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Punitive Transitional Justice: Syria After Assad

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Senior Thesis Submitted in Fulfillment of University Honors College and Departmental Honors Requirements

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10 May 2025

Abstract

The overthrown Syrian Bashar al-Assad regime developed an international reputation of a harsh authoritarian government that had committed numerous international law violations over the years, emanating mostly after the 2011 Syrian Civil war. But how have the perpetrators of the acts still largely evaded prosecution? The purpose of this piece is to provide an exploratory roadmap of how prosecutions should look going forward in the Syrian context, along with other transitional justice mechanisms. This piece will examine what crimes are punishable under international law and explain some history behind their codification. These definitions will then be applied to crimes that have taken place at the hands of everyone in the previous regime, from Bashar al-Assad himself, to senior and lower-level officials, as well as the main perpetrators, the Syrian military and security forces. The final chapter of this piece will revolve around the fact that Syria and its people need a punitive transitional justice, and what different forms exist that will work best for different classes of perpetrators. While no method is perfect or sure to work, the methods that are put forth will be analyzed as the best possible methods for future justice.

Acknowledgements

I would especially like to thank my thesis advisor, Dr. Robert Bookmiller, for his dedication in guiding me along and challenging me during this project. Dr. Bookmiller possesses incredibly vast knowledge of politics within the Middle East Region, and his wisdom played a heavy guiding factor in this work's completion. Additionally, I would like to thank Dr. Kirsten Bookmiller for her continued help and assistance on this topic as well. I would have never conceived the idea for this thesis without her teachings and vast knowledge of the world of international law. She has always inspired me to take on new and uncharted ideas, and this thesis exemplifies that. Lastly, Professor Teresa Weisser has strongly helped with my background research. She has provided me with vast troves of information that were integral to writing this piece, so without her assistance in these early phases, this project would not have become what it is today.

I also want to acknowledge my friends here at school in and outside of the government department, who have helped me along and kept me going, my family who has shown great interest in this project and my undertaking of it, and my parents who have done everything they can to help me all throughout my four years at Millersville and keep me and my work at the best they can be.

Introduction

On 8 December 2024, authoritarian Syrian President Bashar al-Assad fled to Russia, a longtime ally of the regime, as rebel forces, who had been sweeping through the country entered the capital of Damascus. After eleven years of civil war, an eleven-day lightning advance throughout the country resulted in the fall of the Assad Regime, which had begun with Bashar's father, Hafez al-Assad, over fifty years ago. The civil war, beginning in 2011, erupted brutal response by the Assad Regime to protestors who were invigorated by the Arab Spring movement across the Middle East North Africa (MENA) region. Numerous authoritarian leaders ousted from their positions, such as President Zine al-Abidine Ben Ali of Tunisia, President Hosni Mubarak of Egypt, and Muammar Gaddafi of Libya. Many prophesized Assad as the next target, as he was not only the son of the brutal Hafez al-Assad but also led an incredibly repressive regime of his own in Syria. What began as cells of protests soon turned into a brutal war, which by 2025 has claimed over half a million lives.

The interim government, led by President Ahmed al-Sharaa, who was involved with the rebel group Hayat Tahrir al-Sham (HTS), has begun to discuss how the country can move forward. This has proven difficult, as the interim government continues to deal with splinter cells of Assad loyalists primarily on the Western side of the country and has started grappling with an inclusive new government and constitution, which will take numerous years if not decades to attain. While the new government has sought to obtain and prosecute Bashar al-Assad himself, high and low officials, and the military who have carried out egregious orders, there is no clear path on how this will be accomplished. By April of 2025, the wounds of Assad's terrors are still fresh. Millions of displaced civilians are finding their way home, and those who stayed barely manage to sustain materials necessary for life such as food, medicine, and shelter. Public works

institutions are defunct and those who staffed them are gone. While these issues are incredibly difficult to overcome, it remains a priority for Syrians that all in the regime who have inflicted terror must be punished. This thesis will explore what crimes are punishable under existing international law framework, and apply them to the Syrian context. Taking these numerous crimes into context, this piece will conclude by analyzing potential and ongoing punitive transitional justice in Syria, and addressing the proper tribunals required to bring justice to all perpetrators in Syria.

Chapter 1: Crimes Under International Law

Crimes under international law are among some of the most egregious actions recognized by the international community. International criminal law (ICL) and international humanitarian law (IHL) are two slightly different but interconnected frameworks. IHL is largely a rule set that proscribes certain actions during war within countries. IHL consists of a large amount of humanitarian restrictions that prevent states from egregious acts. ICL, on the other hand, takes four of the most serious human rights violations, such as genocide, crimes against humanity, war crimes, and the crime of aggression, and criminalizes them with the highest punishments. These crimes under IHL and incorporated into ICL have also historically been codified into law since the Second World War and represent the progression of a global morality and a growing resentment with the inability to intervene in egregious acts of violence against the most basic of human rights. The aftermath of World War II led to major advances in international law. A significant contribution was the 1949 Geneva Conventions and their ratifications by 196 states. The articles were amongst the first written and agreed upon standardization of how civilians[1],

[1] *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, 75 United Nations Treaty Series 287.

prisoners of war[2], and victims of conflict were to be treated during times of conflict both internally and internationally. Additionally, and especially important later on in the context of the Syrian Civil War, the 1977 Additional Protocol (II) to the 1949 Geneva Conventions further extended the essential rules of IHL (criminalized then by ICL) to non-international armed conflicts. While not applicable to sporadic internal violence or tensions, regulations on civil war were greatly expanded by this. Ad hoc tribunals began the application of international law, such as the Nuremburg and Tokyo tribunals in which former high-ranking government officials were tried for their actions occurring during the Second World War. The International Criminal Tribunal for the Former Yugoslavia (ICTY) and Rwanda (ICTR), both occurring during the 1990s, sent a message to the international community that there was a need for a more permanent body to hear cases against individuals convicted under international laws. The ratification of the Rome Statute (1998)[3] provided this international framework. The Rome Statute established the International Criminal Court (ICC), which in turn provides a detailed description of the elements that comprise each of the four crimes promptly outlined in Article 5 of the document.[4]

Genocide

The first crime established and detailed under the ICC mandate is genocide. Genocide, as defined by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, is any of the following acts done with the "intent to destroy, in whole or in part, a national, ethnical, racial or religious group": the killing of members of said group, causing serious bodily and/or mental harm to group members, a deliberate infliction on group conditions designed to bring

[2] *Geneva Convention Relative to the Treatment of Prisoners of War*, 12 August 1949, 75 United Nations Treaty Series 135.
[3] *Rome Statute of the International Criminal Court*, 17 July 1998, 2187 United Nations Treaty Series 90.
[4] *Id* at 92.

physical destruction to the group, prevention of births or imposition of measures designed to prevent births within the group, and the forcible transfer of children to other groups.[5] Additionally, under the 1948 Convention's Article III mandate (and subsequently incorporated into the ICC's Article 6 mandate)[6], punishable actions include not only the direct action of genocide, but also indirect measures such as conspiracy, direct and public incitement, attempts to commit, and complicity in ongoing genocides as well. The very first successful application of this crime in an international tribunal was the 1998 conviction of Jean-Peal Akayesu, former mayor of the Rwandan town of Taba. The actions he engaged in, encouraged, and directed, led to his conviction in the ICTR. The ICTR went on the convict others of genocide as well, such as Kantano Habimana, who played a significant role in promoting the Rwandan genocide via radio station RTLM. Vujadin Popovic, Lieutenant Colonel and Chief of Security of the Drina Corps in the Bosnian Serb Army was convicted of genocide, among many other crimes, during the ICTY. Prosecutions of genocide only began during and after the formation of these two international tribunals.

Crimes Against Humanity

The second Article 5 crime category and later articulated in Article 7[7], crimes against humanity, carries an incredibly wide range of reprehensible actions. Unlike war crimes, crimes against humanity may be applied outside the theater of war, meaning that states may still be in violation of them without being engaged in internal or international conflict. The Rome Statute requires actions to be committed as part of a "widespread or systematic attack directed against

[5] *Convention on the Prevention and Punishment of the Crime of Genocide,* 9 December 1948, 78 United Nations Treaty Series 280.
[6] Rome, *supra* n.3 at Article 6.
[7] *Id.*

any civilian population, with knowledge of the attack", and then further defines an applicable civilian attack as a "course of conduct… pursuant to or in furtherance of a State or organizational policy to commit such attack".[8] The crimes themselves are as follows: (1) Murder, (2) Extermination, including intentional detractions from life conditions, access to food and medicine, which have been calculated to destroy part of the targeted group, (3) Enslavement, meaning any type of act of exerting ownership over another human being, including trafficking in persons, (4) Deportation or forcible transfer of population, meaning displacement or expulsion from areas in which the group is lawfully permitted without international legal grounds, (5) Imprisonment or other deprivations of one's physical liberty against international law, (6) Torture, meaning any intentional infliction of pain, physical or mental, of one under control of the accused, (7) Various sexual crimes, including rape, forced pregnancy, enforced prostitution, forced sterilization, (8) Persecution of political, racial, national, ethnic, cultural, religious, or gender groups (used in tandem with other defined crimes), (9) Enforced disappearance of persons, including arrests, detention, or abductions with the authorization of the State with a direct refusal to acknowledge the disappearance, (10) The crime of apartheid, relating to the other defined crimes against a racial group, (11) All other inhumane acts of a "similar character" which are made to cause intense suffering or injury to the victim.[9]

Both the ICTR and ICTY obtained a great number of convictions on crimes against humanity during their operation. Various international law scholars and organizations consider the destruction of the Syrian city of Hama in 1982 by former Syrian President Hafez al-Assad to quell an uprising by the Muslim Brotherhood as punishable under numerous categories of crimes

[8] *Id*.
[9] Rome, *supra* n.3 at Article 7(1a-k, 2a-i).

against humanity. Apartheid is the only above crime that has never been brought to a fully-fledged prosecution. Two South African individuals in 2021 were under the crime of apartheid, among other crimes against humanity, but a trial has never been set. Additionally, also never being formally charged, many groups, such as Amnesty International[10], consider Israel's treatment of Palestinians in the Gaza Strip (before October 7th, 2023) as punishable under the crime of apartheid. Importantly for crimes against humanity is that it has never been formally criminalized apart from tribunal charters and statutes, but a recent development in the United Nations has set these crimes on the path to be recognized in an international treaty. While this is began early in 2025 and will surely take numerous years, it is important to recognize that strides are being made to broaden international crimes in this area.

