

Syria

The situation in Syria has revealed the incapacity of the international system to deal with internal conflicts and major crises. The humanitarian crisis in Syria continues in its fifth year. So far, the conflict has claimed almost a quarter of a million victims, and almost half the Syrian civilian population (5 million) is either internally displaced or seeking refuge outside the country.¹ Throughout 2015, Syria was in a deadlock with warring parties intensifying the fighting in and around civilian areas, causing mass civilian deaths and displacement. Regime forces used barrel bombs over civilian facilities in opposition-held areas², including market places, schools and hospitals, causing a large number of casualties. In addition, regime forces engaged in massive and widespread use of arbitrary detention,³ besiegement of civilian populations,⁴ and other forms of crimes such as sexual violence.⁵

¹ United Nations Office for the Coordination of Humanitarian Affairs, The Syrian Crisis Overview,

<http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis>

²<https://www.amnesty.org/en/latest/news/2015/05/syrias-circle-of-hell-barrel-bombs-in-aleppo/>

³http://euromedrights.org/wp-content/uploads/2015/06/EMHRN_Womenindetention_EN-FINAL.pdf

⁴<http://syriaundersiege.org>

⁵Report of the CoI on Syria on Aug. 13, 2015,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx>

The various armed opposition groups have committed serious international crimes including indiscriminate attacks in civilian populated areas, sexual violence, and killings on an ethnic basis.⁶ In sum, all warring parties persisted in a devastating battle, where it seemed there was no end in sight. By summer most relevant actors including UN officials agreed that there would be no alternative to a political solution in Syria.⁷ In fact, it became clear that neither party could completely overtake the other and end the conflict. The radicalization of a large part of the armed groups in Syria, and ISIS's expansion complicated the situation.

The political process undertaken by UN special envoy Steffen De Mistura, appointed in July 2015, begun with little hope.⁸ A number of state diplomatic meetings ended with a meeting between De Mistura, the US Secretary of State John Kerry, and the Austrian Minister of Foreign Affairs initiating a new round of talks under the rubric of the International Syria Support Group (ISSG) between all involved states, without any Syrian representation in Vienna.⁹

The other major change in the last quarter of 2015 was Russian military intervention in Syria. The sudden announcement of the Russians to further engage on the Syrian front brought a large level of speculation and commentary.¹⁰ On September 30, the regime officially invited the Russian army to intervene in Syria. The Russian government claimed that the purpose of this intervention is to fight terrorism. However, the Russian army is accused of focusing its strikes around the strongholds of moderate opposition forces aiming to overthrow the regime.¹¹

⁶<http://www.un.org/sexualviolenceinconflict/countries/syrian-arab-republic/>

⁷<http://www.un.org/apps/news/story.asp?NewsID=41359#.Vp4ECfnhDIU>

⁸<http://www.theguardian.com/world/2015/jul/30/staffan-de-mistura-man-with-toughest-job-in-world-syria>

⁹<http://www.theguardian.com/world/2015/oct/30/syria-peace-talks-vienna-iran-saudi-arabia>

¹⁰<http://carnegieendowment.org/syriaincrisis/?fa=62207>

¹¹<http://www.independent.co.uk/news/world/middle-east/russia-in-syria-us-and-turkey-claim-russian-warplanes-hitting-moderate-syrian-rebel-groups-a6685496.html>

The situation of Syria has revealed the level of paralysis plaguing the current international order to address high scale crises. It has also shown, once again, that humanitarian concerns are of slight significance compared with political calculations and objectives. Three major elements need to be highlighted in the context of the Syrian crisis; first; the catastrophic conditions that Syrians are facing; second, the political deadlock that led to such deterioration, and finally the current options for a resolution.

At the Bottom of the Syrian Abyss: Humanitarian Conditions

Syrians are facing deteriorating conditions both within the country and outside as refugees. This report does not pretend to be exhaustive about all human rights violations faced by Syrians, but shall highlight the main patterns in regime-held areas, rebel-controlled areas, and in places of refuge.

Syrians in regime-held areas:

From the eruption of the Syrian revolution in 2011 onwards the regime has extinguished any viable peaceful opposition to its totalitarian grip. Massive detentions, torture, and extrajudicial killings have taken place.¹² The regime continues to fill its prisons with civil society activists. There are also allegations that whole families, including children, are forcibly disappeared and detained in prisons.

