
Finally, international steps to bring Syrian war criminals to justice

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Title: *Finally, international steps to bring Syrian war criminals to justice*

Cover Image: A child who died from starvation due to the siege on the Yarmouk camp

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In view of the escalating war crimes in Syria, France is now approaching the UN Security Council in order to further a much needed and long awaited referral to the International Criminal Court (ICC) for the war crimes committed. "This will help give momentum to international efforts to ensure justice there," Human Rights Watch (HRW) said yesterday.

In a statement, HRW urged all other Security Council members and other countries to express support for a referral of the situation in Syria to the ICC. "They should impress on reluctant Council members, in particular Russia and China, the urgency of taking up the issue of accountability for crimes committed by all sides."

During the four year revolution-turned-war, extremely brutal strategies have been used including: starvation, entrapment of civilians, brutal violence and the increasing use of torture against civilians, even women and children, in numbers the world can no longer disregard.

See Memo reports:

- [Syria's war cultivates a state policy to torture women and children](#)
- [The body as the battlefield: victims of Syria's brutal war strategy](#)

MEMO spoke to Amnesty International's Sara Hashash who welcomed the move by France, describing it as "long overdue". Amnesty stated that the international community has simply "stood by" as gross human rights violations have been committed

in Syria on a mass scale and with virtually no prospect of accountability or justice in sight. Whilst the organisation, along with many other organisations and UN agencies, repeatedly called for anyone suspected of committing or ordering war crimes or crimes against humanity to be brought to justice, including through referral of the situation in Syria to the Prosecutor of the ICC - no moves in this direction have been taken. Amnesty has urged all Security Council members to support a referral “without delay”.

Until now, all international efforts to gain the ICC referral, essential to ending the Syrian war crimes and bringing the perpetrators to justice, have faced major impediments: the fact that the ICC cannot go beyond its legal limitations which give it jurisdiction only with regards to countries which are parties to the Rome Statute or states that have accepted the ICC jurisdiction of which Syria is not a party.

In an interview with MEMO earlier this year, ICC Spokesperson and Head of Public Affairs Unit Fadi El-Abdallah explained: “ICC has no mandate to call on the Council or to advise the Council whether or not to adopt such a resolution.”

The only way that ICC would have jurisdiction over the situation in Syria would be through a referral by the Security Council as was the case for Libya and Darfur. To date, there has been no political will to pursue this matter until now.

What exactly is being done?

On April 15, 2014, France plans to arrange an informal confidential gathering of Security Council members (a so-called “Arria-formula” meeting) in order to consider a report on the mass use of torture in Syrian detention centres that went viral earlier this year.

The report, which was financed by Qatar, was compiled by a team of legal and forensic experts about the alleged torture and execution of detainees by the Syrian government. It shocked the world with its findings. Members are to discuss ways in which they can ensure justice for victims of these crimes. France officially

transmitted the report to Security Council members on April 2.

MEMO spoke to the former chief prosecutor of the Special Court for Sierra Leone (SCSL) Prof David Crane at Syracuse University who co-authored [the report](#). He explained that the international community believes that now is the political moment to take action. The time is now for the international community, with France at the forefront, to force Russia, which is gaining a reputation as an aggressor in political affairs around the world, to say yes or no.

Crane says France believes it is “about time” to force the issue on to the agenda in order to see justice for the Syrian people. Now France is showing real political leadership and hopes that the UN Security Council (UNSC) will have an important impact on the bringing Syrian war criminals to justice, he said.

“For victims in Syria who have known nothing but suffering, despair and abandonment, the ICC would open up the hope of justice and redress,” Richard Dicker, international justice director at Human Rights Watch, said. “It would also send a warning to those responsible for grave crimes on all sides that their day in court may be coming.”

HRW, along with many other organisations, have documented the Syrian government’s extensive use of torture in facilities across the country by speaking to survivors and defectors, visiting former detention centres and seeing first-hand the torture devices and chambers.

While HRW has been unable to authenticate the images of abuse featured in the Security Council report, its findings suggest that torture and death in the custody of the Syrian government is widespread.

[HRW said yesterday](#) that the meeting of the Security Council members is a timely opportunity to focus on the importance of accountability for crimes committed in Syria and for the members

to voice their strong backing for the ICC to become the main jurisdiction for these crimes.

The ICC is a permanent international court with a mandate to prosecute war crimes and crimes against humanity when national authorities are unable or unwilling to do so. The court was created to address exactly the type of situation that exists in Syria today, Human Rights Watch said.

Nine of the current Security Council members have in the past publicly expressed support for referring Syria to the ICC, they include: France, the United Kingdom, Luxembourg, Argentina, Australia, South Korea, Chile, Lithuania, and Nigeria. The United States and China have remained silent on the court's involvement. On January 15, 2013, Russia described the effort to seek an ICC referral as "ill-timed and counterproductive". All three of these countries, as permanent Security Council members, have the power to veto resolutions.

The latest report from the UN's Syria Commission of Inquiry, published on March 5, found that all sides in the Syria conflict continued to commit serious crimes under international law and said that the Security Council was failing to take action to end the state of impunity. The commission, which has published seven in-depth reports since its establishment in August 2011, recommended the Security Council give the ICC a mandate to investigate abuses in Syria.

UN Special Rapporteur on Torture Juan Mendez told MEMO that on numerous occasions, he recommended the Security Council refer the situation to the ICC. "I have repeatedly called for such a referral or for some other form of international justice for these crimes, given the absolute impunity reigning in Syria."

Most recently this procedure took place during a briefing with the Security Council on April 8. Similarly, 64 countries voiced their support for the court's involvement in Syria. Mendez's frequent calls for the Syrian government to look into detention facilities "have gone unanswered".

Other countries, particularly Arab countries that have repeatedly expressed concern over the killings in Syria, should join the mounting calls for accountability, HRW said. They should support a referral to the ICC as the forum most capable of effectively investigating and prosecuting those bearing the greatest responsibility for abuses in Syria.

“A referral of the situation in Syria to the ICC would not make up for the Russia-induced complacency of the Security Council so far, but it could mark a turning point in addressing the revolting abuses that have marked the Syrian conflict,” HRW’s Dicker said. “Russia would be hard-pressed to explain why it wouldn’t want the ICC to go after atrocities committed by government forces and radical rebels alike.”

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