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International Crimes Accountability Matters in Post-Assad Syria

Federica D'Alessandra

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Introduction

After decades of brutal rule, culminating in a bloody civil war that [killed half a million Syrians and displaced 14 million more](#), the cruel regime of Bashar al-Assad is finally over. The conflict had seemed frozen for years. Yet, it took little over a week for the [lightning fast, multi-front, rebel offensive](#)—launched on November 27, 2024, by Hay’at Tahrir al-Sham, or HTS, and soon joined by other groups in the south and east of the country—to sweep through Syria’s major cities and reach Damascus. Unthinkable until recently, the stunning [toppling of Assad](#) came on December 8, on the [tailwinds](#) of Russia’s war of aggression against Ukraine as well as the regional conflict that has escalated following Hamas’s October 7, 2023, attacks against Israel. Boggled down on frontlines far away from the Syrian capital, neither Russia nor Iran (or its proxy militias) came to Assad’s rescue, as [they previously did](#) at the peak of Syria’s civil war, enabling him to retake rebel-held territory and prolong his brutal hold on power. This time, instead, [cutting their lifeline](#) spelled a quick end for the infamous regime.

The toppling of Syria’s dictatorship raises countless questions on what the post-Assad future holds both [for Syria and the broader region](#). It also opens up the [possibility that the advocacy and painstaking investigative work](#) that Syria’s civil society and the international community have been carrying out over the last fourteen years to document regime atrocities can be channeled toward a [transitional justice process](#) anchored on accountability for the most responsible top-level officials.

Many might rightly ask then, what accountability could even look like for Syria: when it comes to delivering justice, in particular, the history of conflicts that resulted in the toppling of other despots in the region—including, most recently, [Libya](#) and [Iraq](#)—is not particularly

encouraging. Will Syria be different? Can it be? Perhaps. After all, the Syrian civil war has already been the epicenter of important developments that have revolutionized the global accountability landscape, with implications reaching well beyond its borders. For this reason, as a contribution to ongoing and future debates on the issue, this essay reviews the groundwork that has already been laid to support future accountability, what justice avenues might be available for Syria, and what lessons might be learned from other accountability efforts in the region.

The Fears and Hopes of Bashar al-Assad's Victims

The last fourteen years have been cruel to most Syrians, except [for Assad's loyalists and a handful of regime officials](#) who continued to enjoy a life of intoxicating power and [excessive luxury](#). Outside of his palatial residences, however, Bashar al-Assad leaves behind a [country in ruins](#), widespread [poverty, severe food insecurity](#), and a population scarred by decades of [profound trauma](#). The [jubilant images](#) that have since emerged of Syrians lining up at border crossings, reuniting with long-lost friends and family, toppling Assad statues and other regime symbols, speak at length to the sense of hope and relief that many feel now that the despot who tortured tens of thousands of his citizens and cynically used [chemical weapons against his own people](#) is, at last, out of the picture.

Of course, not everyone is celebrating: many in [the Shi'a and Alawite minorities fear retribution](#) for their support of the regime, while other minorities, including [Christians, fear a potential future under Islamist rule](#) given the radical ideology and terrorist roots of [some](#) insurgent groups. This includes HTS itself. Its precursor organization, [Jabhat al-Nusra](#), was al-Qaeda's Syrian offshoot, and HTS remains designated as a terrorist organization by various governments including the United States, Canada, the United Kingdom, as well as the United Nations (UN) and the European Union (EU). The same is true for Syria's de facto new leader, Ahmed Hussein al-Shar'aa, also known by his HTS nom-de-guerre Abu Mohammad al-Jolani. Despite his [efforts](#) to shed his terrorist past and present himself to the world as a benevolent and competent statesman for *all* Syrians—he had, [until recently](#), a U.S. government-issued \$10 million terrorist bounty pending on his head.

More broadly, a sense of [uncertainty](#) remains somewhat palpable given the risk of infighting among rebel factions, regional spillover effects, and the looming danger of defeated but not extinguished [Islamic State \(ISIL\) forces resurging](#). Nonetheless, the relatively orderly first few days of the Syrian transition have spurred a sense of [“cautious optimism,”](#) including in Western capitals, as al-Shar'aa promises stability for the future of a “new” merciful Syria: one in which [minorities will be protected](#); [“no revenge”](#) will be sought against supporters of

the former regime; and an [amnesty was already announced](#) for conscripts, [many of whom are laying down their weapons in “reconciliation centers” across Syria](#); even as he [vowed to punish high-level regime officials](#).

