

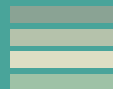
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The State of Justice Syria 2021

Syria Justice and
Accountability Centre



The State of Justice Syria 2021



Syria Justice and Accountability Centre (SJAC)
March 2021

About the Syria Justice and Accountability Centre

The Syria Justice and Accountability Centre (SJAC) strives to prevent impunity, promote redress, and facilitate principled reform. SJAC works to ensure that human rights violations in Syria are comprehensively documented and preserved for use in transitional justice and peace-building. SJAC collects documentation of violations from all available sources, stores it in a secure database, catalogues it according to human rights standards, and analyzes it using legal expertise and big data methodologies. SJAC also supports documenters inside Syria, providing them with resources and technical guidance, and coordinates with other actors working toward similar aims: a Syria defined by justice, respect for human rights, and rule of law. Learn more at syriaaccountability.org

SJAC would like to thank The Syria Campaign for their contribution of the “Survivors and Families Activism” section to this year’s report.

*The State of Justice in Syria, 2021
March 2021, Washington, D.C.*

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*Cover Photo — A fuel line in Homs, January 2021
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ACRONYMS

BOI	UN Board of Inquiry
COI	UN Independent International Commission of Inquiry on the Syrian Arab Republic
ECtHR	European Court of Human Rights
FRT	First Responders' Team
HLP	Housing, Land, and Property
HTS	Hayat Tahrir al-Sham
ICC	International Criminal Court
IDP	Internally Displaced Person
ICJ	International Court of Justice
IIIM	International, Impartial and Independent Mechanism 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
IHL	International Humanitarian Law
ISIS	Islamic State of Iraq and Syria
OPCW	Organization for the Prohibition of Chemical Weapons
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OFAC	Department of Treasury's Office of Foreign Assets Control
PPE	Personal Protective Equipment
SAA	Syrian Arab Army
SDF	Syrian Democratic Forces
SJAC	Syria Justice and Accountability Centre
SNA	Syrian National Army
UJ	Universal Jurisdiction
UN	United Nations
UNCAT	United Nations Convention against Torture
UNSC	UN Security Council



Executive Summary

Executive Summary

March 15, 2021 marks the tenth anniversary of the conflict in Syria. While small steps towards pursuing justice for survivors of human rights abuses have begun, there is still a long road to achieving justice and accountability for Syrians.

Globally, 2020 was marked by the novel COVID-19 pandemic. By the end of the year, inadequate testing, as well as obfuscation in government reporting, did not permit an accurate estimation of case numbers. While the response has been varied in different areas of Syria, concerns over insufficient test kits, lack of personal protective equipment (PPE), limited access for humanitarian aid, and a weakened and overwhelmed healthcare infrastructure point to worrying signs of underreported cases. Bashar al-Assad and the Syrian government share responsibility for the situation due to the continued targeting of healthcare workers and hospitals.¹ Compounding the challenges posed by COVID-19, Syria continued to face conflict, economic woes, and human rights abuses.

In northern Syria, Russia and Turkey agreed to a ceasefire in March 2020 following hostilities that decimated civilian infrastructure and caused widespread displacement. There were increased attacks by Syrian government forces in November and December while Turkey withdrew from military posts in Idlib. In 2020, the United Nations Independent International Commission of Inquiry on the Syrian Arab Republic (COI) highlighted violations committed by all parties to the conflict in Idlib. Investigations into these violations of International Humanitarian Law (IHL) is one step towards accountability, but all parties must prioritize the protection of civilians.

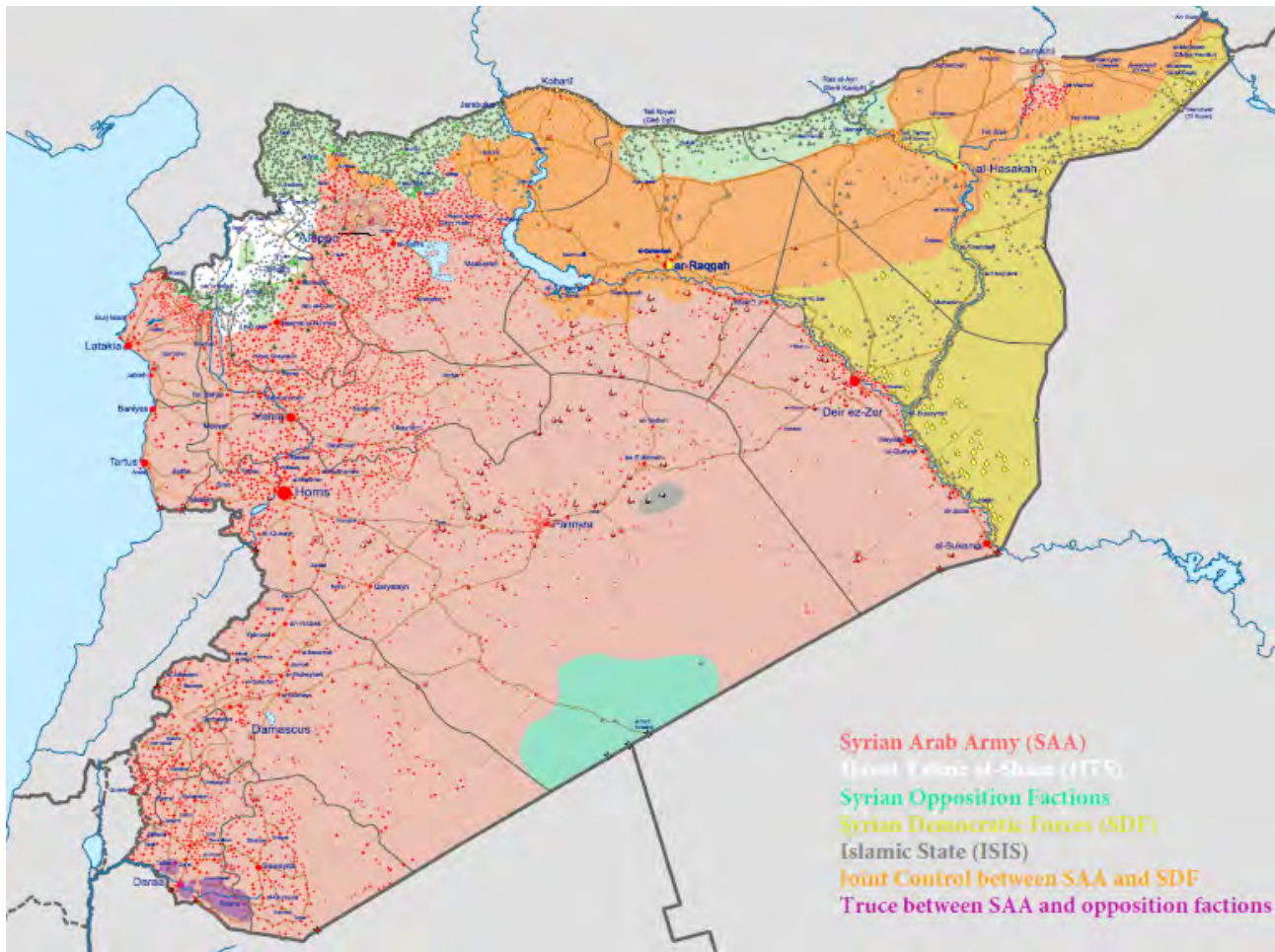
In the Northeast, conditions in Al-Hol camp continued to deteriorate, as foreign governments remained hesitant to repatriate former ISIS fighters and their families. Despite slow repatriation efforts, the Syrian Democratic Forces (SDF) have taken steps to close Al-Hol and Roj camps by releasing detainees. Meanwhile, murders in Al-Hol rose in 2020 and the security conditions continued to

deteriorate. Tentative justice efforts for former ISIS fighters began with announced trial dates and amnesties, but concerns over due process, judicial procedures, and reintegration remained. Disjointed participation by local authorities has complicated missing persons investigations, but the exhumation and investigation of ISIS graves by the First Responders' Team (FRT) continued to make progress throughout the year.

Wheat and fuel prices soared in government-controlled areas leading to widespread shortages and inflation. The Syrian government's refusal to cooperate with the international community, the absence of PPE, and the lack of widespread mask-wearing contributed to the spread of COVID-19. The Syrian government has continued pursuing rezoning plans while failing to uphold housing, land, and property rights in addition to its own policy to rehome or compensate displaced residents. Dissent and opposition in government-controlled areas, like Daraa, sparked violence that belies the Syrian government's assertions of control.²

Syrians abroad also felt growing economic and political pressures fueled by Lebanon's banking crisis, COVID-19, and movement restrictions. Turkey, in violation of the principle of *non-refoulement*, deported over 16,000 Syrians to Idlib in 2020.³ European states, such as Greece continued a policy of refugee pushbacks, while others, like Germany and Denmark, considered whether to designate Syria as safe for refugee returns. Growing xenophobia throughout Europe fueled the establishment of anti-refugee policies.

Under universal jurisdiction, European war crimes units and courts investigated cases to hold individuals responsible for atrocities committed in Syria. This included the trial of Anwar R. and Eyad A. in Koblenz, Germany, which began in April. In September, the Netherlands began the process of bringing the Syrian government before the International Court of Justice (ICJ) for violating the UN Convention Against Torture (UNCAT). Complaints lodged at the International Court of



Areas of control, Feb. 2021 © Wikimedia Commons.
This map is intended for a general overview. SJAC has not independently verified its veracity.

Justice and the Organization for the Prohibition of Chemical Weapons (OPCW) show progress in accountability, but they remain largely symbolic and lack significant remedies for victims. In the U.S., two ISIS members nicknamed the “Beatles,” were charged and face trial in 2021. Though promising, universal jurisdiction cases remained largely focused on low-level perpetrators.

European countries and the U.S. continue to expand their sanction regimes against the Syrian government. The U.S.’ Caesar Syria Civilian Protection Act (Caesar Act) entered into force in June 2020, expanding the imposition of sanctions on the Syrian government and third-party entities supporting the government. The EU adopted a new human rights sanctions regime focused on targeting individuals. As the Syrian economy deteriorates, concerns increased over the impact of sanctions on civilians and the lack of sufficient humanitarian exceptions.

Throughout 2020, Syrian civil society led the push for justice and accountability. Despite risks in documenting human rights abuses and war crimes, documenters continued collecting and preserving evidence. To support the capacity of documenters, SJAC launched an open-source software, *Bayanat*, and released a documentation training platform in Arabic. Throughout the year, Syrian activists tirelessly advocated for information on missing persons and greater accountability for human rights abuses committed against the Syrian people. Despite COVID-19 restrictions, families of missing and former detainees adapted their campaigns to raise the issue of missing persons online, such as the “Searching for Truth After ISIS” campaign and media outreach. Ten years into the conflict, Syrians continue to push for justice and to call for renewed international attention.



