

War and the Global Refugee Crisis: Syria

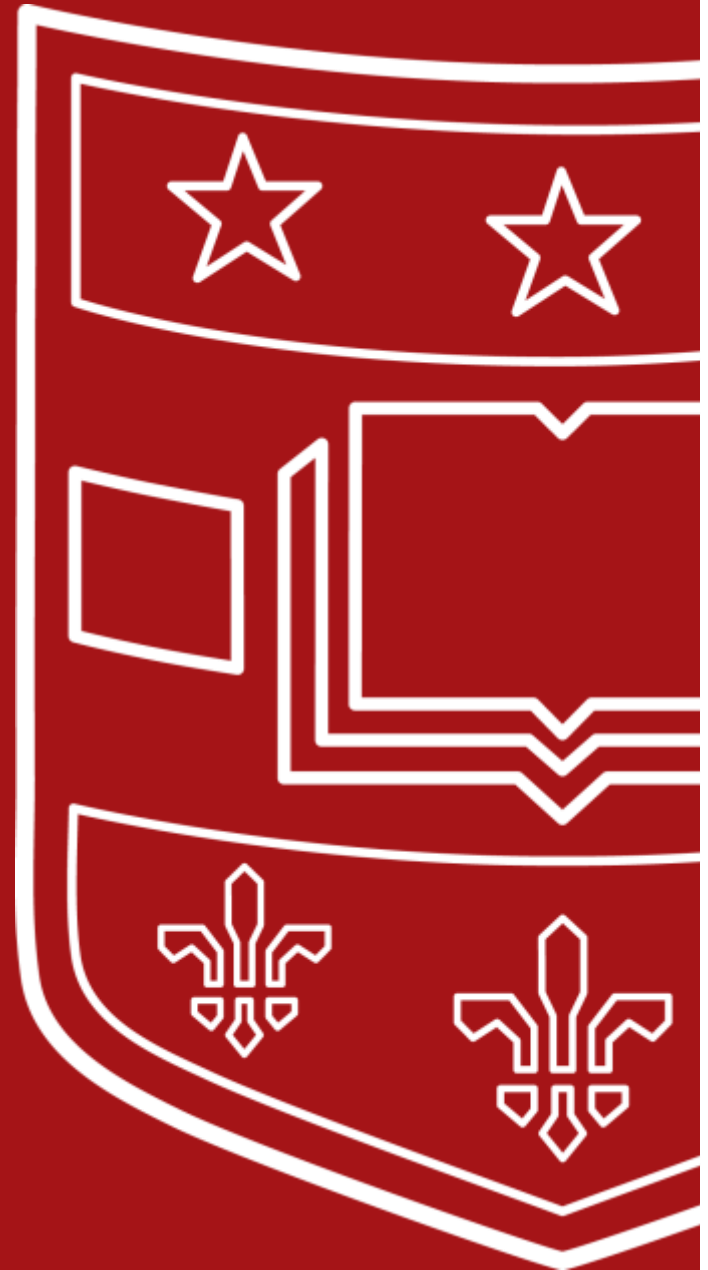
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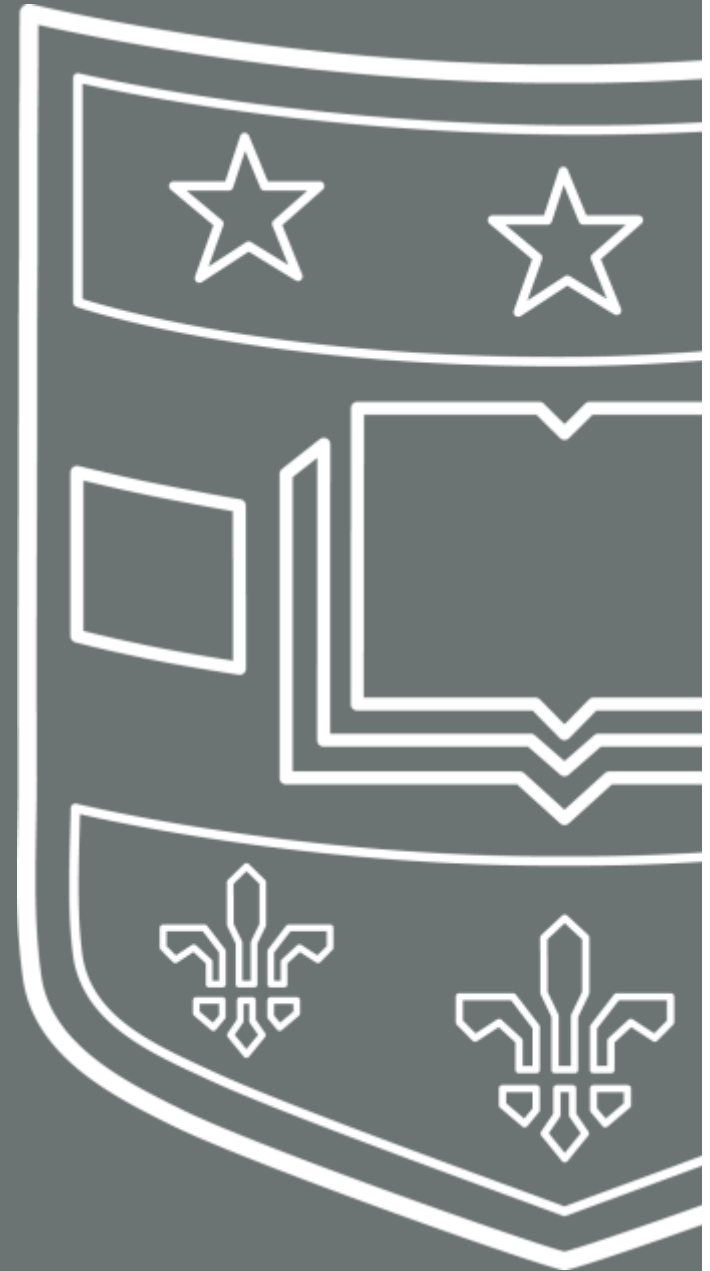
January 4, 2020