Indeed, in the first days after the fall of the regime, some of the most powerful images coming out of Syria were [thousands of detainees being liberated](#) from Assad’s infamous prisons, including the gory Sednaya complex—a military prison on the outskirts of Damascus also known as “[the human slaughterhouse](#)”—where scores of dissidents have disappeared, and most have been regularly subject to unfathomable acts of inhuman depravity for weeks, months, and years at the time. Virtually anyone could end up there on a whim, for reasons as trivial as [painting anti-regime graffiti](#) or attempting to [smuggle baby formula](#), as my friend Mazen al-Hamada once did.

Mazen was a familiar face among Syrian activists and their supporters in the international community. He was first arrested for organizing pro-democracy protests in 2011, then in 2012, and again in 2013. He was detained for a total period of a year and seven months, in abysmal conditions which included being forced “in a small hangar, a little more than 40 feet long and 20 feet wide” with 170 other prisoners. Regime officials seeking to force a confession out of him beat, sexually assaulted, and otherwise tortured him so savagely that he [bore permanent physical and psychological scarring](#) of their abuse. The inescapable weight of his relentless pain was apparent to anyone who ever had the privilege of meeting him. Like countless other Syrians whose body and soul were crushed under Assad, Mazen was eventually exiled and sought refuge in the Netherlands, where he became an internationally recognized figure for his willingness to bear witness to the depravity of the regime, and tirelessly advocated for accountability.

In February 2020, he was lured back to Syria by regime officials under the false pretense that his return would ensure the release of several other dissidents. As soon as he landed in Damascus, he was [arrested again](#) by Assad’s security services and forcibly disappeared. We had not heard of him since. That was until December 9, when [Mazen’s body was found](#)—dumped among forty others—in the Harasta Military Hospital morgue in Sednaya, shrouded in a bloody cloth and severely disfigured. It appears he had been dead for less than a week. Meaning, tragically, he was murdered—by those most afraid of his testimony—in the very last days of the regime, perhaps hours before the prison was liberated, and he could have been returned to freedom. Mazen’s quest for accountability literally cost him everything, including his life. For this reason, images of his funeral reveal he was mourned, and buried, as a hero. Fittingly, [during the procession](#), the shock and anger felt at his murder quickly turned into calls for justice and accountability.

The Syrian civil war [began as a popular uprising in March 2011](#), when large-scale, peaceful pro-democracy protests spread across the country as part of the Arab Spring. The Assad regime immediately responded with crushing brutal force, arresting protesters in the thousands, shelling civilian homes with army tanks, and laying siege to several cities. Not even

children were safe from his brutal crackdown. Just ask [Omar al-Shogre](#), today a prominent pro-democracy dissident and director for detainee affairs at the [Syrian Emergency Task Force](#), a U.S.-based nonprofit organization established in March 2011 to support the Syrian opposition. He was *only* fifteen when first detained by Assad's security services for joining a pro-democracy march attended by his teen-crush and was arrested seven times between 2011 and 2013. During a total detention period of three years, he was held at various ignominious sites, such as infamous Branch 215 of Assad's military intelligence, where he was subject—before he even turned seventeen—to [daily physical and psychological torture](#), including by electrical shock, beatings with cable and metal, the pulling of his finger nails, and being forced to remove the corpses of other dissidents who had died in detention at the hands of regime officials. Omar was eventually released after his mother, who had by then become a refugee in Türkiye, [paid a \\$15,000 bribe](#). He had contracted tuberculosis and, due to the starvation to which he was deliberately subject by his captors, weighed just 37 kilograms (about 82 pounds) on the day of his release. By his own account, he only survived his ordeal because of the kindness and protection of older prisoners, many of whom sacrificed their own lives to save his.

Or ask [Hamza Ali al-Khateeb](#)'s family, to whom his lifeless body was delivered on May 25, 2011—after he had been arrested for joining a peaceful pro-democracy protest—with three gunshot wounds, visible signs of torture, and his genitals cut off. His autopsy revealed he was shot dead after his genitalia had been removed, meaning he was mutilated while still alive. *He was thirteen years old when the Assad regime mercilessly murdered him.*

Mazen, Omar, and Hamza's stories are not outliers but representative of the unrelenting, callous brutality to which Assad subjected hundreds of thousands of his citizens. It is to them, their memory, and especially their struggle that Syria's post-Assad authorities owe a *just* path forward based on reconciliation, reconstruction, but *especially accountability* for the crimes of the regime. Accountability has indeed been a persistent demand for many Syrians in civil society whose heroism and activism over the last fourteen years has kept alive the hope that, someday, their regime tormentors would face a reckoning with their abuse. For this reason, justice for Syria cannot and *should* not be discussed without first centering past and future accountability efforts with their contributions.