Introduction

Introduction

The “State of Justice in Syria, 2021” is the Syria Justice and Accountability Centre’s (SJAC’s) annual report for the purpose of highlighting key violations from 2020 and mapping different pathways to accountability, including universal jurisdiction and documentation of violations. This report provides an update on human rights violations in Syria and justice efforts while reflecting on ten years of conflict in Syria and the shifting dynamics and challenges of 2020.

By providing an overview of ongoing violations committed throughout Syria and their impact on the Syrian diaspora, SJAC aims to bring attention to the most pressing justice issues and concerns among Syrians. In the second half of the report, SJAC highlights the gaps and opportunities in transitional justice processes. Recommendations on addressing these gaps and rectifying ongoing violations conclude the report as a call to action for international actors, United Nations entities, and the human rights community.

As March 15, 2021 marks the tenth anniversary of the start of the Syrian conflict, cynicism and conflict fatigue mitigate hopes for peace and justice. Those who have committed the most widespread violations remain in the Syrian government and international powers continue to jockey for control. Despite these challenges, SJAC and fellow Syrian civil society actors continue documenting crimes, advocating for justice, and supporting judicial processes. The “State of Justice in Syria, 2021” provides an overview of violations that are yet to be fully addressed while putting the work of transitional justice in accessible language to solidify an understanding of accountability mechanisms with the long-term goal of holistic justice for Syrians.



Violations

Violations

Turkish Violations

On September 15, 2020, the COI issued its 21st report on the situation in Syria.⁴ The report provided an overview of recent violations by all parties to the conflict, including violations by Turkish-affiliated forces in Northern Syria. The report's focus on Turkey, which was met with protestations by the Turkish government, is based on strong evidence and reflects recent changes in the conflict.⁵

In 2020, Turkey and the Syrian National Army (SNA) became two of the main actors in Syria, due to the withdrawal of some U.S. forces in October 2019 and Turkey's subsequent "Operation Peace Spring." Turkish President Erdogan sought to create a 30 kilometer wide "safe zone" along the Syrian-Turkish border, remove the SDF presence, and create a resettlement zone for Syrian refugees currently residing in Turkey.⁶ However, the COI report found that Turkey was aware of war crimes and violations of humanitarian law committed by the SNA in regions under Turkish control. According to the report, Turkey not only failed to investigate these instances but instead formed a joint hierarchy and command structure with the SNA. In addition to Turkey's obligation to ensure adherence to international law in regions under its control,⁷ a joint hierarchy would give rise to criminal liability for those in the Turkish army who knew about the violations committed by the SNA.

Turkey has an obligation under international law to investigate human rights violations within its ranks and within the ranks of the armed groups it is supporting. Such investigations must be carried out per international human rights and fair trial standards and conducted transparently. The international community should support Turkey in fulfilling its obligations under international law, especially concerning detention facilities in the region controlled by Turkey. These facilities are overcrowded with alleged perpetrators, including families with minors, most of whom are affiliated with SDF, who have no prospect for a fair trial in the foreseeable future.⁸

In addition to the Turkish violations described in the COI report, Turkey has also effectively hindered humanitarian assistance from entering Syria. Reports by the United Nations detailed that as of December 2020, only five out of twenty border crossings from Turkey to Syria are open for humanitarian assistance.⁹ Furthermore, those that are open are strictly regulated, allowing only select organizations to enter Syria. NGOs have publicly called on Turkey to expand humanitarian access to Syrian regions under Turkish control.¹⁰ However, Turkey has maintained its practice,¹¹ which has particularly severe impacts on the population in the region in the context of the ongoing pandemic and flooding which hit the internally displaced persons (IDP) camps several times in 2020.¹²

Victims of violations in areas under Turkish control are encouraged to explore all avenues to seek justice and accountability for crimes and human rights violations arising from the Syrian conflict, including before the European Court of Human Rights (ECtHR).¹³

Attacks on Civilians

In Idlib, advancing military campaigns by Syrian and Russian forces continued to spur mass displacement, further exacerbating already dire humanitarian conditions. The early 2020 military assaults led to the displacement of nearly one million people.¹⁴

From December 2019 to March 2020, over 200 schools in the northwest were damaged or abandoned due to ground and air shelling.¹⁵ Despite the March 2020 ceasefire, air shelling and car bombings continued to kill civilians, including children throughout the year. Damaged hospitals either halted services or had to relocate to treat patients.¹⁶

In April 2020, the UN's Board of Inquiry (BOI) report on 2019 hospital attacks in Idlib revealed that the Government of Syria, and to a lesser extent opposition forces, were responsible for attacking deconflicted hospitals.¹⁷ Through the UN's deconfliction mechanisms, the coordinates of these



A Displaced Family in Idlib © Damascus Voice

hospitals were communicated to the Russian military as protected zones that could not be targeted. The specific hospitals investigated by the BOI had not been targeted before sharing their coordinates with the UN and armed parties.¹⁸ Not only did these attacks disrupt health services in the local areas, but they also weakened trust and confidence in the UN's deconfliction mechanism. The attacks were violations of international law and rules of armed conflict as they failed to ensure minimal civilian casualties and targeted protected civilian structures. However, the UN did not reach a clear conclusion regarding the role of Russia in the attacks,¹⁹ and the report failed to acknowledge the responsibility of the UN system in possibly facilitating such attacks.²⁰

In September 2020, the COI published an investigation into 52 emblematic attacks on civilian infrastructure by armed parties, "including 17 attacks impacting hospitals and medical facilities; 14 attacks impacting schools; nine attacks impacting markets, and 12 other attacks impacting homes."²¹ Independent investigations identified 46 ground and air attacks that were in direct violation of international humanitarian law.²² Reports into these attacks found that Syrian and Russian forces used cluster munitions, incendiary weapons, and barrel bombs indiscriminately and deliberately against civilians, hospitals, and markets.²³ As civilians and health infrastructure are protected under IHL, evidence of these acts amounts to war crimes and potential crimes against humanity.²⁴

In November, the UN Human Rights Council documented that Hayat Tahrir al-Sham (HTS), an al-Nusra affiliate, detained and executed civilians in Idlib who expressed opposing political views. Executions without due process could constitute war crimes.²⁵ HTS also participated in shelling highly populated areas in both Idlib and Aleppo with no apparent military targets, hitting civilians' homes and local hospitals.²⁶

Justice Issues in the Northeast

In the Northeast, thousands of former ISIS members and their families, including women and children, remained in limbo in Al-Hol and Roj camps in 2020. While some nations began repatriating a small number of their citizens, approximately 65,000 residents, including third-country nationals, Syrians, and Iraqis, face a dire humanitarian situation and deteriorating security conditions.²⁷

Over the past few years, Al-Hol has gained notoriety for overcrowded conditions, lack of sanitation, and barriers to healthcare.²⁸ Making matters worse, COVID-19 infections in Al-Hol increased humanitarian concerns. Residents also faced security concerns as the number of murders within the camp rose while security patrols decreased. These murders – fueled by revenge, tribal disputes, and ISIS activity – reignited concerns for radicalization.²⁹ In July, the SDF confirmed that smuggling networks ran through Al-Hol, including a Turkish intelligence operation that smuggled out a Moldovan woman

suspected of ISIS affiliation and her four children. This breach highlights protection issues within the camp.³⁰

Although some countries began repatriation efforts, many countries remained hesitant to repatriate their citizens. Concerns over national security and political implications left many third-country nationals stuck in Al-Hol and Roj. Lawsuits are increasingly being brought against these nations.³¹

Amnesties and Trials

In October, the SDF announced plans to close Al-Hol camp. They then released 289 Syrian women and children with the approval of local governments and tribal leaders and committed to eventually releasing 24,000 more. In November, the SDF released another 500 Syrian residents of Al-Hol who did not require tribal or local approval with offers to cut sentences in half.³² While the SDF has stressed that release is voluntary and that those released are vetted, there are concerns that large-scale releases will overwhelm communities, particularly if tribal sponsorship is lacking. Rehabilitation and reintegration processes are necessary to help former Al-Hol residents successfully integrate into society.³³ With a lack of resources, reintegration programs risk being abandoned or not created in the first place. Furthermore, survivors of ISIS crimes should be engaged in rehabilitation programs to ensure that justice is met for both parties.

In 2019, the SDF announced that it would begin trials of foreign fighters in 2020. Due to COVID-19 and lack of funding, the trials were postponed. However, in October 2020 the SDF said that the trials would begin with international monitoring in early 2021.³⁴

Weaponization of Water

The Allouk water station in Al-Hasakah is the sole source of water for 800,000 people and is the main water trucking source for several camps, including Al-Hol.³⁵ Access to this water station is granted by an agreement between the SDF, Turkey, and the Syrian government. Throughout 2020, this water station has experienced interruptions. The SDF and Syrian government have blamed Turkey for cutting off the water as a tactic to pressure the Kurdish authorities, while Turkey has accused the Syrian government of not providing enough electricity to the station and Turkish-controlled areas.³⁶ Under

international human rights and humanitarian law, all parties must avoid targeting indispensable infrastructure and should not use water as a tool of war or politics. As Allouk is vital for the civilian population, all parties must ensure that water continues to be accessible for those who rely on it.

Apology

In June 2020, the People's Protection Units (YPG) officially acknowledged wrongdoing and apologized for the 2013 Amouda killings. Calling it a catastrophe, the YPG admitted that the six civilians, who were protesting arbitrary detention of Yekiti Party members in Amouda, were unnecessarily killed.³⁷ Apologies serve as a symbolic form of transitional justice and can be important in helping communities move past violations and towards reconciliation. While the YPG's apology is an important step, changed behavior and reparations are necessary for the YPG to take full accountability for its violations.

Detainees and Enforced Disappearances

Enforced disappearance and the crimes committed at detention sites, including torture and sexual violence, continue to be among the most widespread violations occurring in the context of the Syrian conflict. These crimes not only target those detained, but also their families and communities who are left with no knowledge of their loved ones, often for years.

In 2020, arbitrary detentions and enforced disappearances continued at the hands of the Syrian government as well as non-state groups, including the SNA, HTS, and the SDF. Government arrests included returnees to reconciled areas, protesters demanding improved living conditions in Suwayda, and displaced persons returning from Rukban camp. While some of these individuals were released after short periods in detention, the fates of others remain unknown.³⁸ HTS continued to detain activists, journalists, and aid personnel for weeks or months in inhumane conditions.³⁹

In Turkish-controlled areas of northern Syria, the SNA continued to abduct and detain civilians, often for ransom. Kurdish civilians in particular were targeted for detention and suffered inhumane conditions within detention facilities.

