Introduction
An Overview of Stakeholders and Interests

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In March 2011, inspired in part by the ‘Arab Spring’, protests erupted on the streets of the Syrian Arab Republic (referred to as ‘Syria’ throughout this volume). The Syrian government’s harsh reaction turned the protests into a rebellion which quickly descended into one of the bloodiest and most brutal armed conflicts in the modern history of the Middle East. After eight years of death and destruction, the Syrian conflict appears to be coming to an end, with the government, still led by President Bashar al-Assad, regaining effective control of much of the territory of Syria.

Throughout the combat years, the conflict evolved and changed shape and form at an unimaginable pace. In 2011, the protests spread from the southern city of Daraa and moved north to Aleppo and the north-east. When the protests acquired a militant nature, shedding their previously civil character, the Free Syrian Army (FSA), a militia composed of officers who defected from the Syrian military, took the lead, though ultimately without ability to maintain a unified command structure. The quick pace of events and the dissipation of the Syrian military attracted other players to the Syrian arena, including Islamist-jihadist groups such as the al-Nusra Front, Jeish al Islam, and the Islamic State of Iraq and Syria (ISIS). Kurdish forces in the north and north-east of the country, who have had an opportunity to renew their historical interest in gaining independence, also entered the battlefield.

By 2013, the war was marked by armed militias and proxy groups such as Hezbollah and Ahrar al-Sham supported by a growing list of foreign stakeholders from the region and beyond. The conflict thus obtained an international dimension with the involvement of foreign powers such as Russia, Iran, Turkey, and the United States, each aiming to secure their
differing interests. It then took on additional complexity with the use of chemical weapons in early March 2013 and again with the rise of ISIS, which quickly captured close to 50 per cent of Syrian territory and established a capital in the city of Raqqa in January of 2014.

The turning point of the war began in September 2015, when Russia became actively involved in the conflict and utilised its air force to carry out relentless bombing attacks against the Syrian government’s opponents. The Russian effort on the one hand and those of Western-led coalitions against ISIS on the other significantly weakened the remaining opposition to the Syrian government, and in 2017 the Syrian army – now significantly strengthened by Shi’a militias – was able to retake control over most of territories previously lost. In 2018, the Syrian military, supported by Russia and Iran, was able to crush most of the remaining pockets of resistance.

Peace, however, or at least the absence of violence, is still some ways off. As of this writing, small pockets of the country – especially Idlib province in the northwest – are still held by anti-government armed groups as well as groups espousing jihadist ideologies; ISIS, despite having been driven from nearly all its territory in Syria and Iraq, remains a threat; and the Syrian and Turkish governments’ responses to de facto control of areas to the north and north-east of the country by Syrian Kurdish forces are yet to fully unfold.

Nevertheless, despite the irresolute situation, it is also a vantage point that allows us to cast an eye back over the Syrian conflagration and analyse the events that have shaped the unrest and war. The Syrian conflict has been characterised by the complete disregard for international law shown by the warring parties. It is estimated to have taken the lives of over 600,000 Syrian women, men, and children; many more have been maimed, injured, and/or disappeared. The war has led to the biggest humanitarian crisis of the twenty-first century, with over half of the Syrian population displaced from their homes and many suffering multiple subsequent displacements. According to the United Nations High Commissioner for Refugees, as of October 2018, over 5.6 million Syrians have registered as refugees, with the majority living in neighbouring countries. A further 6.5 million people, including 2.8 million children, are internally displaced.

1 See the discussion in the final paragraph of Section 1.1 regarding the use of figures and measures in the volume.
The conflict quickly attracted a growing cast of players and stakeholders and, with them, a variety of agendas, priorities, and alliances. The result: the original war being fought between the Syrian government and anti-government armed groups metastasised, becoming a myriad of conflicts and sub-conflicts, a minor constellation of civil, regional, and internationalised wars. As the conflict spread and spiralled, conflicting narratives arose: Who were the aggressors? Who can be considered a ‘rebel’? Who is defending Syria, and who represents its people? The debates extended to the arena of international law: Who intervened and under which justification? Was there a ‘Responsibility to Protect’? Who should be accountable for the war crimes, crimes against humanity, and genocide committed during the conflict? And are there realistic options for transitional justice?

These and other complex questions are addressed in this volume through prisms of post-conflict justice and its regional implications. Despite the fact that all of the warring parties have committed significant violations of international law, by and large we focused on those committed by the Syrian government. The crimes of the Syrian government – as a chief accountable party and an organ which had significantly more resources at hand – were greater in scale and better documented and investigated by the UN and NGOs. Yet, we have also addressed one of the crimes committed by ISIS – the Yazidi genocide – due to its gravity and the evidence that was collected to support the allegations against ISIS.

The volume’s multidisciplinary analytical approach sets the stage for the research and conclusions of scholars, experts, and practitioners on how the Syrian conflict fluctuated between justice and political reality. The intersection of the legal and political aspects of the Syrian conflict stands at the core of this volume’s analysis and seeks to provide broader insights for understanding the conflict in all its iterations.