The Unabating Heroism of Syrian Civil Society

As soon as the March 2011 uprising began, Syrian activists started filming the regime's brutal crackdown on their mobile phones, generating an incredible volume of pictures and videos revealing to the world the crushing weight and [callous brutality of the regime's response](#) to the peaceful marches. This included the indiscriminate [firing on thousands of](#)

[civilians with live ammunition](#), as well as documenting other forms of violence during [mass arrests](#) and in the [aftermath of imprisonment](#). As the repression intensified, cities came under siege. When air strikes began on rebel-held urban areas, brave first responders—such as the [White Helmets](#)—rushed to the scene, digging up bodies from the rubble; [filming the indiscriminate targeting](#) of markets, hospitals, ambulances, and schools; and securing crime scenes. They also recovered ballistics and other forms of evidence that helped prove patterns and document specific cases of egregious humanitarian law violations, the weapons used, and the responsibility of military and paramilitary forces associated with the regime.

As the maiming of Syrian civilians continued, and [mass grave after mass grave was discovered](#), professionals caring for [survivors integrated medical forensic documentation practices](#) as part of their efforts to care for victims, excavate mass graves, and carry out postmortem examinations that revealed the targeting of protected groups including medical personnel, journalists, humanitarian aid workers, and even children. In combination, this information allowed to ascertain not only the civilian status, but often the ethnic and political affiliation of the vast majority of casualties fallen under Assad's brutal war tactics.

The White Helmets weren't the only first responders collecting this evidence. [Frontline civil society documenters](#) also interviewed and secured the testimony of many of Assad's victims and regime defectors still within Syria, adding to the mounting body of evidence on both the categories of crimes perpetrated, which communities were most affected, and which forces and units were responsible for inflicting such unspeakable suffering on the Syrian people. They also collected a vast number of official records and other forms of documentary evidence of compromising cables, official reports, and orders issued by the regime; reconstructed chains of command and the identities of those executing them; and began smuggling them out of Syria.

Among all documentary efforts by former regime defectors, in particular, [the so-called Caesar files](#) will be among the most valuable to accountability. These files were among the widespread reports that emerged about the viciously brutal treatment to which dissidents were routinely subject in what came to be known as "Assad's torture chambers," a network of prisons and military hospitals throughout the country where Syria's military police and security services had been known to inflict unimaginable brutality on detainees since Hafetz al-Assad, Bashar's father, [ruled Syria with his iron fist](#).

In August 2013, a [Syrian military defector code-named Caesar](#) smuggled 53,275 photographs out of Syria. The pictures, to which he had access in his official capacity as a photographer-archivist for Assad's military police, were taken over the course of two years, starting in 2011. They showed the unmistakable proof of Assad's vicious barbarity the world was still, somehow, waiting to see. The [gruesome images](#), which have since been exhibited in capitals around the world, show starved and emaciated corpses of mostly young men, covered in blood, bruises, and visible signs of torture from beatings, electrocution, chain marks, strangulation, sexual violence, bone-crushing, organ harvesting, and eye-gouging. The Caesar photographs alone show 11,000 different victims, only 6,786 of which had been identified

in 2015. These victims were detained by five intelligence agency branches and sent to *just* two military hospitals in Damascus, attesting to the widespread and especially systematic nature of the torture evidenced therein. International criminal justice experts have indeed [referred to the pictures](#) as a “smoking gun” documenting “industrial scale killing,” the sort of record-keeping and “solid evidence . . . [we have not seen, frankly, since the Nazis.](#)”

In their heroic documentation efforts and quest for accountability, Syrian civil society has also benefited from the support of international human rights groups. As the number of displaced people and refugees grew, documenters in the Syrian diaspora and major international organizations [canvassed refugee camps to gather more testimonies](#) and other forms of documentation, while others developed [investigative protocols and documentation best practices](#) that have become invaluable to on-the-ground, frontline documentation efforts within and beyond Syria. International human rights groups have themselves [dispatched researchers](#) and [published landmark reports](#) documenting scores of incidents; carried out [high-level advocacy](#); [filed or otherwise supported](#) third country proceedings; and digitally preserved archives of open-source materials before they [disappear](#) to content moderation policies or other removal decisions by the platforms on which such public materials initially appear. In addition, the U.S. and European governments have supported frontline documentation efforts, both by [providing funding, training, and technical assistance](#) for groups on the ground; and by [establishing professionally staffed investigative teams](#) to integrate and support the work of other groups.

