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Legal Accountability in Frozen Conflicts: Lessons from Syria

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Abstract

This article reflects on the remarkable legal accountability efforts led by Syrian lawyers, activists, and survivors throughout the Syrian conflict, in the midst of an international landscape that failed to support – and perhaps even undermined – these efforts through lack of political will and jurisdictional hurdles. Despite limited resources and pathways, these individuals displayed unprecedented legal ingenuity which saw perpetrators imprisoned, international legal precedents challenged and overturned, and survivors included and empowered in ways that had previously been viewed as impossible during such protracted and frozen conflicts. This article provides an overview of this accountability landscape; highlights key contributions from leading Syrian lawyers, activists, and survivors; and discusses the shifting prospects for justice following the overthrow of the al-Assad regime in December 2024. It offers valuable insights into the research, perspectives, and lived experiences of those at the forefront of Syria's legal accountability movement, and draws attention to important precedents that will reshape the legal landscape surrounding future frozen conflicts.

Keywords

accountability – Syrian conflict – justice – frozen conflicts – al-Assad

When this special issue was first conceived in 2022, Syria was the site of one of the most brutal conflicts of the twenty-first century. Eleven years earlier, the Syrian regime under President Bashar al-Assad brutally repressed a peaceful civilian uprising, and the events that followed spiralled into a seemingly intractable conflict that saw more than 500,000 people killed and half of the country's pre-war population displaced.¹

By 2022, the regime's scorched earth strategy seemed to have worked. The conflict lines had stabilised, with the opposition routed to a small corner of the northwest of Syria in Idlib province, while the country's northeast was under the control of the predominantly Kurdish Autonomous Administration of North and East Syria. With no significant changes in the battlelines having occurred in years, the physical conflict became 'frozen' in time. No single group could completely overcome the others, while Bashar al-Assad remained firmly ensconced in the People's Palace in Damascus without any incentive to engage in any peace process.

But while military and political progress was at a standstill, and disillusionment was palpable across the opposition and international community, teams of Syrian survivors, lawyers and activists in-exile were working tirelessly to pursue forms of legal accountability for the many victims of mass atrocity and conflict-related crimes that had taken place – and continued to take place – during the conflict. These efforts led to a period of unprecedented legal creativity, innovation, and activism that saw perpetrators imprisoned, international legal precedents challenged and overturned, and survivors included and empowered in ways that had previously been viewed as impossible during such frozen conflicts. By 2022, these efforts had become so remarkable and worthy that we made the case that a special double issue of the journal *Global Responsibility to Protect* should be solely devoted to the debates surrounding legal accountability for Syria. We spent the following two years soliciting submissions, editing drafts, and ultimately submitting the final manuscripts in July 2024.

But just months later, the Syrian legal landscape fundamentally changed in a way that had previously seemed unimaginable. On 27 November 2024, military opposition factions under the leadership of the Hayat Tahrir al-Sham rebel group mounted a surprise military campaign that took control of Syria's second largest city, Aleppo. In the days that followed, the rebels moved south, overwhelming the Syrian regime's fortifications city-by-city. On 8 December,

1 UN ReliefWeb, 'Syria Regional Refugee and Resilience Response Plan 2024 – Syrian Arab Republic', 8 May 2024, <https://reliefweb.int/report/syrian-arab-republic/syria-regional-refugee-and-resilience-response-plan-2024>, accessed March 2025.

the country's capital, Damascus, fell to the rebels and at 6:18 am local time, al-Hadath news channel made the historic announcement that Syria was 'without Bashar al-Assad' following confirmation that he had fled the country.² In the end, the regime that had terrorised Syrians for more than 50 years collapsed in less than a fortnight through a nearly bloodless coup.

The end of the Syrian war presented an unprecedented opportunity for Syria's legal community, opening the door for a comprehensive transitional justice process and for the possibility that perpetrators of mass atrocity crimes (defined as genocide, war crimes, crimes against humanity, and ethnic cleansing) could face justice inside Syria. Although the viability of any such legal accountability measures ride on the outcome of the transitional process that will take place inside Syria over the coming years, the language coming out of the country at the time of writing was one of hope and possibility. Syrian civil society organisations have started convening conferences and high-level discussions in the heart of the Syrian capital of Damascus to explore different pathways to accountability.³ Victim and survivor groups have met with the new Syrian authorities to ensure that their needs for closure and the truth are upheld as Syria seeks to turn a page to a new future.⁴

As Syrians now rise to the enormous challenge of building a just future for their country, this special issue of *Global Responsibility to Protect* reflects on the remarkable legal accountability work that has been undertaken thus far. It notes and celebrates the significant legal achievements and innovations that were made, and underlines the very real challenges that lawyers, activists, and survivors faced in trying to achieve some semblance of justice in the context of a frozen and then-seemingly infinite war. Platforming the research, views, and lived experience of Syrian academics, activists, and survivors, it provides important lessons for future conflicts, and ultimately urges the international community to do much better.

2 A recording of the announcement is available at: Al-Artouz News Network, 'A month has passed since the sentence that will be the most immortal in history: ('The time is 6:18 Damascus time, and Syria is without Bashar al-Assad'). Thank God ❤️ we are rid of their injustice', Facebook, 9 January 2025, <https://www.facebook.com/watch/?v=1133129484990655>, accessed March 2025.

3 See, for example, Syrian British Consortium, 'Recommendations Emerging from the Conference on Justice, Truth, and Equity', 5 February 2025, <https://shorturl.at/v6LfN>, accessed March 2025.