Association of American Law Schools

 Washington University in St. Louis



Syria: An Historic and Beautiful Country



Ancient Syria: Mesopotamia



Monik-a/Shutterstock

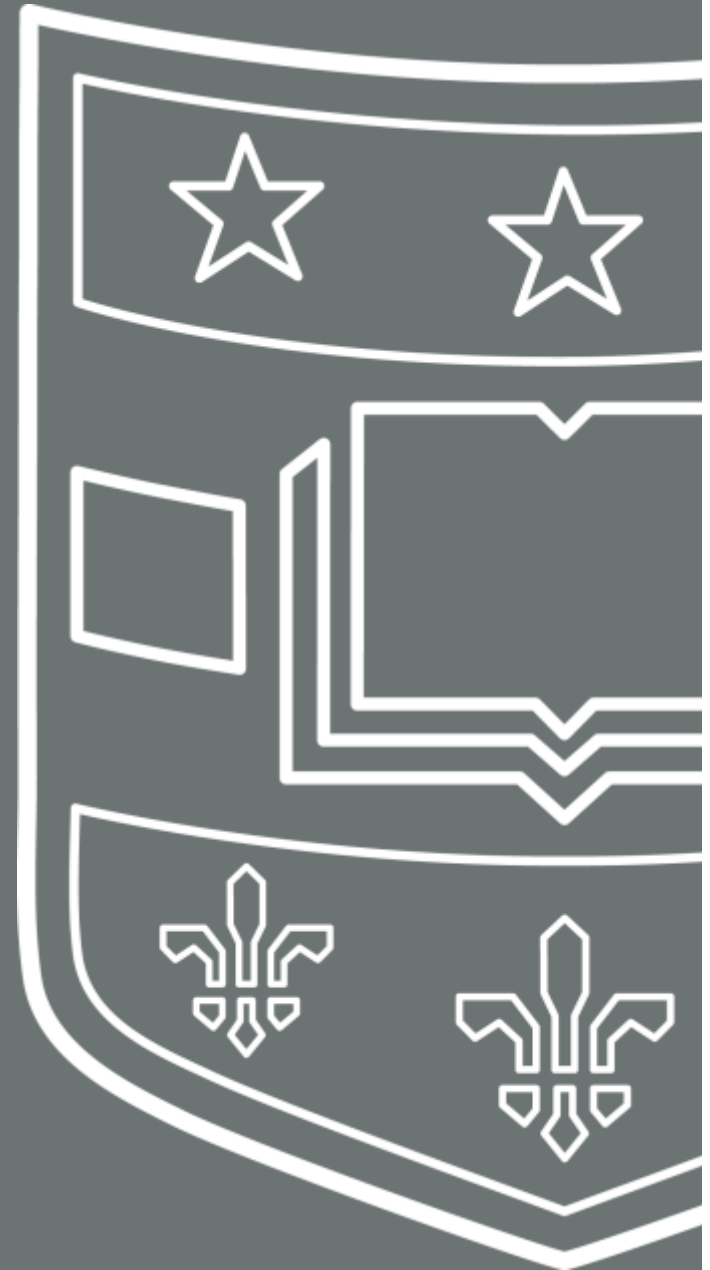
Ruins of the ancient amphitheater in Palmyra on Syrian desert
(shortly before the war, 2011)

Pre-Conflict Map of Syria

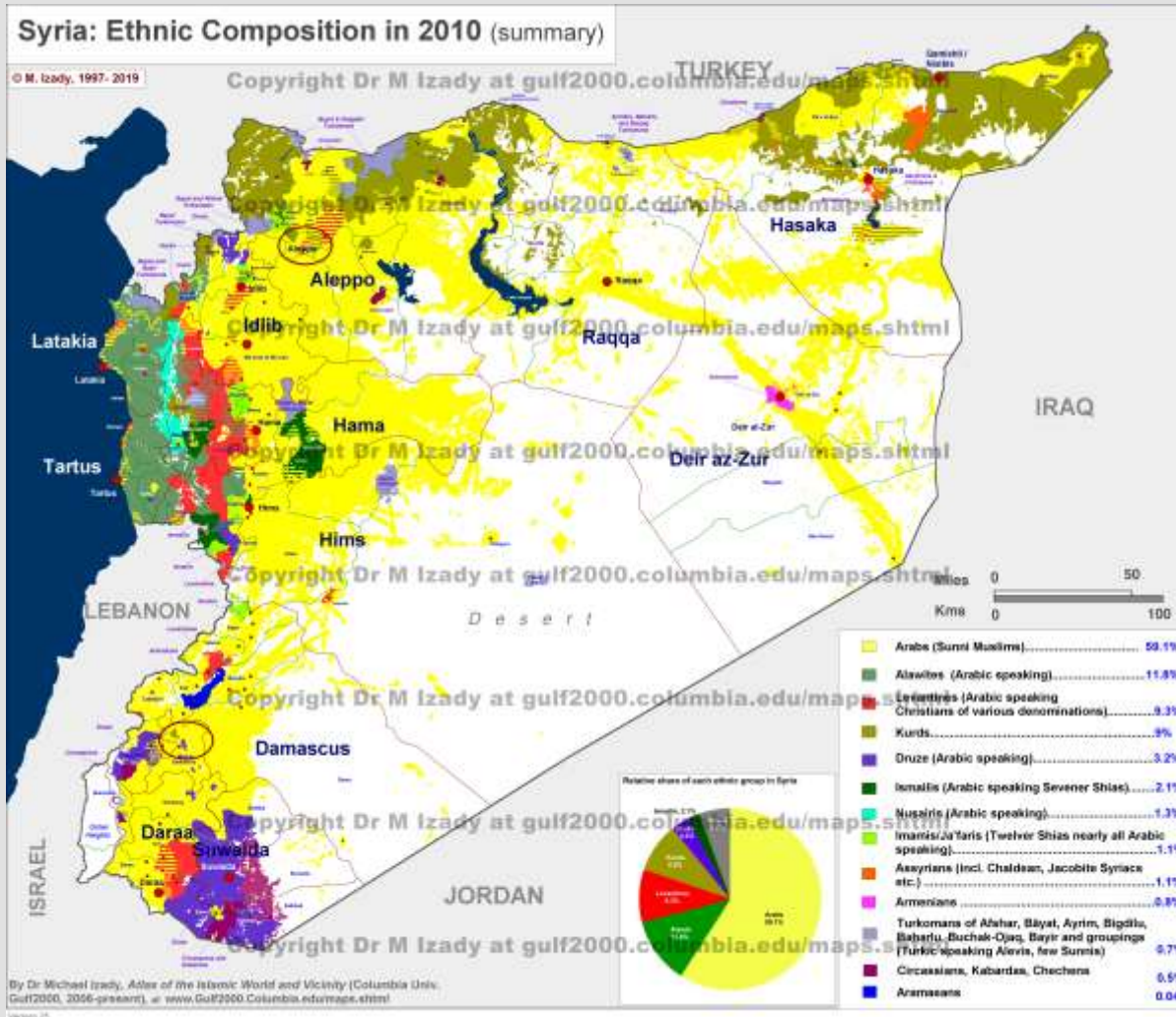


Source: Encyclopædia Britannica (2009)

The Atrocity Cascade of the Syrian Civil War



Syria's Pre-Conflict Demographics



Syria's pre-war population was estimated to be 23 million.

