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Huquqyat



“Kneel or Starve”

On the use of siege and starvation as
a method of warfare in South Damascus

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“Kneel or Starve”

On the use of siege and
starvation as a method of
warfare in South Damascus



The extension of Thirty Street (Share' Al-Talaten) towards Al-Orouba neighbourhood in South Damascus during the April 2018 attack.

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Executive summary

1. With the support of interviews, and witness statements taken for the purpose of investigating alleged war crimes, and supported by prior documentation, this report analyses the use of siege and starvation against the civilian population in the Palestinian refugee camp of Yarmouk and the besieged South of Damascus from early 2013 until March 2014, when the siege was partially lifted. It details the incremental worsening of conditions of life under siege and its direct impact on civilians, with a view to support possible future investigations and accountability efforts with a more robust understanding of the siege and starvation in this area.
2. On 16 December 2012, a Syrian regime warplane carried out raids targeting civilian objects in Yarmouk, including a hospital, four schools (two of which were acting as shelter facilities for displaced people), and the Abd Al-Qader Al-Husseini mosque. The raids led to a reported 140,000 individuals fleeing Yarmouk and constituted what is commonly understood as the start of the siege of Yarmouk and South Damascus.¹
3. The South of Damascus was initially partially sealed off through the establishment and/or upholding of checkpoints surrounding the area, such as the Rejeh checkpoint at the Northern entrance of Yarmouk, the Sbeneh checkpoint, the Babbila/Sidi Muqdad checkpoint, and an additional checkpoint around Husseiniyeh/Aqraba.²
4. In early 2013, the checkpoints started to limit freedom of movement in and out of South Damascus. Initially, only few (mostly women and the elderly) were able to cross in and out of the besieged South Damascus. A limited amount of foodstuff was allowed to enter South Damascus through the checkpoints during this period, but not enough to meet the needs of the local communities. Cases of arbitrary arrests and/or enforced disappearance at the checkpoints were reported during this period.³
5. In or around April 2013, the Syrian regime cut the main electricity power supply to South Damascus, thereby forcing besieged locals to rely on generators, which were costly to run and limited their capacity to meet daily needs. The lack of sufficient power supply directly affected the functioning of the few medical facilities available in the besieged area, especially in light of the continuous flow of casualties from government snipers, bombing and shelling, and attrition.⁴
6. Access in and out of the area was fully sealed off in July 2013. The siege was upheld through checkpoints armed with snipers preventing locals from approaching, as well as military frontlines experiencing active hostilities. This period is commonly referred to as the phase

1. Amnesty International, «Squeezing the Life Out of Yarmouk: War Crimes Against Besieged Civilians», 2014. Accessed June 14, 2023, at: https://www.amnesty.org.uk/files/yarmouk.pdf?VersionId=xSH4BroKGzmfeVzRYE9hGzxn_s0WFDz

2. Ibid.

3. Ibid.

4. Ibid.

of full, or “suffocating,” siege (“الحصار الخانق”) by locals and research participants.⁵ Research participants detailed that the period of “suffocating siege” was accompanied by continuous bombing and the targeting of hospitals, findings supported by the Amnesty report on the siege of Yarmouk.⁶ Civilians injured as a result of the bombing therefore found themselves unable to access necessary medical support due to the region’s decimated medical infrastructure and the slim availability of medicine and medical supplies.

7. The groups that upheld the siege of South Damascus included armed factions likely working directly or indirectly for or in collaboration with the Syrian regime on the northern border of the siege, as well as its eastern and southern border. The Rejeh checkpoint at the northern entrance of Yarmouk was controlled by two local Palestinian factions, the Palestinian Front for the Liberation of Palestine - General Command (hereinafter “PFLP-GC”) under the command of Ahmad Jibril, and the Free Palestine Movement (hereinafter “FPM”), under the command of Yasser Qashlaq, as confirmed recently by a German court in the ruling on the commission of war crimes at a checkpoint upholding the siege.⁷ The ruling also found strong suspicions of these militia’s collaboration with Syrian intelligence’s Palestine Branch.⁸ Interviews with research participants in addition to other resources indicate that the outer borders of Babbila, Beit Sahem, and Yalda (towards Sayyeda Zainab) were likely under the control of local Shiite militias allegedly working in collaboration with regime forces but not directly under their command.⁹
8. According to Amnesty International, the first reported case of death due to malnutrition resulting from the siege in Yarmouk took place in August 2013.¹⁰ Death as a result of malnutrition then became increasingly common between October 2013 and January 2014.¹¹ Amnesty International documented that 194 people were reported dead in Yarmouk alone between the tightening of the siege between July 2013 and February 2014.¹² The three main causes of death listed were starvation, lack of adequate medical care and shooting by snipers.¹³ In Yarmouk, the effects of the siege were exacerbated by the neighbourhood’s residential nature, increasing its vulnerability as opposed to other impacted towns that could maintain access to agricultural land or facilities.¹⁴ However, the situation worsened in the entire besieged area by the start of winter due to the low availability of agricultural goods at that time of the year.¹⁵ In the towns with access to agricultural land, snipers at times targeted farmers as well as other civilians searching for something to eat.¹⁶

5. Ibid.

6. Ibid.

7. This information was obtained from the Moafak D. in-person ruling at the end of the trial. As of the publication date of this report, the ruling has yet to be published. Information was obtained and verified through one of the lawyers involved in the case, Patrick Kroker. In further footnotes, this will be referred to as: Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

8. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

9. For further information refer to Amnesty International, “Squeezing the life out of Yarmouk,” section 1.2.

10. Ibid.

11. Ibid.

12. Amnesty International, “Squeezing the life out of Yarmouk.”

13. Ibid.

14. For further information refer to Amnesty International, “Squeezing the life out of Yarmouk,” section 1.2.

15. Ibid.

16. For further information refer to Amnesty International, “Squeezing the life out of Yarmouk,” section 1.2 and 2.2.

9. The siege began in January 2014, when local agreements were reached to allow foodstuffs to enter each town or group of towns. The groups of locals working on developing such agreements with the Syrian regime were known as reconciliation committees, whose initial aim was to open humanitarian crossings to enable civilians to leave the besieged South of Damascus. The towns of Babbila, Beit Sahem, and Yalda were able to secure an agreement in January 2014, enabling the entry of limited foodstuff. Yarmouk secured a separate agreement in January 2014, which later enabled locals suffering from health problems to access healthcare outside the besieged area and permitted the entry of limited amounts of UNRWA food boxes.¹⁷ Interviews reflect that food was not available in large enough quantities to meet the needs of besieged locals until March 2014, however.
10. Furthermore, the implementation of these agreements was marked by several alleged mass killings and other instances of violence against civilians that were reported to take place at the checkpoints and frontlines upholding the siege prior to the reconciliation agreements, in the context of the ongoing negotiations to open humanitarian corridors for besieged civilians.
11. The events at stake in the case of Moafak D. took place on 23 March 2014, during the distribution of humanitarian aid (UNRWA humanitarian parcels) to civilians at the Rejeh checkpoint at the northern entrance of Yarmouk. The defendant was convicted of four counts of murder as a war crime and two counts of attempted murder as a war crime, by intentionally firing a grenade into a group of civilians queuing for aid parcels. The German ruling is significant beyond his conviction in also confirming the responsibility of Palestinian factions associated with the Syrian government in upholding the siege of Yarmouk, and noting the Syrian regime's greater policy of siege during this time.

17. Ibid.

Methodology

1. This research takes place in the context of SCLSR's engagement in the Moafak D. case and Huquqyat's closing investigation into the events of Ali Al-Wahsh.¹⁸ In their work investigating specific instances of violations that took place during the siege of Yarmouk and South Damascus, both parties found it necessary to develop a comprehensive report enabling a contextual understanding of the siege of South Damascus and its impact on the local population.
2. The events of Ali Al-Wahsh refer to an instance of alleged mass violence that took place on 5 January 2014 at the frontline separating Yalda from Sayyeda Zainab. This was the subject of an investigation and submission in early 2023 to the International Impartial Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011 (hereinafter "IIIM") by Huquqyat.¹⁹ Public information pertaining to the submission can be found on the Huquqyat website.²⁰
3. The case of Moafak D. (February 2023) refers to a German ruling pertaining to a war crime that took place on 23 March 2014 at one of the checkpoints upholding the siege of Yarmouk and South Damascus.²¹ The events at stake took place during the distribution of humanitarian aid (UNRWA humanitarian parcels) to civilians at the Rejeh checkpoint at the northern entrance of Yarmouk. The defendant was convicted of four counts of murder and two counts of attempted murder, by intentionally firing a grenade into a group of civilians queuing for aid parcels. In order to rule on the specific incident at stake, the court had to look into the dire conditions of life under siege in Yarmouk and the besieged population's scarce access to food, and sporadic access to aid following the truce agreement, as well as the dangers faced by the besieged civilian population in accessing aid.
4. The research for this report was conducted by legal investigator and human rights activist Mariana Karkoutly (Huquqyat) and legal investigator and researcher Leila Sibai (Huquqyat) (hereinafter "the legal investigators") with the support of investigator Amjad Hammoud (SCLSR). This research is based on 9 in-depth interviews conducted in person solely for the purpose of this report and draws in addition on 11 testimonies provided by SCLSR obtained for the purpose of ongoing criminal investigations. All research participants lived in South Damascus during the period covered in this report (December 2012 to March 2014).
5. All research participants whose testimony was used in this research consented to the information being used and were told they would not be named in the research itself in

18. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023. For further information refer to part 4. For further information on the Ali Al-Wahsh investigation, refer to the Huquqyat website available at huquqyat.org.

19. For further information on the Ali Al-Wahsh investigation, refer to the Huquqyat website available at huquqyat.org.

20. Ibid.

21. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023. For further information refer to part 4.

order to preserve confidentiality. Participation was voluntary and research participants were informed of the choice to withdraw at any stage. No personal information unnecessary to the research was willingly collected as part of the interview process pertaining to this piece of research. Any identifiable information was anonymised.

6. The legal investigators made sure to speak with research participants of diverse backgrounds in order to enable a representative understanding of how the events taking place as part of the unfolding siege of South Damascus affected people differently depending on socio-economic considerations such as age, gender, and class, as well as residency. Specifically, the legal investigators ensured they spoke with enough women to develop a gendered understanding of the events at stake, based on considerations such as the social role commonly played by women in Syrian society, their access to financial means, infrastructures necessary to survival (food, water, and medical facilities), as well as the specific needs of pregnancy, breast-feeding, and being the main care-taker of infants and young children. For security reasons, no information pertaining to disaggregation is included in this report.

I don't wish the experience of living under siege to anyone. It suffocates people. It kills people.

Interviewee 01, Yarmouk

Introduction

With the support of interviews with research participants and SCLSR witness statements from the Moafak D. investigation, this report analyses the use of siege and starvation against the civilian population in the Palestinian refugee camp of Yarmouk and the besieged South of Damascus from early 2013 until March 2014, when the siege was partially lifted. It builds upon Amnesty International's "Squeezing the life out of Yarmouk" report and the Independent International Commission of Inquiry on the Syrian Arab Republic (hereinafter "Col")'s report in the use of siege as a method of warfare in Syria to delve into the specifics of the siege of South Damascus as a case-study of the Syrian regime's "Kneel or Starve" strategy outlined in the Col report.²² Using prior documentation as a basis and building off additional independent research, this report examines the incremental worsening of conditions of life under siege and its direct impact on civilians, with a view to support the analysis of possible future qualification of specific conduct as forms of deprivation of objects indispensable to the survival of the civilian population in the context of the use of siege and starvation as a method of warfare in Yarmouk and South Damascus. The report suggests that the use of siege warfare by the Syrian regime was seemingly intentional and aimed to bring local populations to surrender through attrition.

This report was developed in the context of ongoing case-work on violations committed as part of the siege of South Damascus during the timeframe of interest. For that reason, the report also includes a section on the findings of the Moafak D. German ruling (concluded in February 2023) that addressed crimes against civilians committed in March 2014 at one of the checkpoints upholding the siege of Yarmouk and South Damascus.²³

This research takes place in the context of the aftermath of the Syrian revolution, the violent repression of the uprising by the Syrian regime, and the armed conflict which has unfolded since. The Syrian revolution began in March 2011 in Daraa, the southwest of Syria, and spread quickly throughout the country.²⁴ The "Arab Spring," a wave of popular uprisings which spread across the region of West Asia and North Africa (hereinafter "WANA") in the winter and spring of 2011, influenced Syrian civil society to rise up against the status quo.²⁵ When the uprising in Syria began, the Baath party had been ruling the country for almost five decades: three

22. Office of the United Nations High Commissioner for Human Rights, «Sieges as a Weapon of War: Encircle, Starve, Surrender, Evacuate» 29 May 2018. Accessed June 14, 2023, at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ColSyria/PolicyPaperSieges_29May2018.pdf and Amnesty International, "Squeezing the life out of Yarmouk."

23. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023. For further information refer to part 4.

24. See for example: Leila Al-Shami and Robin Yassin-Kassab, *Burning Country: Syrians in Revolution and War* (United Kingdom: Pluto Press, 2016), chapter 3.

25. Ibid.

under Hafez al-Assad and one under his son Bashar al-Assad.²⁶ The uprising was met directly with violent repression against protestors, ultimately escalating to an armed conflict between groups loyal to the Assad regime and those in opposition.²⁷

Amongst the many means of repression used by the Syrian regime was the systematic use of siege as a method of warfare. The systematic use of siege and starvation by the Syrian regime was reported on by the Independent International Commission of Inquiry on the Syrian Arab Republic (hereinafter “Syria Col” or “Col”) in its report, “Sieges as a weapon of war: encircle, starve, surrender, evacuate,” which presents it as a form of collective punishment.²⁸ The Col report outlined the Syrian regime’s use of siege warfare throughout the country—part of what has come to be known as the “kneel or starve” strategy—and explains the different stages and elements of siege warfare as it was used in Syria. The report detailed how “civilians in besieged areas throughout the country [had] been encircled, trapped, prevented from leaving; indiscriminately bombed and killed; starved, and routinely denied medical evacuations, the delivery of vital foodstuffs, health items, and other essential supplies—all in an effort to compel the surrender of those “governing” or in control of the areas in which they live[d].”²⁹

The siege of South Damascus and particularly Yarmouk was among the most publicised cases of the regime’s use of starvation against a civilian population, leading to one of the highest numbers of documented deaths by starvation throughout the conflict in Syria. It was documented both by Amnesty International and by the Syria Col.³⁰

This report starts by looking into siege as a method of warfare generally, in Syria, and specifically in South Damascus during the relevant time frame. It outlines the Syrian regime’s “Kneel or Starve” strategy, as described in the Syria Col report,³¹ and looks into the geography of the besieged area, as well as its socio-cultural specificities and complexities. Building upon Siege Watch reports, it also looks into the nature of the various besieged towns and how it affected the intensity of the siege on the local population. Building upon the Moafak D. ruling and prior investigations by SCLSR and Huquqyat, this part also outlines a general timeline of the unfolding of the siege, and shortly presents existing information on armed groups allegedly involved in upholding the siege on its outer borders.

The second part of the report builds upon in-depth interviews with research participants and SCLSR witness statements from the Moafak D. investigation to develop a detailed account of the conditions of life under siege in South Damascus. It outlines the decrease in the availability of food and evolution of goods consumed by besieged locals as the siege unfolded including food alternatives when even herbs became scarce, resulting in the documented death of

26. Al-Shami, Yassin-Kassab, *Burning Country*, 2016, chapter 13-.

27. Al-Shami, Yassin-Kassab, *Burning Country*, 2016, chapter 35-.

28. Office of the United Nations High Commissioner for Human Rights, «Sieges as a Weapon of War.”

29. Office of the United Nations High Commissioner for Human Rights, «Sieges as a Weapon of War.”

30. See for example: United Nations Human Rights Council, “Report of the independent international commission of inquiry on the Syrian Arab Republic”, A/HRC/25/12 .65/ February 2014. Accessed June 14, 2023, at: <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session25/list-reports>.

