Syria: A Complaint Addressed to Seven UN Special Rapporteurs on the Deviation of Humanitarian Aid toward Building Illegal Settlements Altering the Demographics of Afrin





Syria: A Complaint Addressed to Seven UN Special Rapporteurs on the Deviation of Humanitarian Aid toward Building Illegal Settlements Altering the Demographics of Afrin

STJ urges the Mandate Holders to issue a statement or public opinion addressing the settlement projects in general considering its continuous occurrence as a widespread or systematic policy

Date: 22 September 2022

Submitting Organization: Syrians for Truth and Justice. For the attention of:

- 1. Special Rapporteur on the human rights of internally displaced persons
- 2. Special Rapporteur on minority issues
- 3. Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context
- 4. Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence
- 5. Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment
- 6. Independent Expert on the promotion of a democratic and equitable international order
- 7. Independent Expert on human rights and international solidarity.

1. Overview

Our NGO, Syrians for Truth and Justice (STJ), writes to you in your capacities to draw your attention to the failure of the Turkish authorities – as an occupying power – to adhere to its obligations under international law to repress the continuous conducts of forced displacement, demographic change, and deviation of humanitarian aid on discriminatory bases, attributed to non-State armed groups (NSAGs) in northern Syria effectively controlled by the Turkish authorities, as well as some involved humanitarian organizations. The facts described in this submission relate to two construction projects: the first in Jabal al-Akrad (also known as Aleppo Mountain) that extends over 2% of Syria's entire area, and that constitutes the largest vegetation cover in Aleppo province, and the second near Jindiris town. The two locations are in Afrin district of Aleppo province. We gently draw your attention to recent investigative reports (here and here) published by Syrians for Truth and Justice (STJ) on the same topic for further investigations and details.

STJ believes that the facts described below imposes negative consequences and effects on several human rights of the internally displaced persons (IDPs) from the region, minorities, as well as human rights and environment. Through the failure of the Turkish authorities to adhere to its negative and positive obligations, and the violations of other non-State actors, STJ believes that this – in the specific addressed context – has its long-term consequences on the right to truth, justice, remedy, and non-recurrence. It also affects the promotion of a democratic and equitable international order and international solidarity.

2. Contextual Background

Afrin is located in northwest Syria and is bordered by Türkiye to the north and west. Its residents before the start of the conflict in Syria were likely at 92% Kurds. As in other Kurdish-majority areas in Syria, Afrin's residents suffered from decades of discrimination under the Ba'ath regime. Arabization policies introduced under former president Hafez al-Assad saw, among others, the banning of Kurdish language teaching, the forcible transfer of Arab families onto Kurdish-owned

¹ Rojava Information Center, *Turkey's Track Record: The Occupation of Afrin*, November 2019, https://rojavainformationcenter.com/storage/2019/11/Turkeys-track-record-The-occupation-of-Afrin.pdf.

lands, and the repression of cultural celebrations. Residents of border areas, including Afrin, faced restrictions on their ability to obtain property deeds or build and repair houses.²

In July 2012, the Syrian government's forces withdrew from the Kurdish areas of northern Syria, and the period that followed saw the formation of an Autonomous Administration in Northern Syria composed of the three Kurdish-majority cantons of Afrin, Kobane, and Jazira. The Kurdish NSAGs YPG and YPJ were incorporated under the umbrella of the Syrian Democratic Forces (SDF) that became the main armed force in the region. Since Türkiye considers the YPG/YPJ to be an affiliate of the PKK – a listed terrorist group by Türkiye, it has vowed never to allow the formation of a "terrorist state" or "terror corridor" along its border.3

