

RECONSTRUCTION AND HUMAN RIGHTS: THE SYRIAN CHALLENGE

A REPORT BY THE SYRIAN LEGAL
DEVELOPMENT PROGRAMME AND
CHATHAM HOUSE.

Transcript edited by Kellie Strom of Syria Notes



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INTRODUCTION

Although the conflict in Syria continues unabated, there has already been a shift of focus onto Syria's reconstruction. Many international actors have refused to contribute to Syria's reconstruction until a political transition is underway, while some are unsure of how to proceed, and others have expressed interest. While Syrians are entitled for their country to be rebuilt, participating in reconstruction in Syria may support the narrative that the conflict is over and thus weakens the calls for accountability and justice. It may further provide legitimacy to the current Syrian Government, who has been achieving military victories and presents itself as the official potential reconstruction partner, while also being the main perpetrator of war crimes and rights abuses throughout the conflict. In addition, reconstruction creates ample opportunities for further violations of human rights as well as potentially endorsing other crimes already committed, such as forced displacement.

The event aimed to shed light on risks, opportunities and challenges that should be taken into account by various stakeholders such as Governments, Businesses and NGOs when approaching the issue of reconstruction.

On 25th of May 2018, at Chatham House, the Syrian Legal Development Programme held an event to launch their Human Rights and Business Unit, focusing on human rights in the context of reconstruction in Syria. The founder of the Syrian Legal Development Programme, Ibrahim Olabi, chaired the first panel while Noor Hamadeh, the head of the Human Rights and Business Unit, chaired the second. Ibrahim outlined the aims and objectives of the newly established unit, which received support for its first phase from the Swiss Federal Department of Foreign Affairs. The unit engages with policy makers and local stakeholders, builds capacity of Syrian NGOs, monitors business activity from the lens of human rights and publishes thematic and periodic reports. He made it clear that this event comes at a very important and sensitive time for Syria, and that the panel will cover the issues from perspective of human rights, politics, economics as well as hearing from Syrians.

Two panels discussed the theme, Reconstruction between political pragmatism and human rights idealism. The first panel was with Maria Alabdeh (Syrian NGO), Jean-François (EU) Hasperue, and Toby Cadman (Barrister). The second panel had Wayne Jordash QC (Barrister), Fionna Smyth (Humanitarian, Oxfam), and Joseph Daher (Economist). Governments, NGOs, businesses and research centres attended the event.



Figure 1: Left to Right: Ibrahim Olabi, Maria Alabdeh, Jean-Francois Hasperue and Toby Cadman

MARIA ALABDEH

Maria Alabdeh is Executive Director of Women Now for Development, one of the largest women’s organisations operating in Syria. Women Now is part of a group of 25 civil society organisations called We Exist. Since the first Brussels conference in 2017, We Exist have been advocating on conditions for reconstruction, saying that reconstruction should be ‘for all of Syria, and all Syrians.’

Maria Alabdeh raised questions that she and other Syrians have about reconstruction, on when, where, and who, starting with the ‘when.’

‘I feel sometimes there is a confusion between early recovery and reconstruction. As far as I know, the war is not over at all. Human rights continue to be abused. Since the beginning of this year, we have been witnessing the mass displacement of tens of thousands of people. As Ibrahim mentioned, more than 60% of my team has been displaced from Ghouta.’

Maria Alabdeh talked about the dangers facing displaced people in north Syria, Idlib and Aleppo province:

‘They prefer to go to there, knowing that there are extremist groups, there are bombs, chemical attacks could happen; but they prefer this sometimes to being under the control of the Syrian regime and the risk of being arrested. Syrians are still very unstable, because they don’t have any space that is protected.’

Change the information on the cover page to reflect your report. For the body of the report, use styles such as headings 1 through 5, body text, block quotations, list bullets, and list numbers from the **Style** list on the **Formatting** toolbar.

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Turning to the question of ‘where,’ Maria Alabdeh said she felt people were mainly talking about Damascus, Homs, and Aleppo; about reconstructing areas that have been won militarily, completely neglecting a political process.

In particular, she pointed to the February 2017 Siege Watch report, No Return to Homs, on how reconstruction already begun in Homs has served to reinforce displacement.

‘The donor governments have participated in providing a war crime dividend. The conditions for the right reconstruction are not there. The people of Homs are not there, so how can we start a project of reconstruction when the people are not there?’