Clearly, technological innovations played a crucial role in civil society documentation efforts, [in and beyond Syria](#). For example, protesters’ filming of many regimes’ repression practices throughout the Arab Spring led the International Bar Association to fund and develop a groundbreaking software, the [eyeWitness to Atrocities app](#). This allows the capturing of metadata crucial for authentication and verification purposes, as well as the secure transfer of images and videos on remote cloud servers stored outside of the countries in question, where they are regularly reviewed and analyzed by international legal experts to determine their probative value and, as relevant, shared with competent authorities. Social media, [satellite imagery](#), and other forms of remote sensing capacities and open-source materials were also eventually leveraged by documentation groups, both within and outside of Syria, to verify and geolocate incidents, demonstrate patterns in attacks against civilians and protected objects and groups, and attribute responsibility. The volume of materials already generated is astounding, with some estimates confirming that it would take more than [forty years](#) to review what has been gathered by the [Syrian Archives](#) alone. Additional tools, including [artificial intelligence and other software](#), certainly have an important role to play in further supporting justice efforts by reviewing, analyzing, and cataloguing materials for potential use in court.

In short, as I have [argued elsewhere](#), the brave and monumental efforts of Syrian civil society have revolutionized the pursuit of justice, and especially what role victims and affected communities can play in establishing accountability. Perhaps this is the silver-lining of Syria’s tremendous and protracted suffering under the Assad regime: proving that the

agency, resilience, and commitment of the Syrian people to achieving justice can never be questioned; and that their centrality to any future accountability processes to address Assad's horrendous crimes cannot, and *should not*, be eschewed. To the contrary, it is *imperative* that the needs, desires, fears, and hopes of the Syrian civil society must remain front and center in pursuing any and all accountability avenues.

UN Investigative Efforts to Support Accountability in Syria

Various UN bodies have also played an extremely important role in supporting civil society documentation efforts, both inside and outside of Syria. In August 2011, for example, in response to Assad's brutal crackdown of the uprising, the UN Human Rights Council set up a [Commission of Inquiry](#) to investigate human rights abuses by "establishing the facts and circumstances" of crimes and "where possible, identify those responsible with a view of ensuring that perpetrators . . . are held accountable."

Since beginning its work, the UN Commission of Inquiry on Syria has produced biannual reports and countless thematic papers documenting [horrific violence and egregious human rights and humanitarian law violations](#). These include: [sexual and gender-based violence](#); [arbitrary detention and forced disappearances](#); [widespread torture and inhuman treatment](#); the [use of sieges and starvation as a method of war](#); the [deliberate targeting of civilians, civilian objects, and protected groups](#)—including food markets, [hospitals, ambulances](#), schools, [humanitarian workers and convoys, journalists](#); as well as countless [crimes against children](#).

Both the UN Commission and independent monitors have also extensively documented the Syrian and Russian air forces' widespread use of [barrel bombs and cluster munitions](#) to indiscriminately shell civilians in densely populated urban centers. By [some estimates](#), at least 68,334 barrel bombs had been used in Syria by 2017; over 97 percent of resulting deaths were civilians, more than a quarter of whom were children. The [humanitarian catastrophe](#) that ensued was, by that point, unprecedented in modern history: leaving more than 14.6 million Syrians, many of whom were already maimed and injured under relentless barrel bombing, in dire need of humanitarian assistance.

Within three months of the uprising beginning, Assad [announced](#) that 64,000 people were wanted on sedition and terrorism charges. That number grew over the years: as of December 2023, the Syrian Network for Human Rights [had documented](#) the arrest and arbitrary detention of at least 156,457 people since March 2011, including 5,235 children. As the report found, all parties to the conflict have engaged in arbitrary detention and detainee mistreatment, though the vast majority of cases occurred at the hands of the regime. An estimated [130,000 Syrians were missing](#) in 2023.

For this reason, in June 2023, in response to urgent calls for action from family members of missing persons, the UN General Assembly established the [Independent Institution on Missing Persons \(IIMP\) in the Syrian Arab Republic](#), tasking it to “determine their fate and whereabouts and provide support to victims, survivors, and the families of the missing.” Although the Syria IIMP was not created to *directly* support accountability, the mandate could prove hugely important to achieve a comprehensive transitional justice process by establishing the truth about enforced disappearances and maintaining a victims’ registry that could be used both to provide immediate support and, eventually, reparations for victims. Syria is not a state party to the [UN convention banning enforced disappearances](#), but their prohibition is a [peremptory norm of international law](#), meaning it is binding on all states, as well as a crime under international law that impugns the liability of responsible individuals. In addition, enforced disappearances and arbitrary detentions constitute violations of other human rights treaties Syria has in fact ratified, such as the [International Covenant on Civil and Political Rights](#) and [the Convention on the Rights of the Child](#), which could offer additional avenues to pursue the *state’s* liability. If so, it is likely that the IIMP’s registry could, at least in part, support the awarding of reparations for victims and their families, as well as under the [UN Convention Against Torture](#) to which Syria is also party, given that many of those forcefully disappeared would have wound up, at some point, in Assad’s vast prison system.

