



Case Western Reserve Journal of International Law

Volume 52 | Issue 1

Article 4

2020

The View from Syria: In War on Terrorism, Humanitarian Law Takes Back Seat

Roy Gutman

Follow this and additional works at: <https://scholarlycommons.law.case.edu/jil>

 Part of the [International Law Commons](#)

Recommended Citation

Roy Gutman, *The View from Syria: In War on Terrorism, Humanitarian Law Takes Back Seat*, 52 Case W. Res. J. Int'l L. 9 (2020)

Available at: <https://scholarlycommons.law.case.edu/jil/vol52/iss1/4>

This Speech is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Journal of International Law by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

THE VIEW FROM SYRIA: IN WAR ON TERROR, HUMANITARIAN LAW TAKES THE BACK SEAT.

*Roy Gutman*¹

The theme of this conference is atrocity prevention, and the unstated major premise is that something has gone wrong in international life. Having reported or edited international news for half a century and focused on humanitarian law for 25 years, I will offer my reality check. Michael Scharf's program note speaks of the world hitting a low point in the amelioration of human suffering in conflict. My observation is that he is right. In attending this conference, you are way ahead of the general public, way ahead of our political class. Humanitarian law after making broad advances at the turn of this century, is now in a state of crisis. The question is what to do about it.

What has driven International Humanitarian Law (IHL) into hiding? My thesis, in a nutshell, is that it's geopolitical shifts, with

-
1. Roy Gutman has been a foreign affairs journalist in Washington and abroad for more than four decades. He reported on the Middle East for seven years as Baghdad and Middle East bureau chief for McClatchy Newspapers, based in Baghdad and Istanbul, then freelanced for *Foreign Policy*, the *Los Angeles Times*, *The Nation*, *Politico Europe* and *The Daily Beast*. At *Newsday*, his reports on "ethnic cleansing" in Bosnia-Herzegovina, including the first documented accounts of Serb-run concentration camps, won the Pulitzer Prize for international reporting (1993), the George Polk Award for foreign reporting, the Selden Ring Award for investigative reporting and other awards. He shared the George Polk award for foreign reporting in 2013 with McClatchy colleagues. Gutman also reported for Reuters and *Newsweek* and served as foreign editor for *Newsday* and McClatchy Newspapers. He wrote *Banana Diplomacy* (1988) and *A Witness to Genocide* (1993) and co-edited *Crimes of War: What the Public Should Know* (second edition, 2007). *How We Missed the Story, Osama Bin Laden, the Taliban, and the Hijacking of Afghanistan*, written while a Jennings Randolph Fellow at the U.S. Institute of Peace, was published in a second edition in 2013 by USIP press. Designated one of "50 visionaries who are changing your world" by the *Utne Reader*, he was named an honorary citizen of Bosnia-Herzegovina and awarded a key to the city of Sarajevo in 2010. The American Academy of Diplomacy awarded him the Arthur Ross prize for Distinguished Reporting and Analysis of Foreign Affairs in 2016. In 2018, the International Law Committee of the American Bar Association awarded him the Frances Shattuck Security and Peace Award for "creativity, initiative and courage" in the cause of international security and peace. Gutman, a graduate of Haverford College (B.A. History) and the London School of Economics (M.Sc. International Relations) is a Senior Associate Fellow at the Royal United Services Institute in London and an Associate Fellow at the Washington Institute for Near East Policy.

Russia and other rogue states challenging the current world order under U.S. leadership, combined with the United States withdrawing from that leadership role. IHL is an essential component in world order, and if the United States doesn't lead, others who seek to displace U.S. leadership will fill the vacuum. IHL will be one of many casualties. A second element is the awkward and I think misguided American response to the age of terror -- suspending the rules of war, failing to demand accountability for war crimes and failing to investigate and act on the domestic political factors giving rise to terrorism. To illustrate the extent of the regression, I will recall how IHL functioned just a few years ago in what might be called the heyday of IHL. I will also offer a case study -- out of Afghanistan -- from that same period about how IHL violations, if they go unaddressed, lead to far worse violations. But first let me address the major premise: that the protection for civilians in conflict has hit a low point.

Let me quote Louise Arbour, the second prosecutor at The International Criminal Tribunal for the former Yugoslavia (ICTY). "It is hard to think of when the entire human rights enterprise has been in worse shape. It's not just a lack of implementation of the Geneva Conventions, which are the heart of International Humanitarian Law, but an invidious pushback of the norms. The targeting of hospitals, which we've seen in Syria, in Yemen and in Afghanistan -- this would have been inconceivable 20 years. In the case of Syria," she said, "impunity to accountability has been almost total. And there's a perversion of the public discourse."²

Perhaps the most flagrant example of the abuse of humanitarian law of our time is the war in Syria. The evidence pours in daily. Last Friday (Sept. 13, 2019), a Syrian-America medical NGO reported a regime artillery attack on a hospital in Idlib, the 52nd such attack since the Assad regime and Russia began the offensive in April.³ Nine hundred two civilians have been killed in this offensive, 1,900 wounded.⁴ These are civilians!⁵ But the media no longer takes note, nor does Congress.⁶ The Lantos commission, the human rights watchdog in

-
2. Telephone interview with Louise Arbour, Former Chief Prosecutor, International Criminal Tribunal for the Former Yugoslavia (July 20, 2018).
 3. *Breaking: Hospital Bombed in Northern Syria*, UOSSM: UNION OF MEDICAL CARE AND RELIEF ORGANIZATIONS (Sept. 13, 2019), https://www.uossm.org/breaking_hospital_bombed_in_northern_syria [<https://perma.cc/7VS5-ETZ6>].
 4. *Id.*
 5. *See id.*
 6. *Hearing on the Ongoing Humanitarian Crisis in Syria Before the Tom Lantos Human Rights Commission of the H. Comm. on Foreign Affairs*, 116th Cong. (2019) (statement of Rep. James P. McGovern, Co-Chair, Tom Lantos Human Rights Commission) ("[T]he Syrian conflict and its

Congress, held a hearing on Syria one week ago (Sept. 12, 2019), the first in two years, incidentally.⁷ Idlib didn't come up!