Maria made it clear that reconstruction should not be tied with the military ‘victory’, but with a political solution.

The issue of new laws being issued by the Syrian regime, such as law 10, to seize property is now receiving increased attention. Maria Alabdeh pointed to how this links to the issue of detainees.

‘As a woman working with women inside Syria, most of them are families of detainees or disappeared, Those women don’t have any right of property. They cannot provide any document because the documents of property are mainly in the names of their husbands or fathers who have been disappeared. So these women are facing double discrimination.’

‘When we are talking about the disappeared in Syria we are talking about hundreds of thousands of people. As a Syrian, I think most of us have grown up with stories from the Hama massacre about families who were not able to provide any death certificate or anything and there they have lost property, and they were not able to get even a document for divorce because that person has disappeared.’

‘To continue on that question of “where”: Can we talk about reconstruction in Idlib, where last year I lost a colleague during delivery because of the lack of medical infrastructure in Idlib? Can we talk about Raqqa, which was 90% destroyed by the Coalition?’

Maria Alabdeh turned to her third question: Who is to do the reconstruction?

‘According to the UN report on sexual violence issued in March this year, the regime, the Syrian government, is the main perpetrator of sexual violence. In the words of the report, “Rapes and other acts of sexual violence carried out by government forces and associated militias ... formed part of a widespread and systematic attack directed against a civilian population, and amount to crimes against humanity.’

‘I have met a lot of decision-makers who were telling me, “we said after Bosnia, never again,” so what about Syria today? When we are talking about protection of women, when we are talking about the commitment of countries to Resolution 1325, on women’s protection, on sexual violence, on women’s participation, where are we about all of this? Are we funding the main perpetrators of human rights abuses and sexual violence?’

‘The report as well mentioned for sure violations in all parts of the conflict, and we have violations done by ISIS and by HTS. I think a lot of donor countries, and we totally agree with them, are working to not support HTS in any way. They are even cutting funds from us who are on that front, because they are scared that any funds should go to the extremist group.’

Maria Alabdeh said that while she totally agreed that funds should be protected from going to extremist groups, she would prefer the term human rights violators, so that funds should be denied to all human rights violators.

When talking about reconstruction, Maria made it clear that the voices of women should be heard.

‘When we have women on the floor, we need to listen to them, it’s not just like, we have women, “tick,” on the peace talks. We actually have to listen to them.

‘The women I work with never forget the disappeared and the detainees, and they will keep looking for them, and they will never give up, but they are using peaceful ways to do this. So when women are saying we cannot have peace without knowing what happened to our beloved ones, we need to hear it very clearly.

‘When women also are saying we cannot have reconstruction without addressing the root causes of the conflict, the economic, social, and political ones, and especially — hearing from women on the ground that I am working with — education. All of us are afraid of ISIS ideology to be spread in the schools of Raqqa; what about the ideology of the Big Brother in Damascus? We need to review this, because we are preparing for the next conflict if we don’t address all of this together.

‘My last, very last point is, how can we discuss peace in Syria if we don’t preserve the public space. I’m a human rights actor. I’m a founder of the Syrian Non-Violence Movement. And today I would be scared to go back to Damascus, even though I have never ever been engaged in any military process, even though I have been set against all use of violence, against all human rights abuses.

‘It’s the case for maybe millions of Syrians today. Where we are not preserving the public space, where we are not preserving the space for civil society to be there to monitor the reconstruction, to monitor the peace talks, what we are doing is we are calming down for a few years while the conflict is going on between people, and we will see a more bloody conflict in a few years.’

Responding to a question from the audience on the peace process at Geneva, and on the lack of trust in the various bodies of the UN that are engaging in Syria, Maria Alabdeh answered that she also had lots of criticisms of the UN.

‘The last time I met the Special Envoy, it was last month in Geneva, he was asking us in a public event why Syrian women are not saying “enough, khalas, we need peace,” and I answered we will not say khalas because we are tired of being beaten, and as a woman I refuse to be beaten by the Syrian regime, and to be beaten by the other groups.

‘But we need to support this process, because it is the only political map that we have.’

In response to another question on whether civil society could take on implementing reconstruction, Maria Alabdeh said she didn’t believe that was their role; that civil society should be included and should monitor reconstruction, but should not be responsible for doing reconstruction.