The UN, together with the [Organization for the Prohibition of Chemical Weapons \(OPCW\)](#), also have an important role to play in supporting accountability for Assad’s chemical weapons use. Although the Syrian government had never publicly acknowledged its possession of chemical agents, in 2012, [concerns began to mount internationally](#) about both the security of Syria’s presumed stockpile, and the possibility that Assad would use it to quash his opposition. That August, then U.S. president Barack Obama famously said that the use of chemical weapons would constitute a “red line” that would [change U.S. “calculus.”](#) Nevertheless, later that year, reports began to circulate that [chemical weapon attacks had been carried out](#) in Syria, all in rebel-held territory. After the deadliest of such attacks was carried out on [August 21, 2013, in Ghouta](#), killing and injuring thousands of victims with sarin gas, including scores of children, the U.S. Congress [authorized](#) the use of force against Syrian military targets.

U.S. retaliation did not ultimately materialize however as the Kremlin, Assad’s main backer on the international stage, [negotiated a package of agreements](#) that included the destruction of Syria’s chemical weapons stockpiles by April 2014. Syria signed the agreements but, unsurprisingly, did not comply: in 2014, an OPCW fact-finding mission [found](#) not only that the use of chemical weapons—including chlorine, sarin, and sulfur mustard—had continued, but that chlorine attacks, in particular, had been [“widespread and repeated.”](#) Although the OPCW did not, at that time, *explicitly* attribute responsibility to Assad, it found that about half of the attacks were delivered via aircraft, excluding the liability of rebel forces without access to air power. Naturally, Assad insisted on his innocence, and claimed that the rebels were using chemical weapons on the Syrian people.

The following year, Russia acquiesced to the [creation of the UN-OPCW Joint Investigative Mechanism \(JIM\)](#) tasked precisely with identifying perpetrators of the attacks. Its 2017 findings [confirmed](#) 349 incidents, some of which proved the [Islamic State](#) had indeed used sulfur mustard, but also attributed responsibility to the Assad regime for the use of chlorine as a chemical weapons agent in at least three major attacks. Russia subsequently [vetoed](#) the renewal of the JIM's mandate. Various other independent investigations have nonetheless continued, confirming hundreds of incidents of chemical weapon use since 2014, including the infamous [April 2018 Douma attack](#). A 2023 independent report by the prominent Berlin-based Global Public Policy Institute, for example, [confirmed](#) that chemical weapons were used in Syria at least 336 times: [98 percent of which were by Assad's forces](#).

The Islamic State has itself become synonymous with viciousness, due to their gruesome practices such as [beheadings](#), [crucifixions](#), [burying victims alive](#), [public stoning](#), [massacres](#), [rape and sexual enslavement](#), [religious and ethnic cleansing](#), and the [genocide they perpetrated against the Yezidi](#). The Islamic State's savage barbarity in Syria and Iraq truly knew no bounds. Equally dangerous was their stated intent to [extend their rule](#) beyond their originally held territory, and their [instruction](#) to followers to perpetrate terrorist attacks in other countries, particularly in the West, but also [in Russia and elsewhere](#). [Once the Islamic State's defeat was proclaimed](#), thousands of [fighters returning to their home countries](#)—including [300 Americans](#) and over [5,000 citizens in Western Europe](#)—also came to pose a [national security threat](#) to their countries of origin, many of which have since been discussing options for [“pooling” their jurisdictions and creating a tribunal for these fighters](#).

However, the most significant development relating to the Islamic State's accountability came in 2017, when the UN Security Council—in a brief moment of political unity that could only be achieved by rallying against a terrorist organization with no friends in the international community—[set up an Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL \(UNITAD\)](#). UNITAD, which was set up pursuant to a request for assistance by and with the consent of the government of Iraq, was mandated to support domestic efforts to hold ISIL accountable, including within Iraq, by collecting, preserving, and storing evidence to appropriate criminal standards of war crimes, crimes against humanity, and genocide. As such, it became part of a new breed of [“pre-prosecutorial” UN “accountability mandates”](#) that, actually, finds precedent in the watershed establishment of a [similar investigative body specifically for Syria](#) by the UN General Assembly the previous year.