1.1 Use of Terms and References

The complexity of the issues discussed in the volume, itself an assembly of different perspectives and scholarships, raised editorial dilemmas regarding choice of words and terms of reference. These dilemmas were fortified by the dominant role that terms and definitions play in the representation of the conflict and its narratives.

As Syria is not a democracy, its government is often referred to as a ‘regime’. In the context of the Syrian conflict, this term has nonetheless regained pejorative connotations, as it was mainly used by the Syrian
government’s opponents within and outside Syria to criticise the government. The word ‘rebels’ became fraught with interpretations as well, as for some it represented the ‘Free Syrian Army’ (FSA), a more moderate, Western-supported umbrella group of opposition, while for others it meant any group that sought to replace Bashar al-Assad and included those groups with Islamist-Jihadist orientations. The various belligerents and their supporters quickly tagged their opponents as ‘aggressors’ and ‘terrorists’. The editorial task was to find a way to reflect some of those authentic voices while upholding academic standards of accuracy and research.

We have decided to use the more neutral term of ‘Syrian government’ instead of ‘Syrian regime’ in order to avoid the perception of bias and to focus the reader’s attention on the description of actions attributed to the Syrian military and other organs of its administration. However, some writers preferred the term ‘Syrian regime’ and even ‘Assad regime’ when it better served their views of the conflict and its representation.

The word ‘rebels’ was used to address a broad set of groups intending to undermine the sovereignty of the Syrian government in any capacity. The interests, tactics, orientations, and ideologies of the rebel groups were, however, quite different and even contrasting. For example, while the FSA broadly sought a democratic alternative to the Syrian Republic, the objective of ISIS was to absorb Syria into the Islamic Caliphate they intended to establish in Iraq and the Levant. Moreover, as the war progressed, the different rebel groups (often with the encouragement of their proxy supporters) have opened new fronts against each other. Nevertheless, at times there was a need to use the term ‘rebels’ as a generalisation, though we have sought to qualify which segments are referred to throughout the volume.

‘Islamists’ is another term fraught with meanings and interpretations, as the religious dimension of the conflict was often incorporated by various groups having different perspectives and interpretations of Islam. The term ‘Islamists’ was largely used to differentiate between the group of protesters who formed the FSA (which was led, mainly, by defectors from the Syrian military) and the more radical groups who joined the conflict in a latter phase with agendas emanating from pan-Islamic ideology, such as al-Qaeda affiliates and ISIS. Another important distinction between the Islamist groups relates to their origin and local orientation. The Syrian Front (Jabhat al Nusra, later known as Jabhat Fath al Sham – standardised in this book as the al-Nusra Front) was a group of local rebels broadly focused on the original objective of ‘regime
change’ while, as already stated, ISIS was not. There were also other Islamists who came from outside Syria to join the ranks of ISIS and other rebel groups.

Lastly, the use of figures and measures was likewise complex, since these were often contested, mainly due to the difficulties in conducting authoritative data collection as the war was raging. Numbers are often used as a primary means for measuring some aspects of the conflict, such as deaths and casualties, refugees and internally displaced persons (IDPs), and the number and quantity of foreign forces in Syrian territory. We are aware that measurements may sometimes be manoeuvred by the measuring source’s agenda and affiliations. Therefore, we often used United Nations (UN) statistics, but at times we also used other sources which we considered credible to present readers with the most pluralistic picture possible. Naturally, as a result of the rapidly changing reality in Syria, numbers mentioned throughout the book apply to the time statistics were made.

1.2 Overview of the Chapters

This volume has twelve chapters in three sections, bookended by this introduction and a conclusion. It also contains an epilogue written by a participant in the events, a Syrian now in exile under political asylum in Sweden, who took part in the June 2000 ‘Damascus Spring’ and later in the protests of March 2011.

Part I surveys and analyses issues forming the legal and political framework of the conflict, beginning with an analysis of the legal framework of the conflict. Following this Introduction, Chapter 2 by Amichai Cohen, addresses *jus ad bellum* issues within the conflict. Cohen discusses the legality of the use of force which occurred in the framework of the Syrian conflict, including the right to humanitarian intervention and the responsibility to protect. He also discusses a less-researched theme – the role of *jus ad bellum* in armed conflicts that are intra-state and transnational (i.e. between a state and a non-state actor in another country) in the context of the Syrian conflict.

Chapter 3, by Tom Gal, addresses *jus in bello* issues and delves into a legal classification of the types of conflicts created by the myriad of stakeholders in the war in Syria. The classification serves to enable understanding and analysis of the different legal obligations of the belligerents in the conflict and the implications of the classification for peace and justice in post-conflict Syria.
Chapter 4, by Eyal Zisser, is a portrayal of Syria’s descent into conflict containing a description and analysis of the Syrian government’s strategies in the conflict and the commission of international law violations. The chapter focuses on the Syrian government’s leading role and, more specifically, President Assad’s personal role in the conflagration. Zisser provides a survey of the development of the conflict through a prism that sees the conflict as President Assad’s strategy of a ‘total war’ against his own people.

