

# POLICY BRIEF: THE ROLE OF SYRIAN BUSINESSES IN CONFLICT-RELATED HUMAN RIGHTS ABUSES: OPTIONS FOR ACCOUNTABILITY

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SYRIAN LEGAL DEVELOPMENT PROGRAMME  
البرنامج السوري للتطوير القانوني

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## **Acknowledgements**

This policy brief was researched and written by Giorgio Migliore, Legal Analyst in the Human Rights and Business Unit at the Syrian Legal Development Programme. It was edited by Noor Hamadeh, Program Head of the Human Rights and Business Unit and by Ibrahim Olabi, Executive Director of the Syrian Legal Development Programme.

## **Executive Summary**

The conflict in Syria has seen the commission of gross human rights abuses and international crimes by many actors, particularly by the Syrian authorities. The perpetrators must be held to account to fight impunity and preserve the international legal order. In Syria abuses and crimes are not constrained to those who carry weapons, businesses also play a role. Using examples, this paper shows that Syrian businesses have caused, contributed and/or are linked to human rights abuses committed in the Syrian conflict. Applying the framework of the UN Guiding Principles on Business and Human Rights, it argues that each type of involvement constitutes a violation of the internationally recognised business responsibility to respect human rights and justifies the adoption of accountability measures.

While accountability often refers to court-based processes, the paper argues that accountability should be defined more broadly given the current deadlock. The paper focuses on non-judicial accountability measures such as targeted economic sanctions and the adoption of measures to prevent the establishment of business relationships with Syrian businesses involved in conflict-related human rights abuses. It makes recommendations to stakeholders including States, UN Bodies and Agencies, NGOs and foreign businesses on how to support the aforementioned accountability measures.

## **Methodology**

The paper builds on the research the Syrian Legal Development Programme has conducted since April 2018 on the role of businesses in the Syrian conflict. It draws on publicly available information including media reports, academic publications and reports by intergovernmental human rights bodies and by international and local NGOs. The paper is also based on an analysis of open source information regarding: EU and US sanctions against Syrian businesses and businessperson, the procurement operations of humanitarian actors in Syria, and the human rights policies and procedures of humanitarian actors, international development institutions and investment funds. Finally, the legal analysis is based on the UN Guiding Principles on Business and Human Rights, commentaries and explanatory notes as well as on primary sources of international law, including the case law of international criminal courts.

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## I. INTRODUCTION

This paper will explore alternative avenues to achieve accountability for human rights abuses and international crimes in Syria. It will focus on Syrian business actors which, despite playing a prominent role in the conflict and despite being involved in gross human rights abuses and international crimes, have so far received limited attention in the context of accountability efforts. The focus on business actors is also motivated from a strategic standpoint by the fact that, contrary to other perpetrators of abuses in the Syrian conflict, such as military and political leaders, business actors can already be reached by effective accountability measures.

This paper will adopt a broad understanding of accountability as involving the assessment of an actor's performance against certain standards and "the possible imposition of consequences if the actor fails to live up to applicable standards".<sup>1</sup> Even though this concept of accountability as answerability for past events<sup>2</sup> includes legal liability, this paper does not focus on the legal liability Syrian businesses may face for violations of international and domestic law since judicial accountability avenues are unlikely to be available with regard to Syrian businesses due to jurisdictional limitations.

Although they are not the sole perpetrators of human rights abuses, this paper focuses exclusively on Syrian businesses located in government-controlled areas as opposed to those controlled by the opposition since the vast majority of economically relevant Syrian businesses are located and operate in the former, and given that the government is the primary preparator of violations in Syria.

Section II will outline the human rights responsibility of businesses under international law, including the implications of human rights violations committed by third parties. Sections III and IV will provide background information to help contextualise the involvement of Syrian businesses in the conflict and in conflict-related human rights abuses. Section III will explain the relationship between the Syrian government and the business elites and the role played by the latter in the conflict. Section IV will outline some of the gross-human rights violations and international crimes committed by the Syrian government and by pro-government forces. Section V will build on the previous sections and provide examples of Syrian businesses' involvement in conflict-related human rights abuses. In addition, it will address how each type of involvement amounts to a breach of the business responsibility to respect human rights. Finally, Sections VI will identify accountability options for Syrian businesses involved in conflict-related human rights abuses and Section VII will make recommendations on how different stakeholders can support the accountability options identified in Section VI.

## II. BUSINESS RESPONSIBILITY UNDER INTERNATIONAL LAW

This section outlines the human rights responsibility of businesses as articulated in the UN Guiding Principles on Business and Human Rights (UNGPs),<sup>3</sup> a set of international standards regulating business conduct endorsed by the UN Human Rights Council in 2011.<sup>4</sup> Clearly identifying the scope of the human rights responsibility of businesses allows to determine the circumstances in which it is justifiable to hold them to account.

Under international law, businesses are expected to respect human rights.<sup>5</sup> To comply with this international standard, businesses are expected to avoid infringing on the human rights of others<sup>6</sup> and to address the human rights abuses with which they are involved.<sup>7</sup> If involved in an armed conflict, businesses must also abide by international humanitarian law.<sup>8</sup> The responsibility to respect human rights is often a legal compliance matter as under an increasing number of domestic

jurisdictions, the infringement of human rights gives rise to civil and, in some cases, criminal liability for business directors and business enterprises. In addition, under international law, human rights violations amounting to war crimes, crimes against humanity, and genocide give rise to the legal liability of individuals, including business directors and owners. The responsibility to respect human rights exists over and above legal compliance.<sup>9</sup> Even where the involvement of a business in human rights abuses does not give rise to domestic or international legal liability, it constitutes a violation of a globally accepted standard applicable to businesses.<sup>10</sup> Finally, the responsibility of businesses to respect human rights applies not only to their own activities, but also, in some cases, to the conduct of third-parties.<sup>11</sup> The UNGPs describe the scope of their responsibility to respect human rights through the following three categories of involvement with human rights abuses: *causation*, *contribution*, and *direct link*.<sup>12</sup>

#### Causation

A business causes human rights abuses where “its activities (its actions or omissions) on their own ‘remove or reduce’ a person’s (or group of persons’) ability to enjoy a human right”.<sup>13</sup>

#### Contribution

Responsibility for contribution to human rights abuses can arise either through a business’ own activities alongside another entity or through another entity.<sup>14</sup> The UNGPs define contribution with reference to the international criminal law standard of aiding and abetting:<sup>15</sup> “providing practical encouragement, or moral support which has a substantial effect on the perpetration of the crime”<sup>16</sup> with the “knowledge that these acts assist the commission of the crime”<sup>17</sup>. Under customary international law, it is not required that the contribution is provided for the purpose of assisting the violations.<sup>18</sup> In addition, it is arguable that the knowledge can be inferred from all relevant circumstances.<sup>19</sup> Particularly relevant in this regard is, for instance, whether or not there is widespread knowledge about the commission of crimes by the principal perpetrator.<sup>20</sup> At the same time, the UNGPs also embrace a broader concept of contribution that goes beyond the legal concept of aiding and abetting.<sup>21</sup> The OHCHR clarified that the UNGPs do not require contribution to be substantial, rather it is sufficient that the activities of the business make the abuses more likely.<sup>22</sup> Finally, when determining whether the assistance provided amounts to contribution under the UNGPs, the scale and seriousness of the human rights abuses should be taken into account.<sup>23</sup>

