

Transitional Justice and National Reconciliation

BY RADWAN ZIADEH

In the aftermath of war crimes and crimes against humanity committed in the former Yugoslavia and in Rwanda, in 2005 the General Assembly of the United Nations established an initiative known as the “responsibility to protect” (R2P). The R2P concept departs from traditional principles of international relations regarding the protection of national sovereignty, stating that sovereignty is not a right but a responsibility. R2P argues that when a regime commits war crimes and crimes against humanity, it forfeits its sovereignty, and the international community then has the right, indeed the responsibility to take necessary measures to protect civilians and prevent further crimes against them.

This principle has not been applied in Syria, where indiscriminate aerial bombardment has taken the lives of more than 20,000 civilians so far.¹ Bashar al-Assad’s forces have made extensive use of weapons of mass destruction, including SCUD missiles and chemical weapons, against areas of Syria with utter disregard for the lives of Syrian civilians or for the amount of destruction done to residential areas and infrastructure. The fractured Syrian military opposition, which includes extremist radical elements like the Islamic State of Iraq and al-Sham, have also committed crimes, such as kidnapping religious leaders and destroying Shia mosques in pro-Assad communities.

If one compares the conflict in Syria to other conflicts that have occurred throughout the world labeled “civil wars,” it is clear that the term “civil war” is far from the reality of the situation in Syria. In fact, Syria is in the midst of a popular revolution against an authoritarian regime. If we conduct a simple comparison of the number of victims in Syria with the number of victims in countries in which a civil war has actually occurred—in Peru, for example—we can see that the conflict in Peru, which lasted for twenty years, from 1980 to 2000, and had more than 70,000 victims,² is nearly incomparable to the 120,000 victims in Syria during only the past three years. According to U.N. High Commissioner for Human Rights Navi Pillay, the number of victims has risen from 1,000 per month at the start of the revolution to 5,000 per month today.³ If Assad is

Dr. Radwan Ziadeh is the executive director of the Syrian Center for Political and Strategic Studies and a former member of the Syrian National Council.

allowed to continue his war against the Syrian people, the number of victims can be expected to exceed 250,000.

It will not be possible to start a genuine process of transitional justice or a process of political transition toward pluralism, democracy, and reconciliation in Syria without a complete cessation of violence. As transitional justice experiences across the world have taught us, reconciliation is closely linked to the path of political transition, and it depends mainly on the political will and vision of both the actors and the political forces on the ground. The launching of transitional justice processes can let victims feel that those responsible for committing crimes against their children and daughters will be brought to justice and that the time of impunity is over. With the

implementation of a successful transitional justice program, Syrians will feel confident that there is a path toward national reconciliation that ensures adequate pluralism, credibility and legitimacy.

Launching a transitional justice process in Syria will be among the most difficult and complicated processes that the Syrian community will face after the fall of the regime. But considering the division of society currently taking place in Syria, it is unlikely the Syrian judicial system will be ready to launch a credible and effective accountability process. Assad and his militias have through intimidation and provocation set the Syrian people against each other. The recent establishment of the so-called Army of National Defense, which is practically a governmental institutionalization



SANA News Agency

President Assad with his Troops, August 1, 2013

of Assad's semi-regular militias (al-Shabiha) continues this intimidation and provocation.

One option for Syrians is international justice. The crimes of the Assad regime are certainly within the scope of work of the International Criminal Court. However Russia, with its position in the UN Security Council, may prevent the referral of Syrian criminals to the Court. Any future Syrian government formed by the opposition or formed after the fall of the Assad regime should ratify the Rome Statute, which will enable a prosecutor to open an investigation into these crimes. The path of international justice however is not an ideal choice; international justice is slow. Moreover it appears to be subject to the ambiguities of global geopolitics. The Syrian victims need their rights to be guaranteed, not set aside or compromised in the process of political compromise. Therefore, it seems that so-called hybrid courts may be a better option for Syria and Syrians. Such tribunals should be held on Syrian territory and involve the direct participation of Syrian judges supported by international expertise, possibly under the supervision of the United Nations. The necessity of international experts participating in hybrid courts held in divided societies remains the best option, as it will send the message to all Syrians that revenge is not the goal, as well as reassure them that the toughest standards of justice and international transparency will be required, carefully scrutinized and guaranteed.

