

## Eastern Ghouta after the Military Campaign

### Position Paper

April 26, 2018

The logic of military power has dominated Syria for nearly seven years. All parties aim to improve their political and military gains at the expense of civilians in different areas of Syria. This dynamic has again made clear through recent events. The Syrian government has adopted a policy of systematic forced displacement in all areas beyond its control alongside its practice of excessive military force. These operations are being carried out with the full support of the Syrian government's allies, in the face of the international community's silence and, in some instances, the participation of the United Nations in facilitating certain agreements and facilitating the transfer of populations.

This position paper attempts to shed light on the situation of the civilians who were forcefully displaced from Eastern Ghouta following the military campaign carried out by the Syrian government and its ally, Russia. It also discusses the humanitarian situation of these civilians who were either forcefully displaced or allowed to stay in accommodation centers or inside Eastern Ghouta after the Syrian government entered the area. Furthermore, the paper highlights the fears of internally displaced persons (IDPs) after the Syrian government seized the area, while providing a legal analysis of the violations that occurred in Eastern Ghouta according to the Rome Statute of the International Criminal Court.

### The military campaign on Eastern Ghouta

The military campaign on Eastern Ghouta began on February 18, 2018, and is one aspect of a continuous series of displacement operations by the Syrian government in areas beyond its control. It was very clear, through the scale of the military force used, that the Syrian government and its Russian ally intended to gain control of the area regardless of the humanitarian losses that could occur. Following the issuance of UN Security Council Resolution 2401 (February 24, 2018), the Syrian Network for Human Rights (SNHR) documented the death of 871 civilians, including 179 children and 123 women in Eastern Ghouta, in addition to at least 19 incidents of the targeting of civilian vital centers (eight Civil Defense centers and vehicles, four medical facilities, four mosques, two public markets and an official service center).

At the beginning of the campaign, these fierce military operations divided Eastern Ghouta into three sections. The Syrian government then began targeting each area separately, forcing existing armed groups to agree on separate truces that implied the exit of fighters with their family members to other areas. In the end, only the town of Douma remained, where the armed group Jaish al-Islam (Army of Islam) announced the failure of negotiations with the Syrian government, and the guarantor Russia, which led to renewed shelling on the town with chemical weapons.

### Forced displacement

During the Syrian government offensive on Eastern Ghouta, civilians fled to underground shelters and basements, and stayed there for nearly two months, hiding from the intensive shelling. However, with no hope of a ceasefire, people had no choice but to move into Syrian government-held areas, through corridors secured by the government and Russia. After reaching an agreement, another part of the population moved to Idlib and the Euphrates area. The rest remained in their homes.

The Syrian Observatory for Human Rights (SOHR) estimated the number of people leaving Eastern Ghouta to the north of Syria and government-held areas at roughly 296,700. The number of people remaining in the areas previously controlled by the al-Rahman Legion and Jaish al-Islam was roughly 120,000.

The IDPs who moved to Syrian government-held areas have been concentrated in shelters or accommodation centers in the Damascus Countryside. They are distributed as follows:

### 1. Adra City:

- IDPs have taken shelter in three adjacent schools in the city. The estimated number of people is 8,000. However, these schools have the joint capacity to hold only 5,000 people. The number of those who have managed to return to Damascus under sponsorships is 3,000. Under the sponsorship system, there must be someone who 'sponsors' the IDPs who want to leave the center, pledging to secure their accommodation and expenses.
- An estimated 9,000 IDPs are also sheltering in the Electricity Institute in Adra. The number of those who have managed to return to Damascus under sponsorships is 5,000.
- There are an estimated 1,500 people sheltering al-Huda and al-Nasr Centers. The number of those who have managed to return to Damascus under sponsorships is 500.
- There are an estimated 4,000 people in Fayiha Center. The number of those who have managed to return to Damascus under sponsorships is 525.

2. The al-Duwer Center: The estimated number of people sheltering there is 10,572. The number of those who have managed to return Damascus under sponsorships is 4,000.
3. Naiha: There are an estimated 5,000 sheltering there. IDPs were distributed across mosques. The number of those who have managed to leave under sponsorships is 1,000.
4. Al-Nashabiyeh: The estimated number of people in al-Nashabiyeh is 4,000. No one has managed to leave under sponsorships.
5. The al-Harjaleh Center: There are an estimated 7,500 people, which exceeds the camp's capacity of 6,000 people. This has forced many IDPs to sleep in the open air, according to United Nations Office for the Coordination of Humanitarian Affairs (OCHA). The number of those who have managed to leave under sponsorships is 525.

### The situation of IDPS in accommodation centers/shelters

- There is increased security on all of the abovementioned centers. Men and adolescents above 16 years of age have been separated from women, the elderly and children, and all are being investigated by the government security forces. So far, there is no information regarding the investigation, its objective or results.
- Severe restrictions are being imposed on associations entering these centers. Only licensed associations are allowed to enter and each member of these associations must be approved before entering. It should be noted that members of the security services accompany associations' teams, and they prevent photography, video recording, and voice recording.

- IDPs are only allowed to leave the centers if they provide proof of sponsor outside the center. However, severe restrictions are imposed on sponsorships in the al-Harjaleh Center, while all sponsorships were rejected in al-Nashabiyeh without any explanations.