War Crimes

The third Article 5 crime, and expounded under Article 8[11], war crimes, set the boundaries that states may not cross in international and internal armed conflict, as there are distinctions between the two. Generally, war crimes are broadly defined as willful killing, torture and inhuman treatment, willful causing of great suffering, extensive destruction, compelling prisoners of war (POWs) to serve for hostile powers, willful deprivation of a prisoners rights to fair trial, unlawful deportation, and the taking of hostages, all against persons or property protected under provisions of the appropriate Geneva Conventions.[12] The Rome Statute then lists particular conflict crimes applicable exclusively to international armed conflict. These include, but are not limited to, intentional attacks on civilian populations, the killing of enemies who have

[10] "Israel's apartheid against Palestinians: a cruel system of domination and a crime against humanity", Amnesty International, 1 February 2022.
[11] Rome, *supra* n.3 at Article 8.
[12] *Id.*

surrendered, civilian transfer of occupying power into land outside sovereign territory, suspending the rights of hostile forces in domestic courts, and conscripting child soldiers.[13]

Armed conflict crimes that are not of an international nature are broadly described as violations of Article 3 common to the 1949 Geneva Conventions against populations that are not hostile, such as civilian populations, specifically including violence to life and person, committing of outrages on personal dignity (humiliation and degradation), taking of hostages, and the passing of sentences and carrying out of executions in cases where the victim has not been afforded judicial guarantees.[14] Specific actions are then listed, which include, but are not limited to, pillaging of towns, subjecting those in the power of other parties to mutilation or scientific experiments when it is unrelated to the person's medical needs, needlessly moving civilian populations, and sexual crimes including rape sexual slavery, enforced prostitution, etc.[15] The outlines for these crimes are largely a culmination of punitive efforts spanning half a century and are the broadest category for punishing human rights violations. Additionally, even the United States, who has historically had little interest involving itself with international law proceedings, has indicted foreign individuals under its own War Crimes Act of 1996.[16] While this case rested on the domestic legal and justice system of the United States and not through the ICC (the United States is not a party to the Rome Statute), the legislation itself was framed after the 147th Article of the Fourth Geneva Convention, which itself is incorporated into Article 8 of the Rome Statute.

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[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] Karen Sokol, "The First Prosecution Under the War Crimes Act: Overview and International Legal Context", *Congressional Research Service,* 22 December 2023.

The Crime of Aggression

The crime of aggression is relatively new to international law, and specifically, the Rome Statute. Always having been listed in the jurisdiction of the original 1998 Rome Statute but never defined, it was added as Article 8*bis* as part of the amendments done from May 31 to June 11, 2010, in Kampala, Uganda, and aptly named the 'Kampala' Amendments. The crime of aggression is defined under Article 8*bis* as the,

> "planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations"[17]

The amendments include punishable offensive methods of force such as port blockading, invasion of land troops, and bombardment to name a few. Differences arose during the amendment process regarding whether this new jurisdiction would apply to all the member states of the Rome Statute, or only to those who had approved the ICC's jurisdiction over the crime.[18] This led to an interesting jurisdictional caveat for crimes of aggression. The ICC possesses three ways to exercise jurisdiction, they may hear cases referred by an ICC member state, the ICC prosecutor may initiate a *proprio motu* investigation, meaning it is done solely on their will, or the United Nations Security Council (UNSC) may refer a situation to the ICC.[19] Member states additionally have the option to opt-out of the court's jurisdiction on crimes of aggression, so long as it is not a UNSC referral situation.[20]

[17] Rome, *supra* n.3 at Article 8*bis*(1).
[18] "The Crime of Aggression", Coalition for the International Criminal Court, Accessed 13 March 2025.
[19] *Id.*
[20] *Id.*

The crime of aggression is also interesting in the fact that while it is the last jurisdiction to be defined, virtually all other international crimes would not occur without it. While crimes against humanity, genocide, and some war crimes (those of an internal nature) can occur without the crossing of international boundaries, many times the crossing of international borders or any other acts of aggression will lead to further war crimes, crimes against humanity, and in extreme cases, genocide.

Syria's Role

Syria has been among the highest offenders of human rights and international law for over fifty years.[21] Former President Hafez al-Assad and his Ba'athist regime committed hundreds if not thousands of international law violations during his reign from 1971 to his death in 2000. The ascension of his son, Bashar, to the helm of the state via a constitutional amendment which lowered the minimum age for president to 34[22] (Bashar's age at that time) only continued the carnage of his father and predecessor. Bashar al-Assad's recent deposition and asylum in Russia has opened up the doors to hopes for a new age of Syrian government, but while the regime's reign of terror is now over, it does not discount the 24 years of horror Syrian citizens had to endure. The next chapter will seek to investigate the substantial number of international law violations committed during the Syrian Civil War. While the future remains unclear for Syria as for leadership, rebuilding, and stability, one thing is clear: Assad and members of his regime must be punished for their actions.

[21] "Syria among worst for rights abuses: HRW report", *Reuters,* 24 January 2011.
[22] Qais Fares, "The Syrian Constitution: Assad's Magic Wand", *Carnegie Middle East Center*, 8 May 2014.

Chapter 2: Assad, a Civil War, and a Country in Shambles

On December 17, 2010, the Middle East North Africa (MENA) region was unknowingly sent into a period of unrest. Mohamed Bouazizi, a Tunisian fruit vendor, had his scales confiscated by local police officers as he did not have a proper permit to work his fruit cart as a street vendor.[23] As he went to file a complaint to the local governor, he was met with indifference as the official refused to see him.[24] Dissatisfied with not only this action, but years of torment and abuse from the government led by President Zine El Abidine Ben Ali, Bouazizi would set himself on fire[25] outside of the provincial government building out of protest. Not even a month later, Ben Ali would step down as president on January 14, 2011. Tunisia was the first country to experience a wave of protests known now as the Arab Spring. Nine months after Ben Ali was deposed, Libya's brutal dictator Muammar Gaddafi was cornered and killed by revolutionaries[26], ending a 42-year period of brutality. In the following years, Egypt, Yemen, and Bahrain, among other Arab countries, experienced similar protests that resulted in either the deposition of the country's leader, major reforms to the written law, or in some cases, no change at all.[27] Many believed that Syria was the next domino to fall; ending years of oppression by the Assad family regime. But Syria and its people would not see a similar outcome to other states affected by the Arab Spring for another thirteen years.

In March of 2011, energized by the regional Arab Spring protests, a group of teenagers in Daraa spraypainted the phrase "It's your turn now Doctor"[28], in reference to the fact that Bashar

[23] Thessa Lageman, "Remembering Mohamed Bouazizi: The man who sparked the Arab Spring", *Al-Jazeera*, 17 December 2020.
[24] *Id.*
[25] "Timeline: How the Arab Spring unfolded", *Al-Jazeera,* 14 January 2021.
[26] *Id.*
[27] *Id.*
[28] Jamie Tarabay, "For many Syrians, the story of the war began with graffiti in Dara'a", *CNN*, 15 March 2018.

al-Assad was an ophthalmologist before taking control of the country after his father's death. Local authorities, led by Atef Najib, a cousin of Assad, struggled to find any culprits and instead complied inscriptions of other children's names written years prior on the walls to gather a list of the accused.[29] The group, composed of teenagers both involved and uninvolved, underwent weeks of torture and beatings, which later earned Najib an individual sanction from the Barack Obama administration.[30] When parents searched for their children's whereabouts, authorities told them to "forget about their children"[31], insinuating that most of them would never be returned home. This is what many Syrians consider the spark for the Syrian Civil War, as protests erupted in Daraa and across the country. What followed was a decade of horrific actions of actions committed by the Assad government that international law has specifically outlined, namely crimes against humanity and war crimes. This chapter seeks to compile these offenses and the accounts that constitute them.

Crimes Against Humanity

Enforced Disappearances and Torture

After the dramatic, drawn-out climax of the Syrian Civil War in early December of 2024 that forced President Bashar al-Assad to flee to Russia, one of the first places the liberating rebel militias knew to check in Damascus, was what has come to be nicknamed the "human slaughterhouse"[32]: the Sednaya prison. After the 2011 uprising, the prison soon became the choice area of the Assad Regime to send all opponents and political dissidents, and was described by the Association of Detainees and The Missing in Sednaya Prison as a "death

[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] Alice Cuddy, "'I felt like a breathing corpse': Stories from people freed from Syria torture prison", *BBC*, 14 December 2024.

camp".[33] Prisoners, whose families were unsure if they were still alive[34], were taken daily and forced into cells with no beds and only a single toilet for several inmates.[35] Torture methods varied in Sednaya and in other detention facilities across the country. Reports of losing fingers, severe beatings with various objects, waterboarding and simulated drowning, sexual assaults including rape, and the pulling of finger and toenails were only some of the methods employed by regime prison staff, usually done in tandem with each other simultaneously.[36] By August of 2024, the Syrian Network for Human Rights (SNHR) estimated that 15,393 deaths due to torture had happened during the Syrian Civil war; with 98% of those being attributed to regime forces.[37]

While much of the time disappearances were undocumented, in some instances, military photographers were used not to document the dead for the families without answers, but to report this to the government to make sure orders were followed.[38] For many though, their fates will never be known. The SNHR publishes a yearly report detailing the numbers for many international crimes, such as arbitrary arrests, enforced disappearances, and murder committed by the Assad regime. By 2024, in their 13th annual report, they announced that 136,614 Syrians, including 5,274 children and 10,221 women, were still forcibly disappeared or arbitrarily arrested by the regime[39] with no information as to their whereabouts.[40] Additionally, those

[33] *Id.*
[34] Annie Sparrow et al., "Assad Must Face Justice for His Government's Atrocities", *Foreign Policy*, 8 December 2024.
[35] Alice Cuddy, *supra* n.32.
[36] *See* n.32 and Sareta Ashraph et al., "*Vanishing Nation: Enforced Disappearance in Syria*", *Book of the Disappeared: The Quest for Transnational Justice*, 2023.
[37] "Death Toll due to Torture", Syrian Network for Human Rights, 30 August 2024.
[38] Annie Sparrow, *supra* n. 34.
[39] The true toll for total forcibly displaced and arbitrarily arrested is estimated by the SNHR at 157,634 as of August 2024. Syrian regime officials make up around 87% of this, while other groups such as ISIS, the Syrian Democratic Forces, the Syrian National Army, and the rebel group Hay'at Tahrir al-Sham make up 5.51%, 3.35%, 2.77%, and 1.70%, respectively, *see* "SNHR's 13th Annual Report on Enforced Disappearance in Syria", Syrian Network for Human Rights, 4, 30 August 2024.
[40] *Id.*

imprisoned were offered no legal recourse. Many Syrians were taken to prisons under suspicions of conspiring with rebel groups, but rarely was actual evidence produced.[41]

Sexual Crimes

Sexual violence has been promulgated against men, women, and children during the Syrian Civil War, with women feeling a disproportionate impact[42], a further example of identifiable group prosecution. Sexual violence has largely been a tool to extract information, to humiliate, and as revenge.[43] Methods of sexual assault include forced stripping, physical harassment including the beating of genitals, rape, and sexual extortion. Sexual violence against females alone has been documented at 11,553 incidents as of 2024, with the Assad regime being responsible for 8,024 of those instances.[44] A 2021 report[45] by Amnesty International compiled a vast number of reports that detail egregious instances of sexual crimes. The basis of the report highlights that sexual crimes not only take place in detention facilities, as many also take place at border crossings or security checkpoints and thus penalize and humiliate those who had left and have returned.[46] One account details a family of returnees who had lost everything, in which a mother and her teenage son were raped on unfounded accusations of espionage, with the mother being forcibly impregnated.[47] Another account details a man being beat on his genitals as retribution for his supposed allegiance to ISIS.[48]

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[41] Alice Cuddy, *supra* n. 32 and Annie Sparrow, *supra* n. 34.
[42] Zeynep Pinar Erdem, "They Treated Us in Monstrous Ways", Human Rights Watch, 29 July 2020.
[43] "SNHR's 13th Annual Report on Violations Against Females in Syria", Syrian Network for Human Rights, 24, 25 November 2024.
[44] Of the 11,553 incidents recorded by the SNHR, Regime forces comprised 8,024 accounts (as stated), ISIS comprised 3,487, armed opposition groups and the Syrian National Army comprised 21, Syrian Democratic Forces comprised 19, and Hayat Tahrir al-Sham comprised 2. *Id*. at 14.
[45] "'You're Going to Your Death': Violations Against Syrian Refugees Returning to Syria", Amnesty International, 22, 7 September 2021.
[46] *Id.*
[47] *Id.* at 23.
[48] *Id.* at 24.