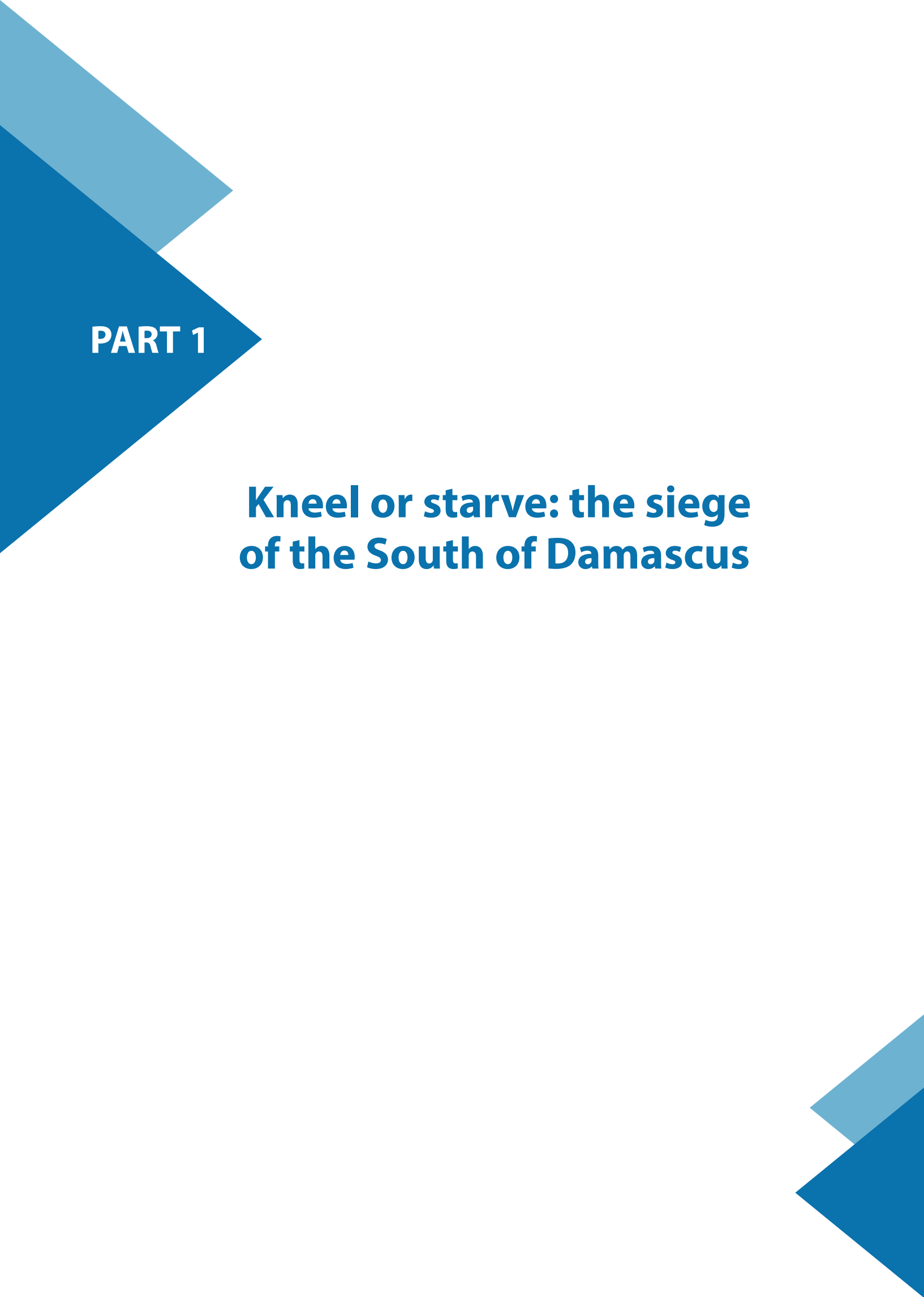
31. Office of the United Nations High Commissioner for Human Rights, «Sieges as a Weapon of War.”

besieged civilians, as well as other relevant conducts associated with siege warfare and starvation: the targeting of agricultural land and infrastructure; the cutting off of access to electricity, local alternatives for cooking and heating and their impact on the health of the besieged population; the cutting off of water, local alternatives and their impact on the health of the besieged population; the targeting of medical infrastructure and bakeries. Finally, this part also looks into the truce and ceasefire agreements that enabled the sporadic entry of foodstuff and aid boxes into the besieged South Damascus in early 2014, thereby putting an end to the period of complete “suffocating” siege.

Building upon Global Rights Compliance (hereinafter “GRC”)’s detailed legal analysis of siege warfare in international law, the third part of this report looks into the legality of the use of siege as a method of warfare and the prohibition of the deliberate starvation of a civilian population.³² This part looks into the following elements: siege as a method of warfare in International Criminal Law, International Human Rights Law and International Humanitarian Law; starvation in International Criminal Law and International Humanitarian Law; starvation and state obligations under the International Human Rights Law framework; legal avenues for criminal responsibility for individual who committed atrocity crimes in Syria. This part looks into relevant legal aspects of siege warfare and starvation as researched by GRC, with a view to suggest legal avenues relevant for the possible future prosecution of such conducts as they occurred in Syria during the siege of Yarmouk and South Damascus.

The fourth and last part of this report outlines the details of the investigation and court ruling of the Moafak D. case in Germany, and its significance as the first case for atrocity crimes committed in Syria pursued under universal jurisdiction looking into the Syrian regime’s use of siege warfare and collaboration with non-state armed militias.

32. Since 2017, GRC has been working to identify how international law may be used to advance the prevention, prohibition and accountability for starvation through their Accountability for Mass Starvation Project. GRC offers unparalleled expertise on the crime of starvation and associated violations. A comprehensive resource on the topic would be: Bridget Conley et al., ed., *Accountability for Mass Starvation: Testing the Limits of the Law* (Oxford University Press, 2022), which includes work on Syria.

The image features a white background with two large, overlapping blue geometric shapes in the corners. In the top-left corner, there is a light blue triangle pointing right and a darker blue triangle pointing right, partially overlapping it. In the bottom-right corner, there is a light blue triangle pointing left and a darker blue triangle pointing left, also partially overlapping it. The text 'PART 1' is written in white, bold, sans-serif capital letters within the darker blue triangle in the top-left corner.

PART 1

Kneel or starve: the siege of the South of Damascus

*“The siege affected civilians psychologically and created two groups of people. One whose hatred towards the regime increased: their relationship with the Syrian regime was one of absolute hostility. To them, there was no room for any compromise. The second group of civilians, to me, were the example the regime intended to make in using siege, “the good citizens,” who do not have any belief in the possibility of changing the political situation, neither through a peaceful revolution nor through an armed revolution. To them, the only way to live is to live in fear of the regime.”*³³

Interviewee 02

1.1 Siege as a method of warfare

It is often said that no military operation deprives the civilian population of life-sustaining support as drastically, deliberately, and systematically as a siege.³⁴ Historically, siege tactics have accounted for the longest running operations and some of the most horrendous accounts of human suffering in conflict.³⁵ Siege warfare was typically employed when the besieging party, unable to capture the city, surrounded it as a way to bring the besieged party to surrender through attrition.³⁶ According to Van Shaack (2016),

*“Siege warfare is a tactic developed during the Middle Ages that involves surrounding a garrison or a populated area with the goal of driving out the enemy forces by deteriorating their defences and cutting them off from reinforcements and vital supplies.”*³⁷

When used by a state actor, siege enables the besieger — in this case the Syrian regime — to isolate and contain sources of rebellion or, as stated in the Syria Col report, “to compel the surrender of those governing or in control.”³⁸ The “kneel or starve” policy (الجوع أو الركوع) refers to a pattern of conduct used by the Syrian regime to force capitulation in opposition-held areas. It was publicly advertised as such by pro-regime militias through graffiti found on walls throughout the country, including checkpoints and other military points, alongside other pro-Assad slogans, such as “Assad, or we burn the country.”³⁹ The Syria Col used the slogan “kneel or starve” in their report to accentuate the essence of this systematic campaign, which they characterise as a form of collective punishment of the civilian population.⁴⁰ The characterisation is shared by multiple research participants. In particular, interviewee 2, who is quoted in the introduction to this section, spoke of the polarising psychological impact of this collective punishment on the besieged civilians: either increasing their cemented firm

33. Interviewee 1, Yarmouk, as interviewed by the legal investigators for the purpose of this report.

34. Sean Watts, “Humanitarian Logic and the Law of Siege: A Study of the Oxford Guidance on Relief Actions”, *International Law Studies* 95 (2019): 4.

35. Watts, “Humanitarian Logic and the Law of Siege”; Michael Jackson, Lionel Beehner, Benedetta Berti, “Modern Siege Warfare: How It Is Changing Counterinsurgency”, *Foreign Affairs*, 7 December 2016. Accessed August 28, 2020, at: <https://www.foreignaffairs.com/articles/syria/201607-12/modern-siege-warfare>.

36. Jackson, Beehner and Berti, “Modern Siege Warfare.”

37. Beth Van Schaack, “Siege Warfare and the Starvation of Civilians as a Weapon of War and War Crime,” *Just Security*, 4 February 2016. Accessed June 14, 2023, at: <https://www.justsecurity.org/29157/siege-warfare-starvation-civilians-war-crime/>.

38. Will Todman, “Isolating Dissent, Punishing the Masses: Siege Warfare as Counter-Insurgency,” *Syria Studies*, Vol. 9 no 1 (April 2017), 1.

39. See for example: Elizabeth Tsurkov, Qussai Jukhadar, “Kneel and Starve: Under the Watchful Eye of the Secret Police, Syrians Go Hungry,” *Newlines Institute for Strategy and Policy*, 9 February 2021. Accessed June 14, 2023, at: <https://newlinesinstitute.org/syria/kneel-and-starve-under-the-watchful-eye-of-the-secret-police-syrians-go-hungry/>.

40. Office of the United Nations High Commissioner for Human Rights, “Sieges as a Weapon of War.”

opposition to the besieging Syrian regime or turning the locals into obedient subjects scared to disturb political status quo.⁴¹

Previous documentation and discussion of the siege of Yarmouk often highlights that Palestinian residents in Yarmouk wished to remain neutral and took no clear stand against the Syrian regime.⁴² This finding echoes the finding of the Moafak D. trial, in which it was found that the atmosphere was initially neutral, with some anti-government protests taking place from summer 2011 onwards.⁴³ Local sources and interviews with research participants seem to indicate that not all residents refrained from showing opposition to the Syrian regime, especially in light of the violence they faced since the first protests erupted in Yarmouk. Whether Palestinians in Syria intended to stay neutral, supported the Syrian regime for its alleged support to the Palestinian resistance against Israel, or tolerated it as part of a shared lived reality of fear to oppose or criticise the regime, popular protests and other forms of popular resistance took place in Yarmouk since the summer of 2011 and were met by the Syrian regime with a violent crackdown consistent with its response to popular protests throughout the country.

1.2 The siege of the South of Damascus

“They distributed weapons among those who registered in the popular committees and that’s when the fighting started inside Yarmouk between those who were supporting the Syrian regime from the committee’s members and those who were opposing it... Arming some civilians in Yarmouk was a trap, and as a result, only civilians paid the price and were besieged under the pretext of the weapons that were given to them by the regime’s militias.”⁴⁴

Interviewee 02

1.2.1 Geography and socio-cultural aspects

The siege of South Damascus lasted between December 2012 and May 2018, when the regime launched an offensive and recaptured the area, leading to evacuation agreements.⁴⁵ This report focuses on the establishment of the siege starting in December 2012 and the period of “suffocating siege” that ended when local agreements were reached in early 2014 to permit the entry of limited foodstuff and medical supplies. The area encompasses all towns and neighbourhoods impacted by the siege, shown in the map above (see Annex 1), including Yarmouk, Al-Qadam, Beit Sahem, Yalda, Babbila, and Al-Hajad Al-Aswad.

41. Interviewee 2, Yarmouk, as interviewed by the legal investigators for the purpose of this report.

42. See for example: Amnesty International, “Squeezing the life out of Yarmouk”; or Natasha Hall, “Palestinian Refugees and the Siege of Yarmouk,” Carnegie Endowment for International Peace, March 13, 2014 (last accessed June 14, 2023), accessible at <<https://carnegieendowment.org/sada/54925>>.

43. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023. For further information refer to part 4.

44. Interviewee 2, Yarmouk, as interviewed by the legal investigators for the purpose of this report.

45. See for example: United Nations High Commissioner for Refugees, “Syria: Flash update on recent events - 9 May 2018,” May 9, 2018. Accessed June 14, 2023, at: <https://reliefweb.int/report/syrian-arab-republic/syria-flash-update-recent-events-9-may-2018>.

Siege of South Damascus

Legend

- Line of Siege
- Damascus boundary
- Rural Damascus boundary
- Residential areas
- Highways
- Primary roads
- Roads
- Railway
- Hospitals

0 0.75 1.5 km



Annex 1: Map showing the approximate borders of the siege of South Damascus as of early 2014. The map was developed with the support of Dafni Karavola. It shows the official boundaries of the governorate of Damascus and Rural Damascus, the main roads, as well as some of the official hospitals within the besieged South Damascus.

Despite being a relatively small geographical area, South Damascus faced a complicated web of challenges.⁴⁶ Located directly at the south of the Syrian capital, Yarmouk was considered its southern gate, key to seizing Damascus.⁴⁷ Yarmouk attracted further attention due to its special historical status as a Palestinian refugee camp.⁴⁸ Yalda is north of Sayyeda Zainab, which is home to an important Shiite religious site and the headquarters of multiple Shiite armed factions allegedly “defending the Shrine of Sayyeda Zainab” alongside Syrian regime forces.⁴⁹ Beit Sahem is situated to the west of the airport road, connecting Damascus to its international airport and considered a strategic location of control for the Syrian regime forces.

46 Siege Watch, “First Quarterly Report on Besieged Areas in Syria-February 2016” February 2016. Accessed June 14, 2023, at: <https://siegewatch.org/reports/>.

47. Hall, “Palestinian Refugees and the Siege of Yarmouk.”

48. As of 2011, Yarmouk was considered the largest Palestinian refugee camp in Syria and was considered the capital of Palestinian diaspora in Syria. Yarmouk was established in 1957 and is a densely populated area. It occupies an area of 2.1 square kilometres to accommodate refugees who were scattered in mosques, schools and other public places. Because of its status as a Palestinian refugee camp, Yarmouk and its residents had historically benefited from the official support and services provided by UNRWA. The usual access streams for services do not always apply to Palestinian refugees, who normally have to go through a separate pipeline to access services. According to research participants, this division still applied during the siege and Palestinians had to reach separate agreements of their own to obtain permission to leave the siege, or access services and aid. For further information see: United Nations Relief and Works Agency for Palestine Refugees in the Near East. «Yarmouk (unofficial camp).» Accessed June 14, 2023, at: <https://www.unrwa.org/where-we-work/syria/yarmouk-unofficial-camp>

49. See for example, Siege Watch, “First Quarterly Report on Besieged Areas in Syria-February 2016.”

Finally, although outside the temporal and thematic scope of this report, the only Islamic State contingent in the Damascus area was in South Damascus. Its founding members were based in Yalda during the time frame covered in this report and already formed the armed group that later declared allegiance to the Islamic State.⁵⁰

In addition to this, various armed groups were present in the different towns or neighbourhoods, upholding internal checkpoints on the frontlines.⁵¹ The presence, role, and responsibility of non-state armed groups within the besieged South Damascus is not addressed by the present report due to the complexity of the situation. This complexity extends to the fragmented attempted provision of humanitarian aid by the United Nations to besieged locals, with United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter “UNRWA” responsible for Yarmouk and the Palestinian communities, and UN OCHA and other agencies responsible for everyone else.⁵²

Besieged South Damascus consisted of residential areas (Yarmouk, Al-Hajar Al-Aswad), and agricultural areas (Al-Qadam, Beit Sahem, Yalda, Babbila).⁵³ Although all the above-mentioned towns were part of the siege of South Damascus, as of December 2015, only Yarmouk had been listed as “besieged” by UN OCHA.⁵⁴ Yarmouk was removed from the UN OCHA list in April 2015.⁵⁵ Within the timeframe of this report, all listed areas were besieged by government or government-affiliated factions. Such government-affiliated factions include the Palestinian Front for the Liberation of Palestine - General Command (hereinafter “PFLP-GC”) and other pro-regime Palestinian factions in Yarmouk.⁵⁶ Further information on such government-affiliated factions is available in further sections of this report.