On 19 January 2018, Türkiye launched its Operation Olive Branch involving its military forces while effectively controlling about 25,000 fighters from different Syrian National Army (SNA) factions.4 President Erdogan declared that Afrin had been taken on 18 March 2018. Since then, Türkiye is controlling the territories and population either directly through its military forces or indirectly through its effective control over its backed SNA and other factions.⁵ Different UN bodies have addressed and established the fact of Türkiye's responsibility in these controlled territories "to ensure public order and safety, and to afford special protection to women and children". 6 The International Commission of Inquiry (COI) also described it in several special reports⁷ by referring repeatedly to one of the conclusions of its conference on violations of international humanitarian law and international human rights law in Syria in 2017, in which it emphasized the applicability of the state of occupation when any country occupies part or all of the territory of another country. Therefore, all applicable legal provisions apply to the occupation.⁸ The COI has also reemphasized Türkiye's responsibility as an occupying power in its recent report while addressing violations related to property rights and fundamental freedoms in northern Syria. 9 In the same context, the UN High

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² McGee, T., "Nothing is ours anymore" – HLP rights violations in Afrin, Syria', in H. Baumann, Reclaiming Home: The Struggle for Socially Just Housing, Land and Property Rights in Syria, Iraq and Libya, Tunis, Friedrich Ebert Stiftung, pp. 120-

³ Meuse, A., 'Syria's Afrin: a plundered settlement one year on', Asia Times, 21 March 2019, https://asiatimes.com/2019/03/syrias-afrin-a-plundered-settlement-one-year-on/.

⁴ Al-, S., 'FSA commander says 25,000 Syrian rebels back Turkish force in Syria', Reuters, 21 January 2018, https://www.reuters.com/article/us-mideast-crisis-ria-turkey-rebels/fsa-commander-says-25000-syrian-rebels-backturkish-force-in-syria-idUSKBN1FA0OK.

⁵ See e.g., Amnesty International, Syria: Turkey must stop serious violations by allied groups and its own forces in Afrin, 02 August 2018 (Available at: https://www.amnesty.org/en/latest/news/2018/08/syria-turkey-must-stop-serious-violationsby-allied-groups-and-its-own-forces-in-afrin/).

⁶ UN General Assembly, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, 14 August 2020, A/HRC/45/31, § 67 (Available at: https://documents-ddsny.un.org/doc/UNDOC/GEN/G20/210/90/PDF/G2021090.pdf?OpenElement); See also UN General Assembly, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, 08 February 2022, A/HRC/49/77, § 93 (Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/251/52/PDF/G2225152.pdf?OpenElement). ⁷ See e.g., Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab*

Republic, 14 August 2020, A/HRC/45/31, § 67; Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, 11 March 2021, A/HRC/46/55, § 94; and Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, 08 February 2022, A/HRC/49/77, § 93. ⁸ Human Rights Council, Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016- 28 February 2017, Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, 10 March 2017, A/HRC/34/CRP.3, § 103.

⁹ Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, 17 August 2022, A/HRC/51/45, §§ 78 & 81.

Commissioner for Human Rights has emphasized Türkiye's responsibility to investigate violations and abuses in the territories under the control of its forces and affiliated armed groups.¹⁰

3. Facts

Several SNA factions have been building one of the largest settlements in Afrin region. The settlement is warranted by the Turkish authorities and is designated for housing SNA fighters and their families in Afrin, which has historically identified as a Syrian Kurdish-majority region. This settlement — housing village — was built on a large area in the region locally known as <u>Jabal al-Ahlam</u> (Mountain of Dreams). This mountainous area is part of the Jabal al-Akrad/Çiyayê Kurmênc (Mountain of the Kurds) and is referred to in Turkish as *Kurd Dagh*. The area is known for its key strategic location, which overlooks the Afrin city center and demarcates the territories held by Türkiye on the one hand, and those controlled by the YPJ, the Syrian government forces, and Russian forces, which operate several military bases, on the other. The other project was launched by <u>Ihsan for Relief and Development</u> organization near <u>Jindiris</u> in another forested area militarily controlled by Samarkand Brigade — one of SNA factions.