#### Direct link

Business responsibility can also arise for the human rights abuses of a third party even if the business has not caused nor contributed to such abuses. Direct linkage refers to a situation where there is a direct link between the operations, products, or services of a business and the human rights abuses committed by an entity, including other businesses and state and non-state entities,<sup>24</sup> with which it has a business relationship.<sup>25</sup> The term “direct link” is not intended to distinguish between direct and indirect links. If a business’ operations, products, or services are linked to human rights abuses, the business is responsible regardless of whether the link is direct or indirect.<sup>26</sup> The scope of business responsibility through direct linkage is not easily defined. However, according to the OHCHR, it is broad enough to include making financial resources available to a state known to be engaged in systematic and deliberate human rights abuses through the purchasing of a sovereign bond.<sup>27</sup>

### **III. THE ROLE OF BUSINESSES IN THE SYRIAN CONFLICT**

Economists argue that one of the most important causes of the uprising in Syria was the Syrian government’s fast implementation of neoliberal policies since Bashar al Assad’s rise to power.<sup>28</sup> The years between 2000 and 2011 were characterised by extensive privatization, liberalization, and the

reduction of subsidies in many products and services,<sup>29</sup> which mainly benefitted the upper class and relatives and close associates of the President and which lead to the economic marginalisation of the vast majority of Syrians.<sup>30</sup>

At the onset of the conflict, the Syrian business community was divided in the following segments. The “integrated elite”, composed of business actors with social and family links to the government, which were the main beneficiaries of the new policies that enabled private-sector involvement in key areas of the economy.<sup>31</sup> The small and medium enterprises, which still represented the majority of all businesses,<sup>32</sup> but whose wealth and influence was rapidly decreasing due to their inability to take advantage of the new economic policies because of a lack of capital and political access.<sup>33</sup> The “dependent elite” comprised of traders and industrialists of the traditional urban, Sunni merchant elite, and of other wealthy business actors with strong business ties with the government, but lacking family or social connection with it.<sup>34</sup> The “expatriate elite”, whose wealth was mainly located outside of the country and which did not have interdependent relationships with the government.<sup>35</sup>

Each segment of the Syrian business community played a different role in the conflict and was affected by it in different ways. Most of the small and medium enterprises and the majority of the “dependent elite” transferred their investments to neighbouring countries or had their assets seized for failing to adequately support the government.<sup>36</sup> The “integrated elite”, on the other hand, did not leave the country and started playing an increasingly political role by first funding the government’s orchestrated mass rallies and promoting government propaganda through their private media companies<sup>37</sup> and later by funding pro-government paramilitary groups.<sup>38</sup>

Most importantly, the conflict saw the emergence of a new category: the “conflict elite”.<sup>39</sup> This category is composed of previously little known businesspersons and leaders of paramilitary groups that, by becoming involved in the war economy, accumulated considerable wealth during the conflict and that are now progressively integrating into the formal economy.<sup>40</sup> Economic activities linked to the war economy include the import of goods to areas controlled by the government,<sup>41</sup> assisting the government in circumventing sectoral EU and US sanctions,<sup>42</sup> pillaging,<sup>43</sup> the levying of fees at checkpoints,<sup>44</sup> the protection of convoys<sup>45</sup> and profiteering from the trade of goods in besieged areas.<sup>46</sup>

The support provided to the government resulted in several members of the “integrated” and of the “conflict elite” being targeted by EU and US sanctions. At the same time, the Syrian government rewarded their loyalty and continued support by giving them preferential access to industries and sectors that were abandoned when competitors left Syria.<sup>47</sup> The economic actors that emerged during the conflict were also rewarded through their integration in the political system as demonstrated by the changes in the composition of local councils following the 2018 local elections,<sup>48</sup> and in the membership of the chambers of commerce and of industry’s boards since 2014.<sup>49</sup>

Furthermore, the government gave both the “integrated” and the “conflict elite” preferential access to the business opportunities arising from the implementation of urban planning policies and legislation.<sup>50</sup> Issues concerning urban planning, especially in relation to informal settlements in the main Syrian urban centres, are not new. Experts have argued that these issues were among the triggers of the uprising.<sup>51</sup> However, when the uprising turned into armed conflict, the government began to use its policies and efforts with regard to land and property as a weapon of war by systematically targeting areas associated with the opposition.<sup>52</sup> Government policies and efforts include the disproportionate destruction of civilian properties,<sup>53</sup> the intentional destruction of property records,<sup>54</sup> and the passing of legislation which has the effect of expropriating residents of their property. The most notorious measures amongst the latter are Decree 66/2012 and Law 10 of 2018,<sup>55</sup> which empower the government to designate areas for urban redevelopment with minimum

regard for the property rights of residents.<sup>56</sup>

#### **IV. HUMAN RIGHTS VIOLATIONS AND INTERNATIONAL CRIMES IN SYRIA**

Throughout the conflict, pro-government forces intentionally targeted civilians and civilian objects<sup>57</sup> as well as medical facilities and personnel,<sup>58</sup> including by using chemical weapons on multiple occasions.<sup>59</sup> In addition, they systematically used starvation of civilians as a method of war by depriving civilians in besieged areas of goods essential for their survival<sup>60</sup> and forcibly displaced civilians from opposition-held areas.<sup>61</sup> Furthermore, the Syrian government arbitrarily detained tens of thousands of civilians that were perceived to support the opposition.<sup>62</sup> The vast majority of detainees were subject to torture or inhuman and degrading treatment,<sup>63</sup> including sexual violence<sup>64</sup> and thousands were killed in extrajudicial executions.<sup>65</sup> Finally, around 100,000 individuals are estimated to have been victims of enforced disappearance in Syria: the majority of cases are attributed to the government.<sup>66</sup>

#### **V. SYRIAN BUSINESS INVOLVEMENT IN CONFLICT-RELATED HUMAN RIGHTS ABUSES AND INTERNATIONAL CRIMES**

This section provides examples of the different ways in which Syrian businesses have failed and continue to fail to uphold their responsibility to respect human rights by becoming involved in conflict-related human rights abuses and international crimes.

##### **Providing financial support to and/or controlling pro-government paramilitary groups**

Since the beginning of the conflict, several paramilitary groups supported the security and military operations of the Syrian armed forces and of their allies, thus becoming involved in the gross-human rights violations the UN Commission of Inquiry on Syria attributed to pro-government forces.<sup>67</sup> In addition, militias are reported to have played a central role in the pillaging of civilian properties in areas re-captured from the opposition.<sup>68</sup> Several business owners reportedly established, controlled and/or provided financial support to pro-government paramilitary groups. Ayman Jaber, a funding shareholder of Cham Holdings and of TV station Al Adounia with business interests in steel and oil and gas companies,<sup>69</sup> reportedly established and financed together with his brother Muhamad Jaber the Desert Hawks Brigade and the Sea Commando Regiment.<sup>70</sup> Rami Makhoulf, cousin of Bashar al-Assad and arguably the most influential businessperson in Syria with interests in virtually every industry,<sup>71</sup> reportedly established and financially supported, including through his charitable foundation Al Bustan,<sup>72</sup> a number of pro-government militias including Dara' Qalamoun, Kata'ib al-Jabalawi, Leopards of Homs and Dir' al-Watan.<sup>73</sup> Other influential businesspersons with reported links to pro-government paramilitary groups include Samer Foz<sup>74</sup> and Mohammed Hamsho.