“The Shadows of Surveillance”: SJAC obtained government documents confirming that Syrian embassies monitored Syrians abroad. In 2020, SJAC published the report “The Shadows of Surveillance: Government Documents Confirm Syrian Embassies Monitored Syrians Abroad” analyzing the documents.

In some cases, Syrian prisoners accused of committing crimes in Syria were detained and deported to Turkey, complicating family members’ attempts to stay in contact and possibly amounting to the crime of unlawful deportation.⁴⁰ The Syrian Democratic Forces continued arbitrarily detaining civil society workers and activists, particularly Arabs, perceived as critical of the local government.⁴¹ Meanwhile, the families of thousands disappeared by ISIS continued searching for their loved ones.

The onset of COVID-19 further raised concerns for detainees living in dirty and crowded prisons, leading the UN Special Envoy to call for the unilateral release of detainees,⁴² without any meaningful response. While individual prisoners were released on an ad hoc basis throughout the year, some of whom had been imprisoned for years, the total number of releases remains low and represents only a tiny percentage of the individuals who have disappeared into Syria’s detention facilities.

Justice requires the release of all those who are arbitrarily detained and the discovery of the fates of those who remain missing. COVID-19 has only heightened the need for international monitors to gain access to both government and non-state detention facilities. Families of the missing have the right to learn the truth about their loved ones and in the case of death, be given access to their remains and personal possessions.

Recruitment of Syrian Mercenaries

In 2020, governments began to pay Syrians to fight in armed conflicts in other states. This builds on the longstanding practice of various external parties to the Syrian conflict funding proxy forces in Syria, such as Russia’s cultivation of the Fifth Corps of the Syrian Arab Army. It was not until 2020, however, that the Turkish and Russian governments hired tens of thousands of Syrian fighters for interventions in conflicts outside Syria, in Libya and Azerbaijan.⁴³ The recruitment of Syrians for combat abroad shows

no signs of abating, although utilizing mercenaries is forbidden under international law and, as of December 2020, may have led to the deaths of hundreds of Syrians.⁴⁴

Dire humanitarian and economic conditions in Syria have made paid combat one of the only options for employment for thousands of men whose families are among the most vulnerable in Syrian society. Reports by Syrians for Truth and Justice revealed how Turkey and Russia took advantage of these conditions by recruiting Syrians through private security contractors, militia networks such as the Syrian National Army, and brokers who advertised mercenary work in IDP camps and marginalized provincial towns.⁴⁵ Particular SNA factions went so far as to recruit children for the Libyan conflict, although international criticism eventually compelled Turkey to crack down on this practice. Mercenary contracts promised wages far higher than those available in Syria, even as there were reports of wage theft and the withholding of compensation to families of those killed in combat. Finally, as mercenaries, Syrian fighters risk losing protections that are afforded to regular armed forces if they are captured or become refugees.

Syrian mercenaries abroad have, in turn, committed numerous human rights violations. In Libya, these violations included attacks on civilians, seizure of private property, and human trafficking.⁴⁶ Such actions echoed the war crimes that SNA fighters have committed in Northwest Syria since 2016.⁴⁷ Of course, Turkish, Russian, and other commanders giving the orders for these actions also bear criminal responsibility.

Several actors are responsible for helping put an end to the recruitment of Syrian mercenaries, which violated the UNSC arms embargo on Libya and the International Convention Against the Recruitment, Use, Financing and Training of Mercenaries.⁴⁸

Turkey and Russia should accede to the Convention and cease their recruitment of Syrian fighters. Libya, Azerbaijan, and Syria are already state parties to the Convention and must adhere to their obligations by ending their cooperation which facilitates the transfer of Syrian fighters. Additionally, the ICC’s open investigation in Libya means that Turkish and Russian officials and commanders could be subject to international prosecution for the conduct of Syrian mercenaries they are directing there.⁴⁹

The Syrian Government's Response to COVID-19

After persistent attacks through a decade of war, Syria's healthcare infrastructure was ill-equipped to respond to a global pandemic. This is a direct result of Syrian government policies to attack healthcare workers and infrastructure and efforts to divert humanitarian aid.⁵⁰ Furthermore, the Syrian government's unwillingness to acknowledge the threat of COVID-19 has hamstrung efforts to mount an effective response, leaving the population at greater risk of contracting the disease and dying.⁵¹ By the end of 2020, the government could no longer contain news of rising cases of the disease and the full extent of the damage was becoming more apparent.⁵² The Syrian government must acknowledge the full impact of COVID-19 and permit the impartial distribution of humanitarian medical aid and scientifically proven vaccines throughout the country. For its part, the international community should facilitate the provision of humanitarian assistance while maintaining economic sanctions on non-humanitarian interventions in Syria.

A History of Attacks on Healthcare, Health Workers and Humanitarian Aid

A 2020 study records 595 attacks on 350 different medical facilities in Syria since the start of the

conflict.⁵³ Investigative journalists have identified the Syrian government and their Russian allies as responsible for the vast majority of hospital bombings.⁵⁴ In April 2020, the BOI concluded that the deconfliction mechanism established to prevent the unintentional attack of protected objects, such as hospitals, was instead used for the targeting of those very hospitals.⁵⁵ At least 923 medical personnel have been killed as a result of these attacks causing many more to flee the country.⁵⁶ Moreover, healthcare workers have been subject to reprisals for treating patients who are not politically aligned with the government.⁵⁷ Diversion of medical humanitarian aid has further contributed to the decline of Syrian healthcare infrastructure.⁵⁸ The cumulative impact of the intentional targeting of hospitals and health workers is to deprive Syrians of access to basic healthcare and decrease the capacity to respond to a large-scale pandemic.

COVID-19 Response

The Syrian government has severely underestimated the impact of COVID-19, reporting only 10,442 cases of COVID-19 for all of 2020, including 630 deaths in government-controlled areas.⁵⁹ In August 2020, an independent source estimated at least 85,000 cases of the disease in the Damascus area alone.⁶⁰ The same source noted 19,692 cases (293 deaths) in the Northwest as well as 7,783 cases (260 deaths) in the Northeast at the end of the year.⁶¹ Due



to a shortage of tests and underreporting – at least in government-controlled areas – these numbers most likely understate the full impact of the pandemic in Syria by orders of magnitude.

Attacks on Syria's health infrastructure and aid diversion have left the country ill-equipped to respond to COVID-19.⁶² There is a shortage of personal protective equipment, restricted access to oxygen tanks, and basic medical care is only available to those who can afford it.⁶³ Volunteers looking to support the COVID-19 response using remittances to provide care, such as oxygen to those in need, have been targeted by mukhabarat (intelligence services), particularly for bribes.⁶⁴ Despite the deaths of several high profile government officials due to COVID-19, including the former prime minister, the government continues to play down the impact of the disease.⁶⁵

According to a doctor from the Syrian Ministry of Health, a major contributing factor to the outbreak is disregard for adherence to preventive measures, such as mask-wearing.⁶⁶ The Syrian government is in discussions with its Russian allies to obtain the Russian-developed Sputnik V vaccine "because they trust them more than Pfizer and other vaccines."⁶⁷ However, it is unclear whether Russia has sufficient supplies, the cost of the vaccines, or the vaccine distribution plan in government-controlled areas. It is also not clear which vaccine would be made available in the Northwest and Northeast. There is particular concern about a surge in COVID-19 cases in Idlib, as the population has ballooned with IDPs living in crowded, temporary housing.

Government Criminal-Responsibility

The Syrian government should be held criminally responsible for the death and destruction it has wrought by targeting hospitals and health workers, as well as for targeting opposition-held territory including objects that are specially protected by IHL, such as hospitals.⁶⁸ As the risks of COVID-19 became apparent in early 2020, the Syrian government should have taken measures to facilitate the provision of humanitarian aid by reopening border-crossings in Northeast and Northwest Syria.⁶⁹ Although Russia blocked UNSC resolutions to reauthorize these cross-border mechanisms, it was incumbent upon the Syrian government to unilaterally permit aid to flow.

Attempts to obfuscate the true number of cases or to control corrupt practices of mukhabarat prevented an appropriate response to the pandemic. Finally, a history of diverting humanitarian aid suggests that the distribution of COVID-19 vaccines will not be conducted impartially. Each of these actions creates risks of further contagion and possibility of further deaths of innocents attributable to Syrian government policies.

Forced Returns

In 2020, shifting national policies and anti-immigrant sentiment continued to endanger asylum protections for Syrian refugees across the Middle East and Europe. Syrian refugees in Jordan and Turkey were illegally forced to return to Syria, despite the threat of torture and death. Those in Europe saw their protections continue to erode.

By September, Turkey deported more than 16,000 people to war-torn Idlib via the Bab Al-Hawa border crossing.⁷⁰ Returnees fell into three groups: (1) individuals who illegally entered Turkey and were deported, (2) individuals who committed minor crimes or misdemeanors and were deported, and (3) individuals who voluntarily repatriated. Upon their return, deportees faced mistreatment or arbitrary detention from armed groups or danger to their person from indiscriminate attacks. Displaced persons along the Syrian-Jordan border also faced protection concerns as Jordan continued to transfer Syrians to Rukban Camp, leaving many individuals with no choice but to return to government-held areas out of desperation.⁷¹

In Europe, refugees faced increased threats to their asylum protections as anti-immigrant sentiment and continued "crisis" mentality led several governments to reassess their asylum criteria. The Danish Refugee Appeals Board confirmed the Danish Immigration Service's (DIS) decision to revoke or refuse to extend residence permits for many Syrian refugees from Damascus, despite the threats Syrians face upon their return.⁷² As a result, DIS and the Board have revoked and denied extensions of residence permits, though Denmark is not currently carrying out deportations to Syria because the two countries lack a repatriation agreement. Germany faced mounting pressure, including from its interior minister, to relax its ban on deportations to Syria following a knife attack by a 20-year-old Syrian refugee in Dresden.⁷³



Greek refugee camp © Jenny Bartsch

Greece continued to commit human rights violations against refugees, including forcible deportation to Turkey.

In November, Russia facilitated a two-day conference in Damascus on refugee return policies during which Bashar al-Assad cited Western nations as the predominant hindrance to repatriation. He noted that “[R]ather than taking effective action to create the right conditions for their return, these countries used every means possible, from bribery to intimidation, to keep Syrian refugees from returning home.”⁷⁴ This conference was met with derision by many, as it ignored Russia’s role in displacement and the barriers created by the Syrian government for returnees.

