

## Syria: The Brutality of Modern Civil War

Nik Svendsen

The Syrian Civil War has raged on for well over a decade, and, although hundreds of thousands have lost their lives, there is no end in sight. In 2011, in the midst of the “Arab Spring,” protests and demonstrations occurred in Syria against the regime of President Bashar al-Assad. Protestors called for a reform of the Syrian political system to provide greater freedoms, economic justice, and jobs for all Syrian people.<sup>1</sup> Rather than initiate reforms, the Assad regime responded by imprisoning, torturing, or killing thousands of its people.<sup>2</sup> Within months of the initial protests, an insurrection emerged and violence engulfed the country.<sup>3</sup>



Syria

Source: CIA World Factbook

### Causality

#### The Past

What at first glance may look like a unified insurgency is a conflict exacerbated by environmental, sectarian, ethno-sectarian, and economic factors beneath the surface. In the aftermath of the first World War, the great powers of Europe established the Syrian state with a mix of Arab Sunnis, Alawites, Christians, Druze, Shia, Kurds, Circassians, and Turkmen.<sup>4</sup> The ruling Assad family are members of the Alawite minority, an offshoot of Shia Islam, and Syria's second largest religious group that only acquired a measure of political power and social integration in the late 20<sup>th</sup> century. Historically, the Alawites have been persecuted by the Sunni majority, who comprise roughly two-thirds of Syria's population.<sup>5</sup> When France controlled Syria in 1920, the Alawites were favored by French policies while France divided Syrians along sectarian lines.<sup>6</sup> The Alawites were granted political and legal autonomy, low taxes, high government subsidies, and disproportionate representation in the locally recruited military

<sup>1</sup> <http://www.jstor.org/stable/26351131>. “On the Road to Damascus? Jihadists in the Syrian Civil War,” Ahmed Hashim, *Counter Terrorist Trends and Analyses*, March 2013, 13, Volume 5, No. 3.

<sup>2</sup> <https://scholarship.law.umn.edu/mjil/333>. “Just Wars with Unjust Allies: Use of Force and Human Rights Considerations on the Russian Intervention in Syria,” Brendan Delany, *Minnesota Journal of International Law*, 2017, 565-566, Volume 26.

<sup>3</sup> *Id.* at 566.

<sup>4</sup> <https://www.ushmm.org/m/pdfs/20130325-syria-report.pdf>. “Sectarian Violence in Syria's Civil War: Causes, Consequences, and Recommendations for Mitigation,” Frederic C. Hog and Alex Simon, *United States Holocaust Memorial Museum*. 3.

<sup>5</sup> *Id.* at 1.

<sup>6</sup> *Id.* at 8.

force. Even when Syria became independent and fully unified in 1946 and power returned to the Sunni Arab elite, the Alawite minority continued to dominate the military.<sup>7</sup>

### The Present

Bashar al-Assad came to power in 2000 against this backdrop. The Alawite minority continued to make up a majority of the Syrian military and security services, and they would be dispatched against any challenge to the regime from the Sunni majority.<sup>8</sup> Although there were sectarian underpinnings, economic and environmental factors primarily led to the initial movement for reforms. Bashar al-Assad initiated economic reforms to increase the private sector in Syria and open the country to the global economy.<sup>9</sup> The way his regime undertook these reforms, however, led to the weakening of the agricultural sector and the rural population that depended on it, and to an increase in wealth for the political elite. At the same time, Syria was facing a massive drought driven by climate change. This drought affected over 15,000 farmers and led to a 48% drop in national wheat production and a steep increase in the cost of food.<sup>10</sup> As a result of the drought and economic reforms, roughly 1.5 million farmers, hungry and no longer able to sustain themselves through farming, migrated into Syria's cities, putting strain on the cities infrastructure.<sup>11</sup> It was this economic situation, spurred by drought, that led to demonstrations that sparked a civil war.