The [Syria International, Impartial and Independent Mechanism \(IIIM\)](#) was created in 2016 to “assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic since March 2011.” Although the IIIM, like UNITAD, does not have prosecutorial powers, it can be considered a pre-prosecutorial body because its mandate requires it to leverage criminal law, methodology, and standards to investigate international crimes both from a [“structural” perspective](#) and by building prosecution-ready dossiers on specific perpetrators to facilitate third-party

proceedings. The IIIM collects evidence from a broad range of sources which include international and regional organizations, UN entities including the Commission of Inquiry, states, and civil society groups. It also conducts its own targeted investigations, including interviewing witnesses and collecting documentation and forensic material as appropriate. The evidence it collects is then collated, analyzed, and preserved in a dedicated, state-of-the-art central repository governed by strict confidentiality rules and rigorous information security, which it shares—either proactively or in response to requests for assistance—with competent jurisdictions willing and able to carry out proceedings in accordance with due process and human rights standards.

These pre-prosecutorial UN mechanisms have become extremely important to international efforts to foster accountability for international crimes, as proven by the hundreds of requests for assistance both UNITAD and the IIIM have each received, contributing to universal jurisdiction cases in European courts against former regime officials, as well as interstate proceedings before the UN International Court of Justice (more on this below). In addition, these investigative bodies have contributed to accountability processes in myriad other ways which should not be discounted, particularly from the perspective of building future domestic capacity within Syria. For example, in its few years of operations headquartered in Baghdad, [UNITAD produced a remarkable body of work](#): four digital forensic laboratories established at Iraqi criminal courts; sixty-eight Islamic State–related mass excavations; support for 270 vulnerable witnesses; 302 requests for assistance received by third countries, some of which have already led to landmark genocide convictions in German courts against former Islamic State members; and twenty-one case assessments and analytical reports, twenty of which were shared with Iraqi authorities, evidencing Islamic State crimes against Christians, Kaka'i, Shabak, Shi'a, Sunni, Turkmen, and Yezidi. In total, UNITAD collected 52 terabytes of information, including battlefield electronic evidence such as mobile phones and laptops, and 20 million pages of Islamic State documents, which it preserved with appropriate chain of custody and analyzed with state-of-the-art technology that allowed it to reconstruct chains of command, order of battles, and even specific crime scenes.

Cracks recently appeared in the UN's edifice. The Iraqi government refused to waive the death penalty, and so [UN standards](#) barred UNITAD from sharing evidence with the Iraqi government. Eventually, the government withdrew its consent and UNITAD was [ordered to a close in September 2024](#). The UNITAD archive was [entrusted to the UN rather than Iraqi authorities](#). For the moment, it remains unclear if and when these records will again become available to competent authorities willing and able to carry out proceedings in accordance with human rights standards. Indeed, there is a very real possibility that UNITAD's body of work, which cost the international community between [\\$25–\\$30 million per year](#), will go to waste, much to the detriment of the many countries whose foreign terrorist fighters continue to pose a national security threat, and especially their victims.

The IIIM, for its part, remains operational and is based in Geneva. It has [produced a remarkable body of work](#) that parallels and could exceed that of UNITAD, especially if and when it will finally be [granted access](#) to Syria's territory. This is of utmost importance, and

extremely time-sensitive, given the [ongoing discovery of new bodies](#), [mass graves](#), and [secret prisons](#) making it imperative [to preserve any and all evidence](#) to the appropriate standards, if it is to ever be used in court. Beyond this, the fall of the Assad regime presents countless new opportunities to leverage the IIIM's work to close the impunity gaps in Syria over the last fourteen years. Whatever shape or form judicial accountability will take, the IIIM's work and evidence will be a crucial piece of the overall picture given the high standards it requires. In addition, it could also be instrumental to [any other transitional justice mechanisms](#) like the work of other investigative bodies. On this account, the failures and experience of the Iraqi government with UNITAD should offer a warning to post-Assad Syrian authorities if they are to make good on their promise to hold former regime officials accountable and rebuild Syria with the assistance and support of the international community.

What Accountability Avenues Are Available for Syria?

Efforts to hold Syrian officials accountable, both politically and judicially, have been under way since the civil war broke out. For example, early images of Assad's brutal crackdown led to visa bans, the imposition of sanctions, and the freezing of Syrian assets by various governments, including [Australia](#), [Canada](#), and [the UK](#), among others, [as well as the EU](#). The U.S. Congress also imposed sanctions on Syria, in 2012 and 2020 respectively, under the [Global Magnitsky Act](#) and the [Caesar Syria Civilian Protection Act](#). The sanctions are due to expire in 2025, and lawmakers are [already discussing](#) whether to lift them all at once or gradually rolling them back in exchange for measurable progress toward a just and inclusive democratic transition. This would mean lifting those parts of the sanctions that relate to sectoral economies and could impede reconstruction efforts, or those [indirectly affecting humanitarian and emergency relief](#), while leaving in place others, such as those targeting former government officials, terrorists, and dealings with Russian and Iranian entities in Syria.