Forcible returns violate international law based on the right to non-refoulement, which states that individuals should not be returned to a country where they would face torture; cruel, inhumane, or degrading treatment or punishment; or other irreparable harm.⁷⁵ Turkey’s deportations and any future European deportations specifically challenge the validity of European migration policies codified in the EU-Turkey Deal—in addition to Articles 1-6 and 18-19 of the Charter of Fundamental Rights of the European Union. Turkey’s forced returns also call into question Turkey’s status as a “safe third country” for Syrians.

ICC Communiqué

In January 2021, SJAC filed a communiqué with the ICC Prosecutor seeking an investigation into abuses committed by the Greek government against refugees through maritime pushbacks and intentional deprivation of humanitarian aid. SJAC noted that since 2016, Greece has instituted a series of legislative, executive, and judicial practices aimed at stripping refugees of their rights, increasing their misery and likelihood of death. Refugees in Greek camps suffer from a lack of food and water and live in squalid tents exposed to the elements including widespread flooding despite Greece receiving hundreds of millions in Euros from the EU to support refugees. Refugees in camps are mistreated by guards, under the command of Greece, who have consistently used tear gas and stun grenades on them.

The filing further noted that Greek mistreatment extends to its territorial waters where it regularly executes pushbacks of refugees, sabotaging their boats and leaving them adrift at sea, in violation of the right to non-refoulement. There is significant evidence that Frontex agents participated in or were complicit in these abuses. Taken together, the policies and practices may amount to crimes against humanity under Article 7 of the Rome Statute. Through its communiqué, SJAC seeks to increase the visibility of the plight of refugees and to push the Greek government to curtail these abuses.

For the refugees forced to return to Syria, deportation has a lasting impact on their families, many of whom have no choice but to return to Syria to cope with economic hardship and family separation. The inevitability of their repatriation subverts the voluntary nature of these families' returns, casting doubt on the legality of states' asylum procedures and their commitment to ensuring that human rights are protected.

Housing, Land, and Property

Violations of rights to housing, land, and property (HLP) continued in 2020, despite attempts to halt redevelopment projects through sanctions. The Syrian government failed to respect its promise to compensate residents whose land was expropriated for such projects. In July 2020, it announced further delays in the plans to either rehouse or pay rent to the nearly 9,000 residents displaced from the area rezoned for the Marota City project, thus violating provisions in Law No. 10 from 2018.⁷⁶ New rezoning and "reconstruction" plans are further entrenching wartime displacement, sometimes with the support of international organizations.⁷⁷

In December 2020, for example, police in East Aleppo cracked down on individual efforts to rehabilitate informal housing, ahead of a zoning plan that will likely demolish the properties belonging to residents who had been forced to flee to Idlib.⁷⁸ At the same time, the government has sought to entice Syrian refugees to return to the country by promising to restore their HLP rights. For the first time, the government also began renting out property that it had confiscated based on anti-terrorism laws, in some cases to the original owners themselves (as in Daraa in October 2020).⁷⁹

Such abuses will hinder the implementation of property restitution which must figure into any future peace negotiations. As SJAC has called for, an equitable and just program for restitution would involve people being able to submit complaints to an impartial and transparent property commission capable of arbitrating disputes and enforcing remedies.⁸⁰ The government's empty promises to compensate returnees for lost property—made at the Conference on the Return of Refugees in November 2020—are no substitute for the enforcement of HLP rights along the lines SJAC has proposed. Rather,

they help legitimize the growing tendency of host states to forcibly return Syrian refugee populations.

HLP rights were also violated by other parties to the Syrian conflict. The Autonomous Administration of Northeast Syria issued Law No. 7/2020, which functions to expropriate the property of (primarily Arab) absentee landowners by transferring control to a specialized committee.⁸¹ Like the Syrian government's own property laws, Law 7 violates Article 3 of the Geneva Conventions and should be revoked entirely, not merely suspended as it was in August 2020 following public criticism. In Afrin and other areas under Turkish control, SNA militias arbitrarily imposed taxes on agricultural lands, evicted residents who they accused of affiliation with Kurdish groups, and rented the property of (primarily Kurdish) absentee homeowners to displaced Syrians from other regions.⁸² Turkey is an occupying power with effective control over these areas and as such has a special obligation to prevent these gross violations of HLP rights.⁸³



Justice Efforts

Justice Efforts

Universal Jurisdiction

In 2020, there were continuing efforts to hold perpetrators of atrocity crimes in Syria accountable. Prosecutions and trials, however, only took place at a domestic level. There is currently no possibility for international criminal proceedings against perpetrators in the Syrian conflict. As Syria is not a state party to the International Criminal Court (ICC) and states like Russia and China continue to veto a referral by the UNSC, the ICC has no jurisdiction over crimes committed in Syria.⁸⁴ Unlike previous justice mechanisms in Rwanda or for the former Yugoslavia, there is currently no ad hoc tribunal to prosecute crimes committed during the Syrian conflict. The International, Impartial and Independent Mechanism (IIIM) was established by the UN General Assembly in 2016⁸⁵ to collect, analyze, and store evidence to be used in future trials but lacks the jurisdiction to prosecute any crimes.⁸⁶ However, the concept of universal jurisdiction (UJ) allows states to prosecute crimes committed abroad by foreign perpetrators against foreign victims.⁸⁷ Since the early 2000s, states have fought impunity for international crimes by incorporating this principle in their national legislation and initiating prosecutions against individual perpetrators.⁸⁸

European states have taken the lead in prosecuting international crimes committed in the Syrian

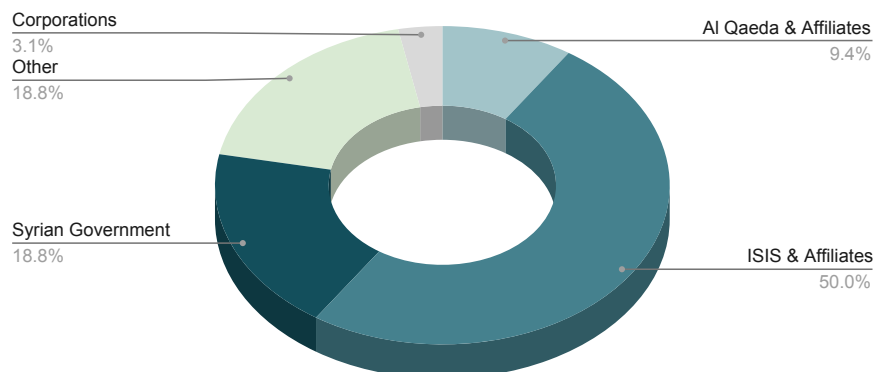
context.⁸⁹ Many formed special war crimes units within their existing law enforcement and prosecution structures. Each of these units investigates crimes committed in the Syrian conflict with different mandates and resources.⁹⁰ They cooperate through platforms like Europol and the Genocide Network hosted by Eurojust.⁹¹ These mechanisms allow states to share and request information and to coordinate investigations and prosecutions of international crimes.⁹²

To support special war crimes units in the prosecution and investigation of crimes committed during the Syrian conflict, SJAC continued to provide reliable and relevant evidence to the authorities in France, Germany, Sweden, and the Netherlands throughout 2020. In most countries, victims have the right to engage with universal jurisdiction prosecutions to bring complaints against perpetrators. In some cases, they can also seek reparations for crimes they suffered. SJAC considers universal jurisdiction the most feasible option available for justice and accountability for Syrians in the near term.

Cases under UJ focus heavily on low-level perpetrators, most of whom fought for non-state actors rather than governments. The majority of cases also involve victims or perpetrators who were already present in the prosecuting state. This

SJAC has compiled a list of 125+ **Syria-related universal jurisdiction cases** from publicly available sources (see Annex I for all 2020 cases). In the figure to the right, cases are broken down by the affiliation of alleged perpetrators. The majority of cases prosecute members of extremist groups. The full affiliation details can be found in Annex I.

Division of 2020 Universal Jurisdiction Cases by Affiliation



is attributable to the prosecutors' "no-safe-haven" approach (as in the Anwar R. and Eyad A. case in Koblenz, Germany), which focuses on depriving alleged perpetrators of impunity on their territory. This approach can only be complementary to a "global-enforcer" approach, which seeks to prosecute those responsible for the most serious international crimes, regardless of their location,⁹³ as in the pending German and French arrest warrants against Jamil Hassan, former head of the Syrian Air Force Intelligence Directorate.⁹⁴

The Trial of Anwar R. and Eyad A.

On March 23, the trial of Anwar Raslan and Eyad Al-Gharib started at the Higher Regional Court in Koblenz, Germany. The main defendant Anwar Raslan, former head of the investigation division at Branch 251 (Al-Khatib) of the General Intelligence Directorate in Damascus, is accused of complicity in the torture of at least 4,000 people, aiding and

abetting murder in 58 cases, and sexual violence as crimes against humanity and war crimes from March 2011 until his defection in 2012. Eyad Al-Gharib, who worked in Division 40 (led by Hafez Makhoul and which regularly transferred prisoners to Branch 251), was convicted of aiding and abetting torture as a crime against humanity and war crimes committed between 2011 and 2013.⁹⁵ The trial is the first trial against officials of the Syrian government.

The trial has shed light on the systematic torture and abuse by the Syrian Intelligence Services and provided many survivors the chance to tell their story.