Sources and witnesses reported that Rahmi Doğan, governor of the Turkish state of Hatay, is one of the officials responsible for the construction of the housing villages. They added that Doğan granted several local and international relief organizations, as well as the Afrin City Local Council (ACLC), the green light to commence with the projects' construction over the mountain's foothills and provide the village with services. The building permit for Jabal al-Ahlam project was forwarded after several armed opposition groups, notably the Levant Front/al-Jabha al- Shamiya, pitched the project proposal to Turkish authorities. The ACLC facilitated the acquisition of the permission from the Turkish governor to Ihsan NGO to launch the Jindiris project, followed by similar process to Jabal al-Ahlam project.

Furthermore, STJ learned that the ACLC, founded by the Turkish government after they militarily occupied the region in 2018, is issuing *Waraqat Takhssiss* (an allocation paper), which purportedly functions as a title deed for the buildings but not the plots of land on which they are constructed. The issuance of the document is also authorized by governor Doğan. The construction processes are intended to cover the complete area of Jabal al-Ahlam, and the forested area near <u>Kafr Safra</u> town, Jindiris.

STJ obtained information verifying that nine SNA-affiliated factions, notably the Levant Front/al-Jabha al-Shamiya, are deeply involved in the Jabal al-Ahlam construction project. The Front is controlled by commander Muhanad al-Khalaf, known as Ahmad Nour. While these factions run the project, their *sharia* officials (clerics serving as the internal religious authority) are disseminating information about the project to fighters and encouraging them to register their names for allocations. These officers also critically contributed to the area's segmentation and, later, the distribution of land plots to fighters and their families. On the other hand, Ihsan NGO negotiated and

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¹⁰ UN News, *UN rights chief calls for Turkey to probe violations in northern Syria*, 18 September 2020 (Available at: https://news.un.org/en/story/2020/09/1072752).

agreed with Samarkand Brigade – according to testimonies obtained from within the NGO – prior to the construction launching on providing 16% of the constructed units to the faction's fighters.

The role of some humanitarian or charity organizations supporting these settlements has sometimes gone beyond simply providing "public services" to the families of fighters. In some cases, organizations have built entire villages, giving the appearance of public services serving civilians when in fact the projects are primarily intended to house fighters and their families. One example of this is the village of "Kuwait al-Rahma", which was built with the support of the Rahma International Society and donors from Kuwait, according to the al-Sham Humanitarian Foundation, which implemented the settlement project. The Kuwaiti newspaper Al-Watan revealed, in a report published 02 September 2021, that the Kuwait al-Rahma village is only one of other villages which will be built on the Turkish-Syrian border.

Moreover, STJ-led investigations into the housing project revealed that several local and international organizations are also involved in funding the project and promoting it as primarily initiated for the benefit of civilians. Against these promotional claims, the sources STJ met stressed that the SNA-affiliated fighters and their families, hailing from areas in Rif Dimashq (Damascus countryside), Homs, Hama, and Idlib were the key beneficiaries of the project, while only 25% of the beneficiaries are civilians. The Turkish Humanitarian Relief Foundation (IHH) is among the key organizations financing the Jabal al-Ahlam project. The IHH provided each beneficiary with construction materials worth approximately 1,000 USD. By early March 2022, at least 600 fighters, with their families, have settled in residential villages constructed in Jabal al-Ahlam area. Most of these fighters serve within al-Hamza/al-Hamzat Division and the Levant Front/al-Jabha al-Shamiya. Al-Sham Humanitarian Foundation, supported and supervised by the Rahma International Society is responsible for providing the Jindiris project with all the services and infrastructure, as well as marketing the project among the IDPs in the area.

Importantly, Jabal al-Akrad (also known as Aleppo Mountain), which is the project's construction site, extends over 2% of Syria's entire area. Its terrain is covered in bushes, constituting the largest vegetation cover in Aleppo province. For the purposes of the project, large swathes of the area's vegetation have been eradicated and replaced by concrete buildings. In Jindiris project, Ihsan NGO eradicated the forested area of hundreds of square meters. The organization used the cut trees as "aid supplies" of its own and were distributed to beneficiaries of its relief projects. In the past few weeks, dozens of photos, videos and press reports spread about cutting down forest trees and fruit trees, affecting large areas of vegetation in Afrin, in full view of the Syrian armed opposition and Turkish forces stationed in the area.¹¹

As a result of the Turkish Operation Olive Branch, between 137,070 and 320,000 civilians were internally displaced from Afrin by March 2018. 12 IDPs were – and still – prevented from going back to

displacing more than 300,000 Kurdish residents of Afrin people, Turkish-backed factions seize more than 75% of olive farms and receive the price of the first season in advance', 20 September 2018, https://www.syriahr.com/en/?p=102951; UN

¹¹ See e.g., https://www.enabbaladi.net/archives/277461.

