

My kingdom for a horse!

Geopolitics and the challenges of transitional justice and justice in Syria

By Selim Mawad

1. Introduction

This essay seeks to address the challenges of an impartial justice process for post-conflict Syria given the national complexities and the role of external actors with entrenched geopolitical interests and being involved in the on-going violence. Furthermore, it argues the necessity to demonstrate a genuine international political will should the various actors intend to end the conflict and impartially deal with the past. If this political will is not manifested and secured, peace for Syria will be more of a mirage than a reality and the Syrian population and victims will have to wait long before justice will be made for past crimes and atrocities.

2. Political context

When violence erupted in Syria in 2011, what at first seemed to be a revolution led by the Syrian population against decades of totalitarian rule was soon transformed into a war between the regime and an emerging Syrian opposition in addition to various regional fundamentalist Islamic movements. What appeared to be a vertical conflict in Syria in the early days of the violence, regime versus the population, was soon transformed into a horizontal one amongst armed groups resulting in bloodshed with the population as the main victim.

In the early stages of the violence, most international actors anticipated a rapid collapse of the Syrian regime, yet 4 years later violence is still prevailing and the armed factions have multiplied on the ground and expended. The Syrian opposition designated its interim government for new Syria emanating from the National Coalition for the Syrian Revolutionary and Opposition Forces. Ever since, many western actors on both governmental and non-governmental level, auspiciously welcomed this proclamation based on the wishful thinking of rapid regime collapse.

The year 2014 witnessed the stalemate of the United Nation's Geneva negotiations between the regime and the opposition. Both, Geneva 1 and 2, failed to reach a political settlement to the bloody conflict and expectations on the Russian-led negotiations in 2015 should be modest. Moreover, Syria had its presidential elections in June 2014, which resulted in the reelection or 'reconfirmation' of Bashar El Assad as president of the republic. The plan of UN

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Special Envoy Staffan de Mistura to broker 'local truces' or 'free zones' rather than a general peace agreement is proving hard to be established giving the shifting military dynamics on the ground amongst other political factors. The situation in Syria is taking a new turn and talks about the West getting prepared to deal with Bashar El Assad as the de facto president of Syria are gaining grounds. De-Mistura's declarations on several occasions that "Assad should be part of the solution" could be a proof of the shifting western strategies. The same Western powers who are offering political support and legitimacy to the opposition, while supplying the "Free Syrian Army" (FSA) with modest arms, did not invest their military might and power to end the conflict to the advantage of the opposition as they did in Iraq, Afghanistan or even in Libya. Instead, and given the expansion of the "Islamic State of Iraq and the Levant" (al-Dawla al-Islamiya al-Iraq al-Sham, DAESH) in Syria and Iraq, they decided on an international coalition against terrorism that excluded Iran yet operates in Syria without a formal coordination or explicit objection by the Assad regime. Could it be that the West has a vested geopolitical interest in observing how the Assad regime along with Iran and its allies, such as Hezbollah, continues to battle other Islamist groups until a standstill?

In the rapid transformation of the Syrian conflict from a vertical to a horizontal one, the identity of the FSA, deliberately or not, has also been blemished and transformed beyond a purely Syrian character to encompass a diversity of identities coming from the region, and thus depriving the revolution of its national dimension. In addition, Sunni jihadists (i.e. DAESH and "Joubhit El Nassra") have publicly declared their ideological religious agenda, ruling under the banner of Islamic jurisprudence, that goes beyond the primal slogan of the revolution in Syria: "Al Shabeb Yourid Iskkat El Nizam – The youth want to bring down the regime" and its geographical borders. More complex religious and political factions hijacked the revolution in Syria by fighting against or with the regime and consequently making its nature all the more complex. The violent power struggle most notably between DAESH, "Joubhit El Nassra", and the FSA, and all of the latter against the regime and its allies is testament to how multi-dimensional a longer-term civil war would likely become. Regardless of how the conflict will end in Syria, whether by a regime victory or partial power sharing between the latter and the opposition or a new Syrian government, Syria's society will likely have fundamentally changed. The social contract amongst Syrian citizens has already been threatened and destabilised by the violence and the infiltration of regional and international Muslim fundamentalist and Islamist factions into the social fabric of the country. Deep schism amongst the Syrian population, known for its fragile sectarian composition, will be a likely effect. Therefore, the re-thinking of Syria's social contract should not be left to those international NGOs with little knowledge of Syria and political actors with entrenched geopolitical interests, but rather to the Syrians themselves if an 'Iraqization' of Syria is to be avoided.