The Syrian conflict is often called a civil war, but we all know it began as a national uprising against one-family rule, a peaceful revolution which the ruling regime decided to thwart by turning into a military conflict which it thought it could win with the help of Iran and Russia provided the United States stayed out.⁸ In my view, Syria amounts to a massive war crime masquerading as a war. One of the least noted crimes is the biggest of them all: the forced migration of Sunni Muslims from their homes and from the country.⁹ Twelve million people, half the population, were forced from their homes by the ruling regime, half are now refugees abroad, the rest internally displaced.¹⁰ And the regime doesn't want them back.¹¹ It views them as political opponents who took part in the uprising.¹²

To carry out politicide, the regime used violence and terror tactics.¹³ Its conscript army collapsed because young men didn't want to kill their neighbors, so the state began attacking civilians in cities with everything in its arsenal, and it even introduced a new indiscriminate weapon, barrel bombs pushed off of helicopters.¹⁴ It

regional consequences are no longer front-page news like they were a couple of years back. As the war has ground on, the reality is that attention has shifted to other crises, of which there are too many.”).

7. *See id.*
8. *See* Julie Marks, *Why Is There a Civil War in Syria?*, HISTORY (Sept. 18, 2018), <https://www.history.com/news/syria-civil-war-assad-rebels> [<https://perma.cc/F8S6-5CZW>].
9. Omer Karasapan, *Preventing Endless Wars in Syria*, BROOKINGS (Apr. 18, 2018), <https://www.brookings.edu/blog/future-development/2018/04/18/preventing-endless-wars-in-syria/> [<https://perma.cc/S2EY-73RL>].
10. *Syria: A Crisis in its 9th Year in 9 Figures*, UN OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (Aug. 9, 2019), <https://unocha.exposure.co/syria-a-crisis-in-its-9th-year-in-9-figures> [<https://perma.cc/9JTV-BUBD>].
11. *See* Ruth Sherlock, *Thousands of Refugees Returning to Syria End Up Detained, Imprisoned, Tortured*, NPR (June 24, 2019, 4:25 PM), <https://www.npr.org/2019/06/24/735510371/thousands-of-refugees-returning-to-syria-end-up-detained-imprisoned-tortured> [<https://perma.cc/F54E-H49P>].
12. *See id.*
13. Michael Young, *Syria in Crisis: The Triumph of Politicide*, MIDDLE EAST TRANSPARENT (Aug. 21, 2017), <https://middleeasttransparent.com/en/syria-in-crisis-the-triumph-of-politicide/> [<https://perma.cc/AN67-UQ49>].
14. *See* John Davidson, *Seeing No Future, Deserters and Draft-Dodgers Flee Syria*, REUTERS (July 20, 2016, 10:08 AM), <https://www.reuters.com/article/us-mideast-crisis-syria-army/seeing-no>

mounted starvation sieges of civilians – up to **one** million were under siege to force them from their homes – the use of weapons of mass destruction such as chemical weapons in the most concerted use since World War I.¹⁵ Altogether, it used chemical weapons on 222 occasions.¹⁶

The Syrian regime attacked hospitals and makeshift medical facilities, targeted doctors, first responders and food resources to make conditions of life impossible.¹⁷ As Stephen Rapp, the special ambassador for war crimes issues put it, “the targeting of medical facilities is greater than we’ve seen in modern warfare.”¹⁸ It was a “Total disregard for human life and a deliberate effort to harm civilians.”¹⁹

Maybe the best evidence of an attempt to stamp out a culture is the attack on religious objects: 1,470 mosques were attacked in the first two and a quarter years of the war²⁰ and 348 mosques were totally destroyed.²¹

future-deserters-and-draft-dodgers-flee-syria-idUSKCN1001PY
[<https://perma.cc/6WCL-Y946>]; See Elizabeth McLaughlin, *Behind the Use of Barrel Bombs in Syria*, ABC NEWS (Apr. 12, 2017, 5:43 AM), <https://abcnews.go.com/International/barrel-bombs-syria/story?id=46729495> [<https://perma.cc/3VDG-63C9>].

15. See generally Rep. of the Indep. Int’l Comm’n of Inquiry on the Syrian Arab Republic, Human Rights Council, U.N. Doc. A/HRC/37/72 (Feb. 1, 2018). See also Rick Gladstone & Maggie Haberman, *Horrific Details on Syria Chemical Attacks Left Out for Now, From U.N. Report*, N.Y. TIMES (June 20, 2018), www.nytimes.com/2018/06/20/world/middleeast/un-syria-eastern-ghouta.html [<https://perma.cc/EEG5-C942>].
16. *The Syrian Regime Uses Chemical Weapons Again in Latakia, and the United States, France, Britain and the Civilized Countries of the World Must Fulfill Their Promises*, SYRIAN NETWORK FOR HUMAN RIGHTS 6 (2019), http://sn4hr.org/wp-content/pdf/english/The_Syrian_Regime_Uses_Chemical_Weapons_Again_in_Latakia_and_the_United_States_en.pdf [<https://perma.cc/4E27-AYQL>].
17. See Russell Goldman, *Assad’s History of Chemical Attacks, and other Atrocities*, N.Y. TIMES (Apr. 15, 2017), <https://www.nytimes.com/2017/04/05/world/middleeast/syria-bashar-al-assad-atrocities-civilian-deaths-gas-attack.html> [<https://perma.cc/6SCH-XR5P>].
18. Roy Gutman & Paul Raymond, *Syrian Government Accused of Targeting Hospitals*, MCCLATCHY NEWSPAPERS (Feb. 23, 2013, 3:44 PM), <https://www.mcclatchydc.com/news/nation-world/world/article24745366.html> [<https://perma.cc/HS77-548U>].
19. *Id.*
20. Roy Gutman & Paul Raymond, *Syria’s Pro-Assad Forces Accused of Targeting Mosques in Civil War*, MCCLATCHY NEWSPAPERS (June 27, 2013, 4:26 PM) <https://www.mcclatchydc.com/news/nation-world/world/article24750496.html> [<https://perma.cc/L7XZ-Q5W5>].
21. *Id.*

The numbers are numbing. 83,574 civilians were forcibly disappeared.²² 14,227 were tortured to death.²³ The regime killed 223,161 civilians altogether.²⁴ Overall, some 400-500,000 people were killed since March 2011, when the uprising began.²⁵

What makes this all the more shocking is the silence of the major powers, including the United States. Yes, the U.N. Ambassadors under both Obama and Trump have denounced the atrocities.²⁶ But when did anyone denounce the mass expulsions from towns and cities near the Syrian capital? Where was the outcry about the “surrender or die tactic,” and the scorched earth? And who turned the spotlight on Russia, a permanent member of the U.N. Security Council, which through its leading role in the war against civilians became the principal facilitator of these crimes against humanity?