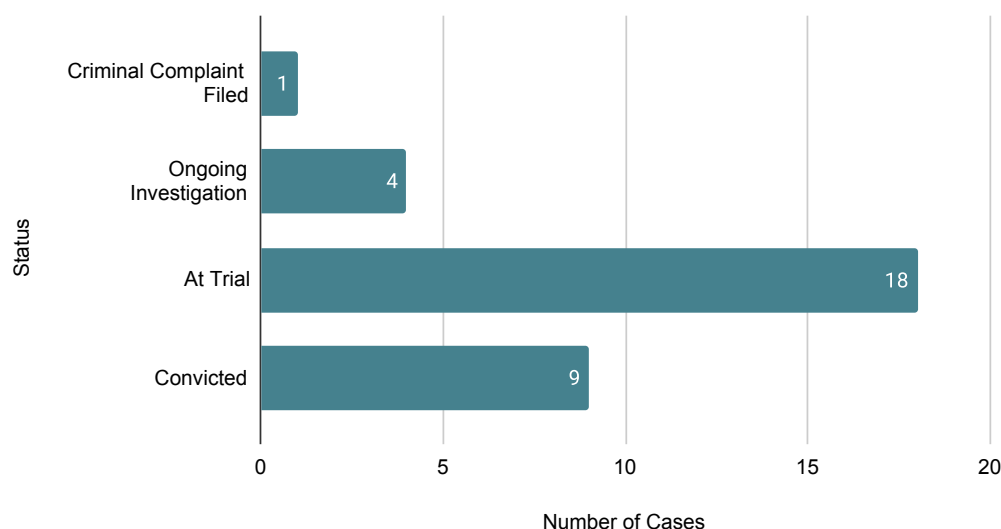
This trial is also the first trial worldwide during which the Caesar files were introduced as evidence and publicly examined by forensic and investigative experts.⁹⁶ As predicted in SJAC's last annual report, Raslan's defense relies on his 2012 desertion and his support of the opposition. Both Raslan's and

In the absence of official trial transcripts and other obstacles, SJAC published detailed [trial monitoring reports](#) and other resources throughout 2020 to facilitate public understanding of the proceedings, particularly by Arabic speakers. Detailed reports of such trials are a valuable source of information for future national and international transitional justice processes and create a historical record.



Anwar R., Eyad A., and Defense Council in Koblenz © Ruptly/pool provider

Status of 2020 Universal Jurisdiction Cases by Phase



Al-Gharib's defense teams have also claimed that they had no choice but to follow state orders. Some insider witnesses testified that there were threats against particular ethnic groups and Syrian government officials who disobeyed orders. In the trial, the judges in Germany will have to assess whether this evidence amounts to an imminent danger to the accused to establish a valid legal defense under German law.⁹⁷ Al-Gharib was sentenced to four and a half years imprisonment on February 24, 2021.

Use of Chemical Weapons

In early October 2020, a group of NGOs submitted a complaint to the German Federal Prosecutor General providing evidence, witnesses, and investigative leads regarding the use of the nerve agent sarin in Syrian government attacks on Eastern Ghouta and Khan Shaykhun in 2013 and 2017.⁹⁸ The attacks which were documented by the OPCW killed more than 1,400 people.⁹⁹ Despite condemnation by UN representatives and many states, neither incident was subject to further investigation and the alleged perpetrators have yet to be held to account. If the German prosecutor chooses to open an investigation and alleged perpetrators are apprehended in Germany or extradited, the matter could lead to indictments and a trial.¹⁰⁰

Sexual Violence as a Crime Against Humanity

In June, a group of NGOs on behalf of seven victims, submitted a complaint to the German

Federal Prosecutor General, alleging the systematic use of SGBV against civilians in detention facilities of the Syrian Intelligence Service.¹⁰¹ The arrest warrant against Dr. Alaa M., a former doctor at the hospital of the Military Intelligence Service in Homs, also includes sexual violence as a crime against humanity. Dr. Alaa M. is accused of committing forced castration on a 14-year-old boy in 2011.¹⁰² SJAC provided important evidence to support the investigation and prosecution of this case.

Prosecution of ISIS Fighters

In 2020, European and other states continued to prosecute their own nationals as so-called "returning foreign fighters." Many of them left their home countries to join armed groups such as ISIS in Syria. Upon return, the majority of them face trials for membership in a terrorist group, war crimes, or other terrorism-related charges.¹⁰³

However, not all foreign fighters have returned to their home country. Thousands of third-country nationals, most of them alleged ISIS affiliates, are still in camps and improvised detention facilities in Northeast Syria with severe sanitary, nutritional, and security situations. Still, most states refuse to repatriate their nationals for fear of possible terror attacks and radicalization of their societies as well as domestic political repercussions. To avoid repatriation while still prosecuting alleged ISIS fighters, states like France have conducted trials in absentia¹⁰⁴ or left prosecution to Turkey and Iraq.¹⁰⁵ Both approaches lack fair trial and due process

standards. Pre-trial detention and supervised reintegration of alleged ISIS affiliates in their countries of origin would significantly reduce risks of radicalization and recruitment and adhere to states' obligations under human rights law.¹⁰⁶

Dutch Complaint at the ICJ

In 2020, there were also efforts to obtain justice and accountability for Syria at the international level. The Netherlands signaled that it was exploring a new avenue for justice and accountability by taking the first step to bring a case to the ICJ regarding the use of torture by the Syrian government. Unlike the ICC, the ICJ's jurisdiction does not encompass individual criminal liability but rather operates as a court of last resort dealing with disputes between states arising from international law and treaties.¹⁰⁷ As required by treaty, states must first take relevant steps to resolve their dispute by diplomatic means and the Netherlands has done so by sending a diplomatic note to the Syrian government to initiate negotiations for Syrian violations of UNCAT.¹⁰⁸ As the Syrian government has not engaged in relevant negotiations,¹⁰⁹ a complaint from the Netherlands is expected in mid-March 2021. Other states such as Germany have signaled their support for the complaint.¹¹⁰

Nonetheless, the ICJ has no enforcement powers and only serves as a fact-finding mechanism. As such, the ICJ is reliant on the cooperation of the parties to the dispute and the evidence provided by them. A significant number of Syrian torture victims are unlikely to be heard and there is likely to be a focus on expert witnesses. The Dutch complaint at the ICJ, however, could lead to more concrete outcomes for justice rather than merely symbolic gestures for Syrian victims.

ISIS "Beatles" Trial

On October 7, 2020, Alexandra Kotey and El Shafee Elsheikh, two members of the group of ISIS fighters responsible for overseeing foreign detainees in Syria, made their first appearance in a U.S. courtroom in Alexandria, Virginia.¹¹¹ The beginning of the proceedings marks the end of a long and winding road to determine a suitable jurisdiction for prosecution. Their journey highlights the challenges that remain: namely, the large number of ISIS victims without redress and the suspected ISIS fighters remaining in jails in Northeast Syria without the prospect of a fair trial.

The group, nicknamed by their captives as "the Beatles" because of their British accents, has now been stripped of UK citizenship.¹¹² Initially arrested by the SDF in Northeast Syria, they will stand trial for the hostage-taking and murder of four American victims: James Foley, Steven Sotloff, Peter Kassig, and Kayla Mueller.

Trial Monitoring: SJAC has partnered with a law school to monitor the ISIS Beatles trial to inform the public, in English and Arabic, about ISIS systems of repression as well as information about those disappeared by ISIS. Trial monitoring provides a neutral report of court processes, witness testimonies, and questioning to inform the public about the trial. Providing a detailed account informs policymakers, the international community, and the general public of the information shared during testimonies and how it may have an impact on other judicial proceedings and transitional justice. SJAC has had a trial monitor present every day of the Raslan trial who provides Arabic and English reports and insights into court proceedings. When trials of former ISIS fighters begin in the Northeast, SJAC will also monitor these trials and ensure that evidence on missing persons is collected.



James Foley © James W. Foley Legacy Foundation
James Foley was an American journalist who was killed in Syria in 2014. Elsheikh and Kotey will stand trial for their role in the kidnapping and murder of Foley and three other Americans.

In October 2019, President Donald Trump's order to withdraw U.S. forces from Syria fomented a crisis with over 100 ISIS fighters escaping.¹¹³ Fearing thousands more would follow, the U.S. tried and failed to transfer five dozen highly-valued ISIS detainees out of the country.¹¹⁴ It did, however, succeed in transferring Elsheikh and Kotey to Iraq.¹¹⁵

Elsheikh's mother filed suit in the UK, arguing that the sharing of evidence between the UK and the U.S. pursuant to mutual legal assistance was unlawful. This evidence was considered essential for effective prosecution in the U.S. In March 2020, the UK Supreme Court ruled that before any evidence could be shared with the U.S. authorities, the UK must seek assurances that the death penalty would not be imposed against Elsheikh and Kotey.¹¹⁶ On August 18, U.S. Attorney General William Barr provided that assurance, and in September, the UK High Court rejected the final attempt to foreclose the evidence sharing, allowing Elsheikh and Kotey to be transferred to Virginia.¹¹⁷

Kotey and Elsheikh are now represented by public defenders appointed by the court and will have opportunities to challenge the evidence brought against them. The families of the four American victims who lobbied for their transfer to the U.S., rather than an uncertain trial at Guantanamo Bay, have called the trial a "first step in the pursuit of justice for the alleged horrific human rights crimes."¹¹⁸ Kotey acknowledges his role in the ransoming of other foreign detainees but claims he did not participate in executions - despite the U.K. judgment reference to 27 beheadings attributable to the accused.¹¹⁹ The crimes against the non-American victims will be tried because U.S. jurisdiction is generally limited to when the victim or perpetrator is a U.S. citizen.¹²⁰ This leaves a significant number of victims and their families without redress.

Furthermore, there is an urgent need to process the 10,000 suspected ISIS fighters who remain housed in Northeast Syrian prisons as well as up to 65,000 women and children in camps such as Al-Hol. The most dangerous of these are around the 2,000 foreign fighters, often battle-hardened and motivated by calls for global jihad, who should be the priority for extradition and prosecution.¹²¹

Sanctions

In June 2020, the U.S. began enforcing the Caesar Syria Civilian Protection Act (Caesar Act).¹²² It authorized economic sanctions and travel restrictions on individuals and entities who support the Syrian government—as well as Syria's aviation, oil, and gas industries—through the provision of goods, services, or technologies. Designees also included those who profit from reconstruction efforts, in addition to the government entities themselves.

In 2020, the U.S. issued several rounds of sanction designations both under the Caesar Act and separately. The first round of designations consisted of 39 organizations and individuals sanctioned by the Department of Treasury's Office of Foreign Assets Control (OFAC) due to their involvement in reconstruction efforts and by the Department of State for hindering efforts to implement a ceasefire or political solution to the conflict.¹²³ The second round of designations consisted of 14 designees, including investors in luxury real estate (such as the Marota City project), members of the Assad family, and individuals in the Syrian Arab Army.¹²⁴ In commemoration of the seventh anniversary of the chemical weapons attack in Ghouta, six more sanctions were placed on military and government officials, as well as financial supporters of the Syrian government.¹²⁵ Between November and December, the Department of Treasury and the Department of State made 37 more designations, including appointed members of parliament, Asma Al-Assad, and her relatives.¹²⁶

Impact on Syrian Civilians

Although sanctions are an important behavior-change mechanism and are a diplomatic tool to discourage human rights abuses, the sanctions in Syria have disproportionately affected Syrian citizens and hurt the very population that sanctions are meant to protect. Yet Syria's problems cannot be blamed solely on economic restrictions and travel bans. Regional economic instability, foreign intervention, and a decade of conflict predated by a history of corruption worked in tandem to create the current economic and humanitarian crises.¹²⁷

In June 2020, SJAC published the report **"Sanctions, the Caesar Act, and COVID-19 in Syria,"** looking at the most urgent needs in Syria, examining the relationship between these needs and sanctions, and identifying where procedures, licenses and exemptions can be

over the last year was Lebanon's financial crisis which widened the gap between the official value of the Lebanese pound and the pound's value on the black market.¹²⁸ Banks reacted by tightening capital control. Economic ties between the two countries caused price increases in Lebanon to spill over to Syria. A combination of this dynamic along with COVID-19 and other issues stemming from the Syrian conflict caused prices to rise nearly 200%.¹²⁹ More than 80% of Syrians, many of whom are forced to choose between necessities and PPE, while also coping with food insecurity, now live below the poverty line.

