



Report: Side Event on “Forcible Transfer of Population in Syria”

26 February 2018 10:30 – 12:00

Room XXV, Palais des Nations

United Nations Office in Geneva

The event was co-sponsored by the Governments of Belgium, Canada, Denmark, Lichtenstein, The Netherlands and Sweden.



Overview

The 37th Regular Session of the Human Rights Council represents a further opportunity for the international community and CSOs to discuss and to provide recommendations on how to break the cycle of violence and impunity in Syria. Despite UNSC Resolution 2401/2018, the efforts put forward by Staffan de Mistura, UN Special Envoy for Syria, and other international initiatives, the situation in Syria continues to deteriorate. The military strikes that continue to hit Eastern Ghouta, the besieged suburb of Syria's capital Damascus, despite the unanimous adoption by the UN Security Council of UNSC Resolution 2401/2018, establishing a 30 days humanitarian truce, are a clear sign that there are few prospects of an end in sight to the conflict.

While the war in Syria approaches its eighth year, civilians continue to bear the brunt of a conflict marked by unparalleled suffering, destruction and disregard for human life. According to OCHA, 13.1 million people require humanitarian assistance, including close to 3 million people trapped in besieged and hard-to-reach areas; 5.5 million people have fled the country and 6.1 million have been internally displaced by violence. Many have been displaced multiple times. Children and youth comprise more than half of the displaced, as well as half of those in need of humanitarian assistance.

Over the years, the forcible transfer of population has become a consistent strategy by the Assad regime and his allies to consolidate territory and expel civilians who do not support its rule. ISIS and anti-Assad militias have also forced people to flee their homes in newly occupied territories. Local communities have been encircled, besieged and denied their basic rights, including freedom of movement and access to adequate food and health care, to deliberately inflict conditions of life calculated to bring about their destruction. The forced displacement of civilian population is presented as a humanitarian measure and negotiated and handled by the very same people that determined these humanitarian catastrophes. To the contrary, as stated by the UN Secretary General, “under international humanitarian law, the forced displacement of civilians for reasons relating to the conflict is permissible solely in order to guarantee their security or for imperative military necessity. Forced displacement for any other reason relating to the conflict is prohibited and may constitute a war crime” (S/2017/339).

The Commission of Inquiry (CoI) described the evacuation of eastern Aleppo as “forced displacement” and a crime against humanity under international law (A/HRC/34/64). The case of the “Four Towns Agreement” of March 2017 is probably the clearest example of this political and military tactic: under the agreement, the populations of Foah and Kefraya, mostly Shia Muslims, and those of Madaya and Zabadani, mostly Sunni Muslims, were exchanged. The conflict has given the Assad regime the opportunity and means to implement, accelerate, and expand pre-war demographic changes goals, as in Homs which has been turned into a test-ground for redistributing its population and strengthening the economic and physical control of the city by pro-Assad communities and a blueprint for similar operations in other Syrian regions. The growing relevance of foreign influence over the conduct of military operations has compounded this strategy.

Forced displacements – if made irreversible - will have long-lasting effects on the future of Syria, by altering the demographic composition of key strategic areas and changing the social fabric of the country. By redrawing the geographical distribution of various communities in Syria, the forcible transfer of specific populations represents one of the main ways through which the warring parties are sapping any possibility for meaningful transitional justice processes and a political transition capable of lasting more than few years. In order to ensure that a credible, unbiased and fair political transition will take place in Syria, it is critical that the civil and political rights of the Syrian people are guaranteed today and that decisions and actions taken today will not hamper any possibility for a political transition in the years ahead.

Side event summary

1.1 The participants

Panelists of the meeting - co-chaired by **Niccolò Figà-Talamanca**, Secretary General of No Peace Without Justice, and **Hussein Sabbagh**, Secretary General of the Euro-Syrian Democratic Forum - included **Noura AlJizawi**, Start Point; **Anwar Albuni**, Syrian Center for Legal Researches and Studies; **James Rodehaver**, Independent International Commission of Inquiry on Syria. Welcome remarks were made by H.E. **Anders Samuelsen**, Minister for Foreign Affairs of Denmark, H.E. **Sigrid Kaag**, Minister of Foreign Affairs and Minister for Foreign Trade and Development Cooperation of The Netherlands and H.E. **Aurelia Frick**, Minister for Foreign Affairs of Liechtenstein. Concluding remarks were made by **Sébastien Beaulieu**, Executive Director for Syria, Canada.

