Stirring the Justice Imagination: Countering the Invisibilization and Erasure of Syrian Victims’ Justice Narratives
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ABSTRACT
With most avenues to pursue justice for Syrian victims of international crimes blocked, Syrian and international justice actors within civil society and formal institutions are active in exploring ways to seek some form of justice and accountability. In doing so, many of them use the language of transitional justice as the most promising paradigm to keep justice on the international agenda and to resist the prevailing defeatism about the possibility to advance justice in the absence of a transition, as well as to remedy the marginalization of victims’ experiences and narratives. Many of these actors are not only interested in criminal accountability. They also seek to stretch the boundaries of what is imaginable in terms of justice, beyond existing mechanisms and even beyond the judicial realm. They are striving to open up the justice imagination. In a maximalist sense, they are foraging for more ambitious justice narratives that can accommodate the victims’ lived experiences. In a minimalist sense, they are resisting the erasure or invisibilization of the experiences of millions of Syrians affected by hackneyed justice narratives. This article refers to the work of these justice actors to expose and conceptualize some of the shortcomings of mainstream transitional justice discourses.

KEYWORDS: Erasure, invisibilization, justice actors, justice imagination, Syria

INTRODUCTION
This article explores the two-way relationship between justice narratives and the justice imagination. It applies this conceptual exploration to the work of Syrian and international justice actors, i.e., stakeholders within the civil society realm as well as in formal institutions who are actively engaged in pursuing justice for Syrians. Our focus on narratives is rooted in the growing attention to the expressive function of justice processes.1 It has become widely accepted that justice processes do not only serve the purpose of punishing perpetrators, but also send messages about what is

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1 Carsten Stahn, Justice as Message: Expressivist Foundations of International Criminal Justice (Oxford: Oxford University Press, 2020); Birju Kotecha, ‘The Art of Rhetoric: Perceptions of the International Criminal Court and Legalism,’ Leiden Journal of International Law 31(3) (2018): 939–962; Tim Meijers and Marlies...
considered a crime and, by extension, what we find (in)acceptable injustice. This links to the notion of the justice imagination, i.e., what we believe can be achieved through various kinds of justice processes and initiatives, and how we stretch the boundaries of what is conceivable in terms of justice and accountability beyond present mechanisms and potentially beyond the judicial realm.2

We start from the normative position that justice narratives must seek to accommodate the complex, volatile and multi-layered realities of victims of injustice. Based on the efforts of justice actors, we therefore argue that justice narratives must at least seek to avoid the erasure and invisibilization of victims’ realities, as this exacerbates the primary injustice experienced by victims and hampers their access to the justice system. Justice narratives can, however, also serve the more ambitious aim of opening up the justice imagination by affirming and foregrounding victims’ needs, rights and expectations.

The Syrian case illustrates how certain justice narratives can either limit or broaden the justice imagination. In the face of an international political stalemate that closed most – formal – avenues for seeking accountability for atrocity crimes,3 Syrian and international justice actors have engaged with the transitional justice (TJ) paradigm and toolkit to stretch the boundaries of what is conceivable in terms of justice and accountability. On the basis of 15 interviews, this article illustrates how certain justice actors attempt to counter erasure and invisibilization, but also how they may inadvertently reproduce some forms of erasure and invisibilization.4 It draws on the case of Syria to highlight the extent to which justice narratives and the justice imagination are co-constitutive. We seek to contribute to the theorization of – formal and informal – justice processes in the Syrian context by complementing existing empirical descriptions of the nascent justice efforts with a new analytical lens.

Even if the article is not an in-depth case analysis of TJ in Syria, we draw on empirical material and secondary sources. We conducted online semi-structured interviews with 10 representatives of Syrian and international NGOs and CSOs, as well as open-ended interviews with five justice actors and artists who identify with the justice movement. Potential interviewees were designated on the basis

Glasius, ‘Trials as Messages of Justice: What Should Be Expected of International Criminal Courts?’ Ethics and International Affairs 30(4) (2016): 429–447.

2 We build on Lyndsey Stonebridge’s notion of the judicial imagination, which examines the promises of justice and ways to overcome the limits of legal reasoning. Lyndsey Stonebridge, The Judicial Imagination: Writing after Nuremberg (Edinburgh: Edinburgh University Press, 2011), 4. Building on this notion as the starting point of our analysis about justice efforts in an anti-paradigmatic TJ case, we have adapted it to ‘justice imagination.’ This differs substantively from ‘the transitional justice imaginary,’ the more utopian view on TJ described critically by Alexander Hinton in The Justice Façade: Trials of Transition in Cambodia (Oxford: Oxford University Press, 2018), because of the waning perspective of a transition. The image here is that of a drop, rather than a justice cascade, as justice actors attempt to create a crack in the wall of impunity.

3 Beth Van Schaack, ‘Transitional Justice Without Transition: The International Community’s Efforts in Syria,’ in The Syrian War: Between Justice and Politics, ed. Hilly Moodrick-Even Khen, Nir T. Boms and Sareta Ashraph (New York: Cambridge University Press, 2020), 243–267.

4 Anne Menzel alerts to the danger of the marginalization of unprofessional voices, which is also real in Syria. See ‘The Pressures of Getting It Right: Expertise and Victims’ Voices in the Work of the Sierra Leone Truth and Reconciliation Commission (TRC),’ International Journal of Transitional Justice 14(2) (2020): 300–319.
of their engagement with justice efforts. We selected actors working on justice processes for victims of state violence, as the regime is responsible for the majority of the international crimes.\(^5\) As such, the sample is not representative of all justice processes pertaining to Syria. The topic list for the semi-structured interviews was centred around the application of the TJ toolkit in Syria, the major blockages to advancing justice, the developments with regard to justice efforts, victim groups’ activities and the risk of omission of crimes. Interviews were audio recorded and transcribed, in order to thematically code and analyse the transcribed data. We have applied grounded theory coding, meaning we did an initial open coding of the transcribed interviews, letting the codes emerge from the data. Consequently, through axial coding we have discerned patterns, allowing us to refine the conceptual framework. Desktop research on TJ efforts through the study of reports by Syrian and international organizations, (social) media analysis and participation in seminars further enriched the analysis.

In the next section, we first present the conceptual framework and then zoom in on various specific kinds of (resistance against) erasure and invisibilization happening in the Syrian context. In the concluding section we highlight how alternative avenues can be a starting point to open the justice imagination, filling vacuums left unaddressed by formal processes.

**IMAGINING THE POTENTIAL FOR CHANGE**

**Discourse, Narratives and the Expressive Function of Justice Processes**

Justice processes – both judicial and non-judicial – do not only serve the purpose of holding perpetrators accountable or offering redress to victims. They also have an expressive function.\(^6\) This article examines that expressive function through a focus on narratives. We base our conceptualization of these narratives on a classical Foucauldian understanding of discourse, which sees discourses as ways of constituting knowledge, forms of subjectivity and power relations.\(^7\) In a Foucauldian analysis, a central question is how discourses can shape and create meaning systems that come to dominate how we understand and organize ourselves and our social world. This also implies attention for alternative discourses that may be marginalized and subjugated, but can potentially become sites of contestation, where hegemonic discourses are challenged and resisted.