JEAN-FRANÇOIS HASPERUE

Jean-François Hasperue is Political Officer on Syria at the European External Action Service. He began his talk by asking, what should be considered pragmatic today in Syria? He argued that the answer was to pursue a systematic comprehensive lasting peace, rather than following any temptation in the form of quick fixes. Jean-François said that we need to look at the situation objectively, and

not what the other side, mainly the regime, is telling us the situation is. He stressed that we need to go beyond propaganda.

Jean-François Hasperue rejected the idea that the current situation is simply that the regime is winning the war, instead asking which war are they winning? “The war against the opposition?”, “The war against their own population?” and he went on listing all the multitude of conflicts within the larger war. He stressed that there are as so many wars to start talking about reconstruction.

‘That’s the best illustration of what chaos Syria is right now, the point of divergence of local, national, regional, and global forces, and at the same time this point of convergence of their struggles.

‘So what would reconstruction look like in such an environment? The regime in Damascus is telling us that they’re ready to start reconstruction, and they have even started, to which I ask, what kind of reconstruction did they start to do?’

The answer, according to Jean-François Hasperue, is that the regime is pursuing reconstruction based on social engineering, aiming to reward their supporters, both inside the regime and amongst its allies. But while many might wish to profit from this, he doubted that many would fund it.’

‘You will find a lot of people to reconstruct Syria right now, attracted by quick, dirty, and quite lucrative business, but you’ll find less candidates to pay the bill for the reconstruction.’

Therefore, Jean-François Hasperue said, he believes the European Union has a card to play in being willing to fund reconstruction, but only on the basis of a sustainable peace which is against the current military logic of the regime.’

‘And we are convinced that right now that this military logic is not realistic at all.’

For a peace to last, the root causes of the conflict need to be addressed, and this requires a comprehensive peace and a strong political agreement, Jean-François Hasperue said, and he pointed to the UN-led Geneva negotiations and Resolution 2254 as the way to achieve that.

Turning to human rights, Jean-François Hasperue insisted it is not idealism to seek to protect human rights in Syria, and said that while trying to get a political settlement, the European Union should in the meantime continue to work to protect the human rights of Syrians inside the country.

‘Of course it’s not so easy, because there is still a war in Syria. We are not a military actor as the European Union, but we believe we can do something.’

Firstly he pointed to the EU’s role in supporting the gathering of documentation of human rights violations, so that any peace is built upon accountability. Secondly for the EU to support civil

society organisations to help Syrians protect their own rights, such as against law 10, which is a useful tool passed by the regime for social engineering.

Jean-François finished by saying yes we have to be pragmatic, but quick fixes are not the solution, lasting peace is.

Responding to a question on whether there was any alternative to the UN in conducting negotiations, Jean-François Hasperue re-stated the EU's commitment to the Geneva process led by UN Special Envoy Staffan de Mistura, and to the terms of UN Security Council Resolution 2254.

'This is the only text agreed by the Security Council of what the future of Syria could be.'

On whether the EU can be flexible over reconstruction, he was emphatic.

'No. Not at all. There is no room for flexibility in terms of funding for reconstruction. It's not by chance that we repeat, and we do karma therapy with our mantra, no reconstruction without this genuine comprehensive political agreement.'

On a question on the institutional corruption in Syria, and the likelihood of corruption prevailing indefinitely even if there was a change in leadership, Jean-François Hasperue agreed that corruption was infecting the system of Syria even before the war, but said this would have to be addressed in a transition to support a way for Syria towards rule of law, while at the same time he believed care should be taken not to replicate mistakes of Iraq, and so the system shouldn't be just broken as this again would lead to chaos.

TOBY CADMAN

Toby Cadman is co-founder and head of Guernica 37 International Justice Chambers, based in London with offices in Madrid and Washington DC. Reconstruction, he said, is not just about rebuilding houses, schools, and hospitals, it's about rebuilding institutions so they are capable of bringing Syria forward, something that is hard to talk about as long as the conflict is still ongoing, with people still being killed and with massive forced displacement.

Toby Cadman said that in other cases, in Bosnia and Rwanda, institutional reform was possible because there was some form of political transition, and even if these were not transitions that everyone was happy with, there was at least some degree of influence for the international community in rebuilding institutions over time. Toby Cadman questioned what kinds of people could be involved in rebuilding institutions in Syria, and what kind of vetting would there be of the people in receipt of huge amounts of funds.