The side-event offered an opportunity for a chair-moderated debate with eye-witnesses, civil society leaders of organisations working on human rights inside Syria, representatives of UN Member States¹ and the CoI to share their views on issues of forcible transfer of population, accountability and transitional justice. The meeting ensured that eye-witnesses and civil society voices were heard. Following the remarks from representatives of the co-sponsors States, the meeting was structured as a series of topics and questions raised by the co-chairs and answers from the panellists and eye-witnesses which elicited clear and strong positions on key human rights issues in Syria. In particular, this side event reviewed the fundamental issues of accountability and transitional justice as essential components of any future negotiation on Syria. The meeting also tackled the overlooked issues of property rights of IDPs and refugees.

1.2 The panel discussion

Co-chairs Mr Figà-Talamanca and Mr Sabbagh introduced the topic under discussion. In particular, Mr Sabbagh stressed that, despite the recent adoption of UNSC Resolution 2401/2018, massive and systemic attacks against civilians are continuing unabated. The situation in Syria has not improved and the situation in Eastern Ghouta is particularly worrisome. Mr Sabbagh mentioned how the sieges and forcible transfers of population aim at changing the demographic composition of Syria. Following the brief introduction by the co-chairs, the Ministers took the floor.

In his welcoming remarks **H.E. Samuelsen** condemned human rights violations and violations of international humanitarian law occurring in Syria, he stressed the importance for all parties to the conflict to ensure an improved access to humanitarian aid to all people in need across the country, in line with humanitarian principles. Furthermore, Minister Samuelsen highlighted the pervasiveness of cases of torture, starvation tactics and the use of chemical weapons and forcible transfers among other human rights violations and crimes throughout the conflict. He mentioned the bombardment of civilians in Eastern Ghouta as the latest dreadful example of the violence and sufferance civilians in Syria have been exposed to. In this regard Denmark welcomes UNSC Resolution 2401/2018, however Minister Samuelsen emphasised the need to assuring accountability and stressed the critical role played by the United Nations Human Right Council, the CoI and the IIIM to ensure that accountability remains high in the political agenda. The attention was then moved on the forcible transfer of population widely used by the Syrian regime as a persistent strategy in order to change the demographic composition of strategic areas in the country. This strategy was used in Aleppo and described by the CoI as a crime against humanity, as well as in the case of the “Four Towns Agreement”. The people in Eastern Ghouta are witnessing the use of the same strategy. Minister Samuelsen concluded his speech stressing that Denmark supports the safeguarding of official documents with a view to ensuring transitional justice and that

¹ List of the countries which attended the side event: Andorra, Armenia, Bahrain, Belgium, Bulgaria, Canada, Czech Republic, Croatia, Denmark, European Union, Finland, France, Germany, Greece, Japan, Israel, Lichtenstein, Lithuania, Monaco, New Zealand, Norway, San Marino, Saudi Arabia, Sweden, Switzerland, The Netherlands, Turkey, Kuwait, United States of America, United Kingdom.

accountability and transitional justice are key elements of the transitional process that Syria strongly needs.

