

Mandates of the the Special Rapporteur on the right to education; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the human rights of internally displaced persons; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

REFERENCE:
AL SYR 1/2019

15 August 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right to education; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the human rights of internally displaced persons; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 26/17, 35/15, 33/9, 32/11 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning an increase in the attacks against health care and school facilities between 23 April and 10 June 2019 in the context of the recent escalation in southern rural Idlib and areas of northern Hama.

According to the information received:

Parties to the conflict in Syria have targeted medical facilities and personnel as part of a military strategy to cause destruction, particularly in areas held by anti-Government non-state armed groups.

Reportedly, since March 2011 to July 2019, about 570 separate attacks have taken place on a total of 348 medical facilities in Syria causing the death of approximately 900 health care personnel during the attacks. It is reported that 90 percent of the attacks were allegedly caused by Government forces or its allies.

In particular, between 29 April and 4 July 2019, there was a significant escalation of airstrikes and ground-based strikes by Government-affiliated forces, which severely affected civilians and civilian infrastructure within the "demilitarized zone" in southern Idlib and areas of northern Hama. Reports indicate that a large number of persons were either killed or injured and that significant damage was caused to health care and school facilities, either as deliberate targets or due to their proximity to military targets.

According to information received regarding cases in Idlib and Hama, there have been at least 20 civilians killed during the attacks, including 5 women, 3 girls, 2 boys and one first-responder medical staff, and at least 5 individuals have been

injured. The same reports indicate that at least 23 educational and health care facilities have been damaged or destroyed by airstrikes and ground-based strikes.

Additional reports point at more health care facilities having been hit in Idlib and Hama, reportedly by Government forces or its allies. Allegedly, many other civilians were also killed and injured due to sporadic ground-based strikes or the positioning of military objects in populated areas by various non-State armed groups including the Hay'at Tahrir al-Sham (HTS) - an Al-Qaeda affiliate - in parts of Hama, Idlib, and Aleppo governorates.

Idlib Governorate

The following incidents exclusively damaging either medical or school facilities have been documented:

- On 23 April, seven civilians including two women, one girl and two boys were killed and the school of “al-Haj Bakri” was partially damaged as a result of what were alleged to be ground-based strikes by Government affiliated forces that hit the city of Khan Shaykun in southern rural Idlib.
- On 30 April, five civilians including one woman and one girl were injured and the medical facility of “al-Hbeet” was partially damaged as a result of what were alleged to be airstrikes and ground-based strikes by Government affiliated forces that hit the village of al-Hbeet in southern rural Idlib.
- On 30 April, the school of “Al-Qassabiya” was partially damaged as a result of what were alleged to be airstrikes and ground-based strikes by Government affiliated forces that hit the town of al-Qassabiya in southern rural Idlib.
- On 5 May, one civilian woman was killed and the hospital of “Nabd al-Hayat” was destroyed as a result of what were alleged to be airstrikes and ground-based strikes by Government affiliated forces that hit the town of Hass in southern rural Idlib.
- On 5 May, three civilians, including a first responder medical staff, were killed and the hospital of “Orient” was destroyed as a result of what were alleged to be airstrikes and ground-based strikes by Government affiliated forces that hit the town of Kafr Nabbol in southern rural Idlib. This hospital was reportedly attacked on two more occasions, namely on 9 May and on 4 July. On 4 July it suffered two attacks within one hour resulting in structural damage. No casualties were reported in the latest attacks.
- On 16 May, a compound of three educational structures was damaged as a result of what were alleged to be airstrikes by Government affiliated forces

that hit the town of Kafr Sajneh in southern rural Idlib. The compound included the primary schools of Kafr Sajneh and Hamzeh al-Khateeb, and the kindergarten of al-Mustaqbal.