¹² OCHA, Syrian Arab Republic: Afrin, Flash Update No. 2, 29 March 2018, https://reliefweb.int/report/syrian-arabrepublic/syrian-arab-republic-afrin-flash-update-no-2-29-march-2018-enar; Syrian Observatory for Human Rights, 'After

their villages at SNA-manned checkpoints or were admitted only after paying a bribe.¹³ This was accompanied by an extensive and systematic looting of the properties of the Kurdish residents which continued and expanded during the next Turkish military Operation Peace Spring targeting the districts of Tell Abyad and Ras al-Ayn between 9 October and 27 November 2019.¹⁴

4. Legal Framework

The documentation process and evidence collected by STJ for this submission highlights several violations committed in northwest Syria for which Türkiye, as the occupying power, bears responsibility under Article 47 of the Fourth Geneva Convention. Moreover, the facts reveal that the Turkish authorities bear the responsibility of violating other provisions of international law that relate to the promotion of a democratic and equitable international order as well as the human rights and international solidarity.

4.1 Human Rights of Minorities as IDPs

In light of the described facts, the IDPs from Afrin and its surroundings, being deprived of their right to return to their homes and excluded from the humanitarian assistance available and provided to other persons in their country — either residents or IDPs — are subjected to inequal enjoyment of their rights and freedoms in violation of Principle 1(1) and Principle 4 of the Guiding Principles on Internal Displacement (Guiding Principles).

Moreover, the establishment of permanent or semi-permanent housing projects such as the ones addressed in this submission and others, benefiting a population – including the armed groups perpetrated in the displacement of the original residents – of different ethnicity while establishing a *status quo* of non-return of the original Kurdish population may be interpreted as an arbitrary displacement based on policies or practices aimed at/or resulting in altering the ethnic composition of the affected population, according to Principle 6 (2) (a).

The practices described in this submission – and as detailed in STJ's report – affected in a particular manner the original residents of Afrin and the surrounding areas mainly composed of the Kurdish and Yezidi minorities. Türkiye as an occupying power is in violation of Principle 9 of the Guiding Principles especially that it is either facilitating the continuation of those minorities' displacement, or by failing to repress the actions leading to that, as well as refraining from taking effective measures to re-establish the original situation before displacement.

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Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/39/65, 9 Aug. 2018, p. 14, § 70.

¹³ UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/39/65, 9 Aug. 2018, p. 14, § 72.

¹⁴ See e.g., Syrians for Truth and Justice, 'Afrin: Seizing Real Estate Property After Operation Olive Branch and Operation Peace Spring', 26 May 2021, https://stj-sy.org/en/afrin-seizing-real-estate-property-after-operation-olive-branch-and-operation-peace-spring/.

4.2 IDPs and Humanitarian Assistance

The distribution of "allocation papers" which provide the right to use public property to limited groups among the population is in violation of Article 60 of the Geneva Convention (IV). The article prohibits the occupying power from diverting relief from the purpose for which it is intended, "except in cases of urgent necessity." The International Committee of the Red Cross (ICRC) emphasizes that in no case may relief consignments be diverted for the benefit of the forces, administrative personnel, or even the civilian population of the occupying power. These consignments must be retained wholly and exclusively for the population of the occupied territories. Compared to the facts in this submission, Türkiye, as the occupying power, bears the responsibility for diverting relief through some humanitarian entities to benefit its allied forces. Additionally, the occupying power and associated humanitarian organizations are also responsible for violating the neutrality requirements which govern the distribution of humanitarian relief, at odds with Article 61 of the Geneva Convention (IV). The article also requires that if the occupying power should delegate relief distribution, this duty must be assigned to a humanitarian, neutral, and impartial party.