In preparation for transitional justice programs in Syria, the Syrian Center for Political and Strategic Studies has organized conferences, workshops and discussions in which numerous representatives of political forces, associations, civil society organizations, human rights activists, judges and lawyers, and family members of the victims of the conflict

have participated. Two important initiatives have resulted from these engagements: the Association for the Defense of the Victims of the Syrian Revolution—which will serve as the voice of justice for the victims of the conflict—and the National Preparatory Committee for Transitional Justice, which will develop programs, perceptions, and policies necessary for the future transitional justice phase.

Transitional justice links two fundamental concepts: justice and transition. The semantically accurate meaning of the concept is achieving justice during a transitional period experienced by a state.⁴ During the political transition following an extended period of violence or oppression, a society and its communities often find themselves burdened with the difficult task of addressing pervasive human rights violations. The state seeks to deal with the crimes of the past in order to promote justice, peace, and reconciliation.⁵

The establishment of a culture of accountability, replacing the culture of impunity, gives a sense of security to the victims and sends a warning to those who might commit such violations in the future. It also provides a measure of fairness to the suffering victims, and helps to curb the tendency to practice vigilante justice or retribution. And it provides an important opportunity to strengthen the credibility of judicial systems suffering from corruption and destruction, or that did not function properly in the past.

The National Preparatory Committee for Transitional Justice, a committee of highly regarded Syrian judges, lawyers, human rights activists, and academics (formed to conduct exhaustive research on transitional justice and present specific recommendations for a future Syrian transitional justice program) is currently deeply engaged in an effort to open a

dialogue with civil society representatives in order to make transitional justice a priority after the fall of the Assad regime. The Syrian Expert House recommends that the interim government support the National Preparatory Committee by legally transforming it into a formal institution under the name, “National Commission for Transitional Justice and Reconciliation,” and then build its capacity and facilitate its efforts in every possible way. The next section describes in detail how this commission should function.

The National Commission For Transitional Justice And Reconciliation

The National Commission for Transitional Justice and Reconciliation will focus on

achieving five key objectives: fact-finding and commissions of inquiry, filing lawsuits, compensation, institution building for the future, and memorialization.

1. Fact-Finding and Commissions of Inquiry

The National Commission for Transitional Justice and Reconciliation will gather all databases containing evidence of human rights violations currently maintained by Syrian human rights groups and will form commissions of inquiry for conducting investigations regarding extrajudicial killings, torture cases, prisoners of conscience, and enforced disappearances.

These commissions of inquiry will be capable investigative bodies charged to uncover all the facts regarding conflict-related



Photo by Maha Zimmo

Syria's Supreme Court in Damascus. Will the Syrian Judicial System be able to Provide Justice?

violence, whether perpetrated by the state or non-state actors. The establishment of such committees must follow after efforts have been made to ensure there is an expanded national consultation process, appropriate terms of reference for each commission of inquiry, and the presence of a clear political commitment that will allow independent and effective investigations. The commissions of inquiry that will be created by the National Commission for Transitional Justice and Reconciliation should not be equated with or considered substitutes for trials. The commissions will be non-judicial organizations; therefore, their terms of reference and powers are complementary to those of the courts.

Simultaneously, the National Commission must encourage civil society to carry out transitional justice initiatives and support its work both directly and indirectly. Indeed, many NGOs—such as the Syrian Network for Human Rights, the Local Coordinating Committees, the Damascus Center for Human Rights Studies, and the Syrian Observatory for Human Rights—have documented the violations and abuses perpetrated by the Assad regime, often at great personal risk to themselves.⁶

The National Commission for Transitional Justice and Reconciliation should work to achieve the following:

- Seek and establish the truth regarding the grave human rights violations perpetrated by the Assad regime against the Syrian people.
- Hold accountable the perpetrators of human rights violations by providing evidence to courts and tribunals.