Because of the analytical ambiguity of the notion of discourse, we focus on narratives, which we see as the manifestation of a discursive practice. We use this notion to refer to the socially situated interactions embedded in interpersonal, cultural, institutional and

\(^5\) Ugur Ümit Üngör, ‘Eurocentrism in Research on Mass Violence,’ in *Eurocentrism in European History and Memory*, ed. Robin de Bruin, Marjet Brolsma and Matthijs Lok, (Amsterdam: Amsterdam University Press, 2019), 65–78.

\(^6\) Zinaida Miller, ‘Effects of Invisibility,’ *International Journal of Transitional Justice* 17(2) (2008): 266–291.

\(^7\) Michel Foucault, *L’ordre du discours* (Paris: Gallimard, 1971); Chris Weedon, *Feminist Practice and Poststructuralist Theory* (Oxford: Blackwell, 1987), 108.
historical contexts. This allows us to systematically analyse the relationship between narratives and broader social and cultural structures, relations and processes.

Applied to the question of justice processes, these narratives – implicitly or explicitly – express a vision of a justice ideal. They send a message about what is considered a crime, what we find (un)acceptable, what causes moral outrage and what kind of justice can be aspired to. As such, they have a norm-setting power. They create a ‘common cognitive orientation and shared assumption.’ By simultaneously directing and constraining our actions, perceptions and experiences, they shape how we understand justice. This can (re)affirm or contest existing ideas and categories of justice, i.e., the reigning justice imagination. This affirmation or contestation is even more pertinent in cases of ongoing conflict and transitional times: narratives are shaped by existing justice processes and debates and by the broader social context, all of which are volatile. Moreover, narratives are not neutral or value-free. They may render invisible everything that does not fit the ‘parameters of legibility’ or that does not align with the logic of the dominant epistemic territory.

Yet, the effects of justice narratives in the case of ongoing conflict, and – especially – of what is omitted from them, have received limited attention. This is striking when considering the significant body of (socio-)legal scholarship that draws attention to the ways in which insufficiently addressing or reflecting lived experiences can involuntarily nurture the injustices that were meant to be addressed and dismantled. This article therefore explores how justice narratives may – inadvertently – omit victims’ experiences, and provides examples of how justice actors seek to counter this. The conceptualization of types of omissions in the next section emerges from our grounded theory coding, which we link back to secondary literature on the topic of justice efforts for Syrians. In that section, we explore how certain justice narratives may undermine the emergence of a richer justice imagination and of certain kinds of knowledge about victims’ realities when failing to address certain issues, because all too often the debate on justice is contained by what is feasible and possible. Victims and engaged justice actors urge outsiders, within both the institutional realm and wider public opinion, to approach justice more emphatically by recognizing the harm done to victims and acknowledging that justice needs to be done. This

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8 Susan Chase, ‘Narrative Inquiry: Toward Theoretical and Methodological Maturity,’ in The Sage Handbook of Qualitative Research, ed. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oaks: Sage, 2005), 656.
9 Norman Fairclough, ‘Critical Discourse Analysis,’ marges linguistiques 9 (2005), https://www.cda20plus.humanities.uva.nl/wp-content/uploads/2014/05/Fairclough_2005-Critical-Discourse-Analysis-ML9.pdf (accessed 21 May 2020).
10 Miller, supra n 6.
11 Ryan Goodman and Derek Jinks, Socializing States: Promoting Human Rights Through International Law (Oxford: Oxford University Press, 2013), 169.
12 Hollyce Giles, ‘Toward a Theory of Justicecraft: Language, Narratives, and Justice in Restorative Community Conversations,’ Contemporary Justice Review 22(3) (2019): 257–279.
13 Rolando Vazquez, ‘Translation as Erasure: Thoughts on Modernity’s Epistemic Violence,’ Journal of Historical Sociology 24(1) (2011): 7–44.
14 Laurel Fletcher and Harvey Weinstein, ‘Transitional Justice and the “Plight” of Victimhood,’ in Research Handbook on Transitional Justice, ed. Cheryl Lawther, Luke Moffett and Dov Jacobs (Cheltenham: Edgar Elgar, 2017), 244–266.
15 Giles, supra n 12.
could avoid a priori curtailing the justice debate to what can be done and can facilitate the resistance of power structures that lie at the basis of injustices.

On the contrary, when justice narratives systematically foreground legal practice’s episteme of rationality, stability and predictability, which has its merit, they may crowd out narratives with different epistemic underpinnings. These narratives may produce ignorance by spreading distorted scripts. Not seldom does this distortion consist of or entail some kind of omission. References to the Syrian case in the following sections make the conceptual proposal more concrete.

Types of Omissions

Omissions are not casual occurrences; in many cases they reflect existing power dynamics. Based on empirical work and observations related to justice processes in Syria and the existing literature, in this section we conceptualize the different processes of erasure and invisibilization.

Erasure

We define erasure as a process during which the direct acts and discernible choices of identifiable actors result in a narrowing of justice narratives by excluding certain voices or topics. Under this definition, it is the identifiable act and the identifiable actor which are crucial, not the intention of the actor. Choices could be driven by strategic calculation as much as by feasibility or efficiency considerations. Indeed, there may be justifiable reasons to omit particular voices or topics, or to prioritize certain issues over others. Yet, it is important to examine the extent to which certain voices or topics are more likely to be omitted from justice narratives than others, and how this is both shaped by and has an effect on the justice imagination.

Redirecting the analytical focus towards the act and the actor, rather than towards intentions, allows us to capture both the most obvious forms of erasure (e.g., when oppressive regimes seek to cover up their crimes), as well as much more subtle forms whereby (often well-intended) actions and choices of justice actors result in the omission of certain voices or topics. While these are two fundamentally different occurrences, we call both ‘erasure’ to draw attention to the agency of justice actors, who can act as norm entrepreneurs using narratives to create and foreground issues.

These justice actors may take up various positions, possess different characteristics or be organized in different epistemic communities. Within the TJ architecture, we can think of legal practitioners or advocacy networks of activists seeking justice.

16 José Medina, The Epistemology of Resistance: Gender and Racial Oppression, Epistemic Injustice, and Resistant Imaginations (New York: Oxford University Press, 2018), 27.
17 Martha Finnemore and Kathryn Sikkink, ‘International Norm Dynamics and Political Change,’ International Organization 52(4) (1998): 887–917.
18 Vivien A. Schmidt, ‘Taking Ideas and Discourse Seriously: Explaining Change Through Discursive Institutionalism as the Fourth “New Institutionalism”,’ European Political Science Review 2(1) (2010): 1–25.
19 Margaret Keck and Kathryn Sikkink, Activists Beyond Borders: Advocacy Networks in International Politics (Ithaca: Cornell University Press, 1998).
The actions of and relationships between actors belonging to these communities can shape the production and sharing of knowledge and can serve as catalysts for the ideas of certain communities, in power-affirming or -contesting ways. They can contribute to processes of narrative erasure in a variety of ways (from active ignorance to testimonial injustice to epistemic objectification). Or they can open up the justice imagination.