Bashar al-Assad  
Source: Wikimedia

In the largely Sunni city of Dara, Syrian security personnel captured and tortured teenage graffiti artists. Economically depressed demonstrators began to protest peacefully against this police brutality. In response to a perceived challenge to his rule, Assad utilized deadly force, which sparked widespread protests throughout the country.<sup>12</sup> When these protests, too, were met with force, the situation escalated into war. Numerous groups are now involved, with many receiving backing from foreign states, while civilians are stuck in the middle.

## **Human Rights in a Modern Civil War**

### Crimes Against Humanity

Crimes against humanity are those crimes that are perpetrated against large numbers of individuals, but are not specifically targeted based on victims' national, ethnic, racial, or religious groups. In Syria, crimes against humanity are widespread. Murder, torture, deportation, enforced disappearances, sexual violence, and persecution of any identifiable

<sup>7</sup> *Id.* at 9.

<sup>8</sup> *Id.* at 14.

<sup>9</sup> <http://www.jstor.org/stable/resrep33848>. "A Decade of War in Syria: Between Climate Change and Political Stability," Carmit Valensi, Shira Efron, and Kim Noach, *Institute for National Security Studies* May 24, 2021, 2.

<sup>10</sup> *Id.* at 1.

<sup>11</sup> *Id.* at 2.

<sup>12</sup> <https://www.ushmm.org/m/pdfs/20130325-syria-report.pdf>. "Sectarian Violence in Syria's Civil War: Causes, Consequences, and Recommendations for Mitigation," Frederic C. Hog and Alex Simon, *United States Holocaust Memorial Museum*. 15.

group are some of the acts that, when widespread or systematic, constitute crimes against humanity.<sup>13</sup>

In waging the war, the Syrian government has deliberately targeted civilians living within opposition-controlled cities. The Syrian government has conducted repeated attacks on bakeries and hospitals with air strikes and artillery barrages.<sup>14</sup> Based on reports, witness testimony, video evidence, and firsthand accounts, the Syrian government was reported to have attacked at least four different bakeries and the civilians waiting in breadlines a total of eight times. In each of these cases, there has been no documentation of any fighters, weapons, or other military targets near the area.<sup>15</sup> The Syrian government has also directly targeted civilian populations by conducting mass arrests, torture, and forcible detention. A report by the Syrian Network for Human Rights estimates that nearly 15,000 people have been killed as an effect of the governments torture, with 100,000 more being forcibly disappeared.<sup>16</sup> Women and girls held in government detention centers have faced widespread sexual violence, including rape. Men, boys, transgender women, gay and bisexual men, and nonbinary persons have all also been subjected to sexual violence by both government and opposition forces.<sup>17</sup> Doctors, physicians, and other medical personnel have been deliberately assassinated, bombed, and tortured to death, with almost 700 killed as of 2016.<sup>18</sup>

Along with the Syrian government, many opposition groups are also responsible for perpetrating crimes against humanity. The extremist group ISIS has committed widespread systematic human rights abuses, including the deliberate targeting of civilians, summary executions of civilians and aid workers, sexual slavery, and organized rape.<sup>19</sup> Hay'at Tahrir al-Sham, an offshoot of Al-Qaeda, has arrested, tortured and executed the civilian population in areas under its control.<sup>20</sup> The Turkish-backed Syrian National Army and Turkey have systematically carried out mass arrests and detentions, and the Syrian Democratic Forces, backed by the U.S.-led coalition, have held around 100,000 ISIS suspects and their families without being brought before a judge.<sup>21</sup>

These crimes by both state and opposition groups are widespread and are carried out against a large number of the population. In many of these cases, the crimes were systematically conducted against large numbers of the civilian population. Therefore, because these crimes

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<sup>13</sup> <https://www.un.org/en/genocideprevention/crimes-against-humanity.shtml>. "Crimes Against Humanity," *United Nations Office on Genocide Prevention and the Responsibility to Protect*.

