

***CONSTRUCTING THE SOVEREIGN; TECHNIQUES OF GOVERNING THROUGH LIFE
AND DEATH IN THE SYRIAN CONFLICT***

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ABSTRACT

Literature on war crimes and crimes against humanity often focuses on political and legal perspectives, addressing international law and situations of a singularly recognized sovereign entity. This thesis seeks to explore conflict situations where multiple competing and irregular state-forms exist, using the Syrian conflict as a case study. Engaging with necropolitics, debilitation, and slow violence to understand techniques of governing through life and death, this research utilizes reporting on the Syrian conflict by non-governmental and international organizations to illustrate how war crimes and crimes against humanity function to produce sovereignty and legitimacy. Further, this research argues that the employment of techniques of governance by state-claiming actors in Syria indicates a relationship between the commission of war crimes and crimes against humanity and the capacity of state-claiming actors to produce and reproduce sovereignty over territory and populations.

INTRODUCTION

As the Syrian conflict enters its tenth year, the complexity of relations between internal and external actors continues to evolve alongside sustained humanitarian concerns. The devastation of war has swept through the country while tense diplomatic interactions have proven futile in resolving the conflict between government forces and opposition groups, instead fostering an environment where a myriad of competing state-forms hold fragile claims over fragmented territory. Since March of 2011, Syrians have experienced unrelenting violence and hostilities, amounting to war crimes and crimes against humanity perpetrated by government and non-state actors taking part in the conflict. Direct and intentional attacks against civilians and civilian infrastructure, indiscriminate use of weapons, use of prohibited weapons, extrajudicial executions, torture and ill-treatment, attacks on healthcare and humanitarian aid, and numerous additional violations of international law have come to characterize the conflict, heedless of the immediate and long-term consequences that will continue to wage war against the Syrian population for generations.

Simultaneously a conflict between government and its citizenry, a sectarian war with long-standing religious dimensions, and a proxy war involving external states, the diverse facets of the Syrian conflict have manufactured one of the world's largest humanitarian and refugee crises to date. The protests of 2011, which began partially in response to the arrest of youth accused of writing anti-regime graffiti in the southern city of Dara'a, have deeper roots in the context of the Arab Spring and decades-long reign of the al-Assad regime. Following violent response by military and security forces as an attempt to quell the uprising, demonstrations spread rapidly across the country. As civilian casualties continued to stack up, clashes between protestors and armed forces intensified beyond the initial hotspots of Idlib, Homs, and Hama, with the International Committee of the Red Cross announcing in July 2012¹ that the violence had reached the threshold of a non-international armed conflict.

Since then, Syria has remained the largest battlefield and generator of Sunni-Shia sectarianism, with deep implications for the future of the Middle East (Gilsinan, 2015). The conflict has developed into a multitude of interconnected allies and front lines; while no party appears able to achieve "victory", all possess the capacity to sustain operations for the

¹ Please see the following website for additional information <https://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-syria#collapse4accord>

foreseeable future with no end in sight. The proliferation of active armed actors supported by proxy interests remains a significant obstacle to achieving a sustainable political solution. The battlefield features numerous overlapping confrontations, with approximately 1,200 groups operating and engaging in combat (Gilsinan, 2015). The Syrian government and four prominent opposition groups have been chosen for analysis within this thesis, which will be referred to as “state-claiming actors” based on their continued involvement in hostilities and alleged perpetration of war crimes and crimes against humanity as documented within reporting². While data collection for this project concluded in 2018, the conflict remains ongoing at the time of writing.

This thesis seeks to answer the following research question; “What can reports produced by non-governmental organizations and international organizations on the purported war crimes and crimes against humanity committed in the Syrian Arab Republic tell us about the techniques of governance deployed by state-claiming actors during conflict?”. Each state-claiming actor operating within the Syrian conflict has employed techniques of governance that subject populations within occupied territories to life and death. While some acts of violence have either life or death as their objective, more frequently these acts simultaneously target populations for life and death. It is precisely through the commission of war crimes and crimes against humanity that these actors are asserting claims to sovereignty and legitimacy over populations and territory, and the theoretical framework of necropolitics, debilitation, and slow violence, understood through Carl Schmitt’s conceptualization of sovereignty and the political, aids in making sense of the lived reality of constructing sovereignty during conflict.

The first chapter discusses literature on state violence, state crime, and sovereignty, to situate this research outside of traditional political or legal understandings of war crimes and crimes against humanity. This chapter also considers the contradictions inherent in international law, and limitations of regulating state violence and emerging technologies of warfare. The Syrian conflict was chosen as a case study for this thesis given the multiplicity of state-forms competing for claims to “legitimate” sovereignty over territory and populations, each with distinct spatial and political aspirations. This chapter demonstrates how the field of criminology is best suited to

² The Independent International Commission of Inquiry on the Syrian Arab Republic grouped combatants into the following four categories within reporting, and will be used in this thesis to differentiate between what are termed “state-claiming actors”; the Syrian Armed Forces and its allies, opposition forces involving the Free Syrian Army and Hay’at Tahrir al-Sham, the Syrian Democratic Forces, and the Islamic State.

provide further insights into the relationship between the application of violence and the pursuit of sovereignty in situations of competing state-forms.

The second chapter outlines the theoretical framework used to analyze data collected from reporting on the conflict. This framework is comprised of Carl Schmitt's writings on sovereignty, the political, and the partisan, utilized as the basis for understanding necropolitics, debilitation, and slow violence as techniques of governance by state-claiming actors. The third chapter presents the methodology employed in conducting this research, how reports were selected and coded, and how this information was organized for the following analysis. This chapter also discusses epistemological considerations, positionality, ethics, and limitations of this research project.

The fourth chapter analyzes how the commission of war crimes and crimes against humanity are exercised by state-claiming actors in Syria as techniques of governance in pursuit of sovereignty over territory and populations. These techniques of governing through life and death allow state-claiming actors to constitute themselves as sovereign entities by suspending the rule of law in territory under their control, determining the exception, and invoking the friend-enemy distinction. This chapter will illustrate how these techniques are operationalized in practice and the consequences of governing through life and death on populations and the built environment. Finally, this chapter discusses the production of sovereignty during conflict, and speaks to the additional dichotomies enacted alongside the friend-enemy distinction found in the empirical material. The conclusion of this thesis will consider its contribution to literature on state violence and areas for future research.

CHAPTER 1: LITERATURE REVIEW

1.1 Introduction

There exists a wealth of literature on international law and its importance in providing a legal framework through conventions, treaties, and customary law for state-perpetrated violence and the impacts of these violations. International humanitarian law endeavours to mitigate harm to individuals and regulate the legal space between conflicting states or armed opposition movements (Guinn, 2016), from ad hoc tribunals in the former Yugoslavia and Rwanda to the creation of an International Criminal Court to address ending the “era of impunity”³. Incidents of grave transgressions throughout history call attention to the importance of power relations within the international realm, specifically between agents of the state and their means of evading or circumventing prosecution through loopholes in structures of international law. The current inability to hold states accountable for violations committed during armed conflict represents a much broader point of contention for international law, where limitations inherent to legal organizations contribute to miscarriages of justice and the continued “era of impunity”. Given the extensive research conducted and subsequent understanding of deficiencies inherent to the international legal system, previous attempts to develop a research project regarding the accountability crisis occurring in international law produced no new information that would supplement current literature in a meaningful way. Therefore, this research project will instead explore sovereignty and state violence in the form of war crimes and crimes against humanity⁴.

The incorporation of state violence literature allows this project to view violations of international humanitarian law from a perspective external to circular arguments made on the redundancy of structures of international law and enforcement mechanisms in previous literature. War crimes and crimes against humanity committed in international or non-international armed conflicts are traditionally explored from political or legal perspectives, therefore, I found the capacity for this research project to contribute to state crime and state violence literature and create space for this form of analysis within criminology to be a more fruitful endeavor. For example, state crime literature focuses on the traditional state form, yet the Syrian conflict and numerous other non-international armed conflicts involve irregular state-forms competing for

³ Referring to shortcomings in international law that allow for certain violations and perpetrators to evade accountability due to geopolitical and state interests, and lack of enforcement mechanisms.

⁴ Please see Appendix A for Rome Statute definitions of war crimes and crimes against humanity.

sovereignty. This perspective allows the following analysis and future research to consider the array of state-claiming actors or multiple incarnations of the state-form in discussions of sovereignty. Given this, the following literature review will briefly outline contradictions inherent to international humanitarian law, limitations to regulating developing technologies in contemporary warfare, explore state violence and crime in relation to sovereignty, and discuss current research on the Syrian conflict.

1.2 International Humanitarian Law and its Contradictions

The term international humanitarian law (IHL) denotes a set of rules which seek, for humanitarian purposes, to limit the effects of armed conflict. It protects persons who are not, or are no longer, participating in hostilities by restricting the means and methods of warfare (Scott, 2010). While centering individuals as the object of protection, humanitarian law serves to regulate actions of the state, and in exceptional cases, those of certain non-state actors (Guinn, 2016). International humanitarian law is divided into two subsections; international armed conflict and non-international armed conflict. The treaties that constitute the laws of war involve The Hague Conventions, the Geneva Conventions, two Additional Protocols of 1977 and the third Additional Protocol of 2005, and the United Nations Charter. Further, statutes of the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Rome Statute of the International Criminal Court serve as foundational assumptions for what is prosecutable under international law⁵; war crimes, crimes against humanity, and genocide. Various additional treaties address the use of chemical weapons, projectiles, explosives, biological weapons, and other concerns regarding technology and war (Scott, 2010).

International humanitarian law is fundamentally contradictory in the sense that rules governing warfare and conduct during conflict confer legitimacy onto military action and state violence (Rothe & Collins, 2014). IHL codifies and upholds “territorial and border controls, economic, regulatory and tax sovereignty, control over airspace, sea-lanes, natural resources ... The use of law to validate the practices of sovereign states is perhaps the clearest with regards to the laws of war” (Smith, 2002, 356-357). These laws regulating conduct in war provide an “unwarranted legitimacy” and humanitarian guise for violence, given the manner in which states

⁵ The Rome Statute of the ICC was granted jurisdiction over crimes of aggression in June of 2010.

have created and codified an elastic definition of military necessity⁶ within IHL (Kramer, 2009). Through law, state violence and new technological weapons are legitimated and normalized, justifying the continuation of the political management of the state (Rothe & Collins, 2014). This justification requires interpretations of the law from within, and is a normality of state political administration and the exercise of state violence (Rothe & Collins, 2014, 376). State violence is not in contradiction with international humanitarian or domestic law, but rather, legitimated through and within these legal parameters. Consequently, overly broad and unchallenged conceptions of military necessity and strategic objectives have effectively facilitated and perpetuated state violence during war (Kramer, 2009). Appeals to international humanitarian and human rights laws to bring forth justice or accountability to grave acts of violence are ineffectual, and more importantly, complicit with a liberalism that has wreaked havoc on the world, often through the veiled legitimacy of law (Schmitt, 2007; Rothe & Collins, 2014).

While civilians and civilian infrastructure is presented as protected under international law, there exists a legal malleability where civilian death or collateral damage is legally defensible. Thomas Aquinas' doctrine of double effect remains relevant in contemporary warfare, where unforeseen harmful consequences are deemed acceptable as long as they are unintended by the perpetrator. "Collateral damage" is merely a euphemism for the death of civilians from disproportionate and indiscriminate techniques of warfare, and is a widely-used form of interpretive denial by imperial powers (Kramer, 2009). International law remains a concrete expression of political authority, reflecting a geopolitical imbalance of power between the global North and South. Basing an analysis of violations of international law on the existing international framework of human rights and humanitarian law, with the assumption that these are impartial or apolitical, forms this discourse within convoluted structures of power and privilege (Michalowski, 2009; Sellin, 1939).

Within the current international legal system, a certain victor's justice is evident in the treaties and statutes that comprise international humanitarian law, as all participants often carry out similar military strategies and actions, but only those who lose are held to account. Which

⁶ The principle of military necessity permits measures which are "actually necessary" to accomplish a legitimate military purpose and are not otherwise prohibited by international humanitarian law. In the case of an armed conflict, the only legitimate military purpose is to weaken the military capacity of other parties to the conflict. For more information, please refer to Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

parties are found guilty and which are acquitted, along with what is deemed legal or illegal, is dependent upon geopolitical interests and power imbalances within the international community that illustrate the contradictions inherent to this system. The United Nations, as an institution for creating and applying international law, is in and of itself an expression of these unequal power relations, wherein decisions about the legality of wrongdoing depends upon the relative strength of geopolitical coalitions and the interests of powerful members involved in those actions (Michalowski, 2009). Any legal system that is designed so its most powerful members can veto enforcement action against their own transgressions, or those of their allies, cannot be considered a valid system of law (Michalowski, 2009).

Criticisms of the modern human rights regime further question the impact and motive of the shift towards human rights on a global scale. State sovereignty continues to undermine any meaningful consideration of human rights, as the United Nations, international organizations, and non-governmental organizations fail to implement mechanisms of binding obligation on states, given the customary status of human rights laws (Scorgie-Porter, 2017). So long as sovereign power is held over populations and territories, the creation of a supra-national legal system will remain unattainable, alongside accountability and transitional justice.

Significant bias within the “universal” human rights regime remains rooted in cultural imperialism and eurocentrism, as some have argued that the human rights movement is merely a tool for the implementation of Western norms on an international scale (Tiemessen, 2014). The divide between universalism and relativism remains imbedded in these discussions; as universalism upholds that culture should not have an effect on comprehensive standards, relativism asserts that ideas and values are only bona fide in relation to particular social, cultural, and historical condition, implying that there are no universal truths to serve as the foundation for international human rights. In Syria, the multiplicity of state-claiming actors and involvement of non-state armed groups, foreign groups, and external actors in hostilities introduces additional complexities in terms of international law and accountability for the countless transgressions that have occurred throughout the country. Over a decade into the conflict, with millions of combatant and civilian casualties, refugees, internally displaced persons, and continued fighting with no foreseeable end, it would appear the structures and mechanisms of international law are futile in achieving accountability or justice.

1.3 Limitations to Regulating Technologies of War

The increasing complexity of armed conflict has given rise to discussions on the inability of international humanitarian and human rights law to progress alongside developing technologies of war. This continues to have significant consequences in relation to surveillance, extraterritorial targeting of persons, use of unmanned aerial vehicles, and cyber-attacks during conflict (see, for example, Muneer, 2009; Sadat, 2006; Brunstetter, 2009; Henderson, 2010; Ophardtyber, 2010; and Shackelford, 2009). Cyberspace, drones, and automated weapons systems have created new means and methods of warfare that pose legal questions and practical challenges in terms of ensuring compliance with humanitarian and human rights law given the absence of international regulations (ICRC, 2013).

Evolutions in the nature of state violence has fostered the continuous advancement of weapons technology, revolving around the bureaucratic and automated delivery of death to those deemed “enemies” of the state (Shaw & Ahkter, 2014). Contemporary warfare strategies often constitute targeted killings that are intentional and premeditated through its application of sophisticated weaponry, arrangement of institutions and actors sanctioned to conduct violence, and the conditions that emerge from these constellations. Through the medium of advanced warfare, the threat of targeted death effectively converts the temporal and spatial aspect of state violence into a boundless three-dimensional realm that highlights the shift in scale from broad territory and populations to the individual body (Shaw & Ahkter, 2014). Heralded as the apex of targeting logic; accurate, efficient and deadly, advanced and unmanned technologies are underestimated in terms of their political presentation as “neutral tools” (Heidegger, 2003). The paradox of state violence lies within the shift from traditional methods of warfare to the individualization of the “enemy”. The “other” no longer exists in abstract ideologies or far away nations, but is instead an anonymized and ambiguous violence operating under the guise of “precision” warfare.

Williams (2015) developed the concept of “dronespace”, referring to the spatial and ethical distinctiveness in the relationship between drone operators and their targets. This concept considers how space, as informed by political geography, affects the ethics of targeted killings facilitated by state agencies. The discussion of weapons technology in state violence literature is imperative, given how rapidly these weapons have transformed modes of state-perpetrated violence and enhanced the distance between state and target. State agents often enjoy relative

immunity from retaliation by targets, given the distance and inability for the target to compete with or counter the weapons employed. Within debates on distance and intimacy, questions are posed regarding whether those killed by “smart” warfare can be accurately identified as “legitimate” targets, and whether collateral damage is defensible in relation to the military advantage gained during operations (Williams, 2015). These modes of violence demonstrate that rather than suspending the law, it is precisely through law that the normality of state violence is undertaken (Rothe & Collins, 2014). Advocates of weapons technology development champion their ethical superiority and “surgical strike” capabilities, while masking the grim reality that distance breeds just as many harms as operating directly in hostile environments (Strawser, 2010).

There are power structures inherent in the discourse surrounding political space, politicizing and depoliticizing certain spatial aspects while preserving certain interests. The “predator empire” is underscored by a regime of biopolitical power with life as its target, as post-9/11 perceptions of danger are no longer an actualized or tangible threat but are instead located within behavioural potential and pre-emptive, future-oriented biopolitics that exist in exceptional space (Shaw, 2013). The last domain of biopolitics is control over relations between humans, exemplified via precision warfare technology targeting the behavioural patterns of the lived environment and the individual (Shaw, 2013). The use of advanced weapons technologies for targeted killings is merely a new instrument for state violence, and can be interpreted within the body of legislation, political discourse, and laws that serve to normalize and legitimize their use, no different from those processes that occurred for military tanks or chemical weapons (Rothe & Collins, 2014). The historical progression of law and war becoming intertwined has illustrated that technological advancements are merely a natural progression of techniques and strategies of state violence; callous cruelty, where the subject of violence is simply an instrument or obstacle, and individual suffering, as an incidental feature of some other intention, have become archetypal of the modern bureaucratic state (Collins, 1974).

Weizman (2011) engages with state violence that is managed according to an economy of calculations, rationalized as the “least possible means” in its moderation and minimization. The moderation of violence is part of the very logic of violence, as international humanitarian and human rights law, when abused by those in power, have become the means through which an economy of violence is calculated and managed (Weizman, 2011). Moral technologies have

transformed into the means for exercising contemporary violence and for governing the displaced, the “enemy”, and the unwanted (Weizman, 2011). Humans seek to master these technologies and techniques that allow them to calculate the effect of violence and harness the consequences, approximating an optimum proportion between the common good and a “necessary” evil (Weizman, 2011). Collateral effects, then, are structural rather than accidental; it is through the collateral that governments demonstrate and exercise power over populations and territory.

The principle of “lesser evil” is presented as a dilemma between two or more inferior choices, where the options are or appear to be limited, and the final decision is justified as it seeks to avoid further or greater suffering; yet, this decision-making occurs in a closed system where the options, choices, and parameters of calculation remain unchallenged (Weizman, 2011). The “lesser evil” emerges as a pragmatic compromise or a tolerated sin that functions as the very justification for the notion of the “exception” (Weizman, 2011). The powers employing this logic consider the harm they produce, the harm they prevent, and the measures they did not exercise (Weizman, 2011). The principle of “proportionality” best exemplifies the “lesser evil”, as its stated purpose is to constrain the use of force in conflict, demanding the establishment of proper relations between “unavoidable means” and “necessary ends” to effectively calculate and measure the use of force (Weizman, 2011). As no threshold exists for proportionality, instead relying on subjective and circumstantial interpretation, the simple act of calculation justifies the actions taken. There is a gap between threatened and actualized violence by states, and this restraint, along the lines of “necessity” and “proportionality”, allows for those receiving violence to opt for death or consent. But, this gap is measured against the potential for the most harmful application of violence, which, once applied, is more likely to reappear (Weizman, 2011). This further communicates a potential for destruction without the need for further violence, presented as adherence to the laws of war. State violence, therefore, is effective not only in bringing death and destruction to its targets, but in communicating with its survivors (Weizman, 2011).