**Invisibilization**

We call the second type of omission invisibilization. This refers to a dynamic whereby certain voices or issues are omitted from public processes of communication and deliberation, but where no specific actor or act can be identified as the cause of that process. As such, invisibilization follows broader tendencies of marginalization. The reification of these structural dynamics across justice processes and justice narratives also means that the effects of certain omissions are consolidated in this implicit social process. Because discourses and narratives structure our knowledge and attention, they have the potential to invisibilize everything that does not fit the existing horizon of intelligibility. On the one hand, this may hamper access to justice, resulting in distorted scripts that challenge our ability to imagine the kind of justice that victims pursue. On the other, it can lead to a socially produced kind of self-selection or self-restraint on the part of affected actors when seeking attention to their realities. This process is important to highlight in the context of (transitional) justice narratives, where omissions are likely to happen in a context of intangible dynamics related to volatile social structures and dynamics.

The conceptual distinction between erasure and invisibilization allows for a better understanding of what and who is omitted and why, as well as a more meticulous analysis of how justice narratives operate and how they can reproduce or contribute to (epistemic) injustices. It also allows for a deeper engagement with questions about the two-way relationship between justice narratives and the justice imagination.

Our distinction between erasure and invisibilization follows Galtung’s distinction between direct and structural violence, whereby erasure follows his logic of direct violence in which an actor can be identified. The process (and outcome) of invisibilization shares many dynamics with that of structural violence, namely those kinds of violence that are embedded within social systems and structures, where there is no actor committing the violence and violence operates through social structures or institutions that harm

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20 Briony Jones, ‘The Performance and Persistence of Transitional Justice and Its Ways of Knowing Atrocity,’ *Cooperation and Conflict* 56(2) (2021): 163–180.
21 Erasure, even if characterized by the distinct acts of distinct actors, is linked to ways in which power operates. These broader dynamics of power should be considered in their own right. Medina, supra n 16.
22 Benno Herzog, ‘Invisibilization and Silencing as an Ethical and Sociological Challenge,’ *Social Epistemology. A Journal of Knowledge, Culture and Policy* 32(1) (2017): 13–23.
23 Axel Honneth, ‘Reification: A Recognition-Theoretical View’ (paper presented at Tanner Lectures on Human Values, University of California, 14–16 March 2005, https://tannerlectures.utah.edu/_documents/a-to-z/h/Honneth_2006.pdf, accessed 4 March 2021).
24 Vázquez, supra n 13. He calls these the mechanisms of epistemic exclusion and oppression.
25 Johan Galtung, ‘Violence, Peace and Peace Research,’ *Journal of Peace Research* 6(3) (1969): 167–191.
people. Both kinds of omission, however, can cause further harm, retraumatize victims or interfere with consciousness formation and justice mobilization.26

**Resisting Erasure and Invisibilization**

The interviews also underlined the importance of narratives and practices that seek to resist erasure and invisibilization. We start conceptualizing this resistance by acknowledging that even if certain actors have more access to, and certain structures more impact on, narratives that shape how people experience the world around them, they never have a monopoly over meaning-making or norm-setting, as they exist in a pluralistic environment in which other narratives co-exist that challenge dominant understandings of justice. Groups that are invisibilized, actors whose realities are erased or collectives whose struggles are overlooked often adopt narrative strategies aimed at putting their concerns higher on the agenda. Winslade, for example, demonstrates that dominant narratives can be challenged by foregrounding counter-narratives that highlight alternative ways of being and doing.27 These narratives can create epistemic friction, which can be a goal in and of itself.28

Our analysis of the justice processes in the Syrian context and the interviews also underlined the relevance of the dynamics that artistic initiatives can create in this regard.29 Arts can potentially engender creative thinking and opening people up to new awareness of themselves and each other.30 Yet, this potential of artistic and culture-based approaches to address injustices has long been understudied.31 Gradually the scholarship on the relationship between arts and TJ is expanding, with scholars examining how arts can contribute to truth-seeking and reconciliation and complement formal processes.32 By opening up avenues to presence experiences of people who are marginalized or silenced and by challenging stock stories, arts can potentially contribute to laying the groundwork for justice processes.33 Indeed, omissions demand creative

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26 Ulrika Andersson, ‘Communications of Autonomy and Vulnerability in Criminal Proceedings,’ *International Journal of Law, Language and Discourse* 6(1) (2016): 37–44.
27 John Winslade, ‘Can Restorative Justice Promote Social Justice?’ *Contemporary Justice Review* 22(3) (2019): 280–289.
28 Medina, supra n 16.
29 We want to carefully steer away from an instrumental view that sees the relation between justice and arts as a sub-contractual one. See Ramiah Devanand, ‘Afterword,’ in *Acting Together: Performance and the Creative Transformation of Conflict, Volume 1: Resistance And Reconciliation in Regions of Violence*, ed. Cynthia E. Cohen, Roberto Gutiérrez Varea and Polly O. Walker (New York: New Village Press, 2011), 245.
30 Cynthia Cohen, ‘Reimagining Transitional Justice,’ *International Journal of Transitional Justice* 14(1) (2020): 1–13.
31 Anne Dirmstorfer and Nar Bahadur Saud, ‘A Stage for the Unknown? Reconciling Postwar Communities through Theatre-Facilitated Dialogue,’ *International Journal of Transitional Justice* 14(1) (2020): 122–141.
32 Peter Rush and Olivera Simić, *The Arts of Transitional Justice: Culture, Activism, and Memory After Atrocity* (New York: Springer, 2019); Renee Jeffery, ‘The Role of the Arts in Cambodia’s Transitional Justice Process,’ *International Journal of Politics, Culture and Society* (2020), https://link.springer.com/article/10.1007/s10767-020-09361-9; Eliza Garnsey, *The Justice of Visual Art: Creative State-Building in Times of Political Transition* (Cambridge: Cambridge University Press, 2019).
33 Andrea Breslin, ‘Art and Transitional Justice: The “Infinite Incompleteness” of Transition,’ in *Research Handbook on Transitional Justice*, ed. Cheryl Lawther, Luke Moffett and Dov Jacobs (Cheltenham: Edgar Elgar, 2017), 267–285; Lee Anne Bell and Dipti Desai, ‘Imagining Otherwise: Connecting the Arts and
approaches to surface unheard voices. Dynamics underlying artistic interventions can play a role in *presencing* – i.e., making present that which was previously neglected or invisible – and in articulating *absences*. It is their situational embeddedness that allows them to both establish an affective connection to people’s lived reality and challenge the dynamics of omission.

**STIRRING THE JUSTICE IMAGINATION FOR SYRIANS**

In this section we zoom in on the Syrian case, using the conceptual framework to present issues that are often erased or invisibilized in dominant justice narratives. Since 2011 almost every imaginable international crime has been committed by the parties to the conflict. However, only a fraction of these crimes has been addressed in formal justice processes. In this section, we first draw the contours of the debates on justice for Syrians by zooming in on how the regime’s attempts to impair the international justice architecture has de facto debilitated formal justice efforts for Syrians. We then illustrate how despite, or in response to, this accountability gap, innovative kinds of justice activism have emerged. We do not claim to offer an encompassing categorization of victims’ needs and extant justice processes, nor an in-depth study of the Syrian conflict and the history of authoritarianism. This would be beyond the scope of a single article. Instead, we explore how processes of erasure and invisibilization manifest themselves in the Syrian case.