By virtue of the financial support knowingly provided to entities systematically involved in gross-human rights violations and international crimes, the aforementioned business owners *contributed* to such violations. In addition, it may be argued that the business enterprises owned by the aforementioned individuals are themselves *directly linked* to the violations committed by the paramilitary groups as the financial resources used to support the latter are likely to have originated from the revenues they generated.

##### **Providing financial support to the Syrian government and to the Syrian armed forces**

Several businesses are reported to provide substantial financial support to the Syrian government and to Syrian armed forces. Syrian businesspersons currently sanctioned by the EU on the basis of the financial support they provide to the Syrian government through their business interests include: Rami Makhoulf,<sup>75</sup> Mohammed Hamsho,<sup>76</sup> Ayman Jaber,<sup>77</sup> Samir Hassan,<sup>78</sup> Hashim Anwar Al-Aqqad,<sup>79</sup> Samer Foz,<sup>80</sup> Khaled al-Zubaidi and Nader Qalei.<sup>81</sup> Telecom provider Syriatel is similarly listed in light

of the fact that “through its licensing contract it pays 50 % of its profits to the Government”.<sup>82</sup>

With few exceptions,<sup>83</sup> it is virtually impossible to obtain exact information about the extent of the financial support businesses provide to the Syrian government and to determine what use the government makes of the finances it receives. Nevertheless, in light of the widespread knowledge about the human rights violations committed by the government and in light of the scale and seriousness of such violations, it could be argued that by providing financial support to the government, these businesses *contributed* or at least are *directly linked* to such violations.

More specific information exists with regard to the financial support provided by business actors to the Fourth Division of the Syrian army. Levying fees on goods at checkpoints is one of the most profitable economic activities the Fourth Division uses to finance military operations.<sup>84</sup> The activity was run through intermediaries who are awarded the right to levy fees at a specific checkpoint in exchange for regular payments to the Fourth Division.<sup>85</sup> Business owners known to have been awarded contracts for the levying of fees include Khaled Hboubati, who reportedly paid SYP 700 million a month to the Fourth Division, Ali Muhanna – owner of the Muhanna Company and of the al-Manara Tourist Resort, Rami al-Tabal and Ramez al-Tabal, shareholders of the Qasoor Trading Company and of the United Company for the manufacture of baby diapers.<sup>86</sup> The former is also chairman of the Asas Oil Company.<sup>87</sup>

In this context, the link between the business enterprises, through the owners, and conflict related human rights violations is even stronger since the financial resources are made available to an entity - a division of the armed forces – exclusively dedicated to the war effort and known to have been involved in conflict-related gross human rights violations. Thus, leaving little doubt as to the use that is going to be made of the financial resources provided. This is supported by the conclusion reached by the UN Fact Finding Mission on Myanmar with regard to businesses maintaining commercial relationships with the Armed Forces of Myanmar. In the view of the Fact Finding Mission such businesses “may find themselves complicit, in law, fact or the eyes of the broader public, in contributing to the resources available to the [Armed Forces of Myanmar] to continue its involvement in gross violations of international human rights law and serious violations of international humanitarian law”.<sup>88</sup>

#### Providing material support to the Syrian Government and the Syrian Armed Forces

According to the US Treasury, business owner Yasir Abbas<sup>89</sup> and Muhammad Qaterji, a well-known intermediary between ISIS, Kurdish controlled territories, and the Syrian government and owner of a fast-growing business conglomerate,<sup>90</sup> assisted through their businesses with the shipping of weapons from Iran and Iraq to the Syrian government.<sup>91</sup> The EU sanctioned Tarif Akhras for having provided logistical support to the Syrian government in the form of “buses and tank loaders” through his company Akhras Group.<sup>92</sup> In addition, Issam Anboubas, President of Anboubas for Agricultural Industries Co and a co-founder of Cham Holdings, was sanctioned for providing property, including warehouses, to the Syrian government for improvised detention centres.<sup>93</sup> Finally, Syriatel was sanctioned by the US Treasury for having facilitated “computer or network disruption, monitoring, or tracking that could assist in or enable serious human rights abuses by or on behalf of the [...] Government of Syria”.<sup>94</sup> More specifically, according to the US Treasury, “Syriatel was directed by the Syrian government to sever network connectivity in areas where attacks were planned and [...] records cell phone conversations on behalf of the Syrian government”.<sup>95</sup> The material support provided by Syriatel and by the aforementioned businesspersons, presumably through their companies, to a government known to have been involved in gross-human rights violation constitutes *contribution* since it facilitated the commission of such violations by the Syrian government.

#### Manipulating siege conditions

Throughout the conflict, pro-government forces systematically resorted to sieges as a method of warfare.<sup>96</sup> Sieges are not per se prohibited under IHL, but give rise to a number of human rights issues concerning the civilian population's right to access to food, water, and healthcare. Pro-government forces repeatedly violated the human rights of the civilians affected by sieges including through deliberately resorting to the starvation of the civilian population as a method of warfare.<sup>97</sup> Some businesses accumulated extraordinary wealth by controlling the trade of food and other basic goods within the besieged areas. One of the best known examples is that of Mohieddine Manfoush, who through the Manfoush Trading Company established himself as the most important supplier of food and basic commodities to eastern Ghouta during the siege of the area by pro-government forces between 2013 and 2018.<sup>98</sup> As one of the few traders allowed to import goods in the besieged area, Manfoush's company was able to control prices and to amass a considerable fortune.<sup>99</sup> As a result, as confirmed by the COI, the prices of food in Eastern Ghouta became prohibitive for the majority of the population.<sup>100</sup> For instance, according to some reports, the price of sugar was set at the equivalent of \$19 per kilo, approximately twenty times higher than the price in Damascus.<sup>101</sup> Even though Manfoush's company did not *cause* an adverse impact on eastern Ghouta civilian population's right to adequate food, by setting prohibitive prices for essential foodstuffs it arguably *contributed* together with the conditions imposed by the besieging forces to abusing such right.