The now discontinued Siege Watch project monitored, inter alia, the situation of South Damascus. Siege Watch was a Dutch PAX initiative that aimed to provide the international community with up-to-date information on Syria’s besieged communities. Data was collected

50. For detailed information on the establishment and development of the local ISIS faction under the initial command of Yalda resident Abdallah Abu Sayyah Tayyara, see for example: Chris Kozak, “The Islamic State Eyes Expansion in Damascus,” Institute for the Study of War, 20 January 2015. Accessed June 14, 2023, at: <https://www.iswresearch.org/201501//the-islamic-state-eyes-expansion-in-damascus/>; “قادة داعش بعد اغتيالها طبيبا ميدانيا وخمسة ممرضين في ريف دمشق تفاقم الصراع بين «داعش» و«الكتائب الإسلامية»,” Al-Quds Al-Arabi, 31 May 2014. Accessed June 14, 2023, at: [https://www.alquds.co.uk/%ef%bb%bf%d8%a8%d8%b9%d8%af-%d8%a7%d8%ba%d8%aa%d98%a%d8%a7%d984%-%d987%-%d8%a7-%d8%b7%d8%a8%d98%a%d8%a8%d8%a7-%d985%-%d98%a%d8%af%d8%a7%d986%-%d98%a%d8%a7-%d988%-%d8%ae%d985%-%d8%b3%d8%a9-%d985%-%d985%-%d8%b1/](https://www.alquds.co.uk/%ef%bb%bf%d8%a8%d8%b9%d8%af-%d8%a7%d8%ba%d8%aa%d98%a%d8%a7%d984%-%d987%-%d8%a7-%d8%b7%d8%a8%d98%a%d8%a8%d8%a7-%d985%-%d98%a%d8%af%d8%a7%d986%-%d98%a%d8%a7-%d988%-%d8%ae%d985%-%d8%b3%d8%a9-%d985%-%d985%-%d8%b1/;); Nidal Betare, “ISIS from Southern Damascus to AsSuwayda,” People Demand Change, 2 August 2018. Accessed June 14, 2023, at <https://www.peopledemandchange.com/201802/08//isis-from-southern-damascus-to-as-suwayda/>; Ameen Al-Assi, “نضيق الخناق على «داعش» جنوب دمشق: تكرار سيناريو الرقة,” The New Arab, 9 May 2018. Accessed June 15, 2023, at: [https://www.alaraby.co.uk/%D8%AA%D8%B6%D98%A%D98%A%D982-%D8%A7%D984%-%D8%AE%D986%-%D8%A7%D982-%D8%B9%D984%-%D989-%22%-%D8%AF%D8%A7%D8%B9%D8%B422-%D8%AC%D986%-%D988%-%D8%A8-%D8%AF%D985%-%D8%B4%D982-%D8%AA%D983%-%D8%B1%D8%A7%D8%B1-%D8%B3%D98%A%D986%-%D8%A7%D8%B1%D988%-%D988-%D8%A7%D984%-%D8%B1%D982%-%D8%A9](https://www.alaraby.co.uk/%D8%AA%D8%B6%D98%A%D98%A%D982-%D8%A7%D984%-%D8%AE%D986%-%D8%A7%D982-%D8%B9%D984%-%D989-%22%-%D8%AF%D8%A7%D8%B9%D8%B422-%D8%AC%D986%-%D988%-%D8%A8-%D8%AF%D985%-%D8%B4%D982-%D8%AA%D983%-%D8%B1%D8%A7%D8%B1-%D8%B3%D98%A%D986%-%D8%A7%D8%B1%D988%-%D988-%D8%A7%D984%-%D8%B1%D982%-%D8%A9;);

51. See for example, Siege Watch, “First Quarterly Report on Besieged Areas in Syria-February 2016.”

52. Ibid.

53. Interviewee 2, Yarmouk, and Interviewee 3, Beit Sahem, as interviewed by the legal investigators for the purpose of this report.

54. See for example, Siege Watch, “First Quarterly Report on Besieged Areas in Syria-February 2016;” or Annie Slemrod, “UN changes Syria siege list, adds Madaya and Yarmouk,” The New Humanitarian, 1 February 2016. Accessed June 15, 2023, at: <https://www.thenewhumanitarian.org/feature/2016/02/01/un-changes-syria-siege-list-adds-madaya-and-yarmouk>; the relevant datasets are available on the The Humanitarian Data Exchange, accessible at <https://data.humdata.org/>

55. Siege Watch, “Out of Sight, Out of Mind: the Aftermath of Syria’s Sieges February–May 2018,” February 2016. Accessed June 14, 2023 at: <https://siegewatch.org/reports/>; Nidal Betare, “Syria’s Yarmouk Camp is Still Besieged,” Middle East Institute, 14 September, 2015. Accessed June 15, 2023, at: <https://www.mei.edu/publications/syrias-yarmouk-camp-still-besieged>.

56. Siege Watch, “First Quarterly Report on Besieged Areas in Syria-February 2016”; Siege watch lists the local Islamic State faction (ISIS) as one of the factions responsible for the siege in Yalda, however although the individuals who would later come to be essential to the establishment of the local ISIS faction were already present in Yalda at that time, ISIS was officially only formed later in 2014. For further information see for example: Kozak, “The Islamic State Eyes Expansion in Damascus;” “قادة داعش .. أعجزوا النظام فقتلهم داعش,” Akhbar Al-Aan; “بعد اغتيالها طبيبا ميدانيا وخمسة ممرضين في ريف دمشق تفاقم الصراع بين «داعش» و«الكتائب الإسلامية»,” Al-Quds Al-Arabi.

on an ongoing basis from an extensive network of contacts on the ground, disseminated through in-depth quarterly reports, and visualised through an interactive map. Although the Siege Watch project was discontinued, the data collected is still available on their website.⁵⁷

UN OCHA defines a besieged area in Syria as “an area surrounded by armed actors with the sustained effect that humanitarian assistance cannot regularly enter, and civilians, the sick and wounded cannot regularly exit.”⁵⁸ This same definition is used by the Siege Watch project. The project classifies sieges into three tiers according to their intensity, using a classification scheme proposed by the Syrian American Medical Society (hereinafter “SAMS”).⁵⁹ All three tiers and all besieged communities monitored and reported as part of Siege Watch’s public reports meet or exceed this standard.

Between the beginning of 2013 and the middle of 2014, Yarmouk was classified by Siege Watch as tier one, the highest level of siege.⁶⁰ little to no foodstuff could enter, generally through smuggling or bribery; the assistance provided (if any) was insufficient for the population. Residents were considered to be at high risk of malnutrition, dehydration, and denial of medical care. Siege Watch recorded the death of 182 individuals due to the siege in Yarmouk as of November 2015.⁶¹

Between late 2012 and the middle of 2014, Al-Hajar Al-Aswad was classified by Siege Watch as tier two.⁶² Tier two constitutes a moderate level of siege: small amounts of supplies could be smuggled in, usually through bribery; supplies could be purchased on the black market at very high prices; food deliveries were not allowed through but besieged locals may have had access to alternative food sources such as local agricultural land and facilities; assistance was insufficient for the population; the area was frequently attacked by besieged forces, resulting in medical emergencies. Residents were considered to be at moderate risk of malnutrition and dehydration and high risk of denial of medical care.

Finally, Siege Watch classified Al-Qadam, Beit Sahem, Yalda, and Babbila as tier three between the middle of 2013 and February 2014.⁶³ At this lowest level, supplies were not officially allowed through but were smuggled in regularly; the population maintained consistent access to alternative food sources, such as local agricultural land and facilities; the assistance provided (if any) was insufficient for the besieged population; the area was frequently attacked by besieging forces, resulting in medical emergencies.⁶⁴ Residents in areas classified as tier three

57. For further information refer to the Siege Watch database accessible at <https://siegewatch.org/>.

58. United Nations Office for the Coordination of Humanitarian Affairs, “2017 Humanitarian Needs Overview - Syrian Arab Republic,” December 2016. Accessed June 15, 2023, at: https://www.unocha.org/sites/dms/Syria/2017_Syria_hno.pdf

59. For further information refer to the Siege Watch website accessible at: <https://siegewatch.org/about-the-siege-watch/>; SAMS proposed this classification in its March 2015 ‘Slow Death’ report: Syrian American Medical Society, “Slow Death: Life and Death in Syrian Communities Under Siege,” March 2015. Accessed June 15, 2023, at: https://www.sams-usa.net/wp-content/uploads/201609/Slow-Death_Syria-Under-Siege.pdf.

60. For further information refer to the Siege Watch database accessible at <https://siegewatch.org/>.

61. Ibid and Amnesty International, “Squeezing the life out of Yarmouk”. According to the Amnesty report, the first reported case of death due to malnutrition resulting from the siege in Yarmouk took place in August 2013. Death as a result of malnutrition then became increasingly common between October 2013 and January 2014. According to the Amnesty report, 194 people were reported dead in Yarmouk alone between the tightening of the siege between July 2013 and February 2014. The three main causes of death listed were starvation, lack of adequate medical care and shooting by snipers.

62. For further information refer to the Siege Watch database accessible at <https://siegewatch.org/>.

63. Ibid.

64. Ibid.

were considered to be at low risk of malnutrition/dehydration and moderate risk of denial of medical care.⁶⁵

Notwithstanding the different tier classifications within besieged South Damascus, interviews indicate that besieged locals were able to move between the different towns and neighbourhoods throughout the period covered in this report (early 2013 to March 2014). According to interviews, the speed at which each neighbourhood was affected by the complete closure varied, resulting in differing impacts. Residential areas like Yarmouk ran out of available foodstuff shortly after the complete closure of the checkpoints, whereas due to their access to agricultural facilities and knowledge, agricultural areas such as Beit Sahem, Yalda, and Babbila were affected at a later stage.⁶⁶ Because each area negotiated its own separate ceasefire agreement with the Syrian regime, the availability and price of food differed, especially towards the beginning of 2014.

1.2.2: The unfolding of the siege: timeline and control

“Back then the days were full of meaning, even in the last months of the siege when we were not actively involved in any political action anymore [...]. We had hope. For forty years, people could not do anything to change politics in Syria, and then the moment came when we could actually do something—change something—but we failed or have been made to fail...”

Interviewee 02

The siege of South Damascus was established gradually following the Syrian regime’s military withdrawal and their airstrikes on multiple civilian objects on 16 December 2012, including the Abd Al-Qader Al-Husseini mosque.⁶⁷ This date marks the start of the gradual worsening of the situation inside the besieged South Damascus overall.⁶⁸ At the time of the strikes, the Abd Al-Qader Al-Husseini mosque was hosting hundreds of displaced families who had fled neighbouring areas to Yarmouk.⁶⁹ The strike on the mosque is considered the defining moment prompting the further displacement of many Palestinian refugees from Yarmouk:

“Most of Yarmouk camp’s inhabitants left it after the regime’s bombardment of the mosque of Abd Al-Qader Al-Husseini – that lies in the heart of the camp - on December 16, 2012. Following this attack, the opposition groups entered the camp, and regime forces started a severe siege over the camp, with its allies of Palestinian factions (Palestinian Liberation Army, Fatih Intifada, Free Palestine, Liwa Quds...) in July 2013.”⁷⁰

Democratic Republic Studies Center, 2021

65. Ibid.

66. Interviewee 2, Yarmouk, interview 3, as interviewed by the legal investigators for the purpose of this report.

67. Amnesty International, “Squeezing the life out of Yarmouk,” 7.

68. Amnesty International, “Squeezing the life out of Yarmouk,” 7; confirmed in interviews with research participants, see for example interviewee 2, Yarmouk, interview 10, Yarmouk as interviewed by the legal investigators for the purpose of this report.

69. See for example Amnesty International, “Squeezing the life out of Yarmouk,” 7.

70. Democratic Republic Studies Center, “Yarmouk Camp Set on Fire,” 22 April 2018. Accessed June 15, 2014, at: <http://drsc-sy.org/en/yarmouk-camp-set-on-fire/, 2>.



Annex 2: Photo from the Babbila checkpoint - Sidi Muqdad which was opened after the truce agreement in February 2014

The partial siege started in or around March 2013, when control at the checkpoints surrounding South Damascus was tightened.

For the purpose of this report, checkpoints refers to fixed manned barriers where security checks are carried out, and crossings to a temporary checkpoint opening on a specific occasion for a limited amount of time, on what is normally an active military frontline, often in the near vicinity of military headquarters.

The checkpoints surrounding South Damascus at the time of the siege include the Rejeh checkpoint at Yarmouk's northern entrance (also known as the "Batikha roundabout checkpoint," or the Yarmouk checkpoint, and later referred to as the "boxes checkpoint"),⁷¹ which existed prior to this date; the Sbeneh checkpoint; the Babbila checkpoint (also known as the "Sidi Muqdad checkpoint"); and a checkpoint around Al-Husseiniyeh and/or Aqraba.⁷²

71. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

72. See for example interviewee 2, Yarmouk, interviewee 9, as interviewed by the legal investigators for the purpose of this report; or Enab Baladi, "الجوع أو الركوع", Enab Baladi, 27 October 2013. Accessed June 15, 2023, at: <https://www.enabbaladi.net/archives/13184>



Annex 3: Photo from the Babbila checkpoint - Sidi Muqdad which was opened after the truce agreement in February 2014

These military checkpoints constituted the major entrances in and out of South Damascus at the time. As such, the Syrian regime was able to control the movement of what was estimated to be hundreds of thousands of people in and out of the besieged areas, then under opposition control: Yarmouk, Al-Qadam, Al-Hajar Al-Aswad, Sbeneh, Al-Dhiyabiah, Al-Bweida, Babbila, Beit Sahem, Yalda, and Hajjira.⁷³ When the complete siege started in July 2013, that number had significantly decreased.⁷⁴

During the period of March to July 2013, a limited amount of foodstuffs and other supplies were allowed through the checkpoints, but not enough to meet the needs of the local populations.⁷⁵ Civilians were scared to cross the checkpoints out of fear of being subjected to arbitrary detention, as was common practice at the time at regime-held checkpoints throughout the country. Young men were most commonly stopped at Syrian regime checkpoints, and regularly

73. Enab Baladi, "الجوع أو الركوع,"

74. Interviewee 2, Yarmouk, as interviewed by the legal investigators for the purpose of this report.

75. See for example interviewee 2, Yarmouk, or interviewee 9, as interviewed by the legal investigators for the purpose of this report.

subjected to arbitrary arrests and enforced disappearance.⁷⁶ For that reason, a majority of those crossing the Rejeh checkpoint in Yarmouk at the time were women and elderly people, who were less at risk of arbitrary arrest or enforced disappearance.⁷⁷ Some of the women interviewed for this report crossed the Rejeh checkpoint regularly during that period and reported directly witnessing cases of arbitrary arrests and/or enforced disappearance at this checkpoint.⁷⁸

The siege had fully sealed off access to south Damascus by July 2013, at the beginning of Ramadan.⁷⁹ Interviewees stated that all checkpoints had been fully closed off and that individuals who approached checkpoints would be sniped at by the armed factions located on the outer borders of the siege.⁸⁰ The besieged area was surrounded by active military frontlines that people could not approach, with presence of armed factions close to the frontline on both sides, along with “crossings” referred to by research participants as military “mooring points.”⁸¹ Research participants described crossings, such as the Beit Sahem crossing or the Ali Al-Wahsh crossing mentioned towards the end of this report (where coordinated evacuations were attempted), as military “mooring points” that would only open in specific instances, rather than established checkpoints.⁸²

The borders of the siege remained stable for a few months until October 2013, when the Syrian regime and its allies launched an offensive on the southern border of the besieged areas, allegedly in defence of the shrine of Sayyeda Zainab.⁸³ The military offensive led to the Syrian regime and Shiite militias quickly gaining control over Al-Husseiniyeh, Al-Dhiyabieh, Hajjira, Al-Bweida and Sbeneh, displacing their residents towards other towns within the besieged area.⁸⁴ Following this military offensive, the borders of the siege remained stable (see Annex 1 above).

The Rejeh checkpoint at the northern entrance of Yarmouk was controlled by two local

76. SNHR reported that no less than 117,000 individuals were arrested between March 2011 and March 2014. According to SNHR and OHCHR, many arrested individuals weren't arrested because of a crime they committed, but because of their relatives' involvement with armed opposition factions, because they provided humanitarian aids, or because themselves or a relative defected; most of the arrests are being conducted randomly and involve people who weren't involved in the popular protests, relief, or even military activity; most of those subjected to enforced disappearance and arbitrary arrests were young men. For more information, see: Syrian Network for Human Rights, «Number of detained and missing persons in Syria since the start of the Syrian Revolution up to April 2014: 215,000 individuals.» April 8, 2014. Accessed June 26, 2023.