'I find it very difficult to reconcile in my own mind how we can effectively support and fund, not just the Syrian government, but also those other governments that have supported it in the campaign of the last few years, in effectively rebuilding what they have destroyed.'

But given that reconstruction has started in some parts of Syria, and will go forward, Toby Cadman turned to the issue of how to hold those doing the reconstruction accountable — whether individuals or organisations — and how to ensure that what they do is for the right purpose, and that they comply with human rights policy.

'There is a very grave risk in organisations, corporations, becoming complicit in the commissioning of war crimes and crimes against humanity, not necessarily by their own making but complicit in the kind of actors they're supporting, and that to me is one of the fundamental difficulties in addressing a conflict such as this, where there hasn't been, and is not likely to be any time soon, a political transition in the way many of us would like to see.'

As an example of the problems of engaging without a political transition, Toby Cadman recalled the UN Oil-for-Food programme in Iraq, an aid effort conducted while Saddam Hussein was in power that developed into a set of corruption scandals.

On whether corporate entities can be held accountable, Toby Cadman pointed to the investigation of BNP Paribas over allegations of complicity in the Rwandan genocide. And in Syria, he raised the case of the Lafarge cement plant in northern Syria.

'For me one of the most fundamental points is that we can't really consider the reconstruction effort without putting justice and accountability at the forefront of these discussions. As both Maria and Jean François said, it is looking at the root cause of the conflict.'

Toby Cadman said that for Syrians, the absence of accountability is not a recent phenomenon, as seen most notoriously after the 1982 Hama massacre.

On forced displacement, Toby Cadman said that in Bosnia the international efforts to help people return to their former homes had often only led to enabling them to sell their property and move to another area where they felt more protected by their own ethnic group being in government.

On the estimated \$300 billion cost for rebuilding Syria, Toby Cadman asked where could that money come from when the international community has failed to even find the money needed to properly fund the IIIM, the International, Impartial and Independent Mechanism that was established by the UN General Assembly in 2016 to collect evidence and to prepare files to enable prosecutions for crimes in Syria.

To a question on the longstanding and deepening corruption of the governing system in Syria, he agreed that removing Assad and his inner circle would not be enough to change that system. Particularly on the judicial system, he said that one needed to be built, not rebuilt.

‘Because most of the legal professionals that are left, and who we continue to work with, the way that they explain the system as it works, is something that would not be recognisable to us as legal professionals outside.’

Toby Cadman argued that despite the level of difficulty and the scale of atrocities, that with small steps now it is possible to prepare for the long term.

‘When I started in Bosnia, we had a caseload of 10,000 cases, which with our resources would have taken 120 years to deal with. But you focus on what is achievable in order to improve the system.’

With no international accountability, no chance of referral to the International Criminal Court due to Russia’s Security Council veto, and no likelihood of an international ad hoc tribunal, the vast majority of cases would fall on future Syrian institutions that would have to spend decades dealing with them. This, he said, would require long term commitment.

‘The situation is so extreme, so many families and individuals have been affected by these things... you can’t just walk away and say it’s too big a problem, it’s too systemic, we can’t deal with it. You have to deal with it step by step. And Syrian legal professionals have to be prepared, trained, and helped by the international community for the next twenty years to be able to deal with this.’

‘It’s going to take an entire generation of change in order for Syria to move forward into what we would all hope would be a democratic transition with a government that is actually elected by the Syrian people, not imposed by the international community, or as we currently see, the current regime, but a proper democratic transition with the rule of law.’

In getting there, Toby Cadman said the documentation process is important, recognising that we may not get to a court today, but we may do in a few years’ time. That, he argued, could have a knock-on effect for Syrians to then start to have some level of confidence in their own institutions, paving the way for a more stable environment and economy.

‘We’ve seen individuals brought before courts that we never thought we’d see in the past. Charles Taylor, Slobodan Milosevic who unfortunately died before he was sentenced.’

On the obstacle of being unable to get International Criminal Court referral due to Russia's veto power, Toby Cadman pointed to a recent initiative for the ICC to use Bangladesh jurisdiction in relation to cases of forced displacement from Myanmar. The ICC has jurisdiction in Bangladesh but not in Myanmar, and this example suggests it might be similarly possible for the ICC to tackle cases of people forcibly displaced from Syria to Jordan, as Jordan, unlike Syria, is a state party to the ICC.

On the issue of monitoring where funding ends up, Toby Cadman questioned whether current sanctions are being properly enforced.