#### Involvement in pillage and destruction of civilian property

Pillage and the disproportionate destruction of civilian property constitute violations of customary IHL,<sup>102</sup> as well as violations of the human right to property. In addition, pillage constitutes a war crime in non-international armed conflicts.<sup>103</sup> One of the activities through which the Fourth Division of the Syrian armed forces finances its activities is the pillage of scrap metals from properties in areas where pro-government forces have regained control.<sup>104</sup> The scrap metals are subsequently processed and either exported through ports controlled by the Fourth Division or used in the domestic market.<sup>105</sup> The main commercial partners of the Fourth Division in this activity are reported to be Samer Foz and Imad Hamsho, shareholders of the Sorouh Construction Company which owns a melting facility, and Mohammed Hamsho, who owns the Hadeed Metal Manufacturing Company as part of the Hamsho International Group.<sup>106</sup> Hamsho's company is also reported to provide the machinery necessary to separate metals from concrete.<sup>107</sup> By processing pillaged scrap metals, these companies are knowingly facilitating the criminal conduct of the Fourth Division, thus arguably *contributing* to the violations. At the very least, the products of these companies are *directly linked* to the pillage committed by a business relationship, the Fourth Division.

Having recovered control of the neighbourhood of Qaboun in early 2017 and following the forced displacement of the remaining fighters and civilians,<sup>108</sup> the Syrian government announced that it was destroying tunnels created by anti-government groups, as well as explosive remnants armed groups left behind.<sup>109</sup> Through the analysis of satellite images, Human Rights Watch reported that the government demolished houses with machinery and through means inconsistent with closing underground tunnels.<sup>110</sup> In addition, the majority of buildings demolished during this period appeared intact and potentially inhabitable before they were demolished.<sup>111</sup> Workers linked to one of Mohammed Hamsho's companies were reportedly involved in the demolitions during 2018.<sup>112</sup> By taking part in the demolitions, Hamsho's company arguably *caused* or *contributed* to the disproportionate destruction of civilian property and to the abuse of the property rights of previous residents. In addition, it *contributes* to the violation of the displaced population's right to return.

#### Businesses established with wealth accumulated through human rights violations

Reports of war profiteers establishing business enterprises through wealth accumulated through their involvement in conflict-related gross human rights abuses are increasingly common.<sup>113</sup> Khodr Ali Taher, who rose to fame as the main contractor used by the Fourth Division in the business of

convoy protection, invested in and established eleven companies since 2017.<sup>114</sup> The capital for these investments reportedly came from the income generated by the Fourth Division through various illicit activities, including the pillage of civilian properties.<sup>115</sup> Bassam Al-Hasan, commander of the Syrian Republican Guard who was reportedly involved in the establishment of the National Defence Forces (NDF),<sup>116</sup> the largest paramilitary group in Syria,<sup>117</sup> recently established together with his nephew Saqr Rustom, who led the Homs branch of the NDF, a company named Damas Real Estate Development and Investment LLC, with the aim of getting involved in urban redevelopments.<sup>118</sup> The aforementioned Mohieddine Manfush, whose wealth dramatically increased during the siege of eastern Ghouta, has recently established companies in Hungary, Slovakia and Turkey.<sup>119</sup> Wassim Kattan, a largely unknown figure in the Syrian business landscape who in the space of a few months in 2018 was awarded the rights to develop a valuable real estate location in Damascus<sup>120</sup> and established four companies in the tourism, trading and construction sectors,<sup>121</sup> accumulated part of his wealth through the import and sale at inflated prices of foodstuff in eastern Ghouta through 2017.<sup>122</sup>

Although the UNGPs and later commentaries do not focus on this scenario, it can be argued that where a substantial amount of the capital used to establish a business enterprise derives from wealth accumulated through the owner's or another entity's involvement in human rights abuses, the business enterprise itself is involved in the human rights abuses. The enterprise's entire operations are arguably *directly linked* to the human rights abuses committed by the owner or by the third-party entity that provided the capital.

#### Involvement in urban redevelopment projects

As explained above,<sup>123</sup> the Syrian government has adopted a number of legislative measures, including but not limited to Decree 66 and Law 10, which enables it to expropriate, with no or minimum compensation for previous residents, and to redevelop vast residential areas,<sup>124</sup> in most cases known for their opposition to the government.<sup>125</sup> These urban redevelopment projects also raise serious issues about the ability of displaced residents to exercise their right to return.<sup>126</sup> To date, the only urban redevelopment project that is ongoing and in relation to which information exists about the businesses taking part in it is the one known as Marota City in the Basateen Al-Razi neighbourhood of Damascus.<sup>127</sup> Other areas designated for redevelopment under the aforementioned legislation include Qaboun, Jobar and Al Tadamon.<sup>128</sup> All these areas were under the control of the opposition at some stage of the conflict and were all affected by forced displacement.<sup>129</sup> Mohammed Hamsho purchased large areas of the Qaboun neighbourhood in preparation for the upcoming redevelopment.<sup>130</sup> The business enterprises participating in these redevelopment projects are *directly linked* to the government's violations of the property rights of former residents through the adoption and implementation of the aforementioned legislative measures. In addition, they arguably *contribute* to the violation of the right to return of displaced residents.

## **VI. OPTIONS FOR ACCOUNTABILITY**

This section outlines accountability options for Syrian businesses involved in conflict related human rights abuses. It focuses on mechanisms and avenues other than judicial mechanism.

### Documentation

An essential precondition for accountability is gathering reliable information on the involvement of Syrian businesses in conflict-related human rights abuses. The COI is mandated "investigate all alleged violations and abuses of international human rights law since March 2011 in the Syrian Arab Republic, to establish the facts and circumstances and to support efforts to ensure that perpetrators of abuses and violations, including those who may be responsible for crimes against humanity, are

held accountable”.<sup>131</sup> The mandate is sufficiently broad to allow the COI to investigate the involvement of business actors in human rights abuses in Syria. However, to date the COI has limited its activities to the role played by armed groups and armed forces in the violations.

There are two recent examples of UN bodies investigating and reporting on the involvement of business enterprises in conflict-related human rights abuses. The first is the Independent International Fact-Finding Mission on Myanmar, which was tasked by the HRC to “establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar [...] with a view to ensuring full accountability for perpetrators and justice for victims”. In August 2019 the Fact-Finding Mission submitted a report to the HRC on its investigation on “how the [military]’s economic interests enable the [military] to perpetrate violations of [IHRL and IHL] and how businesses are reaping the benefits of the [military]’s unlawful activities”.<sup>132</sup> Secondly, OHCHR recently submitted a report to the HRC including a database of the businesses involved in activities previously identified by a UN fact finding mission as “rais[ing] particular human rights violations concerns”<sup>133</sup> in the context of the impact of Israeli settlements on the rights of Palestinians.<sup>134</sup> Finally, although Syrian CSOs’ have been extensively gathering information on human rights abuses in Syria, they have not focused on the involvement of business enterprises in abuses. To this end, SLDP has in 2019 created a toolkit to assist Syrian CSOs in documenting business-related human rights abuses.<sup>135</sup>

#### Economic sanctions

Sanctions, specifically targeted sanctions as opposed to sectoral sanctions, are a valuable tool to exercise pressure on the Syrian government, its allies, and Syrian business actors involved in conflict-related human rights abuses.<sup>136</sup> Since the outbreak of the conflict, an increasing number of Syrian businesses and businesspersons have been subject to targeted EU and US sanctions. Contrary to the US Syria sanctions listings,<sup>137</sup> the EU Syria sanctions are only indirectly based on human rights grounds. Even though the main purpose of the EU Syria sanctions regime is to target “those responsible for the violent repression of [civilians] in Syria”, Syrian business actors are mostly listed for “benefitting from or supporting” the government and for being “leading businesspersons operating in Syria”.<sup>138</sup> The EU is reportedly considering introducing legislation to impose sanctions specifically on human rights grounds on the model of the US Magnitsky Act<sup>139</sup> and of similar laws recently introduced in other countries including the UK.<sup>140</sup>

#### Procurement in the context of humanitarian operations

Preventing Syrian business actors involved in conflict-related human rights abuses from being awarded procurement contracts by international humanitarian actors is an effective way of limiting the financial resources made available to the latter. Since 2016, reports have emerged exposing international humanitarian organisations, specifically UN agencies, for awarding valuable contracts to entities linked to the Syrian government or to Syrian business actors implicated in human rights abuses.<sup>141</sup> The most recent UN annual reports on procurement confirmed that procurement contracts continue to be awarded to governmental entities and business actors implicated in human rights abuses.<sup>142</sup> Current UN procurement procedures appear to lack adequate mechanisms to determine whether potential or current suppliers are involved in conflict-related human rights abuses.