This included ~1-1.5 million Iraqi refugees and 580,000 Palestinian refugees

Ethnic Groups in Syria:

- 59.1% Arab
- 11.8% Alawis
- 9.3% Levantines
- 8.9% Kurds
- 3.2% Druze
- 2.1% Ismailis
- 5.6% Other

Source: Dr. Michael Izady for the *Atlas of the Islamic World and Vicinity* (New York, Columbia University, Gulf 2000 Project: 2006-present)

2011: The Descent into Chaos



- **December 2010:** Arab Spring begins in Tunisia, then spreads across the Middle East and Northern Africa.
- **February 2011:** Small solidarity demonstrations are held in Syria, which are shut down by Syrian security forces.
- **March 2011:** Anti-government protests start in Dar'ā and spread to several cities around Syria. Several protestors are killed when security forces fire live ammunition.
- **April 2011:** The government begins to use heavy military weaponry against protesters. Soldiers and tanks are deployed to several cities.
- **May 2011:** The first refugee camps open in Turkey.
- **July 29, 2011:** A group of defectors from the Syrian military announce the formation of the Free Syrian Army, an opposition militia.

2011: The Opposition Takes Up Arms



Syrian Free Army, December 2011

Ricardo Garcia Vilanova/AFP/Getty Images

2011: The Refugee Crisis Begins



By April 2012, the U.N. reported that 200,000+ Syrians were internally displaced, 55,000 were registered refugees, and an estimated 20,000 were not yet registered.



AP/Vadim Ghirda



Adem Altan/AFP/Getty Images

Syrian refugees at a camp in the Turkish border town of Yayladagi, Turkey in June 2011.

2012-2013: The Crisis Escalates



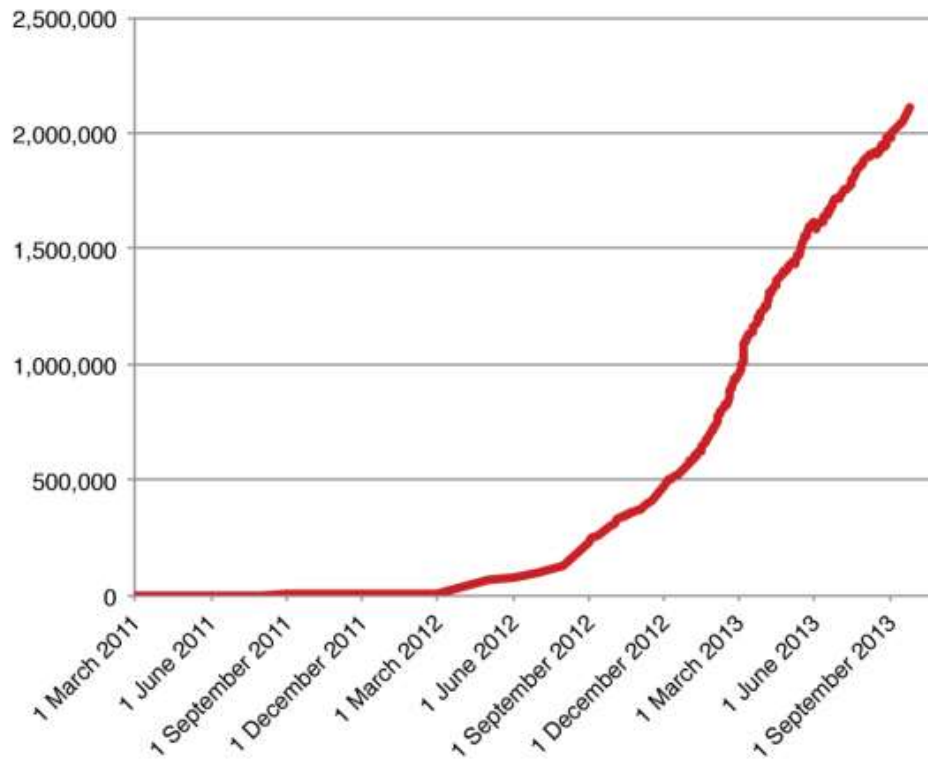
- **June 2012:** U.N. officials refer to the situation in Syria as a **civil war** (the ICRC announced it would classify the conflict as a civil war in July 2012).
- **July 2012:** Za'atari Refugee Camp opens in Jordan.
- **August 2012:** The first Syrian refugees migrate by sea to the European Union.
- **March 2013:** The number of Syrian refugees reaches **1 million**.
- **April 2013:** The Islamic State of Iraq and Syria (**ISIS**) forms.
- **June 2013:** The death toll in Syria surpasses 100,000 according to the United Nations. Tens of thousands of protestors have been imprisoned and there are credible reports of widespread torture in State prisons.

Syrian Refugees: 2011-Sept. 2013



The Rising Curve of Displacement

Syrian refugees



August 2013:
The number of
Syrian refugee
children reaches
1 million

Source: UNCHR

2013: Chemical Weapons Attacks



- **August 20, 2012:** President Obama warns “We have been very clear to the Assad regime, but also to other players on the ground, that a red line for us is we start seeing a whole bunch of chemical weapons moving around or being utilized.”
- **August 21, 2013:** The Syrian government uses sarin in an attack against opposition areas in Ghouta (a suburb of Damascus), killing est. 300-1000 civilians.
- **August 31, 2013:** President Obama announces that he will seek authorization from Congress to use American military forces to intervene in Syria. The Authorization for the Use of Military Force Against the Government of Syria to Respond to Use of Chemical Weapons (S.J. Res. 21) was filed on September 6, 2013. The bill never received a vote in either the House or Senate.
- **September 10, 2013:** President Assad agrees to a US-Russian negotiated deal to turn over its chemical weapons stockpiles for destruction, enshrined in a SC Resolution and Syria agrees to ratify the CWC.

Chemical Weapons Attack in Douma, Syria, August 21, 2013



Jason Aldag/The Washington Post

AUMF Request: August 31, 2013



Charles Dharapak/AP

“[W]hile I believe I have the authority to carry out this military action without specific congressional authorization, I know that the country will be stronger if we take this course, and our actions will be even more effective.”

2014: ISIS Gains Ground and Spreads Terror



AP Photo/militant website, File

Fighters from Islamic State of Iraq and the Levant (ISIL) marching in Raqqa, Syria.

2014-2016: International Involvement Intensifies



- **April-July 2014: Chemical Weapon Use Resumes.** Chlorine is used “systematically and repeatedly” in deadly attacks on rebel-held areas.
- **September 2014:** U.S. coalition begin airstrikes in Syria against ISIS.
- **September 2015:** Russia officially joins the war, carrying out airstrikes and providing military aid to Assad.
- **September 2015:** The number of Syrian refugees reaches 4 million.
- **July-December 2016:** Syria’s most populous city, Aleppo, is sieged and bombarded as the government tried to take control back from rebel groups, which had held the city since the early days of the conflict. During the government’s offensive, the U.N. High Commissioner for Human Rights warned that "crimes of historic proportions" were being committed in Aleppo.