‘Don’t forget that there are sanctions against the senior members of the regime, particularly the senior members of military intelligence who are largely responsible for the majority of the crimes that have been committed in Syria.

‘And in particular two of these individuals who have now been listed in two separate criminal cases, one in Spain that I’m involved with, and another one in Germany, two of the leading suspects in these cases that are alleged to be the most responsible for orchestrating this campaign of violence, have travelled to Italy, and travelled to Germany, notwithstanding that there are sanctions. So it is very difficult to understand, if these countries are welcoming individuals who are under travel bans and sanctions, how do you get them to monitor funding going to regime-connected entities?’



Figure 2: Left to right: Noor Hamadeh, Wayne Jordash QC, Fiona Smyth and Joseph Daher

WAYNE JORDASH QC

Wayne Jordash QC is a barrister at Doughty Street Chambers, specialising in international humanitarian law, and business and human rights due diligence. He began by expressing his disagreement with much of what was said by the previous speakers, while understanding why it was said, particularly on the idea that Western states should wait for a political transition via the UN-led Geneva process before engaging in reconstruction.

‘I think the horse has bolted. And the question is not whether there is going to be a new government without Assad, because is that really looking very likely? And it’s not a question of whether we’re going to have accountability via an international mechanism, or very much accountability at the national level. It is not going to happen, not in the short term, or even the mid term, and probably not in the long term either. So the question now is, what happens in relation to reconstruction?’

‘And the horse has bolted because it’s not just business which is engaged with reconstruction, and it’s not just reconstruction happening in areas which are controlled by responsible actors, it’s reconstruction which is happening at the behest of big actors such as the UN, who are channelling money into projects which may be termed humanitarian, or may be termed something else, but ultimately they’re part of the reconstruction.’

Wayne Jordash said that reconstruction work being done in Syria in the name of humanitarian aid was already leading to violations of rights.

‘Research by the Atlantic Council has shown systematic failures in the UN’s inability to prevent regime cronies from corrupting the system’s programmes. They have already milked the international community for millions of dollars, and the UN is reconstructing at the behest of the government.’

Wayne Jordash argued that the EU position of no reconstruction before a political transition, of waiting and limiting funding to humanitarian aid, fails to understand that humanitarian assistance overlaps with reconstruction, and fails to understand what a rights based policy should involve. The ‘human rights business’ is not black and white, he said, but involves small incremental interactions at a local level to open up space for better outcomes.

Wayne Jordash proposed looking at reconstruction through the lens of business and human rights law, and the framework that this provides. Companies engaging in Syria, or players such as the UN or EU who engage in Syria, are entering an environment where there is a great risk that they will be complicit in violations of international humanitarian law, and so they need to take certain due diligence steps to ensure against that complicity.

The greater impact, according to Wayne Jordash, is not going to come from major violations of international humanitarian law, but is going to be the more local damage to communities from a failure to follow a structured approach to protecting and respecting human rights.

‘And this is where the business and human rights agenda comes in, because it doesn’t just say work with trade unions, it doesn’t just say engage with responsible actors, it doesn’t just offer ad hoc solutions to difficult problems involving corporate responsibility. What it does is it offers a framework, a structured approach.’

He maintained that the best way of approaching reconstruction is to use the business and human rights agenda to pressure states and companies to follow this framework.

UN guiding principles articulate the obligations on the state to protect human rights, and on business to respect human rights, and detailing what should be done in high risk places such as Syria. The processes which should be followed come under three headings: a policy commitment; human rights due diligence; and remediation. Wayne Jordash explained these as follows:

‘The policy commitment is designing a human rights policy, not just putting a nice statement on a website as a company, but actually designing it and embedding it into your company’s operations, and communicating it to the wider public, so they understand what your commitment is;

‘Due diligence, so a company is expected to follow certain steps in how it confronts the risks of human rights violations, so every-thing from conducting impact assessments, seeking to understand, and this is what is key I think to this whole reconstruction debate, is at the core of this due diligence, is a stakeholder dialogue. These are not “you must do X,” but “you must do X, but only after you have communicated and shared your thought processes, and received feedback from local communities, and sought to obtain free, prior, and informed consent to act”;

‘And finally, the remediation is the third essential aspect to this, which requires businesses, if they do cause adverse business impacts, to make good. It places obligations on states to provide judicial remedies and to support non-judicial remedies, and it puts an obligation on businesses to remediate their own ills through such things as mechanisms within companies to deal with those grievances.’