By contrast, the 1990s, the era of the Bosnian and Rwanda genocides, and the early oughts, may seem a golden era for humanitarian law.²⁷ There were commissions of inquiry, ad hoc tribunals, arrests, trials, and in many places, a measure of

-
22. *At Least 98,000 Forcibly Displaced Since March 2011*, SYRIAN NETWORK FOR HUMAN RIGHTS 7–8 (2019), https://reliefweb.int/sites/reliefweb.int/files/resources/At_least_98000_have_been_forcibly_disappeared_in_Syria_since_March_2011_en.pdf [https://perma.cc/834E-2AUD].
 23. *At Least 14,227 Individuals, Including 177 Children and 62 Women, Killed as a Result of Torture in Syria*, SYRIAN NETWORK FOR HUMAN RIGHTS (June 27, 2019), <http://sn4hr.org/blog/2019/06/27/53852/> [https://perma.cc/G348-9R7E].
 24. *Eight Years Since the Start of the Popular Uprising in Syria, Terrible Violations Continue*, SYRIAN NETWORK FOR HUMAN RIGHTS (Mar. 11, 2019), <http://sn4hr.org/blog/2019/03/11/53423/> [https://perma.cc/X5XL-ADCN].
 25. SYRIAN NETWORK FOR HUMAN RIGHTS, <http://sn4hr.org/> [https://perma.cc/ZK95-TNNH] (last visited Jan. 16, 2020).
 26. Max Fisher, *Samantha Powers’s Case for Striking Syria*, WASH. POST (Sept. 7, 2013, 7:39 AM), <https://www.washingtonpost.com/news/worldviews/wp/2013/09/07/samantha-powers-case-for-striking-syria/> [https://perma.cc/26TP-TCHJ]; Katie Reilly, *Nikki Haley Condemns Chemical Attack in Syria: ‘Only a Monster Does This’*, TIME (Apr. 9, 2018), <https://time.com/5233903/nikki-haley-un-speech-syria/> [https://perma.cc/PY5P-TFYR].
 27. Alex J. Bellamy & Nicholas J. Wheeler, *Humanitarian Intervention in World Politics*, in THE GLOBALIZATION OF WORLD POLITICS: AN INTRODUCTION TO INTERNATIONAL RELATIONS 514, 519 (John Baylis et al., eds., 2017).

accountability.²⁸ Between 1993 and 2005, six tribunals were set up,²⁹ and the Rome Statute, the founding treaty of the International Criminal Court, was drafted and approved by 60 states and went into effect.³⁰

The most effective of these was the former Yugoslavia Tribunal, the ICTY. Some 161 individuals were indicted up to closure of the ICTY in 2017, and thanks to a vigorous support from civil society, everyone was either apprehended or voluntarily surrendered or the indictment was dropped.³¹ The Rwanda tribunal has a similar record.³² Cambodia and Lebanon have yet to produce results,³³ but I suspect they will.

The war in Bosnia began in March 1992.³⁴ By October, following news reports about a gulag of concentration camps and the practices of ethnic cleansing, the U.N. Security Council set up a commission of experts.³⁵ By May 1993, 14 months later, the Security Council approved the ICTY statute.³⁶

-
28. See Richard Dicker & Elise Keppler, *Beyond the Hague: The Challenges of International Justice*, in HUMAN RIGHTS WATCH WORLD REPORT 2004: HUMAN RIGHTS AND ARMED CONFLICT 194, 194–96 (2004).
 29. See Carolyn Kennedy & John Norris, *International Justice on Trial?*, CENTER FOR AMERICAN PROGRESS (Mar. 28, 2018, 9:01 AM), <https://www.americanprogress.org/issues/security/reports/2018/03/28/448415/international-justice-trial/> [<https://perma.cc/29M7-W5Q2>].
 30. *Ratification of the Rome Statute*, COALITION FOR THE INTERNATIONAL CRIMINAL COURT, <http://iccnw.org/?mod=romeratification&idudctp=13&show=all> [<https://perma.cc/VH8L-Z3ZP>].
 31. See *Infographic: ICTY Facts & Figures*, UN INT’L CRIM. TRIB. FOR THE FORMER YUGOSLAVIA, <https://www.icty.org/en/content/infographic-icty-facts-figures> [<https://perma.cc/3K2L-BYYS>].
 32. See Alastair Leithead, *Rwanda Genocide: International Criminal Tribunal Closes*, BBC NEWS (Dec. 14, 2015), <https://www.bbc.com/news/world-africa-35070220> [<https://perma.cc/5B3X-A5YP>].
 33. Telephone Interview with Nina Bang-Jensen, Senior Peace Fellow, Public International Law & Policy Group (July 26, 2018).
 34. *Bosnian Genocide*, HISTORY (Oct. 30, 2019), <https://www.history.com/topics/1990s/bosnian-genocide> [<https://perma.cc/88DR-Z8C8>].
 35. See David Campbell, *Atrocity, Memory, Photography: Imaging the Concentration Camps of Bosnia – The Case of ITN Versus Living Marxism, Part 2*, 1 J. HUM RTS. 143, 158 (June 2002).
 36. Sonja Boelaert-Suominen, *The International Criminal Tribunal for the Former Yugoslavia and the Kosovo Conflict*, 837 INT’L REV. RED CROSS (March 2000), <https://www.icrc.org/en/doc/resources/documents/article/other/57jqd2.htm> [<https://perma.cc/QM4C-HPJP>].

It was not smooth sailing. Britain and other powers dragged their feet with key appointments and budget.³⁷ It took 14 months until it had a chief prosecutor.³⁸ And the first defendant, Dusko Tadic, appeared before it in April 1995.³⁹ The war was still under way.⁴⁰

Today, by comparison, with the ICC up and running, a Security Council divided by the Russian veto can't agree on a referral to the international tribunal.⁴¹ And the United States, the driving force behind the revival of IHL in the 1990s, did little to push for an ad hoc tribunal.⁴² Eight and a half years into its war against civilians, Syria is clearly a far worse case than the former Yugoslavia.⁴³ Only here, there's no justice.

