

# Syria: The United Nations' Responsibility to Protect Civilians under Question

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Colloquy with Richard Falk,  
by Salwa Amor\*

The current global powers have been unable to prevent the worst humanitarian crisis since WWII, leaving a gigantic humanitarian gap in Syria. Sadly, in the lack of a global people's movement, this gap remains. Questions need to be asked as to why did those in power failed Syria; why individuals have also failed; and why there seems to be no collective human conscience that is tantamount to the scale of the suffering.

Richard Falk – Professor Emeritus of International Law at Princeton University and distinguished professor in Global and international Studies at University of California and the Former UN Special Rapporteur – provides Caucasus International with vital insights into how the internal functioning of the UN resulted in its flawed response to Syria, as well as the factors that prevented the UN from applying the R2P charter. The R2P charter was created to prevent exactly the kind of atrocities unfolding in Syria. Most importantly, Falk provides us with important advice on what must be done, both within the UN as well as on the part of the international community in order to prevent further atrocities in future.



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\* Salwa Amor lives in London and works as a war correspondent and broadcast journalist. Specialising in Middle East affairs she has covered events in Turkey, Syria, Iraq, Kurdistan, Tunisia, Lebanon, Egypt, Jordan, the West Bank and Israel for News Networks including Al Jazeera, BBC, MBC, Current TV, Reuters Thomson, Sky and Euronews. Her Masters was in Creative Media at the University of Bournemouth.

### *A missed chance*

**1. In 09/09/2015 Middle East Eye you referred to Syria as “an ideal case for humanitarian intervention”. However, two years on, it has turned into one of the greatest humanitarian crises the world has seen, with half of the country refugees or internally displaced.**

**What turned this “ideal case for humanitarian intervention” into one of the worst humanitarian responses we have seen in recent times?**

The reference to Syria as ‘an ideal case,’ was meant in a hypothetical sense, that is, as if ‘humanitarian intervention’ was ever called for, it was here in Syria, and yet it was at all stages a mission impossible. We should keep in mind that the record of actual instances of what is called ‘humanitarian intervention’ has been dismal, and rarely was the motivation predominantly humanitarian, but rather strategic interests of one sort or another.

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### *Failures & implications of inaction*

**2. The humanitarian failures in Syria and for Syrian refugees in neighboring countries, including Jordan, Turkey, Lebanon**

**and Iraq, have had far-reaching implications for the EU, with millions of refugees choosing to risk their lives in order to enter Europe causing the largest exodus since WWII.**

**Could the surge of refugees fleeing to Europe have been avoided through a more positive and organized humanitarian intervention?**

It is possible that had Syria possessed oil, the intervention against the Damascus regime would have been robust enough to topple the regime, and create stability before combat conditions prompted massive internal displacements and gigantic refugee flows, including the European influx. In this sense, Libya, with oil, did prompt such an intervention, although it was an easier undertaking, as the Qaddafi regime had much less popular support than did the Assad regime, and was less well equipped militarily and lacked regional allies. In Syria, because of regional and global geopolitical cleavages, the politics of intervention and counter-intervention was far more complicated, and inhibited potential interveners. At the early stages of the conflict Turkey and the United States miscalculated the costs and scale of a successful intervention in Syria, supposing that an indirect and low level effort could be effective in achieving regime change, which misunderstood the conditions prevailing in Syria.

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### *The ideal humanitarian response*

**3. In your experience, what would have been the ideal humanitarian response to the war in Syria? And who would have been best positioned to implement it?**

As my earlier responses hinted, there is no ideal response, and the current world order is not really capable of handling humanitarian intervention in a situation such as existed in Syria. To have any chance of effectiveness would require entrusting the undertaking to one or more powerful states, but even then the situation that would follow is highly uncertain. In a postcolonial setting, there is bound to be strong nationalist resistance and chaos produced by foreign intervention followed by occupation unless the country is very small and can be overwhelmed (as in Granada, for instance).