4 See Families for Freedom, Facebook, 5 February 2025, <https://www.facebook.com/share/p/1D4fv9mUKC/>, accessed February 2025.

1 Background to the Syrian War

After months of protests across the Middle East that felled autocrats in Tunisia and Egypt, tens of thousands of Syrians bravely took to the streets in March 2011 to call for much-needed political and economic reform in their own country. Despite their peaceful tactics and carefully calibrated messaging that called for reform rather than revolution, the ruling al-Assad regime responded in the only way it had ever known: with catastrophic violence. Within days, the Syrian Arab Army was killing protesters in the streets while the country's intelligence services filled detention centres with peaceful demonstrators. In his first address to the country after the protests began, al-Assad dismissed his population's very-real grievances, accusing them of reflecting an 'Israeli agenda'.⁵ And as popular pressure against the regime mounted, so did the regime's violence: by the end of May 2011, 1,000 civilians were estimated to have been killed.⁶ The protest movement nonetheless remained undeterred, with individual protests still amassing tens of thousands of participants by December of that year,⁷ despite estimates from the UN that more than 5,000 people had been killed.⁸

As the protesters' calls for freedom grew louder, parallel developments including army defections and the regime's strategic release of hardened militants from prison led to the militarisation of elements of the uprising and the emergence of armed groups. At its peak, the Syrian conflict would draw more than 1,000 warring parties,⁹ as well as the direct and indirect involvement of regional and foreign states including Iran, the United States and Russia.

Under these circumstances, the peaceful Syrian uprising transitioned into a brutal and intractable war. The Syrian regime perpetrated mass atrocity crimes across the spectrum, ranging from the massacring of civilians, defectors, and

5 Katherine Marsh and Martin Chulov, 'Assad Blames Conspirators for Syrian Protests', *The Guardian*, 30 March 2011, <https://www.theguardian.com/world/2011/mar/30/syrian-protests-assad-blames-conspirators>, accessed March 2025.

6 Kim Ghattas, 'US Policy on Syria "Depends on Success in Libya"', BBC News, 24 May 2011, <https://www.bbc.com/news/world-middle-east-13529923>, accessed March 2025.

7 Julian Borger, 'Arab Monitors Visit Restive Syrian City: Protest in Homs over Fears of "Whitewash Inspection" Claims of Tanks Hidden after Army Withdrawal', *The Guardian*, 28 December 2011.

8 CNN wire staff, 'U.N. Estimates 5,000 Killed in Syrian Uprising', CNN, 13 December 2011, <https://edition.cnn.com/2011/12/12/world/meast/syria-unrest/index.html>, accessed March 2025.

9 Eva Svoboda, 'Geneva: Peace for Syria May Be Elusive but Humanitarian Access Need Not Be', ODI, 17 February 2024, <https://odi.org/en/insights/geneva-peace-for-syria-may-be-elusive-but-humanitarian-access-need-not-be/>, accessed March 2025.

prisoners of war; the widespread and repeated deployment of banned chemical weapons including sarin gas;¹⁰ the besiegement and starvation of populated civilian areas;¹¹ the forced displacement of entire populations; the intentional targeting of hospitals and other protected infrastructure;¹² the torture and killing of thousands in prison;¹³ and the use of enforced disappearance.¹⁴ Although many other parties to the conflict were also accused of committing grave human rights abuses,¹⁵ the Syrian regime was widely recognised as the worst and most frequent perpetrator of such crimes.¹⁶ Syrian refugees surveyed in Europe in 2015 overwhelmingly reported that it was the conduct of the Syrian regime, rather than other warring parties, that had forced them to flee their homeland.¹⁷ This statistic was all the more telling given that the survey was administered at the peak of the Islamic State group's reign in Syria and Iraq.

The war had enormous and wide-ranging consequences. By December 2024, hundreds of thousands had been killed and over half of the country's pre-war population had been displaced, with more than 6.8 million Syrians languishing in neighbouring countries alone.¹⁸ While the immediate security

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- 10 See Syrian Network for Human Rights, 'Syrian Regime Has Carried Out 207 Attacks Using Chemical Weapons, 174 after the Major Two Ghoutas Attack', 21 August 2017, <https://snhr.org/blog/2017/08/21/45697/>, accessed March 2025.
 - 11 Siege Watch/PAX, 'Final Report: Out of Sight, Out of Mind: The Aftermath of Syria's Sieges', 2019, <https://siegewatch.org/wp-content/uploads/2015/10/pax-siege-watch-final-report-spread.pdf>, accessed March 2025.
 - 12 Mohamad Katoub, 'From Syria to Gaza: the Dangerous Normalization of Attacks on Healthcare', *Global Responsibility to Protect* 17 (2025), 241–249.
 - 13 Anne Barnard, 'Inside Syria's Secret Torture Prisons: How Bashar al-Assad Crushed Dissent', *The New York Times*, 11 May 2019, https://www.nytimes.com/2019/05/11/world/middleeast/syria-torture-prisons.html?fbclid=IwAR1rDjgVSFGcGvBa5Cki4gvuYpthHavii3x_Tsm7naAw-WuZabFP54auU, accessed March 2025.
 - 14 Syrian Network for Human Rights, 'Enforced-Disappearance Is a Weapon of War in Syria, No Less than 85,000 Are Forcibly Disappeared', 30 August 2017, https://snhr.org/wp-content/pdf/english/Enforced_disappearance_is_a_weapon_of_war_in_Syria_en.pdf, accessed March 2025.
 - 15 Human Rights Watch, "You Can Still See Their Blood", 10 October 2013, <https://www.hrw.org/report/2013/10/10/you-can-still-see-their-blood/executions-indiscriminate-shootings-and-hostage>, accessed March 2025; Amnesty International, 'Syria: Mass Death, Torture and Other Violations against People Detained in Aftermath of Islamic State Defeat', 18 April 2024, <https://www.amnesty.org.au/nesyria-report/>, accessed March 2025; Wilson Center, 'Report: ISIS Human Rights Abuses in 2014', 25 June 2015, <https://www.wilsoncenter.org/article/report-isis-human-rights-abuses-2014>, accessed March 2025.
 - 16 Syrian Network for Human Rights, 'Civilian Death Toll', 6 July 2024, <https://snhr.org/blog/2024/07/06/civilian-death-toll/>, accessed March 2025.
 - 17 The Syria Campaign, 'Care about Refugees? Listen to Them', 9 October 2015, <https://diary.thesyriacampaign.org/what-refugees-think/>, accessed March 2025.
 - 18 UN ReliefWeb, 'Syria Regional Refugee and Resilience Response Plan 2024'.