Finally, the use of engagement with “terrorist” organizations by states as an argument for facilitating, entering, or maintaining armed conflict both within and across state borders implies that traditional notions of “sovereign” territory offers an insufficient spatial framework for analyzing contemporary warfare and state violence. The tendency of states to label all acts of warfare committed by non-state armed groups against government forces as “terrorist” has posed

a significant challenge for international humanitarian law⁷. Often, “terrorist” organizations are viewed as external to the law, in that their conduct is not legally bound by international law and conventions in the same manner as states (i.e. they have not ratified statutes or conventions that hold them legally accountable under international law). Armed conflict and acts of terrorism are governed by different bodies of law and constitute different forms of violence, though the participation of “terrorist” organizations in armed conflict allows for the conduct of both state and non-state armed groups to disregard international humanitarian law due to perceptions that they are not bound by the laws and customs of war (ICRC, 2013). The involvement of non-state armed groups has also been used by some military and security forces as rationale to forego taking possible precautions to minimize risk to civilians, instead repeatedly exposing civilians to the harmful effects of hostilities (Crawford, 2015).

1.4 State Violence, State Crime, and Sovereignty

Weber (1968) puts forth that the state cannot be defined in terms of its ends, as it would be difficult to identify any task that could be deemed exclusive to those associations designated as political; the modern state can be defined sociologically only in terms of the means specific to it, namely, the use of physical force. The state is a group that successfully claims a monopoly on the legitimate use of force within a given territory, where the right to utilize said physical force when ascribed to other institutions or individuals exists only to the extent that the state permits (Weber, 1968). Coercive force perceived as “legitimate” is not only the means of the state, but a means specific to the state. Exercising physical force against external states or internal opposition groups constitutes the most extreme manifestation of conventional power relations, as every state has been founded through physical force in pursuit of extending territorial limits and establishing a certain political and economic order (Ruggiero, 2005).

No state can survive without establishing legitimacy in the eyes of its citizenry and fellow states, and the law is a fundamental cornerstone in creating this legitimacy and illusion of social order (Chambliss, 1989). The distinction created between violence produced by the state and violence delivered by another entity illustrates the notion of “legitimate” and “illegitimate” force (Tilly, 1985). Over time, the state exercised “legitimate” violence on an increasing scale, more effectively and efficiently with wider assent from their subject populations, and with readier

⁷ Please refer to the United Nations Office of Counter Terrorism’s international legal instruments and the Syrian Arab Republic’s domestic terrorism laws for more information.

collaboration from neighbouring authorities than did those from competing groups (Tilly, 1985). The very act of producing and controlling the use of violence favors a monopoly, as governments carry out extrajudicial and illegal acts against their own citizens under various guises while condemning individuals for parallel actions perpetrated on a lesser scale (Lane, 1958). The focus on international criminal law, under the auspices of special tribunals created to address atrocities of conflict, confronts a significant subsection of state violence and crime but is often influenced by powerful nations and ultimately contributes to a criminology of the “other” (Michalowski, 2009). The absence of critical analysis of institutions and agencies of international law aids in obscuring the structural and intentional violence normalized by those who control domestic and international discourse on understandings of “criminal” violence (Michalowski, 2009).

Across criminological literature, there has been a tendency to treat politically-organized coercion and criminal violence as fundamentally different phenomena, disregarding the violence perpetrated by all systems and institutions of governance. Therefore, one may view state agencies, armed factions, and individuals as varieties of coercive entrepreneurs using organized violence in the pursuit of power, as states engage in criminal behaviours just as “criminals” engage in state-building (Green & Ward, 2009). When the domain of criminological analysis is limited to state-defined acts of harm, the law is transformed into an instrument that excuses retributive persecution and various violations committed by those in power, as politics tends towards the creation of privileges and inequalities in the matter of civil and political rights, and in respect to “justice” (Proal, 1895). Sellin (1939) notes that criminology could not claim to be analytic social inquiry unless it shed its meta-theoretical practice of allowing power structures that underlie positive law to determine the subject matter of the field.

Michalowski (2009) highlights five meta-tendencies in criminology that diverts analysis of state crime and violence; formal legalism, methodological individualism, emphasis on ameliorating private crimes, cultural dynamics of mass communication, and the pro-systemic character of the criminological profession. Of these meta-tendencies, formal legalism⁸ is highlighted as the most significant, as states rarely criminalize their own violations or those of important institutions and actors upon which the state depends. It is difficult to find any state in which criminal or legally ambiguous acts of violence by state agents do not occur, or where predatory crimes fundamental to economic regulations, neoliberalism, and capitalist systems are

⁸ Formal legalism; only acts designated as criminal by law may be studied.

not committed. The use and threat of physical violence remains central to state power, though the limits of “legitimate” force in domestic and international law are inherently vague and contradictory to the interests of enforcement agencies and mechanisms (Green & Ward, 2000).

The cultural dynamics of mass communication also play a significant role in criminological literature, as news and entertainment media continually reinforce narratives about crime and justice organized around individualism⁹ and formal legalism (Michalowski, 2009). “Media logic” refers to the process through which mass media outlets present and transmit information in familiar ways, including how material is organized, presentation style, and emphasis on specific narratives (Altheide, 2006). Political strategies often rely on compliant mass media that will carry news reports and other cultural messages promoting a specific agenda, where media logic becomes a way of seeing and interpreting social affairs that involves an implicit trust of communicating events through various forms of media (Altheide, 2006). News media contributes to public agendas, official and political rhetoric, and the public perception of social problems while offering preferable and pro-regime solutions. The use of media logic to fuel public perceptions that society is more threatened by the individual than the state reinforces the “threat” of victimization by actual people, rather than the metaphysical form of the state. Complex and often ambiguous events and concerns are oversimplified and mined for “moral truths” presumed to be held by the audience, while the repeated presentation of similar scenarios conditions the audience about the nature and causes of social disorder (Altheide, 2006). This reinforces for audiences what they think they already know about social relations, and is best demonstrated by the widely-held assumption that violence committed by individuals is both illegitimate and the most harmful to society. There also exists an unquestioned belief that the state does not act external to its citizens’ best interests, and does not kill without reason or justification (Rolston, 2000). Victims of the state are distinct from those of other forms of violence, as these actions have been undertaken by an institution that claims to protect the inhabitants of its sovereign territory (Rolston, 2000).

The rise of security governance¹⁰ has propelled discussions across disciplines regarding mechanisms for determining what conditions and to what degree derogation from human rights

⁹ The proposition that individuals commit crimes, directing the criminological gaze towards individual offenders and victims and away from social and economic conditions that contribute to “criminal” behavior.

¹⁰ Security governance is affecting the degree of order around a security issue (please refer to Avant & Westerwinter, 2016).

is permissible (Zedner, 2005). In addition to military and political crimes, the imperial project of promoting capitalism under globalization has fostered more harm than the criminality of the individual, yet, much of the death, suffering, and loss resulting from neoliberal and economic strategies in pursuit of capital advantage are legal under most domestic and international law (Michalowski, 2009). Limiting criminological analysis to actions prohibited under the workings of hegemonic power structures inherent to law renders any inquiry acquiescent to the dominant social order, as opposed to providing critical analysis of this order.

1.5 Regulating State Violence

The capacity to apply effective censure and sanctions to the state varies according to the nature of the political system and relationship between civil society and the state (Green & Ward, 2000). In situations where the state's claim to legitimacy is accorded some degree of consent, there likely exists an implied understanding of the limits of legitimate conduct, and a departure from which will attract some form of disapproval or sanction. Legitimacy can only be guaranteed when the ideological framework employed to justify a pattern of governance is, to some reasonable extent, in accordance with the lived experience of that governance, furthering Beetham's (1991) ideas on legitimacy and the state. In most contemporary states, the values upon which legitimacy depends will involve the real or nominal commitment to human rights and adherence to the rule of law; only a legal order that upholds human rights and the rule of law could make a rationally justified claim to the voluntary obedience of its citizens, though this nexus is historically contingent (Green & Ward, 2000; Schwendinger & Schwendinger, 1975).

In relation to adherence to the rule of law, Ron (1997) presents organizational field theory, which views nation-states as organizations embedded in international society or world polity. This "field" is bound together by an increasing number of international treaties, conventions, agreements, and norms, while its frontiers are policed and its members audited by non-governmental and international organizations (Meyer et al., 1987). World polity has no clear physical core, rather, "its center is a "virtual" one revolving around the information production activities of bodies such as the United Nations (UN) and its agencies, the International Monetary Fund (IMF), the World Bank, and non-governmental organizations (NGOs)" (Ron, 1997, 278). World polity agents constitute, construct, and legitimate nation-states through issue-specific discourse, and, as a result, states are pressured to assume greater control over social activity within their boundaries to ensure social action of all types conforms to certain procedures (Meyer

et al., 1987). While world polity is viewed as a single unified entity, it is merely a loose collection of various subfields with independent resources, norms and legitimating myths. This involves oversight of state conduct, encompassing the dense body of conventions, laws, and norms defining “legitimate” state violence and the structures that states should enact to supervise their coercive agents (Ron, 1997).

Traditionally, the international community views individually-oriented punishments, bureaucratic due process, and violent acts against combatants during times of war as “legitimate” state conduct, rather than operating within the limits of accountability. This accountability requires the use of force to be transparent and open to official auditors, such as the International Committee of the Red Cross, the United Nations, or human rights-oriented non-governmental organizations. Tangible improvements to human rights law or behaviors often result from direct bilateral pressure between states, yet the overall condition of human rights remains stagnant despite condemnation, censure, or sanctions (Martin & Sikknik, 1993). The international community has been increasingly drawn towards shared symbolic world views in which the baseline for evaluating social worth is grounded in Western-influenced norms articulated by official auditors (Ron, 1997). Calls for greater government transparency and an increased interest in state violence fosters an environment where states must acknowledge that actions undertaken by their military and security forces affect the accountability process; to benefit from membership in privileged and legitimate global circles, states must concern themselves with human rights and rationalize the actions of their own security forces, whether this concern is real or perceived (Sikknik, 1993).

Auditors often regard “legitimate” violence that conforms to humanitarian and human rights law as an “unproblematic social good”, owing to its discernment as professionalized, rationalized, and bureaucratized use of force (Ron, 1997). Further, the modern state has shifted from punishment visible on the individual towards a broader “discipline” involving constant surveillance and careful spatial ordering of certain populations. The state has transposed punishment from public and severe forms on the body to that of “micro-penalties”, applying a covert method of exercising social control that infers a lesser degree of dissent (Ron, 1997). Methods of state violence vary across regimes and conflicts but are most often correlated with marginalized populations in a separate spatial boundary. Regardless of context, these populations are socially and politically distanced from dominant groups and therefore do not benefit from the

safeguards of membership or domestic channels of representation. Overall, the process of value creation at the international level is determined by the interests of powerful actors, whose position influences the prospect of enacting meaningful human rights audits when and where it proves beneficial to state agents.

1.6 State Violence, Sovereignty, and Exceptionalism

Theories of state violence view exceptionalism as law-breaking, or as an explanatory tool for transformations in law and governance. In international relations literature, exceptionalism does not simply refer to the creation of moral panic through which state agents can further their own interests or agendas, but is rather a general concept in the theory of the state that accounts for the limits of order (Schmitt, 1985). Criminological literature has interpreted the exception as executive power operating at the expense of judicial power, though Aradau & Van Munster (2009) argue that the exception defines existence and possibility of the functioning of law. Sites of exception and arbitrary decisions have been analyzed as the underside of the modern state and violent condition for the existence of the sovereign, even in liberal democratic regimes, as it is the sovereign who marks the point of distinction between violence and the right to proclaim a state of exception that suspends the validity of law (Aradau & Van Munster, 2009; Agamben, 1995). Law and social order are conditional upon a founding crime or act of war, which constitutes the paradox of modern liberal political communities that define themselves as governed by the rule of law; the law innately requires a moment of violence.

Huysman (2006) notes how exceptionalism reshapes political communities in three respects; redistributing trust and fear, reconsidering inclusion and exclusion, and instituting a predisposition towards violence. The construction of “enemies” and the governance of danger through exceptional policies do not simply concern the identification of threat or risk, but the securitization of danger as a politically constitutive act that asserts and reproduces the unity of a given community (Aradau & Van Munster, 2009). The designation of the “enemy” is undertaken both domestically and internationally, as decisions on the exception suspend legal order and create spaces of in-distinction that reduce certain subjects to that of “bare life” (Agamben, 1998). In the context of post-Cold War and neoliberal definitions of security, the emergence and increasing circulation of catastrophic imaginaries and precautionary risk have fostered the institutionalization of the exception in liberal states (Aradau & Van Munster, 2009). The imagination of threat and risk and what is perceived as necessary precautions to mitigate their

unpredictable characteristics has led to a distinct exceptionalism and state violence based on a politics of zero risk and worst case scenarios.

The emergence of a new language of empire was prompted by the militaristic response to the events of 9/11, particularly in national security strategies based in policies of unilateral global dominance and preventive war. Not only are designated “risk” populations increasingly targeted as “enemies” of the state, the ingrained fear of the “enemy” has cultivated the infiltration of violence into wider areas of social life. Spaces inhabited by the “other” are transformed into areas that need to be geographically contained through militarized policing and surveillance, where violence committed against these individuals or populations on behalf of the state is rationalized as a just means to achieve a justifiable end (Fuste, 2010). The support of this spatial transformation by the state has created conditions ripe for violence of this nature to occur, claiming an intrinsic logic in the increasingly permanent suspension of the rule of law and enactment of the exception. In the post-9/11 era, the construction and manipulation of fear among the public is understood as the continuation of vested interests of the state through less than legal means, sparking renewed inquiries into the role of sovereignty, illiberal practices of liberal states, and exceptionalism (Rothe & Muzzatti, 2004; Neal, 2006).

1.7 Conclusion

The Arab Spring has, once again, exemplified how rapidly violence by military and security forces can escalate against citizens in situations of opposition to government regimes. The mobilization of civilians broke down previously established governing practices and fractured state apparatus across the Middle East, inviting those with vested geopolitical interests in the region to expand their influence amidst the dissolution of governance structures (Stacher, 2015; Johnston, 2012). In Syria, the immediate crackdown on protestors sanctioned by the al-Assad regime in an attempt to quell dissent is merely one example in a long history of state repression and violence against citizens. There exists a wealth of literature on various facets of the Syrian conflict in diverse fields of study, including criminology, international relations, political science, anthropology, and psychology. While this literature covers a broad range of topics from the refugee crisis (Kivilcim, 2016; Coen, 2015; Wallace, 2018; Davis, 2015; Charles & Denman, 2013; and Abu Sa’Da & Serafini, 2013, for example) to state sanctions (Thomas, 2013) or the Kurdish *rojawa* (Federici, 2015), there appear to be fewer studies on state violence and

sovereignty in relation to the mass atrocities that have occurred throughout the country¹¹. Edwards & Cacciatori (2018) note that international disagreements on Syria are embedded within deeper struggles related to the architecture of the international system, and provide a historical case study of the civil war followed by an analysis of key periods of chemical weapons justice politics. Further, both Alkaff & Yusoff (2016) and Uludag (2015) present a general overview of the conflict, outlining armed opposition groups involved and the varying alliances between non-state actors. Alshdaifat & Silverburg (2016) and Lambert (2017) discuss the implications of international law in the context of refugees, while Ruys (2014) and Bartels (2015) note international humanitarian law application to non-state actors and the challenge of prosecuting the diverse assortment of parties to the conflict.

Given that literature on state violence primarily focuses on legal or political perspectives in relation to international law, this project seeks to consider alternative perspectives and create space for the analysis of irregular and competing state-forms in the production of sovereignty, and subsequently, state violence. The Syrian conflict was chosen as a case study for this research project as there exists a multitude of actors competing for claims to “legitimate” dominion over territory and populations. While state violence is often viewed through examples where a singular accepted and legitimate sovereign is the perpetrator, non-international armed conflict inherently involves opposing state-claiming actors employing violent methods of warfare to achieve control. Given the widespread, indiscriminate, and systematic use of violence since 2011, the Syrian conflict offers an insight into situations where multiple incarnations of the state exist simultaneously, and are all wielding violence in exchange for legitimacy and sovereignty.

This thesis will endeavour to contribute to literature on state violence by exploring attempts by state-claiming actors to obtain or preserve sovereignty through the commission of war crimes and crimes against humanity during conflict. Therefore, this thesis will answer the following research question; “What can reports produced by non-governmental organizations and international organizations on the purported war crimes and crimes against humanity committed in the Syrian Arab Republic tell us about the techniques of governance deployed by state-claiming actors during conflict?”. An analysis of these reports will provide further insight into the relationship between violent techniques of governance and the production of sovereignty.

¹¹ As of 2019.

CHAPTER 2: THEORETICAL FRAMEWORK

2.1 Introduction

This thesis explores the Syrian conflict as a case study in an attempt to determine how the production of sovereignty over geographical space is actualized in the context of war, given the myriad of irregular and competing state-forms involved in hostilities¹². The first section of this chapter will outline Carl Schmitt's work on the political, the partisan, and fear in relation to sovereignty. The second section introduces necropolitics, slow violence, and debilitation, as these concepts facilitate the interpretation of war crimes and crimes against humanity as techniques of governance employed by state-claiming actors to maintain control over populations and territory through life and death. The application of this conceptual framework aids in making sense of how the violent events of the Syrian conflict are a military and political strategy engaged in the pursuit of sovereignty.

2.2 Sovereignty as Conceptualized by Carl Schmitt

Central to the justification of the modern sovereign state has been the ability of the state to defend the property and basic rights of individuals under its rule. Fear is crucial to the maintenance or replacement of political institutions, as it allows for those who mobilize its presence to call into question practices that have traditionally accompanied the modern state (Debrix & Barder, 2009). Hobbes' solution to the "danger of civil disorder" was to create a power that could centralize all individual fears and methods devised by individuals to react to these fears; the power of the undisputed sovereign would become the guarantee that the constant danger of violent death would be neutralized (Debrix & Barder, 2009). In the Hobbesian model of power, fear is presented as an inescapable condition of physical violence imposing a singular obligation onto the sovereign; to protect members in its social compact (Robin, 2004). Hobbes (1998) interprets society on the basis of a capacity to mitigate the worst form of fear inevitably occurring between individuals, and of a likelihood of great physical harm resulting from human existence. The state of nature becomes the necessary platform for the legitimization of an overarching power known as the Leviathan, that appropriates common fears among individuals and concentrates them to ensure order and security.

¹² Please see Chapter 4 for additional information on the distinct spatial and political interests of these actors in acquiring and preserving sovereignty over territory and populations in Syria.

Further, Hobbes (1998) justifies this concentration of power by claiming the defense of the political realm against hostile outsiders requires one entity who possesses the right to arm, muster, and unite on each occasion of danger as many citizens as the common defense shall require, and to make peace with the enemy when advantageous. Fear, and the fear of violent death, remains the currency of political legitimacy and the constituted role of the sovereign, even after a social contract has been established (Debrix & Barder, 2009). In the Hobbesian state, fear can return at any time given the assumption that disorder remains virtually present, relying on an epistemological fear that is relentlessly looming. The nature of war consists “not in actual fighting, but in the known disposition hereto”, where fear must persist as the propelling force of any political institution while also remaining firmly in the virtuality of future threats (Hobbes, 1985, 186).