When the time comes to deal with the violence, the violations of human rights, and the alleged war crimes and crimes against humanity in Syria, classical mechanisms of Transitional Justice will be confronted with many challenges. These challenges present clear obstacles to any potential mechanism supposed to live up to the illusion of international standards and best practices that have emerged with respect to the concepts of truth and justice in post-conflict reconciliation.

3. Who to incriminate in Syria?

According to the dominant strand of the current political discourse of the western international community and to some Syrian actors influenced by the emergence of Transitional Justice as a key political concern, a criminal justice solution should be sought in Syria whereby President Bashar El Assad, and lead figures of his regime, are brought before an interna-

tional or national tribunal to account for the allegations of serious crimes under international law which are stacking up against him. What is missing from this discourse, and in order to ensure impartiality of justice, is greater discussion of the alleged crimes committed by forces opposed to Assad's regime. This includes the culpability of 'external actors' such as regional leaders in the alleged perpetration of those crimes under the banner of the 'Revolution in Syria'. A significant question-mark remains as to whether the same actors pushing for criminal justice against the Assad regime would contemplate looking into the role of, for example, the leaders in Saudi Arabia, Qatar, Turkey and/or other Muslim regimes, often allies to the west, known to be funding and supplying arms to the 'Revolution' and other Islamist fundamentalist groups.

Elements of the United Nations are starting to more explicitly and publicly recognise the potential culpability of external actors who exert influence over Syria and the fact that they have to respect international humanitarian law. For example, the United Nations' independent 'International Commission of Enquiry on the Syrian Arab Republic' states that actors should not authorize the transfer of arms "if there is a risk that they will be used in the commission of crimes against humanity or war crimes". However, the track record of compliance by the United Nations declarations and resolutions on behalf of state and non-state actors in a conflict remains timid.

The international community remains divided with respect to the nature and content of a peace agreement for Syria, by which they intend to put an end to the on-going bloodshed. The political polarization between the United States, Europe and Turkey on the one hand, and Russia, China and Iran on the other, influenced by divergent geopolitical interests, creates a complex political situation at both the international and Syrian level that adds to the complexity of the conflict. On the ground, the complexities run deeper, since many religious factions (armed Muslim fundamentalists) enjoy the support of neighbouring countries and regimes, the nationals of which have infiltrated these factions.

Existing alongside the stark geopolitical context and as it is often the case when debating transitional justice mechanisms; many voices are starting to emerge warning that transitional justice in Syria should not be limited to criminal prosecution alone. The full scope of transitional justice's four pillars of Truth, Justice, Reparations and Non-Recurrence (TJRNR) could be partially implemented in Syria. It seems possible, and out of political realism and entrenched interest, that it will be limited to a partial truth-telling process resembling a box-ticking exercise, some form of reparations, and suspended measures of non-repetition, but most of all an on-going albeit non-progressing debate on punitive justice.

So far, the current debate on transitional justice in Syria is divorced from the geopolitical context that shapes the conflict, meaning that any eventual process of transitional justice will be significantly hampered by failing to engage with the interests of powerful external and internal actors. Could justice be done in Syria without discernment in a process subjecting all alleged perpetrators to a judicial process? This is unlikely to be the case since most of the actors involved in the conflict are far from incriminating themselves and overtly admitting their roles in the ongoing regional war. Moreover, the establishment of an international judicial mechanism, by means of which multinational Jihadist fighting in Syria under the banner of a radical Islam, is forced to stand for trial, is like to fail. A clear precedent to the failure of such a scenario is well demonstrated by the refusal of Hezbollah to deliver four of its members who are accused of the assassination of the former Lebanese Prime Minister Rafic El Hariri to the "Special Tribunal for Lebanon. Question remains whether the sovereign Lebanese State or any other international body could force the heavily armed Hezbollah to comply by national or international universal jurisdictions?