<sup>14</sup> <https://www.hrw.org/report/2013/04/10/death-skies/deliberate-and-indiscriminate-air-strikes-civilians>. "Death From the Skies," *Human Rights Watch*, April 10, 2013.

<sup>15</sup> *Id.*

<sup>16</sup> <https://www.hrw.org/world-report/2021/country-chapters/syria>. "Syria: Events of 2020," *Human Rights Watch*, 2021.

<sup>17</sup> *Id.*

<sup>18</sup> <https://www.newyorker.com/magazine/2016/06/27/syrias-war-on-doctors>. "The Shadow Doctors," Ben Taub, *New Yorker*, June 20, 2016.

<sup>19</sup> <https://www.hrw.org/world-report/2016/country-chapters/syria>. "Syria: Events of 2015," *Human Rights Watch*, 2016.

<sup>20</sup> <https://www.hrw.org/world-report/2021/country-chapters/syria>. "Syria: Events of 2020," *Human Rights Watch*, 2021.

<sup>21</sup> *Id.*

are not targeted based on race, ethnicity, nationality, or religious groups, they are crimes against humanity. Some courts have reached a similar conclusion. In 2021, a German court convicted a former Syrian military official of aiding crimes against humanity for his role in the Syrian government's widespread practice of torture and arrests.<sup>22</sup> Although the accused was a minor official, it is a step towards acknowledging that crimes against humanity were committed in Syria.

### War Crimes

Many of the crimes against humanity in Syria could also be classified as war crimes. In an armed conflict not of an international character, as the Syrian civil war began, war crimes are those incidents that target people who are not involved in the hostilities, such as civilians, surrendered soldiers, and those soldiers that are wounded, sick, or otherwise out of action.<sup>23</sup> In a conflict of a non-international character, intentional attacks against these people, intentional attacks against hospitals, sexual violence, and the use of child soldiers are all examples of war crimes.<sup>24</sup> Many of the crimes against humanity above, occurring during an armed conflict, fit into the classification of war crimes. Other crimes may not be classified as crimes against humanity but are still war crimes. The Kurdish YPG, for example, has utilized child soldiers, while ISIS has executed aid workers.<sup>25</sup> In re-taking cities from the opposition, government forces have retaliated against the civilians that remained.<sup>26</sup>

If a conflict is of an international character, more acts can be classified as war crimes. In Syria, foreign groups are involved to a degree that may merit the Syrian civil war being defined as an international conflict. One such crime would be the use of poisonous gas. The Syrian government has repeatedly utilized chemical weapons, killing hundreds of civilians in the process.<sup>27</sup> Along with the Syrian government, ISIS has also been reported to have used chemical weapons.<sup>28</sup> The starvation of civilians as a method of warfare is another war crime in a conflict of international character, and one that the Syrian government has violated by imposing sieges to starve the civilian population in occupied areas into submission.<sup>29</sup> Both the United States and Russia, two of the major foreign powers involved in the Syrian civil war, are responsible for the launching of indiscriminate attacks in civilian areas. A United Nations investigation directly

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<sup>22</sup> <https://www.npr.org/2021/02/24/970663111/landmark-verdict-in-germany-sentences-syrian-official-for-crime-against-humanity>. "Landmark Verdict in Germany Sentences Syrian for Aiding Crimes Against Humanity," Deborah Amos, *NPR*, February 24, 2021.

<sup>23</sup> <https://www.un.org/en/genocideprevention/war-crimes.shtml>. "War Crimes," *United Nations Office on Genocide Prevention and the Responsibility to Protect*,

<sup>24</sup> *Id.*

<sup>25</sup> <https://www.hrw.org/world-report/2016/country-chapters/syria>. "Syria: Events of 2015," *Human Rights Watch*, 2016.

<sup>26</sup> <https://www.hrw.org/world-report/2021/country-chapters/syria>. "Syria: Events of 2020," *Human Rights Watch*, 2021.