One of the women who left Ghouta to Damascus under sponsorship says:

*“There was a colonel who walked around to see the situation of people in Ghouta. Our neighbor told us that he would be able to secure an exit to Damascus. As such, my father spoke to him on that matter and made an agreement. After that, my father paid 150,000 Syrian Pounds and they put me, my mother and brother in a military car and my father stayed in Ghouta. They asked us a number of questions and then took us to an area in Damascus near my grandparents’ house and dropped us there.”*

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*“Most of the IDPs interviewed in the al-Duwer camp suffer from intestinal infections, hepatitis, skin diseases, and psychological trauma. These medical conditions are likely to be caused by a prolonged lack of medicines and health care. Most children and women suffer from scabies and lice, and many suffer from acute to moderate malnutrition”.*

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## Humanitarian situation

IDPs from Eastern Ghouta suffer from many diseases, such as severe and moderate malnutrition. This was confirmed by UN OCHA, after entering and interviewing IDPs in shelters. The civilians in these areas have a number of needs:

- Emergency Food Rations are needed, as only canned food is being provided.
- There is great need for WASH services (some centers have only a limited number of toilets, but they do not have bathtubs).
- There is a great need for clothing and blankets, as organizations operating are unable to cover these needs.
- The al-Duwer and al-Harjleh centers are the only ones equipped with a medical point while the rest have a mobile clinic that responds to first aid and provides only the medicines available.
- There is a need for diapers for children and the elderly.
- There are a lack of hygiene items.
- There is a great need for providing education as well as psychosocial support.
- Women and children Protection Centers should be established.
- There are cases of separated families in more than one center, in addition to children and elderly persons unaccompanied by any of their families. No statistics are available on their numbers.

## IDP concerns

- IDPs are concerned about their exposure to investigation and arrest, especially among young people and men.
- IDPs are afraid that they might be unable to return to their homes, and could be forced to stay in centers and camps for a long time, especially with restrictions on their freedom of movement outside the centers.
- IDPs are concerned that permission to return will only be given to owners of real estate properties, as there are great difficulties in proving documentation of ownership. In addition, a large number of real estate properties are registered by the notary, and are not documented in real estate records. The increase in concern coincided with the issuance of Legislative Decree No. (10), which regulates real estate interests after the Syrian government seized the Ghouta enclave.
- IDPs from Eastern Ghouta are afraid of revenge and other violent reactions due to recent attacks on Damascus, where voices have called for the rejection of IDPs, while others have called for arresting or sending them to Idlib province, in the north.
- As for people of who remained Eastern Ghouta, they have to settle their situation with the Syrian government, which may lead to arrest and/or forced recruitment.

## Legal analysis

- The systematic policy of siege and indiscriminate bombing has been used for more than four years in Eastern Ghouta. This is considered to be a grave breach of the Geneva Conventions of August 12, 1949, and it constitutes a war crime under Article VIII (2) (b), (XXV) of the Rome Statute of the International Criminal Court (July 17, 1998) which prohibits:  
*“Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions*
- Targeting civilian places with non-conventional weapons is classified as a war crime according to Article VIII (2) (b) (XVII) (XVIII), which prohibits:  
“Employing poison or poisoned weapons” and “Employing prohibited gases, liquids, materials or devices.”
- The use of military force against civilians, as well as civilian units and humanitarian institutions along with their personnel constitutes a war crime, in accordance with paragraph b of the Rome Statute, which states: “Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:  
(i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;  
(ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;  
(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

- (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- (v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;

- The recent military campaign against Eastern Ghouta is tantamount to crimes against humanity, as stipulated in Article 7 of the Rome Statute of the International Criminal Court:

7- For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

- Locally, with regard to Presidential Decree No. (10) of 2018, which grants the Syrian government the right to reorganize areas based on property ownership:
  1. The timing of the decree will deprive millions of refugees as well as IDPs of the opportunity to prove their ownership. Most of them are pursued by the security services. The application of this decree must be suspended immediately because its application requires a peaceful and secure environment, after securing the return of all refugees and IDPs to their areas and enabling them to defend their rights.
  2. The decree also sets a legal period of one month for review, and limits the status to only the right to claim compensation for those affected. This exposes people to loss of their real estate rights in these troubled circumstances.
  3. In addition, a security permit must be issued by the Security Service of the Syrian government before any legal action is taken.

- With regard to armed opposition groups that launched dozens of missiles on civilian areas in Damascus, such action could amount to a war crime, according to Article 8 (2) (b) (v), of the International Criminal Court Law which prohibits for: "Attacking or bombarding... towns, villages, dwellings or isolated buildings... [that] are not military targets by any means."

## Recommendations

1. The United Nations along with its operating organizations must intensify their efforts in securing shelters for IDPs, particularly with regard to basic needs, adequate food, appropriate accommodation, and WASH services.
2. Provide psychological and medical support as well education support in all accommodation centers.
3. Facilitate the census and issuance of legal documentation for IDPs who moved to Damascus, and who do not have any.
4. Reunite separated families in accommodation centers in different areas.
5. Exert pressure to cancel the sponsorship system and allow freedom of movement for IDPs.
6. Prevent arrests as well as forced recruitment by the Syrian government.
7. Allow the forcibly displaced to return to their areas in Eastern Ghouta.
8. Allow free media access to accommodation centers.
9. Disclose the fate of persons kidnapped by Jaish al-Islam, who have not been released yet.
10. Ensure the rapid return of IDPs to their areas and under the supervision of the United Nations.
11. Release persons who have been arrested while exiting Ghouta or who were detained from the accommodation centers located in the Syrian government-held area.