Aleppo: Before and After



Image credits: Photographs by Olympia Restaurant

Air Strikes in Iraq and Syria



Air strikes in Iraq and Syria



US-led coalition strikes

IRAQ 7,011

SYRIA 3,429



■ IS control ■ IS free to operate

■ Kurdistan Government-administered

★ Russian air strikes

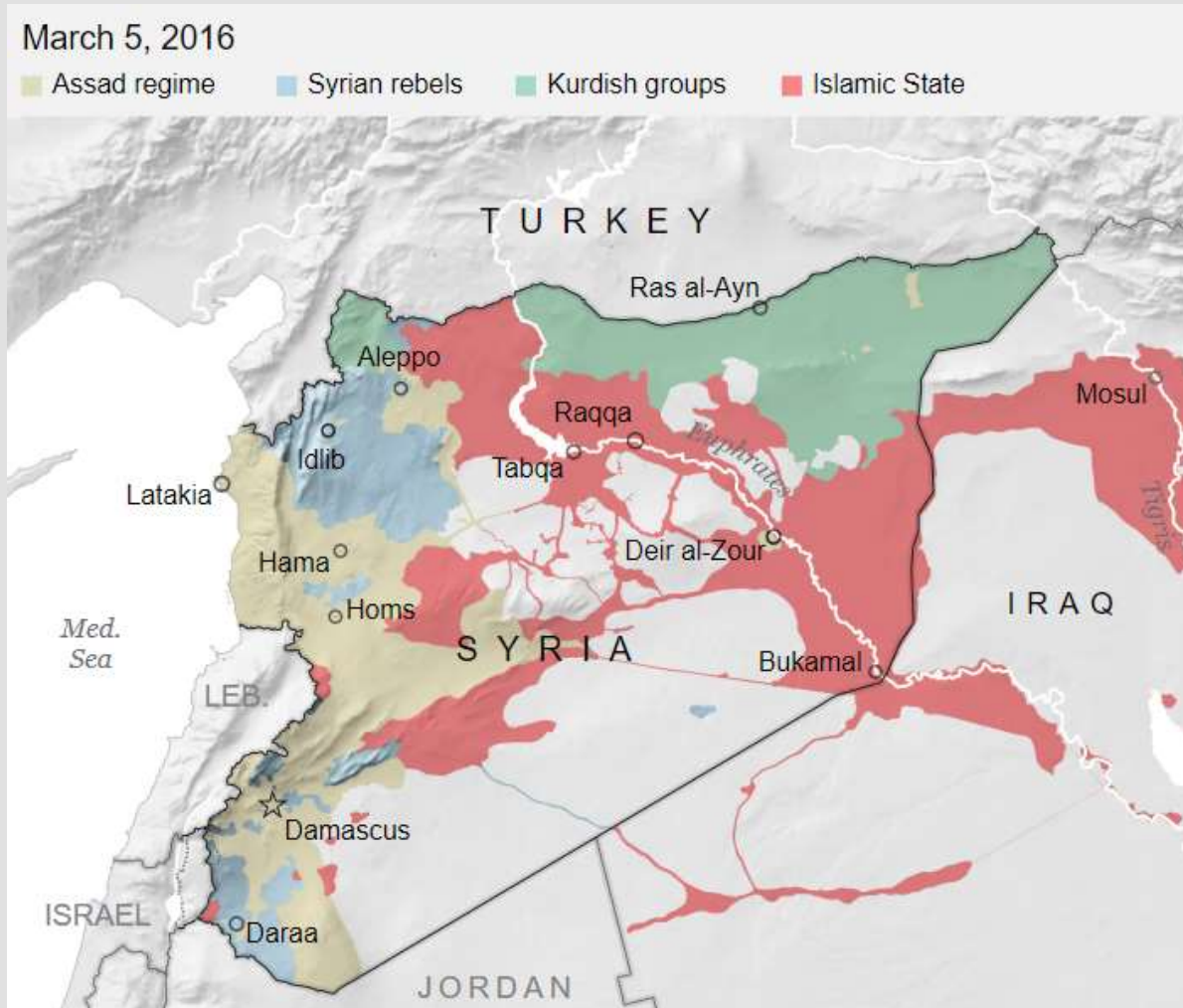
Note: Approximate location of areas Russia has targeted, number of strikes unknown.

Source: Institute for the Study of War, US Central Command, 8 March

BBC

2016: Territorial Control in Syria

(as of March 5, 2016)



The Washington Post, March 5, 2016

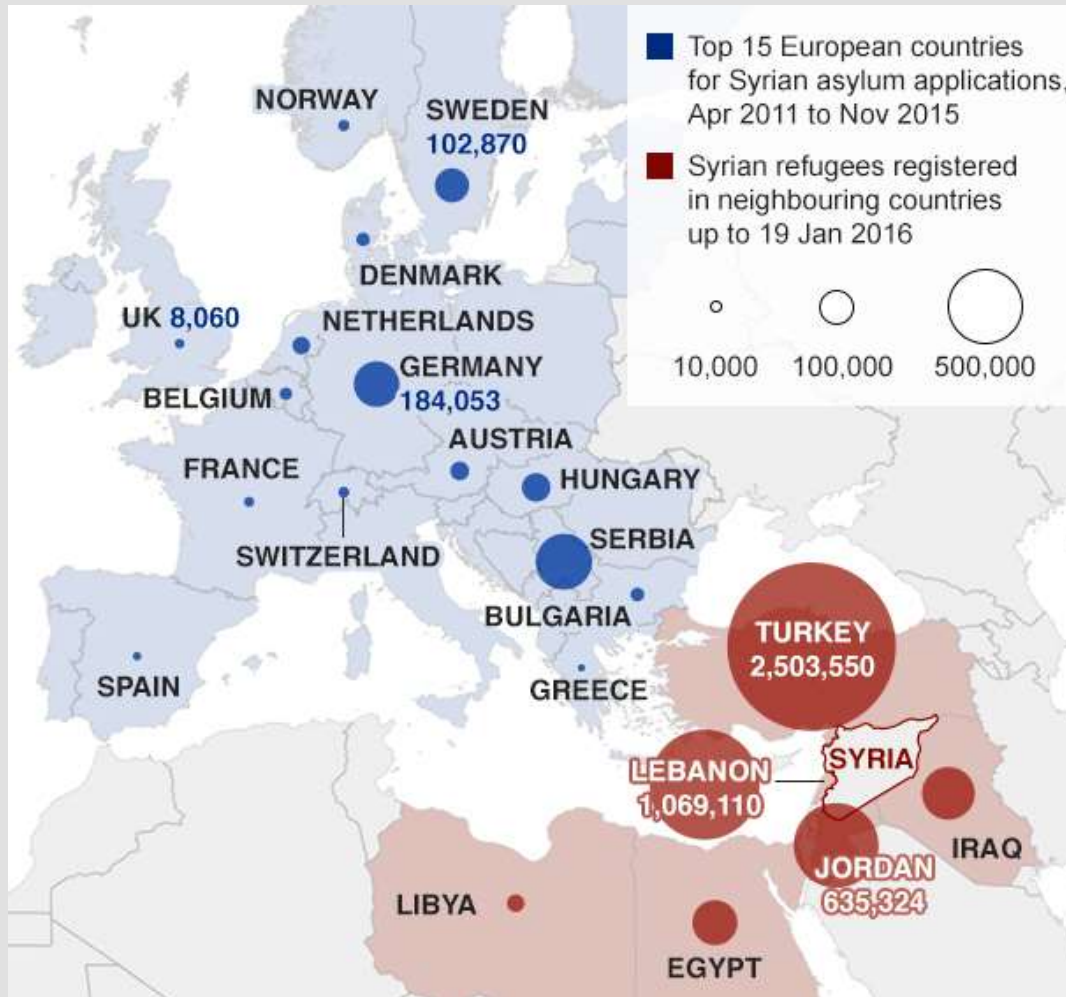
2015: Migration Flows to Europe

The Crisis in the Mediterranean



The body of Syrian toddler Aylan Kurdi washes up on a Turkish beach after a failed attempt to reach Greece