Further complicating matters, humanitarian exemptions under current sanctions regimes are loosely defined. Consequently, humanitarian organizations encountered various obstacles when trying to fill the service gap between the people and the government. One such challenge is that the Syrian government forces require some international organizations to go through the Syrian Arab Red Crescent or the Syria Trust for Development, an agency launched by Asma Al-Assad. Both entities are infamous for steering assistance away from opposition areas and toward loyalists.

Corporate Criminal Liability

Throughout 2020, Syrian refugees continued to utilize European courts as an avenue for justice, filing criminal complaints and civil cases against chemical companies, overseas banks, technology firms, senior Syrian officials, and members of terrorist groups. Many of these cases involve corporate liability and are an attempt to hold accountable businesses, or individuals acting on behalf of businesses, for human rights violations under a variety of domestic laws.

On February 7, 2020, three Belgian companies and two managers were convicted of criminal charges for illegally shipping restricted chemicals to Syria. The case was initiated to prosecute and reveal the responsibility of companies for involvement in transporting chemical shipments to the Syrian government in violation of the sanctions imposed by the European Union.¹³⁰ The case arose from a 2018 complaint filed by the Syrian Archive, TRIAL International, and the Open Society Justice Initiative calling for investigations into the involvement of three European companies—BASF Antwerp NV, Sasol Germany GmbH, and Brenntag AG (and its Swiss subsidiary)—associated with a chemical



Lafarge cement plant © richochet64/Shutterstock

The French company, Lafarge, has been accused of complicity in crimes against humanity committed by ISIS through its continuing operations in Syria.

shipment to Syria in 2014.¹³¹ The chemicals—which are considered “dual-use” as they can be used to produce both pharmaceuticals and prohibited chemical weapons—were restricted materials under European Union sanctions. Thus, they required prior approval to be directly or indirectly exported to Syria. Given that the EU’s sanctions regime applies to the actions of EU citizens outside of EU territory, the complaints also asked prosecutors to investigate whether the companies circumvented such sanctions.

In July 2020, a group of Syrian refugees residing in Europe filed a lawsuit against Doha Bank before a court in London.¹³² The plaintiffs allege that Doha Bank transferred money from Qatari businessmen to the Al-Qaeda affiliate, HTS. The law firm, which represents the plaintiffs, said it may add 330 additional plaintiffs to the lawsuit against the bank. At a November hearing in the case, a representative for the plaintiffs informed the court that the Qatari government had made attempts to bribe witnesses as well as engaged in acts of intimidation. Four of the plaintiffs appear to have withdrawn from the case due to the threats.¹³³

In 2020, there were also developments in the Lafarge case. This case, brought in November 2019, alleges the French company, Lafarge, was complicit in crimes against humanity committed by ISIS through its continuing operations in Syria. Two non-governmental organizations, ECCHR and Sherpa, had filed numerous submissions in the case as civil parties but in October 2019 their status as civil parties was revoked because neither group included a statutory mission to combat crimes against humanity.¹³⁴ In November 2019, the case suffered another setback as the French Court of Appeals dismissed the charges of crimes against humanity, leaving only allegations of financing terrorism.¹³⁵ In 2020, ECCHR and Sherpa appealed the decision on the charges of crimes against humanity. The French Supreme Court will address the fundamental questions of transnational corporations’ responsibility surrounding the appeal in 2021.

To date, trials in Europe have had mixed success but remain an avenue for justice for Syrians, particularly those living in Europe. Corporate liability in the United States is also an option, although U.S. courts have significantly narrowed such opportunities.

SJAC explains the opportunities for engagement as well as their limitations in its series of universal jurisdiction guides. The U.S. was added as the seventh country profile in 2020. All guides are available in Arabic and English to inform Syrians of their rights and to foster an understanding of how universal jurisdiction or extraterritorial jurisdiction can work in practice.¹³⁶

Missing Persons Investigations

Efforts to discover the fates of missing persons, often led by activists who are themselves former detainees or relatives of the missing, continued in 2020. While progress on this issue in government-controlled areas remains slow, there were significant developments in efforts to discover the fates of those missing by ISIS in Northeast Syria.

The First Responders’ Team (FRT), working under the local councils in Raqqa and Deir Ezzor, continued to exhume and document graves containing victims of ISIS as well as those killed in coalition airstrikes. In 2020 alone, the team opened four mass graves containing the remains of 213 persons. An additional 162 remains were recovered from individual graves. While basic documentation and biological samples are recovered from each body before being reburied in individual graves, future identification efforts will require further analysis.

Exhumations across the border in Iraq are also ongoing and represent important progress for both Syrian and Iraqi victims. Since ISIS often carried detainees across the border in both directions, the exhumation of graves and identification of remains will rely on strong cross-border cooperation. In 2020, SJAC signed a bilateral data-sharing policy with UNITAD, which lays the foundation for a collaborative search for all those whose fates remain unknown.

While these exhumations are an important step, they require extensive coordination and strong leadership. However, local authorities in Northeast Syria continue to play a disjointed role. Many activists were initially encouraged by the Syrian Democratic Council’s May 2020 creation of the independent ‘Committee on Detainees and Kidnapped Persons in Syria.’¹³⁷ However, it was discouraging to observe the committee’s



The First Responders' Team exhumes a grave in Northeast Syria
© First Responders' Team, 2020

insistence on covering the issue of missing persons nationwide, rather than focusing on the Northeast where local leaders have an opportunity to create concrete change. The Committee has not taken any significant action to date.

Local leaders and the international community alike should focus on pursuing missing persons investigations in Northeast Syria, where there is relative stability and cooperation from local authorities. The lessons learned and technical capacity developed during these investigations can one day be further utilized to support a country-wide missing persons program. Investigations should be based on cooperation and data sharing between accountability mechanisms (particularly those trying ISIS fighters) and missing persons investigators, to ensure documentation collected in both contexts can support both criminal accountability and identification processes.

Documentation

By the end of 2020, SJAC had preserved more than 1.8 million pieces of data and conducted more than 300 interviews with survivors of and witnesses to human rights violations. Many other organizations, ranging from international commissions to

Missing Persons Investigations

In February 2020, SJAC officially announced its Missing Persons project, which focuses on discovering the fates of those who went missing at the hands of ISIS in Northeast Syria. During its first year, SJAC hired a six-person documentation team to collect documentation from families of the missing and witnesses of ISIS crimes, collaborated with justice mechanisms to encourage a shared sense of responsibility for supporting identification processes, and worked with advocates to highlight the issue of the missing at the Human Rights Council, UN General Assembly, and through media engagement. When COVID-19 restrictions lift, SJAC's partners at the Argentine Forensic Anthropology Team will travel to Northeast Syria to work with the local First Responders Team to build their investigative skills.

volunteer networks of human rights defenders, continued to collect documentation this year and preserve evidence of violations from throughout the conflict. Documentation of potential violations recorded by Syrians throughout the conflict function as an important source of evidence for identifying perpetrators, ascertaining the fate of loved ones, and establishing a historical record. Such documentation takes a multitude of forms including videos uploaded to participatory media platforms, first-hand testimonies, and interviews. Collecting high-quality documentation of these violations is challenging and often dangerous, and in 2020 Syrian organizations continued to develop innovative techniques to raise the quality of documentation, ensure preservation, and keep up with an ever-changing conflict.

Open-Source Documentation

In 2020, Facebook and YouTube heightened their content moderation policies. New alterations to their machine learning algorithms led to the continuation of content perceived to be extremist immediately being flagged by computer censors. Following upload, video content concerning Syria and regional human rights violations was often removed within hours or minutes of discovery by users or human rights practitioners.¹³⁸ As a result, documentation that has the possibility of serving as actionable evidence of violations from and relating to the Syrian conflict is erased. A multitude of investigations – from *Human Rights Watch* to *TIME* to *Reuters* – have highlighted how these practices pose dangerous ramifications for the landscape of both historical memory and future accountability.¹³⁹

Despite such obstacles, SJAC and other human rights organizations continue to employ open-source documentation in innovative ways, particularly to illustrate comprehensive patterns of violations committed by Syrian and Russian forces operating in northern Syria.¹⁴⁰ Messaging applications, such as *Telegram*, have provided actionable evidence in their recordings of aircraft movements and models involved in airstrikes. Consequently, preserving social media content is imperative to documenting airstrikes and destruction representative of both individual and systemic violations.¹⁴¹ SJAC continues to update its script for scraping video content from a plethora of channels, ensuring its successful download. By

cultivating new channels and digital venues for collection, SJAC continues to expand its media archive for future justice purposes. Furthermore, SJAC continues to leverage the social impact of positive machine learning technologies for preservation and accountability. For example, SJAC has collaborated with *Benetech* in the development of digital tools to “turn conflict data into actionable evidence,” including their deduplication mechanism.¹⁴² This tool enables human rights organizations to ensure that they are not collecting the same open-source media content without compromising standards and confidentiality.

Field Documentation

First-hand testimonials and interviews from both witnesses and survivors remain imperative to comprehending ongoing violations and establishing a historical record of the conflict. In 2020, SJAC collected more than 75 interviews that document violations ranging from detention to torture. Sixteen of these interviews were with survivors of, or witnesses to, sexual and gender-based violence. Additionally, a third of SJAC’s interviews from 2020 were with women.