A report by Human Rights Watch[49] includes that men and boys, either truly identifying as homosexual or perceived as such, were also extremely vulnerable to sexual violence during the Syrian Civil War. Sexual assault against males frequently took place in detention centers and during strip searches, but also in non-detention centers such as houses during raids and checkpoints outside prisons.[50] State-sponsored homophobia has been greatly exacerbated by the war, as it was already a topic of shame for members of the LGBT community in Syria. Gay and transgender Syrians were frequently seen as non-masculine and were sexually abused and humiliated for this.[51] The already serious problem that existed before the Syrian Civil War has now become egregiously exacerbated. Sexual crimes, such as the ones committed in Syria, are additionally punishable as war crimes.

War Crimes

Indiscriminate Use of Banned Weapons

Perhaps some of the most infamously well-known acts of the Assad Regime were the frequency of dropping bombs which are banned due to their highly indiscriminate, high area effects.[52] One type of banned explosive is known as a barrel bomb. Barrel bombs are metal barrels which are filled with any variation of shrapnel, nails, screws, and other loose metal objects with an explosive putty mixture that, upon detonation, inflicts maximum damage.[53] There were even cases in which anti-personnel landmines were added to further the explosive damage.[54] A particularly egregious example of their use is in the Daraa Governorate. Daraa was

[49] Zeynep Pinar Erdem, *supra* n. 42.
[50] *Id.*
[51] *Id.*
[52] *See* UN Security Council. (2014, February 22). Resolution 2139 (2014).
[53] "The Syrian Regime Dropped About 11,000 Barrel Bombs on Daraa Governorate Killing 1,177 Civilians, Forty Percent of Whom Were Women and Children", Syrian Network for Human Rights, 5, 12 September 2024.
[54] *Id.*

one of the first documented areas of their use, and from 2012-2014 around 11,000 barrel bombs have been dropped in the governorate alone.[55] These were used specifically to target civilian facilities as they were dropped on areas furthest from battlefronts, and resulted in the destruction of entire neighborhoods and massacres of civilians.[56] The regime specifically used these as a way to forcibly deport civilians out of the area, constituting itself as both a crime against humanity under Article 7(1)(d) of the Rome Statute and numerous war crimes under several provisions. Additionally, barrel bombs loaded with toxic substances were dropped on Daraa in 2015, and bombs loaded with incendiary substances were dropped in 2017.[57] In total, according to the SNHR's 2021 report on barrel bomb usage, over 81,000 barrel bombs have been dropped over the course of the war, with most happening after the adoption of UNSC Resolution 2139, which bans their use by name.[58] The suburbs of Damascus saw the highest number of barrel bomb usage, followed by Aleppo and Daraa.[59] As of 2021, when barrel bomb usage stopped, 11,087 civilians had been killed by their indiscriminate use. Vital civilian facilities including hospitals, schools, mosques, and markets were targeted 728 times, and 13.3 million Syrians became either internally displaced persons (IDPs) or refugees in neighboring or other countries.[60]

Chemical weapons were also frequently used by the Assad regime and received, by far, the most international attention. The very first use of this against Syrian civilians was 23 December 2012 in the city of Homs in western Syria. Half a year later, in rural Damascus, the countryside of Ghouta would see four separate attacks. The regime's attack was thoroughly

[55] *Id.* at 12.
[56] *Id.*
[57] *Id.* at 16.
[58] "In Nine Years, the Syrian Regime Has Dropped Nearly 82,000 Barrel Bombs, Killing 11,087 Civilians, Including 1,821 Children", Syrian Network for Human Rights, 10, 15 April 2021.
[59] *Id.* at 11.
[60] *Id.* at 11, 14-15.

planned to destroy civilian populations, as on the night of August 21, 2013, 10 rockets loaded with large quantities of internationally outlawed Sarin gas[61] were fired after midnight to suffocate Syrian civilians as they slept.[62] Ghouta, at that time, had additionally been under siege since late 2012, and thus fuel and medical supplies were blocked from entering, greatly exacerbating death, as just that night alone caused 1,144 deaths and 5,935 Syrians injured with lasting respiratory issues.[63] The notoriety of the August Ghouta attack provoked some major powers to act. By September 9 of 2013, the United States Secretary of State John Kerry and Russian Foreign Minister Sergei Lavrov agreed upon the removal and destruction of Syria's entire chemical weapons arsenal, and later that month, the UNSC passed Resolution 2118 unanimously on September 27th, calling for the disarmament of Syria by the middle of 2014.[64] The next month, the Assad regime officially acceded to the Chemical Weapons Convention (CWC) in an act of international compliance.[65]

Despite the efforts at stemming chemical weapon usage in Syria, over many days in April 2014 the use of chlorine gas was documented in the Hama governate. Victims reported nighttime attacks, similar to the Ghouta attacks, the need for respirators, and even evidence of bomb casings marked 'CL2', which chemically denotes chlorine gas.[66] While no proof was produced

[61] Sarin gas is a nerve gas developed by German scientists in the 1930s who sought new pesticides, but was quickly discovered to have weaponizable traits such as an overstimulation of one's glands and muscles which cause the respiratory system to completely shut down without an immediate antidote. Its color and odorless nature, and the fact that large quantities are required to cause mass casualties, paired with its deadly effects have earned it Schedule 1 status by the Organization for the Prohibition of Chemical Weapons, who is responsible for implementing the Chemical Weapons Convention, which Syria became a member state to in 2013. Schedule 1 is reserved for lethal chemicals with few civilian applications. See Zachary Laub, "Sarin", Council on Foreign Relations, 13 March 2014.
[62] "The 10th Anniversary of Two Ghoutas Attack: The Largest Chemical Weapons Attack by the Syrian Regime on Syrian Citizens", Syrian Network for Human Rights, 1, 20 August 2023.
[63] *Id.* at 1-2.
[64] Tobias Schneider et al, "Nowhere to Hide: The Logic of Chemical Weapons Use in Syria", *Global Public Policy Institute,* 8, 17 February 2019.
[65] *Id.*
[66] Graeme Baker, "Syrian regime accused of chlorine gas attacks", *Al-Jazeera*, 17 April 2014.

that directly implicated the Assad regime, the international community responded yet again. By the end of April 2014, the Director General of the Organization for the Prohibition of Chemical Weapons (OPCW) publicly announced the formation of a Syrian chlorine gas fact-finding group, and months later, in August 2014, all declared Syrian chemical weapon stockpiles were destroyed.[67] One year later, in August 2015, the UNSC passed unanimously Resolution 2235, which established the Joint Investigative Mechanism (JIM) to investigate those who were "to the greatest extent… perpetrators, organizers, sponsors, or otherwise involved in the use of chemicals as weapons… in the Syrian Arab Republic".[68] Six months later, the OPCW confirmed the official disarmament of Syria.[69]

It seemed as though the use of such weapons was finally coming to a comprehensive conclusion, and that the international community had made a meaningful difference in the Syrian conflict. That was until the April 2017 attacks on the city of Idlib in northwest Syria. Residents in the area reported Syrian or Russian (working in conjunction with the Syrian military) jets to have dropped Sarin gas bombs in the early hours of April 4, 2017, as to silently eliminate civilians while they sleep, a frequent strategy employed.[70] While there was, again, no definitive evidence of the Syrian military being the culprit, Russia, who at this point had been working in conjunction with the Syrian military, later vetoed the extension of the JIM in November of 2017.[71] The Russian Government, from that point on, had greatly stopped efforts in the UNSC to attain restrictions on Syrian military activity. The last widely reported chemical weapon attack happened in the northeast Damascus suburb of Douma in April of 2018. A later report by the

[67] Tobias Schneider, *supra* n. 64 at 8-9.
[68] *See* UN Security Council (2015, August 7). Resolution 2235 (2015).
[69] Tobias Schneider*, supra* n. 64 at 9.
[70] "Syria conflict: 'Chemical attack' in Idlib kills 58", *BBC,* 4 April 2017.
[71] Tobias Schneider, *supra* n. 64 at 9.

OPCW in January of 2023[72] concluded and confirmed the suspicions of many that Syrian military forces had indeed dropped chemical weapons on numerous civilian areas within Douma.[73]

While the Assad Regime never confirmed their use of chemical weapons outright, there were direct actions that lead to the conclusion that the significant majority of these attacks were carried out by the military with the regime's guidance. Chemical weapon production is not a simple task. It requires the force of multiple facilties within a government to conduct. In particular, Syria's Intelligence Directorates of the General Military and Air-Force, the National Security Bureau, and the Syrian Scientific Studies and Research Center would have all been implicated in the research, production, and storage of chemical weapons, regardless of if it is Sarin, chlorine, or any other compound.[74] Additionally, based off of Syria's accession into the Chemical Weapons Convention, and as a result their supposed destruction of chemical weapons supplies directly implies that the Assad Regime was in possession of a large stockpile of chemical weapons. Like any authoritarian regime, the Assad Regime has a highly centralized structure, and thus it is implausible to suggest that Assad or any other top officials would have been excluded from decisions to use these weapons.[75]

Genocide and the Crime of Aggression

The other punishable international crimes, genocide and the crime of aggression, have not taken place in Syria. The crime of aggression is easy to dispel. The crime of aggression clearly

[72] *See* "Third Report by the OPCW Investigation and Identification Team Pursuant to Paragraph 10 of Decision C-SS-4/DEC.3 "Addressing the Threat from Chemical Weapons Use" Douma (Syrian Arab Republic)", Organization for the Prohibition of Chemical Weapons, 27 January 2023.
[73] *Id.* at 2.
[74] "The 10th Anniversary", *supra* n. 62 at 4.
[75] *Id.*

requires the use of force or "act of aggression" of one state against the sovereign boundaries of another state. In other words, if there is a crime of aggression, a state must invade or attack a different state. The Assad regime itself focused their war against their own people in their own sovereign territory. While other countries such as the United States, Türkiye, and Russia all became involved within the country, the Syrian government themselves never conducted war outside of the country. Additionally, while various academic journals and sources[76] have claimed that the Assad regime has conducted a genocide, there is little validity or support to these claims. To be considered a genocide as per international framework, there must be intent to destroy, entirely or partially, a "national, ethnical, racial, or religious group…".[77] While the Assad regime has conducted mass killings, caused serious bodily and mental injury, and deliberately inflicted destructive conditions[78] on thousands, the effects of the thirteen years of attacks were done so indiscriminately that it cannot be said or proven that there was genocide. Attacks were spread country wide, with many happening in the biggest and most diverse cities such as Damascus, Aleppo, and Idlib. While the actions of the regime were egregious, the do not constitute genocide, nor the crime of aggression.