Any judicial process, be it national or international, to be established after the cessation of hostilities is not likely to be comprehensive since it necessitates a sovereign Syrian State. The chances are rather higher for an instrumentalised and politicised process where global powers seek to assign blame, and politically sanction actors they seek to remove from the post-conflict picture according to their own geopolitical interest. Ultimately, whoever wins the war, together with a hugely partisan international community, will determine if and what sort of justice will be implemented in Syria. Should the war end with 'no winner and no loser', then the scenario of a confederated Syria will prevail and seeking justice will become more complex in a divided country. The 'no winner and no loser' scenario could also mean a coalition government between the regime and the opposition and the risk of granting mutual impunity amongst the new ruling elite will grow, thereby delegitimizing the sovereignty of the state and with it any impartial dealing with the past.

4. Multiple forms of justice and international will – the Syrian case in light of African and Asian experiences

The history of international criminal justice suggests that Transitional Justice in Syria could easily become synonymous with 'victor's justice', 'selective justice', 'forgotten justice' or at best 'delayed justice', influenced by international political will and entrenched geopolitical interests.

A striking example of the 'victor's justice' can be illustrated by the "International Criminal Tribunal for Rwanda" (ICTR). According to Klaas de Jong, "during the period that Carla Del Ponte (1999-2003) was the ICTR's prosecutor, the government of the Rwandan Patriotic Front (RPF) - the military victor of the war which ended the genocide - managed to effectively block investigations and prosecutions of war crimes and crimes against humanity committed in 1994 by members of the RPF's military wing". It should be highlighted that this kind of investigations and prosecutions was part of the Tribunal's mandate along with the prosecution of perpetrators of the genocide against the Tutsi population. This has perpetuated mistrust between the Hutus and Tutsis in Rwanda even if this is not publicly articulated due to the impossibility of recognition of victimhood for the Hutu group by the current Rwandan government.

Moreover, an example sometimes cited of 'selective justice', subject to international political will and interests, is the conviction of Former Sierra Leonean President Charles Taylor for his role in his country's civil war (1999 to 2003), juxtaposed to Henry Kissinger's role in the conflict in East Timor following Indonesia invasion in 1975. Despite new unclassified documents incriminating Kissinger and the Ford administration in the East Timor invasion, which resulted in the death of hundreds of thousands, neither the former Secretary of State who denied all allegations nor any of his administration were ever brought to justice.

'Forgotten justice' is synonymous with 'amnesty', 'amnesia' or 'impunity' and examples are numerous from around the world where no criminal justice of any kind was established in post conflict countries or it was delayed. Burundi, which saw its own ethnic conflict along similar divisions to Rwanda, is yet to establish its "Truth and Reconciliation Commission" (TRC) and a "Special Tribunal" as was agreed would be implemented during the Arusha Peace Accords in 2000. The envisaged TRC for Burundi is considered by many to be tailored made to accommodate the ruling elite's interest more than the one of the population. The Burundian ruling party maintain that a punitive justice process for all the committed atrocities since 1962 will only destabilise the achieved peace since the Arusha Accord. Therefore under the current political situation, pardon for all alleged perpetrators of crimes seems to be the only choice to the current government as a mechanism for transitional justice in Bu-

rundi. Therefore, it is feared that Burundi will be subjected to forgotten or at best delayed justice.

The answer to the critical question as to why Rwanda managed a process of criminal justice, even flawed as considered by many, unlike its neighbouring country Burundi could be found in the 'feeling of shame' on behalf of the international community for their intervention or lack of intervention in the 1994 Rwandan genocide and their unconditional support to the Rwandan government, victor of the war, who decided on such a process.