The Caesar pictures, together with the work and records of the IIIM, have also already proven to be powerful tools in support of judicial accountability. For example, as mentioned, they have been used in criminal proceedings in a number of European jurisdictions, including the landmark trial of former Syrian intelligence colonel Anwar Raslan in German courts, leading to the [first crimes against humanity conviction](#) against a former senior regime official. Similar evidence has been important in other cases, including when the U.S. Justice Department [unsealed indictments](#) against Jamil Hassan and Abdul Salam Mahmoud, two former high-ranking Syrian officials, charging them under the War Crimes Act with conspiracy to commit cruel and inhuman treatment of civilian detainees, including U.S. citizens. French courts, too, have issued thirteen arrest warrants against former Syrian officials, [including for Bashar al-Assad himself](#), which remain outstanding, for complicity

in war crimes and crimes against humanity. Initially, the French warrant against Assad was challenged on the grounds that, as the president of Syria, Assad would be covered by head of state immunity.¹ The warrant was [upheld](#) in appeals and, in any case, now that he is no longer president, the question has become moot.

While authorities initiating proceedings outside of Syria deserve credit for their willingness to criminally pursue suspects under their jurisdictions, it is critical to credit Syrian victims themselves for these achievements. Whether by gathering evidence, by working with legal experts to navigate third-country judicial and political avenues, or by virtue of their tireless and effective advocacy, there can be no doubt that their agency and resilience has been the key factor at the heart of these processes. Equally, the fact that small modicums of accountability were already pursued, if ad hoc, outside of Syria speaks to the important role that judicial processes will play in Syria's transition, alongside nonjudicial mechanisms. Given the higher burden of proof judicial processes require, particularly those of a criminal nature, the Caesar files and IIIM records are certain to play consequential roles moving forward.

The Caesar files, the IIIM's work, and the work of other investigative bodies and efforts will be instrumental in pursuing judicial accountability against the Syrian state, in addition to specific individuals. In 2023, for example, Canada and the Netherlands [initiated interstate proceedings against Syria](#) before the UN International Court of Justice for violations of the convention against torture. The court has already issued [provisional measures against Syria](#), and the case remains pending. The court is likely to rule against Syria and might order reparations or other redress measures that could be leveraged as part of the legal framework that would be needed to lawfully seize Assad's family assets—a fortune [estimated to be around \\$16 billion](#)—to support victims and help fund Syria's much needed reconstruction. Just as with the UN torture convention, Syria could also face interstate proceedings before the UN International Court of Justice for violations of the chemical weapons convention, to which [Syria acceded in 2013](#) as part of the package that averted retaliation by the U.S. military.

In addition, Syrian rights groups and international legal experts have laid the groundwork for the potential [establishment of a new treaty-based court](#) that could put on trial alleged users of banned toxic agents worldwide. The initiative was launched in 2023, symbolically on the day of memory for chemical weapons victims. If it were to move forward, and post-Assad authorities were to join the treaty, former Syrian officials could also face justice under this new court. Any judicial proceedings relating to the regime's use of chemical weapons will certainly benefit from both the OPCW's findings and especially the records of the JIM, which was explicitly tasked with identifying perpetrators and gathering evidence to substantiate attribution of chemical attacks. As with all pending proceedings mentioned above, efforts to pursue judicial accountability for the regime's use of chemical weapons, among other atrocities, could offer additional legal avenues to leverage Assad's vast fortune in support of Syrian victims and aid the country's reconstruction.

1 Meaning that, even though [no immunity exists under international law](#) for war crimes and crimes against humanity, given such crimes cannot be considered "official" state acts, the question arose as to whether, as long as Assad was president, French courts would be able to exercise jurisdiction given his ["functional" immunity](#).

Assimilating Lessons Learned, and What's Next for Accountability in Syria

Against this backdrop, all existing pathways to hold the Assad regime accountable both judicially and nonjudicially should certainly be pursued further, as they might pave the way for reparation orders that could assist the lawful seizure of further assets. Indeed, as long as Assad remained in power, enforcing *state* liability against Syria might have seemed the only viable option. Now that the regime has fallen, it is imperative to hold *criminally* accountable those officials who personally bear the highest levels of responsibility for the regime's countless atrocities, including Assad. To achieve this, it is not sufficient to rely on the smattering of third-party criminal proceedings that have already been initiated. They would only affect a handful of former officials, and more importantly they cannot be a central component of a comprehensive transitional justice process within Syria, even though they can certainly assist it. Equally, relying entirely on international courts and tribunals, whether prospective or existing, might be impracticable and unwise.