For Schmitt, the state may lose its apparent legitimacy and the ultimate ability to make executive decisions to safeguard its subjects if a consistent sense of fear of the state of nature lingers in the minds and bodies of individuals; instead, subjects should fear the state itself. Schmitt (2007) puts forth two main points; that sovereignty is the capacity to determine when an exceptional situation arises, and the basis of the political lies within the friend-enemy distinction. Only when the sovereign state wields a concentrated ability to marshal authority, resources, and legitimacy, does it have the capacity to make such decisions and distinctions, and only when the population fears the consequences of a return to the “state of war” can the state be truly political (Debrix & Barder, 2009). This condition requires a constant reproduction of fear of physical harm and death within the state; without this, the legitimacy of the state disappears and partisanship replaces the states’ vitality (Schmitt, 2007). Given this, Schmitt’s resolution is to neutralize any entity that could compete with the state’s monopoly on violence, or production of fear and death. Hobbes (1998) and Schmitt (2007) maintain that sovereign power is derived from the continued potential for the state to take away life. This ability is presented as a functional mechanism that established clear distinctions between the sovereign and its citizenry; legitimacy of the modern sovereign is defined by an ever-present possibility of violence that makes fear the currency of the modern political order (Debrix & Barder, 2009).

For Schmitt (2007), conflict is what characterizes the human condition, and one of the primary tasks of politics is for conflict to endure while simultaneously being endurable. The limits on scope and intensity of conflict are in place to avoid the total annihilation of humanity,

though the liberal tradition perceives conflict as characteristic of dysfunction and the breakdown of order (Bishai & Behnke, 2007). The state as a political entity possesses a consequential power manifested in the possibility of waging war and consequently disposing of human lives. Schmitt (2007) refers to *jus belli* containing the same duality of the right to demand from its members the readiness to die and to unhesitatingly kill the enemy. Based on the significance of this duality, Schmitt (2007) maintains there is no legitimate justification outside the political for waging war; if such physical destruction of human life is not motivated by an existential threat, then it cannot be warranted. The rationalization for war does not exist in ideals of justice but in being fought against a real enemy, as notions that postulate a “just” war often serve an underlying political purpose.

“Total war” is defined by Schmitt (2007) as one of good against evil, of complete eradication of the enemy, and justified in terms of defence against an existential threat. Yet, a war against evil cannot recognize the dignity of the “other” against which it is waged (Brown, 2007). A political entity cannot be universal as the friend-enemy distinction would cease to exist; abstractions of humanity cannot wage war because the concept does not possess an enemy, and the enemy does not cease to be human within political distinction. Thus, humanity is not a political concept, as no political entity, society, or status corresponds to it (Schmitt, 2007). The foremost concern for Schmitt regarding the political is limiting the violence inherent in a system of difference that has no recourse to higher political, judicial or moral authority (Bishai & Behnke, 2007). Politics does not avoid the forcible exclusions that accompany choice, but rather recognizes the necessity as well as the necessarily violent nature of decision (Rasch, 2000). The political is not a means by which a universally acknowledged good is materialized, but a mechanism that negotiates and limits conflict in the absence of any universally acknowledged good (Rasch, 2000). Politics exists simply because a just society does not.

Warfare and military action are not ideal circumstances of the political, as war is neither the purpose or content of politics, but is the foremost presupposition that determines human action and thinking, therefore creating a specifically political behaviour (Schmitt, 2007). The political does not reside in the waging of war, but in the capacity to evaluate a concrete situation and distinguish correctly between friend and enemy. A political entity is uniquely responsible for undertaking this decision, and when it no longer possesses the capacity to make the friend-enemy distinction, it ceases to exist in the political realm. If other counterforces are indeed strong

enough to decide upon the exception or distinction from their position, then these have effectively become the substance of the political entity (Schmitt, 2007). The high point of politics are the moments in which the enemy is recognized concretely as such, and the inability or unwillingness to make this distinction is a signal of the political end (Schmitt, 2007). The concepts of state, sovereignty, neutrality, etc., are hollow unless it is understood who is to be affected, combated, refuted, or negated by these terms.

Under ideal circumstances, the friend-enemy distinction occurs exclusively at the international level, and all politics are subsequently conducted in the international realm (Rasch, 2000). In other contexts, the word “political” is often attributed to domestic party politics, though Schmitt (2007) cautions against politics at this level as the “intensification of internal antagonisms” among political parties serve to weaken the state as a political unit. Domestic friend-enemy groupings are decisive for intra-state conflict, as the possibility of conflict resides within any enemy distinction. The designation of “friend” operates as a protective mechanism from individualism within the state, from pluralism within the state, and from domestic divisions that form friend-enemy groupings within a political entity (Slomp, 2009). If the political unit that names the enemy is the state, then within normal circumstances, inter-state war is possible. If the political unit naming the enemy is a group within the state that does not recognize the state as protecting its way of life, intra-state war is possible (Slomp, 2009). Individualism deciding on the exception fosters inherent threats to the sovereign in domestic space, which Schmitt (2007) critiqued in Hobbes’ theory as civil war cannot be avoided when friend-enemy distinctions take place within a state’s borders.

The political is the domain of authority, and requires decisions which are singular, absolute, and final. The current form of the political is the state in its modern manifestation, and subsequently, only states can conduct relations and make decisions that are binding on their respective members. The state must be autonomous for it to be political in making friend-enemy distinctions, wielding the possibility of waging war, and deciding the exception to the rule of law. It must also be sovereign, which entails making decisions that concern the exception (Schmitt, 2007). If a state can no longer maintain itself in the realm of politics, the political will not vanish from existence or relevance but instead will be replaced by another entity willing and capable of enacting the friend-enemy distinction and deciding upon the exception.

The concept of the state presupposes the concept of the political (Schmitt, 2007). In its historical appearance, the state is a specific entity of individuals with ultimate authority relative to other types of entities (Schmitt, 2007). The sovereign state serves a dual purpose of guaranteeing unity while simultaneously guaranteeing difference (Rasch, 2000). It maintains the right to declare war, the right to kill, and the right to demand of its citizens to die, whether voluntarily or not, through determinations of “us” and “them”. While Schmitt (2007) does not provide a concrete definition of the “political”, the distinction between friend and enemy remains constant within his work on the subject. This distinction denotes the “utmost degree of intensity of a union or separation, of an association or dissociation” which can exist both theoretically and practically without drawing upon other distinctions; the objective nature of the political becomes evident in its ability to determine the friend-enemy distinction independent of other antitheses (Schmitt, 2007; Slomp, 2009). Conceptions of friend and enemy are to be understood in the concrete and existential sense, rather than on the basis of normative ideals of abstractions; the “enemy” does not need to be inherently good or evil, as the mere distinction of the “other” is satisfactory (Schmitt, 2007). Further, the friend-enemy distinction does not imply permanency or negate neutrality, as those deemed enemies can become friends or inversely, but the significance of the political is located within this distinction.

It is not always the state that bears the title of the “political”; the state is normal, but not the sole form of the political (Slomp, 2009). The Westphalian absolute state appealed to Schmitt because it embodied the friend-enemy distinction and separated morality and politics with no significant challenges to its authority; all enmity remained outside its borders, all politics was inter-state, and all hostility was regulated and limited by *jus publicum europaeum* (Slomp, 2009). The liberal constitutional state brought about the greatest challenge to the state and its sovereignty; the partisan. Schmitt (2004) traces the history of the partisan back to “guerilla war” waged by the Spanish people against Napoleon from 1808-1813, defining the partisan as an “irregular” combatant that presupposes “regular” armies and emerged alongside a distinct form of war that involved entire populations as opposed to select individuals.

There are four criteria that comprise the traditional partisan; an irregular combatant, greater mobility and agility compared to regular armies, a “total bond” that links members together and is different from that of the modern state, and a telluric attachment to a particular territory or space (Slomp, 2009). The revolutionary global partisan shares the first three qualities, but where

the telluric partisan seeks to replace an existing state with a new political entity, the global partisan seeks to replace the state with a universal notion such as “humanity” (Slomp, 2009). Both partisan types are affected by globalization, technological advances, communication, and weapons technology in the formation, organization, and development of these groups (Schmitt, 2004).

Syria’s enduring intra-state conflict illustrates Schmitt’s theoretical concepts presented above, in that a multiplicity of state-claiming actors have emerged and effectively challenged the sovereignty of the Syrian state and its status as the singular political entity. The conflict has created a power vacuum in which government forces, armed opposition groups and external actors are competing for sovereignty, often through techniques of governance that will comprise the remainder of this theoretical chapter. These state-claiming actors can be considered sovereign entities over occupied territory as they suspend the rule of law, determine the exception, and most significantly, enact the friend-enemy distinction as proposed by Schmitt. These irregular state-forms are therefore political entities, governing through life and death as determined by their designation of friend and enemy, amongst other additional dichotomies. Schmitt’s understanding of sovereignty and the concept of the political allows this thesis to engage with state-claiming actors in Syria as sovereign, political entities who gain legitimacy through the commission of war crimes and crimes against humanity.

2.3 Techniques of Governance by State-Claiming Actors

The commission of war crimes and crimes against humanity by state-claiming actors comprise techniques of governance specific to warfare that can be understood through the intersection of necropolitics, slow violence, and debilitation. While each concept can be seen operating independently of the others, their simultaneous enactment allows this thesis to explore how the production of sovereignty is supported and reinforced by control over life and death. This section will outline each concept to provide contextual information for the following analysis of techniques of governance employed by state-claiming actors.

2.3.1 Necropolitics

Within his essay on necropolitics, Mbembe (2003) assumes that the ultimate expression of sovereignty resides in the power and capacity to dictate who may live and who must die. To kill or allow to live constitutes the limits of sovereignty, and to exercise sovereignty is to exercise control over mortality and to define life as the deployment and manifestation of power (Mbembe,

2003). Biopower, as established by Foucault (2003), is the domain of life over which power has taken control to “make live and let die” populations, though Mbembe (2003, 12) argues that this concept is not sufficient to account for the contemporary ways in which “the political, under the guise of war, of resistance, or the fight against terror, makes the murder of the enemy its primary and absolute objective”. Presented as the corrective complement to biopolitics, necropolitics is substantiated through the production and regulation of death via the sovereign right to kill (Selin Isekel, 2017; Wright, 2011). Necropolitics accounts for the various methods in which the dichotomy between friend and enemy of the state-form is constructed, and the creation of “death worlds” through new and unique forms of social existence where populations are subjected to conditions of life conferring upon them the status of “living dead” (Mbembe, 2003, 40).

Fundamentally, necropolitics refers to contemporary forms of subjugation of life to the power of death (Mbembe, 2003). As such, Mbembe’s (2003) concern lies not within normative readings of the politics of sovereignty or figures whose central project is the struggle for autonomy, but rather in the generalized instrumentalization of human existence and the material destruction of human bodies and populations. Sovereignty is predominately expressed as the right to kill and monopoly over the legitimate use of force, and Mbembe (2003) notes the trajectories through which the state of exception and relation of enmity have become its normative basis. In these instances, and following Schmitt’s (2007) notions of sovereignty, power continuously refers and appeals to exception, emergency, and a fictionalized enemy. The perception of the existence of the “other” as a threat to life, whether as a mortal threat or absolute danger whose biophysical elimination would strengthen the potential to life and security, is one of many imaginaries of sovereignty characteristic of early and late modernity (Mbembe, 2003).

Foucault (1979) argues that modern liberal governance differs from prior absolutist versions in that it regulates populations through techniques of control for “making live”, as opposed to the threat of death. Biopolitics consists of the “numerous and diverse techniques for achieving the subjugation of bodies and control of populations”, as the justification for modern governments depends upon the reproduction of living subjects (Foucault, 1979). Biopower is deployed at two levels; at the individual through disciplinary power, and the collective through fostering and regulating the life of populations in the service of economic productivity (Kwate & Threadcraft, 2017). Mbembe challenges Foucault’s reliance on Western European examples to develop his theory binding the production of states to the reproduction of their subjects, instead drawing on

examples from postcolonial contexts to demonstrate an understanding of politics as a form of war in which the sovereign emerges through the determination of who dies and who does not (Chen, 2012; Wright, 2011). Mbembe (2003) illustrates how the meaning of death in necropolitics materializes through interpretations of embodiment; of corpses, of who kills, and who is targeted for death, similar to the meaning of life in biopolitics. These concepts are innately enmeshed as states protect certain populations by justifying the death of others through enacting the friend-enemy distinction.

In dividing populations into those who must live and those who must die as a mechanism of biopower, Allinson (2015) notes that “racism”¹³ is not a matter of individual prejudice or the ascription of certain characteristics to a subjugated population, but a paradoxical form of biopolitics; necropolitical in the sense that it establishes a distinction between populations worthy of life and subject to death, and that the command of death operates through the surveillance, auditing, and management of identified populations. Methods of “precision warfare” are fundamentally necropolitical technologies, instruments of destroying those bodies they survey. These instruments then become a technology of racial distinction in defining who is an object of the battlespace and who is acceptable to “make die”. Kwate & Threadcraft (2017) present “stop and frisk” policies as an extension of necropower, as this practice works with other Black spatial practices to produce bodies that are harassed, stressed and resource deprived, if not altogether dead. While the destruction of Black bodies is an example of the limit form of necropolitics, Kwate & Threadcraft (2017) hold that it also operates in the form of frisking, detaining, and humiliation, creating a “death-world” for this population and forcing us to think about the broader environment of Black space in relation to the practice of “stop and frisk”. While death may be the limit form of necropower, it is in no way the solitary expression of necropolitics. In Syria, “death worlds” are constructed and reproduced through various means that require the surveillance and management of those populations identified as the “enemy” of state-claiming actors. Checkpoints, sieges, breakdowns in the structures of civil and social life, and the occupation of territory functions to divide populations into conceptions of friend and enemy.

¹³ As understood by Foucault’s (2003) conception of the distribution of human species into groups and subgroups to establish a biological caesura between certain populations and others. This mechanism seeks to regulate the distribution of death that fosters conditions for violent apparatuses of the state to operate.

Colonial to Contemporary Wars 1. Colonial occupation was previously a matter of seizing, delimiting, and asserting control over a physical geographical area, and creating a new set of social and spatial relations (Mbembe, 2003). The creation of new spatial relations was fundamental to the production of boundaries, hierarchies, zones, and enclaves, in addition to the manufacturing of a large reservoir of cultural imaginaries (Mbembe, 2003). These cultural imaginaries gave meaning to the enactment of different rights to different categories of people for different purposes within the same space, otherwise known as the exercise of sovereignty (Mbembe, 2003). Space became a central facet of sovereignty and the violence inherently associated with it; therefore, sovereignty comprises the capacity to define the friend-enemy distinction in who matters and who does not, who is disposable and who is not through relegating the colonized to a zone between “subject-hood” and “object-hood” (Mbembe, 2003).

Late-modern colonial occupation differs in its amalgamation of the disciplinary, the biopolitical, and the necropolitical. The combination of the three allocates to the colonial power absolute domination over the inhabitants of an occupied territory (Mbembe, 2003). Necropower is often exercised through the dynamics of territorial fragmentation, and applied through the sealing-off and expansion of settlements. The objective of these practices is to render any movement impossible, and to implement separation along the model of the apartheid state (Mbembe, 2003). Under the conditions of vertical sovereignty¹⁴ and splintering colonial occupation¹⁵, a proliferation of sites of violence occurs as battlefields are no longer restricted to land, but also in airspace and underground. By departing from a planar division of territory and embracing the principle of creating three-dimensional boundaries across sovereign domains, this dispersal and segmentation clearly redefines the relationship between sovereignty and space (Weizman, 2002). Accompanied by an orchestrated and systematic sabotage of societal and urban infrastructure, the appropriation of land, water, and airspace resources effectively constitutes infrastructural warfare undertaken against those deemed “enemies” of the state-form, effectively militarizing daily life for those in occupied territories.

¹⁴ “Politics of verticality” refers to colonial occupation operating through schemes of over- and under-passes (Weizman, 2002).

¹⁵ Affected by terrain and topographical variations, “splintering occupation” is characterized by a network of roads, bridges, and tunnels that remain disconnected to emphasize the overlapping of two separate geographies inhabiting the same landscape (Weizman, 2002).

Contemporary wars do not involve the conquest, acquisition, and seizing of territory among their objectives, and are instead primarily “hit-and-run” affairs (Mbembe, 2003, 30). Combined with military and technological revolutions, wars of the globalization era have increased the capacity for destruction through unprecedented methods. They force the enemy into submission, regardless of immediate consequences, side effects, or “collateral damage” of military action (Mbembe, 2003). This period of global mobility has exposed an important feature of modern conflict, where military operations and the right to kill are no longer the sole monopoly of the state and “regular” armies are no longer the only entity carrying out these functions (Mbembe, 2003). Claims to ultimate or overarching authority in a particular political space are not easily made, and instead a patchwork of overlapping and incomplete “rights to rule” emerge. New wars have fostered conditions for “war machines” to develop alongside armies of the state, made up of segments of armed men that split up or merge with one another depending on task and circumstance, reminiscent of the partisan in its content (Mbembe, 2003; Schmitt, 2007). War machines are characterized by their capacity for metamorphosis, as they function by borrowing from regular armies while incorporating new elements well adapted to the principles of segmentation and de-territorialization (Mbembe, 2003). They are simultaneously political and commercial entities, driven by the collapse of formal political institutions under the strain of violence where the formation of “militia economies” often fill these power vacuums.

War machines become highly organized mechanisms of predation, taxing territories and the populations they occupy, and drawing on a range of transnational networks or diasporas to provide material and financial support (Mbembe, 2003). This form of governance differs from that of the colonial; the techniques of policing and discipline and the choice between obedience and resistance are replaced by technologies of destruction that are more tactile in a context where the choice is between life and death (Mbembe, 2003). If power remains reliant on control over bodies or concentrating these bodies in a designated space, new technologies are less concerned with inscribing onto bodies disciplinary apparatuses than with inscribing bodies in the order of the “maximal economy now represented by the ‘massacre’” (Mbembe, 2003, 34). The methods of killing do not vary much from colonial to contemporary wars, but in cases where physical amputation more frequently replaces immediate death, severing or damaging limbs expands options for the deployment of techniques that situate bodies as the primary target. Traces of maiming persist in the form of bodies that are still alive, but whose bodily integrity has been

replaced by wounds that are increasingly difficult to heal from, especially in contexts of persistent conflict and destroyed infrastructure (Mbembe, 2003). These techniques and technologies of destruction serve to maintain before the eyes of the victim and those around them the “morbid spectacle of severing” (Mbembe, 2003, 35).

2.3.2 *Slow Violence*

Nixon (2011, 2) presents slow violence as that which occurs “gradually and out of sight, a violence of delayed destruction that is dispersed across space and time, an attritional violence that is typically not viewed as violence at all”. Violence is often conceptualized as an event or action that is “immediate in time, explosive and spectacular in space, and as erupting into instant sensational visibility” (Nixon, 2011, 2). Slow violence seeks to engage a violence that is neither “spectacular or instantaneous, but instead incremental and accretive”, in order to engage the representational, narrative, and strategic challenges posed by the relative invisibility of slow violence (Nixon, 2011, 2). Nixon (2011, 3) puts forth that rethinking violence requires complicating conventional assumptions about violence as a “highly visible act” that is primarily event-focused, time-bound, and body-bound. Slow violence can be both attritional as well as exponential, operating as a “threat-multiplier” in conditions where sustaining life becomes increasingly but gradually degraded. Nixon (2011) also notes environmentalism of the poor as the secondary focus of his work on slow violence, for it is those individuals lacking resources who are often the principal casualties of slow violence; their concealed poverty is compounded by the obscure nature of slow violence that engulfs their living conditions.

The concept of slow violence builds upon Johan Galtung’s (1969) extension of violence beyond direct physical contact between individuals, to encompass the structural violence¹⁶ of suffering produced through the destructive capacity of uneven social conditions. Slow violence incorporates forms of structural violence while additionally responding to both “radical changes in geological perception and changing technological experiences of time” (Nixon, 2011, 12). Violence must be understood and considered as a contest over not only “space, or bodies, or labour, or resources, but also over time” (Nixon, 2011, 7). It is violence that deviates from clear boundaries in time and space that allow for the simplification and underestimation of human and

¹⁶ “Indirect” or “structural” violence is concerned with widening the scope of what inherently constitutes violence, seeking to foreground structures that give rise to acts of personal violence and constitute forms of violence in and of themselves (Galtung, 1969).

environmental costs of attritional catastrophes. To confront slow violence requires us to give shape to “formless threats whose fatal repercussions are dispersed across space and time” (Nixon, 2011, 10). Sustaining media focus on attritional events creates various challenges, as the effects of slow violence are often “spectacle deficient” and environmental impacts may extend beyond the “horizon of imaginable time” (Nixon, 2011, 47).