<https://snhr.org/blog/2014/04/08/49449/> and Office of the United Nations High Commissioner for Human Rights, «Without a Trace: Enforced disappearances in Syria.», 19 December 2013, Accessed June 26, 2023, at: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ColSyria/ThematicPaperEDInSyria.pdf> and United Nations Human Rights Council. «Report of the Independent International Commission of Inquiry on the Syrian Arab Republic.» A/HRC/2358/. Accessed June 26, 2023. <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-2358-en.pdf>. Further information on Syrian regime checkpoints as of April 2013 can be found: Syrian Network for Human Rights, “Types of Checkpoints Used by the Syrian Regime to Besiege and Arrest Citizens”. 24 March 2013. Accessed June 26, 2023, at: https://snhr.org/wp-content/pdf/english/Types_of_barriers_en.pdf

77. Interviewee 6, interviewee 7, interviewee 10, as interviewed by the legal investigators for the purpose of this report.

78. Interviewee 6, interviewee 7, as interviewed by the legal investigators for the purpose of this report.

79. Interviewee 2, interviewee 10, interviewed by the legal investigators for the purpose of this report.

80. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

81. Interviewee 3, interviewed by the legal investigators for the purpose of this report.

82. Ibid.

83. Interviewee 2, interviewed by the legal investigators for the purpose of this report. For further information see «لجنة حزب الله في سوريا. أخبار» Al Jazeera, 28 February 2018, Accessed July 10, 2023, at: <https://www.aljazeera.net/news/2018/2/28/%D8%A7%D9%84%D8%AF%D9%81%D8%A7%D8%B9-%D8%A7%D9%84%D9%85%D9%82%D8%AF%D8%B3-%D9%84%D8%B9%D8%A8%D8%A9-%D8%AD%D8%B2%D8%A8-%D8%A7%D9%84%D9%84%D9%87-%D9%81%D9%8A-%D8%B3%D9%88%D8%B1%D9%8A%D8%A7>

84. Local residents in those areas were faced with the choice to either live under regime control, or be locally displaced within besieged South Damascus when they did not consider the option of living under regime control safe or acceptable, as a result of the Syrian regime's violent backlash against its population, including the systematic use of arbitrary arrest and enforced disappearance commonly used with no clear justification. This was mentioned by interviewee 2, as interviewed for the purpose of this research. See also Syrian Network for Human Rights, «Number of detained and missing persons in Syria...» and Office of the United Nations High Commissioner for Human Rights. «Without a Trace»; United Nations Human Rights Council A/HRC/2358/

Palestinian factions, the Palestinian Front for the Liberation of Palestine - General Command (hereinafter "PFLP-GC") under the command of Ahmad Jibril, and the Free Palestine Movement (hereinafter "FPM"), under the command of Yasser Qashlaq, as was confirmed in the ruling of the Moafak D. case.⁸⁵ The ruling also found that there were strong suspicions of collaboration with Syrian intelligence branches.⁸⁶ By outlining the role of the Palestinian factions (FPM and PFLP-GC) at the Rejeh checkpoint, the Moafak D. ruling confirmed their responsibility in upholding the siege of Yarmouk and the Syrian regime's policy of siege.⁸⁷ According to the court, there seemed to be a strong overlap between FPM and PFLP-GC - making the division of roles and responsibility between them unclear - as well as a strong suspicion of collaboration with the Syrian regime's Palestine branch.

During its investigation into the circumstances surrounding the case of Moafak D. case, SCLSR researched the different factions present at the Rejeh checkpoint at the northern entrance of Yarmouk and involved in upholding the siege of South Damascus and violations committed at the checkpoint. Through multiple witness testimonies, SCLSR was able to corroborate the involvement of the following armed factions.⁸⁸

Popular Front for the Liberation of Palestine - General Command (PFLP-GC) - Popular Committees

The PFLP-GC is a subsection of the PFLP, an umbrella organisation for Marxist-Leninist and Arab nationalist groups, which was established and headed by Ahmad Jibril from 1968 until his death in July 2021.⁸⁹ The PFLP-GC has historical links with the Syrian regime and was publicly affiliated with it during the siege of Yarmouk.⁹⁰

According to multiple SCLSR interviews, popular committees (اللجان الشعبية) started to be established towards the end of June 2012 throughout Syria. The PFLP-GC initially opened an office at its headquarters in Yarmouk to register new members, with the intention of forming a popular committee in the area. According to witnesses' accounts, the number of popular committee members reached around 500 individuals, who were paid and armed. Later in 2012, popular committee members spread inside Yarmouk and established internal temporary checkpoints that greatly restricted the movement of local residents within and outside the area. At that time, Yarmouk was mostly devoid of the presence of other non-state armed groups. The presence of the PFLP-GC within Yarmouk through popular committee members was considered by local residents part of the Syrian regime's presence and control over Yarmouk. The popular committee members were present inside Yarmouk until December 2012. Following the Syrian regime air raids on the Abd Al-Qader Al-Husseini mosque, opposition armed groups took

85. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023. For further information refer to part 4.

86. Ibid.

87. As of June 2023, the ruling is not publicly available. For more detailed information please refer to part 4 of this report.

88. Information mentioned in the following paragraph is taken from an interview analysis that was conducted by SCLSR.

89. European Council on Foreign Relations, «Mapping Palestinian Politics». Accessed June 26, 2023, at: https://ecfr.eu/special/mapping_palestinian_politics.

90. Ibid.

control over Yarmouk. Popular committee members withdrew from Yarmouk and became one of the most prominent Palestinian military formations fighting against the opposition. They contributed to the siege of Yarmouk by controlling its northern entrance in addition to some buildings at the entrance to the camp.

Fatah Al-Intifada

“The regime forces, supported by Palestinian militias (General Command and Fatah Al-Intifada), traded the hunger and health disease of the besieged civilians for a temporary state of security, during which the regime was able to redeploy its forces in the areas that were outside its control before the armistice, and violate the terms of the armistice by preventing the delivery of food and medical supplies to those trapped in the camp, and arresting dozens of them during their exit...”

Marah Al-Buqa'i, 2014⁹¹

Fatah Al-Intifada is a Palestinian armed faction with historical ties to the Syrian regime.⁹² Members of Fatah Al-Intifada were present at the Rejeh checkpoint at the northern entrance of Yarmouk during the period of “suffocating” siege.⁹³ According to witness interviews conducted by SCLSR, Fatah Al-Intifada was under the command of the secretary general Ziad Al Sagheer. Fatah Al-Intifada had hundreds of members present locally in Yarmouk and participated in the siege of Yarmouk. Fatah Al-Intifada and PFLP - GC in Yarmouk engaged in hostilities with the armed opposition groups present in Yarmouk.⁹⁴

Free Palestine Movement (FPM)

Another armed faction with a significant presence at the Rejeh checkpoint was the Free Palestine Movement. FPM is a Palestinian-Syrian armed movement and community organisation led by businessman Yasser Qashlaq; its paramilitary wing was under the command of Saed Abdel-Al. The organisation identifies itself as opposing the existence of Israel and was known for its political activism and the social services it provided to Palestinians in Syria and the Gaza Strip before 2012. In 2011, after the start of the Syrian revolution, the FPM established its own militia in Syria and has since fought openly alongside Syrian regime forces.⁹⁵

91. Marah AlBukai «حصار آل الأسد.. من تل الزعتر إلى اليرموك» Al Jazeera. 29 March 2014 Accessed June 26, 2023, at: <https://www.aljazeera.net/opinions/2014/3/29/حصار-آل-الأسد-من-تل-الزعتر-إلى-اليرموك>.

92. For further information see for example: Aymenn Jawad Al-Tamimi, «Fatah al-Intifada in Syria: Interview,» Pundicity.com. 18 December 2018. Accessed June 26, 2023, at: <https://aymennjawad.org/2018/12/fatah-al-intifada-in-syria-interview>.

93. “Syria: How Yarmouk Became a Living Hell,” Fanack.Com, 19 May 2015. Accessed July 10, 2023, at: <https://fanack.com/politics/features-insights/how-yarmouk-became-a-living-hell~45095/>, For further information, see for example: Aymenn Jawad Al-Tamimi, «Fatah al-Intifada in Syria: Interview”.

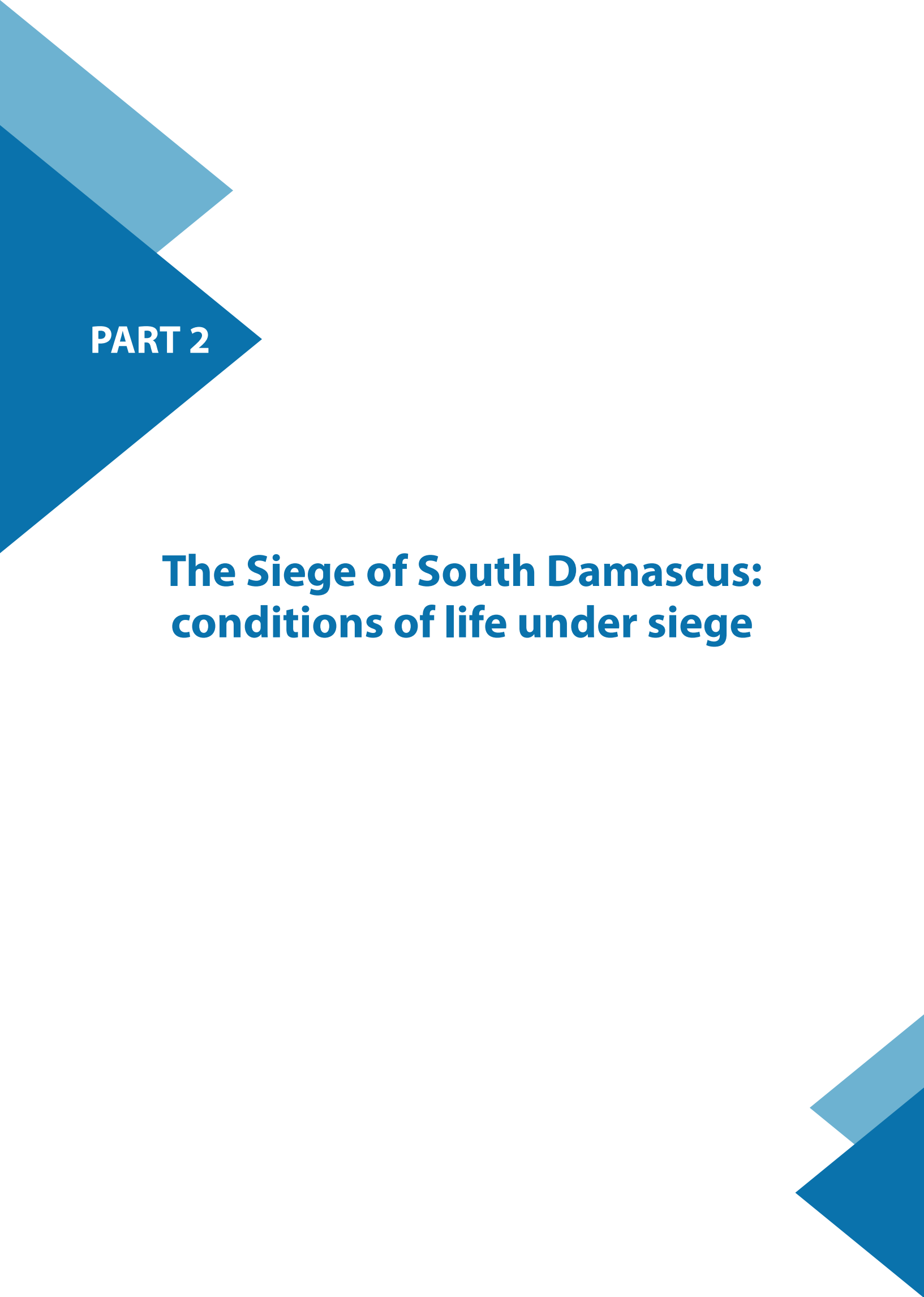
94. Action Group for Palestinians of Syria and Palestinian Return Centre, «Palestinians of Syria: The Bleeding Wound,» February 2015. Accessed June 26, 2023, at: http://actionpal.org.uk/en/reports/special/the_bleeding_wound_semi_annual_report_2_2014.pdf.

95. Fares Al-Rifai, “عبد العال.. قائد ميليشيا ساهم في اعتقال النظام 3 آلاف فلسطيني وهرب أمواله خارج سوريا” Zaman Alwsl. 17 October 2020. Accessed July 10, 2023, at: <https://www.zamanalwsl.net/news/article/130506/>

According to expert witness testimonies collected by SCLSR, the FPM was one of the first formations of the Shabiha established by the security service in Syria.⁹⁶ It was established after Yasser Qashlaq met with Saed Abdel-Al with the aim of forming a group under their control and the auspices of the Air Force Intelligence.

The FPM's significant financial and human resources allowed it to develop into a militia when the Syrian regime needed military support to control Yarmouk and uphold its siege.

96. The term Shabiha refers to state sponsored mercenaries of the Syrian government. When used in reference to formalised groups, the term refers to pro-government militias - initially known as popular committees and later unified as the National Defence Forces (NDF) - often indirectly incorporated in the Syrian regime's structure in one way or another and normally constituted of locals joining on a voluntary basis. For detailed information on the Shabiha, popular committees, and pro-Assad militia formations refer for example to: Lund, Aron. «The Non-State Militant Landscape in Syria.» Combating Terrorism Centre, Syria Special Issue, 6, no. 8 (2013). Accessed June 26, 2023, at: <https://ctc.westpoint.edu/the-non-state-militant-landscape-in-syria/>

The page features two large, overlapping blue geometric shapes in the corners. In the top-left, a light blue triangle points towards the center, with a darker blue triangle layered on top of it. In the bottom-right, a similar arrangement of light blue and darker blue triangles points towards the center. The text is positioned within these shapes and in the center of the page.

PART 2

The Siege of South Damascus: conditions of life under siege

“We did not have gas, we did not have money to buy an electric generator, so we used to use wood as an alternative to electricity. We set our furniture on fire, and it was not enough. When we did not have any more wood to burn, we started using plastic to make fire—we would use our sandals and boots. That’s when I developed asthma. I did not have access to medicine to treat me.”

Interviewee 3, Beit Sahem

According to research participants, many locals did not expect the siege; those that did had little understanding of what being besieged would entail in practice. The Rejeh checkpoint had been closing and reopening regularly over the previous period, so when it was sealed off in July 2013, locals expected it to reopen shortly.⁹⁷ During that initial period of the siege, civilians relied heavily on food stored in their own houses and then the houses of those who had left, hoping the checkpoints would soon reopen.⁹⁸

When the siege began, locals had not stored much food, and there was no organised system in place for the redistribution of available resources.⁹⁹ Because of the residential nature of areas such as Yarmouk and Al-Hajar Al-Aswad, residents had smaller quantities of staples (rice, lentils, chickpeas and other legumes) stocked in their houses than those residing in agricultural areas such as Beit Sahem, Yalda, or Babbila.¹⁰⁰

For that reason, those living in residential areas began to experience the impact of the siege earlier than those who resided in agricultural areas. Some research participants reported that the first month or two of the siege (until September 2013) were still manageable, depending on factors such as whether they lived in agricultural areas or had enough food stored; others who did not have much stored reported shortage of staples within a week of the start of the siege.¹⁰¹

2.1 Food availability and alternatives

For those living in residential areas, the first week of the siege already saw very little vegetables or fruits available in the market.¹⁰² Staples such as rice, oil, bread or sugar quickly became very expensive and then were not available in the market at all.¹⁰³ The complete siege began in July 2013, shortly before the start of the season for aubergine, courgette, and other vegetables common to the local diet. These remained available on the market for a few months, albeit at high prices.¹⁰⁴ Because fruit, on the other hand, was not commonly grown in the region—

97. Interviewee 8, interviewed by the legal investigators for the purpose of this report.

98. Interviewee 3, interviewee 8, interviewed by the legal investigators for the purpose of this report.

99. Interviewee 2, interviewee 3, interviewed by the legal investigators for the purpose of this report.

100. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

101. Interviewee 2, interviewee 3, interviewed by the legal investigators for the purpose of this report.

102. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

103. Interviewee 2, interviewee 10, interviewed by the legal investigators for the purpose of this report.

104. Interviewee 2, interviewee 3, interviewed by the legal investigators for the purpose of this report.

unlike in neighbouring areas such as Eastern Ghouta—it quickly became unavailable when the siege was sealed off.¹⁰⁵

As the siege unfolded, those living in agricultural areas began to grow their own seasonal food, regardless of whether they were professional farmers or agricultural workers.¹⁰⁶ Unlike those residing in residential areas, those residing in agricultural areas had access to land and the communal knowledge necessary to grow food.¹⁰⁷ However, those who had been internally displaced prior to or during the siege were often forced to live in areas in which they had no community and little to no access to stored goods or agricultural facilities.¹⁰⁸



Annex 4: Children at Babbila Checkpoint boil potatoes, given to them. These children used to transport supplies from Babbila checkpoint for the besieged civilian population in carts. The picture was taken on the first days of the checkpoint opening.

105. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

106. Interviewee 3, interviewed by the legal investigators for the purpose of this report.

107. Violations Documentation Center in Syria, “تقرير خاص حول حصار مخيم اليرموك في دمشق ومدينة المعصمية في ريف دمشق منسجون تحت الحصار”, Violation Documentation Centre in Syria, September 2013. Accessed July 10, 2023, at: <https://www.vdc-sy.info/index.php/ar/reports/1381426186/>

108. Violations Documentation Center in Syria, “A Special Report on the Massacre of Beit Sahm in Damascus Countryside on 18.12.2013” Violations Documentation Center in Syria, February 2014. Accessed June 14, 2023, at: <https://www.vdc-sy.info/index.php/en/reports/1393987469>

During the first few months of the siege, available resources included wheat, lentils, sunflower seeds, cucumber, tomato, aubergine, spinach, hibiscus, and mulukhiyah.¹⁰⁹ Staples such as lentils normally dedicated to feeding cattle were also initially available on the market and used to make bread or falafel.¹¹⁰ During the period preceding October 2013 and the occupation of Sbeneh by Syrian regime forces and their allies, local armed groups and/or local businesspeople from the Sbeneh factories were still able to bring in some food, such as jam, juice, and chocolate, to besieged areas to sell on the local market.¹¹¹

When the growing season ended, vegetables became scarce and locals were forced to turn to plants such as parsley, spinach, radish, hibiscus, chard, or cress for subsistence.¹¹² They quickly became expensive as demand increased.¹¹³ When the above-mentioned vegetables became unavailable or overly expensive, locals turned to cactus leaves and the caryophyllacea plant, known locally as sparrow leg ("rijl al-asfoura" - رجل العصفورة),¹¹⁴ boiling it multiple times to make it edible and mixing it with spices for taste.¹¹⁵ These plants were often made into salads or soups in order to be shared in larger quantities (for example in the few available communal kitchens, which mostly worked to feed members of local armed groups).¹¹⁶ However, caryophyllacea was known to be toxic and to cause severe cases of food poisoning.¹¹⁷ Eating it regularly caused swelling around the eyes and severe diarrhoea, which led to dehydration, especially in young children, and at times caused death.¹¹⁸ Research participants all mentioned cases of themselves or people in their direct circles sustaining poisoning from consuming caryophyllacea.¹¹⁹

Cactus leaves were also difficult to eat because of the thorns and their bitter taste, and difficult to digest. Locals boiled them multiple times and prepared them like potatoes.¹²⁰

When no food was available or had become too expensive, locals also resorted to what was known as "spice soup," which consisted of boiled water mixed with salt, spices, or maggi bouillon when available, to give the illusion of taste.¹²¹ The lack of availability of foodstuff also led to the consumption of cats and dogs that locals would "hunt."¹²²

Because of the unavailability of food, locals also turned to foodstuff normally used to feed cattle. The lack of sufficient feed for local cows and sheep resulted in their dying from starvation and impacted an initial availability of meat on the market, albeit for a short period of time because meat could not be conserved for long.¹²³

109. Interviewee 2, interviewee 5, interviewee 8, interviewed by the legal investigators for the purpose of this report.

110. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

111. Interviewee 4, interviewee 5, interviewed by the legal investigators for the purpose of this report.

112. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

113. Interviewee 1, interviewed by the legal investigators for the purpose of this report.

114. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

115. Ibid.

116. Interviewee 2, interviewee 3, interviewed by the legal investigators for the purpose of this report.

117. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

118. Interviewee 2, interviewee 8, interviewed by the legal investigators for the purpose of this report.

119. Interviewee 1, interviewee 2, interviewee 4, interviewee 7, interviewee 8, interviewed by the legal investigators for the purpose of this report.

120. Interviewee 1, interviewee 2, interviewee 4, interviewee 8, interviewee 10, interviewed by the legal investigators for the purpose of this report.

121. Interviewee 1, interviewee 3, interviewee 7, interviewee 8, interviewed by the legal investigators for the purpose of this report.

122. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

123. Interviewee 4, interviewee 10, interviewed by the legal investigators for the purpose of this report.

The lack of food availability forced locals to consume outdated or rotten goods, such as expired rice, canned food, all forms of pickled food, and a locally manufactured type of dried apricot known as Qamar Al-Deen, which was found either on the market or in abandoned houses.¹²⁴ Oil was replaced with other types of fat found in local factories.¹²⁵ Because sugar ran out very quickly and fruit was mostly absent from besieged South Damascus, besieged locals turned to alternative forms of sweets,¹²⁶ such as using saccharine or mixing glycerine with industrial materials.¹²⁷ For example, research participants described that local businessmen brought barrels of glycerine normally used for cattle, mixed it with Vaseline, and sold it on the local market as a replacement for the taste of sweets.¹²⁸ This mix was commonly used to sweeten tea.¹²⁹ All research participants described cases of poisoning caused by the consumption of such alternatives to sugar, as well as contaminated food that affected their loved ones and communities.¹³⁰

Although the siege was reported to have been completely sealed off during the period of July 2013 to January 2014, research participants report the availability of some food in Yalda that they believe must have been smuggled in by the local armed group in charge of the Yalda crossing.¹³¹

Towards the end of 2013 and the beginning of 2014, research participants reported eating only one meal every two or three days, especially when the only available option was caryophyllacea.¹³² Research participants reported not being able to taste food and their bodies rejecting food altogether.¹³³ All reported significant weight loss in themselves and relatives, and all reported knowing someone who died from starvation during this period, especially amongst the elderly and children.¹³⁴

A medical practitioner interviewed reported that from late 2013, the hospital at which they worked treated individuals dying from starvation and/or dehydration whose bodies had lost all muscle and were mostly skin on bones since late 2013—especially children and the elderly as well as civilians wounded during military operations who were in need of nutrition and/or medication to survive their wounds.¹³⁵ This person mentions that the hospital they worked at documented 216 cases of death from starvation and/or dehydration.¹³⁶ The documentation is not available; however, documentation during this period from groups like Amnesty International also highlights that Yarmouk recorded the highest amount of death from

124. Interviewee 2, interviewee 9, interviewee 10, interviewed by the legal investigators for the purpose of this report.

125. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

126. Ibid.

127. Interviewee 8, interviewee 10, interviewed by the legal investigators for the purpose of this report.

128. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

129. Interviewee 4, interviewed by the legal investigators for the purpose of this report.

130. Interviewee 6, interviewee 8, interviewed by the legal investigators for the purpose of this report.

131. Interviewee 1, interviewee 4, interviewed by the legal investigators for the purpose of this report. Interviewee 1 speaks of olives, and interviewee 4 reports the presence of small plastic bags of hummus.

132. Interviewee 1, interviewee 4, interviewee 8, interviewed by the legal investigators for the purpose of this report.

133. Interviewee 4, interviewed by the legal investigators for the purpose of this report.

134. Interviewee 1, interviewee 4, interviewee 5, interviewed by the legal investigators for the purpose of this report.

135. Interviewee 8, interviewed by the legal investigators for the purpose of this report.

136. Ibid.

starvation according to their documentation.¹³⁷ According to the Amnesty report, 194 people were reported dead in Yarmouk alone between the tightening of the siege between July 2013 and February 2014.¹³⁸ The three main causes of death listed were starvation, lack of adequate medical care and shooting by snipers.¹³⁹ However, the situation was exacerbated in the entire besieged area by winter due to the low availability of agricultural goods at that time of the year.

In addition to the general food shortage, civilians faced a shortage of milk and formula for children from the early days of the siege. This impacted young children and newborns and led to cases of dehydration and death in very young children mentioned by research participants and documented also by Amnesty International.¹⁴⁰ Food shortage and poor nutrition had a severe impact on women who gave birth during the siege as well as on pregnant women, who also faced miscarriages.¹⁴¹ Young mothers were also reportedly unable to breastfeed due to poor nutrition.

My daughter died from starvation and dehydration in 2014. That is the worst thing that happened to me. Not being able to feed my children or give them water when they ask for it. There was nothing I could do. My daughter was 5 months old. I took her to the Red Cross. They tried to give her serum but her veins were dry. They tried to give her oxygen but it didn't work. Her heart stopped beating and I couldn't wake her up. That's why I brought her to ICRC. There was no water. I hadn't drank water or milk in at least 2 days and I was myself unable to breastfeed anymore.

Interviewee 16¹⁴²

Pregnant women also faced the additional challenge of giving birth with little access to meaningful medical support.¹⁴³ The unavailability of milk and food in general also facilitated alleged cases of sexual exploitation, in which women were forced to exchange sexual favours for children's milk or food.¹⁴⁴ This information could not be further corroborated in the context of this report at this stage.

Interviews with research participants highlighted the impact of financial means on how individuals and families survived the siege, with those more well-off often able to afford the little food still available in the market.¹⁴⁵

137. Amnesty International, "Squeezing the life out of Yarmouk."

138. Ibid.

139. Ibid.

140. Interviewee 1, interviewee 6, interviewee 8, interviewed by the legal investigators for the purpose of this report. Amnesty report

141. Amnesty International, "Squeezing the life out of Yarmouk"; Interviewee 1, interviewed by the legal investigators for the purpose of this report.

142. Interviewee 16, interviewed by the legal investigators for the purpose of this report

143. Interviewee 6, interviewed by the legal investigators for the purpose of this report and Amnesty International, "Squeezing the life out of Yarmouk."

144. Interviewee 8, interviewee 10, interviewed by the legal investigators for the purpose of this report.

145. Interviewee 3, interviewed by the legal investigators for the purpose of this report.

2.2 The targeting of agricultural fields

The Syrian regime's occupation of industrial areas such as Aqraba (before July 2013) and Sbeneh and Hajjira (during the October 2013 military offensive) cut off besieged locals' access to their factories and local storage facilities.¹⁴⁶ Interviewees stressed that access to those facilities would have significantly supported the survival of the local population during the siege.¹⁴⁷ Aqraba, for example, was home to rice factories, while Sbeneh provided access to goods such as chocolate, juice, and jam.¹⁴⁸

The military offensive and subsequent occupation of the southern towns also brought regime forces and their allies within close distance of agricultural fields available within the besieged area. This was the case around Beit Sahem, especially at the southern border of the besieged areas, such as around the Barada factory, which was only a few hundred metres away from the fields of Al-Hajar Al-Aswad.¹⁴⁹ Farmers, individuals selling food within the besieged area, and individuals providing for themselves, their family, or their community were reportedly subjected to sniper fire while searching these fields for radishes and other edible plants.¹⁵⁰ The danger associated with picking plants from fields is understood to have contributed to the increase in prices witnessed during the siege.¹⁵¹

Research participants also reported cases of fields being burnt down by regime forces and their allies.¹⁵² The burning of fields was understood by locals to serve a twofold purpose: both preventing locals from growing food, and also improving regime forces' view over the besieged area by removing trees and plants, thereby enabling better control over the borders of besieged areas.¹⁵³

2.3 Electricity and alternative forms of heating

In or around April 2013, the Syrian regime cut the main electricity power supply in Yarmouk, Tadamon, Al-Hajar Al-Aswad, Yalda, and other towns, thereby forcing besieged locals to rely on generators, which were costly to run and limited their capacity to meet their needs.¹⁵⁴

Prior to that date, Yarmouk and Tadamon had been connected to the main electricity grid in Damascus.¹⁵⁵ Some of the besieged areas had access to the main electricity supply, as was the case of Sbeneh before it fell back into regime control in late 2013. Sbeneh had access to

146. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

147. Interviewee 2, interviewee 10, interviewed by the legal investigators for the purpose of this report.

148. Interviewee 3, interviewee 4, interviewee 5, interviewed by the legal investigators for the purpose of this report.

149. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

150. Interviewee 2, interviewee 8, interviewed by the legal investigators for the purpose of this report.

151. Interviewee 2, interviewee 3, interviewed by the legal investigators for the purpose of this report.

152. Interviewee 3, interviewed by the legal investigators for the purpose of this report.

153. Interviewee 3, interviewee 10, interviewed by the legal investigators for the purpose of this report.

154. Amnesty International, "Squeezing the life out of Yarmouk," Interviewee 2, Interviewee 10, interviewed by the legal investigators for the purpose of this report.

155. Ibid



Annex 5: Process of manufacturing fuel from plastic.

electricity because it shared its power supply with Sahnaya, then under regime control, and cutting electricity in one town was impossible without also cutting electricity in the other.¹⁵⁶

Tadamon had limited access to some electricity at its northern border, which opened into Damascus. Research participants reported a few separate instances in which, once locals found a new source of electricity and set up the necessary infrastructure enabling them to share it with other towns in the besieged South Damascus, this infrastructure was bombed soon after.¹⁵⁷

The lack of power supply directly affected the functioning of the few medical facilities available in the besieged area, especially in light of the continuous flow of casualties from government snipers, arbitrary bombing, and attrition.¹⁵⁸ Interviews conducted for this report confirm that medical facilities in the besieged South Damascus mostly relied on generators, and that only the relatively wealthy could afford generators for their family.¹⁵⁹

As a result of the lack of electricity and the shortage of fuel and resources to run generators, besieged locals turned to firewood to cook their meals and as an alternative form of heating.¹⁶⁰

156. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

157. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

158. Amnesty International, "Squeezing the life out of Yarmouk."

159. Interviewee 3, interviewee 5, interviewee 8, interviewed by the legal investigators for the purpose of this report.

160. Interviewee 2, interviewee 3, interviewee 10, interviewed by the legal investigators for the purpose of this report.

They were forced to burn any wood available,¹⁶¹ including from broken furniture or any scraps available.¹⁶² When even this wood depleted, locals began to burn any material they could find, including plastic, shoes, and clothing, which is believed to have caused long-lasting breathing problems in some besieged residents, including children. Multiple research participants report developing asthma during the siege and suffering from it to this day.¹⁶³ In their documentation, SAMS cites smoke inhalation as the cause of death of a Yarmouk resident during that period.¹⁶⁴

2.4 Access to water



Annex 6: General snapshots from the area

Water was cut from South Damascus before the start of the “suffocating” siege.¹⁶⁵ Some towns or neighbourhoods, like Al-Qadam and Yarmouk, initially had access to the Damascus capital’s water supply. When the regime cut water in Yarmouk, residents initially accessed water from

161. Interviewee 5, interviewee 9, interviewed by the legal investigators for the purpose of this report.

162. Interviewee 2, interviewee 3, interviewee 5, interviewee 9, interviewed by the legal investigators for the purpose of this report.

163. Interviewee 1, interviewee 5, interviewee 7, interviewee 8, interviewed by the legal investigators for the purpose of this report.

