
Book Review

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Jeremy Julian Sarkin (2022). *The Conflict in Syria and the Failure of International Law to Protect People Globally: Mass Atrocities, Enforced Disappearances and Arbitrary Detentions*. Abingdon: Routledge. Hardback, ISBN: 978-1-032-05663-0. Price: £130.00. xvi + 290 pp.

What can international law do in the face of gross human rights violations? Far beyond the theoretical debates among scholars, this question has often been discussed in media since the beginning of the war in Ukraine. The Russian invasion of Ukraine has led to international brainstorming about putting Russian military and political leaders on trial, particularly for alleged crime of aggression. While the veto power of Russia paralyzes the UN Security Council, establishing an ad hoc Tribunal by the General Assembly or the EU remains highly controversial. Thus, domestic courts may once again – just like in the case of the Syrian conflict – be called upon to serve as gap-fillers in the perforated international criminal justice system. The answer to the above question becomes even more problematic regarding what the law can do before or during the crisis to prevent or stop human rights violations.

The author of *The Conflict in Syria and the Failure of International Law to Protect People Globally* is a renowned human rights expert and a professor of human rights and transitional justice at NOVA University of Lisbon, Portugal. Sarkin previously served as an acting judge in South Africa and was a member (2008–2014) of the United Nations Working Group on Enforced or Involuntary Disappearances, of which he also served as Chairperson-Rapporteur (2009–2012).

The book explores, through the lens of the conflict in Syria, why international law and the UN have failed to halt the conflict, and other massive human rights violations, an immense number of killings or enormous violence in many places worldwide. Beyond the Syrian example, the book reflects on the faults of international law, posing tough questions and offering some daring answers. Sarkin asserts that the UN is beneficial when economic, natural, and other types of disasters occur. It is good at helping with development, trade issues, and helping refugees and migrants. However, it is not effective at protecting them. The book builds a romantic architecture for a victim-centered human rights system in concrete terms. This ambitious work's combination of utopia and realism is a notable characteristic. It draws insights from the case of conflict to imagine a general

transformation toward a system capable of better meeting the needs of the victims, which includes their families, particularly the victims of enforced disappearance.

The book begins *with* major problems of current international law and international processes, discussing the schools of thought on the role of international law and advocating for a victim-centered and victim-focused system. On who is considered a victim, the author criticizes the narrowness of the common definition and the limitation of the powers connected to this status. In Chapters 2 and 3, the book offers a comprehensive overview of the Syrian conflict, specifically focusing on enforced disappearance and analyzing the extensive nature of places of confinement by the state. It traces how the number of disappearances and arbitrary detentions has been tracked and why the numbers are probably higher than the 150,000 cases (and possibly closer to a million throughout the conflict) that are generally reported.

In Chapter 4, the reader learns what has been done to halt the conflict in Syria, where more than 400,000 people have been killed, and millions of others injured and displaced. While this chapter is descriptive, going through all the different UN institutions involved and presenting the Geneva and Astana processes, it exhibits the problems with each. In Chapter 5, the author evaluates the mechanisms implemented – including the independent ones – and examines the work of the various bodies. Chapter 6 brings the reader back to international law theory while facing one of the most controversial doctrines: the responsibility to protect (R2P), which the author would like to see as a real and applied international law norm in conflict and mass human rights violations, including Syria.

All the above may seem utopian in the current framework of international law, as both the law and the UN are ill-equipped to halt conflict and stop massive human rights violations when they occur. Thus, Chapter 7 focuses on how international law and the UN should be reformed to protect people everywhere. The author uses Syria to show what could be done by a range of institutions to provide safety and why reform is needed to enable it and includes reforming the UN Security Council. The author is not naive, and while commenting on the reform of the UN, he admits

... the likelihood of it occurring is next to zero. The political will to do so does not really exist. [...] Thus, it may be that the UN is not the system for the future. Maybe a new multilateral organization is needed that gives far more of a role to others, is more democratic and is more able to achieve a peaceful and less violent world (p. 170).

The author points out that problems in regional systems playing a more significant role are that they do not exist everywhere. Some have recently received push-back on their roles, specifically their human rights systems and bodies. Besides, the people's representatives should also be able to reduce the control of states on those systems and ensure that they are not making overtly political decisions that are not in the interests of the people. The author asserts that regional systems are likely to be useful given the difficulties within the Security Council in applying R2P and the use of force.

In Chapter 8, the book takes the reader back to Syria proactively. It examines why there is a need for a specific victim-oriented process to deal with conflict-related detentions and disappearances, and scrutinizes the feasibility of such a mechanism. Chapter 9 outlines that a new mechanism could be created and institutions that should be involved. Chapter 10 reviews the design of this new mechanism. After the publishing of this book, Sarkin has been advising the UN, various states, international organisations and civil society on what role such a mechanism could and should play, and also what the cooperative role of other actors ought to be with it. In January 2023, the UN General Assembly adopted a draft resolution (A/77/L.79), establishing the Independent Institution on Missing Persons in Syria.

The book's final words seem prophetic: "If the international community fails to tackle the level of impunity globally but also as witnessed over the past decade in Syria, then it will set a dangerous precedent for similar situations in the future in which mass atrocities occur" (p. 232). The book reiterates former UN Secretary-General Boutros Boutros-Ghali's ideas that international law now needs a "Grotian Moment."

It is quite rare to find a book combining both empirical analysis on an ongoing situation with specific proposals for improving the system. The latter is normally left to theoretical considerations and sterile criticism as if change could never come from within the system. What if, on the contrary, Syria (and Ukraine) could be the trigger of the "Grotian Moment"? Whatever the case, the book is insightful for readers, scholars, and policymakers interested in human rights, international law, international systems, and international relations.

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