threat posed by the al-Assad regime no longer exists for countless Syrians following the regime's overthrow, returning to Syria remains elusive for many due to the catastrophic destruction of property and infrastructure within their neighbourhoods and towns. In 2019, a full five years before the war ended, reconstruction costs were already estimated to be between US\$ 250 and US\$ 400 billion.¹⁹ By 2024, global construction costs had skyrocketed and the country's GDP (Gross Domestic Product) was just a fraction of the reconstruction bill. More than 16 million people inside the country were assessed in July 2024 as requiring humanitarian aid.²⁰

The war also significantly impacted the credibility of the international legal system and rules-based international order. The commission of mass atrocity crimes brought about the clear applicability of the 'Responsibility to Protect' (R2P) doctrine, which delineates host and third-state responsibilities for ensuring civilian protection from these crimes.²¹ However, rather than respond in a timely and decisive manner to the ever-escalating conflict, the international community dragged its feet. The UN Security Council, primarily responsible for maintaining international peace and security under the UN Charter,²² was paralysed due to the Russian – and, to a lesser extent, Chinese – vetoes. Western governments including the US paid lip service to the Syrian people's struggle for freedom and democracy – and condemned the brutal dictatorship's crackdown against its people – but did little more to bring the atrocities to an end. Riddled with disunity after the Libya R2P experience, the failure of costly interventions in Iraq and Afghanistan, and total paralysis in the Security Council, Syrians were left without any reasonable prospect of effective international action to ensure civilian protection as called for by R2P.

The combination of the horrific international crimes committed by the al-Assad regime and other armed groups on the one hand, and the international community's inaction on the other, set alarming precedents that would significantly erode the credibility of the international community, normalising war crimes and emboldening perpetrators. This has already had disastrous

19 Joseph Daher, 'The Paradox of Syria's Reconstruction', Carnegie Middle East Center, 4 September 2019, <https://carnegieendowment.org/research/2019/09/the-paradox-of-syrias-reconstruction?lang=en¢er=middle-east>, accessed March 2025.

20 World Vision Staff, 'Syrian Refugee Crisis: Facts, FAQs, and How to Help', World Vision, 15 July 2024, <https://www.worldvision.org/refugees-news-stories/syrian-refugee-crisis-facts>, accessed March 2025.

21 Yasmine Nahlawi, *The Responsibility to Protect in Libya and Syria: Mass Atrocities, Human Protection, and International Law* (New York: Routledge, 2020).

22 Charter of the United Nations (adopted 24 October 1945) 1 UNTS XVI art 24(1).

consequences for civilians in every subsequent war, including in the conflicts in Ukraine and Gaza.

Within the context of general international inaction, one aspect of the Syrian conflict which did witness significant international interest and initiative was that of legal accountability. In May 2014, Russia and China vetoed a draft resolution in the UN Security Council which sought to refer the situation in Syria to the International Criminal Court (ICC).²³ Without their buy-in, it became impossible for the ICC to assume jurisdiction over the Syrian situation (as Syria is not a member state of the ICC's Rome Statute) or to establish a specialised international criminal tribunal similar to those established by the Security Council in the aftermath of the conflicts in Rwanda and the former Yugoslavia in the 1990s (the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia, respectively). In light of this paralysis at the Council, states displayed willingness to work with international institutions, with each other, and with Syrian civil society organisations to promote accountability for the mass atrocity crimes that were committed throughout the duration of the conflict.

It has been Syrians themselves who have been at the forefront of advocating for these justice and accountability breakthroughs. Syrian civilians, citizen journalists, and activists used phone cameras and shaky internet connections to tirelessly document conflict-related crimes taking place inside Syria's borders, and shared the images and footage with the world, while legal investigators on the ground in Syria bravely risked their lives to collect and preserve enormous tranches of hard copy evidence that would later form the bedrock of cases that were tried in courts outside Syria.²⁴ In the end, the Syrian war would be one of the most documented conflicts on earth, leaving the door open for future accountability efforts and legal processes, whatever shape they might take.²⁵

Syrians formed civil society groups such as the Syrian Center for Media and Freedom of Expression, the Syrian Center for Legal Studies and Research, and the Syria Justice and Accountability Centre, which were central in the preparation of universal jurisdiction cases and in supporting plaintiffs. Syrian victim, survivor, and family organisations such as Families for Freedom and the Caesar Families Association were formed to advocate for justice in specific

23 UNSC Draft Resolution, 22 May 2014, UN Doc S/2014/348.

24 Ben Taub, 'Bashar Al-Assad's War Crimes, Exposed', *The New Yorker*, 18 April 2016, <https://www.newyorker.com/magazine/2016/04/18/bashar-al-assads-war-crimes-exposed>, accessed 16 July 2024.