Regime-held areas are also facing deteriorated economic conditions¹³, including high inflation rates, and unemployment. The situation has been exacerbated with the influx of Internally Displaced Persons (IDPs) who cannot be accommodated. In addition, citizens are facing limited access to energy, making life conditions in regime-controlled areas that have maintained a certain form of normality during the three past years, more difficult by the day.

¹² <https://www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities>

¹³ https://www.washingtonpost.com/world/middle_east/syrias-assad-regime-cuts-subsidies-focuses-ailing-economy-on-war-effort/2014/11/29/5f830894-719c-11e4-a2c2-478179fd0489_story.html

The human rights condition in opposition-controlled areas:

It is important to note that most rebel-controlled areas are rural and previously marginalized communities. These areas have never been a priority for development over the past 40 years.¹⁴ During the conflict the regime has punished these areas through sieges, starvation, and aerial shelling including the use of barrel bombs and other forms of indiscriminate attacks.

In addition, opposition-controlled areas are facing others forms of human rights abuses due to the overwhelmingly theocratic nature of governance there. ISIS and other opposition groups hold territory here. The other groups include al-Nusra, and what some wrongly characterize as “moderate” opposition forces such as Ahrar al-Sham and Jaysh al-Islam. In these areas, arbitrary detention, enforced disappearance of human rights activists, sexual violence and other forms of abuse are occurring in the absence of all accountability.¹⁵

Syrian Refugees:

The picture of the child Aylan Al-Kurdi lying on the Turkish shore drew international attention to the Syrian crisis.¹⁶ A growing percentage of Syria’s population is being forced to flee the country due to deteriorating living conditions.¹⁷ The neighboring countries in which refugees have sought safety have been criticized for different forms of abuses.¹⁸ Many of the abuses are related to the large number of refugees and the state’s alleged incapacity to absorb them.¹⁹ This

¹⁴http://www.unrwa.org/sites/default/files/alienation_and_violence_impact_of_the_syria_crisis_in_2014_eng.pdf

¹⁵ See the CoI report on Syria, August 2015

¹⁶<http://www.independent.co.uk/news/world/europe/aylan-kurdi-s-story-how-a-small-syrian-child-came-to-be-washed-up-on-a-beach-in-turkey-10484588.html>

¹⁷http://data.unhcr.org/syrianrefugees/regional.php#_ga=1.228172062.246526338.1453198143

¹⁸ <http://www.theguardian.com/world/2015/nov/27/amnesty-international-turkey-syrian-refugees-human-rights-abuse>.

For Lebanon see for example: <https://www.hrw.org/news/2014/09/30/lebanon-rising-violence-targets-syrian-refugees>. For Jordan see for example:

<http://resourcecentre.savethechildren.se/library/gender-based-violence-and-child-protection-against-syrian-refugees-jordan-focus-early>

¹⁹<https://www.foreignaffairs.com/articles/jordan/2015-09-28/syrias-good-neighbors>

has led most organizations to call for support for these states.²⁰ However even after high pledging from states to these refugees, abuse continues.

Certain countries in the west have recently decided to take in a certain number of refugees, and give them legal status. This initiative started in Germany, and has been followed by other states.²¹ Recently refugees have been hosted in Canada.²² The American government has also pledged to host a number of refugees.²³ However, abuse has also characterized the refugee experience. In Hungary, Syrians have had to face police abuse,²⁴ and in Denmark, the state declared its intention of seizing refugee valuables.²⁵ In addition, the US debate about Syrian refugees and their links to violent extremism has threatened to block the US administration's decision to host refugees.²⁶

Breaking the Political Deadlock:

The conflict in Syria is not merely local, but interests major international and regional players. Russia has found in its backing of the Syrian regime a good opportunity to escape its home crises related to sanctions resulting from the Crimea annexation and military attack on Ukraine. For other international players, regime change in Syria presented a good opportunity for weakening the formed alliance between Iran to Iraq, and weakening Syria in the Hezbollah-stronghold south Lebanon and Hamas controlled Gaza Strip. On the regional front Syria today lies at the very heart of sectarian strife and the competition for regional power. Turkey, Saudi Arabia and Qatar