Instead, only words. As East Aleppo was falling to barrel bombs, its hospitals destroyed, its population preparing for the inevitable expulsion, Samantha Power denounced Syria, Russia, and Iran in the Security Council: "Are you truly incapable of shame? Is there literally nothing that can shame you? Is there no act of barbarism, no execution of a child that gets under your skin, that just creeps you out a little?"⁴⁴ That was the rhetoric. The President and the Secretary of State said

-
37. See CAROLE HODGE, *THE BALKANS ON TRIAL: JUSTICE VS. REALPOLITIK* (Routledge 2019) (providing an excellent overview of the Tribunal).
38. See *Former Prosecutors*, UN INT'L CRIM. TRIB. FOR THE FORMER YUGOSLAVIA, <https://www.icty.org/en/about/office-of-the-prosecutor/former-prosecutors> [https://perma.cc/7535-S854].
39. *Dusko Tadic*, TRIAL INT'L (Aug. 5, 2016), <https://trialinternational.org/latest-post/dusko-tadic/> [https://perma.cc/4UJ7-TX62].
40. See *Dayton Accords*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/event/Dayton-Accords> [https://perma.cc/7P9Q-V5DG] [last visited Jan. 17, 2020].
41. See *Russia, China block Security Council referral of Syria to International Criminal Court*, UN NEWS (May 22, 2014), <https://news.un.org/en/story/2014/05/468962-russia-china-block-security-council-referral-syria-international-criminal-court> [https://perma.cc/HKK4-K9Z7].
42. See Nina Jorgensen, *Mushrooming Courts*, THE GUARDIAN (Jan. 14, 2001, 8:06 PM), <https://www.theguardian.com/theguardian/2001/jan/15/warcrimes> [https://perma.cc/TA3F-PNR3].
43. See *Frustration Over a War and Its Crimes*, N.Y. TIMES (Aug. 9, 2017), <https://www.nytimes.com/2017/08/09/opinion/syria-war-crimes-security-council.html> [https://perma.cc/KY5U-SRK6].
44. Lauren Said-Moorehouse, *'Are you truly incapable of shame?' Samantha Power blasts Assad regime, allies*, CNN (Dec. 14, 2016, 7:04 PM), <https://www.cnn.com/2016/12/14/middleeast/aleppo-samantha-power-speech/index.html> [https://perma.cc/FNJ9-MV4M].

next to nothing.⁴⁵ More importantly, they did nothing – to protect the civilians of the rebel-held parts of the city – or to press for accountability.⁴⁶

To be sure, justice is an imperfect instrument, and demands for accountability are no substitute for timely action. When a civilian population is threatened, its defenders need support, including arms, there may be no alternative to an armed intervention, as in Kosovo in 1998 and 1999.⁴⁷ Humanitarian law provides the standard for deciding when to have a humanitarian intervention.⁴⁸

The wheels of justice turn slowly. Especially international justice. The Karadzic trial exemplifies the slow timeline.⁴⁹ Radovan Karadzic, the political leader of the Bosnian Serbs, was indicted in 1995 but wasn't captured until 2008.⁵⁰ He went on trial in 2009 and the verdict was pronounced in March 2016.⁵¹ The Tribunal completed its work in December, 2017.⁵² Not a great advertisement for justice, you might say. But it is better than no justice, I would say.

Tribunals did not constitute the deterrent that jurists hoped they would be. Leaving aside the content of the ICTY judgments – and there is ample room for criticism – facts have been established and judgments

-
45. See *Mr. Obama Stays Silent as Russia Continues its Onslaught on Syria*, WASH. POST (Feb. 9, 2016), https://www.washingtonpost.com/opinions/the-deadly-results-of-russias-free-rein-in-syria/2016/02/09/e6fa74ba-cf56-11e5-b2bc-988409ee911b_story.html [https://perma.cc/X69C-9VAL].
 46. See Barbara Plett Usher, *Obama's Syria legacy: Measured diplomacy, strategic explosion*, BBC NEWS (Jan. 13, 2017), <https://www.bbc.com/news/world-us-canada-38297343> [https://perma.cc/N6XE-67TV].
 47. See Robert Skidelsky and Michael Ignatieff *Debate Whether Military Intervention Over Kosovo is Justified*, PROSPECT (June 20, 1999), <https://www.prospectmagazine.co.uk/magazine/military-intervention-kosovo-justified> [https://perma.cc/KLY7-HXXQ].
 48. See Anne Ryniker, *The ICRC's Position on "Humanitarian Intervention"*, 83 IRRC 527, 531 (June 2001).
 49. See Corey Flintoff, *A Timeline of Radovan Karadzic*, NPR (July 22, 2008, 12:42 PM), <https://www.npr.org/2008/07/22/92775717/timeline-the-political-life-of-radovan-karadzic> [https://perma.cc/RN39-7MF6].
 50. *The Capture of Radovan Karadzic*, NPR, <https://www.npr.org/series/92865054/the-capture-of-radovan-karadzic> [https://perma.cc/UV6M-3A92] (last visited Jan. 18, 2020).
 51. Flintoff, *supra* note 50.
 52. Owen Bowcott, *Yugoslavia Tribunal Closes, Leaving a Powerful Legacy of War Crimes Justice*, THE GUARDIAN (Dec. 20, 2017, 7:01 PM), <https://www.theguardian.com/law/2017/dec/20/former-yugoslavia-war-crimes-tribunal-leaves-powerful-legacy-milosevic-karadzic-mladic> [https://perma.cc/DF7D-83D7].

rendered based on transparency and due process.⁵³ The victims have been heard from, command responsibility has been established.⁵⁴ These results one day may give pause to politicians hoping to reinvent the past to suit their political needs and seeking to use force to redress the imagined grievances of the distant past.

There is no prospect of that happening in Syria.

What changed between 1993 and 2011? In one word, Afghanistan.⁵⁵ The same Clinton administration that did so much to advance international justice in Bosnia was missing an action in Afghanistan.⁵⁶

Rather than uphold the same principles in Afghanistan following Russia's pullout in 1989, the administration turned a blind eye.⁵⁷ In the course of Afghanistan's internal wars in the 1990s, there was a series of massacres.⁵⁸ First, the ruling Taliban were victims of slaughter in shipping containers at the hands of Abdul Malik Pahlawan, an Afghan warlord, in the town of Mazar-i-Sharif in 1997.⁵⁹ More than 1,000 died of suffocation alone.⁶⁰ The Taliban pleaded for an international