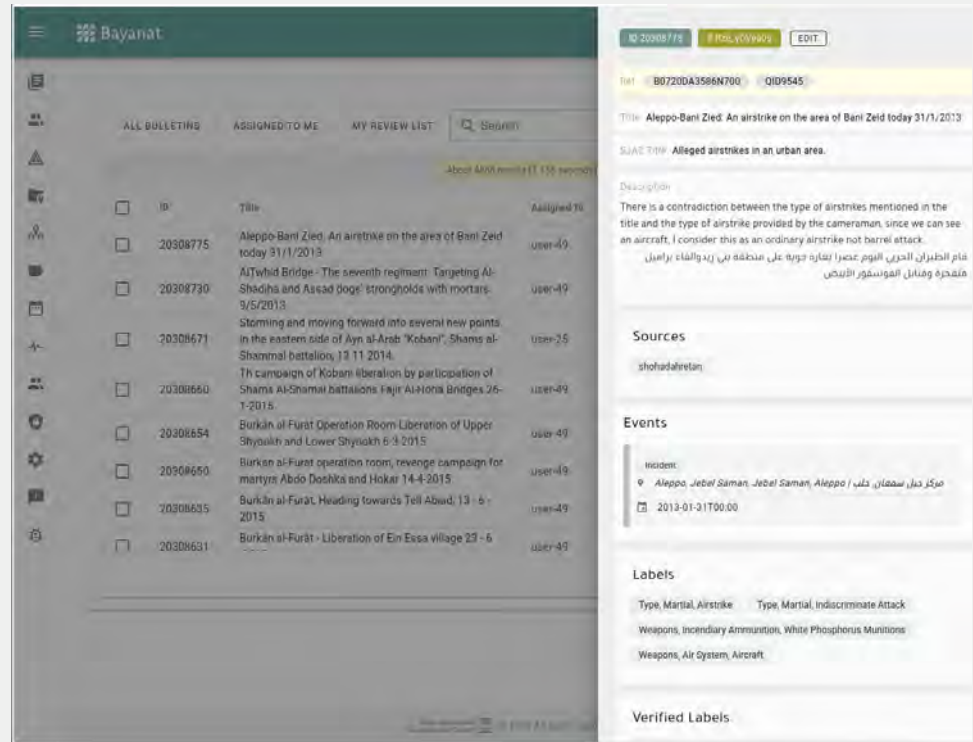
More than ten years from the onset of the conflict, documenters continue developing techniques for documentation and adapting to document new types of violations. This year, SJAC increased its emphasis on insider witness interviews. The value of such interviews cannot be overstated, as they provide critical linkage evidence, helping

Documentation Trainings

In December 2020, SJAC designed and launched a new series of online Arabic-language documentation trainings dedicated to teaching the technical and ethical nuances of the interview process to human rights defenders. The series of sixteen courses, comprised of video lectures, reading materials, and quizzes, provide instruction on a wide variety of topics including an introduction to transitional justice, how to maintain chain of custody, and how to conduct interviews with survivors of detention. SJAC’s courses not only seek to improve the technical quality of documentation but also reflect a survivor-centered, do-no-harm approach, ensuring that documenters are prepared to sensitively work with survivors to prevent re-traumatization. SJAC staff continue to supplement this training website with customized in-person and virtual training for its partners in Syria and beyond.

Bayanat

In 2020, SJAC launched an open-source version of its internal data management software for documentation, classification, and analysis. Bayanat, or “data” in Arabic, is now available for free download from GitHub. Bayanat allows for comprehensive downloading, labeling, processing, and analysis of large digital evidence data sets using the same system utilized by SJAC. The software reflects the industry’s best practices and security standards for human rights documentation. Items can be tagged according to IHL violations, geographic locations, and actors, as well as linked to related pieces of documentation. This cataloging allows users to quickly search materials and track violations committed by a single perpetrator or reflective of systematic practices. The language used to label media—known as descriptive metadata—is customizable to reflect the unique context and documentation goals of institutions who download and adopt the software. User guides in both English and Arabic ensure accessibility. It is the first documentation software of its kind available free of cost to practitioners throughout the Middle East.



Bayanat screenshot

prosecutors and investigators understand command structures. Due to the extremely sensitive nature of these interviews, they require trust between the documenter and the interviewee. The ongoing trial of Anwar R. and Eyad A. poses an obstacle to the collection of these insider witness testimonies, with individuals expressing concern for how evidence could at a later point be used against them in prosecutorial contexts.

This past year, documentation of crimes committed by the SNA and other Turkish-backed groups in Northern Syria increased. Documentation organizations worked to analyze the implications of the late 2019 incursion and its ramifications. Similarly, the 2019 territorial defeat of ISIS laid the foundation for growing documentation pertaining to ISIS. Organizations experienced broadening access to not only Syrian survivors, but Iraqi survivors returning to Iraq and sharing stories of

detention while in Syria. Documentation efforts also shed light on the recruitment practices for mercenaries traveling to Libya and Azerbaijan—preserving accounts of the transforming international dimensions of the conflict in Syria, the Syrians who died fighting abroad, and those whose family members did not receive their pay nor remains.¹⁴³ Lastly, while local activists continue to document crimes in government-controlled territories, such efforts remain extremely dangerous. High-quality documentation from these areas continues to be the most difficult to obtain.

Survivors and Families Activism

Groups of survivors and families of victims of enforced disappearance and arbitrary detention in Syria have been the driving force behind the progress on justice efforts in 2020. The large number of survivor-led organizations and the diversity of

them allows for the representation of many affected groups and populations across multiple countries and has led to a broad range of tactics to shift the international debate and drive legal processes. This short summary cannot do justice to all active groups but can give some sense of the range of work being undertaken.

Survivor-led groups continued to undertake high profile advocacy work, bringing their demands directly to key policymakers. The UN Special Envoy for Syria, Geir Pedersen, has realized - unlike his predecessor - that the UN must do more to

to recognize and fulfill the demands of family groups and victims' associations, and has created dialogue mechanism to engage with family associations. In July, **Wafa Mustafa** of **Families For Freedom** addressed the UNSC and the group also held direct meetings with member states. Survivors and the families of victims also targeted the EU, building on their 2019 activism to once more put the issue of detention on the agenda for the EU-hosted 'Brussels IV' Conference in June.

Victims' groups have also worked to directly support accountability processes. The Dutch government has consulted with victims' groups as they develop their legal case against the Syrian government for its use of torture. Furthermore, the Dutch government has made clear that progress will be dependent on close cooperation with those groups that will be able to facilitate access to witnesses and gather important evidence. Survivor-led groups have also engaged with the Anwar R. and Eyad A. trial in Koblenz, Germany. Numerous victims and human rights groups have helped to link German prosecutors with witnesses, as well as to support them to take the very brave step of facing the accused in court.

The willingness of the international community to continue to support transitional justice will require awareness of the issue amongst political leaders. Families and victims' groups continued to bring the attention of the world's media to the issue, explaining how the need for justice is critical for the long-term resolution of the conflict in Syria. Activists featured in stories in the leading publications of multiple countries, including the *BBC*, *New York Times*, *Bild*, *Al Jazeera*, *France 24*, *DW*, *The National*, *Corriere della Sera*, and *The*

Times. In March, **Amina Khouli** of **Families for Freedom** won the International Women of Courage award from the U.S. State Department, giving her a platform to meet with many senior political figures.

Groups had to adapt their public campaigning due to COVID-19 restrictions around the world. Despite this, several activities caught the attention of the public. In Germany, members of **Families For Freedom** and the **Caesar Families Association** protested in small numbers outside the Koblenz courthouse, accompanied by hundreds of photos of the missing. The striking images of the protest were shared by media from around the world. In November, Ta'afi's "**A Candle to Remember**" campaign asked people around the world to light a candle for the missing leading to numerous touching messages, photos, and videos being shared online. The family members of those kidnapped by ISIS spoke out on a new campaign website, '**Searching for Truth After ISIS**', where thousands of people have signed a petition to support their demands. (The site is supported by SJAC and The Syria Campaign). The danger posed by COVID-19 to detainees was the focus of another campaign by **Families For Freedom**, demanding that the UN Special Envoy and other international actors take action.

While activist groups have contributed testimonies and helped campaign for action, they have also increasingly contributed to steering the policy debate through producing original research and policy papers. In July, the **Association of Detainees & the Missing in Sednaya Prison (ADMSP)** published "Sednaya Prison During The Syrian Revolution: Testimonies" based on interviews with many former prisoners. **Urnammu Justice and Human Rights** published "Documentation of Human Rights Violations and Transitional Justice in Syria: Gaps and Ways to Address Them."

There have also been important efforts to use arts and film to tell the stories of the missing. The film **Ayouni**, released in July 2020, followed Noura Ghazi and Machi Dall'Oglio and their fight for justice for Noura's husband, Bassel Khartabil and Machi's brother Father Paolo Dall'Oglio, who remain two of the most high-profile missing activists in Syria. In July, the Syrian conceptual artist **Khaled Barakeh** created 'Mute', an artwork of mannequins that



Families for Freedom and the Caesar Families Association protest outside the court in Koblenz in July 2020 © FFF/Guevara Namer

“As families of detainees, we are deeply frustrated by the collective inaction and abdication of responsibility by the Security Council to address this crime against humanity... We hear excuses about the need to prioritize other humanitarian or political issues in Syria, that now is not the time to focus on detainees. But all these issues are connected and this Council can and must address them all at once.”

**Wafa Mustafa of Families For Freedom,
UN Security Council Briefing, 23 July 2020**

stood outside the Koblenz courthouse, representing the Syrian activists unable to be there in person. ADMSP collaborated to launch a play called ‘Why Sednaya’ which was performed in Italy.

Five leading victims’ groups and family associations - **Families For Freedom, Ta’afi, Maseer, ADMSP, and the Caesar Families Association** - have come together to create a new ‘Truth and Justice Charter’ that sets out ‘A Common Vision on the Question of Enforced Disappearance and Arbitrary Arrest in Syria.’ It presents the unified views of the groups on justice, accountability, and the future of Syria in arguing that “the victims and their families must be at the core of a true process of justice, truth and accountability.” The Charter also presents the legal basis for their demands.

Memorialization

While the process of memorialization is often understood as something that happens post-conflict, in reality Syrians have been processing and preserving the experience of the war through art and storytelling since the first days of unrest. The website “Creative Memory of the Syrian Revolution”¹⁴⁴ has created a vast digital archive of the work of Syrian artists ranging from the graffiti along the walls of Idlib to recordings of revolutionary songs. This year, the site launched the next phase of its interactive timeline of the conflict, preserving memories of the war in an easily-accessible format.

Sara Khayat’s **‘Syrian Harvest Season’**, created in October 2020, is one of several pieces preserved by Creative Memory this year that was inspired by the fires that burned many agricultural fields in Syria.