The abovementioned examples demonstrate that the establishment of any form of criminal justice on behalf of a political elite accused of war crimes and crimes against humanity during the conflict could only lead to a bias justice and vendetta. In Syria it might lead to a defragmented society and a confederated nation in a country that is already suffering from sectarian fragility. According to Habermas and William Rehg the "trust in any new emerging state or guarantor of a transitional justice process and amongst the citizens themselves as well as recognition of victims' rights to punitive justice", regardless of their current allegiances, is basic requirement for a successful transitional justice and Syria makes no exemption to the rule. 'Selective', 'victor's' or 'forgotten' justice in Syria will most likely only contribute to the building of a negative peace far from achieving true and genuine reconciliation amongst the population. Moreover, it will increase the possibility of perpetuating the civil war, as is the case in Iraq, Afghanistan and even in Libya.

As time passes, the population will get weary and disillusioned by the establishment of transitional justice processes and lose faith in the genuine delivery of justice if the process is seen as being either 'selective', 'victor's justice' or 'forgotten-delayed'. The Burundian case supports this opinion where many victims have given up on the possibility of punitive justice due to accumulated mistrust from the failures of successive governments. Moreover, a considerable number of victims are in favour of pardon if coupled with financial reparations for their losses or due simply to fear for their life if they are known to be calling for punitive justice, given the frail security situation and continuous extra-judicial killings. While the Burundian governmental budget mainly relies on international aid, the international political will remains lacking in bringing about comprehensive justice in a post-conflict state under the pretext of not having any political leverage on the ruling elite.

It is too early to foresee Syria's type of justice process given the conundrum of geopolitics it finds itself in at such a crucial moment of its conflict. The international political realities and the national and regional dynamics of the conflict do not offer the minimum of reassurances for a future comprehensive justice. It would be more realistic to explore a 'delayed justice' for Syria, as was the case for Argentina.

5. What lessons can Syria learn from the MENA region?

Criminal justice as sponsored or promoted by the West and their political allies

To date, and particularly since the US-led Iraq war in 2003, western driven criminal justice in the Middle East provides little reassurance for Syria that the West will for its part guarantee a comprehensive and rounded treatment of past atrocities. In the case of Saddam Hussein, the former Iraqi president was given a prejudicial and partial trial and was executed by hanging even before the closure of the trial. The former Tunisian president Ben Ali continues to escape punishment and currently resides without danger in Saudi Arabia, a Western ally, in spite of verdicts in national courts against him. Another alarming failure in transitional justice is the US and Saudi sponsored deal-granting immunity to Yemenite President Ali Ab-

dullah Saleh in exchange for a transfer of power after the popular revolt against his regime in 2011.

The West's record does not improve in Lebanon where the Special Tribunal for Lebanon, set up by an agreement between the UN and a partisan Lebanese government at the time, is regarded by approximately half of the population as being a tool in the hands of the West either to bring down the Assad regime or the Lebanese pro-Syrian and Iranian-backed Hezbollah. Other examples of inadequate Western backed approaches to justice in the Middle East include the dubious assassination of Colonel Gaddafi by the western-backed rebels and the reaction to the killing of Osama Bin Laden when president Obama declared that "justice has been done". These raise serious questions about the notion of 'justice' being sought in Syria should it be subjected to the standards of some selective western values of justice driven by geopolitical interests.

Justice's applicability in a culture of 'coups d'état' and the disillusioned euphoria of the Arab Spring

On a societal level, the heavy precedent of coups d'état and its residue on the citizen in the Arab Middle East is undoubtedly a major obstacle to criminal justice aimed at dealing with the past. This is not to argue that the Arab Spring revolutions were in fact mere coups d'états but rather to question the viability of the Arab Spring revolutions' to comprehensively and through institutions deal with the atrocities of the past. If we consider the pattern of ousting dictators by military intervention in the Arab world's socio-political culture and practice, led by a general or an officer, only for that officer to become himself the new dictator, then one may question the feasibility of criminal justice in such contexts and the needed responsiveness of the population for its legitimacy. In the case of Egypt, it remains to be seen if the President Abdel Fattah el-Sisi, ex commander-in-chief of the Egyptian army, which ruled the country during the revolution and played a major role in ousting the democratically elected president Mohammed Morsi, will be an effective guarantor of transitional justice that comprehensively deals with the past violent events.