While literature frequently employs quotidian examples of slow violence through the medium of climate change, toxic drift, deforestation, oil and chemical spills, etc. (for example, see Chen, 2012; Davis, 2018; Kishen Gamu & Davergne, 2018; and Park, 2018), ecologies of the aftermath and the notion of “precision warfare” provide further illustration of slow violence in relation to conflict situations. The rhetorical conventions for bracketing violence by providing start and end dates ignores the ongoing and belated casualties of slow violence, coupled with military euphemisms like “surgical” strikes, “smart” wars, or “depleted” uranium which help to legitimize contemporary conflicts while concealing their long-term impact (Nixon, 2011, Weizman, 2011). It is this narrative of “precision” that presents war casualties as immediate and painless, despite the continuing consequences of war long after hostilities have ceased.

Nixon (2011, 207) and Weizman (2011) notes the ease with which we grant new weapons technologies an “enhanced ethical potency”, where causal leaps from technological superiority to effective humanitarian warfare discount war’s delayed casualties. Carson’s (1962) metaphor of the “unselective bludgeon” is instead a more fitting description, used to illustrate the allegedly target-specific insecticides and highlighting how often the use of the term “precision” relies on false promises of “merciful selectivity”. Carson (1962) presents pesticides as both indiscriminate and discriminatory, as their ability to kill exceeds the targeted task of eliminating specific insects in burdening those within range with the unadvertised environmental risks. Regardless of marketing or intent, the biocidal assault on human life is unevenly universal, as we all remain citizens of the same earth (Nixon, 2011). “Smart” wars are marketed as humanitarian in nature because they falsely promise greater accuracy and brevity of conflict; casualties from war-related environmental toxicity require more elaborate proof than stacked bodies, as civilians and combatants are plagued by environmental toxins or return to poisoned landscapes despite being told the war is safely behind them (Nixon, 2011). The use of landmines versus cluster munitions in warfare is presented as another example of continued environmental harm, where cluster munitions have replaced landmines and become associated with advanced weapons technology

promising alleged humane intelligence and civilized precision, yet in neither space nor time can either of these weapons differentiate between civilian and combatant, war and peace (Nixon, 2011).

Nixon (2011, 19) proposes a more radical notion of displacement in relation to those who must live inside the ecological aftermath of environmental degradation, referring to “the loss of the land and resources beneath them, a loss that leaves communities stranded in a place stripped of the very characteristics that made it inhabitable”, in addition to the movement of people from their places of belonging. Further, “unimagined communities” are presented as those internal to the space of the nation-state, whose unimagined condition becomes fundamental to maintaining a specific and selective discourse of national development. This discourse relies on behaviours that keep hidden communities that inconvenience or disturb the trajectory of development, where the direct violence of physical eviction or forced displacement parallels an indirect bureaucratic violence that sustains the conditions necessary for invisibility (Nixon, 2011). The result is termed “spatial amnesia”, referring to communities who are physically and imaginatively removed from space, time, and the narratives of national development. Nixon (2011) highlights the conversion from inhabitant to un-inhabitant through examples of mega-dam projects across the “developing world”, as there exists a gap between those affected by displacement and those responsible for physical eviction and environmental consequences.

Armed conflict leaves in its wake radioactive and hostile landscapes that continue to wage widespread and indiscriminate warfare for generations. As a result, chemical residues infiltrate water sources and poison food chains, cause genetic deterioration, and leave unexploded munitions littered across backyards and main roads for years after conflict has ended. Entire communities inhabit a landscape in which everyday life is militarized by slow violence, and where the “earth must be treated with permanent suspicion, as armed and dangerous” (Nixon, 2011, 227). This indirect violence, as opposed to the very direct violence of necropolitics, remains a method of governing through life and death and acquiring legitimacy as a sovereign entity that extends across space, time, and physical bodies. The continued glorification of “precision” and lack of post-conflict consideration amplifies the impact of slow violence and the potential for transforming our lived environment into an uninhabitable toxic wasteland. “No homeland can be secure if we convert the earth into a biological weapon that threatens biology itself. We’re all down-winders now, some sooner than others” (Nixon, 2011, 232).

2.3.3 *Debilitation*

Debilitation refers to the “practice of rendering populations available for statistically likely injury”, as this practice is not a mere by-product or symptom of biopolitics, but the intended result (Puar, 2017, xviii). This is distinct from disablement as it foregrounds the slow wearing down of populations, rather than the event of becoming disabled. Disability hinges on narratives of before and after for individuals who will eventually be identified as “disabled”, while debilitation “comprehends bodies that are sustained in a perpetual state of debilitation precisely through foreclosing the social, cultural, and political translation to disability” (Puar, 2017, xiv). The notion that we will all become disabled if we live long enough is challenged by considerations of context and circumstance, as some bodies and populations are embedded in a distribution of risk already factored into the calculation of debilitation, known as “death’s position” (Puar, 2017). As with slow violence, the indirect nature of debilitation contrasts with techniques of necropower that yield immediate consequences. Rather, debilitation functions to produce and reproduce physical bodies targeted by a violence that persists across temporal and spatial barriers, wearing down populations to deny any capacity for rehabilitation or resistance.

Puar (2017) mobilizes the term “debility” as a needed disruption, an in-between space, of the category of disability, and as a triangulation of the ability/disability binary. While some bodies may not be designated as disabled, they remain debilitated in part through the foreclosure of access to legitimacy and resources that accompany identification as “disabled”. Debility addresses injury and maiming as endemic, rather than exceptional or epidemic, as injury resulting from calculated military strategy enacted by the sovereign that seeks to eliminate the capacity for resistance of the “enemy”. There exists a pendulum between living and dying, biopolitics and necropolitics, though debilitation and disability form biopolitical ends unto themselves, differing in the lack of movement towards life or death as the objective. Puar (2017) terms this the “right to maim”, expressive of the sovereign power that is tethered to but varies from the “right to kill”, as the primary vector through which biopolitical control is implemented in colonized spaces and not easily delineated as “necro”. Maiming becomes a source of value extraction from populations that would, under different circumstances, be disposable, better serving the sovereign as debilitated rather than dead.

Endemic forms of debility are also fostered through resource rationing and restrictions on access to medical care, as this denies the means necessary for rehabilitation; not killing physical

bodies while systematically rendering them debilitated is a biopolitical articulation of the “right to maim” (Puar, 2017). Marketed as a “humanitarian preservation of life”, “shooting to cripple”¹⁷ or maim appears as a humanitarian approach to warfare situated in the “let live” praxis, but functions as a more nefarious objective to avoid inclusion of injuries in the dry statistics of war. Mbembe (2003) also references the “war on life support” that encompasses the war on life itself, and on the state capacity to preserve and foster life. This is an essential component of the “biopolitical regulation of a malleable humanitarian collapse”, whereby supporting infrastructure of ordinary life becomes both the target and weapon (Salamanca, 2011, 25). Dependent on withdrawn infrastructural support in states of siege, an “asphyxiatory” application of power occurs at checkpoints and chokepoints of occupied territory, functioning to immobilize the entire population. Puar (2017) then asks the question, how much resistance can be stripped without exterminating an entire population?

Maiming functions as the final objective in the production of permanent disability through the infliction of harm and attrition of life support systems that allow populations to heal. It is slow but simultaneously intensive death-making, an accelerated assault on both bodily and infrastructural fronts that stretches life and the finality of death into realities that do not feel like living or dying (Puar, 2017). Gradually decaying bodies in contexts that are severely under-resourced is not accidental, but rather “seeks to render impotent any future resistance ... thereby debilitating generational time” (Puar, 2017, 152). Debilitation, then, is a biopolitical fantasy in concluding that resistance can be located, deprived, and collapsed as a computational measure that is targeted (Puar, 2017).

2.4 Conclusion

Employing Carl Schmitt’s conceptualization of sovereignty and the political as a point of departure, the concepts of necropolitics, debilitation, and slow violence are engaged to further understandings of techniques of governance applied by state-claiming actors in the Syrian conflict. The implementation of this conceptual framework aids in making sense of how the violent events of the Syrian conflict are exercised as a military and political strategy in the

¹⁷ “Shoot to cripple” is employed by the Israeli Defence Forces against Palestinians, in which limbs and vital organs are deliberately targeted (see Blumenthal, 2014; Sherwood, 2014; Puar & Abu-Sitta, 2019), and flechette shells are utilized in densely-populated urban areas (Withnall, 2014). This is coupled with practices such as the “roof knock” or warning civilians in Gaza of impending airstrikes through phone or text, which are routed through and controlled by Israel (Taylor, 2014; Tawil-Souri, 2011).

production of sovereignty. Through the commission of war crimes and crimes against humanity, these irregular state-forms are governing through life and death in asserting claims to sovereignty and legitimacy over populations and territory. These concepts provide context as to how additional dichotomies factor into the friend-enemy distinction, deciding who lives and who dies via strategies that determine life and death. Drawing on empirical material to illustrate the lived reality of pursuing sovereign power in situations where multiple competing state-forms exist, the following analysis will demonstrate how state-claiming actors produce and reproduce sovereignty and legitimacy through violent acts.

CHAPTER 3: METHODOLOGY

3.1 Introduction

The following chapter outlines the methodological approach taken to collect and analyze data for this thesis. Reports produced by non-governmental and international organizations were examined as a point of entry to events occurring on the ground in Syria, in order to explore claims to sovereignty in contexts where multiple irregular and competing state-forms exist. Given the gap identified in literature on state violence and the theoretical framework engaged, this thesis asks what the selected reports can tell us about international humanitarian law and the techniques of governance deployed by state-claiming actors during conflict? The following research objectives were used to achieve this; a) identify war crimes and crimes against humanity presented within reporting on the Syrian conflict, b) examine how sovereignty and legitimacy is asserted through these violations of international humanitarian law, c) determine what these violations tell us about techniques of governance employed in situations where multiple state-claiming actors exist, and d) explore the relationship between the commission of war crimes and crimes against humanity, techniques of governance, and the production of sovereignty in situations where multiple state-claiming actors exist. The following sections of this chapter will discuss epistemological considerations, positionality, empirical material, data collection, ethics, and limitations of this research project.

3.2 Epistemological Considerations and Positionality

International law and its application is inherently flawed, and despite the wealth of documented evidence that each state-claiming actor involved in the conflict is party to the commission of war crimes, crimes against humanity, or both, justice and accountability for the Syrian community appears a far-removed reality. For the purposes of this thesis, attempting to remain objective while conducting this research undermines the capacity to challenge wider structures of international law and understandings of state violence and sovereignty. As noted by Becker (1967), the dilemma between objective and subjective casts doubt onto the idea of situating research into either classification, as one would have to assume that it is therefore possible to do research that is free from personal and political bias. Researchers must look at matters from someone's point of view, as we are continually exposed to partisan accounts of a situation (Becker, 1967). Given the content of this thesis and its theoretical framework, a subjective positioning is the most appropriate. Attempting to reflect a mindful awareness of

researcher subjectivity, in writing this thesis I consider how my perspective and privilege allows insights into certain aspects of the events in Syria, while simultaneously overlooking others.

A reflexive approach to subjectivity was also employed to account for the effect of the researcher's position on the material being investigated (Macbeth, 2001). Aligning with the critical paradigm, this research is cognizant of categories and positionality in relation to the influence of social and political structures on the researcher's experience. Positional reflexivity encompasses categories of individuality and how this relates to historical structures that shape the researcher experience as belonging to a certain category (Macbeth, 2001). As such, this research uses positional reflexivity to assess my own positionality and social location within the current historical reality; a white female born in Canada. My position within multiple social structures shapes what I am able to "see", effectively influencing how I understand and interpret the process of international law, subsequent violations, state violence, and sovereignty.

This research sought to incorporate ethical aspects surrounding how data collection was conducted and how analyzed data is presented. The political model of rigour furthers the idea of praxiological research, stating that all research represents political interests and theoretical influences (Ezzy, 2002). Embedded in this research are unavoidable biases stemming from a commitment to political action and in relation to inefficiencies in the international legal system; thus, this thesis recognizes the way data is interpreted is partisan as the position of the researcher affects how research outcomes are portrayed to audiences. Following a political model of rigour while conducting this research provided an ethical commitment to accountability, and will be used to evaluate the legitimacy of the research (Ezzy, 2002). This research was undertaken as part of a greater praxiological movement to acknowledge the importance of addressing the harms of violence in pursuit of sovereignty, as this violence continues to be produced and reproduced by state-claiming actors during conflict.

Collecting data from secondary sources maintains ownership of this information by non-governmental and international organizations producing reports, while analysis produced for this project constitutes an interpretation of events within the Syrian conflict unique to the social location of the researcher (Alcoff, 2009). The empirical material is viewed as a point of entry to the violence and harm occurring in Syria to establish how state-claiming actors are deploying techniques of governance. Due to practical constraints, seven organizations were chosen as sources for reporting, which limits the use of other publicly available information that could

provide a more comprehensive perspective of the conflict and supplement the data collected. These organizations focus on armed conflict and violations of international law, though other NGOs or IOs with different mandates could have afforded information from viewpoints external to international law, such as geography, economics, migration, etc. The findings of this project are consequently restricted as it can only speak to a portion of documents that produce the discourse¹⁸ surrounding the conflict. That being said, it is not possible to gain access to every event constituting war crimes or crimes against humanity that has occurred in Syria since March 2011, as it is unlikely such a comprehensive account exists.

Taking the documents as approximate and partial accounts of events occurring in Syria, it is also acknowledged that social relations and power inequities exist within these documents that maintain or reproduce the context in which they are embedded (Breeze, 2011). NGOs effectively “sell” normative concepts to both decision-makers and the public, while competing with other actors in a dynamic marketplace of ideas to produce and disseminate information on relevant or geopolitically significant conflicts and violations of human rights (Etsy, 1998). NGOs channel information to various UN human rights committees and monitor the implementation of treaty recommendations by governments (Scott, 2010). These organizations gain legitimacy through the attractiveness of their ideas, and are most prolific when new fields of law are initiated or new treaties are drafted, as they contribute to the development, interpretation, judicial application, and administration of international law (Charnovitz, 2006).

A principal criticism of NGOs involves similarities in operation to those of “moral entrepreneurs” (Becker, 1983), requiring continued violations of humanitarian law and human rights transgressions to remain relevant (Lohne, 2015). NGOs often appear self-serving, where they are not entirely dedicated to eradicating humanitarian concerns because doing so would, in turn, eradicate their purpose in international law (Scorgie-Porter, 2017). NGOs are additionally accused of adopting a “bandwagon” approach, in the sense that they place more importance on situations that will attract media attention (Scorgie-Porter, 2017). NGOs compete for “brand name recognition” for the reports and information they disseminate, thus imposing significant limits on cooperation between organizations and an emphasis on spectacular instances of direct violence (Alston & Gillespie, 2012). This was directly seen throughout the reports in the lack of

¹⁸ It is also important to note that only documents published in English were used, which, again, limits the scope of resources accessed and used for analysis.

context provided on the Syrian conflict or additional information offered on armed groups operating or committing the offences highlighted in the report, with the exception of the Independent International Commission of Inquiry reports. Instead, the information found within the reports emphasized the most harrowing instances of violence perpetrated by actors in Syria, failing to include the protection aspect inherent to “state-claiming” actors found in external sources or long-term consequences of this violence.

Moreover, the NGOs used in this research project are predominantly Western organizations, and often speak on behalf of populations in the Global South or in conflict situations in ways that maintain and reproduce imperialist tendencies and issues of empire. There also exists a realm of NGO politics operating within the region, alongside geopolitical interests¹⁹, and an intersection of these in relation to donors and funding of NGOs. While considering various methodological approaches to this research project, ethnography or field research was not possible given the on-going conflict situation, and the use of direct participants would further reproduce issues of empire as I would be requesting that racialized individuals fleeing conflict re-live their experiences for my own benefit. Further, the use of direct participants would not allow this research to explore wider patterns of violence in Syria, where NGO and IO reports document the extent, patterns, and location of war crimes and crimes against humanity perpetrated over an extended time period that speak to techniques of governance undertaken by armed actors. The reports, however limiting and problematic, still provide credible information and an overview of events that aid in encapsulating the violence inherent to the production of sovereignty. Finally, looking across NGO and IO reports attempted to balance political pressures faced by these organizations, despite claiming neutrality in their operations, as looking across reporting and across organizations served to offset the effects of external pressures from states or donors.

3.3 Empirical Material and Collection

The widespread and systematic perpetration of war crimes and crimes against humanity has become characteristic of the Syrian conflict, producing the world’s largest refugee and internally displaced populations and “humanitarian crisis” in recent memory. As the civil war unfolded, the seemingly endless horrific acts undertaken intentionally against civilians and

¹⁹ For example, Western oil and private interests in the Middle East, regional interests amongst Middle Eastern countries, and interests within Syria itself.

civilian infrastructure illustrated how war crimes and crimes against humanity had become a strategy of war employed by all parties to the conflict. From this, non-governmental and international organizations websites were reviewed to determine which ones included armed conflict in their mandate and produced reports, statements, or inquiries into the events occurring in Syria from 2011 to 2018. A list was subsequently compiled of NGOs and IOs that produced these types of documents, and sample reports were reviewed to establish whether the information provided sufficient information on alleged war crimes and crimes against humanity to conduct a thorough analysis on the conflict. The organizations selected for data collection are as follows²⁰; Human Rights Watch, Amnesty International, Doctors Without Borders/MSF, International Committee of the Red Cross, World Health Organization, Independent International Commission of Inquiry on the Syrian Arab Republic, and the Organization for the Prohibition of Chemical Weapons Fact-Finding Mission.

Table 1:

| Organization | Number of Documents Available | Number of Coded Documents | Years of Reports Available |
|--|--------------------------------------|----------------------------------|-----------------------------------|
| Human Rights Watch | 8 | 6 | 2011-2018 |
| Amnesty International | 9 | 8 | 2011-2018 |
| Médecins Sans Frontières | 20 | 11 | 2012-2018 |
| International Committee of the Red Cross | 8 | 5 | 2011-2018 |
| World Health Organization | 6 | 5 | 2013-2018 |
| Commission of Inquiry | 14 | 9 | 2011-2018 |
| Joint Investigative Mechanism | 8 | 1 | 2016-2017 |
| | Total = 73 | Total = 45 | |

Media and news reporting on the conflict was not used for this analysis given the depth, scope, and variability of available information, along with concerns regarding the validity and politics of sources. Reports from non-governmental and international organizations were used as a point of entry into the conflict by credible organizations claiming neutrality and impartiality, with a long-standing history of producing information on human rights and humanitarian issues. To diversify within the collected documents, international and non-governmental organizations

²⁰ See Table 1 for additional information on the collected documents.

were chosen to ensure a range of methodologies and approaches to the conflict and parties involved. These claims to non-partisan reporting present the organizations as “reputable” and reliable sources of information on the events occurring in Syria, juxtaposed with media reporting that could be considered biased in what information is included or favoring certain actors involved based on political leanings of the news organization. Echoing the “factist” approach used in this research, I am confident that while no comprehensive reporting on the Syrian conflict exists, given practical constraints such as access to locations, participants, or other first-hand knowledge, difficulties recording events given the multitude of groups involved in hostilities, or the selected organizations excluding certain information for numerous reasons, reports by NGOs and IOs do provide access to a broad range of events that occurred and can be considered factual in their documentation.