Considering the direct and indirect prevention of the return of the IDPs from Afrin to their homes while diverting the humanitarian assistance to benefit the occupying power's proxies and to establish an altered ethnic composition of the affected population, contradict the obligations stipulated in Principle 24 of the Guiding Principles that require carrying out humanitarian assistance in accordance with the principles of humanity and impartiality, and that emphasize not to divert this assistance in particular for political or military purposes.

Furthermore, the humanitarian organizations involved in the addressed case of this submission are obliged to give due regard to the protection needs and human rights of IDPs and take appropriate measures in this regard pursuant to Principle 27 (1). The involved organizations, approved or commissioned by the Turkish authorities to conduct the reported interventions, while aware of the diversion of humanitarian assistance and being used to violate the original IDPs rights, are violating this obligation. Additionally, Principle 30 of the Guiding Principles clearly requires that humanitarian organizations exercise their mandates to assist IDPs in their return or resettlement and reintegration. Indeed, the humanitarian organizations involved in the settlement projects addressed in this submission are exercising their mandates contrary to this obligation since they are impeding the IDPs return instead of assisting them.

4.3 Implications on Post-Conflict Prospects, Equitable International Order and Solidarity

The Turkish and its controlled actors' involvement in establishing a situation that alters the ethnic composition of the affected population contradicts the preventive approach to non-recurrence and undermines and seriously complicates any chances for transitional justice in Syria. In

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¹⁵ ICRC (1958), Commentary on the Fourth Geneva Convention: Convention (VI) relative to the Protection of Civilian Persons in Time of War [hereinafter ICRC Commentary on GC 1958], p. 324.

a situation where the people at some time in the future will have to deal with a combination of post-totalitarian and post-conflict situation to design transitional justice approaches, the reported facts in this submission and its fatal consequences on the intra-social relationships and potential conflicts between the different ethnicities. The case of Jabal al-Ahlam cannot be addressed in isolation from previous practices that intimidated and displaced the original population.¹⁶ The imposition of a new demographic *fait accompli* in the area through allocation procedures coupled with past and/or continuing practices of displacement may amount to the crime of the forcible transfer of population under Article 7(1)(d) of the Rome Statute. Such attempts to permanently change the ethnic composition of an area were described as a violation of international law by the United Nations Committee on the Elimination of Racial Discrimination, in a 1995 decision relating to Bosnia and Herzegovina. The decision said that: "any attempt to change or to uphold a changed demographic composition of an area against the will of the original inhabitants, by whatever means, is a violation of international law."¹⁷

Article 55 of the Regulations Concerning the Laws and Customs of War on Land — annexed to the Hague Convention with Respect to the Laws and Customs of War on Land — states that: "The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties and administer them in accordance with the rules of usufruct." However, this administrative role should not be approached in isolation from several rules and other restrictions. For instance, if the occupier can grant privileges that exploit the right to the use of immovable public property, this privilege must not exceed the duration of the military occupation, ¹⁸ because occupation must fundamentally be considered a temporary state and must not turn into a sustained de facto state.

In this context, the issuance of the warqat/Awraq al-Takhssiss (allocation paper/papers), the privileges the paper permits relating to construction and housing activities over public properties, and the long-term effects of these privileges, exceed the rules governing the occupation's fixed-term benefit from the properties. Moreover, this mechanism and how it is framed today and in the future on the level of domestic law, and as a result of the reality of the sustainability of this use, violates the essence of Article 43 of the Hague Regulations. The article obliges the occupying power to respect existing national laws except in cases of extreme necessity. This is pursuant to the first paragraph of the article that obliges the occupying power to exercise its authority in the interest of the occupied territory and its population, which are protected under the international law regulating occupation.