Wayne Jordash said that while these processes weren’t an answer to everything, he believed that they could provide a way for ordinary people in Syria to pressure Western companies and other responsible or irresponsible actors to protect and respect human rights. He was concerned that in making reconstruction contingent on political progress, opportunities for using these processes could be lost.

Responding to a question on whether the prospect of prosecutions would deter the more responsible companies from engaging in reconstruction, leaving the field to the less responsible and thus undermine the business and human rights agenda, Wayne Jordash responded that the amount of prosecutions for business-related crimes at the international level seemed low.

‘I think we’d see more responsible behaviour from businesses if there was a real fear that they were going to end up in a courtroom.’

Toby Cadman asked Wayne Jordash what, in that case, needs to be done in the international order for there to be a deterrent? Toby Cadman went on to say that he understood the pragmatism of the argument that, as reconstruction was going to happen in any case, there was a need to create an environment where it would be done properly, but he asked what possible hope was there that the regime would actually respect some of the principles that were being referred to, seeing as the regime has absolutely no regard for the international treaties and conventions that it’s signed up to?

Wayne Jordash responded that what was needed was a mix of approaches, including strengthening legal enforcement and taking people to court when it was possible.

‘But I think that also can be a bit distracting, in the sense that we start to think about it as an issue of enforcement after the damage is done, and I think it’s about being first into difficult environments with responsible actors demanding big and small things from actors bad and good, and being prepared to set an example, and being prepared to walk away if the result is not sufficiently — if practice isn’t affected.

‘And I think at the heart of this is a dialogue, it’s dialogue with the affected communities, trying to understand what they want, trying to communicate that to good actors and bad actors.’

FIONNA SMYTH

Fionna Smyth is Head of Humanitarian Policy, Advocacy, and Campaigns at Oxfam. Fionna began by acknowledging that the war was not over and that the humanitarian need is exponential as Syria is bombed back to the Stone Age.

As an international aid actor, Fionna said that you have to make really difficult decisions all the time. According to her, the on-going challenge is not a linear process; it is not a binary process. She said there would be a long period where a humanitarian response would be combined with early recovery and development.

“ We must therefore find ways to address rights in crisis and the massive humanitarian needs at the same time. We need to make sure that this happens in a conflict sensitive manner, which is avoiding causing harm by fuelling injustices and tensions, while at the same time supporting local voices for inclusive peace and future development”

On the position of donors like the EU not to support reconstruction until the UN-led peace process goes forward, Fionna Smyth said the war economy persists, and asked what happens if there is no satisfactory political solution?

‘The other challenge I think for donors at the minute is that when they’re taking themselves out of the conversation, the conversation doesn’t stop. And when you have a vacuum, you will find that there are many other actors that are very willing to step up into that vacuum, and that they are leading that debate and driving that process.’

Asking the question of what can be done, Fionna said that she cannot claim to have the answer to such a complex crisis.

“ But what I do know is that any future reconstruction will have to be done a context sensitive manner. There are a number of toolkits and different approaches that can be used for this purpose. What that means is to maximise the positive impact of humanitarian and development initiatives while avoiding doing harm. We need to think carefully about who benefits from reconstruction and who is left out. The reconstruction process must be built on a whole of Syria strategy that benefits a wide segment of society, including women, and does not benefit some communities over others. It should also address the root causes of the conflict.”

Fionna Smyth talked of drawing lessons from past examples of reconstruction.

‘I think that Lebanon is a really good example of how you have to be careful when you’re reconstructing after any conflict in case you’re inadvertently making the fragility even more fragile, or potentially laying the grounds for conflict.’

In Afghanistan, Fionna Smyth said, reconstruction was pursued without adequate consideration of political impacts, and of the priorities of rural communities, and the effort was more in state building than in delivering sustainable results for the local population.

‘And we know from other contexts that supporting an enabling environment for small and medium enterprise supports community development, empowers women and minorities, and lifts the local economy.’

Fionna Smyth suggested that as part of seeking to help remove obstacles for women’s full participation in Syrian society, NGOs with livelihood support programmes should avoid only supporting occupations that keep women in the private sphere, and should look at local labour markets for other options.