There is limited information concerning the procurement operations of humanitarian INGOs operating in Syria as, contrary to the UN, there is a lack of transparency with regard to their local suppliers. For the same reason, it is difficult to determine whether they adequately assess the human rights records of potential suppliers. On the other hand, contrary to UN agencies, US and EU based INGOs are bound by US and EU sanctions and, despite the existence of limited humanitarian exceptions,<sup>143</sup> are less likely to contract with individuals and entities subject to EU and US sanctions.

SLDP has a specific focus on this issue: our findings are available upon request.

#### International development institutions

Another avenue to limit the financial resources available to Syrian business actors involved in conflict-related human rights abuses is to prevent them from benefitting from projects financed by international development institutions, including the World Bank and the European Bank for Reconstruction and Development. The World Bank and the European Development Bank are not currently funding projects in Syria.<sup>144</sup> However, it is foreseeable this might change once the conflict ends. In preparation for this, international development institutions must ensure that their due diligence procedures include an assessment of the specific human rights risks arising in the Syrian context. The current environmental and social policies of international development institutions focus on the project's impacts on labour rights, land rights and the rights of indigenous people, but do not cover other ways in which business actors may be involved with human rights abuses, especially in a conflict or post conflict setting.<sup>145</sup>

#### Institutional investment funds

An additional method of accountability is preventing Syrian business actors involved in conflict related human rights abuses from benefitting from investments by institutional investors, particularly public investment funds. Institutional investors must ensure that the involvement of prospective investees in conflict-related human rights abuses is taken into account when deciding whether or not to invest in Syrian business enterprises.<sup>146</sup>

#### Foreign business enterprises

Moreover, effective accountability also includes preventing foreign business enterprises from establishing business relationships with Syrian business actors involved in conflict-related human rights abuses. The vast majority of EU and US based business enterprises are currently not operating in Syria due to EU and US Syria sanctions. Before re-establishing operations in Syria, it is imperative that they undertake human rights due diligence that takes into account the specific conflict related human rights risks existing in Syria.

#### Public procurement

Syrian business actors involved in conflict related human rights abuses should also be prevented from being awarded public procurement contracts and preventing them from entering the supply chain of business enterprises that are awarded public procurement contracts. Public procurement authorities must ensure to adopt effective policies and mechanisms to implement the requirement that suppliers respect human rights, taking into account the specific conflict related human rights risks existing in Syria.<sup>147</sup>

## **VII. RECOMMENDATIONS**

This section makes recommendations to different stakeholders on how to support the accountability options identified in the previous section.

### To States

#### *Documentation*

- Support Syrian CSOs gathering information on the involvement of Syrian businesses in conflict-related human rights abuses;
- Ensure that the involvement of Syrian businesses in conflict-related human rights abuses receives attention in Syria specific and thematic international forums.

#### *Economic sanctions*

- Support the renewal of EU and US Syria targeted sanctions;
- Promote the continued inclusion in EU and US sanctions lists of Syrian business actors

- involved in conflict-related human rights abuses;
- Support the adoption of EU legislation allowing the imposition of sanctions specifically on human rights grounds;
- Apply pressure on States that are not bound by EU and US sanctions to avoid engaging with businesses involved in conflict-related human rights abuses in Syria

*Procurement in the context of humanitarian operations*

- Require the implementation of adequate human rights due diligence within the procurement operations of state-funded humanitarian NGOs in Syria;
- Require further transparency in the procurement operations of state-funded humanitarian NGOs in Syria.

*Foreign business enterprises*

- Ensure that business enterprises based in the state that intend to start operations in Syria are adequately informed about the human rights-risks existing in the Syrian business landscape.

*Public procurement*

- Ensure to include and to implement requirements that suppliers respect human rights;
- Ensure to address the specific human rights risks arising in Syria and in other conflict settings.

To UN Bodies and Agencies

*Documentation*

- The Commission of Inquiry on Syria should investigate and report on the involvement of business actors in conflict-related human rights abuses in Syria;
- The Human Rights Council should promote the identification of business activities raising particular conflict-related human rights concerns in Syria on the model of the activities identified by the “UN fact-finding mission on the implications of Israeli settlements on the rights of Palestinians in the Occupied Palestinian Territories”;
- The Human Rights Council should promote the creation of a database of business enterprises involved in activities raising particular conflict-related human rights concerns in Syria on the model of the OHCHR database on “business enterprises involved in certain specified activities related to the Israeli settlements in the Occupied Palestinian Territory”;
- The IIIM should collect and analyse evidence concerning the involvement of business actors in conflict-related human rights abuses.

*Procurement in the context of humanitarian operations*

- UN humanitarian agencies operating in Syria should ensure to implement adequate human rights due diligence within procurement operations in Syria;

To Local and International NGOs

*Documentation*

- Ensure to gather information on the involvement of Syrian businesses in conflict-related human rights abuses;
- International NGOs should provide support to the local NGOs willing to acquire the technical skills required to gather information on business involvement in conflict-related human rights abuses.

*Procurement in the context of humanitarian operations*

- Humanitarian organisations operating in Syria should ensure to implement adequate human rights due diligence within procurement operations in Syria;
- Humanitarian organisations operating in Syria should implement further transparency within procurement operations in Syria.

To International Development Institutions

- Include additional human rights-based criteria addressing other ways in which business actors

may be involved with human rights abuses, especially in a conflict or post conflict setting, in the existing environmental and social policies.

To Institutional Investment Funds

- Ensure that business enterprises involved in conflict-related human rights abuses are excluded from the fund;
- Ensure that human-rights based considerations form part of the decision-making process for investments.

To Foreign Business Enterprises

- Ensure to implement human rights due diligence that takes into account the specific human rights risks existing in the Syrian business landscape;
- Ensure to implement human rights due diligence that aims to address the adverse human rights impacts the business enterprise is involved with in Syria;
- Ensure that the victims of the adverse human rights impacts the business enterprise is involved with in Syria have access to adequate remedies based on standards articulated in the UN Guiding Principles for Business and Human Rights.