Human Rights Watch and Amnesty International were chosen for their mandate and research focusing on human rights, alongside the International Committee of the Red Cross (ICRC) whose mandate stems from the Geneva Conventions and specializes in situations of armed violence. The World Health Organization was selected for its responsibility regarding international public health, while Doctors Without Borders is known for projects in conflict zones and emphasis on medical facilities; attacks on healthcare and humanitarian aid are rampant in Syria, and both organizations shed light on this practice by state-claiming actors. The Independent International Commission of Inquiry on the Syrian Arab Republic was established in August 2011 by the UN Human Rights Council with a mandate to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic. This organization was tasked with establishing the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those responsible with a view of ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable²¹. The OPCW Fact-Finding Mission was founded in April 2014 to establish facts surrounding allegations of the use of toxic chemicals for hostile purposes in the Syrian Arab Republic²².

It was later determined that the OPCW Fact-Finding Mission reports did not provide information as relevant as that found in the OPCW-UN Joint Investigative Mechanism reports,

²¹ Please refer to <https://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx>.

²² Please refer to <https://www.opcw.org/fact-finding-mission>.

whose purpose was to identify and hold accountable those responsible for the use of chemical weapons during the Syrian conflict. The OPCW Fact-Finding Mission was instead the foundation of the work of the OPCW-UN JIM in accumulating evidence to establish accountability. The OPCW-UN JIM was created under UN Security Council resolution 2235 (2015), and its mandate was renewed in resolution 2319 (2016) for a period of one year. The mandate of the JIM lapsed in November 2017, after the Russian Federation blocked its renewal. The International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011²³ was also considered, but does not publicly release its work. Rather, this mechanism collects evidence and relevant information from various sources, including the Independent International Commission of Inquiry on Syria.

While all the reports have been reviewed, specific years were chosen to apply the following set of questions as major events occurred or actors joined, reorganized, separated, or exited the conflict. Using these events as a point of departure, the following years were chosen; 2011, 2014, 2015, and 2018. March 2011 marked the beginning of the situation unfolding in Syria, while 2014 and 2015 saw the rise of radical jihadist groups and more direct involvement in hostilities by the United States and Russia. Finally, 2018 provided a view of the conflict almost eight years in, where attention from the international community may have faltered slightly but the situation on the ground remained unbridled. For certain organizations, special reports were published or multiple reports were published for a single year, in which these documents were also coded using the questions below. All documents from the remaining years (2012, 2013, 2016, 2017) were compiled into a separate document highlighting relevant information. The OPCW-UN JIM reports were coded, but ultimately not used in this analysis.

3.4 Data Analysis

Once the organizations were selected and reports collected and downloaded from corresponding websites, coding was conducted on a small subsample of reports to determine what questions would be asked of the documents. This research project followed thematic analysis and deductive coding, and a set of questions was developed to help evaluate the trustworthiness of the information found in reporting. The information was then coded into the types of events being reported in the documents and subsequently used to create themes within

²³ Please refer to <https://iiim.un.org/faq/>

the analysis chapter in relation to techniques of governance. Considering the research question and objectives presented above, the following questions were used;

1. What methodology is employed in the reports?
2. Which events are identified and discussed within the reports?
 - a. How are they classified by the authors?
 - b. What terminology is used to discuss the reported events (ex. legal terminology, are the definitions of certain crimes presupposed, etc.)?
3. Are the consequences of these events identified and discussed?
 - a. If so, do the authors include both immediate and long term consequences of events?
4. Which groups are acknowledged within the reports (ex. non-state actors, civilians, government forces, international actors, etc.)?
 - a. Are these groups defined? If so, how?
5. What is the location of the speaker (ex. status of the individual, official or civilian, NGO or government, etc.)?
 - a. How are these categories/groups defined within the reports?
6. What information is missing from the report that is relevant/important?²⁴
7. How does the information provided in this report compare to other reports from the same year?

It was also asked whether, overall, the reports challenge or support international humanitarian law, or both, though this did not factor as heavily into the analysis as was initially expected. Coding for ICRC documents included additional questions to determine what needs the organization was responding to and obstacles faced in providing resources or responding to these needs in Syria. These questions were; what needs is ICRC responding to within Syria, and are the obstacles to providing resources and responding to the needs identified? The questions that yielded the most information during the coding process were no. 2 and 3, as events and consequences of the conflict form the content of this analysis and helped shape an understanding of how the situation on the ground evolved over time. As noted above, all the documents were reviewed and relevant information compiled as examples were sourced from each year (2011 to 2018) in order to establish how governing through life and death is a strategy of war that produced and reproduces sovereign power over shifting populations and territory. These events are referred to as “techniques of governance” as it became clear during the coding process that state-claiming actors were governing territories and populations through violent means that

²⁴ In relation to other reports that had been coded – this question allowed for a comparison of information found against reports from the same organization, against other organizations from the same year, and more broadly in relation to contextual information provided and types of violence included.

regulated life and death. This method also was useful in gaining a more thorough understanding of the timeline of events, parties to the conflict, and the response of the international community to the situation in Syria, including various UN and regional mechanisms and diplomatic processes that proved unsuccessful.

The methodology was described in the majority of the reports, or was easily found on the website of the organization. The location of the speaker was often not directly outlined and therefore vaguely assumed to be the organization publishing the report. In some cases, quotes were used from interviews conducted with refugees, internally displaced persons, individuals who defected from military or security forces, or medical or humanitarian aid staff. Details regarding the individuals were not provided for privacy and safety reasons, and therefore, the location of the speaker remains unknown.

A number of groups were acknowledged within the reports, many of which are not included in this analysis given insufficient information provided on their structure or organization. Often, violations by opposition groups were included in a broader category that did not attribute responsibility or accountability to a specific perpetrator. As a result, four prominent opposition groups and Syrian government forces were chosen for this analysis based on their continued involvement in hostilities. Further, these groups were labeled “state-claiming actors” and referred to as such given their stated intentions of creating or re-claiming autonomous territories and structures of governance post-conflict. This term also encompasses the selected groups despite differences in size, composition, objectives, allies, funding, and resources or infrastructure available to them.

Throughout the coding process, a shift in language occurred as the conflict progressed; crimes against humanity was used to classify events occurring prior to the designation of the situation as a non-international armed conflict in 2012. From then on, the term “war crimes” is frequently used as it more accurately represented the events depicted. There was also an apparent difference between non-governmental organizations and official inquiries, where the latter was more hesitant to use certain legal terms within their reports when compared to NGOs, who more frequently condemn these behaviours publicly. For example, the OPCW-UN Joint Investigative Mechanism’s mandate involves holding those responsible for the use of chemical weapons in Syria, though their use is not classified as a war crime despite the prohibition of chemical and

biological weapons in international humanitarian law²⁵. The reports further highlight the shift from government forces as the primary perpetrator of violence, to the inclusion of various opposition groups and shifting alliances to fill the power vacuum left by the breakdown of governance structures.

Long-term consequences were often indirectly referenced through the inclusion of certain events in the reports, such as attacks on civilians and civilian infrastructure, systematic targeting of healthcare and humanitarian aid, sieges, fragmentation of communities and social disruption, and the collapse of the Syrian economy. As noted above, questions no. 3 and 3A were used to determine whether consequences were discussed within reporting, and led to the identification of different categories of events that directed the process more towards inductive coding rather than deductive. Themes were then drawn from the classification of varying types of harms and the consequences of the violent actions committed by armed groups involved in the conflict, of which helped guide the subsequent analysis section on consequences of these techniques of governance. Within reporting, consideration of the consequences of hostilities became more frequent, although still indirectly referenced, as the situation progressed and the scale of destruction across Syria became more tangible. Approximately four or five years into the conflict, the reports began to note social, cultural, religious, ethnic, economic, etc. consequences of war, not only for Syria, but for neighbouring countries and the Middle East more broadly.

3.5 Limitations

There was no direct involvement by participants to produce legitimate knowledge through their lived experience for this research project due to practical constraints and ethical considerations. As this research is situated within the critical paradigm, the lack of direct participants presents an issue as there is no space provided for the lived experience of the Syrian population. To this end, I argue that this thesis is not the appropriate stage for participant involvement. I am treating the documents as approximate and partial accounts of events taking place, while acknowledging that there are gaps in what I am able to access, and understand that reporting on the conflict cannot be equated with the lived experience of war. I am aware that these reports do not provide the entire picture, and that the glimpses available are tainted by critiques surrounding NGOs and IOs.

²⁵ Please refer to the Chemical Weapons Convention of 1993, and the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare.

Regarding voice, this research does not speak on behalf of Syrian individuals or the Syrian community. Doing so would be “speaking for” others based on my interpretation of events and constructing their identity through my lens, essentially reproducing and reinforcing structures of oppression already operating in these environments (Alasuutari, 1995; hooks, 1989). This research is looking to broader structures of state violence and sovereignty as opposed to the effects of armed conflict on individuals and communities²⁶, and would, again, be inappropriate to involve this aspect of analysis. As an individual from the “global North”, this research focuses on critically analyzing European models of the state and sovereignty that have been imposed on non-European territories through colonial and neo-colonial practices.

While this thesis includes examples of gendered and racialized violence, it does not take a gendered or racialized approach to data analysis. It is clear that this is a significant aspect of the conflict, as violence against women and girls has been exacerbated and clear ethnic lines have been drawn by those involved, but this thesis is not the appropriate stage to undertake such analysis. In looking at claims to sovereignty, this analysis focuses on a wide range of events that comprise war crimes and crimes against humanity, with gendered and racially motivated violence falling into this sphere. It would be a disservice to attempt to provide this lens given the objectives of this research, and space and time constraints of the project. A wealth of literature exists on the effects of gendered and racialized violence in conflict situations more broadly, along with gendered violence in Syria, that provide rich and in-depth analysis on these harms and their consequences. An area for future research could encompass the effects of gendered and racialized violence, the intersectionality between these within the Syrian conflict, or how sovereignty is asserted through the destruction of racialized and gendered bodies as a strategy of war. As illustrated within reporting, these practices are not disconnected from the production of sovereignty and state-building, but rather inherently connected to it.

The following analysis examines the trajectory of events in Syria from 2011 to 2018, and subsequently lacks political context as tensions between the state and its citizenry dates back decades. Protests began after youth were arrested for anti-government graffiti, and in the midst of the Arab Spring, evolved into the events of today. There is also broader geopolitical context in

²⁶ While this research project does look to consequences as part of its analysis, it is analyzing consequences in relation to the production of sovereignty and employing certain techniques of governance to gain control over territory and populations.

the region that could not be fully discussed in this analysis, but undoubtedly plays a role in the conflict. The political, economic, cultural, and social contexts have not been fully unpacked in this analysis given time and space constraints, though these undoubtedly inform the climate of the conflict. Given that this project worked exclusively with documents, there was no opportunity for individuals to speak directly to their experiences²⁷, and is therefore basing the analysis on second-hand information from second-hand sources. Challenges of working with documents rather than research participants involves the lack of clarification and context available, multiple authors drafting the reports, and the filtering of information provided in the reports. As stated above, the reports will be assumed as factual and authentic description of events, despite these limitations.

²⁷ As participants were not involved in the research project, the following ethical considerations are not directly applicable; voluntary participation, informed consent, confidentiality and anonymity, or communicating the results of the research project.

CHAPTER 4: ANALYSIS

4.1 Introduction

This chapter explores how the commission of war crimes and crimes against humanity by state-claiming actors in the Syrian conflict are employed as techniques of governing through life and death in pursuit of sovereignty over territory and populations. Through these techniques of governance, state-claiming actors constitute themselves as sovereign entities by suspending the rule of law in territory under their control, determining the exception, and invoking the friend-enemy distinction. This distinction then has enduring consequences for populations residing within these spaces, as they are continually subjected to the inherent violence of sovereignty.

State-claiming actors directly involved in hostilities in Syria as identified within non-governmental and official reports can be divided into four broad, non-exhaustive categories for the purpose of this analysis; the Syrian Armed Forces and its allies, opposition forces involving the Free Syrian Army and Hay'at Tahrir al-Sham, the Syrian Democratic Forces, and the Islamic State. While various external geopolitical interests are involved in the conflict, including the United States, the United Kingdom, Russia, Turkey, and Iran, this analysis will instead focus on the operation of these groups within Syria during the designated period of data collection.

The following chapter begins by providing contextual information on the Syrian conflict and state-claiming actors involved, and is then divided into four sections that explore techniques of governance by state-claiming actors in the pursuit of sovereignty. The first section addresses how techniques of governance are operationalized in practice as governing through life and death. This section is divided into the following subsections; infrastructure; health; food, water, and basic necessities; and (in)security and (in)justice. The third section addresses the consequences of governing through life and death on populations and the lived environment. The final section discusses how irregular state-forms in Syria are competing for designation as the sovereign over populations and territory. This section also aims to develop how sovereignty is produced during conflict, and speaks to the additional dichotomies enacted alongside the friend-enemy distinction found in empirical material.

4.2 Contextual Information on the Syrian Conflict

The Syrian Arab Republic's Armed Forces (SAF)²⁸ are comprised of infantry, naval, air defence, and several paramilitary forces including the National Defence Force²⁹, and have been directly involved in the conflict since 2011. The SAF have intelligence branches, associated foreign and local militias, *shabihas*³⁰, and popular committees as part of their operational capacity. Given issues with conscription and defections amongst their ranks, the SAF have relied heavily on foreign intervention by Russia, Iran, and Hezbollah (Petkova, 2020).

The Free Syrian Army (FSA) was founded in 2011 by officers of the SAF who had defected in opposition to the al-Assad regime (Seligman, 2019). The FSA does not reference a specific organization, but has rather evolved into a catch-all brand name for various Syrian opposition groups. The FSA is divided into localized battalions and larger “franchise” brigades; localized battalions are often predominately associated with the FSA and organized loosely through provincial military councils fighting within a limited geographical scope, while “franchise” brigades operate more independently of FSA structures, conduct multiple operations across Syria, and are more likely to be ideologically motivated (O’Bagy, 2013). In 2017, the FSA rebranded as the Syrian National Army (SNA), funded by the Turkish government in exchange for participation in military operations along the border in northern Syria (Yuksel, 2019).

The SNA is composed of thirty-six opposition groups divided into three army corps, each responsible for consolidating territory gained by the opposition and aiming to replace the SAF post-conflict (Taskomur, 2018). The SNA has remained closely affiliated with Turkey; hosting FSA military headquarters since its establishment, facilitating collaboration amongst FSA field commanders, welcoming western and Gulf state representatives, and launching a “train and equip” program together with the United States in 2014 for vetted fighters to aid in the overthrow

²⁸ Also referred to as the Syrian Arab Armed Forces, Syrian Armed Forces, and government forces.

²⁹ The National Defence Forces (NDF) were formed as a part-time volunteer reserve organized by the government. The NDF operates as an umbrella organization under which several pro-government militias function, structured under provincial commanders and loosely overseen by a national coordinator (Lavrov, 2020). The NDF serves as a vehicle for mobilizing the population to ensure loyalty and support for the regime among target communities, and encourage members of opposition forces to rejoin the SAF via the NDF (Zambelis, 2017).

³⁰ *Shabihas* refers to state-sponsored militias of the Syrian government, derived from the Arabic word for “ghost”. The *shabiha* operate as a direct-action arm of the Syrian government, providing support units for designated security services including Air Force and Military Intelligence (Global Security, 2018). *Shabiha* is a name derived from smuggling groups composed of Syria’s Alawite minority, later becoming the brand name for all government loyalists who disperse protests or fight against opposition groups (The Carter Center, 2013). Before being subsumed by the National Defence Forces, these paramilitary forces were used as “clean up” after government offensives (The Carter Center, 2013).

of the al-Assad regime (Yuksel, 2019). While the FSA/SNA formed a legitimate military backbone for the opposition from 2013 to 2015, support from Russia and Iran to Syrian government forces caused the group to lose strength on many territorial fronts in 2016, along with continued internal conflicts (Hamit & Zontur, 2019). As of October 2018, the SNA and the National Liberation Front united under the title of the National Army, and remain actively involved in the conflict (Global Security, 2019).

Jabhat al-Nusra was formed in 2011 as a Syrian wing of al-Qaeda in Iraq, arriving in August 2011 to establish a network of safe houses and subsuming dozens of jihadi cells across the country (CISAC, 2017; Lister, 2016). The group formally announced their presence in Syria in 2012, declaring war against the al-Assad regime and plans to establish an Islamic Emirate. Throughout 2014 and 2015, US-led coalition and Russian airstrikes directed against Jabhat al-Nusra and the Islamic State allowed the Syrian government to regain positionality, and the group eventually announced its dissolution and integration under Hay'at Tahrir al-Sham (HTS) in 2017 (Newlee, 2018). Throughout 2018, HTS experienced several setbacks including loss of territory, lack of local support, assassination of key leadership, and significant defection amongst its ranks, but remains actively involved in the conflict.

The Syrian Democratic Forces (SDF) comprise an alliance between Kurdish, Arab, and Assyrian/Syriac militias, believed to be established by the Kurdistan Workers' Party (PKK) in October 2015 (Mellen, 2019). The SDF functions as the formal defence force of the Autonomous Administration of North and East Syria (NES/*Rojava*). Led by the People's Protection Units (YPG), the objective of the SDF is to create a secular, democratic, and decentralized government in Syria while opposing the Islamic State, the FSA/SNA, al-Qaeda affiliates in Syria, and the Turkish Armed Forces (Mellen, 2019; Al Jazeera, 2019). The YPG continue to carve out autonomous regions in the north and controlling nearly a quarter of Syria in 2017 (Al Jazeera, 2019).

Formed after the Qamishli uprising by the Democratic Union Party (PYD) in 2004, the YPG are a democratic socialist organization that is predominately Kurdish and includes Syrian, Assyrian, and Armenian Christian individuals (Global Security, 2018; The Kurdish Project, N.D.). Much of Kurdish political power is derived from YPG militias that control three major enclaves along Syria's northern border; Afrin, Ayn al-Arab, and Al-Hasakah governorate (Global Security, 2018). The YPG primarily fight against the Islamic State, the Turkish Armed

Forces, and on occasion against other Syrian opposition groups, and remain actively involved in the conflict alongside the SDF and Women's Protection Units (YPJ).

The precursor to the organization now known as the Islamic State (IS) was al-Qaeda in Iraq, a militant Salafi jihadist group aiming to establish an Islamic state in Iraq and later Syria from 2006 to 2011. The group first developed in 1999 when Abu Musab al-Zarqawi recruited and trained extremist militants in Herat, Afghanistan. During the occupation of Iraq, these militants participated in the insurgency first under the name Jama'at al-Taqhid wa'al-Jihad (JTJ), then al-Qaeda in Iraq after pledging allegiance to al-Qaeda (CISAC, 2021). In 2013, under the leadership of Abu Bakr al-Baghdadi³¹, the group changed its name to the Islamic State of Iraq and Syria³², operating in both countries to oppose Syrian government forces and opposition groups, Kurdish-led groups, and Iraqi military and militias (CISAC, 2021; Wilson Center, 2019). The Islamic State adheres to a literalist interpretation of Sunni Islam and is considered a Salafi jihadist group, subscribing to the concept of *takfir*³³ (CISAC, 2021). The overarching objectives of the IS revolves around the creation and expansion of a global caliphate, with Abu Bakr al-Baghdadi serving as the "caliph" or key figurehead of this movement before his death (CISAC, 2021).