Fionna Smyth noted the need to make sure women are at the heart of all peacebuilding processes, and said donors need to keep funding civil society in the uncertain period between war and a hoped for peace, saying that’s where the social contract can be built between the citizens and the state to get stability and a safe, secure, and inclusive society.

Responding to a question from Ibrahim Olabi on the dilemma for NGOs over whether to work from Damascus, given the reporting on how regime figures have gained access to funds from UN aid operations in Damascus, Fionna Smyth gave an account of Oxfam’s own decision in 2011-2012 to provide water and sanitation aid via regime-held Damascus. She sought to describe Oxfam’s role as a part of a wider humanitarian community response, and said the decision was in part based on Oxfam’s lack of presence in neighbouring states compared to other agencies.

‘We’d really hate it if we thought that by responding we were unable to have a loud advocacy voice, so that is what we continue to try to do. Sometimes we’re more effective at it than others, and sometimes the reason we’re less effective is due to stupid bureaucratic internal reasons rather than very principled reasons as well, because we are a massive organisation. So sometimes we get it right, sometimes we get it less right.’

JOSEPH DAHER

Joseph Daher of Lausanne University is the author of Hezbollah: Political Economy of the Party of God, and founder of the blog Syria Freedom Forever. He set out to explain the economic policies of the Assad regime prior to the uprising, and during the uprising.

He described how the regime used a process of economic liberalisation through the 1990s, and deepening neoliberal policies in the first decade of Bashar al-Assad’s rule from 2000 on, as a means to privatise the state in the hands of the Assad family and its associates. Joseph Daher uses the term ‘crony capitalist’ for these business figures affiliated to the regime.

'Rami Makhlouf, the cousin of Bashar al-Assad, represented this mafia-style process of privatisation led by the regime.'

The result Joseph Daher termed a patrimonial state, where all the centres of power, political, military, and economic, are in the hands of the Assad family.

'The objective was to encourage private accumulation principally for the marketisation of the economy, while the state withdrew in key areas of social welfare provision, aggravating the existing socio-economic problems.'

One of the main aims of this process was to attract foreign investment and Syrian funds held outside of the country, Joseph Daher said, and so foreign direct investment climbed from \$120 million in 2002 to \$3.5 billion in 2010.

'Economic growth was chiefly rent-based dependent on oil export revenues, geopolitical rents, and capital inflows, including remittances. The share of the productive sectors diminished from 48.1% of the GDP in 1992 to 40.6% in 2010, while the share of wages from the national income was less than 23% in 2009 compared to maybe 40% in 2004, meaning that profits and rents commanded more than 67% of the GDP.'

This process also had consequences in agriculture, he said, with the ownership of land increasingly concentrated in a small number of hands. Ali Farzat's satirical newspaper al-Domari headlined the situation as, 'After forty-three years of socialism, feudalism returns in Syria.'

Even though there was an average of 4.3% growth per year between 2000 and 2010, as much as 60% of the population was living close to the poverty line, with the proportion of poor much higher in rural areas than urban areas.

'So this was the context in which the uprising happened in Syria. Absence of democracy, absence of social justice, with the new ideas coming in 2011 with images on television of Tahrir Square, and Tunisia etcetera. From the beginning of the popular uprising, which turned very rapidly into a military war, the regime was increasingly dependent economically, in addition to politically and militarily, on its foreign allies, Russia and Iran who provided them with loans and other economic assistance.'

After 2011, even amidst the war's destruction, the regime continued its process of concentrating Syria's diminishing wealth. With about 90% of the biggest manufacturers in Syria completely destroyed, the 'crony capitalist' close associates of the regime earned high margin procurement contracts, exclusive import deals, and smuggling and other deals associated with the war economy. More independent-minded business personalities left the country.

In turn, business associates of the regime gave propaganda support via private media ownership, political support by mobilising their own sectors of society, and military support by funding militias.

'This was a similar dynamic in the reconstruction that already started, especially from the end of 2016 in Damascus, and it was especially reflected with Decree 66 of 2012, and Law No. 10 of April 2018.'

Turning to how the international community should respond, Joseph Daher said it was necessary to understand that the regime is constituted with corruption at its core, and it cannot function without corruption.

The regime's legislation on reconstruction, such as Decree 66 and Law No. 10, by allowing the seizing of large areas, will be used for development projects to benefit regime cronies, and at the same time punish communities known for their opposition to the regime. So the issue of owners and tenants' rights are central.