164. Syrian American Medical Society, “Slow Death”.

165. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

Al-Qadam, while those in Yalda, Babbila, and Beit Sahem would survive on water from local wells.¹⁶⁶

Although research participants discussed their personal access to water in the town where they resided, they could not speak for other areas or neighbourhoods that may have retained localised access to water. Access to water was later cut from the entire area and only restored following truce agreements.¹⁶⁷ During the period of the siege, locals accessed water from wells located within the besieged area.¹⁶⁸ There were two wells in the Tadamon area, next to Yarmouk, and one in Yalda whose water was contaminated with water borne germs and undrinkable.¹⁶⁹

According to interviewees, some buildings had unexpected access to water for reasons unknown to locals.¹⁷⁰ One interviewee, for instance, recalled a house with one tap that was somehow still connected to a water source, and another tap in a local school at which locals would queue to obtain water.¹⁷¹ Some locals were so desperate for drinking water that they would drink the water from polluted wells, which led to cases of hepatitis and liver inflammation.¹⁷²

2.5 Targeting of medical facilities and bakeries

The period of complete “suffocating” siege (July 2013 - January/March 2014) was accompanied by continuous attacks on civilian objects, including the targeting of hospitals.¹⁷³ This finding is supported by existing documentation as well as interviews.¹⁷⁴ Amnesty International reports that “government forces appeared to be pursuing tactics designed to cause casualties among medical staff and volunteers,” with a second round of aerial strikes targeting medical teams responding to aerial strikes.¹⁷⁵ For further information on the targeting of medical facilities and medical practitioners refer to the full Amnesty report.¹⁷⁶

According to research participants, civilians injured from bombings regularly found themselves unable to access necessary medical support as a result of the regular targeting of medical infrastructures and the little availability of medicine and sometimes medical supplies.

Interviewees indicate that field hospitals were regularly targeted and forced to change location as a result.¹⁷⁷ The Yalda field hospital, for example, provided emergency medical care for Yalda, Beit Sahem, and Babbila and was allegedly targeted multiple times and had to change its

166. Ibid.

167. Ibid.

168. Interviewee 2, interviewee 3, interviewed by the legal investigators for the purpose of this report.

169. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

170. Ibid.

171. Ibid.

172. Ibid.

173. Amnesty International, “Squeezing the life out of Yarmouk.”

174. Ibid.

175. Ibid.

176. Ibid.

177. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

location as a result.¹⁷⁸ The Palestine hospital was itself allegedly targeted multiple times, as well as the other field hospital located on Yarmouk Street.¹⁷⁹ The Al-Hajar Al-Aswad field hospital was also allegedly targeted during the period of the siege.¹⁸⁰

In addition to the bombing of medical facilities and the targeting of agricultural fields, research participants mentioned the regular targeting of local bakeries and ovens critical for producing bread, a dietary staple, to the population.¹⁸¹ One participant who lived in Tadamon (next to Yarmouk) during the siege confirmed that in Tadamon, bakeries and ovens were often targeted shortly after being set up.¹⁸² Storage facilities, on the other hand, were located in majority in Aqraba, and factories in Sbeneh, which were under regime control at the time.¹⁸³

2.6 Reconciliation agreements

In or around December 2013, as the conditions of life under siege deteriorated significantly, committees in each town began to work towards truce agreements. The towns of Yalda, Babbila, and Beit Sahem eventually reached a reconciliation agreement in or around January 2014, which led to greater but limited access to humanitarian aid with Syrian Arab Red Crescent (SARC) shipments arriving on average every two months.¹⁸⁴ Yarmouk also reached a separate reconciliation agreement, which led to the distribution of UNRWA humanitarian boxes.¹⁸⁵ Distribution began in January 2014 yet was subjected to interference by regime-affiliated factions and the ongoing threat of arbitrary arrest or enforced disappearance for those going to the Rejeh checkpoint to collect a box.¹⁸⁶ Although the distribution started in January 2014, it took until March 2014 for the boxes to start meeting the needs of the besieged population. Research participants reported very long queues and not being able to obtain any box for their families.¹⁸⁷ Research participants also reported that distribution was sometimes interrupted by sniping, detention at the checkpoints, alleged executions, and other incidents such as the one described below as part of the Moafak D. case.¹⁸⁸

According to interviewees, foodstuff became available in Yalda, Babbila, and Beit Sahem

178. Interviewee 2, interviewed by the legal investigators for the purpose of this report.

179. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

180. Interviewee 3, interviewed by the legal investigators for the purpose of this report.

181. Interviewee 10, interviewed by the legal investigators for the purpose of this report.

182. Ibid.

183. Ibid.

184. Siege Watch, "First Quarterly Report on Besieged Areas in Syria-February 2016". For more information on the reconciliation agreement, see: Sarah Abdel-Haq, "مصالحو النظام يتحولون إلى دفاع وطني، ودم الشهداء يشعل بييلا بالمظاهرات", Zaman Alwsl, 18 February 2014. Accessed July 7, 2023, at: <https://zamanalwsl.net/news/article/46697>; or Ahmed Hassan, "الأخبار", Al-Akhbar, 31 January 2014. Accessed June, 24 2023, at: <https://al-akhbar.com/Syria/26253>; or "ريف دمشق: مصالحة 'بييلا' تزيد الأمل بمصالحات جديدة", Saidat TV, 17 February 2014. Accessed on July 10, 2023, at: <http://www.saidatv.tv/news.php?go=fullnews&newsid=67326>

185. The Moafak D. verdict found that UNRWA had no access to Yarmouk between August 2013 and December 2013 and that aid delivery resumed in January 2014 but was regularly disrupted. According to Amnesty International, aid boxes distribution started on 18 January 2014. Amnesty International UK, "Inside Yarmouk: Life under Siege". Amnesty International UK. 17 April 2015. Accessed July 10, 2023, at: <https://www.amnesty.org.uk/yarmouk-camp-starvation-siege-syria>. For further information on earlier attempts, refer to: United Nations Relief and Works Agency for Palestinians in the Near East "Syria Crisis Response Update - Issue No. 73". Accessed July 10, 2023, at: <https://www.unrwa.org/newsroom/emergency-reports/syria-crisis-response-update-issue-no-73>.

186. Interviewee 4, interviewee 5, interviewed by the legal investigators for the purpose of this report.

187. Interviewee 6, interviewed by the legal investigators for the purpose of this report.

188. Interviewee 4, interviewed by the legal investigators for the purpose of this report.



Annex 7: General snapshots from the area

earlier than in Yarmouk (around February 2014) and started appearing in the market where it was sold at very high prices to residents of towns and neighbourhoods that did not reach a ceasefire agreement.¹⁸⁹ Research participants explained that residents of Babbila, Beit Sahem, and Yalda often had relatives living close by on the outside of the siege who were involved in the negotiation of truce agreements and imported necessary goods at high prices across the border of the siege in late 2013 and early 2014.¹⁹⁰

The truce agreements also enabled besieged individuals to apply to leave the besieged areas for medical reasons. Amnesty reported that as of February 2014, 450 individuals had been able to leave besieged areas to be treated in hospitals in Damascus.¹⁹¹ Locals, however, reported that despite the possibility of applying for individual reconciliation (تسوية), individuals were often left waiting for approval, sometimes indefinitely, and may have been subjected to arbitrary arrest as a result.¹⁹²

Alleged events of mass violence against civilians, such as at the Ali Al-Wahsh (between Sayyeda Zainab and Yalda) and Beit Sahem crossings, on 5 January 2014 and 18 December 2013

189. Interviewee 2, interviewee 6, interviewed by the legal investigators for the purpose of this report.

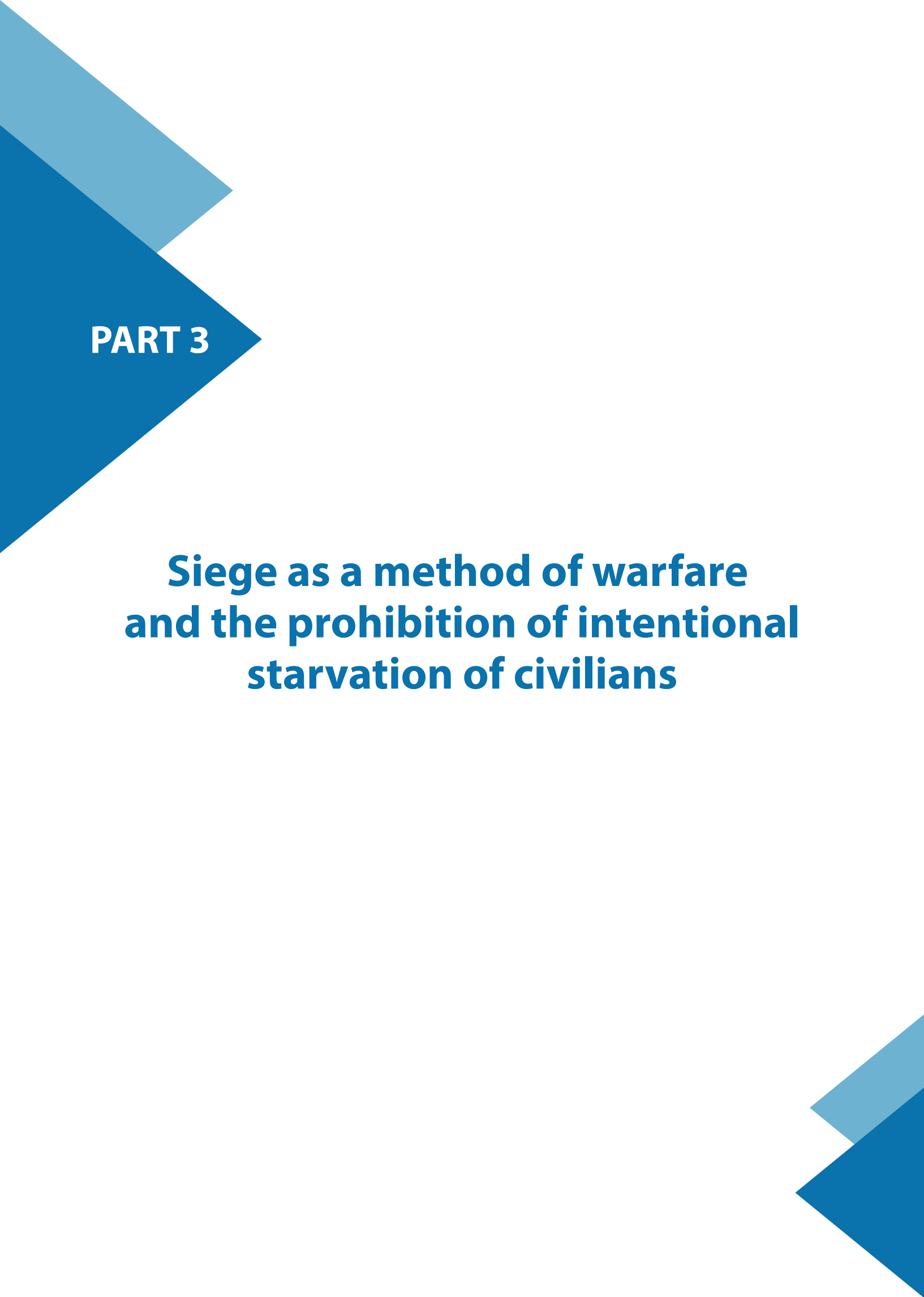
190. Interviewee 3, interviewed by the legal investigators for the purpose of this report.

191. Amnesty International, "Squeezing the life out of Yarmouk."

192. Siege Watch, "First Quarterly Report on Besieged Areas in Syria-February 2016". It is important to note that there are cases of individuals who allegedly were deceived and detained following their individual reconciliation agreement. See for example: Al-Wali, Mustafa. "نيراز سعيد: صورة في انتظار الأمل." *نيراز سعيد-صورة في انتظار الأمل* / <https://www.geiroom.net/2018/12/15/نيراز-سعيد-صورة-في-انتظار-الامل/> Geiroom, 15 December, 2018. Accessed June 15, 2023, at: <https://www.geiroom.net/2018/12/15/نيراز-سعيد-صورة-في-انتظار-الامل/>

respectively, were reported to have taken place in the context of the ongoing negotiations to open humanitarian corridors for besieged civilians. For further information refer to the Huquqyat press release regarding the Ali Al-Wahsh submission and the Violations Documentation Center report on the events of Beit Sahem.¹⁹³

193. For up to date information on the Huquqyat investigation into the events of Ali Al-Wahsh refer to the Huquqyat website, accessible at: huquqyat.org; Violations Documentation Center in Syria, "A Special Report on the Massacre of Beit Sahm in Damascus Countryside."



PART 3

Siege as a method of warfare and the prohibition of intentional starvation of civilians

The following analysis of the intentional use of starvation as a method of warfare is derived exclusively from Global Rights Compliance's (hereinafter "GRC") publication "The Starvation Training Manual: An International Framework Guide to the Law of Starvation."¹⁹⁴ Only elements relevant for the case of the siege of South Damascus were taken into account. The wording was kept very similar. For a more detailed and comprehensive analysis please refer to the full publication. The analysis of siege as a method of warfare is derived from the Col policy paper on the use of siege warfare in Syria. The analysis is based on the recognition by the ICRC in July 2012 that the ongoing violence in Syria had escalated to levels of organisation and intensity necessary to constitute a non-international armed conflict (hereinafter "NIAC") under International Humanitarian Law (hereinafter "IHL").¹⁹⁵ The NIAC recognition does not relieve states of their obligations to take all necessary measures to prosecute grave violations of IHL.¹⁹⁶

3.1 Siege as a method of warfare in International Criminal Law, International Human Rights Law, and International Humanitarian Law

International law does not define "siege" but treats it as the isolation of enemy forces from reinforcements and supplies, usually combining bombardment with the "encirclement" of an area for the purpose of isolating it.¹⁹⁷ Siege as a method of warfare was initially regulated under art. 27 of the Hague Regulations concerning the Laws and Customs of War on land, which states:

*"In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes. It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand."*¹⁹⁸

While IHL does not prohibit siege warfare outright, a party to the conflict carrying out a siege must act in conformity with all relevant customary international law and treaty law applicable to NIACs, including the core principles of proportionality, distinction, and precaution, explained

194. Bridget Conley et al., "Accountability for Mass Starvation: Testing the Limits of the Law". Since 2017, GRC has been working to identify how international law may be used to advance the prevention, prohibition and accountability for starvation through their Accountability for Mass Starvation Project. GRC offers unparalleled expertise on the crime of starvation and associated violations. Another relevant resource on the topic would be: Norwegian Academy of International Law and Norwegian Centre for Holocaust and Minority-studies. "Seminar on Starvation as a Method of War in Yemen and Syria," Norwegian Academy of International Law. 7 December 2023. Accessed June 14, 2023, at: <http://intl.no/en/commentary/seminar-on-starvation-as-a-method-of-war-in-yemen-and-syria/>.

195. Sassoli, Marco. «State responsibility for violations of international humanitarian law.» International Committee of the Red Cross, June 2002. Accessible at https://www.icrc.org/en/doc/assets/files/other/401_434_sassoli.pdf.

196. Ibid.

197. Emanuela-Chiara Gillard, "Briefing Sieges, the Law and Protecting Civilians - Chatham House," Chatham House, June 2019. Accessible at: https://www.chathamhouse.org/sites/default/files/publications/research/201927-06-Sieges-Protecting-Civilians_0.pdf.

198. "Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land." Signed in The Hague, 18 October 1907. International Committee of the Red Cross - International Humanitarian Law Database. Accessed July 7, 2023, <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-iv-1907/regulations-art-27>, Article 27.

in detail in the following section on the legality of starvation.