The IS exploited the power vacuum created by the Syrian conflict, rapidly expanding and capturing large swaths of territory across Iraq and Syria. After reaching its peak between 2014 and 2015, the IS has slowly lost territorial holdings to US-led coalition airstrikes, Syrian government forces and opposition groups, and the Iraqi military. The Combined Joint Task Force – Operation Inherent Resolve (CJTF-OIR) was established by the United States in 2014 as an international effort to coordinate military offensives against the IS³⁴. As these groups continued to make military and territorial gains, the IS was forced into a multi-front war, and by December of 2018, IS held only a small foothold in the Syrian town of Baghuz³⁵ (Counter Extremism Project, 2020). Since losing territory, the IS has shifted its strategy from maintaining areas under its self-proclaimed caliphate to insurgency against the state. Reverting to more "traditional" terrorism tactics, the IS now focuses on creating a decentralized network of cells and affiliate

³¹ Assumed leadership after Abu Ayub al-Masri and Abu Umar al-Baghdadi were killed in April of 2010.

³² ISIS became the Islamic State in June of 2014 after declaring the establishment of a caliphate in Iraq and Syria.

³³ Deeming fellow Muslims who reject their views and interpretations as non-believers.

³⁴ Please refer to CJTF-OIR website <https://www.inherentresolve.mil/campaign/>.

³⁵ Liberated in March of 2019, ending the territorial caliphate of the Islamic State in Iraq and Syria.

organizations across various countries in order to carry out small-scale attacks, and continues to do so along the border of Iraq and Syria (CISAC, 2021). The Islamic State is no longer directly involved in the conflict in relation to the groups discussed above.

4.2.1 Timeline of the Syrian Conflict (2011 to 2018)

While the conflict analyzed in this research project began in March 2011 in the broader context of the Arab Spring, roots of resistance to the al-Assad regime started growing decades earlier. The Syrian Arab Republic gained independence in April 1946 as a parliamentary republic, with the post-independence period marked by several military coup attempts (CoI, 2011). A state of emergency spanning from 1963 to 2011 effectively suspended most constitutional protections for citizens, and under rule of the Ba'ath Party, all aspects of political and social life were heavily repressed (CoI, 2011). For example, the Kurdish population in Syria was stripped of their citizenship and forbidden from using the Kurdish language in the 1960s, along with various other discriminatory policies (CoI, 2016). Members of the minority Alawite sect occupied a disproportionate number of positions in the political and military establishment, and the preservation of this power remains in the hands of this small community (CoI, 2016).

In 1966, a coup occurred in which the government of the Syrian Arab Republic was overthrown and replaced by Salah Jadid's neo-Ba'athist ideology (CoI, 2011). This coup established two separate Ba'ath movements in Syria and Iraq, and drove the party's founders out of the country and into exile. During the Corrective Movement of 1970, General Hafez al-Assad seized power of the Ba'ath Party via another coup, and became president of Syria the following year. President Bashar al-Assad rose to power in 2000 after the death of his father, and in 2002, Syria was listed as a country "beyond the axis of evil" and seeking weapons of mass destruction by the United States government as part of the global "war on terror" (Yacoubian, 2020). During the past four decades, suspected opponents of the government have been subjected to torture, detention, and long prison sentences imposed under vaguely defined crimes in relation to political activity (CoI, 2011). The imposed state of emergency coupled with tight control over freedom of expression, surveillance, and persecution conducted by an extensive intelligence network, has severely limited political life and the constitution of an autonomous civil society in Syria (CoI, 2011).

Limited protests on issues of rural poverty, corruption, freedom of expression, and the release of political prisoners broke out in February 2011, calling for respect for human rights and

economic, legal, and political reforms (CoI, 2011). In March 2011, peaceful protests began in the city of Dara'a after security forces arrested and tortured youth who painted anti-regime and pro-democracy graffiti on public buildings. Following violent response by military and security forces, protests spread to a number of cities, including Damascus, Homs, Hama, and Idlib. In April, government forces initiated the first wide-scale military operation in Dara'a and by November, OHCHR estimated that approximately 3,500 civilians had been killed by state forces, with thousands detained and tortured (CoI, 2011). As a result, defections from military and government forces increased, organizing themselves into the Free Syrian Army (FSA) and initiating attacks on government forces. The al-Assad regime claimed to be the target of attacks by "armed gangs and terrorists" funded by foreign sources, leaving Syria at the hands of imperialist forces who have spread false information inciting sectarian tension and violence (CoI, 2011).

In a series of decrees³⁶, the President announced plans for legal and political reform, involving the formation of a new government, lifting of the state of emergency, abolition of the Supreme State Security Court, granting of general amnesties, and new regulations on the rights of citizens to participate in peaceful demonstrations. In August, the UN Security Council issued a presidential statement condemning the ongoing violence against protestors by Syrian forces and calling for restraint by all sides, and calling on the government of Syria to implement political reforms and cooperate with OHCHR (S/PRST/2011/16). In October, the People's Republic of China and the Russian Federation vetoed draft resolutions in which the Security Council recommended possible measures against the Syrian Arab Republic under Article 41 of the Charter of the United Nations (Meeting Record S/PV. 6627). During this time, the Syrian government reiterated that the country was being subjected to "criminal attacks by armed terrorist groups" supported by certain Western states exploiting peaceful demonstrations to manufacture anarchy (CoI, 2011).

In November, Syria was suspended from activities of the Council of the League of Arab States due to continued violence and non-implementation of the work plan developed by the League. This resolution also imposed economic and political sanctions on the country, and the League urged member states to recall ambassadors from Damascus (CoI, 2011). Simultaneously, military and security forces carried out operations targeting public assemblies and funeral

³⁶ Decree No. 146, 161, 53, and 34, 2011.

processions in Homs, Dara'a, Hama, Dayr Al-Zawr, and Rif Damascus. It is estimated that in the three-week period of these operations, 260 civilians were killed (CoI, 2011). More than seventy nations and international organizations participated in the inaugural Friends of Syria meeting, demanding that the Syrian government permit the delivery of humanitarian aid to civilians and recognized the Syrian National Council as “legitimate representation seeking peaceful democratic change” (Yacoubian, 2020). Al-Assad reiterated that the “restoration of security and fighting terrorism with an iron fist” remained its foremost priority in January of 2012. Protests for and against the government continued across the country, and political opposition had organized itself through local coordination committees under the umbrella of the Syrian Revolutionary General Commission (CoI, 2012a). The Syrian National Council, hosting members from the Muslim Brotherhood to secular formations, presented itself as the legitimate representative of the Syrian people, coordinating with the FSA, and rejected any political dialogue with the government under present conditions (CoI, 2012a).

The activity of FSA groups resulted in temporary withdrawal of government forces from major cities and governorates, at the cost of massive casualties and destruction of infrastructure (CoI, 2012a). The Violations Documenting Centre³⁷, affiliated with local coordination committees, counted 6,399 civilians and 1,680 military defectors killed between March 2011 and February 2012. Both government forces and opposition groups maintain their commitment to non-sectarianism while accusing the other of instigating hatred and relying on fear to garner support (CoI, 2012a). In March 2012, after a year of continued fighting, Kofi Annan, acting as the UN Special Envoy to Syria, submitted a six-point peace plan to the UN Security Council calling for a Syrian-led political process to address citizens' demands, a UN-supervised ceasefire, provisions of humanitarian assistance, release of arbitrarily detained persons, freedom of movement for journalists, and respect for the freedom to demonstrate peacefully (Yacoubian, 2020). By April, the UN had brokered a ceasefire between the regime and armed opposition that proved unsuccessful. The violence officially evolved from unrest and internal disturbances to the emergence of a non-international armed conflict in February 2012, with the conduct of all actors characterized by a lack of adherence to the norms of international law (CoI, 2015a).

³⁷ Relies on medical records, direct contact with victims' families, and information received from the Imam of the Mosque performing the burial (vdc-sy.org).

At this point, disagreements among international actors on how to frame or address the conflict continued. The European Union and United States introduced hardened sanctions, including a boycott on the purchase of Syrian oil, Turkey banned transactions with the government and its central bank, froze government assets and imposed severe import duties on Syrian goods, and the League halted transactions with the Central Bank and imposed a travel ban on senior officials (CoI, 2012a). As a result of boycotts on Syrian oil exports and sanctions against the banking sector, the Syrian pound was significantly devalued, spurring inflation and increasing the price of basic food items (CoI, 2012a). Entire communities are still suffering from a lack of food, water, fuel, electricity and medical supplies in the midst of a rapidly deteriorating humanitarian situation (CoI, 2012a).

During this time, sporadic clashes between those involved in the conflict developed into continuous combat, with all Syrian Armed Forces divisions and security services engaged in military operations (CoI, 2012b). Opposition groups expanded throughout the country, establishing sanctuaries while participating in sustained armed confrontations (CoI, 2012b). While investigations in 2012 could not confirm the use of sophisticated weaponry by armed groups, it appears reasonable to believe opposition actors had access to increased funding and logistical support based on the effective use of improvised explosive devices against government convoys, patrols, and facilities (CoI, 2012b). The Islamic State of Iraq and Syria (IS) and Jabhat al-Nusrah emerged in 2013, and soon after the Congressional Intelligence Committee approved CIA arms shipments to Syrian opposition groups (CoI, 2013a). Both groups have since been declared “foreign terrorist organizations” by the State Department of the United States.

The creation of the National Coalition for Syrian Revolutionary and Opposition Forces was a significant development for the Syrian opposition, made up of representatives of external Syrian opposition groups and “internal revolutionary forces” (CoI, 2013a). While the National Coalition is recognized by the League of Arab States, many opposition groups stated their rejection of the legitimacy of the coalition. As hostilities continued to spread, the United Nations High Commissioner for Human Rights briefed the Security Council and requested a referral of the situation in Syria to the International Criminal Court (CoI, 2013a). Opposition groups had seized control of significant central and northern regions, and the insurgency evolved into a force increasingly able to challenge government military forces and affiliated militias. Despite this, there remained deep divisions within the opposition movement, stemming from political,

ideological and affiliation differences. Attempting to fill the vacuum left by the erosion of political authority of the state, armed opposition groups also fell victim to fragmentation and disintegration of authority as the conflict continued to spread across the country. The Supreme Joint Military Command failed to centralize opposition groups, different sources of logistical support, integrate command networks, and alleviate the influence of radical groups, and remains marred by internal strife (CoI, 2013b).

In 2013, Hezbollah fighters began openly supporting the Syrian military in operations conducted near Al Qusayr along the Lebanese border (CoI, 2013b). Growing accustomed to the continued fighting, government forces also benefitted from logistical support and personnel from allies, including the deployment of military advisors and increased support from the National Defence Forces and other irregular forces (CoI, 2013c). With the announcement of ties to the Iraqi faction of al-Qaeda, growing support from regional extremist groups provided recruits and equipment, as foreign fighters from neighbouring countries continued to reinforce the ranks of the IS and Jabhat al-Nusra (CoI, 2013b). Despite efforts to limit extremist influence within opposition groups, the radicalization of certain sectors continued (CoI, 2013c). The discipline and operational capacity of radical fighters, along with access to reliable sponsors and networks, allowed these groups to outmatch secular groups (CoI, 2013c). During this time, the IS and Jabhat al-Nusra developed their own strongholds in the north of Syria, and subsumed various smaller factions. Kurdish forces continued to hold and protect smaller localities and deployed the People's Protection Units (YPG) against government forces, opposition, and radical groups. The Syrian government deployed sarin in an attack on Ghouta, killing more than 1400 civilians in August 2013, followed by agreements to liquidate its chemical weapons stockpiles for destruction by the OPCW (CoI, 2014a).

In 2014, the fighting reached a stalemate costing significant human and material losses. Tactics and strategy saw increased brutality, with government forces relying on the superior firepower of its air force and artillery, while opposition groups resorted to methods of asymmetric warfare such as suicide bombings and improvised explosive devices (CoI, 2014a). Aimed at short-term agendas, confrontations between armed groups have been fueled mostly by local operational particularities and specific sub-conflicts rather than the broader context of the conflict (CoI, 2014a). International stakeholders continued to support various armed groups financially and logistically to influence outcomes in their respective geopolitical interests, while

private donors and intermediaries from the region played a role in supporting certain groups or operation rooms with fundraising campaigns on social media (CoI, 2014a). Foreign fighters continued to join the hostilities, either officially in support of the government or clandestinely in armed groups, fueling the sectarian dimension of the conflict with their composition and narratives (CoI, 2014a).

The use of pro-government irregular forces in direct combat grew in 2014, including the National Defence Forces, Ba'ath party battalions, popular committees and *shabiha* groups, and foreign combat units such as Hezbollah and Iraqi militia. Connectivity improved across the country among opposition groups, establishing permanent or temporary coordination and integration mechanisms based on common tactical objectives, shared ideologies or operational necessity (CoI, 2014a). Given this, the impact of the war was no longer limited to Syrian territory; continuous influx of foreign fighters, the success of extremist groups, the rise of sectarian tensions, competition for resources such as water, oil or gas, and the increasingly vulnerable socioeconomic situation of refugees contributed to a spill-over of violence, affecting regional peace and stability (CoI, 2014b). Government forces continued to combine long-lasting sieges with heavy aerial and artillery bombardment, leading to forced truces in strategic areas and mass arrests of men of fighting age (CoI, 2014b). Weakened by infighting, divisions, and rivalries, opposition groups began suffering defections to the IS in 2014 given their financial and operational capacity (CoI, 2014b). Territorial gains by the IS in Iraq also contributed to power imbalances inside Syria; the group was able to make significant seizures of resources and military equipment in Iraq, consolidating control over large swaths of northern and eastern governorates (CoI, 2014b). Forming alliances with local Syrian tribes in Ar Raqqa, Al-Hasakah, and Dayr al-Zawr, the IS adopted a strategy of establishing order by balancing brutal governance methods with the provision of essential services, such as security and employment (CoI, 2014b).

Kurdish YPG maintained the de facto self-regulated, autonomous regions in the north, namely Afrin, Ayn al-Arab, and Al-Jaera, successfully fending off both the IS, government forces, and Turkish forces on the border. The YPG, supported by local armed groups and international coalition airstrikes, advanced in north-eastern governorates, clearing the canton of Ayn al-Arab (Aleppo) and seizing the border crossing of Tal Abyad (Raqqa) to connect Ayn al-Arab and al-Jazire into a continuous zone (CoI, 2015b). Sporadic but persistent fighting and objectives to expand geographically brought chaos and destruction to new localities, yet none of

the actors involved have been able to collapse or secure an outright military triumph (CoI, 2015b). Over four years into the conflict, all groups had secured sufficient support channels, territorial gains, and operational capabilities to sustain their efforts for the foreseeable future (CoI, 2015b).

Throughout 2015, government forces struggled against mounting military offences by opposition groups, successively losing strategic locations and military positions in various governorates and failing to prevent the collapse of their external defensive lines in areas such as eastern Homs and Idlib (CoI, 2015b). As a result, the government prioritized highly strategic areas such as Damascus, coastal governorates, and communication lines across Lebanese borders (CoI, 2015b). Meanwhile, Jabhat al-Nusra reinforced its hold on large parts of Idlib governorate, delegating resources and efforts onto local governance, focusing on establishing security and justice mechanisms to consolidate its influence over communities (CoI, 2015b). The IS confirmed its influence over large swaths of northern and eastern governorates, while also expanding into new areas in central and southern Syria, and absorbing local militant groups operating outside its strongholds (CoI, 2015b).

United Nations Special Envoy Staffan de Mistura submitted a new proposal to the Security Council on 29 July 2015, aimed at reaching a Syrian-owned framework document on the implementation of the 2012 Geneva Communiqué. After extensive deliberation with opposition groups and external states, four subject-specific working groups were proposed to address the following themes: “safety and protection for all”; “political and constitutional issues”; “military and security issues”; and “public institutions, reconstruction and development” (CoI, 2015b). Increased regional and international involvement in the internal Syrian dynamic has created opportunities for reaching a political solution, but also underscored the achievement of a lasting resolution (CoI, 2016). The first series of Vienna talks was held in October, calling for a Syrian-led political process and a ceasefire monitored by the United Nations (CoI, 2016). Several meetings between opposition groups, international organizations, and external states ensued, culminating in the adoption of resolution 2254 by the Security Council, reflecting the agreement on conditions for a political solution and a series of confidence-building measures by parties to the conflict as a sign of good-faith (CoI, 2016).

Throughout 2016, hostilities continued most brutally in Latakia, Idlib, and Aleppo governorates, with siege warfare and constant bombardment utilized to force surrender or

political concession. The conflict devolved into a proxy war, steered from abroad by a network of alliances that shape operational capacity and performance (CoI, 2016). The direct intervention of external states escalated during this time, including US-led international coalition airstrikes and the Russian Federation deploying air support to the Syrian government. Spillover effects onto neighboring countries has caused border insecurity, outflow of refugees, and sectarian schisms fueled by extremist actors (CoI, 2016). Within Syria, reliance on foreign militias for ground offensives implies increasing fragmentation of government forces and the decentralization of state authority (CoI, 2016). The ability of opposition groups to confront multiple offensives on different front lines decreased, owing to airstrikes on their command centers, logistical networks, and lines of communication (CoI, 2016). US-led coalition and Russian airstrikes, along with YPG operations, have significantly diminished the IS's financial and operational capacity, but failed to eradicate its ability to attack areas of strategic value through explosive devices and sleeper cells in opposition territory.

Turkey, Iran, and Russia sponsored talks in Astana in 2016, aimed at capitalizing on the post-Aleppo battlefield developments and reinforcing the ceasefire that took place the previous year (CoI, 2017a). The outcome of these talks had consequences for the opposition, as Jabhat Fatah al-Sham (previously Jabhat al-Nusra) considered this to be a direct declaration of war and launched attacks on those involved; this ultimately led to the incorporation of various armed groups under the umbrella of Ahrar al-Sham for protection, and the creation of Hay'at Tahrir al-Sham (HTS) (CoI, 2017a; Newlee, 2018). Turkish forces initiated a military operation in northern Syria against the IS in August 2016, and since then, Turkey and the FSA began offensives as part of a cross-border operation "Euphrates Shield" targeting the group (CoI, 2017a). During this time, the IS continued to lose territory as a result of clashes with Kurdish and government forces, particularly in Aleppo, Homs, and ar-Raqqah.

Aleppo has continued to be of strategic importance to all parties, with prolonged sieges held by government forces in western Aleppo and opposition groups in eastern Aleppo denying civilians respite from violence. Despite various calls and agreements to ceasefires, a pause in fighting did not materialize and humanitarian assistance continued to be rejected. When eastern Aleppo was recaptured by government forces in December 2016, the impact on conflict dynamics was felt across Syria; a ceasefire was declared that succeeded in reducing levels of violence but, again, failed to hold (CoI, 2017b). Operation Olive Branch was launched by

Turkish forces and the FSA in January 2018, as the government of Turkey declared its aim to fight terrorism and ensure border security pursuant to Article 51 of the Charter of the United Nations³⁸ (CoI, 2018). The Syrian government continued to reject the possibility of UN involvement in post-conflict transitions, maintaining the constitutional process should be without foreign interference (CoI, 2018). In May, the SDF announced Operation Al-Jazeera Storm, targeting the remnants of the IS regrouped along the border between Syria and Iraq (CoI, 2018). During this time, the Syrian government reclaimed the last opposition held enclave in Homs governorate, Yarmouk camp, and adjacent districts of Qadam, Tadamun and Hajar al-Aswad (CoI, 2018). Throughout 2018, HTS experienced several setbacks including loss of territory, lack of local support, assassination of key leadership, and significant defection amongst its ranks (Newlee, 2018). Alongside this, Turkey has pressured HTS to dissolve and join the SNA opposition coalition but leadership remains resistant and actively involved in the conflict. At the time of writing, the conflict remains on-going as Syrian government forces, the FSA/SNA, SDF/YPG, and HTS remain directly involved in hostilities.

4.3 Governing Through Life and Death

Governing through life and death takes place through the intersection of strategies that can be considered as necropolitics, debilitation, or slow violence. As shown within empirical material on techniques of governance deployed, state-claiming actors leverage hostilities to define who matters and who does not, who is disposable and who is not, who dies and who does not from the vantage point of the sovereign. The creation of violent dichotomies and lived realities allow us to see the depths of governance and sovereignty as they unfold during conflict, while also considering how these dichotomies and realities exist during times of peace.