Syrian Migration: 2011-2015/16



July 2015:

The number of Syrian refugees tops 4 million

In 2015:

Europe received 378,000 Syrian asylum seekers

By the end of

December 2015:

An estimated 500,000 Syrian refugees had entered Europe since 2012, 80% by sea

BBC Graphic / UNHCR data

2015: Migration Flows to Europe

Two-decades of Open EU Borders Ends



Achilleas Zavallis/UPI

Syrian refugees stand at the border in Serbia after Hungary completes its border fence, armed by soldiers (September 15, 2015)

2016: Turkey-EU Deal



- The deal was intended to limit the influx of migrants entering the EU via Turkey.
- Any irregular migrant in the EU that was found to have entered through Turkey, would be returned to Turkey.
- The EU agreed to resettle, on a 1:1 basis, Syrian migrants living in Turkey who had qualified for asylum and resettlement within the EU.
- The EU also lessened visa requirements for Turkish citizens and offered the Turkish government ~ 6 billion euros.
- The deal went into effect on March 20, 2016.



Turkish Prime Minister Ahmet Davutoglu shakes hands with European Council President Donald Tusk after the EU-Turkey Summit, March 2016

2017: No End in Sight



- **January 2017:** President Trump blocks Syrian refugees from entering the United States.
- **March 2017:** The number of people fleeing the war in Syria surpasses **five million**.
- **April 2017:** Following another chemical attack by the Syrian government, the United States launched missiles against a Syrian airbase. This was the United States' first unilateral military action targeting government forces during the conflict.
- **May 2017:** Trump announces plan to arm Kurdish forces in Syria.

2018-Present



- **February 2018:** Geneva peace process that opened in 2012 ends.
- **April 2018:** After a chemical attack in Douma, the United States, Britain, and France launch airstrikes against Syrian government targets. US UN Ambassador Nikki Haley argues that it was “to deter the future use of chemical weapons by Syria.”
- **August 2019:** The Pentagon reports that ISIS is “re-surg-ing in Syria.”
- **October 6, 2019:** President Trump orders U.S. troops to withdraw from Syria immediately.
- **October 2019:** Turkish air and ground forces move into northeast Syria against Kurdish forces.

2019: Territorial Control in Syria

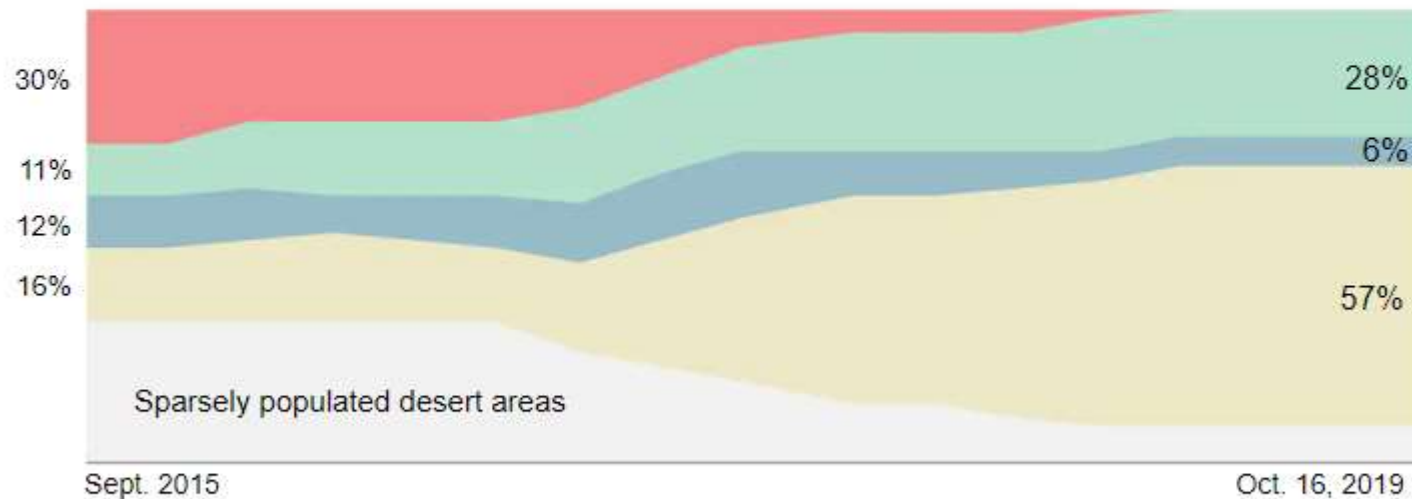
(as of October 16, 2019)



How control over Syria has evolved

Prior to Trump's Syria pullout, Assad's territorial advances had slowed down. His regime could now gain control of large parts of the Kurdish-held areas.