The last three chapters of Part I – Chapters 5, 6, and 7 – address the atrocities of the conflict – that is, war crimes, crimes against humanity, and genocide committed by the Syrian government and some armed groups. In Chapter 5, Sareta Ashraph focuses on violations of international humanitarian law which quickly became hallmarks of the Syrian war, in particular indiscriminate attacks, including attacks by governments and armed groups, and the use of chemical weapons on the battlefield. She asks whether the Syrian conflict represents a nadir in the international community’s response to a war where international humanitarian law is breached with impunity and, if so, whether the value of the laws of war has been eroded.

In Chapter 6, Hilly Moodrick-Even Khen and Yael Siman survey crimes against humanity and genocide in the conflict. The authors provide a legal conceptual analysis of the two different international crimes – which share common features distinguishing them from ordinary crimes and yet are also legally distinguished from each other. Moodrick-Even Khen and Siman focus on specific conducts that form two of the most documented crimes in the Syrian conflict: the crimes against humanity of torture and extermination of prisoners in detention facilities of the Syrian government; and the genocide of the Yazidis committed by ISIS. The legal analysis is used to explain who, among the various parties to the conflict in Syria, is responsible for each crime and the justifications for the allegations against each party.

Chapter 7, by Lina Biscaia, is an analysis of gendered perspectives of sexual violence committed against women and men by the Syrian government throughout the conflict. Biscaia analyses the reasons why sexual violence was used, its consequences (which are closely linked to its reasons), and the extent to which government forces achieved their goals by using violence of a sexual nature. Biscaia also provides a perspective on the status and roles of Syrian women before and within the Syrian conflict.
Part II of this volume examines aspects of the conflict that go beyond Syria’s sovereign territory, focusing on the spillover within Syria’s neighbourhood. The first two chapters relate to non-Syrian stakeholders involved in the conflict. In Chapter 8, Moran Levanoni explores the involvement of two external entities – Hezbollah, a Lebanese militia, and Hamas, a Palestinian militia – in the Syrian conflict and their different interests within the Syrian conflict. Levanoni suggests that this involvement was facilitated by the political vacuum created by the conflict that quickly drew external powers into the Syrian arena. In Chapter 9, Nir T. Boms explores the relationship between Syria and Israel, close neighbours and yet formal foes. Boms analyses Israel’s policy towards the conflict as it shifted from being a passive onlooker to a ‘good neighbour’, launching humanitarian operations while simultaneously being an active military rival against the Iranian presence in Syria.

The last two chapters in Part II address the Syrian refugees. In Chapter 10, Joel D. Parker examines the situation of the almost 6 million Syrians who live as refugees, predominantly in neighbouring states. Parker surveys some of what is known about the condition of those refugees. He argues that the international community should take a proactive and pragmatic approach that encourages host countries to absorb Syrians into their sociopolitical systems as much as possible to avoid leaving them in limbo for the undetermined future. In Chapter 11, Francesco Farinelli analyses the condition of Syrian refugees who sought safe haven in Europe. Farinelli offers a snapshot of the main issues related to the integration process of Syrian refugees in Europe, as well as of the good practices and policies implemented thus far, providing the reader with both statistical data and concrete examples in the form of testimonies from a qualitative research on Syrian refugees’ integration in Europe conducted in 2017 by the European Foundation for Democracy (EFD).

Part III, the final part of the volume, contains two chapters that address the legal and political implications of a post-conflict Syria as it relates to the framework of the volume of justice and political reality. In Chapter 12, Beth Van Schaack examines the role of the international community in fostering pre-transition transitional justice in Syria. Van Schaack explores the origins and internationalisation of the field of transitional justice and ponders the future of, and possibilities for, transitional justice in a Syrian state still ruled by President Assad. In Chapter 13, Sirwan Kajjo offers a survey of the Kurdish community in Syria, which has expressed autonomous ambitions for a long time, partly as a result of the regional Kurdish movement for independence in Turkey and Iraq.
Kajjo’s chapter provides a historical perspective and an assessment of possible post-war scenarios, suggesting that political fragmentation within the Syrian Kurdish community and their respective regional and political patrons may undermine their chance for autonomy.

Lastly, in Chapter 14, the volume presents an epilogue by Kamal Allabwani, a Syrian medical doctor, human rights activist, and political dissident. Dr. Allabwani became an opponent of the Baathist rule in 1981 (during Hafez al-Assad’s presidency), having witnessed the Hama massacre during his compulsory military service as a medical doctor. In 2000, when Bashar al-Assad became president, Dr. Allabwani called for political reforms and the strengthening of civil society and institutions, later known as the ‘Damascus Spring’. Dr. Allabwani was arrested for his involvement and served an overall period of nine years’ imprisonment, during three of which he was held in solitary confinement. In this epilogue, Dr. Allabwani describes his perspective of the Syrian conflict and his vision for Syria – for the state he hopes one day his country will become but which, at this juncture, seems as remote as ever.