25 Ivan Sigal, 'Syria's War May Be the Most Documented Ever. And yet, We Know so Little', *The World from PRX*, 16 December 2016, <https://theworld.org/stories/2016/12/16/syrian-civil-war-heavily-documented-repeatedly-ignored>, accessed March 2025.

areas, including for the country's detained and disappeared. Coalitions of Syrian civil society organisations created important agendas such as the 2021 Truth and Justice Charter to provide a shared vision of justice and accountability for all.²⁶

The relentless efforts of Syrian civil society organisations yielded significant legal breakthroughs in a sector that is defined by jurisdictional, capacity and documentation constraints. In December 2016, the UN General Assembly established the International, Impartial and Independent Mechanism on Syria (IIIM) as the first body of its kind to collect, preserve, and analyse evidence of violations of international humanitarian law as well as human rights violations. It would build case files that could be used by domestic or international judicial authorities in the form of (support for) legal cases.²⁷ In June 2023, the General Assembly established another novel institution, the Independent Institution on Missing Persons in Syria (IIMP), on the back of direct advocacy from Syrian detainee, family and victims groups which would seek to clarify the fate of missing persons in Syria and provide support to their families, victims, and survivors.²⁸ In June 2024, the French Court of Appeals upheld the lawfulness of an arrest warrant against Syrian President Bashar al-Assad, (who was still head of state at the time) for his involvement in chemical weapons attacks, marking a significant challenge to the traditional understanding of head of state immunity.²⁹ At the time of the al-Assad regime's collapse, Syrian civil society organisations were conducting intense advocacy among states to establish a special international chemical weapons tribunal to prosecute those responsible for chemical attacks in Syria.³⁰ Of course, these efforts were all

26 'Truth and Justice Charter', 10 February 2021, at https://www.impunitywatch.org/wp-content/uploads/wix-legacy/f3f989_ea2bcacb68664b52a2b9dc090b3c775e.pdf, accessed March 2025.

27 UNGA Res. 71/248, 11 January 2017, UN Doc A/RES/71/248.

28 United Nations, 'General Assembly Adopts Resolution Establishing Independent Institution on Missing Persons in Syria, as Speakers Debate Text's Merit', 29 June 2023, <https://press.un.org/en/2023/ga12514.doc.htm>; UN General Assembly, 'Independent Institution on Missing Persons in the Syrian Arab Republic', 26 June 2023, UN Doc A/77/L.79, para. 2.

29 Kim Willsher, '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#:~:text=A%20French%20court%20has%20issued,chemical%20weapon%20attacks%20on%20civilians>, accessed March 2025.

30 Stephanie van den Berg, Anthony Deutsch, and Maya Gebeily, 'Exclusive: Syrians Lead Push to Create Global Chemical Weapons Tribunal', Reuters, 1 December 2023, <https://www.reuters.com/world/syrians-lead-push-create-global-chemical-weapons-tribunal-2023-11-30/>, accessed March 2025.

driven by the consistent push for universal jurisdiction prosecutions, which resulted in the convictions of mid to lower-level perpetrators within European domestic courts.³¹

2 A Special Issue of *Global Responsibility to Protect*: Reflecting on Accountability in Syria during a Frozen Conflict

In the aftermath of the fall of the al-Assad regime, this special issue of the journal *Global Responsibility to Protect* pauses to reflect on the legal accountability measures that were taken during more than 14 years of war. While it may be tempting to dismiss these immense efforts given that the regime has fallen and more traditional avenues of legal accountability may be available to Syrians in the future, the achievements made by Syrian lawyers, activists, and survivors at a time when the conflict was frozen have set countless new benchmarks and precedents for wartime legal accountability, and provided fertile ground for legal learning. It is also a testament to the resolve of the Syrian legal and survivor community, which stared down the reality of President Bashar al-Assad remaining seemingly permanently ensconced in the People's Palace in Damascus. This special issue therefore focuses on the significant legal innovation that has taken place in the Syrian context, and the remarkable role played by many of those same people who were on the streets demanding freedom and dignity in March 2011, and who then pivoted to demanding accountability for the crimes committed against themselves, compatriots, and family members. It is hoped that many of these individuals and groups will play a central role in shaping the post-al-Assad justice landscape.