Summary

This chapter has, in no way, captured nearly every single instance of war crimes or crimes against humanity that took place at the hands of the Assad Regime in Syria. There are thousands upon thousands of accounts, documented by numerous human rights groups in hundreds of reports, that further detail the actions done by the regime. But in the general

[76] *See* Genocide Watch, "Syria Country Report", *Alliance Against Genocide*, December 2022, and Keenan Kassar, "What's happening in Syria is genocide", *Washington Post*, 11 March 2020.
[77] Rome, *supra* n. 3 at Article 6.
[78] *Id.* at Article 6(a-e).

overview of heinous actions that have been captured in this chapter, one thing is clear: the Assad Regime committed crimes against humanity and war crimes in Syria over the last thirteen years. In prisons and detention centers countrywide, the persecution of dissidents, murder, torture, rape, and enforced disappearance of over 100,000 Syrians are all separately punishable as crimes against humanity.[79] War crimes have been witnessed continuously as Assad's bombing campaigns, using cluster munitions, chemical agents, and other internationally banned weapons, have murdered thousands indiscriminately in exclusively civilian areas, and civilians forcibly displaced from their rightful homes and the land taken by the regime.[80] The Assad Regime and it's military are not immune from punishment for these actions. While Bashar al-Assad's asylum in Russia has made justice difficult, he, other regime officials, military, and local security forces must still face some sort of judgement for what they have done to the people of Syria. But what is the best course of action? What would bring about a meaningful justice? For this, attention should be drawn to existing transitional justice measures, and more importantly, the will of Syria's people, to discover the best course of action in attaining a comprehensive peace.

Chapter 3: Syria's Options

When states seek out a transitional justice process, it never looks the same as any previous process. Each state decides for itself exactly what kind of measures will be taken to ensure that actions committed during a previous regime (in this case, the Assad regime and its officials) will not only be answered for but will not happen again. Classically, there are four main

[79] *Id.* at Article 7.
[80] The intentional attacking of civilians, bombarding non-military objective towns, forcible deportation, intentional attacking of civilian facilities like hospitals and religious centers, employing poisonous gases as weapons, and indiscriminate weapon usage are all banned under the Rome Statute's Article 8 War Crimes clauses, Rome, *supra* n. 3 at Article 8.

"pillars"[81] of transitional justice. First, truth-seeking commissions seek to uncover truth. These commissions allow the parties both involved in the atrocities and the victims to come forward and make the abuses known. Primarily, the emphasis is not on punishment or criminal trials; although those are not out of the question depending on what the people of the state want. The best example of a truth commission was the South African Truth and Reconciliation Commission (TRC), which was mandated in 1995 after the fall of the apartheid government. While it did substantial work in exposing the truths of awful acts committed, it has since been criticized for its broad amnesty functions, sweeping presidential pardons (taking place after the TRC), and not attaining a lasting justice in South Africa.[82] Reparations are another method. These measures usually include a form of financial compensation for damages, emotional or physical, scholarships and health infrastructure access to affected communities. They could also include symbolic gestures, such as the Apology to Australia's Indigenous Peoples delivered by then Australian Prime Minister Kevin Rudd in 2008.[83] Non-recurrence measures, another pillar, can also be taken. These can be taken to alter institutions and laws to make sure past violations do not occur again. Institutionally, security and justice reforms may take place, along with lustration policies which bar perpetrators from public office, generally. Individual actions are more future driven, such as history reforms, memorialization, and cultural initiatives.[84] Lastly, criminal prosecutions are a very common transitional justice action. Punitive measures prioritize the

[81] Priscilla Hayner, " Transitional Justice in Peace Processes", United Nations Standby Team of Senior Mediation Advisors, footnote 1, 24 October 2022.
[82] "South Africa", International Center for Transitional Justice, Accessed 26 February 2025.
[83] The purpose of PM Kevin Rudd's 2008 apology was due to the oppressive policies instituted by previous Australian parliaments which harmed the Aboriginal peoples and separated Aboriginal families from their children for over half a century (1910-1970). The apology itself is famous for being one of the best and most sincere government apologies to date and a model for symbolic reparation measures. For more, see Kevin Rudd, "Apology to Australia's Indigenous Peoples", Australian House of Representatives, Parliament House, Canberra, 13 February 2008.
[84] Office of the United Nations High Commissioner for Human Rights, "Guarantees of non-recurrence", United Nations, Accessed 26 February 2025.

punishment of perpetrators and are incredibly individual focused, unlike the other transitional justice measures. Punitive transitional justice has been used widely for nearly the last century. The Nuremburg and Tokyo tribunals following the Second World War were the earliest examples, while more recent examples include the ad-hoc International Tribunal for Rwanda and the Former Yugoslavia (ICTR and ICTY, respectively) in the 1990s, and the International Criminal Court as a permanent tribunal to punish crimes in conjunction with transitional justice efforts. Any one of these pillars may be pursued by states seeking a way to bring peace after war, so which one is the best for Syria?

It is clear from public sentiment that has been expressed after the Assad regime fell, and backed by the transitional government, that punitive justice measures will be the main transitional justice mechanism in Syria, among a few other smaller changes already taking place.[85] It is so evident that the people of Syria want retribution for egregious acts committed to their communities that extrajudicial killings have now become an issue countrywide. Lower-level security and military members who served under the Assad regime are returning to homes where previous neighbors take the law into their own hands, murdering them in gruesome ways as a way of revenge. In a January 2025 New York Times story, the accounts of the family of Bashar Abdo, a conscript of the Syrian military, depicted his sudden murder upon returning home, the brutality lasting long after he was dead.[86] Countless other killings happened to soldiers and security force officials, prompting interim President Ahmed al-Sharaa to say that "justice

[85] Minor measures have been taken across many forms of transitional justice. Most of these consist of non-recurrence methods such as the creation of a temporary legislative council, the abolishment of the old constitution and creation of a new one, dissolving of all military factions in Syria, including the existing national army and security forces and Hayat Tahrir al-Sham's forces, and the complete ousting of the Baathist party in Syria, which both Hafez and Bashar al-Assad had belonged to during their rule. *See* "President al-Sharaa and no more Baath party: What else has Syria announced?", *Al-Jazeera,* 29 January 2025.
[86] Raja Abdulrahim, " Many Syrians Want Justice for Regime Crimes. Others Want Revenge.", *New York Times*, 15 January 2025.

must be sought through the judiciary and the law. Not through individuals.", and that further revenge killings would result in a "law of the jungle".[87] These extrajudicial killings have largely been prompted from al-Sharaa's announced policy in which he promised that the transitional and future government would hunt and prosecute senior Assad regime officials, but that lower-level security officials would receive broad amnesty.[88]

As there seems to be no pause to these killings, as a judicial system in shambles slowly begins to move, it would be wiser to prosecute these individuals for their own safety than let them off via amnesty. The interim government seems to have shifted during the early months of 2025, as during the Syrian National Dialogue Conference on February 26, 2025, the government referenced the holding of "those responsible for crimes" broadly accountable, insinuating even lower-level, rank and file officials could be prosecuted in some fashion.[89] If Syria's will is to have Assad himself, as well as senior and lower-level officials prosecuted, what punitive justice tools are available for their use, and additionally, what tools are available for the international community to use to bring about justice?

Prosecuting Low-Level Officials and Soldiers

In assessing which form of prosecution works best for prosecuting soldiers, security forces, and lower-level officials still in Syria, domestic prosecutions are the best manner in which to do so, as many of these perpetrators are still within the state's sovereign territory. Domestic prosecutions take many forms, and not all may work for the country. Normally, domestic tribunals would be organized by the national government (whoever that may be in the

[87] *Id.*
[88] *Id.*
[89] Justin Salhani, "Key takeaways from Syria's National Dialogue conference", *Al-Jazeera,* 26 February 2025.

transitional period), using judicial frameworks already in place. While many domestic court prosecutions take place in tandem with other international or hybrid prosecutions[90], an example of a purely domestic prosecution was the Greek Junta trials of 1975, in which the authoritarian military regime that had ruled Greece from 1967-1974 was put to trial for toppling the previous Greek democracy.[91]

When considering domestic prosecutions as a method to use, there are important factors that need to be considered. Generally, domestic prosecutions are costly, incredibly time-consuming (especially if rank and file soldiers, security forces, and low-level officials are the ones being prosecuted), and morally divisive.[92] Legal requirements for prosecutions, although a necessity when conducting tribunals, complicate timeliness of proceedings. International frameworks establish that while individual states have a duty to prosecute war crimes and crimes against humanity, they must be conducted in an impartial manner that follows basic procedure, including basic due process conditions, the accused's right to a counsel, and the right to cross examine the evidence that is against them.[93] Politically, these trials may also generate division in the population. If trials are not purely objective and transparent with their proceedings and objectives, those on either side of the fight may claim the trials are unfairly biased.[94] In states that are freshly recovering from the wounds of internal conflict, purely domestic prosecutions

[90] The Bosnian War Crimes Chamber, the International Crimes Division Uganda, the Iraqi High Tribunal, and the International Crimes Tribunal Bangladesh were all established alongside ongoing transitional justice prosecutions to allow the state's judiciary to deal with lower-level criminal prosecutions. While they were all established to investigate and prosecute international crime violations, they each exist as a part of the state's own court system. *See* "Domestic Courts", International Crimes Database, Accessed 5 March 2025.
[91] The Greek Parliament, in 1975, had declared that 'democracy, in law, was never abolished', meaning that the Junta regime was simply an illegal government, and based off this, prosecuted its previous leaders. *See* Evanthis Hatzivassiliou, "The Ghost of Trials Past: Transitional Justice in Greece, 1974–1975", 31 *Contemporary European History* 286, 28 February 2022.
[92] "Transitional Justice: Information Handbook", United States Institute of Peace, September 2008.
[93] *Id.*
[94] *Id*.

may seem impossible. Immensely egregious crimes like war crimes and crimes against humanity generally take months if not years to compile and research for just one defendant, let alone thousands if not hundreds of thousands of defendants. States that barely had large enough courts to handle egregious crimes before conflict erupts are certainly not going to be able to handle these same trials during a transitionary period. All of these factors can lead to trials that are unfair or biased towards one of the parties and will likely be viewed as uncredible.[95] As such, conducting purely domestic trials using national court systems comes with a slate of its own issues.

To combat many of these issues, frequently states will engage in hybrid tribunals. Hybrid tribunals, as the name suggests, are a mix of largely domestic punitive systems with international assistance or guidance. Some of the best examples of these are the Special Court for Sierra Leone (SCSL)[96], organized to prosecute individuals associated with the country's civil war which took place in the 1990s, and the Extraordinary Chambers in the Courts of Cambodia, organized to prosecute those involved with the infamous Khmer Rouge Regime in Cambodia. There are a few characteristics that hold them apart from purely international or domestic tribunals. For one, they can use domestic and international sources of law.[97] This provides heightened flexibility to incorporate domestic criminal law and address serious international law violations in applicable circumstances.[98] While hybrid tribunals mostly rely on domestic judges and other personnel to maintain connection to the affected state, the inclusion of international

[95] *Id.*
[96] The SCSL was the first hybrid court that: was established in the state the crimes took place, where international and domestic judges and professionals worked in tandem, where funding came solely from contributions from interested states voluntarily, to indict a sitting African head of state (Charles Taylor), and the first to convict recruitment of child soldiers and for forced marriage crimes. *See* "Exploring the Legacy of the Special Court for Sierra Leone", International Center for Transitional Justice, November 2012.
[97] "Hybrid Tribunals: Core Elements", Public International Law and Policy Group, June 2013.
[98] *Id.*

personnel gains legitimacy a purely domestic tribunal may not be seen to have, especially during transitional reconstruction, and also boosts internal domestic capacity as international personnel will pass along expertise and knowledge.[99]

Hybrid tribunals build on the weaknesses of domestic court prosecutions. To combat how costly mass domestic punitive justice attempts are, hybrid courts allow the state to share the cost with the international community.[100] With additional staff, compiling evidence for arguments of crimes becomes much easier as well. Possibility for political discord as a result of the tribunals is also much lower, as the inclusion of international bodies helps prevent a sort of "victor's justice" and mitigates biased or patently unfair trials.[101] These tribunals could be established by a UN Security Council Resolution (only for states under the UN mandate), through an agreement among two or more states (including the affected state), and also as domestic courts which simply incorporate international elements.[102] Hybrid courts are not perfect, and have often been criticized. Some major arguments include that hybrid courts have only actually prosecuted a small number of perpetrators in cases where hundreds if not thousands of perpetrators were implicated[103] and that the operational costs of hybrid tribunals are consistently high, even though they were engineered with cost effectiveness in mind.[104] Although not perfect, hybrids alleviate some of the issues associated with purely domestic tribunals.