-
53. See Amanda Potts & Anne Lise Kjær, *Constructing Achievement in the International Criminal Tribunal for the Former Yugoslavia (ICTY): A Corpus-Based Critical Discourse Analysis*, 29 INT'L J. SEMIOT L. 525, 538 (2016), <https://link.springer.com/content/pdf/10.1007%2Fs11196-015-9440-y.pdf> [<https://perma.cc/2JYT-YXXL>].
54. See *The Judges of the ICTY Acknowledge the Right of Victims of Crimes Committed in the Former Yugoslavia to Seek Compensation*, UN INT'L CRIM. TRIB. FOR THE FORMER YUGOSLAVIA (Sep. 14, 2000), <https://www.icty.org/en/press/judges-icity-acknowledge-right-victims-crimes-committed-former-yugoslavia-seek-compensation> [<https://perma.cc/5CAH-25YK>]; See *International Criminal Law Guidelines: Command Responsibility*, CASE MATRIX NETWORK 1, 29 (Jan. 2016), <https://www.legal-tools.org/doc/7441a2/pdf/> [<https://perma.cc/KD8A-DCB5>].
55. See *The U.S. War in Afghanistan*, COUNCIL ON FOREIGN REL., <https://www.cfr.org/timeline/us-war-afghanistan> (last visited Jan. 18, 2020) [<https://perma.cc/7M5Q-MF9D>].
56. See Abdul Rahman Rahmani & Jason Criss Howk, *America, Don't Abandon Afghanistan Again*, CNN (Feb. 3, 2019 10:51 AM), <https://www.cnn.com/2019/02/03/opinions/us-afghanistan-peace-deal-abandonment-rahmani-howk/index.html> [<https://perma.cc/V2CH-82WC>].
57. *Id.*
58. Joshua Levkowitz, *Iran's Taliban Gamble in Afghanistan*, MIDDLE EAST INST. (May 17, 2017), <https://www.mei.edu/publications/irans-taliban-gamble-afghanistan> [<https://perma.cc/WM98-AUBM>].
59. John Barry, *The Death Convoy of Afghanistan*, NEWSWEEK (Aug. 25, 2002, 8:00 PM), <https://www.newsweek.com/death-convoy-afghanistan-144273> [<https://perma.cc/6YPL-VRQW>].
60. *Id.*

investigation, but the United States withheld support.⁶¹ In 1998, the Taliban took revenge by carrying out a massacre of civilians in the same city and killed more than 1,000 men, packing them into shipping containers and burying them in mass graves.⁶²

It was in the context of Afghanistan's internal wars and the Taliban's inability to conquer the entire country that Osama bin Laden attached himself and his movement to the Taliban.⁶³ He set up a state-within-a-state and then plotted and carried out the attacks on two U.S. embassies in East Africa at the time of the Mazar massacre in 1998.⁶⁴ The U.S. government held high level talks with the Taliban but focused on the expulsion of Osama bin Laden, all but ignoring the human rights travesty in Mazar-i-Sharif, and the investigation when it finally began later proved fruitless.⁶⁵

The 9/11 attacks that bin Laden masterminded in 2001 targeted civilians and civilian institutions and constituted a wholesale violation of the rules of war.⁶⁶ The United States in response suspended many of the basic principles of IHL.⁶⁷ Instead of treating captured prisoners as

-
61. *See Testimony on the Situation in Afghanistan Before the United States Senate Committee on Foreign Relations*, COUNCIL ON FOREIGN REL. (Oct. 8, 1998), <https://www.cfr.org/report/testimony-situation-afghanistan-united-states-senate-committee-foreign-relations> [<https://perma.cc/Y76U-L9R5>].
 62. *See Afghanistan: The Massacre of Mazar-I Sharif*, HUMAN RIGHTS WATCH, <https://www.hrw.org/legacy/reports98/afghan/Afrep0r0.htm> (last visited Jan. 19, 2020) [<https://perma.cc/TBX4-3G34>].
 63. *See* Alexandra Poolos, *Afghanistan: The Taliban's Rise to Power*, RADIOFREEEUROPE RADIOLIBERTY (Sep. 18, 2001, 12:00 AM), <https://www.rferl.org/a/1097442.html> [<https://perma.cc/ZS4Q-L4NY>].
 64. *The Americans Killed Bin Laden, Baghdadi and Soleimani...How Do The Three Men Differ?*, ASHARQ AL-AWSAT (Jan. 5, 2020, 1:30 PM), <https://aawsat.com/english/home/article/2067701/americans-killed-bin-laden-baghdadi-and-soleimani%E2%80%A6how-do-three-men-differ> [<https://perma.cc/J899-NEEH>]; *1998 US Embassies in Africa Bombings Fast Facts*, CNN (Aug. 3, 2019, 9:28 AM), <https://www.cnn.com/2013/10/06/world/africa/africa-embassy-bombings-fast-facts/index.html> [<https://perma.cc/Z965-QG4C>].
 65. ROY GUTMAN, *HOW WE MISSED THE STORY* 83-167 (United States Institute of Peace 2nd ed. 2013) (describing the massacres in 1997 and 1998 and the failed U.S. response).
 66. *See Legal Issues Arising from the War in Afghanistan and Related Anti-Terrorism Efforts*, HUMAN RIGHTS WATCH, <https://www.hrw.org/legacy/campaigns/september11/ihlqna.htm> (last visited Jan. 19, 2020) [<https://perma.cc/5GP5-FXEY>].
 67. *See Fatally Flawed: Cluster Bombs and their use by the United States in Afghanistan*, HUMAN RIGHTS WATCH 1, 21 (2002), <https://www.hrw.org/reports/2002/us-afghanistan/> [<https://perma.cc/4K6C-H4HD>].

hors de combat pending judicial investigation and trials, it shipped a great many off to sites in other jurisdictions where U.S. law does not apply.⁶⁸ They went to facilities as far afield as Poland and Thailand or to police states like Syria, where they were tortured into confessions of dubious value.⁶⁹ Torture tainted their testimony, and then they were shipped to Guantanamo base, located on territory leased from Cuba, for indefinite detention.⁷⁰ There was no way they could have a fair trial.