- Hold general forums for the victims to encourage a public debate on issues of transitional justice and reconciliation.
- Give recommendations regarding compensation for the victims via direct dialogue.
- Give recommendations for necessary legal and institutional reforms.
- Promote social reconciliation at multiple levels of society, the most important being the grassroots level.
- Help strengthen the democratic transition.⁷

Therefore, the Syrian Expert House recommends that the National Commission for Transitional Justice and Reconciliation organize a number of public hearings, to give the victims a forum to talk about their suffering. These hearings will break the sectarian barrier when they show that the victims are not limited to any single sect, but indeed represent all of Syria's sects. And they will play an important role in social healing, after the intense violence that Syrian society has experienced in the last three years.

2. Filing Lawsuits

The establishment of criminal justice is an essential element of addressing the massive violations of human rights in Syria. Lawsuits must be brought against individual perpetrators, and prosecutions should seek to restore the dignity of the victims and restore Syrian citizens' confidence in the rule of law. Trials must include criminal investigations and other legal proceedings against the perpetrators of war crimes and crimes against humanity that took place in Syria during the revolution. These trials should specifically seek to target the upper ranks of the Assad regime: those responsible for both giving orders to commit

violations, and those who oversaw the execution of those orders. Even members of the armed opposition must be held accountable, and their trials should be conducted according to the same international standards to avoid any challenges to these trials' legitimacy.

There will undoubtedly be some controversy regarding the ability of the domestic Syrian courts to hold perpetrators accountable. If the domestic courts prove incapable of conducting these trials, Syria may have no choice but to conduct judicial proceedings at the international level.

The post-Assad transitional government will invite the international community to assist in the establishment of hybrid courts presided over by Syrian judges and advised by international judges, all operating under the supervision of the United Nations. This hybrid court system will simultaneously uphold both Syrian and international law, resorting to international law only in the places in which the Syrian law code has gaps. The courts can also rely on the provisions of various international treaties that Syria has signed in order to develop their procedures. Mixed courts ensure that the Syrian population feels a sense of ownership regarding judicial proceedings while at the same time bringing international legitimacy to the court's rulings.

3. Compensation

In light of recent pervasive violations of human rights in Syria, it has become incumbent upon governments to not only address the perpetrators of these abuses but also to guarantee the rights of victims. Governments can create the appropriate conditions to preserve the dignity of the victims and to ensure justice, using methods of compensation for the damage and the suffering that victims have

experienced. The concept of compensation has several meanings, including direct compensation (for damage or loss of opportunity), restitution (moral and mental support for victims in their daily lives), and recovery (restoring what has been lost as much as possible). Compensations can be distinguished by their types, physical and moral, and the targeted groups, individual and collective. Physical compensation can take the form of money or material goods. It can also include the provision of free or preferential services, such as health, education, and housing. Moral compensation can be made by issuing a formal apology, by dedicating a public place (e.g., a museum, park, or monument), or by declaring a national day of remembrance.

Post-Assad Syria will need a Committee for Compensation and Reparation as the compensation of Syria's victims perhaps presents the greatest moral, legal, and political challenges, particularly for massive government-run programs. A range of considerations and challenges must be considered during the design of material reparation programs. It is necessary to first clearly define the "victims," or categories of beneficiaries, in order to be able to decide who deserves access to such compensation. Unfortunately, due to the limited nature of state resources, the wider the category of victims, the lower the amount of compensation. Conversely, if "beneficiary" is narrowly defined, the government could be inadvertently excluding a large number of legitimate victims.

A second consideration is to decide whether compensation will be distributed directly to individuals or to groups that have been wronged en masse. It is no surprise that structuring compensation in the form of collective grants often involves political gains that

could include a larger number of beneficiaries, but the value of restitution is minimal in most cases. Usually, these types of programs are viewed as normal social development efforts, and not necessarily as compensation for damage done to victims.