H.E. Kaag asserted that the crisis in Syria and the most severe violations of human rights are a collective responsibility and the longer the crisis is protracted the more the international community fails the people of Syria. There is no solution other than through an inclusive, effective political process. Minister Kaag underlined that accountability is key against all violation of international human rights law and international humanitarian law and she added that accountability requires clear judicial pathways to hold perpetrators accountable. Minister Kaag acknowledged UNSC Resolution 2401/2018 as another crucial point, albeit maybe a fragile one, to guide the actions of the international community in the near future. Minister Kaag then focused her attention on the conditions for return and prospects for return for the forcibly transferred people. In fact, a return is not possible if conditions are not guaranteed to make it safe, voluntary and dignified. Also, she stressed that returnees must not be retaliated against, detained, or worse when trying to go back to the very places they were obliged to leave. As to the prospects for return, there is a need to address property issues: housing and land property are not technicalities, they are highly political, and they come back to matters of rights and ought not to be overlooked. When these requirements are not met, the return could be deemed to undesirable outcomes. Forced displacements as a military strategy need independent research and investigation. Then, Minister Kaag explored the topics of gathering reliable information and of data collection. Such data and information may shed some light on patterns of human rights violations that would otherwise go unperceived and clarify who should be held accountable for them. To this extent, she called for independent research and full, unfettered access to the reports and documents and concluded her speech acknowledging the pivotal role that CoI and IIIM play in the peace process.

H.E. Frick conveyed the message that a political solution in Syria is more necessary than ever; such political solution needs to be participatory, comprehensive and must ensure the full inclusion of women and the Syrian civil society community. National reconciliation needs to include all groups: refugees and IDPs and needs to foresee redress for victims. There is a need to give victims a voice and raise their cases. Minister Frick emphasised the prominent work carried out by civil society organisations in securing information and supporting victims. She then called for a joint effort to share evidence and information with the IIIM to contribute to its success.

Following these remarks, co-chairs Mr Figà-Talamanca and Mr Sabbagh led the panellists through a number of issues in order to explore the complexities of what is happening in Syria and draw out the panellists' views on the necessary steps to be taken in the pursuit of a political solution to the war in Syria.

Anwar Albuni is the Director of the Syrian Center for Legal Researches and Studies. Mr. Albuni is a Syrian human rights lawyer who has spent his professional life defending Syrian political dissidents, often pro bono. In May 2006 Mr Albuni was detained by security forces after signing the Beirut-Damascus Declaration calling for democratic reform. A year later he was given a five-year sentence for "spreading false or exaggerated news that could weaken national morale, affiliating with an unlicensed political association with an international nature, discrediting state institutions and contacting a foreign country". Amnesty International designated him a prisoner of conscience. In 2008, Mr Albuni received the Front-Line Award for Human Rights Defenders at Risk.

During his contribution to the debate, Mr Albuni raised the issue of the involvement of Iran in the political process in Syria. He stressed that after such involvement in 2010, the regime adopted a different pattern on forcible transfer of population which became an aim in its own right. The government was gloating on how proud it was to force its population outside Syria because that led to a homogeneous society. Forcible transfer became a well-entrenched pattern, used in Homs and other cities. According to Mr Albuni, though the crime of forcible transfer was committed by the regime, the international community contributed in the perpetration of this crime. UN Security Council resolutions mandated humanitarian transfer of population, the focus was on humanitarian assistance but in doing so they were facilitating a crime.

Noura AlJizawi is the Director of Start Point, a Syrian NGO dedicated to raising awareness of human rights and gender issues. Previously, Mrs AlJizawi was twice elected to the position of Vice President of the National Coalition of Syrian Revolution and Opposition Forces (SNC), additionally serving as a member of the SNC Political Committee on three occasions. In 2014, Mrs AlJizawi has been one of the members of the Syrian negotiations team at the Geneva peace talks.

Mrs AlJizawi questioned the fundamental issues of the current thinking in the international debate on Syria. She stressed that in Aleppo the forcible transfer of population was a policy declared almost officially by the regime, based on sectarian backgrounds hidden behind the call for humanitarian assistance. The civilian population needed aid and foods and the only way out of this situation was to accept to be moved. According to Mrs AlJizawi it is important to note that the population needs to be protected from being forced to leave. She urged the international community to put an end to this situation, pointing out that Ghouta is the testing ground for its commitment to help the people of Syria. She concluded expressing the need for action, not only agreements in words. She concluded her speech highlighting that the UN Security Council resolutions have become more and more a source of disappointment.