The Syria Col has concluded that the methods employed in Syria to carry out sieges amount to egregious violations of IHL and international human rights law ("IHRL"), and, in some cases, may amount to war crimes. The Col finds that sieges "have repeatedly been carried out in a deliberate, coordinated, and systematic manner, in further violation of prohibitions established under customary international law, and in flagrant disregard for human rights principles and in violation of international criminal law," (hereinafter "ICL").¹⁹⁹ The Col also considered that the use of siege as a method of warfare as used in Syria has "breached numerous tenets of IHRL including the right to life; the absolute prohibition on torture and cruel, inhuman, and degrading treatment; the right to freedom of movement; the right to an adequate standard of living including adequate food, clothing, and housing; and the right to essential primary health care, including essential medicine." The Col stressed that despite the difficulties facing states' protection of such rights in times of conflict, a state "must not take any action—deliberate or otherwise—which would undermine the enjoyment of these rights" as has occurred in Syria.²⁰⁰

3.2 Starvation in International Criminal Law and International Humanitarian Law

International law prohibits the intentional starvation of a civilian population as well as its use as a means of collective punishment.²⁰¹ Under international law, starvation refers to death by hunger or deprivation of nourishment, as well as general deprivation or insufficient supply of some commodity indispensable for survival. In that sense, starvation can encompass a range of illness and disease resulting from the lack of food, medicine, or other objects indispensable to survival of civilians (hereinafter "OIS"), and does not have to lead to death.²⁰²

Starvation is recognised and prohibited as a method of warfare under both IHL and ICL in both international armed conflict (hereinafter "IAC") and non-international armed conflict (hereinafter "NIAC").²⁰³ The war crime under ICL of the intentional starvation of civilians in a NIAC was recognised by the International Criminal Court in December 2019 following the amendment of the Rome Statute to include it, and would hence not be directly applicable under this instrument to intentional starvation occurring before that date.²⁰⁴

At the time of publication of this report, there has not yet been any stand-alone prosecution of the war crime of starvation at the international level; according to GRC, it is likely that the pursuit

199. Office of the United Nations High Commissioner for Human Rights, «Sieges as a Weapon of War," paragraph 4.

200. Office of the United Nations High Commissioner for Human Rights, «Sieges as a Weapon of War," paragraph 6.

201. Bridget Conley et al., "Accountability for Mass Starvation: Testing the Limits of the Law".

202. Ibid.

203. "Rome Statute of the International Criminal Court" 17 July 1998, International Committee of the Red Cross - International Humanitarian Law Database. Accessed July 7, 2023, at: [https://ihl-databases.icrc.org/en/ihl-treaties/icc-statute-1998.Article 8\(2\)\(b\)\(xxv\)](https://ihl-databases.icrc.org/en/ihl-treaties/icc-statute-1998.Article%208(2)(b)(xxv));

204. Switzerland: Proposal of Amendment, C.N.399.2019.TREATIES-XVIII.10, 28 August 2019, adopted by Resolution on amendments to Article 8 of the Rome Statute of the International Criminal Court, ICC-ASP/18/Res.5, 6 December 2019. For discussion on the proposal, see Report of the Working Group on Amendments, ICC-ASP/1735/, para. 11.

of criminal responsibility for starvation would hence require the concurrent prosecution of additional or alternative crimes.²⁰⁵ That is especially relevant in the case of the different sieges which took place throughout Syria before the Rome Statute's recognition of starvation as a war crime in NIACs, including the siege of South Damascus, although IHL prohibited the use of starvation as a method of warfare in NIAC regardless.²⁰⁶ It is important to note that starvation is also criminalised under specific domestic frameworks and that its criminalisation as a war crime overlaps with rules under IHL and IHRL governing similar issues.²⁰⁷

According to the GRC starvation manual,

*"The assessment of the lawfulness of any deprivation of OIS, especially when both civilians and non-civilians are affected, is made on the basis of the fundamental principles of IHL applicable regardless of the characteristics of the armed conflict: the principles of distinction, proportionality and precautions."*²⁰⁸

The principle of distinction requires that parties to the conflict distinguish between combatants and military objects, and civilians and civilian objects, dictating that attacks may on be directed against the former.²⁰⁹

The principle of distinction is part of the customary rules of international law and applies to NIACs. In the context of NIAC, however, because of the presence of non-state armed groups, the categorisation of individuals can be less straight-forward and subjected to exceptions based on temporary participation in hostilities.²¹⁰ Under customary IHL, civilians are defined as "persons who are not members of the armed forces."²¹¹ Armed group members who undertake "a continuous combat function" are treated as combatants; others are assumed to be civilians.²¹² A civilian directly participating in hostilities would lose their protection and become a lawful target.²¹³

The principle of proportionality prohibits attacks against lawful military targets "which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or

205. For detailed analysis on the existing jurisprudence of associated starvation crimes found under other international crimes such as crimes against humanity, genocide of war crimes and existing investigations by Fact-Finding Missions see GRC's unique Jurisprudence Digest. For in-depth legal analysis on starvation as a crime, see GRC and the World Peace Foundation's Legal Policy Paper or Strategies for Prosecuting Mass Starvation in the Journal of International Criminal Justice, both available on www.starvationaccountability.org.

206. Office of the United Nations High Commissioner for Human Rights (OHCHR). "Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)". Accessed July 10, 2023, at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-additional-geneva-conventions-12-august-1949-and-0>.

207. For further information please refer to the Bridget Conley et al., "Accountability for Mass Starvation: Testing the Limits of the Law".

208. Global Rights Compliance, "The Starvation Training Manual: An International Framework Guide to the Law of Starvation, II (Global Rights Compliance, 2022), footnote 21

209. Global Rights Compliance, "The Starvation Training Manual: An International Framework Guide to the Law of Starvation", footnote 22: Technically, combatant status exists only in the context of IACs. In NIACs, armed group members with combatant treatment are sometimes referred to as 'fighters', which is a more palatable word for the State authorities as it does not 'in the eyes of states, undermine their claim to the monopoly of force', 'promote the formation of non-state armed groups', or 'encourage individuals to join such groups'. See also: J.K. Kleffner, «From 'Belligerents' to 'Fighters' and Civilians Directly Participating in Hostilities: On the Principle of Distinction in Non-International Armed Conflicts One Hundred Years After the Second Hague Peace Conference» (2007) Netherlands International Law Review 315, 322. And J. Pejic, «Unlawful/Enemy Combatants: Interpretations and Consequences» in M. Schmitt and J. Pejic (eds), International Law and Armed Conflict: Exploring the Faultlines (Nijhoff 2007), 335336-.

210. Global Rights Compliance, "The Starvation Training Manual: An International Framework Guide to the Law of Starvation", footnote 32.

211. Global Rights Compliance, "The Starvation Training Manual: An International Framework Guide to the Law of Starvation", footnote 33.

212. Global Rights Compliance, "The Starvation Training Manual: An International Framework Guide to the Law of Starvation", footnote 35, 36.

213. Global Rights Compliance, "The Starvation Training Manual: An International Framework Guide to the Law of Starvation", footnote 49.

a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”²¹⁴ In cases where both civilians and combatants are present, the legality of an attack is assessed on the basis of compliance to the principle of proportionality.²¹⁵ If an object serves both civilian and military functions, it may qualify as a military objective and may be targeted as long as the effects on the civilian population do not exceed expected military advantage.²¹⁶ Starvation, however, does not occur in the immediate aftermath of an attack; GRC argues that the indirect harm caused to civilians and civilian objects must hence be included in an proportionality assessment in order to inform the lawfulness of an attack.²¹⁷

The principle of precaution requires that all parties take all feasible precautionary measures to spare the civilian population and civilian objects in the course of military action.²¹⁸ Precautions that need to be taken include but are not limited to: the choice in the means and methods of warfare, the assessment of the effect of the attack, the suspension of the attack, and the provision of effective advance warning.²¹⁹ Feasibility is assessed on the basis of whether such measures are “practical or practically possible” in light of circumstances.²²⁰ This assessment takes into account considerations such as time, terrain, weather, available military troops and resources, enemy activity and civilian considerations.²²¹ Such precautionary measures come into play in the assessment of proportionality and may render an attack lawful if damages can be sufficiently mitigated.²²²

3.2.1 Objects indispensable to survival

Objects indispensable to the survival of the civilian population (hereinafter “OIS”) fall within a class of specially protected objects and are hence treated differently from normal civilian objects. Art. 14 of Additional Protocol II which is applicable for NIACs provides that:²²³

“It is prohibited to attack, destroy, remove or render useless [for the purpose of denying them, for their sustenance value, to the civilian population, whatever the motive, whether to starve out civilians, to cause them to move away, or for any other reason], objects indispensable to the survival of the civilian population [...].”

This prohibition only applies if the objects in question are used as sustenance solely for the members of the armed forces or for purposes other than sustenance of the civilian population.

214. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 51.

215. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”.

216. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 52.

217. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 55.

218. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 56.

219. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 5760-

220. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 61.

221. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 62.

222. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 63.

223. See the definitions of Civilian Population, Objects indispensable to the survival of the civilian population and Starvation in Marco Sassòli, Antoine A. Bouvier, and Anne Quintin, *How Does Law Protect in War?: Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law* (Geneva: International Committee of the Red Cross, 2011), Accessible at: <https://casebook.icrc.org>

This prohibition has gained customary law status, as compiled by the ICRC. Rule 54 of the ICRC's study on customary international law forbids attacking OIS of the civilian population; Rule 55 forbids the denial of access of humanitarian aid intended for civilians in need, including deliberately impeding humanitarian aid; and Rule 56 forbids restricting the freedom of movement of humanitarian relief personnel.²²⁴



Annex 8: General snapshots and distribution of soup to besieged civilians

What constitutes “objects indispensable to the survival of the civilian population” remains open-ended but is generally understood to include “foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.”²²⁵ Depending on the circumstances on the ground and the evolution of armed conflicts, objects such as clothing, shelter, electricity, and fuel may also qualify.²²⁶

Starvation, and more generally, the targeting of an OIS, is not inherently unlawful.²²⁷ Targeting OIS is permissible when the OIS in question is used for the sustenance of the opposing forces,

224. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 7576-

225. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 72

226. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 73

227. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 7778-.

when the OIS has both military and civilian use and the attack is not expected to cause the starvation of the civilians or force their movement.²²⁸ Such explicit exceptions are applicable in IACs. Although the law governing NIACs does not contain similar explicit exceptions, GRC argues that the OIS could similarly become a lawful military objective if the attack offered a definite military advantage in the circumstances ruling at the time.²²⁹

In the Rome Statute, the crime of starvation lists “impeding relief supplies” as an example of OIS deprivation; under IHL however, the regulation of humanitarian assistance is separate from the prohibition of starvation.²³⁰ Parties to the conflict have an obligation to allow and facilitate rapid unimpeded and impartial passage of humanitarian relief when the civilian population’s needs are not met.²³¹ In practice that means that, in face of starvation, parties to the conflict must allow an impartial humanitarian agency to alleviate the suffering of the population and facilitate their work.²³²

3.3 Starvation in IHRL

Starvation is also provided for in the IHRL framework, which is also applicable in conflict.²³³ IHL and IHRL are however separate legal regimes with different purposes and consequences which are to be interpreted concurrently.²³⁴ Because IHL is meant to regulate conflict, its starting point is the combatant’s right to kill and cause damage; IHRL on the other hand takes protection as the norm, and derogation as the exception, providing an ultimately more protective framework.²³⁵ A civilian’s right to food may however still be infringed during conflict. While the incident may be tolerated under IHL as long as it is not considered excessive (disproportionate), the individual in question may still be able to claim damage against the state on the basis of the violation of their human rights.²³⁶

Under IHRL, states are required to protect, respect (which includes deterring, preventing, and investigating violations), and fulfil human rights obligations.²³⁷ The obligation to respect and protect, and increasingly to fulfil, may also apply to non-state armed groups which exercise “government-like functions” or “de facto control over territory or population.”²³⁸ The obligation held by non-state armed groups does not however relieve the relevant state from its obligations.²³⁹

In times of conflicts, human rights are subjected to derogations which work to limit the full and

228. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 7980-

229. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 8182-

230. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 8384-

231. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 86.

232. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 87.

233. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 108.

234. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 112.

235. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 110, 111.

236. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”.

237. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 142, 143.

238. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 144, 145, 146.

239. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 150.

effective enjoyment of rights but do not affect their substance.²⁴⁰ Non-derogable rights which do not get suspended in times of emergency include the right to life, prohibition of torture and cruel, inhuman, or degrading punishment.²⁴¹ Rights which are directly relevant to the use of starvation as a method of warfare include the right to food, the right to adequate water, the right to adequate health, the right to adequate housing.²⁴² Since deprivation of food and water threatens the possibility of survival, the right to food is hence directly connected to the right to life. This was recognized by the Inter-American Court of Human Rights, which ruled that the infringement of the right to be free from malnutrition was a violation of the right to life.²⁴³

The right to be free from starvation is also protected within the scope of civil and political rights under the right to life and the prohibition of arbitrary deprivations of such right, enshrined in article 6(1) of the International Covenant on Civil and Political Rights (“ICCPR”).²⁴⁴

Because IHRL operates on the basis of an equal relationship between the “governor” and the “governed”, the responsibility to comply with IHRL would normally lie with the state (with the party which exercises effective ‘authority and control’ over the the individual or the territory, which would normally apply to the territorial state).²⁴⁵ IHL however works on the basis of an equal relationship between parties, while ICL focuses on the responsibility of individuals.²⁴⁶ In that sense, IHRL provides a non-criminal option to pursue at multiple levels including human rights mechanisms.²⁴⁷ For the same underlying act (in this case siege and starvation), the best avenue to pursue will depend on the specificities of the case, the existence of a legal avenue (jurisdiction), and the wish of the victims. The “beyond reasonable doubt” standard which applies to IHL and ICL does not apply to IHRL, and neither does the requirement to identify an individual perpetrator.²⁴⁸ Similarly, IHRL does not require intent.²⁴⁹ In that sense, where sufficient evidence is lacking, IHRL may provide a better avenue.²⁵⁰ Where evidence is available and shows that the incident may amount to an international crime, relevant individuals may still be held criminally responsible under ICL despite a finding of state responsibility for the same underlying human rights violation.²⁵¹

It is however important to note that there is at the moment no dedicated international legal body with the jurisdiction to bring claims for human rights violations committed in Syria against the state itself, akin to the European Court of Human Rights (hereinafter “ECtHR”), the Inter-American Court of Human Rights (hereinafter “IACtHR”), or the African Court on Human

240. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 152153-

241. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”.

242. Ibid.

243. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 213.

244. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 208.

245. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 114, 115, 136, 137, 138.

246. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 114, 117.

247. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”.

248. Ibid.

249. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”, footnote 120.

250. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation”.

251. Global Rights Compliance, “The Starvation Training Manual: An International Framework Guide to the Law of Starvation” footnote 121122-

3.4 Individual responsibility for grave crimes committed in Syria

Individuals identified as holding criminal responsibility for violating IHL, and, specifically, in the deliberate starvation of a civilian population, can be held legally accountable under ICL. There is however currently no clear legal avenue to prosecute the grave crimes committed in Syria at the international level. Syria is not a state party of the International Criminal Court (hereinafter "ICC") and a potential referral of the Syrian case to the ICC has been vetoed by permanent members of the Security Council.²⁵³ A bespoke tribunal would also require a UN Security Council resolution, while a hybrid court would require the state's consent.²⁵⁴ Such crimes are also not criminalised at the domestic level in Syria, and their prosecution would be subjected to the impunity which the Syrian regime's military, police, and intelligence forces enjoy. In addition, any such prosecution in Syria would be subject to well-founded fear of corruption and manipulation due to the lack of separation and independence of the judicial system from the rest of the state apparatus. That is especially relevant given that the state most responsible for the grave crimes committed throughout the conflict is still ruling the country.

In light of the above-mentioned barriers facing alternative pathways toward justice and accountability, prosecutions of crimes committed in Syria have been taking place in European courts using the principle of universal jurisdiction. This principle provides for a state's jurisdiction over grave crimes against International Law in the absence of the usual grounds for jurisdiction, such as when the crimes were not committed on that state's territory and neither the victim nor the perpetrator is a national of that state.²⁵⁵ Universal jurisdiction allows national courts in third countries to prosecute international crimes that occurred abroad and hold their perpetrators criminally liable.²⁵⁶ That was for instance the case of Anwar R., prosecuted in Koblenz, Germany, who was found guilty of being the co-perpetrator of torture, murder, and sexual violence in his capacity as the former head of the Investigation Department of the detention facility of Branch 251 of the Syrian General Intelligence Service.²⁵⁷ It was also applied in the Moafak D. trial, which closed in February 2023 and is discussed in greater detail below.