The experiences of other Arab states in the Arab Spring are likely to offer non-transferable or negative rather than positive lessons for Syria. To begin with, the development of the conflicts and violence in Tunisia, Egypt and to some extent Libya were different from that in Syria. In the former countries, violence was committed by the regime against a population that was clamouring for institutional reforms and demanding the end of decades of dictatorship. The vertical nature of these conflicts remained true for much of the violent period. Such differences between the Syrian conflict and the transformations of regimes in other Arab states are likely to complicate possible lessons learnt for Syria when it eventually deals with the past except for Libya. Furthermore, other Arab states' record of dealing with the past after their transformations, especially with the revolutionaries of Libya turning into rebels operating outside the sovereignty of the State, are not very encouraging.

The Arab world, rule of law and transitional justice

The interrelation between the establishment of rule of law and transitional justice, as pointed out in the Report of the "Special Rapporteur on The Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence", Pablo De Greiff, requires deeper analysis from which lessons can potentially be drawn for dealing with the past in Arab countries. Most of these countries, if not all, have not experienced a tradition of genuine rule of law, based on the western normative values, prior to the Arab Spring and the possibility of establishing it in the post-revolution era is proving to be slim, if not impossible, given the widespread in-

fluence of religious Islamic fundamentalism in the region. Be it in Iraq, Libya or even in Syria, some of the armed groups are establishing their own judicial system based on their interpretation of the Sharia', reportedly brutally executing many people in doing so. This constitutes an extreme contrast with the basic values of rule of law or any meaningful criminal justice to be implemented in Syria in the near future should the fundamentalist gain grounds or subject specific zones of the country to their system of governance.

Although Tunisia managed the adoption of a much applauded transitional justice law on December the 15th, 2013 after three years from the beginning of its revolution, this is still to be put to the test especially when it comes to the establishment of the "Council of Truth and Dignity". Furthermore, the nature of the violence and the international political complications in Syria remain different from the case of Tunisia.

It is feared that more time should elapse before Arab countries could establish a genuine transitional justice process based on strong rule of law that is yet to be understood and upheld formally to a satisfying degree both on a societal and institutional level.

Based on this analysis, diversity of armed and ideological fundamentalist actors in Syria and international political interests, the Arab Spring's experience with dealing with the past might not be relevant or beneficial to Syria. Instead, the Lebanese experience could be examined for lessons learnt and especially a list of what 'not to do' in the Syrian context.

6. The Lebanese case and what 'not to do' in Syria

Lebanon has experienced cyclical violence since 1840, the most brutal period being from 1976 to 1989 when the "Ta'ef Peace Accord", which ended the war, was signed. Much like the Syrian on-going war is unfolding and not how it started; the Lebanese civil war had complex dimensions combining national, regional and international dynamics and players. International and regional political entrenched interests were played out in the country during its civil war and often contributed to the prolongation of the war and to some great extent to the present day. However, international and regional forces ultimately ended the war with a peace agreement based on the concept of: 'No Winner and no Loser'. The "Ta'ef Peace Accord", ultimately signed by the same political elite who presided over and influenced the civil war or who represented those militias involved in the violence at that time, did not adopt any Transitional Justice measures for dealing with the past or bringing those culpable for crimes to justice.

Following the peace accord all of the warlords in the country were granted a general conditional amnesty following a 1991 law often referred to by critics as 'state-sponsored amnesia'. The amnesties are valid for each warlord's whole life provided they do not commit any criminal act in the future; otherwise they will be prosecuted for all of their crimes including those committed prior to the peace agreement. This suspended and conditional criminal justice in retroactive has facilitated the re-emergence of the same political elite that presided over and perpetuated the civil war. No formal processes of truth-telling or reconciliation were envisaged during the peace accord or afterward, meaning the current political elite has not been held accountable for their crimes. Moreover, no national initiatives for memorialisation were planned; and no vetting and lustration were instituted in Lebanon, allowing major warlords known to have committed atrocious massacres to become ministers of Financial Reparations for Victims and Displaced as well as Ministers of Justice. The Lebanese "Ta'ef Peace Accord" of 1989 is seen by many observers as an agreement with international sponsorship to put an end to the violence and not to institute for measures to deal with the past. As a result, Lebanon forfeited its chance for an effective process of transitional justice and finds itself in a continuous cycle of violence, albeit not in a state of civil war.