<sup>27</sup> <https://www.hrw.org/news/2017/02/13/syria-coordinated-chemical-attacks-aleppo>. "Syria: Coordinated Chemical Attacks on Aleppo," *Human Rights Watch*, February 13, 2017.

<sup>28</sup> <https://www.hrw.org/news/2016/09/28/syria-new-deadly-chemical-attacks>. "Syria: New Deadly Chemical Attacks," *Human Rights Watch*, September 28, 2016.

<sup>29</sup> <https://www.hrw.org/world-report/2016/country-chapters/syria>. "Syria: Events of 2015," *Human Rights Watch*, 2016.

accused Russia of involvement in two separate incidents in which they launched air strikes at non-military objectives.<sup>30</sup> The United States coalition has also conducted unlawfully indiscriminate airstrikes. In at least three airstrikes, the U.S. coalition targeted civilians and civilian objects without an evident military target.<sup>31</sup>

These crimes, along with many of the crimes against humanity, can all be classified as war crimes. These acts have all targeted those not involved in the conflict, either intentionally or indiscriminately, or the acts have violated the laws of war in some other way. As such, the perpetrators of these crimes can and should answer for war crimes.

### **Breakdown of Civil Society and the Local Population**

As a civil war, the local population of Syria is involved in nearly every aspect. They are the main combatants, supporters, resistance, and victims of the various belligerents. The civil war has also led to the breakdown of many aspects of civil society within Syria. Many activists, media members, and humanitarian aid workers have been detained, with some being tried before military courts.<sup>32</sup> As of 2020, 11 million people were estimated to require humanitarian aid, 2 million children were unable to attend school, and 6 million people were internally displaced.<sup>33</sup> Houses and schools are destroyed, humanitarian aid is restricted, and clean water is scarce. Over 80 percent of the Syrian population live below the poverty line, and 9 million people are food insecure.<sup>34</sup> In the midst of the Covid-19 pandemic, hospitals have been overwhelmed and patients have been turned away.<sup>35</sup>

In response to this breakdown of essential services, some members of the local population have attempted to restore order without violence. When the civil war was still in its early stages, local groups took on the responsibility of the government in maintaining electricity and water, assessing medical needs, and disposing of bodies.<sup>36</sup> Syrian civil society groups essentially became responsible for providing nearly everything that the government had provided before the war.<sup>37</sup> Alongside this, civil society groups focused on the promoting of human and civil rights. Groups have documented human rights violations, led workshops on transitional justice,

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<sup>30</sup> <https://www.theguardian.com/world/2020/mar/02/russia-committed-war-crimes-in-syria-finds-un-report>.

“Russia Committed War Crimes in Syria, Finds UN Report,” Julian Borger, *The Guardian*, March 2, 2020.

<sup>31</sup> <https://www.hrw.org/news/2019/07/09/syria-us-coalition-should-address-civilian-harm>. “Syria: US Coalition Should Address Civilian Harm,” *Human Rights Watch*, July 9, 2019.

<sup>32</sup> <https://www.hrw.org/world-report/2016/country-chapters/syria>. “Syria: Events of 2015,” *Human Rights Watch*, 2016.

<sup>33</sup> <https://www.hrw.org/world-report/2021/country-chapters/syria>. “Syria: Events of 2020,” *Human Rights Watch*, 2021.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> <https://time.com/syria-white-helmets/>. Jared Malsin, “The White Helmets of Syria,” *Time*.