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Iraq serves as clear example of an intervention that did rid the country of a brutal tyrant, but produced internal violence among competing regions, tribes, and generated extreme sectarian strife between Sunnis and Shiites, as well as a series of ethnic, tribal, and regional battles.

In an ideal world, which is far from existing, the UN would have acted robustly and with the support of the regional governments in the Middle East, the geopolitical actors (U.S. and Russia) would have not pursued their strategic agendas, and a politically neutral intervention would have created the conditions for a post-Assad democratic political transition, including a reckoning for past crimes. Merely mentioning this desirable scenario is enough to reveal its utopian character. Especially in the Middle East, geopolitics of a regional and global scope undermines all efforts to fashion a humanitarian response to repression and severe violations of human rights. In the background, but not far in the background, is the relevance of oil. The countries that have experienced intervention possessed abundant oil reserves, those that endured bloody conflict, of which Syria is the worst case, have been the scene of competing and offsetting interventions motivated by political and strategic ambitions with only a propaganda rationale associated with alleviating a humanitarian crisis, which at best, is a much subordinated goal.

### *Lessons for the Future*

#### **4. How can the world learn from the humanitarian failures and inaction that have plagued Syria over the past seven years? What opportunities to protect, defend, or support the Syrian people have we missed?**

*What intervention achieved in Syria was largely a matter of magnifying the conflict, and attendant suffering.*

In my view, it is a mistake to speak of ‘inaction’ in the Syrian context. There have been massive interventions of all sorts on both sides of the conflict by a variety of actors, but none decisive enough to end the conflict, and none primarily motivated by humanitarian concerns. Of course, here and there, lives could have been saved, especially if the balance of forces within Syria had been better understood at an early stage of the conflict in the West. What intervention achieved in Syria was largely a matter of magnifying the conflict, and attendant suffering. The conflict

itself was surrounded by contradictory propaganda claims making the reality difficult to perceive by the public, and therefore there was political resistance to more explicit and possibly more effective regime changing intervention.

### *Indifference to suffering*

**5. Is there any correlation between the rise of Islamophobia and the world's inaction in regard to the Syrian people's suffering? Has the growing hatred towards Islam as a religion created a generation of indifference towards those of them who are suffering? Or is this indifference a natural response to such an overwhelming humanitarian crisis?**

The indifference in relation to Syria is a matter of public confusion and distrust; confusion about the nature of the conflict and distrust of the motives of political actors that have intervened on either side. The spike in Islamophobia is mainly attributable to the interplay of the European refugee crisis and the occurrence of terrorist incidents that are perpetrated by ISIS and its supporters. Of course, the massive refugee flow was prompted by the violence in the combat zones, which made Europe most interested in resolving the conflict even if it meant allowing the current regime to remain in power. I suppose that the indifference observed in your question is more evident in relation to the plight of the Rohingya people in Myanmar than in response to Syria where, as I have been suggesting, the political context dominates the human suffering, and the Islamic identity of the victimized people is secondary. Also, it is worth recalling the global indifference to genocide in Rwanda (1994) that could have been prevented, or at least minimized, by a timely, and relatively small scale intervention. And on occasion, if the strategic context is supportive, the West will intervene on the Islamic side as in Bosnia and Kosovo in the 1990s, and in opposition to the Christian side.

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### *United Nations Aid to the Assad Regime*

**6. The UN has handed over a large portion of the \$4bn of its aid efforts in Syria to the Syrian regime, or partners**

**approved by Bashar Al Assad. How does the UN justify providing tens of millions of dollars in humanitarian aid to the Syrian regime?**

I suppose the basic justification is that from the viewpoint of the UN, the Damascus regime remains the legitimate government of Syria. This is of course a legalistic justification, and evades the real humanitarian crisis as well as the actions of Assad's regime. So far, because there is a geopolitical standoff, regionally (Iran v. Saudi Arabia) and globally (Russia v. the U.S. and Turkey), the UN has tried to remain outside the zone of controversy to the extent possible while doing what it can to alleviate human suffering. I am not knowledgeable about whether its aid is reaching the civilian population as claimed.