The manifestation of sovereignty depicted during warfare relies on techniques of governance that balance life and death in more overt, visible ways. Aside from specific practices that seek only life or only death, most are simultaneously producing life *and* death; given the duality in the role of the sovereign, this entails directly causing death while ensuring the bare minimum is available to preserve life. In doing so, the creation of “death worlds” remains a central theme in understanding competing claims to sovereignty, as part of the territorial ecosystem and “scorched earth” approach to warfare that encompasses the inherently physical aspect of

³⁸ The Syrian government condemned this operation as an act of aggression and violation of the provisions of the Charter.

governing through life and death. These death worlds are constructed through new and unique forms of social existence in which populations are subjected to conditions of life conferring upon them the status of the “living dead” (Mbembe, 2003, 40). This practice works to produce bodies that are immobilized and resource deprived through the imposition of sieges, indiscriminate attacks, territorial fragmentation, attacks on civilian infrastructure, torture and ill-treatment, among other methods of warfare and occupation taking place in Syria. The harms of existing in a death world are displayed in landscapes, architecture, and on physical bodies that are forced to subsist within this realm, whether friend or enemy.

Opposition groups must employ traditional state-building technologies in alternative manners, often through violence, to establish a sovereign presence and occupy territory. Reporting demonstrates attempts by state-claiming actors to exercise traditionally state-associated behaviours previously provided by the Syrian government, such as health, education, food, water, infrastructure, and security. Opposition groups may not have the same resources or infrastructure as government forces, instead basing their perceived legitimacy on the fear they strike into populations in controlled territories; allegations include favoritism in distributing humanitarian aid, a prejudiced approach to dispute resolution, the denial of freedom of movement, the use of human shields, the use of civilian buildings for military purposes and the overall, general and constant fear of reprisal by armed groups (CoI, 2017a, 13). Restricting the availability of basic needs of civilians as part of a military strategy to punish, erode resistance, and wear down populations reiterates the simultaneous nature of governing through life and death. In the absence of readily-available state provided military equipment and security infrastructure, non-state opposition groups must adapt to conditions of conflict in carving out sovereign territory using uneven but equally violent means.

In Syria, governing through life entails debilitating and demobilizing populations through various strategies of warfare, as opposed to biopolitical techniques of “making live” and “letting die” (Foucault, 1979). Justification for the modern state depends on the reproduction of living subjects, and governing through life in this climate is contingent on maintaining bodies that are alive in environments that facilitate the mass production of death. The debilitation of individual bodies and wider populations is not merely “collateral damage” of conflict, but often the intended result of calculated military strategy. The foreclosure of access to resources and healthcare infrastructure, restrictions on food, water, and humanitarian aid, torture and ill-

treatment, and implementing new systems of governance comprise the methods through which state-claiming actors sustain death worlds in the territory they occupy. Life is preserved through the built environment where populations are targeted for death but not killed, instead continually injured and severely under-resourced as wartime provides fertile ground for humanitarian collapse where the adversary cannot recover but remains alive.

Alternatively, exercising control over mortality and subjugating life to the power of death in Syria is accomplished through the indiscriminate use of weapons, use of prohibited weapons, territorial fragmentation, states of siege, and direct attacks on civilian populations and infrastructure, as state-claiming actors massacre the enemy in exchange for fragile control over territory and populations. The presumed objective of these actors is targeting specific populations for death, whether that be groups deemed the “enemy” or “traitors” of the state-claiming actor, most often through the commission of violent acts. These tactics of warfare are a concrete expression of necropower in “making die” bodies that are already stressed and resource deprived in their lived environments. The following analysis will explore governing through life and death as deployed by state-claiming actors through the categories of infrastructure; health; food, water, and basic necessities; and (in)security and (in)justice. As mentioned above, this analysis is structured this way as the empirical material indicates the commission of war crimes and crimes against humanity simultaneously seek life *and* death, rather than life or death.

4.3.1 Infrastructure

Territorial fragmentation furthers the capacity of the sovereign to govern through life and death; as colonial occupation was previously a matter of seizing, delimiting, and asserting control over a physical geographic area and creating a new set of social and spatial relations, contemporary occupation differs in its combining of the disciplinary, the biopolitical, and the necropolitical, allocating absolute dominion over the inhabitants of a given territory to the colonial power, or in this case, the state-claiming actor (Mbembe, 2003). Space is a central facet of sovereignty and the violence inherently associated with it; as mentioned above, sovereignty is the capacity to decide upon the friend-enemy distinction within a given territory. The sealing-off and expansion of settlements by state-claiming actors is the undertaken with the objective of disrupting any movement of populations or physical bodies. Aleppo was effectively divided in 2012 between east and west under the control of opposition groups and government forces, respectively. Eastern Aleppo remained a key opposition stronghold mostly self-governed by

local councils and state-claiming actors. In September of 2015, the Russian Federation began to bolster government forces on several key battlefronts and offered a realistic opportunity to break the military impasse, where air strikes were used with the overarching goal of besieging eastern Aleppo city (CoI³⁹, 2017a, 6). These campaigns continued into 2016, forcing opposition groups out of eastern Aleppo and into the countryside, weakening the city's defenses and eventually cutting off supply lines from Turkey that prevented the reinforcement of these groups (CoI, 2017a, 6). Eastern Aleppo experienced almost constant aerial bombardment that destroyed, schools, hospitals, mosques, homes, and other civilian infrastructure. Pro-government forces sought to besiege eastern Aleppo through ground offensives and aerial strikes, and by July of 2016, the only remaining supply line into the city was captured (CoI, 2017a, 7). Castello Road was bombed daily, facilitating a state of siege and total occupation of eastern Aleppo and those residing within its borders (CoI, 2017a, 7). Under these conditions, a proliferation of sites of violence occurred as battlefields were no longer restricted to land, but simultaneously operating in airspace and underground⁴⁰.

On both sides of Aleppo, civilians continued to suffer the consequences of the violence perpetrated by state-claiming actors. Government forces devastated vital civilian infrastructure, including hospitals, markets, water stations, schools and residential buildings, while opposition groups continued indiscriminate and deliberate shelling of western Aleppo (CoI, 2017a, 7). Even prior to the siege, residents of eastern Aleppo lacked sufficient food, medication and fuel, in addition to the bombardment of water stations that forced the population to drink from boreholes that risked contraction of waterborne diseases (CoI, 2017a, 8). In December of 2016, all hospitals were bombed out of service and residents were concentrated in ever-shrinking territory, where they lived under aerial attacks with insufficient food, water and heating (CoI, 2017a, 9). Without the availability of crucial medical facilities, families had no choice but to leave the bodies of their dead and injured relatives in the streets (CoI, 2017a, 9). With Russian support, government forces increased attacks on eastern Aleppo throughout the year, targeting residential homes, medical facilities, schools, markets, and mosques (AI, 2016). Russian-made cluster munitions were frequently used during these attacks, leaving unexploded munitions scattered across the city

³⁹ CoI is referring to the Independent International Commission of Inquiry on the Syrian Arab Republic.

⁴⁰ Examples of "underground" sites of violence can be seen in the deliberate attacks against clandestine healthcare operations, most often operating in basements to avoid detection. This will be discussed further in the following section.

(AI, 2016). The continued use of cluster munitions in densely populated areas is inherently indiscriminate, given the typically wide dispersal pattern and high dud rate, which continues to endanger civilians years after the cessation of hostilities (CoI, 2017a, 12). By departing from a planar division of territory, the segmentation of Aleppo constitutes a “politics of verticality” where the landscape and built environment become the arena of conflict in a territorial ecosystem of “externally alienated, internally homogenized enclaves” located next to, within, above or below each other (Weizman, 2002).

Government forces have continued to indiscriminately carry out strikes across the country using prohibited weaponry in residential areas and against civilian objects, reportedly using “unguided, high-explosive barrel bombs dropped from helicopters” (AI, 2016, 2). Schools have been converted to shelters for internally displaced persons, placing them at higher risk for attack by government airstrikes (CoI, 2014b). By 2014, most schools in Dara’a were no longer operational because they had been occupied by government forces or surrounded by snipers (CoI, 2014b). Opposition groups have also launched indiscriminate mortar and artillery attacks on schools, mosques, and markets, while also using schools as military bases, depots, barracks, detention centres, and sniper posts (HRW, 2016, 3). These groups lack the military and security infrastructure to effectively counter the Syrian Armed Forces, and have resorted to using civilian objects for combat and other military purposes, placing civilians in the path of direct violence. Schools, residential neighbourhoods, medical centres, places of worship, public spaces, and other vital civilian infrastructure are directly targeted by state-claiming actors, as the location of combat in densely-populated urban areas provides space for these groups to wage haphazard warfare against the opposition under the guise of “collateral damage”. Unfortunately, but not surprisingly, civilians continue to bear the burden of this violence as the objective is to render life unbearable in areas under control by opposing state-claiming actors.

The continued use of indiscriminate attacks and prohibited weaponry by all parties facilitates a “scorched earth” approach to warfare in which critical civilian infrastructure and objects are targeted and decimated beyond repair. This approach subjugates life and the lived environment in Syria to the power of death, as the aerial bombardment of civilians and civilian infrastructure is intended to prepare the area for ground assault with minimal resistance (CoI, 2014b, 32). The destruction of structures of civilian life across Syria, including houses, businesses, schools, parks, and markets, challenges the ability of civilians to survive continuous military offensives in

sustained conditions of death worlds. Government forces repeatedly attack and bombard civilian areas controlled or contested by armed opposition groups and damaging civilian objects using explosive weapons with wide-area effects, including artillery shelling and unguided, highly-explosive barrel bombs (AI, 2016, 2). In these attacks, government forces continue to strike bakeries, markets, and venues offering humanitarian assistance with no apparent military justification for these attacks (CoI, 2016). Non-state armed groups have launched indiscriminate mortar and other artillery strikes that killed civilians in neighbourhoods under government control, repeatedly hitting known civilian objects including schools, mosques, and markets (HRW, 2015, 3). Hundreds of civilians have been killed while shopping in open-air markets, crossing public squares, or merely existing in their communities (CoI, 2016). These tactics serve to instill fear in civilians and force them into submission by removing the assurance of safety in public spaces.

4.3.2 Health

Targeting of hospitals, medical personnel and transport, and the denial of access to medical care by state-claiming actors has become an ingrained feature of the Syrian conflict, leaving the health condition of the population at critical levels (CoI, 2016). The widespread and systematic attacks on healthcare and humanitarian aid by government forces operate as a means to debilitate current and future resistance against the regime. The Syrian Armed Forces target areas sympathetic to the revolution and opposition movement, so frequently that populations have become hesitant to seek care at larger healthcare institutions as they have repeatedly been the target of violence throughout the conflict. Attacks on healthcare workers and facilities have significantly eroded the country's ability to protect the right to health; 32 of the country's 88 public hospitals have closed, government forces have detained, tortured, and killed hundreds of health workers and patients, and have deliberately attacked vehicles carrying patients and supplies (HRW, 2013). A recent report of the UN Human Rights Council concluded that the denial of medical care as a weapon of war is a distinct and chilling reality of the war in Syria (HRW, 2013).

Attempts to deliver aid to hard-to-reach or besieged areas are deliberately obstructed or delayed, and medical and surgical supplies are routinely removed from aid convoys in an effort to hinder adequate medical care. Supplies to facilities that remain open have been reduced to an absolute minimum, due to besiegement strategies and severe restrictions imposed by the Syrian

government on medicines and materials for surgery and trauma care (MSF, 2015a, 13). Larger healthcare facilities are overburdened and drained of the material and human resources necessary to provide adequate care to the Syrian population. In Aleppo, more than two thirds of hospitals are no longer functioning, and roughly 95% of doctors have either fled, been detained, or killed (WHO, 2015, 19). Many healthcare staff and medical personnel have been forced to leave Syria, and those who remain are constantly at risk of attacks, targeting, or kidnapping by state-claiming actors based on their position. This further diminishes the capacity of an already strained health system, struggling to function despite heavily damaged infrastructure and lack of available staff.

Access to essential treatment has become almost impossible either due to lack of supplies and qualified medical staff, or because of the high security risks faced when trying to reach a health facility. Given that the number of healthcare staff and facilities are decreasing rapidly, individuals seeking treatment are now required to travel long distances to receive basic medical care. Ambulances are carrying two or three patients at a time, but due to the high visibility of these vehicles and potential for attacks, inconspicuous mini-vans or cars are used to transport patients despite not being outfitted with the required medical equipment and having to cross dangerous checkpoints (MSF, 2015b). A lack of beds, staff and the incessant fear of being targeted make post-operative care even more difficult and trigger early discharge of patients without being able to provide appropriate follow up (MSF, 2015b). Previously treatable complications are now contributing to an increasing death toll, which does not account for those unable to reach a medical facility, nor does it account for deaths related to other causes such as severe malnutrition or lack of treatment for acute or chronic disease.

Healthcare and medical humanitarian aid have become a high-value target, forcing medical facilities to move “underground” or to remote locations in order to function under the radar of government or opposition forces. In 2012, the Syrian government declared any clinic providing medical care to victims of violence in opposition-controlled areas illegal, leaving them particularly vulnerable to attacks. As a result, the majority of the MSF-supported clinics have been forced to operate clandestinely in unmarked and undeclared locations, and without any access to medicines and medical supplies provided through the Syrian health system (MSF, 2015a, 12). As people became afraid of going to public hospitals, makeshift clinics were set up in mosques and private houses, which were also targeted. Often, these consist of small spaces where hygiene, sanitation, and medical equipment and supplies are not available to staff in the

same way as hospitals or clinics (MSF, 2015a). Many healthcare staff are working in areas outside of their specialty despite not having proper training due to large influxes of wounded and injured in addition to regular healthcare demands of the population. This leaves patients at higher risk for complications, and staff at a higher risk of attack or targeting if the location of the facility is found. Drug supply is also extremely challenging, and as a consequence many patients have to undergo complicated surgery without anesthetic or accompanying antibiotics (MSF, 2015b).

Healthcare workers have also been shot for who they are, who they treat or for who they are perceived to support (MSF, 2016a). Facilities have been damaged or destroyed, sometimes through multiple direct attacks, seemingly intended to ensure their complete destruction (MSF, 2016a). For example, the bombardment of Al Quds Hospital, a privately-run institution, fits into a larger pattern of attacks on medical facilities in eastern Aleppo throughout 2016, where various other attacks on civilian installations were reported on the same day, while possible alternative health facilities for patient treatment have also been attacked (MSF, 2016b). To this end, hospital staff at Al Quds put mitigation measures in place to protect the facility from future attacks, such as stacking sandbags in front of the entrance, walls, and first floors to protect the structure, and installing security cameras to provide evidence in case of attack (MSF, 2016b). Al Quds was a widely recognized functioning hospital with no military target located near the facility; in Syria, health structures have started to remove identifying features due to continued attacks on healthcare that has resulted in an unprecedented protection dilemma, while civilians have relocated from residential neighbourhoods near these facilities due to collateral damage (MSF, 2016b). Reliance on private physicians and in-home medical visits reflects a fear of seeking care in larger institutions based on the frequency of attacks against health structures (MSF, 2016c). The “double-tap” strike⁴¹ has also become a predictable feature of this conflict, forcing responders to weight the risk of their own safety against the risks to those already injured, who often unfailingly choose the later (MSF, 2016a).

Opportunities for delivering medical supplies and equipment, especially surgical materials, to these areas remained limited (ICRC, 2015, 517). Not only are hospitals and the public healthcare system strained from treating those wounded and injured, but through the standard

⁴¹ “Double-tap” strikes refer to the bombing of a target, waiting for first responders to arrive, and then bombing the target a second or third time.

secondary and tertiary healthcare needs of the population (WHO, 2015). Individuals who do not receive timely medical care will continue to suffer lifelong disabilities, while patients with chronic illnesses lack access to medication and continuity of care, immunizations and vaccinations cannot be distributed, pre- and post-natal care is limited, and access to basic necessities is restricted. The more protracted the situation in Syria becomes, the more likely that populations will continue to suffer social and societal disruption, infectious diseases, acute malnutrition, trauma, and life-threatening complications of chronic diseases, disabilities, and mental health conditions (WHO, 2015, 10). Civilians living in areas under IS control lack access to basic medical care due to the destruction or occupation of medical facilities and restrictions imposed on the professional activities of medical personnel, resulting in a lack of qualified doctors (CoI, 2015a, 61).

As government and opposition forces attack facilities deemed to be sympathetic to their adversaries or operating within certain areas (i.e. major cities or opposition-held territory), healthcare and humanitarian aid are transformed into a partisan matter. This indicates that in various instances, attacks go beyond indiscriminate violence in using targeted attacks against healthcare and humanitarian aid workers as a strategy of war. The Syrian population is effectively denied the status of disability as the current healthcare framework denies the means necessary for rehabilitation. In the context of an utterly and systematically devastated healthcare system, or lack thereof, there are no resources available for infrastructure to provide opportunities for rehabilitation to occur, or for individuals to heal from sustained injuries. The subordination of populations is achieved through the constant wearing down of physical bodies is a calculated tactic of warfare, where the self-proclaimed sovereign is keeping them alive but not letting them live. Allowing aid convoys and medical supplies into besieged areas or healthcare facilities to provide the bare minimum for populations ensures that not everyone under control of state-claiming actors dies. Permitting the operation of certain healthcare facilities, rather than their destruction, grants populations regulated access to minimum health provisions and constitutes governing through life. The lived reality of Syrians sees this practice repeatedly playing out in a built environment that facilitates debilitation, maiming, and stunting, as the long-standing paucity of available medical care has resulted in preventable deaths and permanent disability.

4.3.3 Food, Water, and Basic Necessities

As protests progressed into civil war, populations living under occupation by state-claiming actors were rendered vulnerable to intentional harm and disproportionately exposed to death as “collateral damage” of hostilities. States of siege, restriction of movement, direct attacks on civilians and civilian infrastructure, indiscriminate shelling, and depleted food, water, and medical supplies suspend individuals in their lived environment and directly position them as targets for death. These techniques of governance function as part of a “starvation until submission” campaign, in which civilians are intentionally weakened in an attempt to break any propensity for resistance (CoI, 2014a). The primary victims of these strategies of warfare are the civilians trapped inside densely populated areas where food, water, and electricity are severely limited. Millions of Syrian residents have little or no access to electricity and running water, whether that be an unintended result of hostilities or a deliberate strategy to intensify the suffering of the civilian population in a specific area (CoI, 2016). Continuing hostilities have undermined efforts to repair, maintain, and upgrade electricity and water pumping and treatment facilities across Syria (CoI, 2016). This lack of electricity has forced individuals to live in unheated homes, schools, and hospitals, while electricity shortages have significantly hindered the capacity for hospitals and clinics to perform daily functions (CoI, 2016). With no procedures in place for safe evacuation of besieged or occupied areas, civilians continue to endure the relentless deterioration of basic living conditions in addition to psychological trauma, acute malnutrition, and preventable deaths.