The contributors to this special issue reflect on the barriers that existed to accountability and justice in Syria, as well as progress that was made within the context of one of the most high-profile and significant R2P cases of this century. Indeed, even the most successful accountability initiatives raised significant questions: How meaningful was the prosecution of low and mid-level Syrian war criminals to the victims of international crimes, when the main perpetrators remained at large? What was the purpose of convicting top regime officials in France when there was little prospect of them ever being imprisoned? How can lengthy trials conducted in European legalese – with poor translation and little communication with impacted

³¹ See Syria Justice and Accountability Centre, 'Universal Jurisdiction Under Scrutiny – A Quantitative Analysis of 250+ Syrian Cases', June 2023, <https://syriaaccountability.org/content/files/2023/06/UJ-Report-EN.pdf>, accessed March 2025.

communities – have any sort of justice impact for Syrians more broadly, particularly those who remained inside the country and continued to live under the brutality of al-Assad rule? And perhaps most importantly: was it even appropriate to be pursuing longer-term accountability efforts when mass atrocity crimes continued to be committed on a daily basis inside Syria, and when more than 100,000 people were documented as missing or forcibly disappeared, largely by the al-Assad regime?³² Should the international community not have focused on civilian protection before – or at least alongside – its focus on international legal processes?

Nonetheless, amid the multitude of accountability processes that took place during the frozen conflict, there are significant opportunities to learn about how justice and accountability efforts can be deployed and harnessed to further the R2P agenda of civilian protection. This has implications for both the future Syrian legal landscape, as well as for conflict situations beyond.

2.1 *Centring Syrian Voices in the Discussion*

This special issue sets out to platform the voices of Syrians. Every part of it is co-edited, written or co-written by a Syrian academic, intellectual, lawyer, activist or victim-survivor of the conflict. While no academic journal can purport to make a substantive transitional justice or accountability impact, academic institutions and publishers must be committed to preventing further harms, and to prioritising de-colonial and justice-focused practices in their everyday work. We believe that centring Syrian voices is a meaningful way to begin this process, because Syrians are a population who over the past 14 years have often been spoken for, particularly in academic contexts. As Wendy Pearlman reflected:

They are a population that meets with too few opportunities to represent itself. Politicians and commentators throughout the world talk about Syrians as victims to be pitied, bodies to be sheltered, radicals to be denounced, or threats to be feared and blocked. In the whirlwind of words spoken about Syrians as a global problem, it can be difficult to find chances to listen to actual Syrians, as human beings.³³

³² Al Jazeera, 'UN to Investigate Fate of 130,000 People Missing in Syria War', 30 June 2023, <https://www.aljazeera.com/news/2023/6/30/un-to-investigate-fate-of-130000-people-missing-in-syria-war>, accessed March 2025.

³³ Wendy Pearlman, *We Crossed a Bridge and It Trembled: Voices from Syria* (New York: HarperCollins, 2017).

As a powerful recent report published by Impunity Watch and Syrian victims' groups was titled: 'No One Shall Speak on Our Behalf Anymore'.³⁴ And while this special issue only scratches the surface of the rich diversity of voices and perspectives that Syrians bring to the conversation, it aims to nonetheless provide a starting point from which local voices on accountability are normalised as key contributors to academic legal discussions.

Limiting this special issue to Syrian authors has not been without challenges. Firstly, over the past 14 years, the Syrian people have witnessed unprecedented tragedy, upheaval, and injustice. While it is widely acknowledged that the wheels of justice turn slowly, this has placed an enormous and unreasonable emotional and physical burden on those who were waiting for accountability. For the activists who had to sustain their efforts and optimism with little to show – or the hundreds of thousands of victims who continued to exist in legal limbo while the perpetrators of mass atrocities lived normal lives – there existed understandable exhaustion and burnout among the Syrian community. In this context, it was no small ask for Syrians to contribute their labour and ideas for free to an academic journal that has limited reach. We are immensely grateful to those who generously donated their time and energy to this effort.

The second major challenge that we faced relates to the fact that the Syrian war continued up until moments before this special issue was published. Injustice in its myriad forms continues every day for Syrians inside and outside the country, including our authors. Just as we approached our first internal author deadline in February 2023, the most deadly earthquake in Syria's contemporary history struck southern Türkiye and northern Syria, killing an estimated 65,000 people, and rendering 1.5 million homeless. With more than 3.2 million Syrian refugees living in Türkiye at the time, predominantly in the southern border area, the subsequent humanitarian crisis dealt another blow to one of the most vulnerable populations on earth. As our authors scrambled to support their families, friends, and communities, this project was put on indefinite hold to allow resources to be redirected into much more important areas, and for the grieving process to begin. Inevitably, some of our original authors were forced to withdraw in the aftermath of the earthquake, having taken on workloads that could understandably no longer accommodate the somewhat detached and often seemingly impactless nature of academic work.

Third, Syrian scholars are drastically underrepresented in formal academic institutions for a range of reasons, including gatekeeping at Western universities, institutional racism, and the post-2011 disruption of academic

34 Impunity Watch, "No One Will Speak on Our Behalf Anymore": The Experience of Syrian Victim Groups'.

studies for countless Syrian students. Unsurprisingly, language issues also play a role. Arabic-speaking academics may find it limiting to author and publish writings in the English language journals which dominate the field.³⁵ Thus, while we strongly acknowledge the first-class Syrian academic and intellectual expertise that exists outside universities, the enormous unpaid labour that is required to write a full academic piece, to do so in a potentially non-native language, and then to endure the often-fickle peer review process meant that the pool from which we could draw was relatively small. This reality did inspire the format of this special issue (discussed below) in which authors who exist outside the academy were invited to submit shorter (but no less rigorous) ‘intervention’ pieces.