<sup>37</sup> <https://carnegie-mec.org/2020/05/15/how-syrian-civil-society-lost-its-independence-in-war-of-conflicting-agendas-pub-81802>. Assad Al Achi, “How Syrian Civil Society Lost its Independence in a War of Conflicting Agendas,” *Carnegie Middle East Center*, May 15, 2020.

and focused on female empowerment.<sup>38</sup> As the war went on, civil society began to shift its focus away from human rights and more towards providing humanitarian aid.<sup>39</sup>

### The International Response

Throughout the decade-long war, many foreign governments have intervened. One of the most prominent ways that foreign states have intervened in Syria is militarily. Both Russia and Iran have provided military assistance to the Assad regime. Prior to the civil war, Iran had been a source of weapons and military advisors to the regime. Once the civil war began, Iran helped organize a force of regime loyalists and sent military troops to intervene on behalf of the Syrian government.<sup>40</sup> Beginning in 2015, Russia also intervened with direct military action via airstrikes in support of Assad.<sup>41</sup> The interventions of Russia and Iran greatly strengthened the Assad regimes hold on the country. The United States led a coalition which intervened militarily against ISIS. In 2017, the United States also conducted an airstrike against a Syrian government airfield in response to the Assad regime's use of chemical weapons.<sup>42</sup> As of 2020, the United States has continued military action against ISIS and killed ISIS leader Abu Bakr al-Baghdadi.<sup>43</sup>

In addition to the military interventions, foreign states have intervened diplomatically and economically. In 2011, during the regime's initial crackdown on protestors, the United States and European Union imposed sanctions, travel bans, and asset freezes on Syrian government officials, security forces, and businesses that aided the government. Many Arab states, such as Saudi Arabia, Kuwait, and Tunisia, withdrew their ambassadors from Syria and suspended Syria's membership in the Arab League. Turkey, a major trade partner of Syria, condemned the regime's crackdown, suspended weapons shipments, and hosted meetings for the opposition. The United Nations Security Council (UNSC) also unanimously condemned the crackdown, but the SC did not adopt a resolution to place pressure on the Syrian government due to opposition from Russia, China, India, Brazil, and South Africa.<sup>44</sup> This would be the first of many resolutions to fail due to opposition from member states aligned with Syria and/or Russia.

While many foreign states have intervened on behalf of or against certain belligerents, there have also been efforts to bring a peaceful end to the conflict and to end the human rights violations. In 2012, the United Nations appointed a joint special envoy with the League of Arab States to develop a peace plan for Syria. The peace plan was negotiated with the Syrian government and UN observers monitored its implementation, but it fell apart after multiple

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> <https://iranprimer.usip.org/blog/2016/aug/17/russia-iran-allied-syria>. "Russia & Iran Allied on Syria," Garrett Nada, *United States Institute of Peace*, August 22, 2016.

<sup>41</sup> *Id.*

<sup>42</sup> <https://www.hrw.org/world-report/2018/country-chapters/syria>. "Syria: Events of 2017," *Human Rights Watch*, 2018.

<sup>43</sup> <https://www.hrw.org/world-report/2020/country-chapters/syria>. "Syria: Events of 2019," *Human Rights Watch*, 2020.

<sup>44</sup> <https://www.hrw.org/world-report/2012/country-chapters/syria>. "Syria: Events of 2011," *Human Rights Watch*, 2012.

cease fire violations by government and opposition forces.<sup>45</sup> In 2013, the US and Russia negotiated a deal that resulted in the UN Security Council passing a resolution that required Syria to destroy its chemical weapons program and cooperate with international inspections.<sup>46</sup> Despite this resolution by the Security Council, the Assad regime has still used chemical weapons during the civil war.

Fully 64 countries, including the United Kingdom, France, Australia, Argentina, and South Korea, called on the Security Council to refer the situation in Syria to the ICC. Russia opposed this referral and it did not receive support from the United States or China.<sup>47</sup>

In 2014 the Syrian government and opposition groups met in Switzerland for political negotiations but failed to bring peace.<sup>48</sup> That same year, the UN Security Council passed a resolution demanding the end of indiscriminate attacks in populated areas, the end of arbitrary detentions, and the release of those detained.<sup>49</sup> Nonetheless, these resolutions were violated by the Syrian government, which continued these practices.<sup>50</sup>