²⁰<https://www.amnesty.org/en/latest/news/2015/11/g20-must-pull-uturn-on-refugee-response/>

²¹See number of refugees that Each EU state has pledged to host : <http://www.resettlement.eu/sites/all/modules/pledgemap/index.html>

²²<http://www.unhcr.org/566ad0029.html>

²³ <http://www.theguardian.com/us-news/2015/nov/26/obama-americans-welcome-syrian-refugees-pilgrims>

²⁴ <http://www.theguardian.com/world/2015/sep/07/syrian-refugees-hungary-camp-cold-hungry>

²⁵<http://www.independent.co.uk/news/world/europe/refugee-crisis-denmark-wants-to-seize-jewellery-and-cash-from-asylum-seekers-a6777146.html>

²⁶ <https://www.rt.com/usa/322747-house-senate-syrian-refugees/>

are hoping for a Sunni-friendly regime, while Iran and Iraq are looking to keep Syria within the Shia Alawite zone of power.²⁷

However, it seems that the ISIS attack in Paris has pressured countries to put aside differences with Russia to end the terrorist threat, and contain jihadist extremists and the flow of refugees.²⁸ Whilst this is leading to new negotiations that intend to bring about a political solution, one needs to question the willingness to actually break the current deadlock given that various interests seem to still feed the conflict.

UN Security Council resolution 2254 on the December 18, 2015 adopted in consensus between the 15 members of the UNSC came to crown the round of negotiations of the International Syrian Solidarity Group that started in Vienna on October 30.²⁹ The resolution highlights what has been agreed on, and remains silent on issues that are still subject to controversy. It aims at working on a road map for a political transition within 18 months from the adoption of the resolution and ensuring a ceasefire between the warring parties.

The Vienna talks had consensus on the need to fight against ISIS and other al-Qaeda affiliated groups, in particular al-Nusra front. This seriousness of stemming extremist expansion was highlighted in the highly technical resolution 2253 that was adopted on the same day as the resolution on peace building in Syria.³⁰ The UNSC resolution 2253 is unprecedented in triggering third state responsibility regarding the support of non-state actors, and includes a list of measures adopted under Chapter VII, the most binding form of international law, including refraining from financing terrorist groups, asset freezes, arm embargos, listings and information sharing among states concerning members and activities of the group.

²⁷For more understanding of Syria as a war of proxy see for example: <https://www.middleeastmonitor.com/articles/middle-east/17515-syria-proxy-war-not-civil-war>

²⁸<http://www.haaretz.com/middle-east-news/.premium-1.686286>

²⁹<http://www.un.org/press/en/2015/sc12171.doc.htm>

³⁰<http://www.un.org/press/en/2015/sc12168.doc.htm>

The Vienna round of negotiations for Syria also paved the way for two further steps: first, the Riyadh conference that has hosted opposition groups in view of harmonizing their positions to participate in the coming round of talks among Syrians.³¹ It also agreed upon a security experts meeting to be held in the Jordanian capital that is required to examine armed groups in Syria and decide which should be considered as terroristic.³² Concerning the ceasefire, the UNSG special envoy will establish a monitoring mechanism to view progress and press all parties to use their sphere of influence on warring parties to comply with the ceasefire.³³

Regardless of this progress, doubts still hover around the seriousness of ending the Syrian crisis in the near future. The reception of the resolution by Syrian opposition was particularly telling of the fragility of this initial international consensus and the challenges its implementations is going to face.³⁴

The most flagrant weakness of the resolution is that it does not address the future of the current regime or Assad. In fact the Vienna process does not go very far in determining how the transitional period would lead to peace and stability in Syria, and how it would be implemented in practice. The international community continues to be stuck in the same Geneva Communiqué framework of 2012, based on three major points: a ceasefire, a constitution and a transitional government, followed by free elections.³⁵ Doubts remain if these same points are still achievable today. In fact what paralyzed any implementation so far was the major divide on the fate of Assad. Assad's refusal to relinquish power and backed by Iran and Russia, may mean the latest round of talks will also fail.