Many western and Arab, academics, commentators and even politicians are entertaining the idea of a Syrian tailored made Ta'ef accord to end the violence and set the blue print for a new, peaceful, Syria. Syria's complex sectarian imbalances and tradition of a socialist-based system of governance that survived for decades before the war would make the feasibility of such an accord difficult. From the perspective of Transitional Justice, such an accord would not comprehensively deal with the past and would likely give amnesty to warlords that have committed war crimes and crimes against humanity.

The "Ta'ef Peace Accord" for Lebanon in 1989 and similarly the General Framework Agreement for Peace in Bosnia and Herzegovina (known as the "Dayton Accords") were considered as 'construction of necessity' to end the violence. Both accords were driven by a consensus from the international political community, mainly the United States of America and Russia, whereas today these two opposed actors do not share the same interest and vision for Syria and a compromise on Ukraine and Iran amongst them is yet to be generated.

When the international community maintains pressure and crucially has the political will, a criminal justice process has been achieved, as with the case of the former Yugoslavia with the creation of the controversial "International Criminal Tribunal for former Yugoslavia". Unfortunately the same political will was not present to allow for a similar criminal justice process in Lebanon and national actors were not willing to incriminate themselves. It was only until the geopolitical interests of some western countries were threatened, when the former Prime Minister Rafiq El Hariri was assassinated in 2005, that the political will of those international actors surfaced and as a result the disputed Special Tribunal for Lebanon (STL) was created. Its limited leverage, however, in trying to bring non-state armed groups like Hezbollah to comply by national or international universal jurisdictions was already stressed above.

7. Conclusion towards reflection

This essay is not intended to formulate recommendations for the best transitional justice process in Syria but is rather a reflection on a series of challenges as shown above in order to contribute to the necessary context informing the decision making around eventual strategies to deal with post-conflict justice in Syria.

On a political negotiation level

The challenges ahead for reaching any peace agreement for Syria between the opposition and the regime are enormous let alone the challenges for reaching a common consensus on mechanisms of dealing with the past in general and justice in particular. One of the many complications is the fact that various parties in the conflict are each using the pretext of fighting terrorism according to their own understanding and agenda. The Syrian regime continues to view the conflict as a fight against multinational Islamist terrorist groups. Concurrently, the opposition describes Hezbollah and DAESH as terrorist organisations yet it finds itself often fighting alongside 'Nassra'. This will likely complicate a criminal justice process, as terrorist groups do not easily respect the rules of engagement in a lawful war. Alongside this, the Syrian regime's unmeasured violence which continues to causes the killing of thousands of civilians will beyond any doubts be justified by the regime as fighting terrorism and safeguarding the Syrian nation from the widespread of Islamist trends.

While it may not yet be the ripe moment to discuss necessary institutional reforms for dealing with the past in Syria and combating impunity for past crimes, the mediators and international actors should at the very least start envisaging a blueprint for these crucial issues and have them ready to be included in any peace agreement as an integral part prior to its

signature. Creativity should be demonstrated when it comes to figuring out how the framework of international or national law will deal with terrorists, freedom fighters and regime forces, should the decision be taken to make punitive justice prevail in Syria or beyond its borders.

On a national level

Meanwhile, the investigation into grave human rights violations should continue and documentation of crimes should be conducted in a transparent and unbiased manner. So far, and according to many sources, the investigation and documentation process in Syria does not meet basic international requirements of impartiality. The military reality and ferocious battles does not allow for freedom of movement to the UN's "Independent International Commission of Inquiry into human rights violations in Syria" and as a result the testimonies are limited to those of refugees outside of Syria and some human rights groups within the country. Furthermore, and while many crimes committed by the regime are without doubt considered as war crimes and crimes against humanity, especially when it comes to the alleged use of chemical weapons, barrel bombings and obstructing humanitarian urgent aid, the opposition with its military branch the Free Syrian Army and their allies must also admit their war crimes to be punished by international or national law. The logic of "disproportionality between the number of crimes committed by the regime and the ones by the opposition factions", as argued by a lead figure of the opposition, should be categorically refuted if the process is to be impartial and bring justice to all victims regardless of their political allegiances.