A May 22, 2014 Security Council resolution sought to refer the conflict in Syria to the International Criminal Court (ICC), but it was blocked by China and Russia. This resolution was signed by the other 13 members of the Security Council and was co-sponsored by more than 60 countries.<sup>51</sup>

In 2016, the United Nations established the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of war crimes and other human rights violations in Syria. The Mechanism continues this task and has engaged with national judicial authorities in efforts to investigate and bring criminals to justice.<sup>52</sup>

The United Nations has also facilitated the on-going Syrian Constitutional Committee, which meets in Switzerland to reform Syria's constitution.<sup>53</sup>

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<sup>45</sup> <https://www.hrw.org/world-report/2013/country-chapters/syria>. "Syria: Events of 2012," *Human Rights Watch*, 2013.

<sup>46</sup> <https://www.hrw.org/world-report/2014/country-chapters/syria>. "Syria: Events of 2013," *Human Rights*, 2014.

<sup>47</sup> *Id.*

<sup>48</sup> <https://www.hrw.org/world-report/2016/country-chapters/syria>. "Syria: Events of 2015," *Human Rights Watch*, 2016.

<sup>49</sup> *Id.*

<sup>50</sup> <https://www.hrw.org/world-report/2017/country-chapters/syria>. "Syria: Events of 2016," *Human Rights Watch*, 2017.

<sup>51</sup> <https://www.hrw.org/world-report/2016/country-chapters/syria>. "Syria: Events of 2015," *Human Rights Watch*, 2016.

<sup>52</sup> <https://www.hrw.org/world-report/2020/country-chapters/syria>. "Syria: Events of 2019," *Human Rights Watch*, 2020.

<sup>53</sup> *Id.*

In 2019, Russia cast its 13<sup>th</sup> veto against UN Security Council action during the Syrian civil war. This veto was against a resolution that demanded a truce in northwest Syria on the basis that it failed to exempt military action against militant groups in the area.<sup>54</sup>

In September 2020, the Netherlands announced that it would hold Syria responsible for human rights violations, specifically for torture, under the United Nations Convention against Torture.<sup>55</sup> In March of 2021, Canada followed suit. Both Canada and the Netherlands called on Syria to negotiate and resolve this via negotiations and stated that if this did not result in a timely resolution, they would “explore the possibility of joint legal action under the Convention against Torture.”<sup>56</sup>

### Negative Peace Through Violence?

Negative peace refers to the absence of violence. In Syria, the most likely way this will be brought about is by the Assad regime after a military victory. The occurrence of such a negative peace will likely coincide with a great deal of suffering, but an Assad military victory seems to be a likely outcome to the Syrian civil war. As of this writing (2021), the Assad regime has retaken most of the country.<sup>57</sup> With the aid of Russia, much of the regime’s opposition has been defeated. If the regime continues on this trajectory and retakes the entirety of the country, the hostilities will likely come to an end. Although open warfare would likely end in this case, the outcome is still unlikely to be beneficial for Syrians. Syria has already suffered massive amounts of damage to its people and infrastructure. Many Syrians are suffering from electricity, fuel, and food shortages.<sup>58</sup> In addition, a negative peace brought about by an Assad military victory is unlikely to result in efforts to remedy the grievances Syrians had with the regime that sparked the initial protests, with many of these grievances amplified as a result of the arbitrary detentions and other atrocities of the civil war. The lack of progress towards political change, repairs of a damaged society, and accountability for violence from the civil war threaten the chances of a lasting negative peace. In addition, the sanctions imposed against the Assad regime would likely remain in place and cause further harm.

The best option for negative peace requires a political solution, however. Currently, Turkish-backed opposition groups, Kurdish-dominated groups, and other opposition groups are still active in north and northeastern Syria.<sup>59</sup> A negative peace brought about by a military victory of any of these groups or the Assad regime would come with a significant human cost and would be unlikely to last. Negative peace brought about via negotiations would result in the least

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<sup>54</sup> <https://www.reuters.com/article/us-syria-security-un/russia-casts-13th-veto-of-un-security-council-action-during-syrian-war-idUSKBN1W42CJ>. “Russia Casts 13<sup>th</sup> Veto of U.N. Security Council Action During Syrian War,” Michele Nichols, *Reuters*, September 19, 2019.