The third challenge is to organize compensation in the form of an integrated set of services (e.g., medical aid, education, and housing), or an exchange of payments, or a combination of the two. Conducting compensation via the provision of integrated services may be more expensive and limits the autonomy of individuals to clearly receive a personal form of compensation. Additionally, the quality of provided services depends directly on the ability of the state to invest in public infrastructure and to conduct the programs in an effective manner.

There are significant challenges that a reparation program might face, including the need to determine the types of damages for which victims can be compensated and how to differentiate compensation from basic welfare. The Committee for Compensation and Reparation will need to decide if compensation will be administered for economic, physical, or psychological damage, and whether compensation levels will be based on the amount of damage, or of need, or both. Another challenge will be how to quantify the extent of the damage (e.g., determining the amount of appropriate compensation to those who have lost their sight, been raped, or psychologically tortured) and then find the resources to fund compensation programs.

Additionally, it will be important for the transitional government to seek to restore victims' legal ownership of property. Examples include performing procedures to assist residents who were forcibly displaced from towns

and villages affected by indiscriminate shelling conducted by the Assad regime's forces. Other examples could include restoring ownership of stolen land or reintegrating victims into previously held jobs within the Syrian government. Second, it may be important in some contexts to develop special programs for the rehabilitation of victims, including psychological support and physical therapy or medical assistance for the many victims of physical and sexual violence. Third, a wide range of actions could be taken to provide redress for other damages, both for individual victims (e.g., finding final resting places for the dead) and victims in general (e.g., the formal recognition by the transitional government of regime-perpetrated crimes to open a new page, or customize public places and street names or care for special exhibitions, works of art, or building memorials and public monuments and museums).

The advantage of symbolic measures is that they are relatively achievable, can reach all parts of Syrian society, adopt a broad definition of victims, encourage the creation of a collective memory, and promote social solidarity. The inherent drawbacks of these measures are that they do not provide any directed financial or other material compensation for the victims.

4. Institution Building for the Future

Syria will need comprehensive reform of its institutions, laws, and policies to achieve its long-term social, economic, and political objectives, and to avoid any civil or democratic collapse in the future.⁸ The general objective of these institutional reforms will be to remove the conditions that gave rise to the recent conflict or the repression that catalyzed it. Therefore, the National Commission for

Transitional Justice and Reconciliation will ensure institutional reform by:

Restructuring state institutions that were complicit in acts of violence or abuse.

Removing any long-standing racial, ethnic, or sectarian discrimination, which some feel was perpetrated by the Ba'ath Party in state institutions, especially within the armed forces and security institutions.

Preventing the former perpetrators of human rights violations from continuing to benefit from positions in public institutions.

It cannot be over-emphasized that without reforms in areas such as the judicial system, Parliament, and the state security services, any accountability process will be almost certainly incomplete, and thus it will fail to build credibility among the general public. It will be difficult for citizens who have learned to look at the police, army, and government with suspicion to believe in the usefulness of any proceedings, or the accountability of those institutions. If they are expected to do so, they should be confident that the institutional cultures that allowed or fueled pervasive violations of human rights have been evaluated and corrected once and for all.

Constitutional and legal reforms should accompany police reform. These constitutional and legal reforms must promote democracy, human rights, and the rule of law. They will be relevant and visible in many areas, such as equity in wages; nomination of judges; fair assigning of positions, promotions, and disciplinary actions; election procedures; the independence of the media; freedom of access to information and the media; affirmative action; disarmament; the funding of political parties; and criminal law and penal procedures. Furthermore, the dynamics within the state apparatus do not allow for a diagnosis of

simple piecemeal reforms, because the reform of the state "security services" requires the reform of the army, police, judiciary, customs, immigration control, intelligence services, and many other related agencies and elements of the state. Thus, an attempt to change institutional structures and sensitivities within any one institution would affect many others, and all the linkages between these different institutions are not always clear. For instance, the reform of the police and the review of their recruitment procedures are both incomplete solutions, whether the goal is to punish violations of human rights or to prevent corruption. These reforms can and must necessarily be accompanied by full, comprehensive reforms and other measures capable of achieving prevention, accountability, and reparations.