The U.S. also turned a blind eye in November 2001 when Abdul Rashid Dostum, the Afghan warlord who dug up the graves from the 1997 massacre, loaded captured Taliban prisoners into containers and suffocated thousands.⁷¹ But the Bush administration was not about to set up an international tribunal. Indeed, its attitude was best conveyed by John Bolton, George W. Bush's acting U.N. ambassador, who "unsigned" the U.S. from the documents that set up the ICC.⁷²

The suspension of the IHL norms was backed up by formal advice from the Office of Legal Counsel at the Department of Justice,⁷³ and it was a big mistake. As the most powerful single player on the

-
68. See I. A Policy to Evade International Law, HUMAN RIGHTS WATCH, <https://www.hrw.org/reports/2004/usa0604/2.htm> (last visited Jan. 19, 2020) [<https://perma.cc/3XTA-GD4Q>].
69. See Max Fisher, *A Staggering Map of the 54 Countries that Reportedly Participated in the CIA's Rendition Program*, WASH. POST (Feb. 5, 2013, 3:21 PM), <https://www.washingtonpost.com/news/worldviews/wp/2013/02/05/a-staggering-map-of-the-54-countries-that-reportedly-participated-in-the-cias-rendition-program/> [<https://perma.cc/3A2M-2JDW>].
70. See generally *Background on Guantanamo Bay Prison*, HUMAN RIGHTS FIRST (Oct. 10, 2018), <https://www.humanrightsfirst.org/resource/background-guantanamo-bay-prison> [<https://perma.cc/B35T-4CZJ>].
71. John Barry, Babak Dehghanpisheh & Roy Gutman, *The Death Convoy of Afghanistan*, NEWSWEEK (Aug. 25, 2002, 8:00 PM), <https://www.newsweek.com/death-convoy-afghanistan-144273> [<https://perma.cc/AS8E-UVUG>].
72. See Ayesha Rascoe, *Bolton: International Criminal Court will Face Repercussions if Americans Prosecuted*, NPR (Sept. 10, 2018, 1:30 PM), <https://www.npr.org/2018/09/10/646321536/bolton-icc-will-face-repercussions-if-action-taken-against-americans> [<https://perma.cc/PXA2-ZTXD>].
73. See *Getting Away with Torture: The Bush Administration and Mistreatment of Detainees*, HUMAN RIGHTS WATCH (July 12, 2011), <https://www.hrw.org/report/2011/07/12/getting-away-torture/bush-administration-and-mistreatment-detainees> [<https://perma.cc/LB5P-KHRF>].

international scene, the U.S. sets precedents.⁷⁴ By suspending principles of humanitarian law, the U.S. signaled that rogue states whose principal foreign policy goal was to upset the U.S.-led world order, could follow suit.⁷⁵

Another precedent set by the Bush administration was to fight terrorists mostly from the air with a minimal number of ground forces, a tactic now called “counter-terrorism.”⁷⁶ It reduced casualties but all but ensured enormous collateral damage to civilians.⁷⁷ Target selection is a great deal harder without ground spotters, and too often those in the crosshairs were family gatherings, wedding parties, innocent civilians.⁷⁸ The result was the exact opposite of U.S. goals. These raids built popular sympathy and encouraged the Taliban to return to the battlefield, thereby extending the war.⁷⁹ But there was next to no accountability.

The abandonment of many humanitarian law norms did not serve U.S. interests. Take the container killings of Taliban fighters after the U.S. intervention in 2001.⁸⁰ Warlord Dostum ordered the killings and the burial in mass graves, but the Pentagon took no responsibility and in fact covered up the event.⁸¹ The U.S. government made no effort to

74. See Morris Davis, *The United States and International Humanitarian Law: Building It up, then Tearing It Down*, 39 N.C.J. INT’L L. & COM. REG. 983, 1001 (2014).

75. See *id.* at 1026-27.

76. See Barbara Starr, Pakistan Drone Strategy Originated with Bush, Official Says, CNN (May 4, 2010 6:00 PM), <http://www.cnn.com/2010/WORLD/asiapcf/05/04/pakistan.drone.attacks/index.html> [https://perma.cc/37K9-99U4].

77. See, e.g., *Civilian Casualties & Collateral Damage*, LAWFARE, <https://www.lawfareblog.com/civilian-casualties-collateral-damage> [https://perma.cc/4DFA-SVVF].

78. See, e.g., Conor Friedersdorf, *The Wedding That a U.S. Drone Strike Turned Into a Funeral*, ATLANTIC (Jan. 9, 2014), <https://www.theatlantic.com/international/archive/2014/01/the-wedding-that-a-us-drone-strike-turned-into-a-funeral/282936/> [https://perma.cc/BV3C-M38H].

79. See Hassan Abbas, *Are Drone Strikes Killing Terrorists or Creating Them?*, ATLANTIC (Mar. 31, 2013), <https://www.theatlantic.com/international/archive/2013/03/are-drone-strikes-killing-terrorists-or-creating-them/274499/> [https://perma.cc/N7JB-72V2].

80. See Scott Horton, *Dasht-e-Leili, Ten Years Later*, HARPER’S MAG.: BROWNSINGS (Dec. 13, 2011, 2:02 PM), <https://harpers.org/blog/2011/12/dasht-e-leili-ten-years-later/> [https://perma.cc/2S8R-RWSY].

81. See *id.*

investigate or prosecute the warlord, a U.S. ally.⁸² Later Dostum ordered the bodies to be unearthed and dumped elsewhere.⁸³

But like the earlier massacres in 1997 and 1998, the failure to investigate, to reveal the facts and prosecute backfired. Long before he was named national security adviser, General Michael Flynn headed the U.S. military intelligence in Afghanistan.⁸⁴ An Afghan who had switched from pro-Taliban to pro-government told me those killings were the basis for the Taliban's revival in 2008-2009, and its prime recruiting tool.⁸⁵ General Flynn told me these acts had motivated the Taliban revival.⁸⁶

"Those kinds of things just thicken the hatred and cause more people to join. And so when leaders, quote unquote, like that do stupid things like that, they only serve to hurt what we're trying to do out here."⁸⁷ Thus a war crime, covered up, extended the war.⁸⁸ "That's very believable," Flynn told me. "And that will cause others to join the fight."⁸⁹

The point I am making is that the principles of IHL, the workings of IHL, the drive for accountability, have an inner logic to them that political leaders in the heat of battle do not grasp.

Syria is a different situation. In October 2014 the U.S. intervened in northeast Syria to destroy the self-declared Islamic State and to prevent future terror attacks in the U.S.⁹⁰ The internal conflict that gave birth to ISIS was well under way, and the U.S. administration was

82. See Tom Lasseter, *As Possible Afghan War-Crimes Evidence Removed, U.S. Silent*, McClatchy DC: IMPACT 2020 (Dec. 11, 2008, 5:39 PM), <https://www.mcclatchydc.com/news/nation-world/world/article24514951.html>.

83. *Id.*

84. *Michael Flynn Biography*, BIOGRAPHY, <https://www.biography.com/military-figure/michael-flynn> [<https://perma.cc/2Y4A-L8BU>] (last updated July 16, 2019).

