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Imagining justice for Syria : water always finds its way

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Propositions relating to the dissertation *Imagining Justice for Syria: Water Always Finds Its Way*

by Elizabeth Maria Van Schaack

1. The conflict in Syria has placed great strain on our system of collective security and raised acute questions about its ability to address the imperative of justice following the commission of mass atrocities, particularly when crimes are ongoing and there has been no regime change.
2. Although we have the legal tools necessary to administer justice in these circumstances, the existing judicial architecture has been largely foreclosed by the failure of the Security Council to act, due largely to the exercise of the veto by Russia and China.
3. As a result, justice advocates have begun to conceptualize new institutions and new pathways to accountability, including through new documentation techniques, theories of jurisdiction, and models of institutional design.
4. Despite the double veto exercised by Russia and China in response to France's attempt to refer the situation in Syria to the International Criminal Court (ICC), there are nonetheless novel theories for how the Court could exercise its jurisdiction over events in and connected to Syria, at least in part.
5. Given the impediments to activating the ICC's plenary jurisdiction and to the creation of an *ad hoc* international tribunal dedicated to Syria in the model of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, other options exist to "internationalize" justice for Syria, although these are not without practical, legal, and political impediments.
6. In light of the failure of the international community to avail itself of any of these options, domestic prosecutorial authorities and courts are stepping in to fill the accountability void that is Syria, although challenges exist in relying upon domestic courts to administer justice for a conflict as multi-faceted and destructive as the one in Syria.
7. If agents of the state—criminal investigators, prosecutors, and judges—fail to achieve justice when defendants are in reach, there is nonetheless value in seeking civil justice, either against individual perpetrators, the state of Syria itself, and/or other states that are supporting the Assad regime.

8. Documentation challenges, methods, and actors have evolved to address contemporary conflicts like the one in Syria and the current information environment; all these innovations will support the various justice options.
9. Given that the conflict remains ongoing, and the prospects of a genuine political transition are increasingly improbable, the international community explored a range of transitional justice options without transition in Syria that Syrian actors can implement if the political space becomes available.

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