., 2d ed. 2020).

B**Government of Jordan**

To respond to the Syrian government's weaponization of healthcare, which has violated Syrians' rights to health and contributed to the displacement of civilians in violation of international human rights, criminal, and humanitarian law, this report makes the following recommendations to the Government of Jordan.

The Government of Jordan should:

- Refer the situation in Syria to the Prosecutor of the International Criminal Court under article 14 of the Rome Statute, giving the International Criminal Court jurisdiction to prosecute the crime against humanity of deportation or forcible transfer and war crime of displacing civilians as defined in articles 7(1)(d) and 8(2)(e)(viii) of the Rome Statute, both of which partly occurred in Jordan's territory under the article 12(2)(a) of the Rome Statute.

C**United Nations Security Council**

To respond to the Syrian government's weaponization of healthcare, which has violated Syrians' rights to health and contributed to the displacement of civilians in violation of international human rights, criminal, and humanitarian law, this report makes the following recommendations to the Security Council.

The Security Council should:

- Refer the situation in Syria to the Prosecutor of the International Criminal Court under chapter VII of the U.N. Charter and article 13(b) of the Rome Statute, giving the International Criminal Court jurisdiction to prosecute the crime against humanity of deportation or forcible transfer and war crime of displacing civilians as defined in articles 7(1)(d) and 8(2)(e)(viii) of the Rome Statute, both of which partly occurred in the territory of Jordan, a State Party, under article 12(2)(a) of the Rome Statute.

D

Prosecutor of the International Criminal Court

To respond to the Syrian government's weaponization of healthcare, which has violated Syrians' rights to health and contributed to the displacement of civilians in violation of international human rights, criminal, and human rights, criminal, and humanitarian law, this report makes the following recommendations to the Prosecutor of the International Criminal Court.

The Prosecutor should:

- Initiate an investigation into the situation in Syria proprio motu under article 15(1) of the Rome Statute, specifically investigating the crime against humanity of deportation or forcible transfer and war crime of displacing civilians as defined in articles 7(1)(d) and 8(2)(e)(viii) of the Rome Statute, both of which partly occurred in Jordan's territory under article 12(2)(a) of the Rome Statute.

E

The International Community

To respond to the Syrian government's weaponization of healthcare, which has violated Syrians' rights to health and contributed to the displacement of civilians in violation of international human rights, criminal, and human rights, criminal, and humanitarian law, this report makes the following recommendations to the international community.

All states should:

- Consider municipal judicial accountability for Syrian leaders who deported or directed acts deporting Syrian citizens.
- Fully cooperate with the United Nations, ICC, and human rights NGOs seeking accountability for atrocity crimes and human rights violations in Syria.



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