*The UN's Responsibility Not to Protect Civilians*

**7. Human rights groups have estimated that no less than half a million people have died in the last seven years in Syria. Although there are many violent factions in Syria, more than 90% of all deaths (SNHR) have been caused by either the Syrian Government or Russian strikes.**

**In comparison Libya's Muammar Gaddafi killed 257 people including combatants and injured 949 with less than 3% being women and children when the United Nations Security Council intervened. On March 17, 2011, the UN Security Council adopted Resolution 1973 (2011), authorizing "regional organisations or arrangements...to take all necessary measures...to protect civilians and civilian populated areas under threat of attack" in Libya. The resolution was adopted with ten votes in favor, none against, and five abstentions. In hindsight, many have now questioned whether that intervention was purely to "protect civilians".**

**Is the UN Security Council a reliable body that can be relied upon to protect civilians?**

The Responsibility to Protect (R2P) UN practice is governed by the UN Security Council, and hence is completely subordinated to the vagaries of geopolitics. In this regard, the lesser humanitarian

hazard in Libya led to a UN regime-changing mission because the Permanent Members opposed (China, Russia) were not prepared to cast their veto for what was being proposed, which was a limited humanitarian mission to protect the entrapped civilian population of Benghazi. In fact, the NATO undertaking expanded the mission beyond the Security Council mandate from its inception, angering Russia and China that had abstained out of deference to the humanitarian claims. They later justified their opposition to a more pro-active UN role in Syria by reference to this failure of trust, the unwillingness of the intervening states to respect the limits of the mandate. What is important to appreciate is that R2P and other UN undertakings must adhere to the constraints of geopolitics. As disturbing as inaction with respect to Syria is the UN's silence with regard to the abuse of the civilian populations of Gaza and Rakhine (Myanmar). It is only when a geopolitical consensus exists, which is quite rare (e.g. failure with respect to Yemen) that it is possible for the UN to play an important role in shaping behavior.

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***How can the Responsibility to Protect the civilian (R2P) be implemented?***

**8. Why has the UN's responsibility to protect (R2P) been invisible during the past seven years in Syria? What must be done now to implement an R2P operation in Syria to avoid further suffering?**

I would only add here that the abolition of the veto would be a crucial step, or at least its non-availability in humanitarian contexts such as Syria. The problem is that the veto powers are extremely unlikely to give up their right of veto, partly because such states do not voluntarily give up power and partly because humanitarian issues are almost always inseparable from diverse geopolitical tensions, and therefore are not perceived as purely humanitarian. This is certainly the case with regard to Syria. The takeaway conclusion is that the international system as it now functions is rarely motivated by humanitarian considerations when they come into conflict with strong political preferences, and this is true even if the humanitarian crisis is as severe and prolonged as Syria.

The correct response is to advocate global reform, but this will not happen without a major mobilization of people throughout the world or under the impetus of some earthshaking catastrophe.

### *Normalizing the atrocities*

**9. I understand that there was a veto by Russia and thus a resolution was not passed. However, in cases when one of the countries that is involved in the atrocities is allowed to exercise its veto power, does this not raise the alarm? Surely, this situation in Syria and the human cost provides enough of a precedent for a new charter to be drafted and implemented into the UN?**

**Do you believe that it is time for the UN to adopt a new charter that would prevent dictators or countries with vested interest in a war from overpowering UN security council votes?**

Yes, there was much criticism of Russia for blocking action on Syria, but it was acting in accord with the constitutional structure of the UN. The U.S. uses its veto in the same way to protect Israel and other allies. It should be remembered that the League of Nations fell apart because major states would not participate, including the United States. The idea of the veto was designed to persuade all major states to participate, with the goal of universality of membership, but the cost is paralysis whenever veto powers disagree sharply. Your questions raise the crucial issue if too high a price has been paid to achieve this universality, and that one consequence is to weaken respect for the UN as an agency for the promotion of justice and decency in global affairs.