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[99] *Id.*
[100] *Id.* at 2, 3.
[101] *Id.* at 4.
[102] *Id.* at 7.
[103] The Special Court for Sierra Leone, in its 11 years of operation, only handed 13 indictments of serious crimes down, and of this, conducted four successful trials and convicted nine perpetrators. The Extraordinary Chambers in the Courts of Cambodia has only charged seven, conducted three trials, and convicted three. *See* Elena Naughton, "Committing to Justice for Serious Human Rights Violations: Lessons from Hybrid Tribunals", International Center for Transitional Justice, 5 December 2018.
[104] The Extraordinary Chambers in the Courts of Cambodia, after 10 years of operation and only three trials conducted, has cost over 311.9 million USD, though original projections only estimated around 56.3 million USD. *Id.*

Extremely localized and cultural tribunals have been an interesting punitive measure seldom used. The first and best example of a localized tribunal was the Gacaca courts instituted in Rwanda after the Rwandan Genocide and the subsequent ICTR. Gacaca courts were a derivation of a previous practice- the term Gacaca literally derives to mean "short grass", which was where local communities gathered to resolve disputes.[105] The courts kept this same practice but turned it into a local punitive measure, with locally elected judges who sat on panels to hear cases. From 2005-2011, 1.2 million cases were tried in Gacaca courts. While there were significant developments with the local hearings, such as swift work, involvement of communities, and a better explanation of what went on during the Rwandan Genocide to those who felt lost[106], there are also many criticisms. Many who survived the Genocide claim not all who should have been prosecuted were and that those who did receive punishment did not receive a long enough sentence.[107] On the other side, those who were punished claimed that the trials were seriously flawed, their trial rights were nonexistent, and that over time, trials became political and thus became contrary to the main goal of calming class tensions.[108] The main reason attempts like these are so seldom seen is that cultural practices like this are rare and even if they do exist in a country, are rarely used in punitive transitional justice the way Rwanda used them. The mixed legacy that the Gacaca courts themselves left behind additionally raised questions about their future usage.

In considering from among these measures what would work best for Syria, a few conditions must be outlined. To start, Syria has only been out of an official civil war since mid to

[105] Leslie Haskell, "Justice Compromised: The Legacy of Rwanda's Community-Based Gacaca Courts", Human Rights Watch, 31 May 2011.
[106] *Id.*
[107] *Id.*
[108] *Id.*

late December 2024. The economy of the state is war-battered, millions of civilians are still displaced, and millions within the country cannot secure their own access to food, shelter, medicine, or other crucial life-sustaining things.[109] To say that providing for proper justice mechanisms would be nearly impossible at this stage, or even years from now, would be a severe understatement. Additionally, the interim government has made it a top priority to reform state institutions plagued with corruption, the judiciary among those, and hold those people accountable.[110] Syria has also sought to completely scrap the old constitution of the Assad Regime years, insinuating that the government structure as currently known in Syria will change in ways that will not be known for years to come.

In considering all of these factors, a hybrid tribunal would be the best option for Syria in prosecuting soldiers, security force members, and low-level officials. Syria has clearly expressed that domestic prosecutions are a top priority for low-level officials[111] and has appeared to reverse course on broad amnesties for rank and file soldiers.[112] The time frame needs to be expedited to attain meaningful prosecutions, as the longer victims and their families must wait for justice, the more they take matters into their own hands, which is being witnessed by the mass murders of soldiers and anyone associated with the Assad Regime still in Syria[113], and this can only be best attempted via a hybrid tribunal. Syria, undergoing constitutional changes, vetting all government staff, recovering from a war-torn economy, and barely able to afford citizens right to life-sustaining materials cannot sustain purely domestic prosecutions, and if they attempt to do so, those attempts will either be quick, perceived as biased, and not afford Syrians appropriate trial

[109] "Syria's interim gov't pledges justice, jobs and security in 'new era'", *Al-Jazeera,* 19 December 2024.
[110] *Id.*
[111] "President al-Sharaa", *supra* n. 85.
[112] Raja Abdulrahim*, supra* n. 86.
[113] *Id.*

rights, or slow to the point that political discourse will ensue over a lack of justice. Localized punitive measures are just as unlikely as no previous measures existed, local courts are underequipped at best, and local measures have only so far resulted in extrajudicial killings and murder.

A hybrid tribunal, while imperfect, could somewhat resolve the cost issue, as Syria would be assisted in conducting the trials, they would still be able to base the trials in Syria and maintain Syrian personnel dominance over the trials, and additionally, international personnel would significantly boost Syrian judicial capacity of both the domestic courts and the knowledge and experience of domestic judges. Political discord has a better chance of being avoided by internationally assisted trials, as there are still some cells of Assad loyalists in Syria[114], although that has not been the trend since the interim government has taken power, and thus a greater assurance given by international presence is that of making sure defendants are guaranteed international trial rights. The idea of a hybrid tribunal is not as far away as it seems either. In November 2023, around a dozen Syrian civil rights groups came together to propose the establishment of the Exceptional Chemical Weapons Tribunal, that would have authority to put on trial those accused of chemical weapon usage. Documentation such as the findings of the Organization for the Prohibition of Chemical Weapons and records of the Joint Investigative Measure would greatly assist proceedings in this proposed court as well.[115] Low-level prosecutions are extremely difficult, as the sheer magnitude of perpetrators involved is massive and evidence that needs to be produced in line with international standards is immense. Additionally, while many courts are established under United Nations Security Council

[114] *See* Hugo Bachega, "Syrian government still faces threat from Assad loyalists", *BBC*, 7 March 2025.
[115] Federica D'Alessandria, "International Crimes Accountability Matters in Post-Assad Syria", *Carnegie Endowment for International Peace*, 28 January 2025.

Resolution, that is only one way to establish these. In this case, most likely a referral to establish an ad hoc tribunal in the UNSC would fail due to Russia and China's previous efforts to halt the progression of justice in the Syrian conflict, however regional bodies such as the Arab League (which Syria received a reinstated membership in May of 2023) or multilateral treaties could also pave the way to justice. Purely domestically, this cannot work in Syria, but with international help, as is already being seen, these prosecutions will be able to proceed.

Prosecuting Senior Officials

When it comes to prosecuting senior officials of the Assad Regime, domestic tribunals are largely off the table. Many high-ranking members of the deposed government are no longer within the territorial jurisdiction of Syria. Reports claim that Bashar al-Assad, in his original flight to Russia, only brought with him the then-Secretary General of Presidential Affairs, Mansour Azzam, and his personal economic adviser, Yassar Ibrahim.[116] Many other officials of similar rank have fled in those following days. Maher al-Assad, Bashar's brother and commander of the infamous Fourth Division of the military was reportedly unaware of his brother's plans, and so hastily he fled to Iraq in the following days and from there, to Russia, while his family fled to Lebanon and to another unknown location.[117] Former Syrian Security Apparatus Chief Ali Mamlouk is reported to have either fled to Lebanon (with the assistance of Hezbollah) or Iraq, and then to Russia, while his family also fled to an unknown destination via Lebanon.[118] Countless others escaped Syria, such as a former translator for Bashar's father Hafez, who now reportedly is in hiding in Abu Dhabi, and the head of the Baath Brigades (military wing of

[116] "How Assad's inner circle fled Syria after his fall", *The New Arab*, 21 December 2024.
[117] *Id.*
[118] *See Id.* and "Report: Senior Syrian officials fled to Lebanon with help of Hezbollah after fall of Assad", *The Times of Israel,* 10 December 2024.

Assad's party), who is reported to have fled to Lebanon.[119] Reports are scattered, some even contradict each other, but the fact is that these persons, wherever they are, are no longer within Syria's jurisdiction. How exactly are they supposed to face justice?

To answer this is quite simple- it is already being done by way of universal jurisdiction used by third-party states. Universal jurisdiction is a practice that is becoming far more commonplace as time goes on. It is the idea that a national court, of any country (so long as the country incorporates universal jurisdiction into their legal system), may prosecute any individual for egregious international law violations, namely those discussed here such as crimes against humanity, war crimes, and genocide, without requiring any jurisdictional link that restricts other claims such as territorial, personal, or ones of national interest.[120] Countries employing universal jurisdiction have, in the past, relied primarily on treaties such as the 1949 Geneva Conventions[121] and the ICC Statute[122], as well as customary international law, to authorize their usage of the principle.[123]

None of these sources directly authorizes the use of universal jurisdiction, but it has been argued that at the least, they do not prohibit the use of universal jurisdiction. The first and most common example of a universal jurisdiction exercise is that of the 1998 Augusto Pinochet case. Former President of Chile, Pinochet engaged in egregious human rights violations during his authoritative rule from 1973-1990, after the 1973 coup that achieved him the Presidency. The Pinochet Regime held a 1988 referendum that resulted in a loss of his Presidency, but under the

[119] "How Assad's inner", *supra* n. 116.
[120] Maximo Langer, "The Diplomacy of Universal Jurisdiction: The Political Branches and the Transnational Prosecution of International Crimes", 105 *The American Journal of International Law* 1, January 2011.
[121] 1949 Geneva Conventions, *supra* n. 1 and 2.
[122] Rome, *supra* n. 3.
[123] Maximo Langer, *supra* n. 120 at 4.

stipulation that he would continue as head of the Chilean Army and that he and his senior officials would be granted full amnesty. The tables flipped when on 16 October 1998, while Pinochet was traveling in London, a (then) unprecedented extradition request came from Spain, claiming that he led countless murders of Spanish citizens while in power, and then a second request came under universal jurisdiction, claiming that he should be extradited to be punished for his egregious crimes against international standards.[124] While the case was revolutionary, it began the push towards accountability on the highest scales for the harshest perpetrators.

Since its inception, universal jurisdiction has continued to spur debate over its usage. Proponents argue that universal jurisdiction is a crucial tool to deal with some of the worst actions humans can do en masse. Additionally, the existence of ad hoc tribunals and the ICC as a permanent tribunal for individuals leaves gaps in prosecutions as those tribunals can only handle so many defendants and are limited by jurisdiction.[125] Proponents also promote the avoidance of dangers from using universal jurisdiction via legal routes, such as ensuring defendants be present in the litigating state's territory, preventing double jeopardy transnationally, and the barring of double criminality, to name a few.[126] Critics often point out some significant obstacles that have been outlined through use over time. One of which is that states that implement universal jurisdiction (primarily European states) have a lack of domestic legislation outlining when and how it may be used.[127] Gaps in criminalization have begun to show themselves as some countries apply international law provisions directly while some countries apply regular criminal law.[128] Additionally, universal jurisdiction efforts are sometimes inhibited by presence requirements and

[124] "The Case of General Pinochet", Amnesty International, 1, 30 September 1998.
[125] Maximo Langer, *supra* n. 120 at 4.
[126] *Id.* at 5.
[127] Wolfgang Kaleck, "From Pinochet to Rumsfeld: Universal Jurisdiction in Europe 1998-2008", 30 *Michigan Journal of International Law* 927, 958, Spring 2009.
[128] *Id.* at 958-959.

other legal regulations that are further complicated by the global nature of the practice. Authorities conducting prosecutions are usually unlikely to go through fully with trials in absentia and when the full picture of the perpetrator's acts is unknown.[129] Critics, namely former United States Secretary of State Henry Kissinger, also argue that those who promote universal integrity do so with such ferocity that they overlook political institutions, and in a way risk a 'judicial tyranny'.[130] In justifying this, Kissinger refers to the famous 1998 Augusto Pinochet case, holding that the "unprecedented and sweeping interpretation of international law" witnessed has the potential to "arm any magistrate anywhere in the world with the power to demand extradition" which forces even advanced democratic societies to forgo reconciliation efforts.[131] While this claim has merit both when it was authored in 2001 and today, recent experience has shown that successful exercise of universal jurisdiction is much harder than it appears, and certainly does not create judicial regimes that overshadow global politics.