**The Aborted Justice Debate**

To understand the state of the justice debates between Syrian and international justice actors, it is important to acknowledge (a) the (historical) mass violence combined with the Syrian regime’s attempts to monopolize the narrativization of that violence and (b) the extent to which the Western justice imagination has been captured by, and largely limited to, dealing with the crimes and threats related to the Islamic State of Iraq and Syria (ISIS). Regarding the former, it would be impossible to offer an in-depth overview of the many injustices in a way that would not reproduce the omissions that we critique in the remainder of this article. However, in order to understand the nature of the violence in Syria, we need to contextualize how torture, detention and forced disappearances are central to the Syrian polity.

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34 Pablo de Greiff, ‘On Making the Invisible Visible: The Role of Cultural Interventions in Transitional Justice Processes,’ in *Transitional Justice, Culture and Society: Beyond Outreach*, ed. Clara Ramirez-Barat (New York: International Center for Transitional Justice, 2014), 11–24.

35 It should be noted that acts of erasure may occur as a reaction to counter-invisibilization or counter-erasure strategies, i.e., when certain actors expose the extent to which issues and voices are pushed out of the conversation, a reactionary strategy may be an attempt to close the ranks further.

36 Beth Van Schaack, *Imagining Justice for Syria* (Oxford: Oxford University Press, 2019); Volker Perthes, *Syria Under Bashar al-Asad: Modernisation and the Limits of Change* (Oxford: Oxford University Press, 2004); Raymond Hinnebusch and Omar Imady, *The Syrian Uprising: Domestic Origins and Early Trajectory* (London: Routledge, 2018).

37 Salma Ismail, *The Rule of Violence: Subjectivity, Memory and Government in Syria* (Cambridge: Cambridge University Press, 2018), 4.

38 Üngör, supra n 5.
Mass violence has affected every citizen since the establishment of the Assad regime, considered a ‘barbarian state’ by Seurat, in 1970. The regime used the threat of violence to force citizens into silence. This ‘civil war regime’ that is permanently at war with its citizens placed the politics of eradication at the heart of its rule. In February 1982 up to 20,000 people were killed, mainly by government forces, during the Hama massacre, the final chapter of years of popular unrest. Equally central in the Syrian polity is the continuity of the terror of the political prison. In addition to the physical violence, there has been far-reaching epistemic violence in which the regime obscured its crimes by keeping citizens from narrating their experiences and by discursively marginalizing entire groups.

It is precisely the longstanding experience of imposed silence that sowed the seeds for vocalizing justice demands. It is in this context that the 2011 protests opened up new spaces for the production and circulation of dissident narratives in the public realm. This resulted in a tension between this legacy of violence and oppressive silencing on the one hand, and the current dissident narratives on the other. When analysing current justice narratives, both need to be considered.

Justice narratives are, however, characterized not only by this situation within the country, but also by an international context in which realpolitik often trumps debates about justice. While Syrian justice actors continued to mobilize against torture, forced disappearances and detention, Western governments’ initial assumptions failed to anticipate a scenario in which the regime would block justice efforts and even step up its violence from shooting protestors to bombing entire cities. In addition, substantive international disagreements about the resolution of the conflict resulted in the paralysis of the international criminal justice system. Moreover, from the emergence of ISIS in 2014, the narrative in many Western policy and media circles started to frame the Assad regime as one fighting violent jihadist groups, de facto mostly letting it off the hook. This ran in parallel to the regime’s successful strategy of disinformation, which we refer to as narrative warfare, aimed at discrediting the evidence of crimes and of oppositional narratives more generally.

39 Michel Seurat, Syrie: L’Etat de Barbarie (Paris: Presses Universitaires de Paris, 2012).
40 Ziad Majed, Syrie: La révolution orpheline (Arles: Actes Sud, 2014), 64.
41 Dara Conduit, ‘The Patterns of Syrian Uprising: Comparing Hama in 1980–1982 and Homs in 2011,’ British Journal of Middle Eastern Studies, 44(1) (2016), 73–87.
42 Gayatri Chakravorty Spivak, ‘Can the Subaltern Speak?’ in Colonial Discourse and Post-colonial Theory: A Reader, ed. Laura Chrisman and Patrick Williams (New York: Harvest Wheathead, 1993), 90–105.
43 Lisa Wedeen, Authoritarian Apprehensions: Ideology, Justice and Mourning in Syria (Chicago: Chicago University Press, 2018).
44 Sune Haughbolle, ‘Imprisonment, Truth Telling and Historical Memory in Syria,’ Mediterranean Politics 13(2) (2008): 261–276.
45 Russia and China vetoed Security Council resolutions that would have referred the situation to the International Criminal Court.
46 Espen Stokke and Eric Wiebelhaus-Brahm, ‘Syrian Diaspora Mobilization: Vertical Coordination, Patronage Relations, and the Challenges of Fragmentation in the Pursuit of Transitional Justice,’ Ethnic and Racial Studies 42(11) (2019), 1930–1949; Üngör, supra n 5.
47 Wedeen, supra n 43; Ugur Umit Üngör, ‘Narrative War Is Coming,’ Al-Jumhuriya, 7 June 2019, https://www.aljumhuriya.net/en/content/narrative-war-coming (accessed 6 June 2020).
consequence, formal mechanisms to pursue accountability have not been activated, despite an escalation of violence – including chemical attacks – against civilians.48

Despite the prospect of both a transition and a comprehensive justice process becoming increasingly dim, Syrian CSOs, victim groups and international NGOs continue to mobilize for justice, often using the language and mechanisms of TJ which according to interviewees maintained the issue of justice on the international agenda. Because of the abovementioned limitations of the international justice architecture, these actors are also exploring alternative initiatives and advancing victims’ proposals for justice.

Available Formal Justice Avenues
Justice actors inside and outside of Syria have used available avenues for pursuing (some limited form of) justice, focusing mostly on documentation efforts to close the accountability gap.49 These efforts seek to ensure that evidence is not lost. We first discuss two formal initiatives. In the final section we turn to non-judicial initiatives seeking to counter some of the omissions happening in the formal realm.

Universal Jurisdiction
Criminal justice continues to be one of the cornerstones of TJ, also in the Syrian case. Due to the deadlock at the international level, legal practitioners increasingly see criminal prosecutions in foreign national courts through the exercise of extraterritorial jurisdiction as the only option for pursuing criminal accountability. Universal jurisdiction (UJ) allows domestic courts to prosecute international crimes committed in another country when it is impossible to obtain justice in the territory where the crimes were committed. Despite severe limitations, this became the most important avenue to ensure Syrian victims’ access to criminal justice.50

In several European states, NGOs engaged in strategic litigation: Syrian lawyers, victims and their families collaborated to initiate UJ cases on war crimes or crimes against humanity committed in Syria.51 In April 2020 the Higher Regional Court in Koblenz, for example, held a first trial on Syrian state torture against two regime officials, the so-called al-Khatib trial. This was the result of a criminal complaint by the European Centre for Constitutional and Human Rights (ECCHR), victims and Syrian NGOs. In February 2021 this led to the conviction of a former member of the Syrian intelligence for crimes against humanity.52

48 Several initiatives were taken within the UN, largely resulting in non-judicial efforts to document violations to lay the foundations for future accountability processes.

49 Ingrid Elliott, ‘‘Meaningful Step Towards Accountability’? A View from the Field on the United Nations International, Impartial and Independent Mechanism for Syria,’ Journal of International Criminal Justice 15(2) (2017): 239–256; Van Schaack, supra n 3 at 253.