## Endnotes

<sup>1</sup> D. Curtin, A. Nollkaemper, 'Conceptualizing Accountability in International and European Law', (2005) NYIL, 4;

<sup>2</sup> A. Nollkaemper, 'Responsibility', ACIL Research Paper 2017-03, 15-16.

<sup>3</sup> UN Guiding Principles on Business and Human Rights, UN Doc. A/HRC/17/31.

<sup>4</sup> UN Doc. A/HRC/17/4.

<sup>5</sup> UNGPs, Principle 11.

<sup>6</sup> According to UNGP 12, the responsibility to respect human rights includes, at a minimum, those included in the UDHR, the ICCPR and the ICESCR and the principles concerning fundamental rights set out by the ILO's Declaration of fundamental principles and rights at work as developed in the ILO eight core conventions.

<sup>7</sup> UNGPs, Principle 11.

<sup>8</sup> UNGPs, Commentary to Principle 12; ICRC, 'Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law', 11 September 2006.

<sup>9</sup> UNGPs, Commentary to Principle 11.

<sup>10</sup> D. Curtin, A. Nollkaemper, 2005, 4.

<sup>11</sup> UNGPs, Principle 13.

<sup>12</sup> UNGPs, Principle 17.

<sup>13</sup> OHCHR, 'OHCHR response to request from BankTrack for advice regarding the application of the UN Guiding Principles on Business and Human Rights in the context of the banking sector', 12 June 2017, 5.

<sup>14</sup> Ibid.

<sup>15</sup> UNGPs, Commentary to Principle 17.

<sup>16</sup> ICTY, *Prosecutor v Sainovic et al.*, Appeals Chamber Judgment (23 January 2014), para 1649.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> ICJ, 'Corporate Complicity and Legal Accountability', Vol. 2, 17.

<sup>20</sup> In the post WWII *Flick* case, a German businessman was convicted of aiding and abetting the crimes committed by the SS through the provision of financial support despite his denial of having had knowledge of the crimes committed by the SS since such knowledge was widespread.

<sup>21</sup> UNGPs, Commentary to Principle 17.

<sup>22</sup> OHCHR, 2017, 5.

<sup>23</sup> Essex Business and Human Rights Project, 'Investor Obligations in the Occupied Territories: A Report on the Norwegian Government Pension Fund – Global', April 2019, 10; J. P. Bohoslavsky, V. Opgenhaffen, 'The Past and Present of Corporate Complicity: Financing the Argentinean Dictatorship', (2010) HHRJ, 174-175.

<sup>24</sup> OHCHR, *The Corporate Responsibility to Respect Human Rights: an Interpretive Guide*, 2012, 5.

<sup>25</sup> OHCHR, 2017, 6.

<sup>26</sup> OHCHR, 'Request from the Chair of the OECD Working Party on Responsible Business Conduct', 27 November 2013, 3.

<sup>27</sup> Ibid, 8.

<sup>28</sup> Ibid; J. Daher, 'Assad Regime Still Reliant on Fractions of the Sunni Bourgeoisie', *Syria Untold*, 21 December 2017.

<sup>29</sup> J. Daher, 'The Political Economic Context of Syria's Reconstruction: a Prospective in Light of a Legacy of Unequal Development', European University Institute Robert Schuman Centre for Advanced Studies, December 2018.

<sup>30</sup> Ibid.

<sup>31</sup> S. Abboud, 'Syria's Business Elite', German Institute for International and Security Affairs, August 2013, 3.

<sup>32</sup> S. Abboud, 2013, 2.

<sup>33</sup> S. Abboud, 'The Economics of War and Peace in Syria: Stratification and Factionalization in the Business Community', *The Century Foundation*, 31 January 2017.

<sup>34</sup> S. Abboud, 2013, 3.

<sup>35</sup> Ibid, 4; S. Abboud, 2017.

<sup>36</sup> S. Abboud, 2017; J. Daher, 2017.

<sup>37</sup> See Council Implementing Regulation (EU) No 363/2013 sanctioning Adounia TV for "incit[ing] violence against the civilian population in Syria."

<sup>38</sup> J. Daher, 2017.

<sup>39</sup> S. Abboud, 2017.

<sup>40</sup> Ibid; S. Abboud 2013, 6; J. Daher 2018; C. Cornish, 'The Men Making a Fortune From Syria's War', *Financial Times*, 3 October 2019; N. Soura, 'The Black Market Kings of Damascus', *The Atlantic*, 3 October 2016.

<sup>41</sup> M. Georgy, M. El Dahan, 'How a Businessman Struck a Deal With Islamic State to Help Assad Feed Syrians', *Reuters*, 11 October 2017.

<sup>42</sup> S. Abboud, 2017.

<sup>43</sup> See Section V below.

<sup>44</sup> See Section V below.

<sup>45</sup> A. Aldassouky, 'The Economic Networks of the Fourth Division During the Syrian Conflict', European University Institute Robert Schuman Centre for Advanced Studies, January 2020, 8-11; N. Madi, 'Cultivating a Crisis: The Political Decline of Agriculture in Syria', European University Institute Robert Schuman Centre for Advanced Studies, December 2019, 18-20.

<sup>46</sup> See Section V below.

<sup>47</sup> J. Daher, 2017.

<sup>48</sup> A. Favier, M. Kostrz, 'Local elections: Is Syria Moving to Reassert Central Control?', European University Institute Robert Schuman Centre for Advanced Studies, February 2019, 13-15.

<sup>49</sup> J. Daher, 2017.

<sup>50</sup> J. Yazigi, 'Destruct to Reconstruct: How the Syrian Regime Capitalises on Property Destruction and Land Legislation', Friedrich Ebert Stiftung, July 2017, 11; M Al-Lababidi, 'Damascus Businessmen: The Phantoms of Marota City', European University Institute Robert Schuman Centre for Advanced Studies, April 2019; J. Daher, 2018.

<sup>51</sup> GIZ, 'Housing, Land and Property Issues in Syria and Resulting Fields of Actions for Ongoing or Planned Programs of German Development Cooperation', May 2018, 18-21; J. Yazigi, 2017, 5.

<sup>52</sup> V. Clerc, 'Informal Settlements in the Syrian Conflict: Urban Planning as a Weapon', (2014) 40 (1) Built Environment, 12-15; J.D. Unruh, 'Weaponization of the Land and Property Rights System in the Syrian Civil War: Facilitating Restitution? (2016) Journal of Intervention and Statebuilding, 6-10; S.N. Aldeen, 'In Homs, Assad Accused of Using Military for Urban Planning Scheme', *News Deeply*, 2 January 2018; J. Daher, 'Syria: What Kind of Reconstruction Process?' in *Fractured Stability: War Economies and Reconstruction in the MENA*, European University Institute Robert Schuman Centre for Advanced Studies, 2019, 36-37.

<sup>53</sup> Human Rights Watch (HRW), 'Razed to the Ground Syria's Unlawful Neighborhood Demolitions in 2012-2013', 30 January 2014; HRW, 'Syria: Residents Blocked From Returning', 16 October 2018.

<sup>54</sup> J.D. Unruh, 2016, 6.