A significant difficulty, which goes back to one of the critiques of universal jurisdiction, is that there are significant gaps in domestic legislation authorizing universal jurisdiction in different aspects. States will sometimes apply existing international law and use definitions provided by the Rome Statute[132], or build on Rome Statute definitions, and sometimes the link between domestic legislation and the Rome Statute are unclear at best. A good example is France's universal jurisdiction code. In the French Criminal Code (FCC), genocide is similarly defined as per the Rome Statute, but it is broader as it extends to groups identified by 'arbitrary criteria', allowing prosecution on grounds of political or cultural group destructions.[133] Crimes

[129] *Id.* at 960.
[130] Henry Kissinger, "The Pitfalls of Universal Jurisdiction", 80 *Foreign Affairs* 86, 86, August 2001.
[131] *Id.* at 90.
[132] Rome*, supra* n. 3.
[133] "Universal Jurisdiction Law and Practice in France", Trial International, 5, February 2019.

against humanity are again, similar to the Rome Statute, but France requires such crime be part of a concerted plan, does not extend to sexual slavery, and adds a category pertaining to crimes against humanity in connection with war crimes, limited by a statute of limitations.[134] Similar changes and minor differences are made throughout, but it makes neutral application sufficiently harder and subject to higher scrutiny. What may be punishable under German, Thai, Ugandan, or United States law may have some or no relation to what is punishable under French universal jurisdiction law.[135]

While considering the benefits and critiques of universal jurisdiction, one factor sets it aside as the best method in the Syrian context: it has proven success. The first trial of a high Syrian official under universal jurisdiction was the trial of Eyad al-Gharib in Koblenz, Germany. Gharib was a former intelligence officer in the Syrian military and was convicted in Germany for complicity in Syrian crimes against humanity.[136] The following year, in the same court, Anwar Raslan, a former Syrian secret police officer, was convicted for overseeing crimes against humanity during the Assad Regime. He was sentenced to life in prison, as his actions held him responsible for 27 deaths.[137] Gharib and Raslan both defected and sought asylum together in Germany in 2019, and upon arrival into the country German authorities put them into custody and brought trial under universal jurisdiction.[138] In early January 2024, a Syrian man named Mustafa A., part of a pro-government armed group, was convicted in a district court of the

[134] *Id.* at 6.
[135] *See* "Universal Jurisdiction: A Preliminary Survey of Legislation Around the World- 2012 Update", Amnesty International, 16, 9 October 2012. While some countries have codified domestic and universal jurisdiction codes for all categories (war crimes, crimes against humanity, genocide, torture), some, like Angola, Bahrain, Chad, and Gabon to name a select few have little to no codified rule on any of the categories.
[136] Dana Ahdab, "Universal Jurisdiction: Jurisdictional Imperialism or Syria's Only Hope for Justice?", *Columbia Journal of Transnational Law*, 2 November 2021.
[137] "German court rejects a former Syrian secret police officer's appeal against his conviction", *AP*, 5 August 2024.
[138] *Id.*

Hague. Mustafa was involved in the arrest and the handing over of the victim to state authorities where he was further tortured.[139] While these three convictions are the only ones that have physically resulted in perpetrators behind bars, France has taken a strong stance on their universal jurisdiction cases.

In November 2023, France boldly issued an arrest warrant for Bashar al-Assad himself, citing his role in chemical warfare that killed numerous civilians.[140] While the chances Assad would have been extradited to face trial in France are nearly impossible, it still represents a broad symbolic step, as not only is it one of the rare times a warrant has been issued for (at that point) a sitting head of state, but also that it directly implicates the Assad Regime in planning and carrying out chemical weapon attacks, something it vehemently rejected. Slightly over a year later, in May 2024, France began trying head of Syrian Secret Services and Assad's Security Advisor Ali Mamlouk, head of Syrian Air Force Intelligence Jamil Hassan, and Intelligence Director of Mezzeh Detention Center Salam Mahmoud in absentia under crimes against humanity and war crimes.[141] Their trial resulted in all three of the defendants receiving guilty verdicts and life sentences, and international arrest warrants have remained in force.[142]

Additionally, the United States Department of Justice, in early December 2024, has also issued an indictment for Hassan and Mahmoud in connection with war crimes.[143] Here, the United States was able to establish a connection from the alleged torture performed by Hassan

[139] "Dutch court convicts Syrian pro-government fighter of war crimes", *Al-Jazeera,* 22 January 2024.
[140] Kim Willisher, "French court issues arrest warrant for Bashar al-Assad for complicity in war crimes", *The Guardian*, 15 November 2023.
[141] Kim Willisher, "Assad officials face landmark Paris trial over killing of student and father", *The Guardian*, 19 May 2024.
[142] Kim Willisher, "French court finds three Syrian officials guilty of crimes against humanity", *The Guardian,* 24 May 2024.
[143] "Criminal Charges Unsealed Against Two Former High-Ranking Syrian Government Intelligence Officials for War Crimes against Americans and Other Civilians", United States Department of Justice, Office of Public Affairs, 9 December 2024.

and Mahmoud on a U.S. citizen in the Mezzeh prison within Syria.[144] While the actions of France and the United States are relatively unlikely to produce physical justice, the growing number of warrants and allyship between states continues to make travel difficult for the perpetrators. Fortunately, in this case, there is little theorizing on how prosecutions will happen in this area. The Syrian context already, as shown, has plenty of examples where real, meaningful justice has been served by third-party states employing universal jurisdiction. While other methods are somewhat plausible, such as hybrid courts or the International Criminal Court, universal jurisdiction by other states is a proven method that shows a trend of continuing to work. This method already exists and has been happening for years, thus there is no need to wait to establish tribunals, wait for domestic courts to prepare, and does not suffer from the International Criminal Court's limitations.

Prosecuting Bashar al-Assad

By far the hardest actor to prosecute in the Syrian context will be former President Bashar al-Assad. While it was already viewed as incredibly difficult when he was still within Syria's sovereign territory, it has proved much harder after his flight to Russia, as Russian President Vladimir Putin himself is currently wanted by the ICC for the war crime of unlawful deportation and transfer of children during their war with Ukraine[145], and thus it is rather unlikely he would surrender or extradite Assad. Prosecution of Assad, importantly, is not impossible and cannot be viewed as such if a meaningful justice is to be attained. In the case of Bashar Assad, domestic courts certainly will not be the best option. Domestic courts are well underequipped to investigate even low-level perpetrators, so there is little chance they would be

[144] *Id.*
[145] "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova", International Criminal Court, 17 March 2023.

equipped to conduct a trial of a much higher magnitude. Additionally, revenge killings against those who were part of the Assad Regime and recent violence with pro-Assad remnant groups along the coastal regions[146] only reinforce the fact that such a prosecution would bring incredible discord within the country. Hybrid courts would also suffer from many of these complications from such a case. Third party countries claiming universal jurisdiction are somewhat more plausible of an answer, however the probability Assad would be extradited or tried by another state are very unlikely, and the differences in legal code among different states could present issues for developing uniform charges. This leaves one clear avenue: the best chance at prosecution comes from the International Criminal Court.

The ICC, while flawed, would present the best option at trying Assad alone. While this, like all previous trial suggestions, are purely speculation, there are signs that this could in fact be possible. In February of 2025, Putin and interim Syrian President al-Sharaa spoke about Syria's new leadership and future[147], with Putin even extending an offer to Syrian Foreign Minister Asaad al-Shaibani to visit Russia and discuss further steps. The development of a close working relationship with Russia could only prove useful to Syria in the future. Al-Sharaa has additionally been in discussions with ICC Chief Prosecutor Karim Khan, as the two have talked about the possibility of the ICC as an avenue to ensure accountability for the alleged crimes during the civil war.[148] While neither of these presents true, hard evidence that the ICC will be the avenue taken to prosecute Assad, at the very least it offers a foundation from which to begin.

Syria and Assad continuously evaded investigation and prosecution by the ICC for over a decade due to jurisdictional requirements that were not met, in tandem with a political thicket.

[146] "Dozens reported killed as Syrian forces and pro-Assad fighters clash", *Al-Jazeera*, 7 March 2025.
[147] "Syria's leader, Russia's Putin make first contact since al-Assad's fall", *Al-Jazeera*, 12 February 2025.
[148] "ICC chief prosecutor meets Syria's de facto leader", *Al-Jazeera*, 17 January 2025.

While the atrocities committed by the Syrian Government in the Syrian Civil War met the Rome Statute's Article 11 temporal jurisdiction requirements[149] (except the fact that Syria is not a member-state to the Rome Statute), it faltered in all other jurisdictions the ICC can exercise. Syria is not a member-state and has never consented to jurisdiction, so nothing that had occurred could have been investigated. While, under Article 13, non-member states may be referred by United Nations Security Council Resolution, this measure failed in May of 2014 due to a veto by Russia and China.[150] Both countries cited that they were aiming to stay out of yet another armed intervention, and China employed their long-held belief that these matters should be worked out by political branches, not an international tribunal.[151] Many discounted the usefulness of the ICC for these reasons, but now this avenue is back in the international toolbox.

In interpreting the Syrian Interim Government's position on international cooperation, including their meetings with ICC Chief Prosecutor Karim Khan, Syria could very well allow the ICC to investigate Assad's connection to the alleged crimes committed during the Syrian Civil War, and issue an arrest warrant for him. In following Russia's relations with the current government of Syria, it is not completely out of the realm of possibilities for Putin, at some point, to turn Assad over to Syrian authorities, who in turn, would turn him into the ICC. While Putin has had a good relationship with Assad, he is no longer the President of Syria and thus provides no strategic benefit to the Russian President anymore. With two Russian military bases still within Syria, and a need to protect Russian assets, Putin will have to come to agreements

[149] Article 11 of the Rome Statute states that the ICC only has jurisdiction over crimes committed after the entry into force (July 2002), and that for states which become party after the original entry into force, crimes may only be investigated after that particular states entry into force, unless that state temporarily accepts the ICC's jurisdiction. *See* Rome, *supra* n.3 at Article 11(1), Article 12(2a, 2b, 3).
[150] "Russia, China block Security Council referral of Syria to International Criminal Court", United Nations, 22 May 2014. *See also* Beth Van Schaack, "Deconstructing Syria's Would-Be International Court Referral: The Politics of International Justice", 56 *Stanford Journal of International Law,* Winter 2020.
[151] Beth Van Schaack, *supra* n. 150 at 16.

with the new Syrian government, and they certainly want the prosecution of Assad. This could truly open the door for prosecutions to take place.