Reform of the Security Forces and Intelligence Agencies

During the Syrian revolution, the mission of the police to impose law and order has often apparently been understood as a green light to commit political crimes. Syrian police officers have often colluded with the intelligence services in the commission of gross violations of human rights, including ignoring rights related to inspection, orders of arrest, and detention procedures, leading to beatings, torture, and even murder.

Once the Syrian conflict ends, the focus should shift to mental reforms, realizing that the duty of the police officer is to act professionally, to maintain the rule of law, and to respect the human rights of all citizens. However, the recovery of such a mentality will not be easy. Even if the complex relations among the systems of the state police and the other security agencies were to be disconnected, it is very likely that the required

reforms will collide with resistance from within the system itself from officers and officials who fear losing power, resent the consequences of their actions, and reject the need for any control or external intervention.

A reconstructed police force must be characterized by professional conduct, nondiscrimination, and integrity, which all require following a comprehensive approach to institutional reform (e.g., reform in the areas of employment, retraining, restructuring, and reform of management/reporting and control measures). The Syrian Expert House recommends the following three goals for police reform:

- Restructuring of the police forces;
- Reform through the application of new procedures for training, selection, and certification; and
- A democratic method for establishing a police force that is not subject to political control; is fair, accountable, and

multiethnic; and believes in the principles of a community police force.

This reform should contain a comprehensive, strategic set of elements, including the adoption of an ethical institutional charter; working on public education and retraining the police based on new political procedures; the application of administrative, communications, and management procedures to promote transparency and control; the application of corrective measures to ensure discipline, providing a means of complaint and evaluation; and reviewing recruitment procedures to encourage participation in the police force so that all communities are represented on the force without discrimination.

The culture of impunity institutionalized in Syria during Assad's rule encouraged the perversion of the intelligence agencies, which must be resisted by encouraging a nondiscriminatory employment policy for all Syrians.



Photo by Malia Zimm

Central Security Forces are back and were trying to control protestors but some police officers asked them to leave

More than eighty percent of Syrian security services staff belong to the Alawite sect (nearly the same percentage as in the military), although the proportion of Alawites in Syrian society does not exceed 10-12 percent.⁹ Therefore, the vast majority of Syrians feel that these forces do not represent them nor seek to ensure their safety. So an adjustment of the proportions of representation within the police forces could have a double benefit: first, to preempt further police abuse perpetrated against citizens; and second, to restore public confidence in the integrity of the police force.

Effective and objective control is a prerequisite for ensuring respect for the new procedures. Therefore, the Syrian Expert House recommends the creation of new institutions to achieve this end, including bodies of civilian control, a national committee for human rights, a Supreme Audit Agency, an office of grievances (to receive complaints against officials of the state and to investigate them), and an office for fighting corruption, responsible for the development of effective anti-corruption programs and policies.

Restructuring Institutional Reforms

In the context of reforming abusive institutions, as in all other areas of transitional justice, constraints are imposed by the existing political climate, the available resources, and the need to draft a project with realistic targets. Among the lessons learned from past attempts to reform abusive institutions is that efforts made to achieve reform in quantity and quality should not exceed the local capacity in terms of institutional structure as well as human and financial resources. Making such a mistake could take the reform process backward instead of forward. Another lesson linked to the first, especially in the field of testing, is

to pay attention to the risks that could be involved in isolating people from public office (especially former officials of the police force, the army, and the intelligence services, who often become criminals after they are terminated from state service.) This challenge should be anticipated by allowing the review and inspection body to develop ways to prepare those officials for a new life. Additionally, in the transitional periods in particular, where levels of unemployment and crime are high, vocational retraining and civil participation programs might be considered, as well as other methods for more permanent economic reintegration.