● Islamic State ● Kurdish forces ● Syrian rebels ● Assad regime



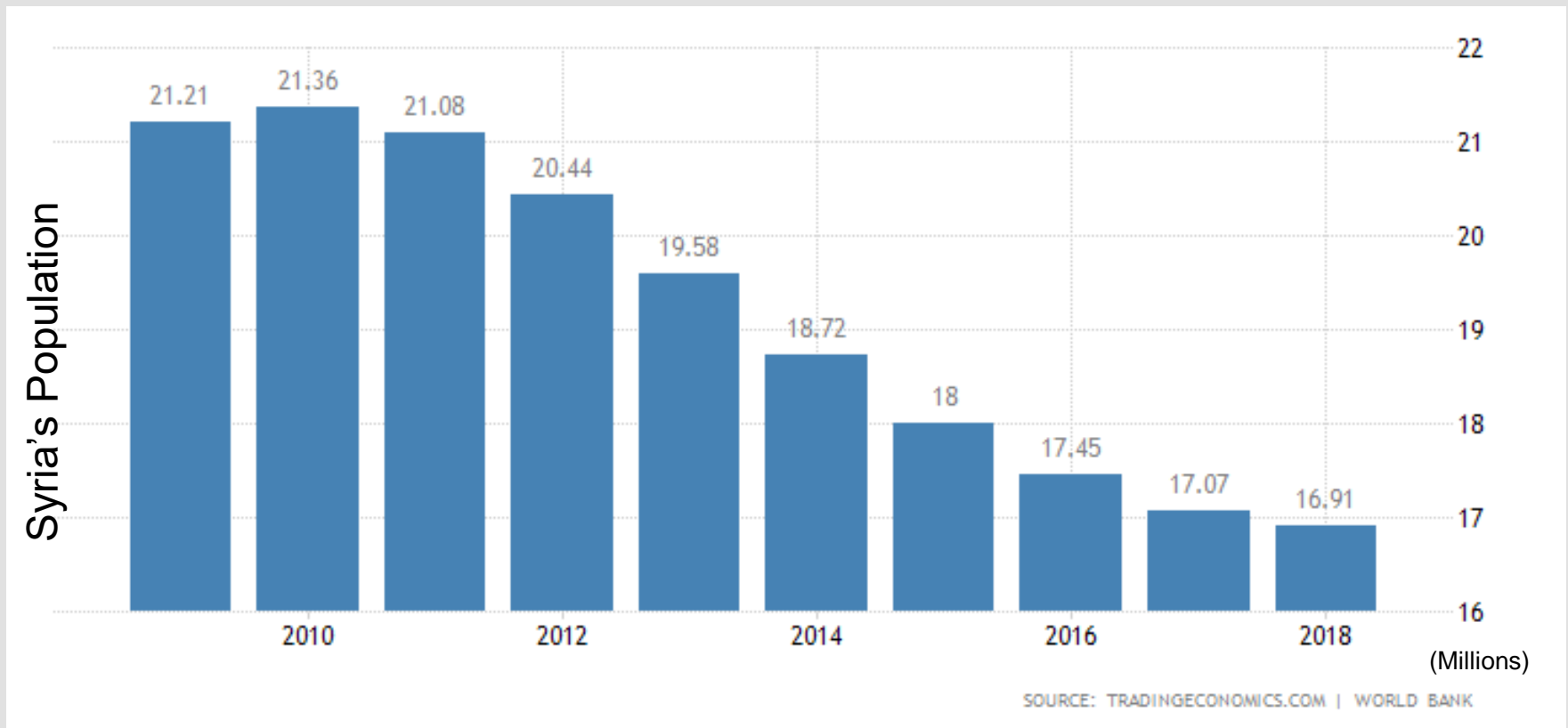
Data is not yet available for Syrian government-backed and Turkish forces that have gained territory since Oct. 9.

Source: Conflict Monitor by IHS Markit

RICK NOACK/THE WASHINGTON POST

The Washington Post, October 17, 2019

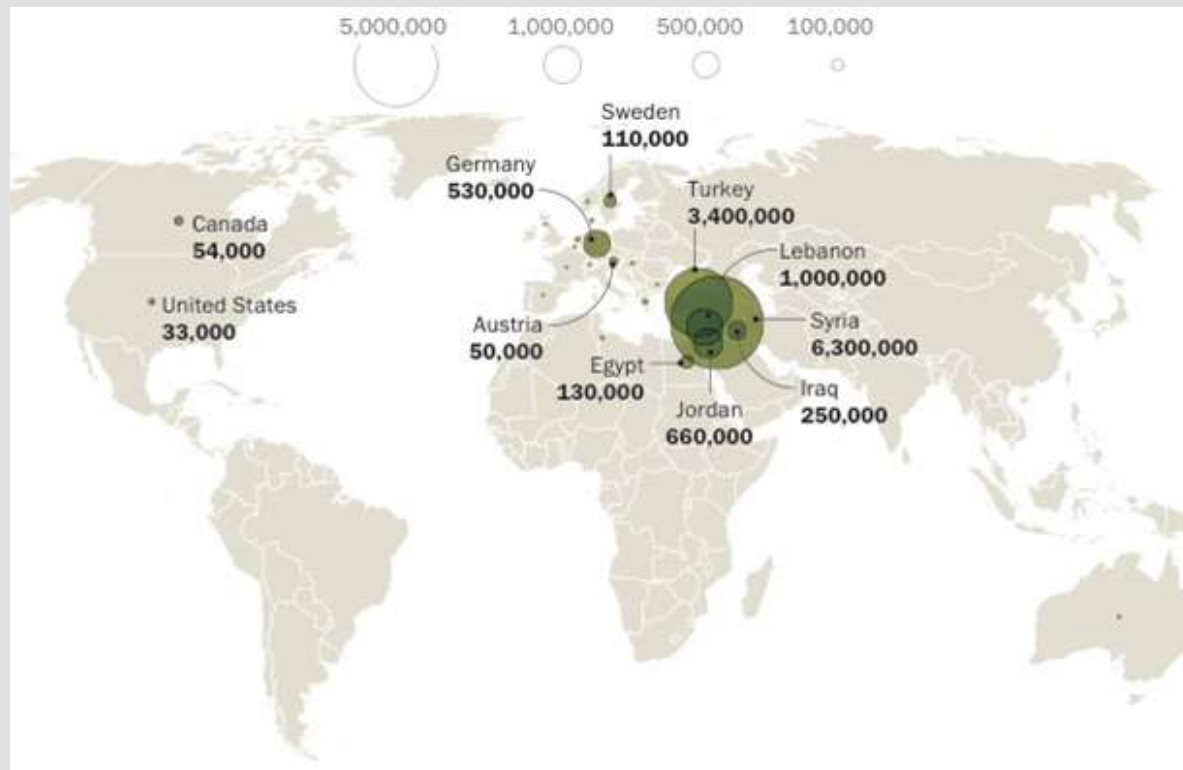
Syria's Declining Population



Current Refugee and Migration Crisis



Estimated Number of Displaced Syrians, by country



Source: Pew Research Center, *Most displaced Syrians are in the Middle East, and about a million are in Europe* (Jan 29, 2018)

UNHCR figures:

(as of March 2019)

- Over 5.6 million Syrians have fled their country since 2011
- Over 80% Syrian refugees are in countries bordering Syria
- 6.6 million internally displaced persons, 70% of which do not have access to clean water, 4.5 million in hard-to-reach areas
- Approx. 50% of all Syrian registered refugees are under 18