Conclusion and Thoughts for the Future

Transitional justice is incredibly difficult to attain. Many attempts outright fail and may even produce worse results for the state aiming to "move on." Syria's attempts moving forward are not immune to these same dangers, especially due to extreme violence still occurring only months after Assad was deposed. The methods listed for punitive transitional justice are purely a best suggestion, as those methods have the best potential to work and move Syria forward. It is an important note that the recommendations made in this piece are not relegated to certain actors. Third party states can exercise universal jurisdiction over any perpetrator at any level. Hybrid tribunals are similarly unbound by a "hierarchy" of perpetrators. That being said, all recommendations made are just simply that- they serve to recommend particular modes of punitive justice as while they can be used at any level, some modes are best suited for particular prosecutions (Assad at the ICC, low level offenders in hybrid tribunals, etc.). These attempts will likely not occur for several years as Syria is still suffering from a humanitarian and constitutional crisis, and the method for how exactly Bashar al-Assad will leave the jurisdiction of Russia is still widely unknown. Producing a new constitution will likely take upwards of three years, and that implies a smooth process, which is very unlikely due to the variety of actors involved in the process. Millions of Syrian returnees displaced during the Assad Regime's war on its own people will have to be taken care of, which is not a small feat considering the difficulty the government already faces meeting the needs of civilians currently within Syria. A transition in Syria is certainly difficult, but not an insurmountable challenge. Perhaps new and inventive transitional justice measures will be taken as well, as new methods are created with new transitional

processes. There is one fact, however, that is non-negotiable no matter how hard the methods prove: Assad, his senior and lower officials, and the military and security officials who carried out egregious actions, must be punished.

Bibliography

Abdulrahim, Raja. ”Many Syrians Want Justice for Regime Crimes. Others Want Revenge.”. *New York Times*. 15 January 2025. https://www.nytimes.com/2025/01/15/world/middleeast/syria-justice-revenge-assad-crimes.html

Adams, Simon. “Poison Gas and Diplomacy in Syria”. *Security Challenges* vol. 10. 1-8. 2014. https://www.jstor.org/stable/26462927?seq=1

Ahdab, Dana. “Universal Jurisdiction: Jurisdictional Imperialism or Syria’s Only Hope for Justice?”. *Columbia Journal of Transnational Law*. 2 November 2021. https://www.jtl.columbia.edu/bulletin-blog/universal-jurisdiction-jurisdictional-imperialism-or-syrias-only-hope-for-justice

Al-Jazeera. “Dozens reported killed as Syrian forces and pro-Assad fighters clash”. 7 March 2025. https://www.aljazeera.com/news/2025/3/7/dozens-reported-killed-as-syrian-forces-and-pro-assad-fighters-clash

Al-Jazeera. “Dutch court convicts Syrian pro-government fighter of war crimes”. 22 January 2024. https://www.aljazeera.com/news/2024/1/22/dutch-court-convicts-syrian-fighter-on-war-crimes-charges#:~:text=In%20recent%20years%2C%20Dutch%20courts,other%20armed%20groups%20in%20Syria.

Al-Jazeera. “ICC chief prosecutor meets Syria’s de facto leader”. 17 January 2025. https://www.aljazeera.com/news/2025/1/17/icc-chief-prosecutor-meets-syrias-de-facto-leader

Al-Jazeera. “President al-Sharaa and no more Baath party: What else has Syria announced?”. 29 January 2025. https://www.aljazeera.com/news/2025/1/29/president-al-sharaa-and-no-more-baath-party-what-else-has-syria-announced

Al-Jazeera. “Syria’s interim gov’t pledges justice, jobs and security in ‘new era’”. 19 December 2024. https://www.aljazeera.com/news/2024/12/19/syrias-interim-govt-pledges-justice-jobs-and-security-in-new-era

Al-Jazeera. “Syria’s leader, Russia’s Putin make first contact since al-Assad’s fall”. 12 February 2025. https://www.aljazeera.com/news/2025/2/12/syrias-leader-russias-putin-make-first-contact-since-al-assads-fall

Al-Jazeera. “Timeline: How the Arab Spring unfolded”. 14 January 2021. https://www.aljazeera.com/news/2021/1/14/arab-spring-ten-years-on

Amnesty International. “’You’re Going to Your Death’: Violations Against Syrian Refugees Returning to Syria”. 1-49. 7 September 2021. https://www.amnesty.org/en/documents/mde24/4583/2021/en/

Amnesty International. “Israel’s apartheid against Palestinians: a cruel system of domination and a crime against humanity”. 1 February 2022. https://www.amnesty.org/en/latest/news/2022/02/israels-apartheid-against-palestinians-a-cruel-system-of-domination-and-a-crime-against-humanity/

Amnesty International. “The Case of General Pinochet”.1-19. 30 September 1998. https://www.amnesty.org/en/documents/eur45/021/1998/en/

Amnesty International. “Universal Jurisdiction: A Preliminary Survey of Legislation Around the World- 2012 Update”. 1-130. 9 October 2012. https://www.amnesty.org/en/documents/ior53/019/2012/en/

AP. “German court rejects a former Syrian secret police officer’s appeal against his conviction”. 5 August 2024. https://apnews.com/article/germany-syria-secret-police-conviction-appeal-cea4941589a1cdf165397289905545e3

Ashraph, Sareta et al. “Vanishing Nation: Enforced Disappearance in Syria”. *Book of the Disappeared: The Quest for Transnational Justice*. 2023. https://www.jstor.org/stable/10.3998/mpub.11953892.11?searchText=%28enforced+disappearance+syria%29&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3D%2528enforced%2Bdisappearance%2Bsyria%2529%26so%3Drel&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&refreqid=fastly-default%3A714c82cc5604416f63a8cdca9eea04c2&seq=1

Bachega, Hugo. “Syrian government still faces threat from Assad loyalists”. *BBC.* 7 March 2025. https://www.bbc.com/news/articles/c17q9dv5225o

Baker, Graeme. “Syrian regime accused of chlorine gas attacks”. *Al-Jazeera*. 17 April 2014. https://www.aljazeera.com/news/2014/4/17/syrian-regime-accused-of-chlorine-gas-attacks

Bakkour, Samer. “Beyond genocide: Towards an improved analysis and understanding of the Syrian regime's mass atrocity crimes in the Syrian Civil War”. *Digest of Middle East Studies* vol. 32. 300-320. 29 September 2023. https://onlinelibrary.wiley.com/doi/full/10.1111/dome.12304

BBC. “Syria conflict: 'Chemical attack' in Idlib kills 58”. 4 April 2017. https://www.bbc.com/news/world-middle-east-39488539

Bellamy, Alex. *Syria Betrayed: Atrocities, War and the Failure of International Diplomacy.* New York: Columbia University Press. 2022.

Bisset, Victoria. “Iran, Sweden to make prisoner swap involving convicted war criminal”. *Washington Post*, 16 June 2024. https://www.washingtonpost.com/world/2024/06/15/iran-sweden-prisoner-swap-hamid-nouri/

Cassel, Douglass. “Universal Criminal Jurisdiction”. *Human Rights* vol. 31. 22-25. Winter 2004. http://www.jstor.org/stable/27880417

Coalition for the International Criminal Court. “The Crime of Aggression”. Accessed 13 March 2025. https://www.coalitionfortheicc.org/explore/icc-crimes/crime-aggression

Convention on the Prevention and Punishment of the Crime of Genocide. 9 December 1948. 78 United Nations Treaty Series 280.

Cuddy, Alice. “'I felt like a breathing corpse': Stories from people freed from Syria torture prison”. *BBC.* 14 December 2024. https://www.bbc.com/news/articles/cy4784vn4jdo

D’Alessandria, Federica. “International Crimes Accountability Matters in Post-Assad Syria”. *Carnegie Endowment for International Peace*. 28 January 2025.

https://carnegieendowment.org/research/2025/01/international-crimes-accountability-matters-in-post-assad-syria?lang=en

Erdem, Zeynep Pinar. “They Treated Us in Monstrous Ways”. Human Rights Watch. 29 July 2020. https://www.hrw.org/report/2020/07/29/they-treated-us-monstrous-ways/sexual-violence-against-men-boys-and-transgender

Fares, Qais. “The Syrian Constitution: Assad’s Magic Wand”. *Carnegie Middle East Center*. 8 May 2014. https://carnegieendowment.org/middle-east/diwan/2014/05/the-syrian-constitution-assads-magic-wand?lang=en

Geneva Convention Relative to the Protection of Civilian Persons in Time of War. 12 August 1949. 75 United Nations Treaty Series 287

Geneva Convention Relative to the Treatment of Prisoners of War. 12 August 1949. 75 United Nations Treaty Series 135.

Genocide Watch. “Syria Country Report”. *Alliance Against Genocide.* December 2022. https://www.genocidewatch.com/single-post/syria-country-report-2022

Güçtürk, Yavuz. “War Crimes and Crimes Against Humanity in Syria”. *Insight Turkey* vol. 17. 27-40. January 2015. https://www.jstor.org/stable/26299714?seq=1

Haskell, Leslie. “Justice Compromised: The Legacy of Rwanda’s Community-Based Gacaca Courts”. Human Rights Watch. 31 May 2011. https://www.hrw.org/report/2011/05/31/justice-compromised/legacy-rwandas-community-based-gacaca-courts

Hatzivassiliou, Evanthis. “The Ghost of Trials Past: Transitional Justice in Greece, 1974–1975”. *Contemporary European History* vol. 31. 286-298. 28 February 2022. https://www.cambridge.org/core/journals/contemporary-european-history/article/ghost-of-trials-past-transitional-justice-in-greece-19741975/0040E8AA37D5913B4C8B2C0722CC05C8

Hayner, Priscilla. “Transitional Justice in Peace Processes”. United Nations Standby Team of Senior Mediation Advisors. 24 October 2022. https://peacemaker.un.org/en/documents/transitional-justice-peace-processes-united-nations-policy-and-challenges-practice

Heine, Friederike et al. “Syrian detained in Germany on suspicion of crimes against humanity”. *Reuters.* 3 August 2023. https://www.reuters.com/world/europe/syrian-detained-germany-suspicion-crimes-against-humanity-2023-08-03/

Human Rights Watch. “Germany: Conviction for State Torture in Syria”. 13 January 2022.

Human Rights Watch. “Germany: Conviction for State Torture in Syria”. 13 January 2022. https://www.hrw.org/news/2022/01/13/germany-conviction-state-torture-syria

Human Rights Watch. “Syria: Events of 2019”. Accessed 17 March 2025. https://www.hrw.org/world-report/2020/country-chapters/syria

International Center for Transitional Justice. “Committing to Justice for Serious Human Rights Violations: Lessons from Hybrid Tribunals”. 5 December 2018. https://www.ictj.org/publication/committing-justice-serious-human-rights-violations-lessons-

hybrid-tribunals#:~:text=In%20addition%2C%20the%20costs%20of,but%20then%20grow%20over%20time.