<sup>55</sup> PAX, 'Legal Obstacles to Housing, Land and Property Rights in Syria', 6 March 2019, 9-13; HRW, 'Q&A: Syria's New Property Law', 29 May 2018.

<sup>56</sup> For further information on legislative measures impacting HLP rights see European Institute of Peace, 'Housing Land and Property Rights (HLP), and Refugee Return in Syria', November 2018, 12-20.

<sup>57</sup> UN Commission of Inquiry on Syria, 'Special inquiry into the events in Aleppo', UN Doc. A/HRC/34/64, 2 February 2017; HRW, 2014.

<sup>58</sup> UN Commission of Inquiry on Syria, 'Assault on Medical Care in Syria', UN Doc. A/HRC/24/CRP.2, 13 September 2013.

<sup>59</sup> OPCW, UN Joint Investigative Mechanism, 'Seventh report of the Organisation for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism', UN Doc. S/2017/904, 26 October 2017.

<sup>60</sup> UN Commission of Inquiry on Syria, 'Sieges as a Weapon of War: Encircle, Starve, Surrender, Evacuate', 29 May 2018.

<sup>61</sup> UN Commission of Inquiry on Syria, UN Doc. A/HRC/39/65, 12 September 2018; UN Commission of Inquiry on Syria, UN Doc. A/HRC/36/55, 8 August 2017; Amnesty International, 'We Leave or We Die: Forced Displacement Under Syria's Reconciliation Agreements', November 2017.

<sup>62</sup> UN Commission of Inquiry on Syria, 'Out of Sight, Out of Mind: Deaths in Detention in the Syrian Arab Republic', UN Doc. A/HRC/31/CRP.1, 8 February 2016.

<sup>63</sup> *Ibid*;

<sup>64</sup> UN Commission of Inquiry on Syria, "'I lost my dignity": Sexual and gender-based violence in the Syrian Arab Republic', UN Doc. A/HRC/37/CRP.3, 15 March 2018; Lawyers and Doctors for Human Rights, 'The Soul Has Died: Typology, Patterns, Prevalence and the Devastating Impact of Sexual Violence Against Men and Boys in Syrian Detention', March 2019.

<sup>65</sup> UN Commission of Inquiry on Syria, 2016; Amnesty International, 'Human Slaughterhouse Mass Hangings and Extermination at Saydnaya Prison, Syria', February 2017.

<sup>66</sup> UN Commission of Inquiry on Syria, 'Without a trace: Enforced Disappearances in Syria', 19 December 2013; Syrian Network for Human Rights, 'At Least 98,000 Forcibly Disappeared Persons in Syria since March 2011', 30 August 2019.

<sup>67</sup> Omran for Strategic Studies, 'Changing the Security Sector in Syria', 1 October 2017, 89-95. A. Lund, 'Who are the Pro-Assad Militias?', *Carnegie Middle East Centre*, 2 March 2015; A. Nakkash, 'The Alawite Dilemma in Homs', Friedrich Ebert Stiftung, March 2013, 8-11; UN Commission of Inquiry on Syria, UN Doc. A/HRC/34/64, 7, expressly mentioning the involvement of pro-government militias in the siege of Eastern Aleppo; See Section IV above.

<sup>68</sup> A. Lund, 'Aleppo Militias Become Major Test for Assad', *The New Humanitarian*, 22 June 2017; N. Soura, 2016.

<sup>69</sup> The Syria Report, 'Regime Targets One of Syria's Main Warlords', 5 June 2018; The Syria Report, 'Government Freezes Assets of Makhlof, Jaber', 8 January 2020.

<sup>70</sup> A. Al-Jabassini, 'From Insurgents to Soldiers: The Fifth Assault Corps in Daraa, Southern Syria', European University Institute Robert Schuman Centre for Advanced Studies, May 2019, 9; C. Roche, 'Assad Regime Militias and Shi'ite Jihadis in the Syrian Civil War', *Bellingcat*, 30 November 2016.

- <sup>71</sup> C. Cornish, 2019.
- <sup>72</sup> A. Nakkash, 2013, 10.
- <sup>73</sup> C. Roche, 2016; S. Amor, W. Sherlock, 'How Bashar al-Assad Created the Feared Shabiha Militia: an Insider Speaks, *The Telegraph*, 23 March 2014.
- <sup>74</sup> J. Dahler, 2017; Council Implementing Regulation (EU) 2019/798: "Samer Foz [...] fund[s] the Military Security Shield Forces in Syria".
- <sup>75</sup> Council Implementing Regulation (EU) 2018/774: "He furnishes financing and support to the Syrian regime, through his business interests".
- <sup>76</sup> Council Implementing Regulation (EU) 2016/840: "Mohammed Hamcho benefits from and provides support to the Syrian regime through his business interests".
- <sup>77</sup> Council Implementing Regulation (EU) 2016/840: "Ayman Jaber benefits from and provides support to the regime, through his business interests".
- <sup>78</sup> Council Implementing Regulation (EU) 2019/798: "Samir Hassan supports the regime's war effort with cash donations".
- <sup>79</sup> Council Implementing Regulation (EU) 2016/840: "Given the extent of his business and political ties to the regime he provides support to and benefits from the Syrian regime".
- <sup>80</sup> Council Implementing Regulation (EU) 2019/798: "Samer Foz provides financial and other support to the regime".
- <sup>81</sup> Council Implementing Regulation (EU) 2019/798. Both individuals sanction listing includes the following: "Leading businessperson operating in Syria, with significant investments in the construction industry, including a 50 % stake in Zubaidi and Qalei LLC, which is constructing the luxury tourist city Grand Town and to which the regime has granted a 45-year agreement in return for 19-21 % of its revenue".
- <sup>82</sup> Council Implementing Regulation (EU) No 363/2013.
- <sup>83</sup> See note above: Hassan's financial support is reported to be specifically aimed at supporting the war effort; see note above about Syriatel.
- <sup>84</sup> A. Aldassouky, 2020, 11.
- <sup>85</sup> *Ibid.*
- <sup>86</sup> *Ibid.*, 12.
- <sup>87</sup> *Ibid.*
- <sup>88</sup> UN Fact Finding Mission on Myanmar, 'The Economic Interest of the Myanmar Military', UN Doc. A/HRC/42/CRP.3, 16 September 2019, 52.
- <sup>89</sup> 'Commercial Holdings of Syrian Government's Key ISIS Middlemen', *Kharon Brief*, 19 October 2018.
- <sup>90</sup> M. Georgy, M. El-Dahan, 2017; The Syria Report, 'Prominent Business Crony Appointed to Constitutional Committee, 25 September 2019.
- <sup>91</sup> US Treasury, 'U.S. Treasury Imposes Sanctions on Assad Regime's Key ISIS Intermediary and a Petroleum Procurement Network', 6 September 2018.
- <sup>92</sup> Council Implementing Regulation (EU) 2018/774.
- <sup>93</sup> Council Implementing Regulation (EU) 2019/798.
- <sup>94</sup> US Executive Order 13606 of April 22, 2012.
- <sup>95</sup> US Treasury, 'Fact Sheet: New Executive Order Targeting Human Rights Abuses via Information Technology', 23 April 2012.
- <sup>96</sup> UN Commission of Inquiry on Syria, 'Sieges as a Weapon of War'.
- <sup>97</sup> UN Commission of Inquiry on Syria, UN Doc. A/HRC/38/CRP.3, 20 June 2018, Para 75; UN Commission of Inquiry on Syria, 'Sieges as a Weapon of War'.
- <sup>98</sup> A. Lund, 'Into the Tunnels', *The Century Foundation*, 21 December 2016.
- <sup>99</sup> *Ibid.*; 'Syria's New War Millionaires', *The Economist*, 1 June 2017; J. Dahler, 2017.
- <sup>100</sup> UN Commission of Inquiry, UN Doc. A/HRC/38/CRP.3, Para 22.
- <sup>101</sup> *The Economist*, 2017.
- <sup>102</sup> ICRC, Customary IHL Database, Rules 52 and 7, respectively.
- <sup>103</sup> ICC Rome Statute, Article 8 (2) (e) (v).
- <sup>104</sup> A. Aldassouky, 2020, 6.
- <sup>105</sup> *Ibid.*, 7.
- <sup>106</sup> *Ibid.*
- <sup>107</sup> C. Cornish, 2019.
- <sup>108</sup> UN Commission of Inquiry on Syria. UN Doc. A/HRC/36/55, 8 August 2017, Para 35.
- <sup>109</sup> HRW, 'Syria: Residents Blocked From Returning'.
- <sup>110</sup> *Ibid.*
- <sup>111</sup> *Ibid.*
- <sup>112</sup> M. Al-Lababidi, 2019, 17.