50 Beth Van Schaack, ‘National Courts Step Up: Syrian Cases Proceeding in National Courts,’ (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3327676 (accessed 6 April 2020).

51 Since 2016, the ECCHR has been filing torture cases together with more than 50 Syrians in Germany, Austria, Sweden and Norway. Sweden and Germany have initiated the largest number of investigations under UJ. Wolfgang Kaleck and Patrick Kroker, ‘Syrian Torture Investigations in Germany and Beyond Breathing New Life into Universal Jurisdiction in Europe?’ Journal of International Criminal Justice 16(1) (2018): 165–191.

52 ECCHR, ‘Al-Khatib Trial Update, Day 60, Eyad Al As Sentenced,’ 14 February 2021, https://www.ecchr.eu/en/case/trial-updates-first-trial-worldwide-on-torture-in-syria/ (accessed 5 March 2021).
The case was the first extraterritorial jurisdiction trial on Syria that opened justice narratives beyond the exclusive focus on foreign fighters, which up until then had pushed the realities of those victimized by the Syrian regime off the radar.  

The al-Khatib trial is also a milestone in the sense that it is the first UJ case in which victims of state violence could testify in court. These testimonies drew attention to the widespread practice of torture by government officials in a judicial avenue. The central place of witness testimony in the proceedings allowed victims to address taboo issues, such as sexual violence, in a formal forum for the first time.

The importance of UJ can hardly be overestimated as it is one of the only concrete judicial avenues for Syrian victims to seek criminal accountability in the face of near-absolute impunity. Several interviewees stressed that court cases under UJ do not necessarily reflect the justice that Syrians aspire to, as a) domestic or international justice mechanisms are preferred options, b) justice efforts cannot be limited to punitive and retributive mechanisms and c) the central focus on torture can contribute to the omission of other types of violations (see below). Still, UJ cases are praised as a first crack in the wall of impunity. The revival of UJ is seen as an opportunity to expand the circle of countries invested in justice processes, create legal precedents and enhance collective public awareness.

While we acknowledge the limitations of criminal accountability, as well as the limited number of trials, the symbolic value of these proceedings and their expressive function lead us to explore their role in shaping the justice imagination. Equally important to our argument is the fact that, in addition to providing victims with an avenue to pursue criminal accountability, trials under UJ offer a space for preserving, expressing and reclaiming their narratives. This is crucial in a situation of narrative warfare, as it helps them to counter the regime’s attempts to discard and deny their experiences. Because of this, many victims also see UJ trials as a means of narrative resistance. This, too, illustrates the expressive function of UJ trials beyond the courtroom, as well as their potential for giving victims an opportunity to express.

53 Máximo Langer and Mackenzie Eason, ‘The Quiet Expansion of Universal Jurisdiction,’ European Journal of International Law 30(3) (2019): 779–817.
54 The setting of a court room however entails risks of erasure and distortion when victims have to share experiences along pre-scripted lines of legal reasoning. When Syrian lawyer Anwar al-Bunni testified on 5 June 2020, and insisted on the regime’s use of torture, the judge pressed him to make less general remarks, Karam Shoumali and Fritz Streiff, ‘Syrian Witnesses Speak, Syrian Atrocities Crimes on Trial,’ Podcast Branch 251, 12 June 2020, https://branch251.captivate.fm/episode/syrian-survivors-speak (accessed 20 June 2020). Furthermore, due to the polarization and intimidation of victims and their families, potential witnesses are subjected to pressure.
55 Personal interview, Anwar al-Bunni, director, Syrian Center for Legal Studies and Research, 10 April 2020.
56 Personal interview, Patrick Kroker, legal advisor, European Center for Constitutional and Human Rights, 20 March 2020; personal interview, Roger Phillips, legal director, Syria Justice and Accountability Centre, 27 March 2020.
57 Personal interview, Mariana Karkoutly, legal consultant, Center for Justice and Accountability, 7 July 2020.
58 Personal interview, Almoutassim al-Kilani, litigation programme manager, Syrian Center for Media and Freedom of Expression, 3 April 2020.
59 Personal interview, Noha Aboueldahab, TJ scholar, Brookings Doha Center, 22 May 2020; personal interview, Feras Fayyad, filmmaker and plaintiff in al-Khatib trial, 13 July 2020.
(certain) justice needs. Before turning to UJ’s omission of certain justice needs, we discuss a second formal justice initiative.

**The IIIM**

In December 2016, the UN General Assembly created the ‘International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Those Responsible for the Most Serious Crimes Under International Law Committed in the Syrian Arab Republic Since March 2011’ (IIIM). This mechanism could, in theory, contribute to laying the groundwork for international criminal justice. Despite its limited mandate, the IIIM strengthens existing documentation efforts through a repository of evidence and pushes to use this evidence in prosecutions under UJ. The IIIM’s relevance for this article lies in its attempts to remedy the accountability gap by identifying and filling evidentiary gaps regarding grave crimes. We are therefore interested in which types of crimes the IIIM foregrounds.

Without the powers of a prosecutor or court orders and given that only Syrian investigators and documenters can work inside Syria, the IIIM depends on cooperation with Syrian CSOs. It pursues a victim-centred approach, establishing close contact with Syrian justice actors to discuss what are considered to be the gravest crimes. Because of this interaction with CSOs, the IIIM is an interesting site for mapping how different justice narratives interact, and shape the justice imagination.

The IIIM leadership itself seeks to foreground historically overlooked and insufficiently documented crimes, such as sexual and gender-based violence (SGBV) and violence against children. Its narratives foreground the experiences and perspectives of women as victims of, survivors of and witnesses to the conflict. Along with other institutions such as the Commission of Inquiry, it underscores the importance of seeing SGBV, against women and men, as an integral part of investigating and prosecuting war crimes. This can be understood as an attempt to counter prevailing criminal procedures’ disregard for SGBV as part of a systematic and widespread attack on civilians. Against this backdrop, in June 2020 seven SGBV survivors, in cooperation with the ECCHR and Syrian CSOs, filed a criminal complaint with the German Federal Public Prosecutor demanding that SGBV in detention centres be

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60 Personal interview, Habib Nassar, Director of Policy and Research, Impunity Watch, 20 April 2020; Phillips supra n 56.
61 Elliott, supra n 49.
62 Some victim organizations mistrust the IIIM as they are critical of the UN’s assistance of humanitarian aid that is manipulated and diverted by the Syrian regime. Tobias Schneider, ‘Assad, the Regime, and the Logic of the War’ (Seminar Evangelische Akademie Loccum, 16 June 2020).
63 Reports of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes Under International Law Committed in the Syrian Arab Republic Since March 2011, A/73/295, A/73/741, A/74/313, A/74/699.
64 Michelle Jarvis, comment in interview on Atlas, 9 March 2020, https://www.atlaswomen.org/profiles/2020/2/3/michelle-jarvis (accessed 16 April 2020).
65 Independent UN Commission of Inquiry on the Syrian Arab Republic, ‘I Lost My Dignity: Sexual and Gender-based Violence in the Syrian Arab Republic,’ A/HRC/37/CRP.3, 8 March 2018, https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-37-CRP-3.pdf (accessed 20 April 2020).
prosecuted as a crime against humanity.\textsuperscript{66} Overall, Syrian and international justice actors have insufficiently prioritized SGBV, resulting in omissions. In the next section we zoom in on the dynamics of omission happening within these two formal justice initiatives using the conceptual lens developed above.

