

The Syrian Legal Development Programme (SLDP) is concerned about the question raised before the Senate by a Senator of one of the parties in government concerning the possibility of reopening political and economic ties with the Syrian Government. This would open the door for Italian companies to participate in Syria's reconstruction.

Italian companies that participate in reconstruction in Syria with the Syrian Government may be exposed to a number of international legal liabilities. Additionally, participation in reconstruction in Syria with the Syrian Government will result in the continued oppression of the Syrian people.

SLDP is an international human rights organization consisting of a team of lawyers including British, American and Syrian lawyers that aims to mitigate the human rights impact of the conflict in Syria through engagement with Syrian organizations, government and international actors. SLDP works to increase the international legal capacity of Syrian human rights, humanitarian, or media organizations. SLDP's Human Rights and Business Unit, which was launched in April 2018, works to mitigate the human rights impact of business activity in Syria. Reconstruction in Syria poses particular business-related human rights risks.

Since the outbreak of conflict in Syria, the Syrian Government has been involved in a vast number of international crimes and human rights violations. [1] However, the Syrian Government has begun to shift the narrative away from the conflict, and toward a narrative of reconstruction. [2] This shift in the conversation around the conflict in Syria has serious implications for human rights. Such a change in narrative takes light away from ongoing human rights violations and international crimes in Syria. [3] Additionally, there is the risk that the Syrian Government will use reconstruction as a tool to gain legitimacy as states, such as Italy, begin to restore political and economic ties with Syria to be involved in reconstruction. [4]

The Syrian Government's strategy for reconstruction is one that will manipulate reconstruction to punish opposition communities and reward the Syrian Government's business elite cronies and international allies. [5] As many western powers have refused to participate in Syria's reconstruction before a political transition, and the Syrian Government has refused to accept reconstruction funds from them, the architects of Syria's reconstruction are likely to be powers allied with the Syrian Government and responsible for a vast number of war crimes and human rights abuses that have occurred in Syria, namely Russia and Iran. [6] Not only will this allow Syria's most prominent war criminals to profit from reconstructing the destruction they caused, but it will also allow the Syrian Government to further oppress civilian populations. [7]

Although many of Syria's business elites with close ties to the Syrian Government have been sanctioned by western governments, many continue to close reconstruction-related business deals with foreign businesses. [8] Their immense wealth and power make them ideal business partners for foreign businesses, such as Italy's businesses, interested in reconstruction in Syria. [9] However, many of these businesses have engaged in criminal activity associated with the Syrian

conflict, such as financing pro-government militia groups, smuggling, kidnapping, and charging fees to cross checkpoints. [10]

Italian businesses interested in partnering with these Syrian business elites may contribute to their international crimes and human rights violations.

There are a number of international legal precedents that demonstrate how businesses can be complicit in international crimes and rights violations. For instance, in the Permanent Military Tribunal at Metz after World War II, German citizen Wili Buch was convicted of pillage after 'receiving stolen goods.' Another German had seized the personal property of a French citizen who left his belongings when fleeing his home and sold it at an auction where Buch purchased some of the property. [11] Although Buch did not steal the property himself, he had knowledge of the property's origin and this was enough to result in his conviction. In the context of Syria, where many civilians have been displaced from their homes, there is a high likelihood that property sold or expropriated by the Syrian Government for reconstruction purposes will have been taken from displaced persons. Therefore, businesses that purchase or use this property may become complicit in forced displacement or pillage.

Italian businesses may even be complicit in crimes after the occurrence of the crime. For instance, in the Blagojevic & Jokic case in the International Criminal Tribunal for the Former Yugoslavia (ICTY), the defendants were convicted of aiding and abetting war crimes and crimes against humanity for providing logistical support after the attacks on Srebrenica in 1995. [12] Among other things, Blagojevic & Jokic provided machinery and personnel to assist with guarding and deporting victims as well as to assist with victim burial in the aftermath of the attacks. Similarly, Italian businesses that participate in reconstruction in Syria with the Syrian Government may aid and abet the Syrian Government's crimes even after the criminal act has occurred.

Additionally, the Syrian Government has enacted legislation, such as Decree no. 66 of 2012 and Law no. 10 of 2018, which allow the Government to punish opposition communities and engineer demographics of the country to concentrate power in strategic locations under the guise of reconstruction. [13] Many of the areas covered by these laws are the same ones which have been systematically targeted by the Syrian Government throughout the conflict. [14] These laws allow for the expropriation of private property for reconstruction purposes. [15] Residents whose properties have been expropriated are not provided with adequate compensation or alternative housing, as promised in the law. [16] Moreover, reconstruction projects under Decree no. 66 and Law no. 10 envision high end city centers, which are affordable only to Syria's wealthy elites, forcing former residents to leave their neighborhoods and move further away from city centers. [17] Businesses developing and implementing these reconstruction projects are those with close ties to the Syrian Government, allowing both the Syrian Government and its cronies to profit from their own rights violations and international crimes. [18]

As various humanitarian aid and reconstruction funding efforts in Syria have demonstrated, operating in partnership with the Syrian Government will only contribute to the conflict. [19] The Italian Government and its businesses that may be interested in participating in reconstruction in Syria should refrain from dealing in reconstruction contracts with the Syrian Government or those with close ties to the Government.

The Italian Government and its businesses may begin by completing comprehensive due diligence and human rights impact assessments to ensure local partners are not tied to the Syrian Government and that funds will reach the intended populations. In doing so, Italy and its businesses should consult with Syrian civil society to determine best practices for delivering aid into Syria efficiently and effectively. Italy must ensure that reconstruction funds entering Syria do not involve partnerships with war criminals and human rights violators in Syria. This may include passing legislation that prevents aid from reaching the Syrian Government, such as the “No Assistance for Assad Act” currently being reviewed in the U.S. Congress. [20] Following western sanctions regimes is not sufficient to ensure that war criminals and human rights violators do not profit from aid. For a more comprehensive discussion of these issues, please read: “International Law and Reconstruction in Syria: A Cautionary Note for Businesses.” [21] More information may also be found in a statement of eminent jurists on the legal obligations when supporting reconstruction in Syria. [22]

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