In addition to the fact that the Turkish occupation of Syrian territories is contrary to the values of international solidarity, mainly sovereignty and sovereign equality of all States, the further interventions and changes through the reported facts and its implications on the territorial and

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¹⁶ See, for instance, HRW (1993), "GENOCIDE IN IRAQ: The Anfal Campaign Against the Kurds" (last accessed 4 May 2022) https://www.hrw.org/reports/1993/iraqanfal/#Table%20of.

¹⁷ U.N. Committee on the Elimination of Racial Discrimination, Decision 2 (47) of August 17 1995, on the situation in Bosnia and Herzegovina, U.N. Doc. A/50/18/1995, para. 26.

¹⁸ Yoram Dinstein (Ed.), Israel Yearbook on Human Rights, Volume 13 (1983), pp. 52-89.

social integrity of the occupied State is another serious indicator of the Turkish conduct against such values. Such interventions undermine the right of peoples and nations to permanent sovereignty over natural wealth and resources and violate the universal; indivisible; interdependent; and interrelated nature of human rights that must be treated in a fair and equal manner. This indicates an obvious alteration for the promotion of a democratic and equitable international order.

4.4 Human Rights and the Environment

The reported housing project in this submission is one example of a series of other projects either already started or planned to be constructed on some of the largest vegetation covers in Aleppo province. As shown in STJ's reports (here and here), the initiation of the construction work in these projects started with large scale deforestation and turning agricultural lands into construction sites for the sake of the projects. Türkiye should i) refrain from violating human rights through causing or allowing environmental harm; ii) protect against harmful environmental interference from other sources; and iii) take effective steps to ensure the conservation and sustainable use of the ecosystems and biological diversity on which the full enjoyment of human rights depends. 19

5. Recommendations

We urge the respectful mandate holders to prioritize this matter and give it their utmost attention since it jeopardizes the human rights of hundreds of thousands of the original residents of the region, in addition to undermining any preventive measures that might serve a meaningful transitional justice in the future, in addition to establishing precedents against the global endeavour towards a democratic and equitable international order and solidarity.

We recommend communicating with the Turkish authorities, the SNA, and the humanitarian organizations and charities involved in this project, reminding, and urging them to adhere to their obligations under international law. In particular, we gently ask the mandate holders for the following:

- 1. Sending a communication to all relevant stakeholders urging them to take the responsibility investigating the reported facts and responding to it.
- 2. Demanding immediate and effective measures to halt the ongoing construction work.
- 3. Subjecting the humanitarian assistance to objective assessment and monitoring to ensure its conduct is in line with the principles of humanity and impartiality, and that no diversion whatsoever takes place.
- 4. Allocating adequate resources for humanitarian assistance for the IDPs of the original population according to their real needs.
- 5. We urge the Mandate Holders to issue a statement or public opinion addressing this topic in general considering its continuous occurrence as a widespread or systematic policy.
- 6. We urge the Mandate Holders to raise the issue at the Human Rights Council.
- 7. We invite the Mandate Holders to meet the submitting organization for further elaboration on the issue.

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¹⁹ UN Human Rights Council, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Framework principles on human rights and the environment, A/HRC/37/59, 24 January 2018, pp.7-8, § 5.



About Us:

Syrians for Truth and Justice (STJ) is a nonprofit, nongovernmental organization monitoring human rights violations in Syria. Founded in 2015, STJ has been based in France since 2019.

STJ is an impartial and independent Syrian human rights organization operating across Syria. Our network of field researchers monitor and report human rights violations occurring on the ground in Syria, while our international team of human rights experts, lawyers, and journalists gather evidence, examine emerging patterns of violations, and analyze how violations break domestic Syrian and international law.

We are committed to documenting violations of human rights committed by all parties in the Syrian conflict and elevating the voices of all Syrians victimized by human rights violations, regardless of their ethnicity, religion, political affiliation, class, and/or gender. Our commitment to human rights monitoring is founded on the idea that professional human rights documentation meeting international standards is the first step to uncovering the truth and achieving justice in Syria.



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