85. Interview with Anonymous Afghani Citizen.

86. Interview with Lt. Gen. Michael Flynn, Director of Intelligence for the International Security Assistance Force in Afghanistan, U.S. Army, in Kabul, Afg. (Jan. 16, 2010).

87. *Id.*

88. *Id.*

89. *Id.*

90. Julian E. Barnes & Sam Dagher, *Syria Strikes: U.S. Reports Significant Damage in Attacks on Islamic State, Khorasan*, WALL ST. J., <https://www.wsj.com/articles/syria-strikes-u-s-reports-significant-damage-in-attacks-on-islamic-state-khorasan-1411486035> (last updated Sept. 24, 2014, 10:47 AM) [<https://perma.cc/M7ED-QN43>].

vacillating about what to do.⁹¹ By late 2014, ISIS had taken over perhaps thirty percent of Syria.⁹² How did they do it? No one knew, and no one bothered to find out.

President Barack Obama made a critical decision.⁹³ He was in the thick of a negotiation to curb Iran's nuclear ambitions, and he didn't want to rile Syria's foremost ally.⁹⁴ He announced a policy for destroying ISIS,⁹⁵ but took a hands-off approach to Syria and the terror tactics of the Assad regime – as if there is no connection between the two.⁹⁶

In my investigative reporting, I have turned up ample evidence of the links between ISIS and the Assad regime.⁹⁷ Radical Islamists had fought in the Iraq war with Syrian support, and when they returned to Syria a great many were jailed.⁹⁸ But in prison they were encouraged to radicalize still further.⁹⁹ Again, they had regime support.¹⁰⁰ In 2011, after the national uprising, the regime released them, and they promptly took lead roles in Islamist fighting groups.¹⁰¹ The regime also abandoned major cities and towns to ISIS without a fight, including

-
91. See Hassan Hassan, *The True Origins of ISIS*, ATLANTIC (Nov. 30, 2018), <https://www.theatlantic.com/ideas/archive/2018/11/isis-origins-anbari-zarqawi/577030/> [<https://perma.cc/HF3A-NLSW>].
 92. Henry Johnson, *Mapped: The Islamic State Is Losing Its Territory—and Fast*, FOREIGN POL'Y (Mar. 16, 2016, 12:33 PM), <https://foreignpolicy.com/2016/03/16/mapped-the-islamic-state-is-losing-its-territory-and-fast/> [<https://perma.cc/54QA-9DX2>].
 93. See Paul D. Shinkman, *Obama's Plan to Defeat ISIS Cannot Succeed, Experts Say*, U.S. NEWS & WORLD REP. (June 19, 2015, 3:24 PM), <https://www.usnews.com/news/articles/2015/06/19/obamas-plan-to-defeat-isis-cannot-succeed-experts-say> [<https://perma.cc/F2FY-3TZZ>].
 94. Frederic C. Hof, *Obama's Hands-Off Syria Policy is All About Iran*, NEWSWEEK (May 12, 2016, 7:40 AM), newsweek.com/obama-hands-syria-policy-about-iran-457999 [<https://perma.cc/JD3N-WVSE>].
 95. Zeke J. Miller, *Obama Says U.S. Will Bomb ISIS in Syria, Train Rebels*, TIME (Sept. 11, 2014), <https://time.com/3319658/obama-isis-speech-iraq-syria/> [<https://perma.cc/P588-WWD8>].
 96. Hof, *supra* note 97.
 97. Roy Gutman, *Assad Henchman: Here's How We Built ISIS*, DAILY BEAST, <https://www.thedailybeast.com/assad-henchman-heres-how-we-built-isis> [<https://perma.cc/E7RU-UNW4>] [hereinafter *Henchmen*] (last updated Apr. 13, 2017).
 98. Roy Gutman, *How ISIS Returned to Syria*, DAILY BEAST, <https://www.thedailybeast.com/how-isis-returned-to-syria> [<https://perma.cc/EP83-MBCU>] [hereinafter *ISIS Returned*] (last updated Sept. 12, 2017).
 99. *Henchmen*, *supra* note 100.
 100. See *id.*
 101. *Id.*

Raqqqa and Palmyra.¹⁰² The regime allowed bases and arsenals to fall with almost no resistance, thereby arming ISIS.¹⁰³ And the regime didn't attack ISIS' state within a state.¹⁰⁴ In addition, many ISIS leaders had a longstanding relationship with the Syrian Mukhabarat, the intelligence agencies.¹⁰⁵

Both the Obama and Trump administrations have viewed ISIS as an independent actor, with no connection to any state, to be dealt with by counter-terrorism means, namely aerial attacks with no ground support.¹⁰⁶

My current research is intended to reconstruct the rise of ISIS and how it took territory and determining if they had help from any state. My aim is to produce maps, a chronology and a narrative. Along the way, I'm examining where current U.S. policy fits into humanitarian law.

Now as a result of US air bombing, millions of Sunni Arabs in areas freed from ISIS in Syria and Iraq have been forced from their homes; or they've been forced out by the Kurdish ground force to whom the U.S. has out-sourced the ground operations.¹⁰⁷

Why does all this matter? Because in choosing to fight ISIS, giving a pass to the Assad regime, and failing to put the spotlight on war crimes and demand accountability, the United States has helped worsen the humanitarian crisis in Syria, the geopolitical crisis the region, and the existential crisis of IHL.¹⁰⁸ And it has contributed, however unwittingly, to Assad's goal of forcing the migration of the majority Sunni population.¹⁰⁹

102. *Id.*

103. *ISIS Returned*, *supra* note 101.

104. *Id.*

105. Various interviews in the Middle East.

106. Brian P. McKeon, *Trump's 'Secret Plan' to Defeat ISIS Looks a Lot Like Obama's*, FOREIGN POL'Y (May 31, 2017, 3:44 PM), <https://foreignpolicy.com/2017/05/31/trumps-secret-plan-to-defeat-isis-looks-a-lot-like-obamas/> [<https://perma.cc/K2VD-YMM6>].

107. Liz Sly, *ISIS: A Catastrophe for Sunnis*, WASH. POST (Nov. 23, 2016), https://www.washingtonpost.com/sf/world/2016/11/23/isis-a-catastrophe-for-sunnis/?utm_term=.86c0be36533e [<https://perma.cc/M6SB-G5XK>].