- <sup>113</sup> The Syria Report, 'Warlords Increasingly Integrating into Syria's Formal Economy', 15 May 2018; The Syria Report, 'Growing Influence of War Profiteer Highlights New Syria Trends', 5 June 2019; C. Cornish, 2019.
- <sup>114</sup> A. Aldassouky, 2020, 10; The Syria Report, 'Growing Influence of War Profiteer Highlights New Syria Trends'.
- <sup>115</sup> See Sections above on pillage and on providing financial support to the Syrian government.
- <sup>116</sup> The Syria Report, 'Warlords Increasingly Integrating into Syria's Formal Economy'.
- <sup>117</sup> See above on the involvement of militias in the pillaging of civilian properties in areas recaptured from the opposition; Omran for Strategic Studies, 2017, 90.
- <sup>118</sup> The Syria Report, 'Warlords Increasingly Integrating into Syria's Formal Economy'.
- <sup>119</sup> The Syria Report, 'Manfoush Opens Businesses in Turkey, EU', 15 January 2020.
- <sup>120</sup> The Syria Report, 'New Investor Emerges in Syrian Business Community', 20 March 2018.
- <sup>121</sup> The Syria Report, 'Warlords Increasingly Integrating into Syria's Formal Economy'.
- <sup>122</sup> M. Al-Lababidi, 2019, 17.
- <sup>123</sup> See Section III above.
- <sup>124</sup> HRW, 'Q&A: Syria's new Property Law'.
- <sup>125</sup> J. Daher, 2018, 35-37.
- <sup>126</sup> HRW, 'Q&A: Syria's new Property Law'.
- <sup>127</sup> M. Al-Lababidi, 9: the following companies are reported to have entered in a joint venture with the Damascus Governorate holding in charge of the development: Aman Group, owned by Samer Foz; Zubaidi and Qalei LLC, owned by Khaled Al-Zubaidi and Nader Qalei; Talas Group, owned by Anas Talas; Mazen Tarazi, a businessman based in Kuwait; Rawafed Damascus Private joint venture, owned by Rami Makhlof and close associates; Bunyan Damascus, which is a partnership with two companies, Apex Development and Projects LLC and Tamayoz LLC; J. Daher, 2019, 38; The Syria Report, 'Factsheet: Damascus Cham Holding', 29 January 2020.
- <sup>128</sup> S. Smiley, N. Hourani, R. Ahmad, 'A New Syria': Law 10 Reconstruction Projects To Commence In Damascus, Backed By Arsenal Of Demolition, Expropriation Legislation', *Syria Direct*, 19 November 2018; Smart News Agency, 'Syrian Government Reveals That Law 10 Includes Entire Al-Tadamun Neighborhood, Damascus', 27 September 2018.
- <sup>129</sup> UN Commission of Inquiry, UN Doc. A/HRC/36/55, 8 August 2017, para 35.
- <sup>130</sup> Center for Operational Analysis and Research, 'Syria Update September 18 – September 24, 2019'.
- <sup>131</sup> Human Rights Council, UN Doc. A/HRC/RES/31/17, para 4.
- <sup>132</sup> UN Fact Finding Mission on Myanmar, 'The Economic Interest of the Myanmar Military', para 11.
- <sup>133</sup> Human Rights Council, UN Doc. A/HRC/22/63, 7 February 2013, para 96.
- <sup>134</sup> OHCHR, 'Database of all business enterprises involved in the activities detailed in paragraph 96 of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem', UN Doc. A/HRC/43/71, 12 February 2020.
- <sup>135</sup> Syrian Legal Development Programme, 'Business and Human Rights Toolkit for Syria'.
- <sup>136</sup> See upcoming Syrian civil society Position Paper on sanctions affecting Syria.
- <sup>137</sup> See Syria Human Rights Accountability Act of 2012; Caesar Syria Civilian Protection Act of 2019; Executive Order 13572; Executive Order 13573; Executive Order 13606.
- <sup>138</sup> Council Regulation (EU) No 36/2012 as amended.
- <sup>139</sup> HRW, 'The US Global Magnitsky Act', 13 September 2017.
- <sup>140</sup> J. Barigazzi, 'EU to Prepare Magnitsky Style Human Rights Sanctions Regime', *Politico*, 12 September 2019; A. Brzozowski, 'EU Ministers Break Ground on European Magnitsky Act', *Euractiv*, 10 December 2019.
- <sup>141</sup> N. Hopkins, E. Beals, 'How Assad Regime Controls UN Aid Intended for Syria's Children', *The Guardian*, 29 August 2016.
- <sup>142</sup> UN, '2016 Annual Statistical Report on United Nations Procurement'; UN, '2017 Annual Statistical Report on United Nations Procurement'; UN, '2018 Annual Statistical Report on United Nations Procurement'.
- <sup>143</sup> Council Regulation (EU) No 36/2012 as amended, Article 16(a).
- <sup>144</sup> <https://www.worldbank.org/en/country/syria/overview#1> ; <https://www.ebrd.com/where-we-are.html>.
- <sup>145</sup> European Bank for Reconstruction and Development, 'Environmental and Social Policy', April 2019; [https://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards/](https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards/) .
- <sup>146</sup> Council on Ethics for the Norwegian Government Pension Fund Global, 'Guidelines for observation and exclusion from the Government Pension Fund Global', September 2019.
- <sup>147</sup> See Danish Institute for Human Rights, 'Driving Change Through Public Procurement: A Toolkit On Human Rights For Policy Makers And Public Buyers (Road-Testing Version)', 25 November 2019.