An impartial and unbiased documentation will allow a fair process of criminal justice, should it be put in place, and be it national or international, and evidence must be preserved through the United Nations agencies or others for eventual corroboration of facts, in order to guarantee the support of the population which has become polarized between loyalists and the opposition.

On an international level

The international actors must and should manage the expectation of the Syrian opposition in order to grant it more legitimacy and impartiality and avoid future disappointment that might have a considerable impact on the population in a later stage should Syria finds itself partially or even completely ruled by the present regime. Given the intense power politics in which the Syrian conflict is being plunged into and the fact that a political deal pushing for a coalition government between the Assad regime and the opposition remains a high possibility, channels of dialogue between the two parties must remain open and should be encouraged by international actors. The engendering of a nationally owned process of transitional justice in Syria is unlikely to be reached if one is to consider the power politics and the various proposed scenarios for a political settlement to end the crisis. A blueprint of a series of transitional justice measures could be explored and might vary from lustration and vetting

Links & Literature

[Independent International Commission of Inquiry on the Syrian Arab Republic](#)

[Syria Justice and Accountability Centre](#)

[The Syrian Observatory for Human Rights](#)

[Violation Documentation Center in Syria](#)

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Paul Seils | ICTJ Briefing | 2013

[Promotion of truth, justice, reparation and guarantees of non-recurrence](#)

Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

on a security forces level, be it within the regime's or the opposition's security apparatus, a strategic vision for financial reparation taking into account the interrelation between transitional justice and post conflict economic development, and most of all a mechanism to allow for truth-telling.

The sequencing of transitional justice measures for Syria, the adoption of an integrated approach and the management of the expectations of both the population and the concerned actors will be a major challenge to be overcome in the country. While it is largely the responsibility of the Syrians themselves to overcome these obstacles and to choose what is most adaptable to their social fabric and realities in terms of dealing with the past, it is essential that the international community exhibits more transparency and political will to support the Syrians with this challenge.

If impartial and comprehensive criminal justice remains an implausible goal at present – whether owing to national interests or international dynamics – then the international and national actors within Syria may take some lessons from the political realities and other Arab and international experiences and at least begin to contemplate additional, alternative and complementary initiatives for truth and justice otherwise the complex, highly polarised context risks becoming further entrenched.

“A horse, a horse, my kingdom for a horse!” is what King Richard the Third in Shakespeare's play cried out when escaping the battle ground fighting for his kingdom just before being killed without trial for his crimes and atrocities. It is feared that in Syria the ruling regime and other involved external and national actors, including the opposition, will be granted the 'horse of impunity and amnesty' in exchange for a settlement over power or a certain power sharing formula.

The West, if dictated to its geopolitical interests, could support impunity for its allies and their role in the destruction of Syria will go unpunished for decades. Precedents of such an eventuality were clearly illustrated in this essay. The challenge in Syria comes down to not enshrining the 'horses of impunity and amnesty' in any political settlement or proposed institutional reforms under the pretext that peace prevails over justice.

Author

Selim Mawad is a Consultant on Peacebuilding and Dealing with the Past, Executive Director of the Sustainable Democracy Center - Lebanon and former Impunity Watch Great Lakes and MENA Region Coordinator.

Imprint

Working Group on Peace and Development (FriEnt)
c/o GIZ, Godesberger Allee 119
53175 Bonn
Tel. +49 (0)228 24 934 343
info@frient.de
www.frient.de/en
www.twitter.de/FriEnt_news

Responsible under German Press Law: Natascha Zupan

Author: Selim Mawad
Editors: Marc Baxmann, Bodo Schulze

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