International Center for Transitional Justice. “Exploring the Legacy of the Special Court for Sierra Leone”. November 2012. https://www.ictj.org/sites/default/files/subsites/scsl-legacy/about-project/index.html

International Center for Transitional Justice. “South Africa”. Accessed 26 February 2025. https://www.ictj.org/location/sud%C3%A1frica

International Crimes Database. “Domestic Courts”. Accessed 5 March 2025. https://www.internationalcrimesdatabase.org/Courts/Domestic

International Criminal Court. “Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova”. 17 March 2023. https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and

Kaleck, Wolfgang. “From Pinochet to Rumsfeld: Universal Jurisdiction in Europe 1998-2008”. *Michigan Journal of International Law* vol. 30. 927-980. Spring 2009. https://www.proquest.com/docview/208557524/fulltextPDF/1DFABD2BA26E4CFDPQ/1?accountid=14399&sourcetype=Scholarly%20Journals

Kassar, Keenan. “What’s happening in Syria is genocide”. *Washington Post*. 11 March 2020. https://www.washingtonpost.com/opinions/2020/03/11/whats-happening-syria-is-genocide/

Kissinger, Henry. “The Pitfalls of Universal Jurisdiction”. *Foreign Affairs* vol. 80. 86-96. August 2001. https://www.jstor.org/stable/20050228?searchText=%28universal+jurisdiction%29&searchUri=%2Faction%2FdoAdvancedSearch%3Ff0%3Dall%26c1%3DAND%26f1%3Dall%26acc%3Don%26q0%3Duniversal%2Bjurisdiction%26so%3Drel&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&refreqid=fastly-default%3A02cd3aa28ff48eb57ebdb3b4d077ff5d&seq=1

Kurt, Veysel. “The Role of the Military in Syrian Politics and the 2011 Uprising”. *Insight Turkey* vol. 18. 109-128. Spring 2016. https://www.jstor.org/stable/26299579?seq=1

Lageman, Thessa. “Remembering Mohamed Bouazizi: The man who sparked the Arab Spring”. *Al-Jazeera*. 17 December 2020. https://www.aljazeera.com/features/2020/12/17/remembering-mohamed-bouazizi-his-death-triggered-the-arab

Langer, Maximo. “The Diplomacy of Universal Jurisdiction: The Political Branches and the Transnational Prosecution of International Crimes”. *The American Journal of International Law* vol. 105. 1-49. January 2011. https://www.jstor.org/stable/10.5305/amerjintelaw.105.1.0001?searchText=%28universal+jurisdiction%29&searchUri=%2Faction%2FdoAdvancedSearch%3Ff0%3Dall%26c1%3DAND%26f1%3Dall%26acc%3Don%26q0%3Duniversal%2Bjurisdiction%26so%3Drel&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&refreqid=fastly-default%3A123ce7164a36547644aa819f3022aedb&seq=1

Laub, Zachary. “Sarin”. *Council on Foreign Relations*. 13 March 2014. https://www.cfr.org/backgrounder/sarin

Martin, Kevin W. “Syria and Iraq: ISIS and Other Actors in Historical Context.” *In The Future of ISIS: Regional and International Implications*. edited by Feisal al-Istrabadi and Sumit Ganguly. 89–118. Brookings Institution Press. 2018. http://www.jstor.org/stable/10.7864/j.ctt1zctt19.8

McHale, Laura. “The Case against General Augusto Pinochet”. *Litigation* vol. 27. 49-71. 2001. http://www.jstor.org/stable/29760217

Office of the High Commissioner to Human Rights. “Torture allegations continue in Syria despite ICJ order: UN expert”. United Nations. 1 July 2024. https://www.ohchr.org/en/press-releases/2024/07/torture-allegations-continue-syria-despite-icj-order-un-expert

Office of the High Commissioner to Human Rights. “UN panel welcomes landmark guilty verdict in Germany’s prosecution of former Syrian intelligence officer for crimes against humanity”. United Nations. 13 January 2022. https://www.ohchr.org/en/2022/01/un-panel-welcomes-landmark-guilty-verdict-germanys-prosecution-former-syrian-intelligence

Office of the United Nations High Commissioner for Human Rights. “Guarantees of non-recurrence”. United Nations. Accessed 26 February 2025. https://www.ohchr.org/en/transitional-justice/guarantees-non-recurrence

Organization for the Prohibition of Chemical Weapons. “Third Report by the OPCW Investigation and Identification Team Pursuant to Paragraph 10 of Decision C-SS-4/DEC.3 “Addressing the Threat from Chemical Weapons Use” Douma (Syrian Arab Republic)”. 1-119. 27 January 2023. https://reliefweb.int/report/syrian-arab-republic/note-technical-secretariat-third-report-opcw-investigation-and-identification-team-pursuant-paragraph-10-decision-c-ss-4dec3-addressing-threat-chemical-weapons-use-douma-syrian-arab-republic-7-april-2018-s2125202

Public International Law and Policy Group. “Hybrid Tribunals: Core Elements”. 1-30. June 2013. https://syriaaccountability.org/hybrid-tribunals-core-elements/

Reuters. “Syria among worst for rights abuses: HRW report”. 24 January 2011. https://www.reuters.com/article/world/syria-among-worst-for-rights-abuses-hrw-report-idUSTRE70N5S6/

Rome Statute of the International Criminal Court. 17 July 1998. 2187 United Nations Treaty Series 90.

Rudd, Kevin. “Apology to Australia’s Indigenous Peoples”. Australian House of Representatives, Parliament House, Canberra. 13 February 2008. https://www.aph.gov.au/Visit_Parliament/Art/Icons/Apology_to_Australias_Indigenous_Peoples

Ryngaert, Cedric. “The International Criminal Court and Universal Jurisdiction: A Fraught Relationship?”. *New Criminal Law Review* vol. 12. 1 October 2009. https://online.ucpress.edu/nclr/article/12/4/498/68662/The-International-Criminal-Court-and-Universal

Salhani, Justin. “Key takeaways from Syria’s National Dialogue conference”. *Al-Jazeera*. 26 February 2025. https://www.aljazeera.com/news/2025/2/26/key-takeaways-from-syrias-national-dialogue-conference

Schneider, Tobias et al. “Nowhere to Hide: The Logic of Chemical Weapons Use in Syria”. *Global Public Policy Institute*. 1-47. 17 February 2019. https://gppi.net/2019/02/17/the-logic-of-chemical-weapons-use-in-syria

Sokol, Karen. “The First Prosecution Under the War Crimes Act: Overview and International Legal Context”. Congressional Research Service. 22 December 2023. https://www.congress.gov/crs-product/LSB11091

Sparrow, Annie et al. “Assad Must Face Justice for His Government’s Atrocities”. *Foreign Policy*. 8 December 2024. https://foreignpolicy.com/2024/12/08/assad-war-crimes-atrocities-chemical-attacks-justice-icc/

Syrian Network for Human Rights. “Death Toll due to Torture”. 30 August 2024. https://snhr.org/blog/2024/08/30/death-toll-due-to-torture/

Syrian Network for Human Rights. “In Nine Years, the Syrian Regime Has Dropped Nearly 82,000 Barrel Bombs, Killing 11,087 Civilians, Including 1,821 Children”. 1-28. 15 April 2021. https://reliefweb.int/report/syrian-arab-republic/nine-years-syrian-regime-has-dropped-nearly-82000-barrel-bombs-killing

Syrian Network for Human Rights. “SNHR’s 13th Annual Report on Enforced Disappearance in Syria”. 1-19. 30 August 2024. https://reliefweb.int/report/syrian-arab-republic/snhrs-13th-annual-report-enforced-disappearance-syria-international-day-disappeared-no-end-sight-crime-enforced-disappearance-syria-enar

Syrian Network for Human Rights. “SNHR’s 13th Annual Report on Violations Against Females in Syria”. 1-49. 25 November 2024. https://snhr.org/blog/2024/11/25/on-the-international-day-for-the-elimination-of-violence-against-women-snhrs-13th-annual-report-on-violations-against-females-in-syria/

Syrian Network for Human Rights. “The 10th Anniversary of Two Ghoutas Attack: The Largest Chemical Weapons Attack by the Syrian Regime on Syrian Citizens”. 1-5. 20 August 2023. https://snhr.org/blog/2023/08/20/the-10th-anniversary-of-two-ghoutas-attack-the-largest-chemical-weapons-attack-by-the-syrian-regime-on-syrian-citizens/

Syrian Network for Human Rights. “The Syrian Regime Dropped About 11,000 Barrel Bombs on Daraa Governorate Killing 1,177 Civilians, Forty Percent of Whom Were Women and Children”. 1-30. 15 April 2021. https://reliefweb.int/report/syrian-arab-republic/syrian-regime-dropped-about-11000-barrel-bombs-daraa-governorate-killing-1117-civilians-forty-percent-whom-were-women-and-children-enar

Tarabay, Jamie. “For many Syrians, the story of the war began with graffiti in Dara’a”. *CNN*. 15 March 2018. https://www.cnn.com/2018/03/15/middleeast/daraa-syria-seven-years-on-intl/index.html

The New Arab. “How Assad’s inner circle fled Syria after his fall”. 21 December 2024. https://www.newarab.com/news/how-assads-inner-circle-fled-syria-after-his-fall

The Times of Israel. “Report: Senior Syrian officials fled to Lebanon with help of Hezbollah after fall of Assad”. 10 December 2024. https://www.timesofisrael.com/liveblog_entry/report-senior-syrian-officials-fled-to-lebanon-with-help-of-hezbollah-after-fall-of-assad/

Trial International. “Universal Jurisdiction Law and Practice in France”. 1-42. February 2019. https://trialinternational.org/universal-jurisdiction-tools/universal-jurisdiction-law-and-practice-briefing-papers/

Triscone, Jennifer. “Universal Jurisdiction, The Only Hope For Prosecuting International Crimes Committed In Syria?”. Trial International. 9 June 2021. https://trialinternational.org/latest-post/universal-jurisdiction-the-only-hope-for-prosecuting-international-crimes-committed-in-syria/

UN Security Council (2015, August 7). Resolution 2235 (2015)

UN Security Council. (2014, February 22). Resolution 2139 (2014)

United Nations. “Russia, China block Security Council referral of Syria to International Criminal Court”. 22 May 2014. https://news.un.org/en/story/2014/05/468962

United States Department of Justice, Office of Political Affairs. “Criminal Charges Unsealed Against Two Former High-Ranking Syrian Government Intelligence Officials for War Crimes against Americans and Other Civilians”. 9 December 2024. https://www.justice.gov/archives/opa/pr/criminal-charges-unsealed-against-two-former-high-ranking-syrian-government-intelligence

United States Institute of Peace. “Transitional Justice: Information Handbook”. September 2008. https://edoc.unibas.ch/50341/

Van Schaack, Beth. “Deconstructing Syria’s Would-Be International Court Referral: The Politics of International Justice”. *Stanford Journal of International Law* vol. 56. 1-78. Winter 2020. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3784355

Willisher, Kim. “Assad officials face landmark Paris trial over killing of student and father”. *The Guardian*. 19 May 2024. https://www.theguardian.com/world/article/2024/may/19/assad-officials-face-landmark-paris-trial-killing-student-father-syrian

Willisher, Kim. “French court finds three Syrian officials guilty of crimes against humanity”. *The Guardian.* 24 May 2024. https://www.theguardian.com/world/article/2024/may/24/french-court-finds-three-syrian-officials-guilty-of-crimes-against-humanity

Willisher, Kim. “French court issues arrest warrant for Bashar al-Assad for complicity in war crimes”. *The Guardian*. 15 November 2023. https://www.theguardian.com/world/2023/nov/15/french-court-arrest-warrant-bashar-al-assad-crimes-against-humanity-syria

Yaphe, Judith. “Next Steps in Syria” *Prism* vol. 4. 14-31. 2014. http://www.jstor.org/stable/26469774