<sup>55</sup> <https://www.government.nl/documents/diplomatic-statements/2021/03/12/joint-statement-of-canada-and-the-kingdom-of-the-netherlands-regarding-their-cooperation-in-holding-syria-to-account>. *Joint Statement of Canada and the Kingdom of the Netherlands Regarding Their Cooperation in Holding Syria to Account*, Government of the Netherlands, March 12, 2021.

<sup>56</sup> *Id.*

<sup>57</sup> <https://www.npr.org/2021/03/15/976352794/syrias-civil-war-started-a-decade-ago-heres-where-it-stands>. “Syria’s Civil War Started a Decade Ago. Here’s Where it Stands,” Ruth Sherlock, *NPR*, March 15, 2021.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*



amount of further human suffering and would likely be longer lasting. As such, a United Nations facilitated cease-fire that is supported by both the United States and Russia is, in my opinion, the best chance for a lasting negative peace. So long as a cease-fire is present, the belligerents can negotiate a way to end the civil war while the civilians and humanitarian aid groups could begin to rebuild.

The likely outcome of any negotiations would still be an Assad controlled regime, but it could nonetheless lead to greater political freedoms for the Syrian people under this regime. The most significant challenge to a negative peace through a negotiation and cease fire, however, is a violation of the terms. Throughout the war, cease-fires have been broken by multiple belligerents, and many of those that submitted to the regime suffered abuses at the hands of security forces.<sup>60</sup> For any negative peace to last, there must be a cessation of violence. Such a thing cannot happen if the cease-fire is broken or those who willingly reconcile with Assad are abused. Any such ceasefire should be facilitated by the United Nations and the major foreign states that support the combatants, such as the United States, Russia, and Turkey.

### **Steps Toward Transitional Justice**

#### Retributive Justice

Regardless of how negative peace is achieved, transitional justice must be implemented for progress towards positive peace. One of the first ways that this can happen, and that is currently underway to an extent, is by some form of retributive justice. Currently, Canada and the Netherlands have announced a willingness to hold Syria accountable for the torture conducted under the United Nations Convention against Torture. Other states should join Canada and the Netherlands in this action, which could lead some of the accused perpetrators of torture to face justice in the International Court of Justice. Another step for retributive justice is utilizing the concept of universal jurisdiction. Some courts in Europe have used this concept to investigate human rights violations, such as Germany's recent sentencing of a Syrian security official for aiding crimes against humanity.<sup>61</sup> This concept can enable foreign countries to try some of the crimes committed, but unfortunately has its limits. Most states require the person be present within the state's territory in order to exercise universal jurisdiction. As a result, any perpetrators of human rights violations that are not within the territory of the prosecuting state will generally be out of reach.

One of the best options for transitional justice would involve the trying of perpetrators in the International Criminal Court. Unfortunately, as Syria is not a party to the Rome Statute, the ICC lacks jurisdiction. But if the United Nations Security Council were to refer Syria to the ICC, it could have jurisdiction.<sup>62</sup> The biggest obstacle to this, however, is some of the Security Council

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<sup>60</sup> <https://www.hrw.org/world-report/2020/country-chapters/syria>. "Syria: Events of 2019," *Human Rights Watch*, 2020.

<sup>61</sup> <https://www.npr.org/2021/02/24/970663111/landmark-verdict-in-germany-sentences-syrian-official-for-crime-against-humanity>. "Landmark Verdict in Germany Sentences Syrian for Aiding Crimes Against Humanity," Deborah Amos, *NPR*, February 24, 2021.