Finally, many will notice a silence in this special issue, and that is of the voices of those who remained inside Syria during the conflict. While we sought to recruit as broad a range of contributors as possible, including many who were in Syria for much of the conflict, we did not contact Syrians who were inside the country at the time of writing as we did not wish to put them at risk of harm. These are crucial missing voices in our discussions of accountability, and therefore represent a critical limitation of this special issue to which there was no solution with which we were comfortable. We however acknowledge the importance of the perspectives and voices of those inside the country, and we hope that the collapse of the al-Assad regime will enable these voices to emerge more strongly as Syria prepares to undergo a comprehensive transitional justice process.

2.2 *How the Issue Will Unfold*

This special issue may look a little different to other editions of this journal, and indeed other academic journals. The special issue is split into two key sections. Part one encompasses traditional academic pieces, penned by Syrian academics. Part two then brings together short ‘intervention’ pieces on questions related to accountability from members of Syrian civil society, including lawyers, activists, formal witnesses, and victims/survivors. The range of topics addressed is as broad as the topic of accountability itself. This was no accident: Syrians are often restricted in their work by the needs and programming priorities of funding bodies, political expediency, and other exogenous factors that take agency and voice from those who know the landscape and needs of the community better than anyone else. Syrians have,

35 Oudai Tozan, ‘The Impact of the Syrian Conflict on the Higher Education Sector in Syria: A Systematic Review of Literature’, *International Journal of Educational Research Open*, 4 (2023). DOI:j.ijedro.2022.100221.

all too often, faced agendas that tell them what to talk about, and who they should be talking to. We eschewed this approach, inviting reflections on the question of accountability, broadly defined, and were thrilled to see such a wide range of topics and styles of writing returned to us. We also had little interest in policing academic language or style, which would only serve to silence the important voices that appear in this issue.

Part one is made up of three pieces. The first piece, authored by a Syrian PhD candidate at Ulster University, Roua Al Taweel, examines the widespread use of forced displacement in the Syrian conflict, asking whether the R2P agenda could have played a role in preventing mass atrocities such as forced displacement, or at least limiting its scale and consequences once it became clear to the international community that forced displacement was being used as both a military strategy as well as a postwar stabilisation project. Al Taweel urges a 're-evaluation of [the R2P] diagnostic criteria and practice to ensure it does not perpetuate, instead of mitigate, human rights violations, including displacement'.³⁶

The second piece, written by this special issue's Syrian co-editor and Director of the Syrian legal accountability organisation Dar Justice Dr Yasmine Nahlawi, asks whether the accountability pursuits that were achieved in the Syrian conflict can be construed as a success from an R2P perspective. Examining the IIM, the Canadian and Dutch-driven International Court of Justice (ICJ) case, universal jurisdiction cases, the French arrest warrant against Syrian President Bashar al-Assad, and the proposed chemical weapons tribunal, Nahlawi makes two key arguments. First, jurisdictional and mandate issues associated with international accountability processes face severe jurisdictional constraints which limit what kind of accountability they can achieve. Second, and as Nahlawi argues, most importantly, the focus on obtaining retrospective accountability for some of the crimes committed, while little was being done to mitigate or prevent mass atrocity crimes that continued to take place during the conflict, made accountability efforts an insufficient substitute for civilian protection as called for by R2P.

The third piece, co-authored by Danny Singh and Haian Dukhan, examines how the invocation of R2P to wage a military intervention in Libya aimed at regime change influenced the international community's attitude to intervene within the Syrian conflict. They argue that the Libya experience created a normative shift to protect state sovereignty despite the commission of mass atrocity crimes, and that this shift was fuelled by Russia and China as two

36 Roua Al Taweel, 'Responsibility to Protect and Syria's Displacement: Unprotected at Home and Abroad,' *Global Responsibility to Protect* 17 (2025), 134–159.

global powers that were distrustful of Western interventionism. They further make the case that both the intervention in Libya as well as the subsequent refusal to intervene in Syria illustrate the effects of geopolitical interests upon the understanding and execution of R2P.

Part two presents four shorter intervention pieces.

The first, written by Linda Osman, a Syrian human rights lawyer, analyses the 2024 French universal jurisdiction case, in which three of the most senior members of the Syrian regime, Ali Mamlouk, Jamil Hassan, and Abdel Salam Mahmoud, were tried in absentia for the deaths in custody of the French-Syrian nationals Patrick and Mazzen Dabbagh. The three regime officials were found guilty of committing war crimes in the landmark case, which was the first of its kind to try senior regime officials. Having attended the trial, Osman ruminates on the successes and limitations of the universal jurisdiction process in France, and whether it could truly deliver justice to victims of the Syrian conflict. She highlights factors including jurisdictional limitations and poor accessibility of the trial to Syrian victims and survivors, which ultimately limited the reach of justice.

The second intervention piece was written by Ruham Hawash, a Palestinian-Syrian activist who was imprisoned in the notorious Branch 251 Al Khatib prison in Damascus after attending peaceful protests in 2012. Hawash later bravely served as a prosecution witness and named plaintiff in the German universal jurisdiction trial that was held in Koblenz between 2020 and 2022, in which junior and mid-ranking regime officials were tried – and subsequently convicted – for committing crimes against humanity. Hawash reflects on the trial, noting that ‘participating in the trial reinvigorated my belief in justice. It demonstrated that, despite the immense challenges, it is possible to hold perpetrators accountable’. But in the years following, Hawash has been constantly reminded of the liminality of their Palestinian-Syrian identity. In Germany, Hawash was given citizenship and elevated as a person of credibility in an international criminal trial on the basis of those very experiences as a ‘Syrian’ that had previously been denied. And while Hawash found the Koblenz trial to be deeply empowering, they were reminded in the Gaza war which began in October 2023 that they still are not viewed as a whole person worthy of full justice. Having been brutally treated once more by German police during peaceful protests for Palestine, Hawash reflects on how the German state has used universal jurisdiction to fight for justice for Syrians, while simultaneously denying Palestinians the same rights to accountability or even day-to-day peace inside Germany. A commitment to justice for the victims for one nation state, it seems, does not indicate a commitment to justice for all.