252. Annika Jones, "Seeking International Criminal Justice in Syria," *International Law Studies* 89 (2013): 802–16, <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1019&context=ils>, Page 806809-

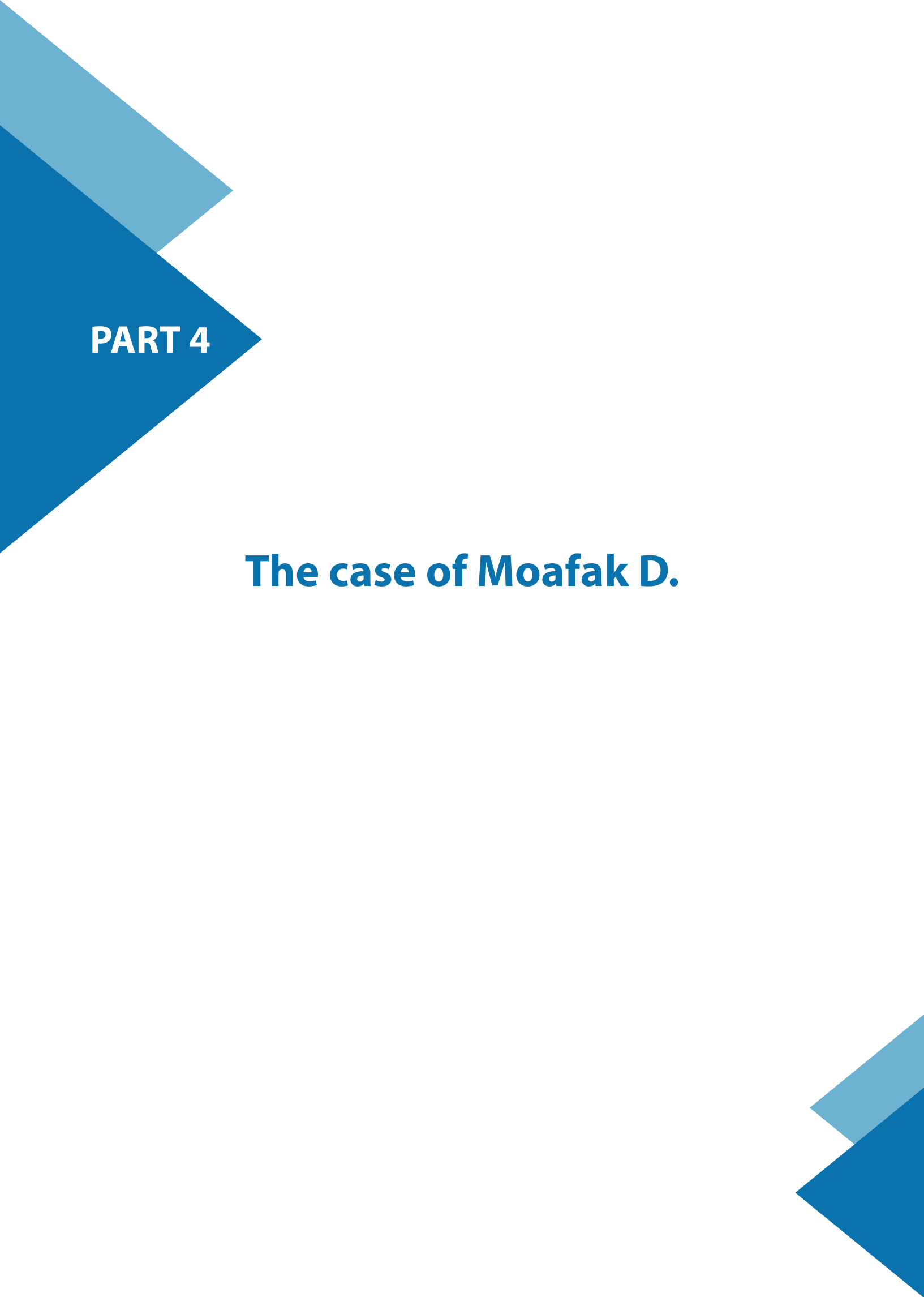
253. United Nations Security Council. "Resolution 11407: Referral of Syria to International Criminal Court Fails as Negative Votes Prevent Security Council from Adopting Draft Resolution" May 22, 2014, 7180th Meeting, Accessed at: <https://press.un.org/en/2014/sc11407.doc.htm>

254. Office of the United Nations High Commissioner for Human Rights, "Rule-of-Law Tools for Post-Conflict States: Maximizing the Legacy of Hybrid Courts," 2008, Accessed July 7, 2023, at: <https://www.ohchr.org/sites/default/files/Documents/Publications/HybridCourts.pdf>.

255. "Universal Jurisdiction," ECCHR, Accessed on June 26, 2023, at <https://www.ecchr.eu/en/glossary/universal-jurisdiction/>.

256. Ibid.

257. European Centre for Constitutional and Human Rights, "Syria Trial in Koblenz: Life Sentence for Anwar R for Crimes against Humanity," ECCHR. 13 January 2022. Accessed June 26, 2023, at: <https://www.ecchr.eu/en/press-release/syria-verdict-anwar-r/>.



PART 4

The case of Moafak D.

*"During this period, Yarmouk was under siege, and the residents lacked the most basic conditions of life and suffered from a lack of food resources - on the day of the incident, Yarmouk residents went to the checkpoint to receive aid, we were standing in a long line... Suddenly, while we were waiting for our turn, chaos prevailed in all parts of the place, and some men dressed in military clothing came and separated the men from the women and children. Then the accused, Moafak D., appeared, carrying a large weapon on his shoulder, and opened fire on civilians, after which he started screaming and threatening to kill and displace us, rape women, and uttered the most horrible expressions. We were forced to stay at the scene of the incident for more than four hours. At that time, I did not understand what was going on around me, but after we returned to our homes, we learned that there were people who had fallen dead as a result of the grenade. After this incident, I left Yarmouk for Damascus."*²⁵⁸

Yarmouk resident, 2023

On 4 August 2021, Moafak D. was arrested in Berlin upon the request of the German Federal Public Prosecutor.²⁵⁹ On the same day, an investigative judge of the Federal Court of Justice issued an arrest warrant and Moafak D. was remanded in custody. He was charged with firing a grenade from an anti-tank weapon into a crowd of civilians queuing for food parcels close to Rejeh Square in Damascus, Syria, on 23 March 2014.²⁶⁰

The case of Moafak D. is the first case pertaining to atrocity crimes committed in Syria that addresses the topic of the Syrian regime's systematic use of siege warfare and, by extension, the siege of Yarmouk and South Damascus. In order to rule on the specific incident at stake, the court examined the dire conditions of life under siege in Yarmouk—including the besieged population's scarce access to food, sporadic access to aid following the truce agreement, and dangers faced by the besieged civilian population in accessing aid. To establish that the crime committed was indeed a war crime, the court also had to establish the context in which it took place and the role of the defendant and the militia he was affiliated with. The ruling confirmed the role of the Syrian regime and affiliated Palestinian militias in upholding the siege of Yarmouk at the Rejeh checkpoint.

The investigation into Moafak D. began at the beginning of 2021, when a former Yarmouk resident reached out to the SCLSR to inform them that a person who allegedly committed war crimes in Syria was residing in Berlin, Germany. SCLSR started its investigation on the matter and took nine witness statements that corroborated the accused's responsibility of Moafak D. in carrying out the mentioned acts against besieged civilians in Yarmouk. SCLSR shared that information with the German prosecution authority, which later charged him with war crimes

258. Syrian Center for Legal Studies and Research, notes from internal witness interviews in preparation for submission of information pertaining to Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

259. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023; See also: Trial International, "Moafak D." Trial International, 17 April 2023. Accessed June 15, 2023, at: <https://trialinternational.org/latest-post/mouafak-al-d/>

260. "Moafak D." Trial International.

in conjunction with seven counts of murder and three counts of dangerous bodily harm.²⁶¹

The first hearing session took place on 25 August 2022 at the Higher Regional Court of Berlin (KG - Kammergericht). In the session, it was mentioned that Moafak D. was accused of having committed war crimes, including murder and attempted murder, as well as having directed “an attack by military means against the civilian population as such or against individual civilians not taking direct part in hostilities,”²⁶² and to have caused the death of at least seven civilians through that offence, during the distribution of humanitarian aid to civilians in Yarmouk. The defendant pleaded not guilty, arguing that he was injured and committed to the hospital at the time of the events.²⁶³

During the court’s sessions, the court heard the testimony of more than thirty witnesses including eight eye-witnesses and two co-plaintiffs.²⁶⁴ Witnesses that had been residing in Yarmouk during the period of siege described the dire situation in Yarmouk that had compelled them to go to the Rejeh checkpoint when they heard about the distribution of aid parcels to besieged civilians.²⁶⁵

One witness, for instance, stated:

*“In November 2012, weapons entered Yarmouk, while the Free Syrian Army was present in the Tadamon neighbourhood, adjacent to Yarmouk. After many demonstrations, the entire Southern region was liberated, and this region witnessed the birth of many armed groups, such as the “Palestinian Popular Movement” and the “Sons of Yarmouk Camp Gathering”, which included 180 people affiliated with Palestinian factions. The aforementioned groups participated in the siege of Yarmouk, led by some of the security branches of the Syrian regime, such as the Palestine Branch and the District Branch.”*²⁶⁶

Syrian civilian from Yarmouk, 2022

The witness testimonies presented in court confirmed the involvement of Syrian regime forces and affiliated Palestinian militias in the crimes committed within Yarmouk as part of the siege. The court’s findings explicitly identified the pro-Assad militias responsible for enforcing the regime’s siege in Yarmouk as PFLP-GC and FPM.²⁶⁷

On 9 December 2022, Patrick Kroker, a lawyer representing the joint plaintiffs, submitted a request to amend the indictment in the case of Moafak D.²⁶⁸ The request aimed to include the

261. Ibid.

262. Code of Crimes against International Law (CCAIL) of 26 June 2002 (Federal Law Gazette I, p. 2254), as last amended by Article 1 of the Act of 22 December 2016 (Federal Law Gazette I, p. 3150), paragraph 11, Accessed June 26, 2023 in English at: https://www.gesetze-im-internet.de/englisch_vstgb/englisch_vstgb.html#p0095.

263. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

264. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

265. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

266. Syrian Center for Legal Studies and Research, notes from internal witness interviews in preparation for submission of information pertaining to Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

267. Notes from in-person ruling, Moafak D., Berlin, Higher Regional Court of Berlin, 23 February 2023.

268. Ibid.

legal characterization of the crime as a crime against humanity, which would better reflect the nature of the offenses committed as part of the siege, including the starvation, depriving of water and medicine, policy of detention, torture and sexualized violence at checkpoints in Yarmouk. Citing witness testimonies, the request highlighted the defendant's regular presence in Yarmouk with the faction with which he was affiliated (FPM), and from where he regularly abused civilians' dignity and terrorised them.²⁶⁹ This conduct was described in the request as systematic collective punishment. The requested amendment aimed to address the fact that the killings were part of a widespread and systematic attack on the civilian population of Yarmouk, which encompassed the siege.²⁷⁰

At the time of the events, the accused claimed to be working for the Palestinian Liberation Army and PFLP-GC in Damascus, taking orders from Yasser Qashlaq, the leader of the Free Palestine Movement's military wing.²⁷¹ However, witness testimony requested by the defendant's lawyer contradicted the defendant's statements and was used to demonstrate they could not be true.²⁷² In addition to this, none of the perpetrator's witnesses reported seeing the accused in the hospital or having any encounters with him at the time of his alleged injury.²⁷³

On 23 February 2023, the court issued a verdict in the case of Moafak D. The court sentenced the accused to life imprisonment with an aggravated punishment, for having committed a war crime against the civilians who were suffering due to the complete siege of Yarmouk.²⁷⁴ During the ruling, the court described the situation in Yarmouk at the time and the role of Syrian regime forces and militias in upholding the siege.²⁷⁵

In its ruling, the court described that the siege of Yarmouk began in April 2013 when militias backed by Syrian regime forces cut off the power supply to Yarmouk, and was fully sealed off in July of that year.²⁷⁶ The court recognized that the resulting lack of food and water had caused a humanitarian crisis characterized by malnutrition, dehydration, and numerous deaths; UNRWA was unable to access Yarmouk between August and December 2013, further exacerbating the dire situation; in January 2014, an agreement was reached between the regime and besieged Palestinian groups to allow sporadic access to the area, but civilians encountered significant danger and obstacles while trying to access aid; reports of arrests and rapes on the routes to aid delivery highlight the risks that many civilians faced; despite the dangers, civilians continued to make the journey to obtain food and water for themselves and their families.²⁷⁷

As to the particular incident at stake, the Court referred to the parcels for which civilians waited as "boxes of death," which reflects the court's contextual understanding of the situation in

269. Ibid.

270. Ibid. Additionally, the defendant's lawyer argued that the accused could not have committed the crime of throwing a grenade on civilians on 23 March 2014 because the accused had left Yarmouk and stopped his political and military engagement since 16 December 2012, two years before the date of the crime he stood accused of and only had the task of running errands for the armed factions in the vicinity of Yarmouk thereafter.

271. Ibid.

272. Ibid.

273. Ibid.

274. Ibid.

275. Ibid.

276. Ibid.

277 Ibid.

Yarmouk at the time and the gravity of the crime committed.²⁷⁸

The court ruled that, in light of the military knowledge of the accused, he should have known that firing this weapon on a gathering of civilians would lead to the death and injuries that occurred as a result, and established that the intention and motive of the accused was revenge for one of his family members.²⁷⁹

The court sentenced Moafak D. to 15 years in prison (the average life term in Germany) “due to the exceptional severity of the crimes” he committed, after being convicted of four counts of murder and two counts of attempted murder by intentionally firing the grenade into a group of civilians.²⁸⁰ The court ruling against Moafak D. not only constitutes one more step towards more holistic accountability for atrocity crimes committed in Syria, it is also the first universal jurisdiction case examining collaboration between non-state military factions and Syrian regime forces and scrutinising the Syrian regime’s use of siege and starvation as a method of warfare against a civilian population.²⁸¹ By outlining the role of the Palestinian factions (FPM and PFLP-GC) at the Rejeh checkpoint, the ruling confirms their responsibility in upholding the siege of Yarmouk and the Syrian regime’s policy of siege during the conflict.

278. Ibid.

279. Ibid.

280. Ibid.

281. It is important to note that although there were strong suspicions of collaboration with the Syrian intelligence’s Palestinian branch, this claim would need to be further evidenced. This takes place in the context of the Syrian regime’s documented use of Shabiha and local committees as forms of military support on the ground. The term Shabiha refers to state sponsored mercenaries of the Syrian government. When used in reference to formalised groups, the term refers to pro-government militias - initially known as popular committees and later unified as the National Defence Forces (NDF) - often indirectly incorporated in the Syrian regime’s structure in one way or another and normally constituted of locals joining on a voluntary basis. For detailed information on the Shabiha, popular committees, and pro-Assad militia formations refer for example to: Aron Lund, «The Non-State Militant Landscape in Syria».



Conclusion

Building upon existing work on siege warfare in Syria, this report analysed in-depth interviews conducted by Huquqyat and SCLSR witness statements supporting the Moafak D. investigation to develop a detailed account of the siege of Yarmouk and South Damascus. Its analysis aimed to lay out a concrete timeline of the siege's unfolding; explore how different areas were affected throughout this timeline; discuss existing knowledge of the armed groups responsible for upholding the siege; and strengthen understanding of the socio-cultural elements that played a role in the siege, how it unfolded, and how it impacted civilians.

The siege of Yarmouk and Southern Damascus implicates the international legal framework prohibiting the intentional starvation of civilians in warfare as well as other associated acts, with the Independent International Commission of Inquiry on Syria already having outlined reasonable grounds to believe that a vast array of war crimes and violations of human rights law have been committed as part of the the Syrian regime's besieging tactics throughout the conflict. Future efforts toward accountability for these acts face several obstacles given barriers to bringing Syria or high-ranking Syrian officials before international courts or tribunals, yet the current use of universal jurisdiction to seek criminal justice before national courts against individuals who committed atrocity crimes in Syria constitute one pathway forward. In addition, courts' findings in such trials on the broader use of siege and starvation as a method of warfare can constitute a strong stepping stone for further efforts toward justice and accountability.

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“Never stand by a regime that starves its own people, forsaking well-being for political gains. In the case of the Syrian regime, driven by such self-interest, it heartlessly besieged innocent children, condemning them to perish from hunger and despair”

Interviewee 3



This research was conducted by
Huquqyat and Center for Legal Studies and Research (SCLSR):

Huquqyat is a membership-based organisation of self-identifying women lawyers and legal practitioners that have a personal or professional engagement in legal accountability processes in Syria. The organisation aims to diversify and strengthen justice mechanisms in the Syrian context through promoting women lawyers and legal practitioners to lead and take active part in investigations and accountability proceedings. Huquqyat's mission revolves around a transformative justice framework for Syria that is developed and implemented through the equal representation and participation of Syrian women at every stage of legal proceedings.

Center for Legal Studies and Research (SCLSR) is an independent, non-governmental and nonprofit human rights organization concerned with the dissemination and establishment of principles of the Syrian people, and the rebuilding of the legal structure of the Syrian state through the publication of research and legal studies. It also works to establish the principles of justice by providing support and legal assistance to victims of violations, to defend the detainees of opinion and conscience in Syria, and to hold human rights violators accountable by processing and submitting files to competent jurisdictions and building the capacity of Syrian jurists to carry out such work.



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