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As specified in Article 108 of the UN Charter requires the approval of two-thirds of the entire membership of the UN as well as all five Permanent Members of the Security Council, which means that it will not happen in the foreseeable future in relation to any politically sensitive issue. When World War II ended there was the hope and illusion that countries that cooperated against fascism would continue to cooperate to maintain the peace. As might have been anticipated, it was a forlorn hope.

*Fighting ISIS but leaving Assad to his own devices*

**10. Many Syrian groups have released statements expressing their dismay at the international community regarding the decision only to intervene to strike ISIS. The Global Coalition planes hover over Deir Al Zour and Raqqa to target ISIS (often causing civilian casualties) while in the same space, Assad's planes carrying deadly barrel bombs hover over nearby towns undisturbed. ISIS became a threat to Western countries as terrorist attacks killed and injured civilians in the West, which led to the "Fight against ISIS" in Syria.**

**Is there balance in the international community's actions in Syria?**

Yes, this is certainly a perceptive observation. When the issue is fairly large scale and internal, and where Muslims are the victims, any effort to intervene is bound to be feeble, at best, which it was in the early stages 2011-2013 where Turkey and the U.S. cooperated in supporting Friends of Syria, which was mistakenly thought capable of shifting the balance sufficiently to produce the collapse of the Damascus regime. When that failed, it became obvious that the costs of an effective intervention were viewed as too high, especially given the Iranian and Russian alignments with the Syrian government.

And as you suggest, the interest with respect to ISIS is much higher because Western security is at stake. ISIS is an enemy of the West, Syria is not, being at most an unattractive regime, partly because hostile toward Israel. In these circumstances, the political realist seeks a ceasefire in Syria while pursuing the destruction of ISIS.

ISIS, as horrible as it is, has not been nearly as responsible for the quality and quantity of suffering inflicted upon the Syrian people by the Damascus regime. At this point, and given the unavailability of humanitarian intervention, the best Plan B is to seek a sustainable ceasefire, and this would require making some unpalatable compromises, including the possible retention of Assad as head of state.

The way the world is organized makes it unable to impose criminal responsibility on the leaders of sovereign states except in special circumstances of total victory as in World War II, or more recently, in relation to the criminal prosecutions of Saddam Hussein and Milosevic.

***Concluding remarks by Richard Falk***

From my earlier responses I am skeptical about what can be done beyond the obvious: give up any hope of securing support for an R2P mandate to protect the Syrian people, and pursue a ceasefire so as to end the suffering. This is not justice, but it may at least spare the Syrian people further trauma and bloodshed. What the Syrian tragedy and ordeal reveals vividly is the inability of the international community, as now organized, to deal with a humanitarian crisis unless a geopolitical consensus is present in a relatively strong form, regionally and globally. Such a consensus is not even enough if the difficulties of intervention are seen as producing heavy casualties for the intervening side and the burdens of a prolonged occupation. In Syria at the present time, Europe would benefit from a ceasefire and the restoration of political normalcy. It would undoubtedly reduce the pressure created by the Syrian refugee flow, which has given rightwing political parties their greatest strength since the end of World War II.

***Concluding remarks by Salwa Amor***

The current global framework has failed in preventing or alleviating the worst humanitarian crisis since WWII, in part due to bureaucratic barriers preventing the UN from implementing its *responsibility to protect* the civilian. The United Nations Responsibility to Protect (R2P) exists in order to “prevent genocide, war crimes, ethnic cleansing and crimes against humanity”; however, Syria has exposed its dysfunctional nature. The many failings in Syria demonstrate that the current UN charter does not permit it to assign human suffering as its leading and primary catalyst for humanitarian intervention. Seven years of war in Syria have resulted in half the population either living as refugees or internally displaced while the death toll is estimated to have hit half a million. Half a million. Half a million human lives lost between the interests of competing geopolitical powers and the people’s reliance on the United Nations. As Professor Falk suggested, “the correct response is to advocate global reform, but this will not happen without a major mobilization of people throughout the world or under the impetus of some earthshaking catastrophe.”