The third intervention is a reflection piece written by Lubna Alkanawati, an activist and survivor of the August 2013 chemical attack launched by the al-Assad regime against the town of Ghouta. Alkanawati describes her community's collective trauma when their experience was denied any real international acknowledgement or retribution despite the 'red line' that President Obama had promised. She reflects: 'Are we so worthless, so insignificant, that we can be quietly slaughtered while the world watches?' Yet, Alkanawati's experience revealed that while the wheels of justice move slowly, they do sometimes yield results. Ten years later as a refugee in France, Alkanawati served as a witness in the historic chemical weapons complaint which led to the issuing of arrest warrants against Syrian President Bashar al-Assad and other senior regime officials. While the prospects of arresting al-Assad are slim, Alkanawati reflects on the significance and symbolism of the arrest warrant, stating:

This symbolic pursuit of justice shows the world that even powerful figures like Bashar al-Assad are not impervious to accountability for committing mass atrocity crimes. It sends a message that the international community will not ignore their crimes and that their actions have consequences. This is a crucial step toward a future where the dignity and rights of every human being are protected, and impunity for such grave crimes is no longer tolerated.³⁷

It is a powerful piece that speaks to the importance of universal jurisdiction cases for survivors, even if the perpetrators may never face direct accountability. Indeed, while the al-Assad regime has collapsed, many perpetrators including al-Assad himself fled the country in order to ensure they remained beyond the reach of international or Syrian legal processes.

Finally, member of the Syrian Public Health Network (SPHN) and Research Fellow at the Syrian Impact Study at the Center of Global Health, University of California, Berkeley, Mohamad Katoub's intervention explores how the international community's failure to establish accountability with regards to the gross violations of fundamental international norms, specifically on attacks against hospitals and health facilities, led to the erosion of these norms as witnessed in the subsequent conflicts in Ukraine and Gaza. Katoub describes how the staggering 600+ attacks on health facilities in Syria throughout the conflict were met with little beyond international condemnation, even while the patterns and evidence clearly pointed to the intentionality of

37 Lubna Alkanawati, 'A First-Hand Account of Surviving Atrocities in Syria, and Fighting for Justice,' *Global Responsibility to Protect* 17 (2025), 234–240.

these attacks. He outlines the various mechanisms that were established to monitor and track attacks against health facilities – including the World Health Organization's Monitoring Violence against Health mechanism and its replacement Surveillance System for Attacks on Health Care, the UN Office for the Coordination of Humanitarian Affairs' Deconfliction Mechanism and the UN Secretary-General's Board of Inquiry – detailing how and why each one failed to secure protection for health facilities in the midst of a brutal war in which health services were required more than ever. Katoub draws a compelling connection between impunity for the continuous and flagrant breaches of the protected status of health facilities in Syria and the use of the same tactics within the subsequent conflicts of Ukraine and Gaza.

2.3 *The Significance of Examining the Syrian Accountability Landscape*

As with other aspects of the Syrian conflict such as the refugee crisis, the accountability efforts (or lack thereof) that emerged during the conflict's active and frozen phases carry relevance far beyond the state's borders, and it may not be an understatement to suggest that the novel accountability approaches described above which have been pursued by states, international organisations, and Syrian civil society organisations will directly affect the landscape of international accountability for years to come. For example, the establishment of the novel IIIM by the UN General Assembly in 2016 has already been replicated in the context of the international fight against ISIS and the conflict in Myanmar, namely, through the establishment of the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL in 2017 as well as the establishment of Independent Investigative Mechanism for Myanmar in 2018, respectively. Both have nearly identical mandates to the IIIM.³⁸ In this manner, the creation of the IIIM showcased what the international community can do to prioritise accountability in the face of UN Security Council paralysis.

Similarly, the UN General Assembly's more recent establishment of the IIMP in June 2023 may change the way that the international community responds to the subject of missing persons. While its approach has not yet been replicated elsewhere, the concept behind this body's creation can certainly be transferred across other conflict situations which are similarly marked by the forced disappearance of countless civilians, including, for example, in China, where the fates of over one million disappeared Uyghur Muslims remain unknown.³⁹

³⁸ UNSC Res. 2379, 21 September 2017, UN Doc S/RES/2379, paras. 2, 34; UN HRC Res. 39/2, 3 October 2018, UN Doc A/HRC/RES/39/2, para. 22.

³⁹ William Nee, 'A UN Body Sheds Light on the Fate of Disappeared Uyghurs', *The Diplomat*, 30 August 2023, <https://thediplomat.com/2023/08/a-un-body-sheds-light-on-the-fate-of-disappeared-uyghurs/>, accessed March 2025.