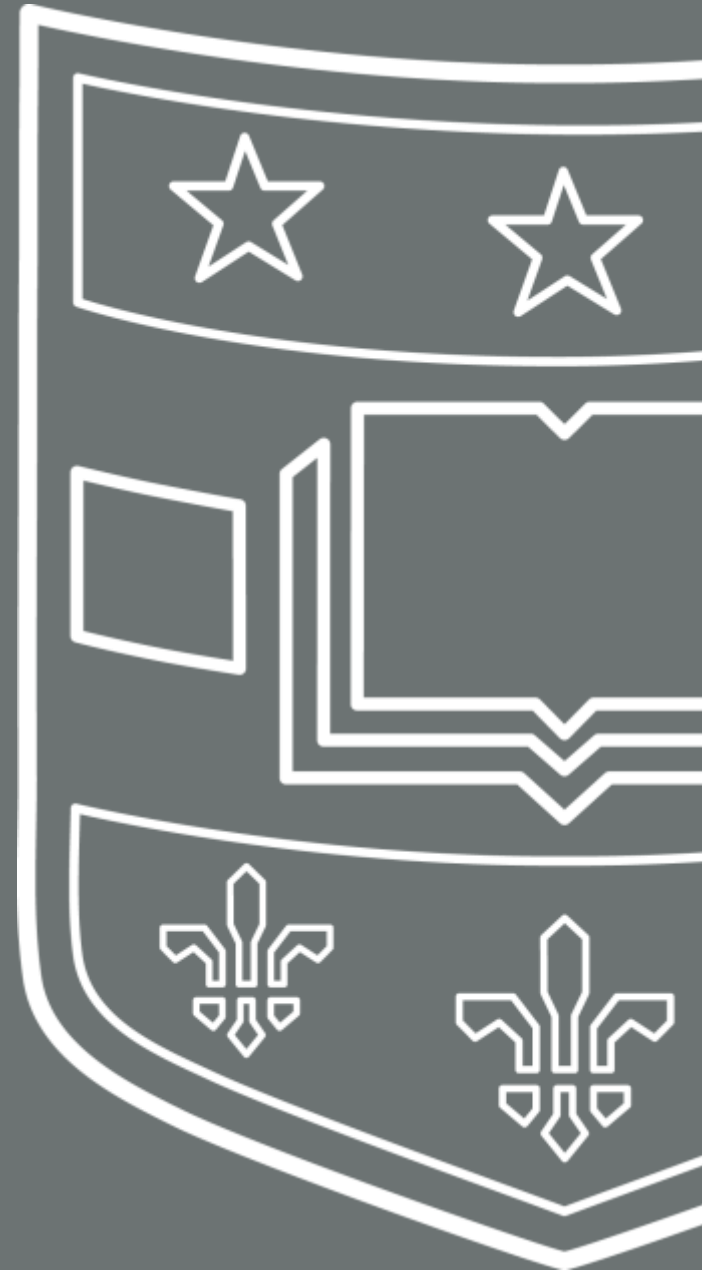
The Refugee Crisis is Destabilizing *other* Regions



- The Syria refugee crisis has fueled the rise of the far right throughout Europe.
- The number of Syrian refugees in neighboring countries, especially Jordan, Lebanon, and Turkey, is putting a stress on local resources, exacerbating environmental issues, and causing tension.
- The Kurdish conflict and fight for national sovereignty has been impacted by this conflict, causing concern for Turkey, Syria, Iraq, and Iran.



Is there a way forward in the Syrian Situation?



(1) All States must be reminded of their existing legal obligations.



- The States in the MENA region, and the Permanent Members of the Security Council, have assumed or are subject to (under CIL) a multiplicity of international legal obligations that prohibit the targeting of civilians, the expulsion of civilian populations, and the mistreatment of refugees.
- The Syrian government has a **responsibility to protect** all its people from genocide, war crimes, crimes against humanity and ethnic cleansing.
- The international community has a responsibility to assist it in doing so, and to use “appropriate diplomatic, humanitarian and other peaceful means” to protect the Syrian population, and to use collective force through the UN Security Council if all else fails.

Genocide Convention Ratifications



All countries in the immediate region *are* party to the Genocide Convention

In 2019, The Gambia used the Genocide Convention to bring Myanmar before the International Court of Justice on genocide charges



 Signed and ratified  Acceded or succeeded

ICJ/Frank van Beek

(2) Continuing efforts to refer the situation to the International Criminal Court (ICC)



- The Security Council successfully referred Darfur and Libya.
- On December 18, 2014, the General Assembly adopted a resolution encouraging the “Security Council to take appropriate action to ensure accountability, noting the important role that the International Criminal Court can play in this regard.”
(Situation of Human Rights in the Syrian Arab Republic, G.A. Res. 69/189)





Vetoes at the Security Council

From 2011-2019, Russia has cast 14 vetoes of U.N. Security Council resolutions related to the Syrian conflict

- **Oct. 2011:** vetoed a resolution condemning grave human rights violations and threatening measures against President al-Assad's government (with China)
- **Feb. 2012:** vetoed a resolution condemning the Syrian government's crackdown on the opposition (with China)
- **July 2012:** vetoed a threat of sanctions against Syria (with China)
- **May 2014:** vetoed referral of Syrian crimes to the International Criminal Court (with China)
- **Oct. 2016:** vetoed a resolution calling to halt the bombing of Aleppo
- **Dec. 2016:** vetoed a resolution calling for a truce in Aleppo (with China)
- **Feb. 2017:** vetoed a resolution to impose sanctions on Syria over chemical weapons use in the conflict (with China)
- **April 2017:** vetoed a resolution demanding that President al-Assad's government cooperate with an investigation into a deadly suspected chemical attack (China abstained)
- **Oct.-Nov. 2017:** three vetoes to block the renewal of a UN-led probe of chemical weapons attacks
- **April 2018:** vetoed a resolution to investigate chemical weapons use in Syria
- **Sept. 2019:** vetoed a demand for a truce in northwest Syria (with China)
- **Dec. 2019:** vetoed a resolution to allow cross-border humanitarian deliveries for a further 12 months from two points in Turkey and one in Iraq. (with China)

(3) Working around the current impasse in the Security Council



- **The Uniting for Peace Resolution** allows the General Assembly to call an emergency special session where the Security Council is failing to exercise its responsibilities for the maintenance of international peace and security because of a lack of unanimity of the Permanent Members (General Assembly Resolution 377, Nov. 3, 1950).
- A **“Code of Conduct”** amongst the P5 could be adopted by which they would voluntarily refrain from using the veto in atrocity situations.
- **“Responsibility to not veto in the face of Atrocity Crimes”** is an initiative that argues that the unrestrained use of the veto while genocide, crimes against humanity, and/or war crimes are ongoing violates international law.



International Impartial and Independent Mechanism (IIIM):



Established by G.A. Resolution 71/248 in December 2016

“to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.”



Catherine Marchi-Uhel, IIIM President

(4) Many groups and governments now documenting atrocities for future trials



- **Commission for International Justice and Accountability (CIJA):** CIJA is a non-profit commission funded by Western governments. It has collected 800,000 pages of evidence from security and intelligence agencies within Syria, is supporting multiple investigations into crimes committed in Syria, and provides evidence related to war crimes and terrorism cases to around a dozen countries.
- **Syrian Accountability Project (SAP):** an internationally recognized cooperative effort at Syracuse University to document war crimes and crimes against humanity in the context of the Syrian conflict. It aims to produce non-partisan, high quality analysis of open source materials and to catalogue that information relative to applicable bodies of law, including the Geneva Conventions, the Rome Statute of the International Criminal Court, and Syrian Penal Law.
- **Center for Justice and Accountability (CJA):** Brought a civil suit against the Assad regime for the assassination of U.S. war correspondent Marie Colvin.