*The olive tree does not weep and does not laugh. The olive tree
Is the hillside’s modest lady. Shadow
Covers her one leg, and she will not take her leaves off in front of
the storm.*

~ Mahmoud Darwish¹⁴⁵



As Syrians continue to move out of the country and settle throughout the Middle East, Europe, and beyond, Syrian stories are increasingly being seen in art galleries and theaters across the globe. Just one example of Syrian artwork produced in the diaspora is Khalil Alrez’s ***The Russian Quarter***, a novel that recounts how a fictional neighborhood in Damascus adapts to the early days of the conflict through storytelling.¹⁴⁶ The novel was shortlisted for the 2020 International Prize for Arabic Fiction. Alrez left Syria in 2015 and now resides in Brussels.¹⁴⁷



Recommendations

Recommendations

Ten years since the start of the conflict, the number of people who have been killed, displaced, or who have disappeared continues to climb. The year 2020 was dominated by COVID-19 complicating humanitarian assistance, but the pandemic also makes the cessation of hostilities more imperative. SJAC continues to monitor, document, and advocate for concrete steps to end the ongoing humanitarian crisis.¹⁴⁸

Despite the complications of COVID-19, justice initiatives cannot afford to be stalled. Bombings, shellings, and arbitrary detentions have not paused during the pandemic and continue to jeopardize the lives of civilians and activists. On the tenth anniversary of the conflict, it is imperative for the international community to take the necessary steps to hold the worst perpetrators of the Syrian conflict accountable. Justice and accountability ensure that impunity is not normalized and that we may sow the seeds for eventual long-term peace.

International Humanitarian Law

- All parties to the conflict, both state and non-state actors, must follow codes of conduct adhering to IHL and human rights law. Civilians and civilian objects, including hospitals and water sources, must not be targeted. States must ensure that armed partners under their effective control adhere to legal imperatives.
- Coalition states must support reconstruction in areas destroyed by coalition airstrikes and fighting. Funds for demining and restoring basic humanitarian services are necessary to support reconstruction efforts. Coalition states must also acknowledge the loss of civilian life in coalition bombings and offer condolence payments in appropriate cases.
- The Syrian government must allow humanitarian actors to operate freely in government-controlled areas to offset the burden of COVID-19 on healthcare, while also increasing testing and ensuring accurate reporting of COVID-19. Humanitarian organizations must be allowed to independently identify beneficiaries to ensure those in need receive assistance. COVID-19 vaccines must be widely and impartially distributed throughout the country.
- Reopen the border crossings at Bab al-Salam, Al-Yarubiyah, and Al-Ramtha to ensure that humanitarian organizations can uphold the

humanitarian principles of delivering neutral, impartial, and independent humanitarian assistance to those in greatest need. The UN must reauthorize the UN Cross-Border resolution to create more channels of humanitarian access.

Sanctions

- States must narrowly tailor sanctions to entities and elites who typically evade the impact of economic sanctions. States must clarify the parameters of humanitarian exemptions to ensure that aid properly reaches the intended recipients. Sanctions are simply diplomatic tools employed along the long journey toward justice and accountability, and their harmful effects should not be shouldered by civilians.

Forced Returns

- States must halt forced returns whether through deportation or indirect means and abide by the principle of non-refoulement. European states must adopt a holistic asylum procedure, bolster integration efforts, and acknowledge that Syria is not yet safe for return.

Missing Persons

- The international community should provide support for missing persons investigations in Northeast Syria, including continued financial support to the First Responders' Team which is leading the exhumation process.

- Prioritize the release of all those who are arbitrarily detained and support initiatives to discover the fates of those who remain missing. COVID-19 has only heightened the need for international monitors to gain access to both government and non-state actor detention facilities.
- Justice actors must promote cooperation and data sharing between justice mechanisms, particularly those prosecuting ISIS fighters and missing persons investigators, to ensure documentation collected in both contexts can support both criminal accountability and identification processes.
- The Syrian government must implement a missing persons law allowing families to handle legal disputes during a loved one's absence without the need to prematurely seek a death certificate.
- Special War Crimes Units should pursue accountability for high-level perpetrators of human rights abuses, as well as continue investigations into those present in their states.
- Foreign governments must repatriate nationals who traveled to Syria to participate in the conflict. Women and children currently detained in prisons controlled by the SNA and Turkey must be processed and swiftly repatriated.

Justice Initiatives

- The international community should support the Dutch initiative at the ICJ to hold the Syrian government responsible for chemical weapon use. States should provide statements of support and/or motions to intervene.
- Donor countries should fund justice and reintegration efforts in the Northeast that seek to prosecute former ISIS fighters and close Al-Hol and Roj camps. Furthermore, the international community must highlight the importance of inclusive, local and community reintegration programs.
- Findings by the COI and independent investigations must be translated into actionable processes for accountability. Syrians living in areas under Turkish control should be supported in bringing complaints within available venues such as the European Court of Human Rights (ECtHR).
- States should prosecute or extradite individuals responsible for recruiting Syrian mercenaries in contravention of the UN Convention against the Use of Mercenaries. Donor governments should prioritize economic initiatives to discourage signing up for mercenaryism.

Annex I: Universal Jurisdiction Cases

The following information builds upon SJAC's full case list from the "State of Justice in Syria, 2020" report with updates and new cases for 2020. It has been compiled based on publicly available sources and is not intended to be a comprehensive list of Syria-related universal jurisdiction cases. While the information is true to the best of SJAC's knowledge, information may be subject to change without notice. SJAC reminds its readers that all accused have the right to the presumption of innocence until proven guilty.

Prosecuting Country	Alleged Perpetrator(s)	Nationality	Affiliation	Status	Alleged Crimes or Conviction	Sentence
Austria	Hezbollah leader (41) male	--	Hezbollah	At Trial	Financing terrorism	
Belgium	Saidaa	Belgian	Organization of the "Mujahideen Shura Council", then to "ISIS"	Convicted	Member of a terrorist organization	Sentenced in absentia to 5 years imprisonment and revocation of Belgian citizenship
Belgium	Seham	Belgian	HTS	Convicted	Member of a terrorist organization	Sentenced in absentia to 5 years imprisonment, a fine of 8,000 Euros, and revocation of Belgian citizenship
Belgium	Three Flemish companies (AAE Chemie Trading, Anex Customs and Danmar Logistics) and two managing directors (Rolf Rippen and Herman Van Landeghem)	Belgian	Belgian companies	Convicted	Violation of EU export licensing requirements	Companies fined 75,000 Euros and 500,000 Euros respectively; Rippen sentenced to 4 months imprisonment; Landeghem sentenced to 1 year imprisonment
Bulgaria	Mohammed Abdulqader	Bulgarian and Syrian	The Sultan Murad Division	At Trial	Terrorism charges	
France	30 persons (8 of them have been prosecuted)	French	ISIS	At Trial	Financing terrorism and forming a criminal terrorist gang	
France	Abd Al Hamid A.	Syrian	Syrian government	Ongoing Investigation	Complicity in crimes against humanity	
France	Jihadist (49)	French	ISIS	At Trial	Dealing with criminal terrorists	
France	Othman Garydo (26) [Abu Salman Alfaranci]	French	ISIS	At Trial	"Murder related to a terrorist organization" and "participation in a criminal terrorist gang of villains"	
France	Tyler Vilus (30) jihadist	French	ISIS	Convicted	War crimes and membership of a terrorist organization	30 years imprisonment

Prosecuting Country	Alleged Perpetrator(s)	Nationality	Affiliation	Status	Alleged Crimes or Conviction	Sentence
Germany	'Cyber jihadist' (39) male	German and Tunisian	Ahrar al-Sham	Convicted	Support for a terrorist group	5 years imprisonment
Germany	Abdul Jawad al-K.	Syrian	al-Nusra	Convicted	War crimes and terrorism	Life imprisonment
Germany	Dr. Alaa M	Syrian	Syrian government	At Trial	Torture and murder	
Germany	Fares A. B	Syrian	ISIS	Convicted	Attempted war crime against persons by killing, war crimes by torture, and membership of ISIS	12 years imprisonment
Germany	Hafiz A.	Syrian	Syrian government	Ongoing Investigation	Crimes against humanity	
Germany	Jennifer Wenisch	German	ISIS	At Trial	War crimes and membership of a terrorist organization	
Germany	Jihadist (21) female	Syrian	Ahrar al-Sham	At Trial	Member of a terrorist organization	
Germany	Jihadist (28)	Syrian	Jihadist in the army of Mujahideen and Ansar	At Trial	Member of a terrorist organization	
Germany	Jihadist (29) female	German	ISIS	At Trial	Membership of ISIS between 2014 and 2019	
Germany	Khaled A	Syrian	Ahrar al-Tabqa/Ahrar al-Sham	At Trial	Membership of a terrorist organization, war crimes, and weapons violations	
Germany	Khedr A.K and Sami A.S.	Syrian	HTS	At Trial	Membership of a terrorist organisation and extrajudicial killing	
Germany	Leonora Messinggh	German	ISIS	At Trial	Membership of a terrorist organization and participation in war crimes	
Germany	Lorin I	German and Syrian	ISIS	At Trial	Membership of a terrorist organisation and violating Germany's War Weapons Control Act	
Germany	Nine high-ranking officials of the Syrian Air Force Intelligence Service and National Security Bureau	Syrian	Syrian government	Ongoing Investigation	Sexual and gender based violence as crimes against humanity	

Prosecuting Country	Alleged Perpetrator(s)	Nationality	Affiliation	Status	Alleged Crimes or Conviction	Sentence
Germany	Nine high-ranking officials of the Syrian government and Air Force Intelligence, including Jamil Hassan	Syrian	Syrian government	Criminal Complaint Filed	Sexual and gender based violence as crimes against humanity	
Germany	Omaima M.	German and Tunisian	ISIS	Convicted	Membership of a terrorist organization, human trafficking, and crimes against humanity	3 and half years imprisonment
Germany	Syrian (24)	Syrian	ISIS	At Trial	Financing terrorism	
Germany	Syrian officials	Syrian	Syrian government	Ongoing Investigation	Chemical weapons attacks	
Germany	Taha Sabah Noori al-Jumailly	Iraqi	ISIS	At Trial	Crimes against humanity, war crimes, human trafficking	
Ireland	Lisa Smith	Irish	ISIS	At Trial	Financing terrorism	
Switzerland	Jihadist (34)	Italian and Swiss	ISIS	Convicted	Two counts of supporting a criminal organization and violating the ban on displaying acts of violence	50 months imprisonment
USA	Jihad Ali (19) and Omran Ali (53)	Trinidad and Tobago and U.S.	ISIS	At Trial	Membership of a terrorist organization	

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