For example, there have been [proposals](#) to bring the situation to the [International Criminal Court](#) (ICC), which does not have jurisdiction given Syria never ratified the governing treaty. This could be done in one of three ways: Syria ratifies the treaty; the UN Security Council refers the situation; or the ICC itself leverages its jurisdiction over current member states to initiate proceedings for crimes that are linked to that jurisdiction. This could mean, for example, [relying on the ICC's territorial jurisdiction over Jordan](#) to address the forcible expulsion of Syrians across its border, for which there already is [precedent](#).

However, each of these avenues are either unlikely to materialize or, if they did, would carry major disadvantages. To begin with, although post-Assad authorities *could* ratify the treaty, the experience of [postwar Iraq indicates](#) it is unlikely that it would do so, given this would mean giving the court jurisdiction over crimes committed by *all* parties to the conflict, including rebel groups. Previous attempts to refer the situation via the UN Security Council have, of course, [been vetoed by Russia](#). Although Assad is no longer in power, Russia is unlikely to agree to a referral given its geostrategic interest in cultivating good relations with Syria's new authorities, and the fact that Russian President Vladimir Putin himself is [wanted by the court](#). Relying on the court's existing jurisdiction over states parties would similarly be misguided if pursued as a first option, given the court would only be able to exercise jurisdiction over a subset—truly, a fraction—of the overall crimes that have been committed in Syria. The same would be true for a chemical weapons tribunal. Rather, these avenues should be considered as mechanisms to integrate domestic justice efforts within Syria.

As with all societies that have endured decades of war, mass violence, and abuse, Syria can only move toward a prosperous, peaceful future by healing its trauma and overcoming its current divisions using mechanisms *by* and *for* Syrians. Al-Shar'aa has already signaled his

intent to [embrace “social justice”](#) for most Syrians while also punishing the most responsible among former officials. This can be done by embracing a comprehensive transitional justice approach that:

- combines truth-telling and reconciliation efforts with amnesty for low and mid-level conscripts, as [South Africa did after apartheid](#);
- leverages all available judicial and nonjudicial avenues to integrate truth-finding, for example the ongoing search for the missing, while enforcing state liability with a view to also provide reparations for victims;
- and focuses the pursuit of genuine criminal proceedings against those bearing the most responsibility. The emphasis here is on *genuine* proceedings, not acts of vengeful retaliation or show trials, which would [only undermine the legitimacy of the new government in the eyes of many Syrians](#), and could potentially lead to renewed cycles of violence with supporters of the former regime.

Indeed, shoring up goodwill and especially legitimacy will be crucial for Syria’s new authorities both with respect to its people and in the eyes of the international community, which stands ready and willing to assist Syria’s transition if its new authorities are able to create the right conditions. These include:

- holding free and fair elections that can finally realize Syrians’ right to self-determination, and give expression to the democratic aspirations for which they have bravely fought over fourteen grueling years;
- passing adequate legislation that duly protects the rights of all Syrians, including women and minorities, as well as media freedom;
- safeguarding due process and the rights of any accused, including abolition of the death penalty;
- domesticating international legal provisions addressing international crimes, including war crimes, crimes against humanity, and genocide, so that perpetrators can be duly charged for the violations that match their underlying conduct; and
- allowing international trial monitors, and ideally embedding experienced international judges, counsel, and prosecutors in its domestic courts.

Such an approach would follow the precedents already set by [Cambodia](#), [Sierra Leone](#), [Kosovo](#), and many other countries in which specialist chambers have been integrated within a hybrid system applying international law but rooted in the country’s domestic jurisdiction, with the support, guidance, and especially oversight of the international community.

This is the best way forward that will allow Syrians themselves to drive the transition while soothing anxieties about potential abuses of both power and process. Strengthening the rule of law and domestic institutions by building Syria's domestic capacity would also be the best form of investment the international community could make in its future, given it would yield long-term benefits beyond the current transition. Of course, in building such a tribunal, it would be crucially important to incorporate the countless lessons that have already been learned over the last few decades of global efforts aimed to pursue international crimes accountability, including and perhaps especially the [failures of the Iraqi Special Tribunal](#); alongside state- and peace-building lessons learned from other postwar and transitional contexts, including where these have gone wrong, such as [Afghanistan](#). If Syria successfully did so, its story would surely reverberate beyond its current transition: Syria could indeed become a beacon of hope and source of inspiration for countless other societies devastated by mass violence around the world.

About the Author

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