108. See Roy Gutman, *Syria Rights Monitor Charges U.S. With Negligence and War Crimes—But Wants Troops To Stay And Fix Things*, DAILY BEAST, <https://www.thedailybeast.com/syria-rights-monitor-charges-us-with-negligence-and-war-crimesbut-wants-troops-to-stay-and-fix-things> [<https://perma.cc/E57W-LT6F>] (last updated Jan. 12, 2019).

109. See Roy Gutman, *Mr. Trump, Here's Why Assad Has to Go*, DAILY BEAST (Apr. 11, 2018, 5:09 AM), <https://www.thedailybeast.com/mr-trump-heres-why-assad-has-to-go> [<https://perma.cc/SM83-3EMW>].

If I haven't already made this clear, I will restate: this is a bipartisan crisis. The evasion of leadership began under President Obama, when he announced he'd have a policy for fighting ISIS but not a policy for Syria.¹¹⁰ It expanded in the Trump administration.¹¹¹ Recall John Bolton's first speech of one year ago, in which he declared: "We will provide no assistance to the [International Criminal Court (ICC)]. And we certainly will not join the ICC. We will let the ICC die on its own. After all, for all intents and purposes, the ICC is already dead to us."¹¹² Today, John Bolton is dead to the Trump administration, but this rhetoric goes marching on.¹¹³

I am not going to critique the ICC as an institution, except to say it has major problems that need to be fixed. IHL as a set of guiding principles in war is another matter. Just take the examples I gave from Afghanistan, where international support for accountability in 1997 when the Taliban were victims of a major war crime might have averted their massacre of innocents in 1998 for revenge.¹¹⁴ Three years later, in 2001, the American failure to investigate the container killings of the Taliban might have headed off the revival and return of the Taliban in the years that followed.¹¹⁵ Of course I cannot rewrite history and predict the outcome if different actions had been taken. All I know is that the U.S. is still stuck there today, and this is one reason. And this applies in Syria as well.

In northeast Syria, the air war led by the U.S. has produced a massive displacement of the Sunni Muslim population¹¹⁶— and in the

110. *See id.*

111. *See* Erin Banco, *In Syria, Fighters Still Battling ISIS Ask 'What Hath Trump Wrought?'*, DAILY BEAST, <https://www.thedailybeast.com/in-syria-fighters-still-battling-isis-ask-what-hath-trump-wrought> [<https://perma.cc/H7JU-LUEA>] (last updated Jan. 24, 2019, 9:06 AM).

112. Steve Holland, *Trump Administration Takes Aim at International Criminal Court*, PLO, REUTERS (Sept. 9, 2018), <https://www.reuters.com/article/us-usa-trump-icc/trump-administration-takes-aim-at-international-criminal-court-plo-idUSKCN1LQ076> [<https://perma.cc/N9AM-NC8N>].

113. *See* Matthew Lee, *Bolton: International Criminal Court 'Already Dead to Us'*, AP NEWS (Sept. 11, 2018), <https://apnews.com/4831767ed5db484ead574a402a5e7a85> [<https://perma.cc/22CY-WP6G>].

114. Hum. Rts. Watch, *Afghanistan: The Massacre in Mazar-I Sharif*, Vol. 10, No. 7 (C) (Nov. 1998), <https://www.hrw.org/legacy/reports98/afghan/AFrepor0.htm> [<https://perma.cc/6KRT-TLYD>].

115. *See* Lasseter, *supra* note 85.

116. *Global Conflict Tracker: Civil War in Syria*, COUNCIL ON FOREIGN REL., <https://www.cfr.org/interactive/global-conflict-tracker/conflict/civil-war-syria> (last updated Jan. 24, 2020) [<https://perma.cc/5MFM-Y7RJ>].

absence of any real plans to protect the population and ensure long-term security, this is sure to sow the seeds for future radicalism.¹¹⁷ All the more so since the U.S. government still does not know how ISIS took the land and whether they had help from the Syrian state.¹¹⁸ Yet that issue is dwarfed by the colossal error of publicly ignoring the plight of an entire nation that is the victim of state-sponsored terror. Instead of investigating the crimes that led to the forced migration, the U.S. has forced still more migration.

Humanitarian law is an indispensable building block in international order. IHL encapsulates the lessons of the Holocaust and the World Wars of the 20th century.¹¹⁹ It has the potential to end the cycle of revenge massacres in countries with endemic wars. But it also points the way to a more secure future. IHL should not be viewed only as a measure of what conduct is acceptable, unacceptable and criminal in war. In setting the outer boundaries for conduct in conflict, it provides a guide for humanitarian intervention in the post-Cold War era.

IHL must be preserved; it must be upheld.

The best news of the day is that this conference is being held and you're looking at the crisis from many angles. My suggestion is not to stop here. Think of all the other audiences that are affected by this crisis: the media; the military; humanitarian aid workers; religious institutions; the medical profession; education. Samantha Power told me last year she believes the biggest obstacle to the revival of IHL is China, whose leaders have no interest or understanding of the values of IHL.¹²⁰ Well, there are Chinese law schools and Chinese students in American law schools. Get them on board. And last and perhaps most important, the people who need to understand the importance of humanitarian law are politicians of our era.¹²¹

This administration is lost in chaos of its own creation. But the next one is waiting in the wings. Aim for the next plus one. Politicians must be educated. But first, refine the message to put it across to the members of this and future Congresses. There should be ample

117. *See id.*

118. *See* Ian Schwartz, *Kerry: There Is Evidence That Assad Has Played "Footsie" With ISIL*, REALCLEAR POL. (Sept. 18, 2014), https://www.realclearpolitics.com/video/2014/09/18/kerry_there_is_evidence_that_assad_has_played_footsie_with_isil.html [<https://perma.cc/B2TF-FTLT>].

119. *See* Daniel Levy & Natan Sznaider, *The Institutionalization of Cosmopolitan Morality: The Holocaust and Human Rights*, 3 J. HUM. RTS. 143, 143 (2004).

120. Telephone interview with Samantha Power, former U.S. Ambassador to U.N. (Aug. 1, 2018).

121. *Id.*

inspiration in what lawyers and law professors did to prepare the revival of humanitarian law in the 1990s. And recall how the CEELI Institute helped pave the transition for states of eastern Europe to constitutional democracies.¹²² It's time to rise to another occasion.

122. *See Strengthening Judicial Independence and Integrity*, CEELI INST., <https://ceeliinstitute.org/overview/strengthening-judicial-independence-and-integrity/> [<https://perma.cc/M29R-KCA2>].