Finally, and perhaps most important, the reform of arbitrary or abusive institutions should be considered a long-term process. It takes many years before the success or failure of new laws and institutions can be discerned.

Cleansing Institutions of Corrupt Officials

The National Commission for Transitional Justice and Reconciliation should develop the necessary mechanisms to remove corrupt and incompetent staff members, along with those who have violated the law, from government service in order to build more effective and trustworthy institutions. A comprehensive investigation and examination of past performance is often a central element in the reform of abusive institutions, and it is adopted by new governments as a way to isolate the individuals responsible for serious abuses of their positions in the public sector.

There is a difference between screening and "cleansing," a term that was used extensively in Central and Eastern Europe and used later in Iraq to refer to laws and policies that include the processes of isolation and dismissal, not according to the records of

individuals but to their party affiliation, political positions, or continued involvement with a repressive intelligence system. There are many pros to the screening process as one of the mechanisms for achieving transitional justice. Screening, for example, helps reduce the risk of new or continued violations, enhances public confidence in state institutions, contributes to removing barriers among prosecutions, and assists in the rehabilitation of officials who have had their reputations damaged unfairly as a result of their names being listed among those of corrupt officials within their organizations.

Screening mechanisms must conform to the basic principles of procedural fairness or legal practice. Efforts to prevent corruption or reform institutions must not resort to wrong practices. Therefore, those to be dismissed from office should have the right to be informed of the accusations against them, to protest against these accusations before a screening committee, to appeal the decision before an unbiased body, and to be informed of these rights in a timely manner. The screening committee should have the authority to impose a range of sanctions. For particularly serious violations, cases might in fact be presented to law enforcement authorities for further action.

5. Memorialization

Memorialization can be accomplished by way of an event, occurrence, or building being used as a tool of remembrance. Moreover, remembrance can entail formal commemoration (e.g., the establishment of a monument) or informal commemoration (building a memorial wall in a community). In other words, remembrance can be done in an official way by the state or voluntarily by citizens.

People seek to commemorate the events of the past for many reasons, including the desire to evoke the memory of the victims and/or to identify them, to educate people about their past, to increase community awareness, to support or amend an historical narrative, or to encourage the adoption of the commemoration / transitional justice process at the local level. Understanding the needs of victims and their families, along with the needs of survivors of mass atrocities and brutal violations of human rights, represents one of the key elements of transitional justice.

The struggle over the control of the

Understanding the needs of victims and their families, along with the needs of survivors of mass atrocities and brutal violations of human rights, represents one of the key elements of transitional justice.

national memory, or “collective memory,” is located in the heart of the accountability process that will ensue following the end of the conflict or the fall of the regime. Two different narratives for the Syrian conflict will exist in Syrian society. Human rights activists and victims may feel deeply aggrieved by the new government or the old (should it survive) if either seeks to create an official final narrative of the past. Sometimes, certain transitional justice strategies—such as the creation of a truth commission—are seen as a necessary step in the direction of remembrance; but at the same time, this step alone is insufficient. The reason for this is that keeping the memory alive is extremely difficult, and the official truth commissions become a rigid part of the new official narrative of the past which competes and

may conflict with the evolving understanding of the past.

The requirement to never forget what happened to victims of human rights violations in the past necessitates a discussion about what to teach in schools, how the victims should be remembered, and whether people will continue to listen to the voices of the victims, even after the publication of the report of the truth commission or the completion of trials of human rights violators. Even if history books ensure the telling of the stories of victims, remembrance must still make people engage in a dynamic, long-lasting dialogue, not only about the past—and events and their implications—but also about how the present can benefit from the past and how the suffering communities can better prepare for the future.¹⁰

Reconciliation represents a culmination of all the phases of transitional justice referred to above, and thus it can enable Syrian society to overcome its deep social and sectarian divisions by creating a national partnership for building a new future.

The Syrian Expert House recommends transforming centers of torture and abuse (e.g., Tadmour and Sednaya) into memorial squares and building memorial walls in public places, such as Umayyad Square in Damascus, Assi Square in Hama, and Jabri Square in Aleppo. All these efforts will commemorate the victims and inspire a continuing and lively discussion of the past.