Universal Jurisdiction



Domestic prosecutions for atrocity crimes committed in Syria have been or are being carried out in France, Germany, and Sweden



Axel Schmidt / Reuters

Syrian refugees hold placards as Angela Merkel delivers a speech.

(5) Political and Economic Pressure



- **May 2011:** The U.S. and E.U. issue sanctions against Syrian officials, including President Assad.
- **August 2011:** U.S. President Barack Obama, German Chancellor Angela Merkel, French President Nicholas Sarkozy, and British Prime Minister David Cameron issue statements calling for Assad to step down as president.
- **August 2012:** The Organization of Islamic Cooperation (OIC) suspended Syria's membership in the OIC.
- **December 2012:** President Obama announced the United States would formally recognize the Syrian Opposition Coalition, rather than the Damascus government, as the legitimate representative of the Syrian people.
- **Currently:** There remain a comprehensive set of sanctions applied to Syria by the U.S., U.K., E.U., U.N., and other regulatory bodies in response to the government's support of international terrorism and human rights violations. Sanctions include trade restrictions, travel bans, asset freezes, and investment restrictions.

(6) Focus on the Entire Region



- The U.S. and other countries need to promote economic development and support moderates in the region.
- Serious attention needs to be focused on the Israeli/Palestinian question;
- Who will rebuild Syria? Where will the money to rebuild come from? Can Syria rebuild with Assad still in power? Who are the likely “winners” and “losers” in the race?
- The United States should ratify the International Criminal Court Statute to encourage other states to do so and stop requesting immunity for its own personnel in SC Resolutions.

(7) Humanitarian Intervention / Collective Self-Defense?



- **The Responsibility to Protect** (R2P or RtoP) is based on the principle that all States have a responsibility to protect against genocide, war crimes, ethnic cleansing, and crimes against humanity. If a State has failed in its obligation to protect its population, the international community may take appropriate collective action in accordance with the U.N. Charter.
- R2P was endorsed by the U.N. General Assembly in 2005.
- The authority to employ the use of force under this framework rests with the U.N. Security Council.
- “[T]he true significance of RtoP is not in creating new rights or obligations to do “the right thing”; rather, it is in making it harder to do the wrong thing or nothing at all.”

– Simon Chesterman, *Leading from Behind: The Responsibility to Protect, The Obama Doctrine, and Humanitarian Intervention after Libya* (2011)

(7) Humanitarian Intervention / Collective Self-Defense?



- **Collective Self-Defense** is the right of States to use military force to defend *other* States and is found in article 51 of the U.N. Charter. It does not require U.N. authorization.
- UN Charter, Article 51: Nothing in the present Charter shall impair the inherent right of collective or individual self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by members in exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

(7) Humanitarian Intervention / Collective Self-Defense?



- The language of R2P is used in UNSC Resolution 1973 (2011) on Libya;
- The vetoes in the Syrian situation impeded a similar outcome.
- Former US Legal Advisor Professor Harold Koh suggests a six-part test for when intervention might be lawful:

Koh's six-part test for humanitarian intervention



1. Imminent threat to international peace and security giving rise to an urgent need to act in individual and collective self-defense;
2. No SC Resolution possible after persistent pursuit of one and exhaustion of other remedies;
3. Limited force for genuinely humanitarian purposes that is necessary and proportionate;
4. The action is collective;
5. The action will prevent the use of a per se illegal means by the territorial state (i.e., use of chemical weapons);
6. The action would help to avoid a per se illegal end, such as the commission of genocide, war crimes, crimes against humanity or an avertable humanitarian disaster such as the widespread slaughter of innocent civilians.

Humanitarian Intervention: Additional Criteria (Sadat)



7. A high probability of success;
8. A high probability that intervention will not make the situation worse; and
9. A report to the U.N. Security Council following the intervention.

The legality of humanitarian intervention



“The idea that a noninterventionist position is legally required in Syria must be tested against the hard reality that almost everyone under the sun is already intervening in Syria. Under these circumstances, the nonintervention position for the West may not actually be a pro-peace position, but rather a pro-slaughter position in which the Western powers invoke inflexible legal rules as a reason to do nothing.” Koh (2016)

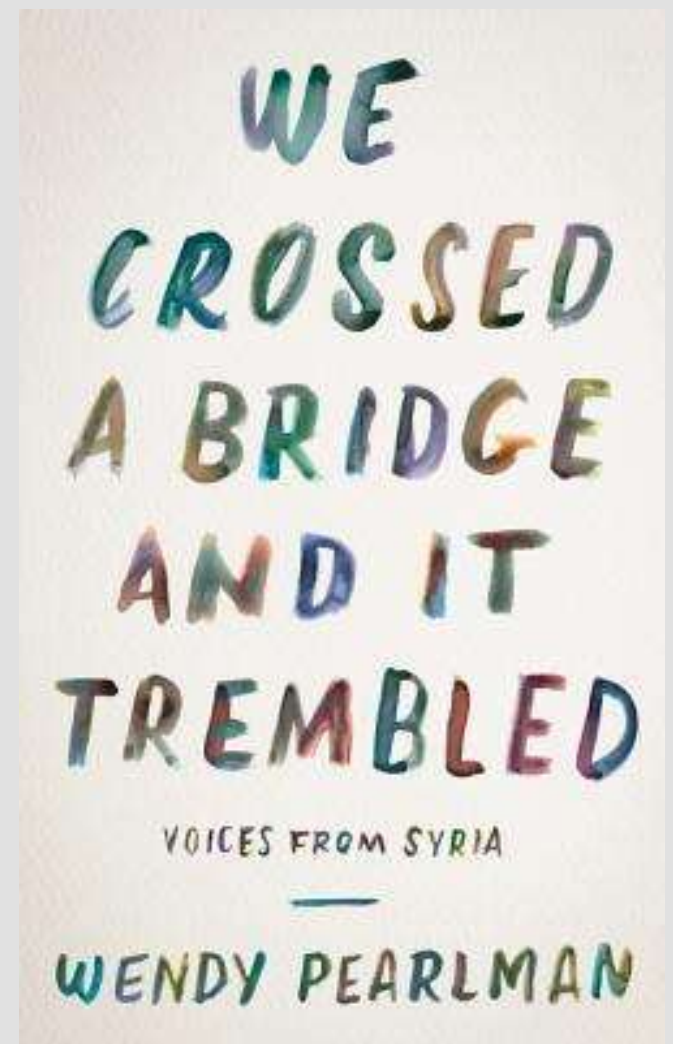
We Crossed a Bridge and it Trembled: Voices from Syria, Wendy Pearlman



“Then Libya got in line, and this is when Syrians really got interested. Because that guy, Qadhafi, was going to let the army loose on the people straight away.

We knew that and Libyans knew that. And Libyans started calling for help, and we thought, “Exactly. This is us.” And the international community intervened, saying, “We’ll protect the Libyans.” And everyone in Syria got the message. If shit hits the fan, people will back us up.”

Adam, media organizer (Latakia)



Sorry.

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