- On 17 May, the School of “Fadhel al-Khateeb” was damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the town of Kafr Nobbol in southern rural Idlib.
- On 21 May, two civilian men were killed and the school of “Roqayya Bent Malek” was significantly damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the city of Jisr Ash Shughur. On the same day, the school of “al-Farahidi” was partially damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the city of Khan Shaykun.
- On 22 May, five civilians including one boy were killed and the hospital of “Al-Shifa” was damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the city of Saraqeb. On the same day, the school of “Maysaloon” was partially damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the town of Kafr Sajna.
- On 23 May, three civilians including one girl were killed and the school of “Abu Baker al-Siddiq” was damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the town of Kafr Nobbol.
- On 23 May, the medical centre of “Kiwan” was partially damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the town of Kasanfra in southern rural Idlib.
- On 23 May, the school of “Abdul Majeed al-Haj Bakri” was significantly damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the city of Khan Shaykun.
- On 25 May, the medical centre of “Ibn al-Shaheed” for physical therapy was partially damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the town of al-Bara in southern rural Idlib.
- On 27 May, six civilians including two women and one girl were killed and the school of “Basmat Amal” was partially damaged as a result of what were alleged to be ground-based strikes by Government affiliated forces that hit the village of Hazareen in southern rural Idlib.

- On 1 June, a medical facility was partially damaged in the village of Ihsem and the school of “al-Shaheed Yehya al-Hasan” was partially damaged in the village of Bisqla as a result of what were alleged to be airstrikes by Government affiliated forces that hit southern rural Idlib.
- On 10 June, a school was partially damaged as a result of what were alleged to be airstrikes by Government affiliated forces that hit the city of Khan Shaykun in southern rural Idlib.

Additional information has been received regarding attacks on the following health care facilities in Idlib Governorate:

- 3 May, Primary Health Care Centre in Rakaya Sejneh;
- 6 May, Al-Amal Orthopaedic Hospital in Kansfara village;
- 8 May, Maar Tahroma Primary Health Care Center;
- 11 May, Al-Sham Central Hospital in Kafranbel city;
- 15 May, Tarmala Dialysis Unit;
- 28 May, Al Aqra’a private hospital in Kafr Nobol.

Hama Governorate

The following incidents exclusively damaging either medical or school facilities have been documented:

- On 11 May, a medical facility was significantly damaged as a result of what were alleged to be airstrikes and ground-based strikes by Government affiliated forces that hit the town of Lattamneh in northern rural Hama.
- On 26 May, the hospital of “al-Sqailbiya” was partially damaged as a result of what were alleged to be ground-based strikes by non-State armed groups that hit the town of al-Sqailbiya. Reportedly one civilian was killed and three others injured.

Additional information has been received regarding attacks on the following health care facilities in Hama Governorate:

- 28 April, Surgical Hospital in Al Latamena town and Madiq Castle Hospital;

- 1 May, Qastun primary health care center in Sahl al Ghab and Surgical unit in Kafr Nbodah area;
- 2 May, Al Madiq primary health care;
- 5 May, Maghara Hospital;
- 7 May, Kafrbudheh Primary Health Care Center, and Middle Algab Primary Health Care Center;
- 8 May, Kafr Zeita Primary Health Care Center;
- 11 May, Specialist Hospital for Gynaecology and Paediatrics in Al-Hawash and the Middle Algab Primary Health Care Center which was hit for the second time;

The continued escalation of hostilities in both Idlib and Hama Governorates has reportedly resulted in the internal displacement of large numbers of civilians. Over 440,000 civilians have been displaced inside Idlib since the beginning of the escalation on 29 April.

Internally displaced persons (IDPs) arrive in Lusin Camp which was established years ago and includes approximately 20 small makeshift camps that are located in the village of Kafr Lusin in northern Idlib, near the Bab al-Hawa border crossing with Turkey. It is reported that the camp currently hosts at least 20,000 IDPs, primarily from rural Homs Governorate and recently from other parts in Idlib.

The harsh conditions of the camp are reported to include poor access to health care and other humanitarian needs, as well as lack of basic protection requirements, including by not placing such sites/settlements in close proximity to frontlines and military objectives.

Without prejudging the accuracy of the information made available to us, we express our most serious concern at the indiscriminate or disproportionate use of force against civilian objects, which constitute a violation of the right to life and security of the persons affected. Article 9 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Syria on 21 April 1969, guarantees the right of every individual to life and security and provides that these rights shall be protected by law and that no one shall be arbitrarily deprived of his or her life. As stated in the Guiding Principles on Internal Displacement (GP 6.2), in situations of armed conflict displacement happening as a result of military action that is not demanded by the security of the civilians involved or imperative military reasons amounts to arbitrary displacement and it is therefore prohibited.