Transitional Justice and National Reconciliation

The concept of reconciliation has roots far back in Arab-Islamic history,¹¹ however the modern use of the term “national reconciliation” can be traced to French leader Charles de Gaulle. It was later used by Georges Pompidou and François Mitterrand, when the need to take responsibility for erasing debts and past crimes that occurred under occupation during the Algerian war was cemented in their beliefs.¹²

There is no way that Syria will be able to escape from its deep social rifts following the end of the conflict unless a historic decision is made to institute a comprehensive national reconciliation program. Reconciliation represents a culmination of all the phases of transitional justice referred to above, and thus it can enable Syrian society to overcome its deep social and sectarian divisions by creating a national partnership for building a new future.

Recommendations

1. The establishment of a documentation and auditing committee whose main purpose will be collecting and verifying the names of the victims and their families.
2. Training documentation staff to gain knowledge about similar experiences from other countries, such as the Truth and Reconciliation Committee in South Africa, the Equity and Reconciliation Committee in Morocco, and similar entities in Chile and Peru.
3. Achieving community dialogue in Syria regarding general human rights issues by focusing on areas such as accountability,

justice, enforced disappearances, and prisoners of conscience.

4. Revealing the truth about human rights violations committed in the past, seeking to expose the truth to public opinion, and compensating the victims of enforced disappearances and their families both morally and financially.

5. Adopting and supporting political, social, and cultural development programs based on need.

6. Seeking to adopt constitutional and legislative reforms in human rights, security, and justice and endorsing a national strategy against impunity to hold those who committed human rights violations accountable via active participation from the community, while promoting the principle of separation of powers, and protecting the judicial authority from any interference by the executive authority.

7. Prohibiting the enforced disappearance, arbitrary detention, genocide, or any other crimes against humanity, torture, cruel and unusual punishment, racism, insult, or prohibited discrimination, and any incitement of racism, hatred, and violence.

8. Clarifying and disseminating the legal framework and regulatory texts regarding the authority and organization of security forces, limits of intrusion during operations, surveillance systems, and evaluating the performance of security forces, as well as the administrative authorities assigned to maintain order and those who have the authority to use force.

9. Urging civil society, civil organizations, and NGOs to file lawsuits against the perpetrators who committed extrajudicial killings, torture, or enforced disappearances against civilians, while maintaining the privacy of

the victims. Such a process should occur according to the active penal law code. In addition, encouraging civil society organizations and NGOs to report the cases of missing individuals to human rights committees and the Committee on Enforced Disappearances of the United Nations, assisting the families of the victims on how to report their cases while fully explaining to them that such procedures will lead to revealing the fate of the missing person.

Furthermore, families should realize how essential it is to file these cases despite limited resources to close missing persons' files.

10. Filing discrimination lawsuits on behalf victims of torture, prisoners of conscience, and those who were subject to enforced disappearance— especially those who have suffered in the past thirty years and during the Syrian uprising. Such lawsuits must be based on Syrian law and the international human rights standards that the Syrian government has ratified.

11. Working on acquiring the necessary experience to qualify certain individuals and organizations to assist victims of torture, prisoners of conscience, and the families of the disappeared. This process should be based on similar experiences of other countries along with the assistance of the expertise of international organizations.

12. Emphasizing the humanitarian dimension and the suffering endured by the families of the missing individuals during the process. For example, instead of completely focusing on the documentation process and legal procedures, a Web site can be developed to honor Syria's victims. Moreover, the families of the victims can connect with other individuals who have had the same

experience, whether in Syria or in other post-conflict countries.

13. The suffering endured by the families of the victims must be addressed. This includes issuing an apology by the transitional government, providing them with compensation, and establishing a national institution specialized in the field of the psychological and social rehabilitation of victims of torture, prisoners of conscience, those subject to enforced disappearance, and victims of enforced disappearance who were released. Moreover, offering the families of enforced disappearance victims' guidance and advice on how to follow the progress of their case at various levels, and printing and disseminating publications specifically for that purpose. In fact, there has not been any guide for dealing with this issue for the families of missing individuals on which they can rely.