\textbf{WHAT GETS OMITTED FROM JUSTICE NARRATIVES}

In the previous section we outlined the broad contours and characteristics of two prominent formal justice initiatives. In this section we discuss two types of erasure (malevolent erasure by the Syrian regime, and unwitting erasure by justice actors in the formal justice architecture) and invisibilization to shed light on how omissions operate in institutional contexts that have inherent limitations.

\textbf{Erasure by the Syrian Regime: The Monopolization of the Narration of Violence}

One of the most commonly committed crimes by the Syrian regime is torture, often in the context of enforced disappearances in illegal detention facilities.\textsuperscript{67} Detention and torture are central to the Syrian polity, alongside other violations of International Human Rights Law and International Humanitarian Law (IHL) that have not been addressed in formal justice processes, such as indiscriminate attacks against civilian infrastructure, the forcible transfer of civilians and sieges.

In addition to certain biases in the international criminal system,\textsuperscript{68} an important explanation for why certain crimes never make it into formal mechanisms is the threat of blind violence. In this context the threat of the prison as a space for the undoing of the political subject is important.\textsuperscript{69} This is an aberrant instance of both physical and narrative erasure. While this violence constitutes an obvious injustice in and of itself, it also contributes to the secondary injustice of erasing victims’ voices from dominant narratives. This imposed silence means that historical violence like the Hama massacre in 1982 has not featured very explicitly in most Syrians’ justice narratives, even if the memories of those crimes have heavily shaped these narratives.

In this context, Syrians’ silence about past violence should be read as a way of navigating their political environment.\textsuperscript{70} Up until today, justice actors and dissidents have been confronted with the regime’s determination to resort to every imaginable form of violence to crush contestation, forcing the majority of this justice community to leave the country and continue its activities in the diaspora. Furthermore, the regime has shaped the dominant narrative through a sectarian prism, depicting

\textsuperscript{66} Deutsche Welle, ‘Can Syrian Sexual Violence Survivors Get Justice in Germany?’ 19 June 2020, https://www.dw.com/en/can-syrian-sexual-violence-survivors-get-justice-in-germany/a-53875140 (accessed 20 June 2020).

\textsuperscript{67} Kaleck and Kroker, supra n 51.

\textsuperscript{68} See, for example, Evelyne Schmid, Taking Economic, Social and Cultural Rights Seriously in International Criminal Law (Cambridge: Cambridge University Press, 2015).

\textsuperscript{69} Ismail, supra n 37 at 194.

\textsuperscript{70} Wendy Pearlman, ‘Narratives of Fear in Syria,’ American Political Science Association 14(1) (2016), 21–37 https://www.cambridge.org/core/journals/perspectives-on-politics/article/narratives-of-fear-in-syria/4ABF48BEE7D4796DD1EA45S4D55A2566.
dissident groups as jihadists. This sectarian interpretation of the conflict has resonated at the international level due to the emergence of ISIS.

Regime efforts at erasure are ongoing. Its deliberate strategy to muddy the waters has led to a situation in which neither public opinion nor media nor policy actors (try to) understand the dynamics of conflict. The UN’s assistance in the forcible transfer of the civilian population from the cities that the regime reconquered, such as Homs in 2014, is an example thereof. This assistance gave a veneer of legitimacy to the regime’s demographical re-engineering and contributed to the omission of this crime from the justice debate. Moreover, the regime’s strategy of depicting protestors as jihadi extremists to justify its violence as counterterrorism is also part of these attempts to erase victims’ experiences. The same holds true for Russia’s dissemination of disinformation via media outlets and social media.

We refer to these actions and strategies as erasure. In this case, the erasure is a deliberate part of – attempts to cover up – a violent policy. While this strategy is an obvious and egregious form of erasure, we insist that much more subtle forms of erasure may also occur when justice actors choose to exclude certain issues from the justice debate. This may happen for well-intended reasons (such as caseload or pragmatism) but may have similar effects in terms of erasing victims’ lived realities and aspirations.

(Accidental) Erasure by Justice Actors: Unforeseen Consequences

In this article we are particularly interested in what does not make it into justice narratives. Subtle – and often accidental – forms of erasure are equally important to acknowledge and examine. These forms of erasure, too, shape which issues make it into the justice narratives, who is identified as perpetrator or victim, who can seek accountability and reparations and for what. In a more general sense, they shape how we think about (in)justice. We do not problematize the fact that elements get omitted from the prevailing justice discourse and concrete justice narratives. Some kind of omission is inevitable in any context in which a multitude of phenomena are dealt with. We argue that the omissions in the Syrian context characterize many international justice processes. As Schmid, for example, demonstrates about economic, social and cultural rights (ESCR), certain omissions are so commonplace in international criminal justice processes that, while they are based on myth rather than on actual structural or institutional limitations, they are poised to be reproduced in ways that give partial accounts of injustices. While this is a widespread problem, we see

71 Sam Dagher, Assad or We Burn the Country: How One Family’s Lust for Power Destroyed Syria (New York: Little, Brown and Company, 2019), 283.
72 See also Adam Bazcko, Dorronsoro Gilles and Arthur Quesnay, Civil War in Syria, Mobilization and Competing Social Orders (Cambridge: Cambridge University Press, 2018).
73 Personal interview, Ibrahim Olabi, director at the Syrian Legal Aid and Development Program and UK barrister at Guernica 37, 27 April 2020. The regime has subjugated civilians from cities such as Homs, Daraya, Madaya and eastern Aleppo to sieges and bombardments and depicted their forcible transfer as a
74 Mason Richey, ‘Contemporary Russian Revisionism: Understanding the Kremlin’s Hybrid Warfare and the Strategic and Tactical Deployment of Disinformation,’ Asia Europe Journal 16(1) (2018): 101–113.
75 Herzog, supra n 22.
76 Schmid, supra n 68.
Syria as an emblematic case of unwitting processes of erasure due to a more general resurgence of pragmatism in the field of international justice efforts.\textsuperscript{77} In this section and the next we seek to disentangle instances of active erasure from instances of invisibilization to highlight how one process shapes the other, but also to foreground agency and room for resistance.

In terms of erasure by justice actors involved in formal justice efforts, it can be observed that only a fraction of the experiences of harm makes it into these justice narratives. The trials under UJ for example are the only ones to even address the regime’s atrocity crimes. These proceedings remain episodic and the cases do not represent the full scope of these crimes, partly due to the investigatory and prosecutorial realities. This means that even in these much-needed and hope-giving processes only the most recognizable crimes, like torture and forced disappearances, receive attention. Justice actors have invested heavily in documenting these crimes, meaning that there is a stronger evidence base for prosecuting them. Moreover, the UN Convention Against Torture establishes the possibility of extraterritorial jurisdiction regarding these crimes, as the prohibition of torture is a \textit{jus cogens} norm of international law. As such, justice actors’ initial choice to foreground torture can be understood because of strategic reasons. While justifiable, this focus risks overshadowing other types of crimes.