Perhaps most significantly, the arrest warrant issued by a French court in 2023 and upheld in June 2024 by the French Court of Appeals against then-President al-Assad for his involvement in chemical attacks challenges the entire international legal landscape governing head of state immunity. While al-Assad is no longer the sitting head of state, the French ruling marked a clear and brazen departure from established international case law as embodied by the International Court of Justice's 2002 *Arrest Warrant* case which upholds head of state immunity from prosecution in foreign domestic courts even when the head of state is suspected of committing international crimes.⁴⁰

In other ways, however, the Syria accountability landscape has contributed negatively to tackling impunity for the commission of international crimes. For example, it has strengthened the positions of state actors such as Russia and Iran – both of which intervened militarily in Syria on the side of the al-Assad regime under the premise of intervention by invitation – which in turn paved the way for their commission of mass atrocity crimes in other conflict situations. Russia, in particular, tested over 320 weapons in Syria by the admission of its own Defense Minister, which allowed it to emerge as strong a military power as ever.⁴¹ These weapons – and the more general military expertise that Russia honed while involved in Syria, including significant numbers of attacks on healthcare⁴² – were subsequently deployed in the Ukrainian conflict.⁴³ In this manner, the inability to hold Russia accountable for the commission of war crimes and crimes against humanity in Syria allowed it to pursue the same methods and deploy the same weapons against the Ukrainian population, again with impunity. Indeed, while the Syrian war appears over, the conflict in Ukraine continues to rage.

Another manner by which the Syrian conflict contributed to impunity for the commission of mass atrocity crimes arose through the international community's failure to respond to, and thus through its silent acceptance of, specific crimes that defined the Syria landscape. As Mohamad Katoub powerfully demonstrates in his intervention piece later in this special issue, the failure of the international community to enforce accountability for

40 *Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* (Judgment) [2002] ICJ Rep 3 para 58.

41 TASS, 'Over 320 Types of Weapons Tested in Operation in Syria – Russia's Defense Minister', 14 July 2021, <https://tass.com/defense/1314097>, accessed March 2025.

42 Physicians for Human Rights, 'Expert Report: Russia's Attacks on Health Care in Syria', 2 May 2024, <https://phr.org/our-work/resources/russias-attacks-on-health-care-in-syria/>, accessed March 2025.

43 Claire Parker, 'Russia's Ukraine War Builds on Tactics it Used in Syria', *The Washington Post*, 31 March 2022, <https://www.washingtonpost.com/world/2022/03/31/russia-ukraine-mariupol-siege-aleppo-syria/>, accessed March 2025.

Syrian and Russian attacks against health facilities led to the erosion of the norm prohibiting their targeting. In Ukraine, for example, the World Health Organization verified over 1,600 attacks against health care facilities and workers since the Russian invasion of February 2022.⁴⁴ More recently in the Gaza war, Israel attacked every single hospital, leaving no fully functioning hospitals in the entirety of the Gaza strip.⁴⁵

The story of legal accountability during the active and frozen phases of the Syrian conflict is thus a complex one: it is a tale of impunity for perpetrators, of the failure of the R2P doctrine and the international community as a whole. But it also speaks to the significant role that the legal community can play in employing ‘outside the box’ thinking to pursue alternative avenues of accountability, and that civilians and activists in a conflict can play in transforming these justice landscapes by documenting atrocities to a criminal legal standard and advocating for alternative avenues for accountability in the absence of a unified or willing international community. As the best-placed population to know what kind of justice initiatives are needed and should be prioritised, diverse Syrian victim/survivor groups, civilians, and activists have played a significant role in agenda-setting, setting a new benchmark for how voices of the impacted community should be centred by justice professionals working on future conflicts.

For better and worse, the Syrian experience of international justice and accountability – as discussed at length through the subsequent articles – will have significant implications for other intractable conflicts being waged in the world today from Myanmar and Ukraine to Gaza, as well as those that unfold next. While in many of these conflicts, obtaining justice for civilians seems an impossibility, as the work of plaintiff and witness in the Koblenz trial Ruham Hawash so powerfully writes later in this issue:

[P]articipating in the judicial process and being able to tell my story and demand my rights back enabled me to reclaim a part of my dignity that

44 World Health Organization, ‘Triple Risk of Harm for Ukraine’s Health Transport Workers over other Health-Care Staff, WHO Data Indicates’, 4 April 2024, <https://www.who.int/europe/news/item/04-04-2024-triple-risk-of-harm-for-ukraine-s-health-transport-workers-over-other-health-care-staff-who-data-indicates#:~:text=Since%20the%20invasion%20by%20the,of%20medical%20personnel%20and%20patients>, accessed March 2025.

45 Peter Beaumont, ‘Medical Crisis in Gaza Hospitals at “Unimaginable” Level, Aid Agencies Say’, *The Guardian*, 25 March 2024, <https://www.theguardian.com/world/2024/mar/25/gaza-medical-crisis-hospitals-aid-agencies#:~:text=Only%2012%20hospitals%20are%20partly,and%20combatants%20in%20its%20counts>, accessed March 2025.

had been stripped away during my detention. Participating in the trial reinvigorated my belief in justice.⁴⁶

And with unprecedented legal experience and international legal track records, and the al-Assad regime rendered to the history books, these very individuals: survivors, lawyers, activists, and allies – as well as the millions of brave people who remained inside Syria – may now have the opportunity to finally deliver transitional justice and accountability for the Syrian people, book-ending five decades of tyranny, and one of the most brutal wars of our lifetime.

46 Ruham Hawash, 'Restoring Faith in Justice – the Imperative of Impartiality in the Pursuit of Justice,' *Global Responsibility to Protect* 17 (2025), 228–233.