We are further concerned at the allegations that health care and education facilities may have been deliberately targeted. Should this be factually established, this act would constitute a grave breach of the Geneva Conventions and may amount to a war crime. Common article 3 to the four Geneva Conventions establishes the minimum standards that all parties involved in a non-international armed conflict should observe concerning the treatment and protection of civilians. Article 12 of the 1977 Additional Protocols to the Geneva Conventions further states that ‘medical units shall be respected and protected at all times and shall not be the object of attack. Attacks on health care facilities are a serious breach of the central founding notion of modern international humanitarian law (IHL): the protection of the wounded and sick, including medical units. The Guiding Principle 19 also affirms the right to the enjoyment of the highest attainable standard of physical and mental health for IDPs.

If confirmed, above mentioned allegations further represent a failure to respect the protections afforded to medical units and are not only a direct attack against a founding pillar of International Humanitarian Law, but may also be against humanity. They also indicate a failure to adhere to basic protections afforded to health care facilities, transport and workers. Units exclusively assigned to medical purposes must be respected and protected in all circumstances. Noting also that any actions carried out under the banner of counter-terrorism action requires full compliance with international law, human rights and international humanitarian law as mandated by multiple Security Council Resolution. Under no circumstances shall any person or object be punished/targeted for having carried out medical activities regardless of the person benefiting from them. All parties of the conflict, including in non-international conflict have the obligation to ensure that constant care is given to spare civilians from harm.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Kindly indicate the steps taken by your Government to limit harm to civilians and to medical and educational facilities
3. Please provide information about what, if any, warnings, and in what form, and in what reasonable time limit have been provided to medical units and schools? In case such warnings were given, did they remain unheeded? Has an evacuation been allowed?

4. Please provide information in details of how your Excellency's Government's counter-terrorism efforts, specifically airstrikes and attacks involving civilians and medical units comply with the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, in particular with international human rights law, refugee law, and humanitarian law
5. Please indicate the number of attacks/strikes that have been suspended or cancelled due to their potential harm on medical facilities.
6. Kindly provide information about the evaluations undertaken by your Government after missions or activities so as to ensure that a) mistakes did not occur and b) identify lessons learnt.
7. Please provide the full details of any investigations which may have been ordered into these allegations. If they were proven correct, please inform about any proceeding, criminal or otherwise, that may have been or may be taken against those with direct or supervisory responsibility and about any reparation, including rehabilitation and compensation which the Government may have provided or intends to provide to the victims and their families.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Koumbou Boly Barry
Special Rapporteur on the right to education

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Cecilia Jimenez-Damary
Special Rapporteur on the human rights of internally displaced persons

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we wish to draw your Excellency's Government's attention to article 9 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Syria on 21 April 1969, which guarantees the right of every individual to life and security. The article also provides that this right shall be protected by law and that no one shall be arbitrarily deprived of his or her life.

We would like to remind your Excellency's Government that its obligations under international human rights law continue to apply in the context of armed conflict, as acknowledged by the International Court of Justice (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, paras. 24-25 and the Human Rights Committee (General Comment 29, States of Emergency, para. 3).

The operations carried out by the Syrian Government are bound by article 3 common to the four Geneva Conventions of 1949, which establishes the minimum standards that all parties involved in a non-international armed conflict should observe concerning the treatment and protection of civilians. Additionally, article 12 (1) of the 1977 Additional Protocols to the Geneva Conventions states that medical units shall be respected and protected at all times, and shall not be the object of an attack. Article 13 also states that the protection to which civilian medical units are entitled shall not cease, unless they step out from their humanitarian function and commit acts that are specified by the Protocols as harmful to the enemy. Hence, intentionally directing attacks against hospitals and places where the sick and wounded are collected is prohibited under international humanitarian law, provided they are not military objectives. Any such intentional attacks are war crimes.