Cases on the use of chemical weapons, for example, were initially not brought forward under UJ, because of a lack of willingness and legal tools to prosecute these crimes.\textsuperscript{78} Given the expressive function of justice processes, if institutional actors do not prioritize these crimes, they risk disappearing from the justice debate.\textsuperscript{79} A pragmatic prosecutorial strategy and feasibility calculations by institutional actors could thus be argued to amount to selective justice that risks erasing the realities of a large number of victims, as well as leaving certain perpetrators off the hook.\textsuperscript{80} Moreover, several interviewees indicated that such omissions can subject victims to secondary victimization, as victims’ justice needs are not sufficiently acknowledged or addressed, which hampers recognition, redress and repair.\textsuperscript{81}

In an attempt to further accountability, in September 2020 the Netherlands sent a diplomatic note to the Syrian regime, holding it accountable for violations of international law and invoking the UN Convention Against Torture.\textsuperscript{82} In doing so, it opened the way for bringing a case before the International Court of Justice. This

\textsuperscript{77} Brett Edwards and Mattia Cacciatori, ‘The Politics of International Chemical Weapon Justice: The Case of Syria, 2011–2017,’ \textit{Contemporary Security Policy} 39(2) (2018): 280–297.
\textsuperscript{78} In October 2020 a group of NGOs filed a criminal complaint on behalf of victims of chemical weapons attacks to the German Federal Public Prosecutor. In March 2021, three NGOs filed a criminal complaint in France against the Assad regime regarding chemical attacks that took place in August 2013.
\textsuperscript{79} Stahn, supra n 1.
\textsuperscript{80} Phillips supra n 56.
\textsuperscript{81} Personal interview, Habib Nassar, supra n 60; personal interview, Youssef Wehbeh, Legal Director, Syrian Legal Aid and Development Program, 24 April 2020; personal interview Ahmad Helmi, founder, victim group Ta’afi, 6 October 2020.
\textsuperscript{82} Stephanie Van Den Bergh and Janet Anderson, ‘Why the Dutch are Threatening to Take Syria to Court,’ \textit{Justice Info}, 22 September 2020, https://www.justiceinfo.net/en/other/45453-why-the-dutch-are-threatening-to-take-syria-to-court.html (accessed 23 September 2020). In March 2021 Canada filed a similar request, to hold negotiations to resolve the dispute with Syria’s violations under the Convention Against Torture.
initiative could potentially place the issue of forced disappearances and detention higher on the agenda.\(^8^3\)

This is important because despite the relentless work of justice actors, the visibility of victims in justice processes is mostly limited to trials under UJ and to consultations between the IIIM and Syrian CSOs. While in many cases they have actually instigated justice processes, their agency has long been insufficiently recognized, marginalizing their perspectives in wider justice narratives.\(^8^4\) Also, the experiences of women as victims, witnesses and activists have for a long time been virtually absent in justice narratives. These narratives, as several interviewees observed, have been dominated by male voices. In the materials the IIIM is receiving, for example, a gender bias can be discerned, which suggests that erasure is also happening on the part of CSOs.\(^8^5\)

Moreover, in addition to the erasure of issues or actors, we can also observe the erasure of certain narratives from formal justice processes. These can, for example, have difficulty accommodating emotions, affects or stories told from multi-layered experiences of victims.\(^8^6\) Also, religious understandings of justice tend to be erased from formal processes, even if many Syrian victims refer to religion as a starting point to think about justice and to deal with loss, rage and feelings of revenge. However, within formal processes these perspectives on divine justice are often not considered, as Western stakeholders might conceive of certain positions on punishment as barbaric.\(^8^7\)

**Invisibilized Realities**

Above, we discussed two very different ways in which the *choices* of actors can lead to the erasure of certain issues, actors or narrative forms from the prevailing justice narratives. These choices are often pragmatic attempts to navigate a context that has structural constraints and biases. Some instances of erasure can, as such, be understood as a strategic reaction to an expectation that there will be a blind spot, disinterest or even pushback against certain topics at an institutional or societal level. We use the term *invisibilization* (see above) to refer to these contextual and structural dynamics that result in absences.

One way in which invisibilization manifests itself in the Syrian case is in the marked absence of Housing, Land and Property (HLP) rights from the formal justice mechanisms, even if this has affected millions of people.\(^8^8\) We see this as a matter of invisibilization because it follows the established belief – or even persistent myth – within the field of international criminal justice that crimes related to ESCR are not easily justiciable.\(^8^9\)

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\(^{8^3}\) Toby Cadman, comment during ‘Seminar on the Dutch Initiative,’ SLPD, 24 September 2020.

\(^{8^4}\) Helmi, supra n 81; Nassar supra n 60.

\(^{8^5}\) Jarvis, supra n 64.

\(^{8^6}\) Marie-Bénédicte Dembour and Emily Haslam, ‘Silencing Hearings? Victim-Witnesses at War Crimes Trials,’ *European Journal of International Law* 15(1) (2004): 151–177; Kotecha, supra n 1.

\(^{8^7}\) Olabi, supra n 73.

\(^{8^8}\) Since 2011 the government has passed laws that have undermined the legal status of the displaced population, preventing many from claiming a title to land that was theirs.

\(^{8^9}\) Schmid, supra n 68.
Yet, as NGOs have demonstrated, the invisibilization of HLP needs to be reversed in order to bring about meaningful justice processes.90

Also, some gross violations of IHL and civil and political rights are not tackled in formal processes. Above, we highlighted how active strategies of the regime as well as calculations of justice actors explain part of this omission. Here, we emphasize that this omission can also be examined as a matter of invisibilization when understood as an effect of the deadlock at the international level. The concern over ISIS and the growing indifference about the conflict in mainstream public opinion in the Global North further contributed to this invisibilization of issues and victim groups. It is against this background that some of the abovementioned actors have prioritized certain issues.

The invisibilization of issues frequently overlaps with the invisibilization of actors or groups from dominant narratives. In the Syrian case, for example, there is a perception among certain victim groups, such as Kurds, that there is a victim hierarchy and that their voices are not sufficiently reflected in the justice debate.91 The same could be argued about SGBV, which was only mentioned by a limited number of our respondents. The suffering of many victims is relegated to a lesser level of significance because it is seen as politically problematic or ambiguous.92

RESISTING ERASURE AND INVISIBILIZATION: THE ROLE OF ARTISTIC PRACTICES

Above, we focused on the substance and dynamics of erasure and invisibilization caused by the Syrian regime as well as within the narratives of the formal processes. This is not the full story. The Syrian case is not only exemplary of how various kinds of erasure and invisibilization led to hackneyed justice narratives and a restrained justice imagination; it is also exemplary of how certain justice actors seek to counter these omissions. It shows that even in the face of rampant erasure and invisibilization, contestation happens. Alternative initiatives can be a starting point to conceptualize counter-narratives that resist erasure and invisibilization and open up the justice imagination, by proposing new ways to think about justice.