In his intervention, **James Rodehaver**, coordinator of the Independent International Commission of Inquiry on Syria (CoI), conveyed the message that forced displacement is a war crime and that it has been used as a war tactic by all parties involved in the war in Syria. Forced displacement takes place when a party to the conflict orders the displacement of a population when the security of the civilians involved or imperative military reasons do not demand it. Evacuation agreements within local truces negotiated with the Syrian government have resulted in the war crime of forced displacement in 7 separate occasions, such as, for example, in the evacuation of Eastern Aleppo or Madaya. They made use of siege tactics, characterised by the deliberate denial of humanitarian assistance, the prevention of medical evacuation, the targeting of hospitals - all of this had the aim to make the life of civilians intolerable. This had led to the negotiation of local truces to end the siege and begin the evacuations. Civilians have not been given the choice nor have been consulted. In many cases, armed groups or local councils represented the civilian population, making the decision for them. Civilians were not asked if they wanted to leave or stay, no guarantees were given as to their property rights, yet they have been evacuated under humanitarian imperatives. They have been evacuated in areas in which they still were at risk. In the few instances they were given a choice, they had to swear their allegiance to the Syrian government. Medical personnel and those sympathetic to armed groups were not given any choice. Eastern Ghouta is facing a situation of siege and humanitarian access is being denied by the warring parties. Mr Rodehaver stressed how very likely the siege of Eastern Ghouta will be resolved with another evacuation agreement and local truces. Against this background, Mr Rodehaver underlined how two key issues stand out: humanitarian access and accountability. Humanitarian access must be given unconditionally. Over the long haul, the search for accountability is key and mandates the international community to investigate responsibility within the actors that have contributed to the conflict. Mr Rodehaver concluded his speech calling for a negotiation and political process that tackles also the issue of property rights.

1.3 Discussion from the floor

During the open debate, Permanent Missions in Geneva and civil society representatives took the floor to underline their commitment in the Geneva process and some eyewitnesses had the chance to make their voice heard.

Moaouya Hamoud is a Syrian human rights activist and a former member of the Local Council in Madaya. He was in Ghouta when chemical attack happened, and he saw his brother and schoolmates killed by the Syrian army in 2012. He was evacuated from Eastern Ghouta, where civilians were not asked if they wanted to leave, they were obliged to leave. Humanitarian assistance to thousands of people trapped in the besieged Syrian enclave of Eastern Ghouta could not be delivered without the approval of the Minister of Foreign Affairs of the Regime. Mr Hamoud asserted that there are many shortcomings behind UN decisions on Syria, and he argued that the UN is supporting the Syrian regime.

Bassel Tawil was given the floor to share his testimony. He recalled that on 11 March 2012 at 11 pm he received a phone call from a friend who said that a massacre had just happened in a neighbourhood in Homs, and that they would receive the bodies very soon, to bury them by the morning. A few hours later, a truck full of bodies arrived. One hour later they received another phone call that said that another truck was on its way, other 22 bodies came. His house was full of bodies, so they had no other choice than to put the bodies on the side of the street. There were 39 bodies: 13 women, 19 children and 7 men. Most of them had been killed with knives, and the rest by shooting or being burnt to death. The purpose of this massacre was clear: to force the people to leave their homes. Many other massacres have been committed by the Syrian regime in Homs between 2011 and 2013. In May 2012, around six thousand people were trapped in Homs, Mr Tawil was one of them. He recalled the 2 years of suffering without electricity, water, or food and under continuous shelling day and night until February 2014 when, further to the adoption by the UN Security Council of Resolution 2139/2014, a local agreement allowed the civilian population to leave the besieged city. After a while, his parents decided to return to Homs, but they needed a permit by the Syrian security apparatus, which they did not get. An effective response to the massacres and crimes perpetrated against the civilian population in Syria requires at least transitional justice and accountability for the crimes committed.

In his testimony, **Mohamad Almrwah**, stressed that in Homs many people were killed to scare and terrorise the population and induce them to flee the town. His family house was occupied by groups allied to the regime. They have employed groups allied to the regime to expropriate properties in Syria providing false documents to the courts. Mr Almrwah called for a strategical approach to document what is happening. He underlined that despite several actions taken by the international community, the regime continues to adopt measures that enjoy the support of the UN.