14. Determining the locations of detention facilities and secret prisons so they can be subject to legal observation and control. Also, prohibiting detentions from being conducted by the security intelligence agencies, which are numerous and difficult to subject to any form of control. In addition, holding the security agencies accountable if they are proven to have been involved in enforced disappearances.

Studies show that half of countries emerging from conflict return to conflict within five years. Because of the intensity and intimacy of the violence in Syria, the post-conflict transition in Syria will undoubtedly be extremely tense and subject to repeated threats of the resumption of conflict. Finding the right balances between justice and reconciliation, between compensation and retribution, and between atoning for the past and focusing

on the future will test our skills and ability to learn from the experiences of others. An effective transitional justice program cannot undo what has been done, but will surely mitigate some of the pain allowing Syrians to forge confidently into the future. **PRISM**

Notes

¹ For current numbers of civilian victims of the Syrian revolution, see Megan Price, Jeff Klingner, Anas Qtiesh, and Patrick Ball, "Full Updated Statistical Analysis of Documentation of Killings in the Syrian Arab Republic," Human Rights Data Analysis Group, commissioned by United Nations Office of the High Commissioner for Human Rights, June 13, 2013.

² See Hatun Willakuy, *Abbreviated Version of the Final Report of the Truth and Reconciliation Commission in Peru* (Lima, 2004).

³ See USAID Fact Sheet, *Syria – Complex Emergency*, January 3, 2013, <https://dec.usaid.gov/dec/GetDoc.axd?ctID=ODVhZjk4NWQtM2YyMi00YjRmLTkxNjktZTcxMjM2NDNmY2Uy&rID=MzM3NDEx&pID=NTYw&attchmnt=VHJ1ZQ==&uSesDM=False&rIdx=NDM3MjM3&rCFU=>

⁴ Neil Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, 3 vols. (Washington: U.S. Institute of Peace Press, 1995).

⁵ Alex Boraine, Janet Levy, and Ronel Scheffer, eds., *Dealing with the Past* (Cape Town: Institute for Democracy in South Africa, 1997); D. A. Crocker, "Reckoning with Past Wrongs: A Normative Framework," *Ethics & International Affairs* 13 (1999): 43–61.

⁶ *Mapping Accountability Efforts in Syria*, Public International Law & Policy Group, February 2013, <http://www.dchrs.org/english/File/Reports/mapping-accountability-efforts-in-syria.pdf>

⁷ Robert I. Rotberg, "Apology, Truth Commissions, and Intrastate Conflict," in *Taking Wrongs Seriously: Apologies and Reconciliation*, edited by Elazar Barkan and Alexander Karn (Stanford, Calif.: Stanford University Press, 2006), 33–48.

⁸ See International Center for Transitional Justice, *Annual Report of the International Center for Transitional Justice, 2003/2004* (New York: International Center for Transitional Justice, 2004).

⁹ For more on this, see Radwan Ziadeh, *Power and Policy in Syria* (I.B. Tauris, 2011).

¹⁰ Vamik D. Volkan, "What Some Monuments Tell Us about Mourning and Forgiveness," in *Taking Wrongs Seriously: Apologies and Reconciliation*, edited by Elazar Barkan and Alexander Karn, Stanford University Press, 2006, p. 115–130.

¹¹ George Emile Irani, "Apologies and Reconciliation: Middle East Rituals," in *Taking Wrongs Seriously*, ed. Barkan and Karn; Abdel Hussein Shaaban, *The Jurisprudence of Tolerance in Arab Islamic Thought: Culture and the State* (Beirut: Dar al-Nahar, 2005).

¹² See Jacques Derrida et al., *Tolerance and Reconciliation Policies Memory*, translated by Urban Hassan (Casablanca: Toubkal, 2005), 7.37.