Accordingly, if a medical facility is damaged or destroyed as a result of a party launching an indiscriminate attack which was of a nature to strike military objectives and civilians and civilian objects without distinction, or an attack where it could have been expected that the attack would cause excessive damage to civilians, civilian objects, or protected structures in relation to the military advantage anticipated, such incidents may constitute war crimes if the party knew that the attack may cause excessive incidental civilian loss of life, injury, or damage. The attacker may have also failed to abide by the principles of distinction, proportionality and precautions in attack, which would be a violation of international humanitarian law.

We would also like to bring your Excellency's attention to General Assembly resolution 2675, passed on 9 December 1970, on the basic principles for the protection of civilian populations in armed conflicts, which stated that "places or areas designated for the sole protection of civilians, such as hospital zones or similar refuges, should not be the object of military operations". This was followed by many resolutions at the Security Council including Resolutions 1265 (1999), 1296 (2000), 1674 (2006), 1738 (2006), 1894 (2009), 2222 (2015) and 2286 (2016) on the same issue. In particular, last resolution 2286 strongly urges States and all parties to armed conflict to develop effective measures

to prevent and address acts of violence, attacks and threats against medical personnel and humanitarian personnel exclusively engaged in medical duties, their means of transport and equipment, as well as hospitals and other medical facilities in armed conflict, including through the conduction of independent investigations and action against those found responsible.

We wish to additionally refer your Excellency's Government to the fundamental principles set forth in the 2014 General Assembly Resolution A/RES/69/132 on Global health and foreign policy, which strongly condemns all attacks on medical and health personnel, their means of transport and equipment, as well as hospitals and other medical facilities, and deplores the long-term consequences of such attacks for the population and health care systems.

We would like to also recall that Syria is bound by obligations established in the International Covenant of Economic, Social and Cultural Rights (ICESCR), to which it acceded in April 1969. Article 12 enshrines the right to health. In cases where it is impossible or extremely difficult for the State to fulfil the right to health, due to lack of control over certain parts of its territory, the State retains the obligation not to raise any obstacles to the full realization of this right and must take all possible measure to facilitate its realization. Core obligations for the State in this regard includes ensuring access to: health facilities, goods, and services on a non-discriminatory basis; the minimum essential food; basic shelter, housing, and sanitation, and an adequate supply of safe and potable water.

In this connection, we wish to bring the attention of your Excellency to the report of the Special Rapporteur on the right to physical and mental health (A/68/297, 2013), where he acknowledges that human rights law continues to apply in situations governed by international humanitarian law and that the concurrent application of both sets of laws in armed conflict enhances the rights of affected populations (paras 1-6). The Special Rapporteur underlines that the destruction of health infrastructure by States, or failure to protect against such destruction by third parties, impairs the availability and accessibility of quality health facilities, goods and services. In his view, attacks on health workers used as a strategy in conflict situations as well as looting of health facilities and destruction of infrastructures violate the right to health of people affected by conflict (paras 26-29).

We further recall that in situations of conflict, attacks on schools and hospitals, which are places that usually have a significant presence of children, is one of the six grave violations identified and condemned by the UN Security Council as per resolutions 1261 (1999), 1539 (2004), 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014), 2225 (2015) and 2427 (2018).

In addition, article 19 of the Convention on the Rights of the Child (CRC), ratified by Syria in July 1993 indicates that all appropriate educational measures, amongst others, shall be undertaken to protect the child from all forms of violence and the CRC Optional Protocol on the involvement of children in armed conflict, acceded to by Syrian Arab Republic in October 2003, condemns the direct attack on places that generally have a

significant presence of children, such as schools. It further specifies that children require special protection. Moreover, article 13 of the ICESCR recognizes the right of everyone to education and General Comment 13 (E/C.12/1999/10) of the Committee on Economic, Social and Cultural Rights (1999) stresses that, among other things, education has to be within safe physical reach.

We would like to finally refer your Excellency's Government to the Guiding Principles on Internal Displacement, which provide, among others, that satisfactory conditions safety, nutrition, health and hygiene is provided to displaced persons. Principle 5 of the Guiding Principles states that all authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.