Indeed, most justice efforts that address the priorities of torture survivors, families of the disappeared and families of the detained take place in informal spaces, mostly outside of Syria, as the space for protest and presenting victims’ lived realities within Syria is virtually non-existent. Victims’ activism is a relatively new, but rapidly expanding, phenomenon in the Syrian context. Victim groups are insisting on being involved as changemakers in formal processes.93 We argue that, because they are rooted in victims’ lived realities and less constrained by the formal requirements of judicial avenues, these initiatives have the potential to counter certain instances of

90 PAX and Impunity Watch, ‘Violations of Housing, Land and Property Rights: An Obstacle to Peace in Syria,’ 10 March 2020, https://www.paxforpeace.nl/publications/all-publications/violations-of-housing-land-and-property-rights-an-obstacle-to-peace-in-syria (accessed 4 March 2021).
91 Bassam Al-Ahmad, Director of Syrians for Truth and Justice, notes that many civil society actors ask for justice for all Syrians, but in reality focus almost exclusively on violence perpetrated by the regime. Personal interview, 27 May 2020.
92 Miller, supra n 6.
93 Ahmad Helmi, supra n 81.
the invisibilization and erasure explained above and to open up the justice imagination.94

For one, civil society actors insist that justice-seeking is more than criminal accountability and explore the potential of artistic practices to resist omission.95 In response to both the ongoing violence as well as the relative lack of attention to it in most formal justice mechanisms, many Syrian artists – mostly in the diaspora – have given visibility to injustices that they esteem to stay under the radar. These practices are, as much as formal processes, sites of narrative production where justice narratives can be conceived that resound victim’s experiences, and they require closer examination.

While reliance on artistic practices as part of the justice efforts is partly rooted in the stalemate in formal justice mechanisms, it can be traced back to Syrian activists’ and critical artists’ long-standing experimentation with symbolic language to challenge the state’s suppression of contestation.96 The 2011 uprising further enabled this by opening new spaces for visual and narrative expressions.97 Syrian artists and justice actors explore how these practices, and the \textit{presenting} happening through them, could prove relevant in challenging omissions happening in formal justice avenues and countering narrative warfare.

Through agonistic battles, counter-hegemonic practices and critical art, these actors engage with justice in ways that locate its pursuit beyond the narrow legal realm and make visible what the consensus tends to obscure and obliterate,98 offering a greater role to grassroots actors.99 They allow, for example, for justice demands to be formulated in non-linear ways that are not easily accommodated in narratives surrounding formal processes, or for the emergence of multi-vocal narratives that reflect the complexity of victims’ experiences.100 Of particular relevance to the Syrian context is the potential of artistic expressions to communicate via metaphors and other symbols that carry multiple meanings.101

This is not to obscure the potentially elitist nature of some forms of artistic expression, but rather to shed light on how some of the dynamics of the production process, such as non-linearity, contestation or \textit{presenting}, could also be relevant for other kinds of justice activism. Indeed, justice activism in the artistic realm is not only a route to reach actors within the judicial realm, but also a way to address rights violations outside of that realm, i.e., through bearing witness, memorialization and

94 Lee Anne Bell and Dipti Desai, supra n 33.
95 Personal interview Fadel, Abdul Ghany, Director, Syrian Network for Human Rights, 31 May 2020.
96 Charlotte Bank, \textit{The Contemporary Art Scene in Syria: Social Critique and an Artistic Movement} (London: Routledge, 2020), 101; miriam cooke, \textit{Dancing in Damascus: Creativity, Resilience, and the Syrian Revolution} (New York: Routledge, 2016), 31.
97 Malu Halasa, Zaher Omareen and Nawara Mahfoud, \textit{Syria Speaks: Art and Culture from the Frontline} (London: Saqi Books, 2014).
98 Chantal Mouffe, \textit{Art and Democracy: Art as an Agonistic Intervention in Public Space}, 2007, https://www.onlineopen.org/art-and-democracy (accessed 5 June 2020).
99 Ray Nickson and John Braithwaite, ‘Deeper, Broader, Longer Transitional Justice,’ \textit{European Journal of Criminology} 11(4) (2014): 445–463.
100 Carlos Luis André Thiebaut, ‘Literature and Experiences of Harm,’ in \textit{Transitional Justice, Culture and Society Beyond Outreach}, ed. Clara Ramirez-Barat (New York: SSRC, 2014), 541.
101 Cohen, supra n 30.
truth-telling. It can foreground voices from below in a context where there are hardly any spaces in which victims can participate, and where these spaces often struggle to accommodate certain voices, topics or tropes. These initiatives are a crucial element of justice seeking, in terms of re-imagining an active role for victims as well as visualizing their concrete needs.102

The artistic response to the conflict has focused largely on experiences of harm and the need to acknowledge victimhood, with many artists who identify with the protest movement sharing the justice actors’ goal of overcoming the invisibilization of victims. Bearing witness to the plight of the voiceless became a prominent feature of recent Syrian arts, with many artists explicitly addressing injustices and engaging in truth-seeking, thus establishing also a narrative memory that provides the space to reflect on complex contemporary events.103 For the purpose of this article, we are interested in the potential of artistic expressions to advance complex or contested truths and thus fill vacuums left unaddressed in the broader justice debate and conjuring up new spaces of contestation.

Explicitly identifying himself as part of the justice movement and inspired by survivors of the Assad regime, artist Khaled Barakeh, for example, inaugurated the installation ‘Mute’ outside the Koblenz courthouse, the venue of the al-Khatib trial (Figure 1). The installation depicts 49 figures dressed in the clothes of Syrian protestors. Barakeh conceives of the installation as a way to confront perpetrators with voices that they tried to mute and make the court’s proceedings visible to ordinary

Figure 1. ‘Mute’. Installation by Khaled Barakeh outside the Koblenz courthouse.

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102 Nassar, supra n 60.
103 Roger Bromley, “Giving Memory a Future”: Women, Writing, Revolution,’ Journal for Cultural Research 19(2) (2015): 221–232.
people. His aspiration was to create a space for victims and their families to tell their stories free from the constraints of the courtroom.\textsuperscript{104}

\textbf{CONCLUSION}

This article focused on what gets erased and invisibilized from prevailing justice narratives and initiatives and thereby from the justice imagination, i.e., what we believe can be achieved through various kinds of justice processes. By focusing on justice narratives, we analysed the framing, transmission and institutionalization of certain values and ideas about justice. Scrutinizing and opening up these justice narratives is crucial to start to shed light on absences and to presence the lived realities of injustice. The analysis of which issues and actors are erased and invisibilized from justice narratives also offers a starting point to think about alternative and complementary justice narratives that could feedback into, or exist in parallel to, dominant justice narratives in formal justice processes. These narratives hold the promise of raising attention to ongoing injustices and impunity, and of countering defeatism.

As such, we contend that a better understanding of the dynamics of erasure and invisibilization can broaden the justice imagination. This implies a move away from defining justice solely in relation to existing judicial mechanisms, and towards a definition that reflects more grounded ways to pursue justice, to ensure that victims' experiences are not glossed over. We do not seek to offer definitive answers, but rather to spark a conversation with scholars and practitioners in the centres and peripheries of the debate to advance, stir and re-imagine justice narratives that are more inclusive, accurate and representative; in other words, narratives that (a) avoid the systematic omission of issues and actors that find themselves at the periphery, (b) accurately describe the issues that lie at the root of injustices and violence and (c) describe the complexities and murkiness of the lived realities of marginalized groups. We indicated that justice efforts and artistic practices can play a role in this and encourage further research into the question of how this could happen. Failing to engage in this exercise does not only mean that the potential of justice risks remaining unfulfilled, but that it can actually come to perpetuate the suffering of victims by erasing or invisibilizing the experiences and injustices most important to them.