Without denying all the effort that has been done for peace by the international community, co-chair Niccolò Figà-Talamanca highlighted the fact that, despite UNSC Resolution 2401/2018, Eastern Ghouta continues to be the site of systematic massacres of civilians.

Ahmad Youssef is a White Helmets' volunteer who until recently was assisting the civilian population in Eastern Ghouta. The White Helmets are assisting thousands of families who have been evacuated from their homes and they have been involved in helping to evacuate 16 areas surrounding Damascus. Food and aid were prohibited in these areas, poison gas and chemical weapons have been used, all these elements led civilians to flee. Mr Youssef underlined that this cannot be considered a humanitarian evacuation but must be deemed a crime. Civilians should be able to stay in their homes and humanitarian corridors need to be set up to provide medical and humanitarian assistance to the people not to allow evacuations that create refugees and IDPs. Mr Youssef stated that White Helmets lost many men to protect the lives of civilians. They have been targeted by different parties to the conflict. They become targets of airstrikes when they try to save lives. Mr Youssef also stressed how poisonous gases were used in Eastern Ghouta within 24 hours from the adoption UNSC Resolution 2401/2018.

After Mr Youssef testimony, **Niccolò Figà-Talamanca** took the floor to underline that the White Helmets have been victims of disinformation and that fake news was spread against them.

Mr. Niklas Kebbon, Swedish Special Representative for the Syria Crisis, took the floor to thank the panellists, the co-sponsors of the event and the eye-witnesses. Mr. Kebbon recalled that Sweden and Kuwait have worked for weeks at the UN Security Council to ensure the adoption of Resolution 2401/2018 which calls for a 30 days cease-fire. This decision notwithstanding, the situation on the ground remains tragic and UNSC Resolution 2401/2018 still remains to be implemented. The UN Security Council must assume its responsibilities.

Yasser Farhan, Member of the Syrian Coalition's political committee, stressed how putting an end to mass forced displacement operations in Syria must be a priority of the United Nations. Farhan pointed out that there were major parties involved in mass forced displacement and demographic change operations in Syria, chiefly among them is the Assad regime and the Democratic Union Party (PYD). Mr.

Farhan concluded saying that around 400,000 civilians, who currently live in the besieged eastern Ghouta, are threatened with mass forced displacement should UN Security Council Resolutions, especially resolution 2401, are left unimplemented. UN Security Council resolution 2401, which calls for a nationwide ceasefire should pave the way for the implementation of resolution 2254, which calls for a comprehensive cease-fire, the lifting of the sieges, the delivery of humanitarian aid, and the release of detainees, he added.

In his conclusions, **Sébastien Beaulieu**, Executive Director for Syria of Canada, expressed his bewilderment that years after the beginning of the conflict the forcible transfer of population continues unabated. Mr Beaulieu stated that there is still much work to do, and there is a need to mobilise the international community to keep monitoring the issue of forcible transfer, but also the daily violations of IHL and foster accountability. Mr Beaulieu thanked the organisers, the co-chairs, the panellists and the eye-witnesses for their testimonies which continue to serve as a daily live example of the violence and sufferance that is taking place in Syria. The Canadian Executive Director for Syria, then, renewed the commitment to support the work of the White Helmets.

Conclusions

This side event reviewed the fundamental issues of accountability and transitional justice as essential components of any future negotiation on Syria. The meeting served as a reminder that the rights of IDPs and refugees need to be part and parcel of a political settlement and are addressed not exclusively through a humanitarian approach. Proper mechanisms and procedures need to be set up to protect and guarantee property rights and the return of homes and properties to their legitimate owners; to ensure the right to vote to those that have been forcibly removed from their homes and electoral constituencies; and halt resettlement operations that are being carried out in the cities and neighbourhoods whose residents have been displaced. The panellists underscored how the international community may play a more relevant role in enabling the transitional process and expressed the need to support the work of CoI and IIIM with a view to fighting the persisting impunity. They identified this current moment in the history of the conflict in Syria as a crucial moment for the international community to step up its efforts to find a political solution. Further, the meeting served as a reminder that the urgent priority of reaching a lasting political solution requires an inclusive and participatory process that ensures that the issues of forcible transfer and property rights are effectively addressed.