On international funding, while Western countries and Gulf monarchies are not ready to invest, Joseph Daher doubted that this was a question of human rights, giving as an example that the EU funds reconstruction in the case of Israel and Palestine without having dealt with root causes there.

'I think we can limit the share where the crony capitalists and the regime can benefit, meaning reconstruction but with conditions: inclusion of the local population in reconstruction plans; property owners and tenants should be provided with new housing, or a true alternative; transparency of budgets; respect of workers' rights.'

'And it's important in this respect to prevent the regime and businessmen linked to it to use these funds to advance their own interests. But it needs empowering local populations at the lowest level possible to give them the instruments to be able to raise their voices and to organise themselves, which obviously in this framework is very difficult.'

Even if Syria had a small sector of independent businesses prior to 2011, today they are all gone, Joseph Daher said, and any kind of big business deal needs a regime godfather, and so the issue now for reconstruction is how to find alternatives that serve the needs of the most vulnerable while continuing to pursue justice for human rights violators.

While recognising that even conditional reconstruction would enable some regime-linked businessmen to benefit, Joseph Daher said the thing would be to limit this as much as possible, while using the conditions put on reconstruction to empower the local population.

In his view, the heart of the matter should be the people on the ground, in particular, displaced people. While there has been reporting of some people returning, for every person coming back, three are leaving, he said. With half the population displaced, to say no reconstruction would mean setting those people aside.

On the pitfalls that await international NGOs returning to work under regime authority in Damascus, Joseph Daher said that the main Syrian charities there are linked to the regime and have received funds from different international actors, with the most well-known example being the Syrian Trust for Development, chaired by Asma al-Assad.

But he also suggested that contradictions in how regime-controlled areas functioned gave potential for conditional reconstruction to use these contradictions to bring about change.

‘We have a lot of contradictions within this regime, and within its so-called base of support. When it comes to Damascus, to Latakia, to Aleppo, a lot of people are complaining about this regime.’

Joseph Daher pointed to the regime’s need now to find employment for its base, particularly for the very large number of regime militia men, many of whom now use their positions to profit through extortion, leading to protests against them even from pro-regime populations.

‘There is a big work being done by the regime today, in Aleppo especially, but also in Damascus, to bring back manufacturing industry, because the ones that were not destroyed, they all left the country or they went to Latakia, to Sweida, other areas that did not suffer the same level of destruction.’

‘But there are contradictions within the top ruling elite, because you have crony capitalists that benefit from importing products, and they are making huge money without investing any money, while you have manufacturers that are saying you have to put forward Syrian manufacturing.’

On seeing positive potential, Joseph Daher pointed to achievements in areas outside regime control in the last few years, where the state withdrew and Syrians gained experience in administering their own society, including hospitals, education, and other local services.

‘Today you have funding that is being cut to some sectors of civil society. This is in complete contradiction with the discourse of the European Union saying they want to help Syrians.’

Joseph Daher also saw potential in further supporting women inside Syria, saying that he thinks the one good aspect of today in Syria is the role women are taking in society, taking a bigger role in the labour market.

‘In some industries we only have women, and economically they are taking a much bigger role because men are outside of the country, refugees, in prison, killed, or they cannot go out of their houses, scared of being conscripted. And I think not only in the peace process, but also here a gender policy should in this perspective really be taken into consideration.’

Joseph Daher saw the Syrian refugee population in Europe as an important potential resource to help a reconstruction in support of local populations.

To further explain why he was focusing on empowering populations from below, he returned to the history of Syria before 2011.

‘What is facing us when we see the Syrian people is catastrophic for the past seven years, but this regime has been in place for the past forty years.’

The 1990s, according to Joseph Daher, saw a process of seeking an opening of economic relations between Syria and the world, and expecting a democratic opening would follow, but while the economic opening happened, the democratic opening was never a key demand.

We are now in a similar situation, he said, but with an even harsher regime that has now demonstrated its answer to the challenge of a large movement from below.

‘So this is why I’m saying if there’s a possibility through states or international NGOs, international institutions, that are able to empower from below this local population, these Syrian NGOs etcetera, and come and help IDPs etcetera under very difficult conditions, then I’m all for it.’

Noor Hamadeh concluded the event thanking the participants and attendees, and encouraged them to keep in touch with the developments of SLDP’s Human Rights and Business Unit.



The event took place on the 25th of May 2018, at Chatham House

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