<sup>62</sup> <http://opiniojuris.org/2021/03/15/what-justice-can-international-law-bring-to-syrians/>. "What Justice Can International Law Bring to Syrians?" Vito Todeschini and Asser Khattab, *OpinioJuris*, March 15, 2021.

members. China and Russia have supported the Assad regime and are unlikely to support such an investigation. One of the only ways the ICC might be able to receive jurisdiction over Syria is if the jurisdiction is limited. My recommendation, as imperfect and unjust as it is, is that a degree of immunity be granted to Bashar al-Assad and key figures in his government during an ICC investigation, particularly as a result of Assad currently appearing to have control of much of the country. Such a thing would deprive many of justice, but this is unfortunately the only step that may be enabled by Russia, China, and Syria. As imperfect and unfair as this is, it would allow some perpetrators to face justice who would otherwise escape as a result of the Security Council's inability to act.

Unfortunately, there is nearly no good option to bring many of the perpetrators to justice. With the Assad regime, backed by Russia, appearing likely to remain in control of Syria for the near future, many of the likely perpetrators appear to have impunity.

### Restorative Justice

Another significant step towards transitional justice is implementing some forms of restorative justice. One of the most likely forms in which this could occur is reparation. Many of the perpetrators of human rights violations are either foreign powers or entities that have received backing from foreign powers. These foreign powers can and should deliver reparations to the victims or communities of the crimes that they perpetrated, as well as those that were perpetrated by those they have funded and allied with that are unable or unwilling to pay reparations themselves. Some of the major powers involved, such as the United States, Russia, Turkey, and Iran, should implement some reparations for their acts. Even if these reparations are not direct monetary payments to the victims, these powers should nonetheless bear some of the burden that comes in restoring some degree of Syria's now crippled infrastructure. If the Assad regime is still in power after the violence, it should bear the brunt of the reparations. But other countries, including those that opposed the regime, should also contribute to some degree. Without reparations, the essential infrastructure of Syria will take longer to repair and may still be in a weakened state.

Regardless of who is in charge of Syria after the war, they must also take steps for restorative justice to truly succeed. Restorative justice needs the participation of victims to repair the harm done and, as such, they must make sure that the victims, of both government and opposition forces, are involved in the justice process. Victims should have the chance to confront the perpetrators and have some say in their sentences.

### **How Far from a Positive Peace?**

Positive peace is essential for a society wrecked by conflicts to flourish. There are eight pillars to achieve positive peace: well-functioning government, sound business environment, low levels of corruption, acceptance of the right of others, high levels of human capital, good relations with neighbors, free flow of information, and equitable distribution of resources. As of now, Syria fails to truly meet any of these pillars. Syria lacks a functioning government, with many of the people depending on humanitarian aid groups to provide them with essential government

services. Sound business environments, low levels of corruption, high levels of human capital, and equitable distribution of resources are all out of reach, especially due to Syria's current war-torn state and mass poverty. As 80% of the Syrian population lives below the poverty line and 9 million people are food-insecure, these situations must be addressed to progress towards positive peace.<sup>63</sup> These economic problems are further exacerbated by the lack of government, detainees, and violence from the war. Syria also is lacking in good relations with neighbors. With Iran supporting the Syrian government, many members of the Arab League have condemned Assad, and Turkey has backed opposition groups.

Even if negative peace is achieved in Syria, the country is still far from positive peace. The economic, governmental, and societal situation in Syria means that work must still be done in order for Syrian society to flourish.

### Image Sources

Syria – CIA World Factbook: <https://www.cia.gov/the-world-factbook/countries/syria/map>

Bashar al-Assad – Wikimedia Commons: [https://commons.wikimedia.org/wiki/File:Bashar\\_al-Assad.jpg](https://commons.wikimedia.org/wiki/File:Bashar_al-Assad.jpg)

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<sup>63</sup> <https://www.hrw.org/world-report/2021/country-chapters/syria>. "Syria: Events of 2020," *Human Rights Watch*, 2021.