Another doubt that hovers around this newly reached agreement is the lack of agreement on classifications of terrorist groups. In fact, at least two very controversial groups who have allegedly committed

³¹<http://www.wsj.com/articles/syrian-opposition-groups-hold-talks-in-riyadh-1449683546>

³²<http://www.jordantimes.com/news/local/jordan-says-terror-list-be-out-right-time%E2%80%99>

³³This monitoring mandate has been set out in UN SC res. 2254

³⁴<http://europe.newsweek.com/did-riyadh-conference-move-syria-towards-peace-408229?rm=eu>

³⁵ <http://www.voltairenet.org/article189701.html>

international crimes and who are known to be very theocratic and anti-democratic both in rhetoric and in action participated in the Riyadh conference.³⁶

These weaknesses and doubts in the initial agreement have one link in common: the reluctance of the international community to recognize that without accountability there can be no justice for Syrians and in consequence no sustainable piece.

Accountability: The Missing Piece of the Syrian Puzzle:

The absence of consensus amongst international actors with regard to solving the Syrian conflict leads to a pessimistic outlook for dealing with the humanitarian crisis and solving its root causes. It is particularly notable that the international community has shown more readiness to cooperate, recognizing full third state responsibility when it comes to groups labeled as terrorists, while for the other warring parties there is no intention to bring about any form of deterrence or bring the committed crimes to justice. This is even more remarkable knowing that most of the Syrian victims and the continuous flow of refugees and IDPs are caused by one of the warring parties: the regime. There is almost no doubt that in order for the agreement to be implemented Assad needs to step down sooner or later.

Beyond the practical considerations, it is within international obligations of all states to ensure accountability for serious breaches of IHL and IHRL. Investigating, prosecuting and providing remedies for IHL violations is the primary obligation of states in cases of grave breaches according to common Article 1 of the four Geneva Conventions. In the Syrian context, this obligation is incumbent on the international community of states, which has thus far failed to take effective action to trigger accountability for mass atrocities.

The continuous impunity for international crimes is only inciting parties to continue disregarding human suffering in Syria. Triggering different accountability mechanisms in domestic, regional and international jurisdictions, directed against individuals and authorities

³⁶<http://www.theglobeandmail.com/news/world/saudi-arabia-to-host-syrian-opposition-meeting-ahead-of-peace-talks/article27609462/>

directly or indirectly involved in the commission of serious violations of international law would create a deterrence effect against individuals and states seeking to become engaged in internationally unlawful acts.

States should cooperate to establish an information sharing network that allows cooperation criminally and judicially in the efforts to bringing to account individuals involved in criminal activities in Syria. The same mechanisms of judicial cooperation that have been established for the fight against terrorism in resolution 2253 could also be triggered to pursue all perpetrators involved in the fighting.

Instead of focusing on deterring warring parties, the situation on the ground is actually becoming more complicated, especially in light of the intensification of foreign military intervention in Syria. Today there is sufficient probable evidence of the commission of serious IHL violations by Russian forces in Syria, and accusations that the Russian army is targeting civilian locations.³⁷ In addition there are also allegation of the commission of IHL breaches by coalition forces targeting ISIS controlled areas in eastern Syria.³⁸

The root causes that have led to deteriorating conditions in Syria are not very different from elsewhere in the region. The postcolonial era has failed to bring about an citizenship-based state, fostering discrimination and sectarianism instead. The Assad regime has, during the past 40 years, based its socio-political and economic power on a few loyalists who often share their sectarian roots. This has created very deep anger and a sense of injustice over the years, especially amongst the majority Sunni population. The militarization of the conflict, in part a result of the regime's crushing of the civil movement, has inflamed hidden social tensions. The support that armed groups have received from certain players in the region - Saudi Arabia, Qatar and Iran - has only deepened the sectarian divide.

³⁷<http://www.independent.co.uk/news/world/middle-east/amnesty-report-russia-directly-targets-civilians-in-syria-killing-at-least-200-in-possible-war-a6783271.html>

³⁸ <http://www.aljazeera.com/news/2015/11/syrians-insane-nights-french-bombing-151117052945111.html>

Any future solution in Syria that aims to maintain a sustainable coexistence in a highly diverse country has to ensure that the aspiration and just representation of each group is taken into consideration. Measures should also be taken to guarantee that no retaliatory actions are taken, including by deploying international forces if such risks persist.

Regardless of doubts, current international will offers a glimmer of hope that the coming year will bring us a little closer to a stable, peaceful and democratic Syria.