Every attack on civilian infrastructure has a domino effect; immediate consequences involve the deprivation of urgently needed resources and supplies, while long-term consequences include the need to rebuild and re-equip destroyed infrastructure (ICRC, 2015). Reporting by the ICRC highlight emergency needs for water, food, essential household items, healthcare supplies, and related material assistance, as health needs of the population continued to outstrip available services, especially in besieged locations and in areas controlled by armed groups (ICRC, 2015, 515). States of siege and exception become a military strategy that allows for a modality of killing where entire populations are transformed into targets and their daily lives become militarized. Wars of the globalization era force the enemy and occupied bodies into submission, utilizing space as a facet of sovereignty that is specific to warfare. Continued and repeated attacks against markets and food sources indispensable to civilian life have become characteristic

of the prolonged siege laid to eastern Aleppo, violating the right to regular, permanent and unrestricted access to sufficient food and is indicative of government forces targeting civilian infrastructure to compel opposition groups to surrender (CoI, 2017a, 10). A lack of potable water severely reduced the access of men, women and children to sanitation and hygiene, and increased the risk of infectious and waterborne diseases, denying residents of eastern Aleppo the human right to water (CoI, 2017a, 10). The “war on life support” occurring within Syria is an essential component of the “biopolitical regulation of a malleable humanitarian collapse”, whereby supporting infrastructure of ordinary life becomes both the target and weapon (Salamanca, 2011, 25).

The implementation of checkpoints across Syria continue to instil fear in Syrians, viewed as a pervasive and inescapable addition to the built environment. Checkpoints allow state-claiming actors to establish boundaries encompassing controlled territory, operating as a method of permitting or denying access into these spaces. Fear of these checkpoints has prompted residents to opt for longer and more difficult routes for travel, as encountering these checkpoints often results in arrest, detention, torture, or death. Women in labor have not been allowed through government checkpoints, and have often been forced to give birth under dangerous conditions (CoI, 2015a, 10). Arrest of individuals at checkpoints enclosing restive areas are commonplace, restricting movement for residents who are unable to leave or flee when the area comes under attack (CoI, 2014b). This restricted mobility impacts all residents, but is notably felt by males over 12 years of age, as “fighting-age men” are deemed threatening given their capacity for opposition. Men, particularly those with identification cards showing them to be from restive areas, are arbitrarily arrested at checkpoints (CoI, 2015b). In some instances, women leave their husbands behind in opposition-held areas to accompany their pre-adolescent sons out of the area before they reach an age where they are more likely to be stopped at checkpoints (CoI, 2015b, 8). The lives of Syrian women have also been radically altered by this practice; with Syrian men killed, disappeared, or unable to move for fear of arrest at checkpoints, there has been a significant increase in female-headed households (CoI, 2015a, 9). Since females can move more freely than men in government-held areas, women and girls face the threat of sexual assault and violence at checkpoints (CoI, 2015b). Reminiscent of Kwate & Threadcraft’s (2017) work on “Stop and Frisk” policies in creating death worlds for Black lives in New York City, the practice of checkpoints is a means through which state-claiming actors produce bodies that are “harassed,

stressed, and resource deprived” (537). Checkpoints are not only “asphyxiatory” in their capacity to create chokepoints in mobility, but also seek to move life towards death at these sites of violence.

State-claiming actors are able to create and maintain violent conditions within occupied territory given the “asphyxiatory” control over resources and access to these spaces; sieges, checkpoints, and attacks on infrastructure serve to metaphorically and literally starve populations as systematic sabotage of civilian infrastructure becomes a primary vector through which biopolitics and necropolitics are implemented in colonized spaces. The “asphyxiatory” control over territory is more easily undertaken by government forces given their access to resources and ability to determine what international or non-governmental intervention is allowed to occur and where. As a pre-existing and internationally recognized state, the Syrian government has the infrastructure, legitimate authority, and sovereign right to block humanitarian aid deliveries and personnel from entering the country. Humanitarian aid agencies have consistently experienced significant challenges in providing assistance to the displaced civilian population and others affected by the conflict because of sieges imposed by both government and non-state armed groups, the government’s continuing refusal to allow assistance to come in across the border, and a general failure to guarantee security for humanitarian workers (HRW, 2014, 4).

In Sheikh Maq̄soud, a Kurdish-held enclave, attacks by pro-government forces have resulted in serious shortages of water and electricity, with most of the population subsisting on generators and wells (CoI, 2017a, 15). In the mountain town of Madaya, government forces have utilized starvation as a weapon of war; surrounding the area and imposing a complete blockade on goods until the situation in Madaya became increasingly desperate; with no electricity or fuel, residents burn garbage for cooking and rely on a local veterinarian and anaesthetic technician to perform surgeries on parturient mothers (CoI, 2016, 18). Government forces also restricted the movement of civilians out of Madaya and prevented access to the Madaya valley where agricultural land could be cultivated for crops; instead, these areas were littered with anti-personnel land mines that have killed civilians searching for food (CoI, 2016, 17). In many areas, the government no longer provides services, leaving local communities and individuals to shoulder the responsibility of providing civil administration in their own neighbourhoods (MSF, 2015b, 6).

Given this, attempts by state-claiming actors to exercise traditionally state-associated behaviours previously provided by the Syrian government can be seen, involving provision of

health, education, food, water, infrastructure, and security (police, prisons, army, courts, etc.). For example, Jabhat al-Nusra/HTS's overall objective is to epitomize the realization of al-Qaeda ideology, where affiliates embed themselves into local wars and popular revolutions to establish a lasting presence that enables the vision of an Islamic Emirate, and eventually, a caliphate, to tangibly exist. Jabhat al-Nusra/HTS views itself as providing a "front" for Syrian people, allocating various resources such as humanitarian aid, municipal and administrative government functions, social services and fighting repression on their behalf in territories under its control (Counter Extremism Project, 2020). The organization has cemented its presence in some areas by establishing formal governance structures such as Islamic institutes, court systems, handling military, criminal and administrative matters, as well as providing services such as electricity, water and infrastructure repair (Australian National Security, 2020). The long-term strategy of Jabhat al-Nusra/HTS emphasizes pragmatically sharing power with opposition groups, while gradually socializing civilians and fellow opposition groups into accepting its growing influence and vision of an Islamic Emirate (Counter Extremism Project, 2020).

Within territories it controls, HTS follows a more moderate interpretation of Islamic law, opting to share power with other opposition groups while working to embed itself within local populations. HTS provides social services and establishes itself as an ally in these areas before translating these services to more overt forms of governance (CISAC, 2017). In Idlib governorate and other areas under its control, HTS created *Dar al-Adl fi al-Hawran*, a court system that oversees military, criminal, and administrative law, while also settling disputes between civilians and militant groups (CISAC, 2017). To an extent, local populations have become dependent on HTS for basic services, creating formal governing bodies, court systems, and controlling the supply of humanitarian resources, such as food, water, and electricity. Given its consolidation of power in Idlib, experts predict this region will have a crucial role in future attempts by HTS to establish an Islamic Emirate in Syria in the future (CISAC, 2017).

Further, overarching objectives of the IS revolves around the creation and expansion of a global caliphate, with Abu Bakr al-Baghdadi serving as the "caliph" or key figurehead of this movement prior to his death (CISAC, 2021). Underneath this position are two chief deputies and a cabinet of advisors that comprise the executive branch of IS, called "al-Imara" or "The Emirate" (Counter Extremism Project, 2020). As the IS gained more territory, it established a complex taxation system and a semi-federal governance structure (CISAC, 2021). This structure

also contains legislative councils; the Shura Council is reportedly responsible for ensuring adherence to religious doctrine and relaying al-Baghdadi's orders through the ranks, while the Sharia Council is responsible for creating police forces and courts in IS-conquered territory (Counter Extremism Project, 2020). Below these councils are fourteen central government departments, known as "*diwans*", which managed the following areas; education, public services, precious resources (oil and antiquities), Da'wah activity and mosques, health, tribal outreach, public security, finances and currency, public morality (Islamic police), Islamic court (ex. marriages and judicial matters), public relations, agriculture and environment, fatwas/recruitment, and military and defense (CISAC, 2021). These departments were replicated on a regional level for local authorities. The IS also held outreach events and distributed educational materials to familiarize locals to its religious interpretations and organizational structure (CISAC, 2021). Once the region was secured, IS would formalize control and enforce stricter adherence to its law and religious doctrine.

This speaks to the duality of the sovereign, in causing death and preserving life of those internal to its territory, while directly pursuing death for those external to its borders. Across the country, opposition groups carried out an increasing number of attacks against facilities necessary for the survival of the civilian population, targeting the lifelines of communities under the control of, or perceived to be affiliated with, the Syrian government (CoI, 2015a, 60). These groups have burned wheat fields and olive groves, indiscriminately attacked agricultural fields to destroy residents' harvest, prevented farmers from accessing their land using anti-personnel mines and sniper fire, and increasingly targeted power stations and electricity installations to weaken the government's hold on certain territory by suffocating the population (CoI, 2015a, 61). The intentional destruction of occupied territory by the IS represents an attempt by the group to project its dominance, ability to annihilate other forms of identity, and impose its world view on populations under its control (CoI, 2016, 13). The IS deliberately cut off water and electricity supplies to Ayn al-Arab (Kobane), pillaged livestock and destroyed property of Kurdish civilians (CoI, 2015a, 61). The IS also has a well-documented history of destroying objects of cultural heritage and importance in Syria, including millennia-old structures and antiquities (CoI, 2016). Reporting indicates that armed opposition groups frequently resort to violent means in carving out sovereign territory and establishing control over populations.

4.3.4 (In)Security and (In)Justice

Given Syria's political history and the decades-long reign of the al-Assad regime, anti-government protests in the context of the Arab Spring threatened the long-entrenched status quo. The use of widespread and systematic violence in response to the protests parallels the state of emergency spanning from 1963 to April 2011 in Syria, which served to suspend most constitutional protections for citizens as the Ba'ath party came to control all aspects of political and social life under al-Assad rule (CoI, 2011, 5). Throughout the state of emergency, suspected opponents of the government have been subjected to torture, detention, and long prison sentences imposed under vaguely defined crimes relating to political activity, while surveillance and suppression has been conducted by an extensive apparatus of intelligence services (CoI, 2011, 5). Decades of control over political life and the constitution of an autonomous civil society, coupled with mass surveillance and persecution of alleged opponents set the stage for pro-democracy protests and the overwhelmingly violent government response. Individuals were transformed from visible to invisible by means of incarceration based on their opposition to repressive conditions and systems of governance, branded as "armed conspirators" and "terrorists attacking civilians and burning government buildings" in an attempt to justify the excessive violence used against peaceful protestors (CoI, 2011, 11).

When protests began in the southern city of Dara'a in March of 2011, government forces violently attempted to suppress and disperse the peaceful gatherings with armed force and military intervention. Conducting several large-scale military operations in restive towns and cities across Syria, government forces engaged in mass killings, arrests, and detention of civilians. In April, tanks and armored personnel carriers imposed a siege on the city of Dara'a for 11 days, killing at least 115 residents according to local reports (HRW, 2011, 2). Based on individual testimonies, including those of defectors who have acknowledged their role in policing and quelling protests, government forces shot indiscriminately at unarmed protestors aiming for the upper body and head (CoI, 2011, 10). Defectors from security and military forces also stated they received orders to shoot at unarmed protestors without warning, affirming reports of lethal and excessive force against peaceful protestors that may constitute crimes against humanity (AI, 2012, 1). Many deaths via extrajudicial executions took place during indiscriminate shootings at protestors and funeral processions of demonstrators; while security forces initially used tear gas or fired into the air to disperse the crowds, they more often fired

directly at protestors without forewarning (HRW, 2011, 1). Wounds sustained in the head, neck and chest area of protestors indicate they were deliberately targeted by the state for death.

Government forces have committed unlawful killings, extrajudicial executions, conducted unfair trials, and held thousands of detainees without trial or in pre-trial detention for prolonged periods of time (AI, 2015). The Syrian government has prosecuted perceived opponents before the Anti-Terrorism Court and Military Field Court, both of whose proceedings were “flagrantly unfair” as these systems allow for the government to label protesting and activism as “terrorism” (AI, 2016, 6). Judges purportedly failed to order investigations into allegations by defendants that had been tortured, ill-treated, or coerced into making “confessions” that were used as evidence against them during trial (AI, 2016, 6). The death penalty has remained in force for many offences in Syria, and the Anti-Terrorism Court has reportedly sentenced twenty detainees to death at Hama Central Prison for engaging in peaceful protests (AI, 2015, 6).

Across reporting on the administration of occupied territory by state-claiming actors, incidents of lack of due process and unfair trials are also commonplace. In northern Syria, the Democratic Union Party and allied forces established a transitional administration in Afrin, Ain al-Arab, and Jazeera, now declared as the Kurdish Autonomous Region of Rojava⁴² (HRW, 2015). Within this autonomous region, Kurdish forces have subjected suspected opposition to arbitrary arrests, detention, unfair trials, due process violations, and failed to address unsolved killings and disappearances (AI, 2015; HRW, 2014; HRW, 2015). There are also reports of YPG soldiers forcibly displacing Sunni Arabs from areas under their control, and confiscating or burning their homes, businesses, and crops (HRW, 2015; AI, 2016). Further, the *Asayish*⁴³ have arbitrarily arrested Kurdish political activists, raided the premises of a non-governmental organization in Afrin, and detained journalists and political opponents (CoI, 2016). IS forces summarily killed captured soldiers, members of rival armed groups, activists and media workers, and civilians, enforcing its strict interpretation of Islamic law and carrying out frequent public executions and other unlawful killings (AI, 2015). Victims were first denounced, then shot, beheaded, crucified, or stoned to death by IS members, depending on the charge (HRW, 2015).

⁴² Under this rule, they have formed councils akin to ministries, a People’s Court, and introduced a new constitutional law.

⁴³ The *Asayish* are Kurdish internal security forces that fulfil various security roles that range from policing to counterterrorism within controlled territory. This organization is comprised of six branches; traffic police, counter-terror forces, women’s *Asayish*, checkpoint security, general security and anti-organized crime (European Asylum Support Office, 2020).

Reporting on enforced disappearances, arbitrary arrests and detention, and torture focus on incidents perpetrated by government forces, as the infrastructure required to undertake these acts is pre-existing. The Syrian state has an established system of security, military, and government facilities and staff that opposition groups must construct amidst a civil war. As a result, state-claiming groups often transform civilian infrastructure in occupied territory into military bases, barracks, detention centers, and for other military purposes (HRW, 2014, 3). In some instances, places of residence are transformed into de facto sites of detention, where families are confined to the basements in their apartment complexes (CoI, 2017, 8). Opposition groups are creating a “state” in the context of social, political, and economic breakdown, where hostilities have leveled entire cities and displaced, injured, or killed millions with no end in sight. Using state-building techniques specific to times of war furthers the perception that these groups can operate as sovereign entities, acquiring medical supplies, military and security equipment, contracts, infrastructure, external contacts, etc. It is evident that sovereignty is more easily enacted by pre-existing and externally recognized collectives, and those who seek to replace established sovereign structures do so by demonstrating their capacity to take away or maintain life through violent means.

The enforced disappearances⁴⁴ of those arrested and detained by state-claiming actors illustrates the tactic of maintaining alive bodies in suspended states of being. Government forces continue to hold thousands of uncharged detainees in prolonged pre-trial detention under conditions that amount to enforced disappearances, among those held include civilians and combatants (AI, 2015, 5). Across all occupied territories, these disappearances are ongoing and constitute a method through which state-claiming actors can render individuals invisible, violently removed from families, communities, and society as a result of hostilities. Information is rarely disclosed about detainees or those who have been forcibly disappeared, lost in an extensive network of detention facilities throughout Syria (CoI, 2018a). Enforced disappearances place physical bodies external to systems of law and act as a gateway to the commission of further offences such as torture, ill-treatment, or violating their right to be recognized as a person before structures of governance.

⁴⁴ Enforced disappearances refer to those individuals who have been detained without acknowledgement by the state regarding their location or status, or covertly murdered by the state after being detained.

Inhumane and degrading treatment of individuals is evident in the conditions of detention, where detainees report the prevalence of infectious skin ailments and digestive illnesses due to severe overcrowding, inadequate sanitation, and a lack of food, clean drinking water and medical care (AI, 2015, 5). Those detained by government forces were often subjected to sexual violence as a tactic to punish, humiliate, and degrade (CoI, 2015a, 9). In Eastern Ghouta, armed groups placed detained civilians and soldiers in metal cages in what was an alleged attempt to deter government attacks on the area (HRW, 2015, 3). Those detained by FSA-affiliated groups were never told where they were being held and often could not recognize their captors, while others described conditions including overcrowded cells and minimal food (CoI, 2018a, 7). The SDF reportedly burnt individuals with cigarettes and denied medical attention for chronic illnesses (CoI, 2018b, 10). Most detainees are young men of military age, between their 20s and 30s, though women, children, and elderly people were also detained by state-claiming actors (HRW, 2014, 2). Government intelligence and security agencies have detained young children since the conflict began, held in the same cells as adults and exposed to the same brutality (CoI, 2015a, 11). The torture and ill-treatment of incarcerated individuals are committed with the objective of obtaining information, coercing “confessions”, punishing and terrorizing those suspected of opposing the government, and more broadly, generating fear within the population through enacting the exception (AI, 2012, 5). Those released from Syrian government security facilities describe a range of torture methods, including prolonged beatings, often with batons and wires, use of painful stress positions, electrocution, sexual assault, the pulling of fingernails, mock executions, and a “*basat al-reeh*” torture device⁴⁵ (HRW, 2013, 2). Other documented physical injuries of victims are consistent with their accounts of severe torture inflicted as a method of interrogation, or to degrade and humiliate, and included rape and sexual violence⁴⁶. Conditions of detention were characterized by a lack of food, water, space, sleep, hygiene and medical care, and detainees were often stripped on arrival and held for long periods in their underwear (CoI, 2015a, 11).

⁴⁵ A “*basat al-reeh*” is a cross-shaped contraption used to immobilize detainees during torture, found in an abandoned state security detention facility in Raqqa in 2013.

⁴⁶ The sexual violence and genocide perpetrated against the Yazidi population and other religious minorities by the Islamic State is well-documented in the reports. Further, sexual violence and rape committed against detained individuals by security and military officials in government detention facilities is also noted in detail. Please refer to the limitations section in Chapter 3 regarding gendered and racialized violence.

The torture of individuals detained by state-claiming actors encompass another method of governing through life and maintaining alive bodies, as individuals are subjected to the power of the sovereign via demobilization, resource deprivation, and violence against physical bodies. While the death of incarcerated individuals has also come to characterize the Syrian conflict, the objective of imprisonment is demobilization through the caging of physical bodies and denial of the capacity to resist the imposed governance of state-claiming actors. There exists a component of governing through death in the detention and disappearances of individuals in the security networks of the Syrian state, but the ill-treatment and torture of these bodies allows for state-claiming actors to instead keep those detained alive without allowing them to live. These bodies remain violently displaced from the population, reporting on the conflict, and the conflict itself as they are physically removed from society. Information⁴⁷ on arrest, detention, enforced disappearances, torture, and extrajudicial executions is scarce, and as a result, detainees are effectively invisible or unimagined as these acts are widespread and systematically undertaken by state-claiming actors. As mentioned above, reports of torture focuses on government forces as the perpetrator, whose pre-existing security and military infrastructure allows for the detention and disappearance of individuals en masse to occur more readily than opposition groups, who build these networks out of remaining civilian infrastructure.

Torture and ill-treatment of this nature serves to dehumanize, humiliate, and main individuals, creating a lived environment that is far removed from living. As many government facilities are overcrowded, torture also serves as a spectacle of debilitation to instill fear and compliance within other incarcerated persons. While previous arguments on the failures of deterrence have been widely disseminated, the abuse of detained bodies in this context is a strategy of state-claiming actors that divides populations into friends and enemies of the state using the spectacle of violence. Those who witness these gross acts of violence tell anecdotes of their experience in detention and heed warnings to those around them. Over 600 interviews were conducted with former detainees by the Independent International Commission of Inquiry since 2011, almost all having been victims or witnesses of torture in government intelligence agencies and prisons, with many present during the death of cellmates (CoI, 2015b, 13). For example, a witness to the torture of Thamir Al Sharee stated that;

⁴⁷ Referring to information provided by government officials or opposition groups on the status of individuals.

“... the boy was lying on the floor and was completely blue. He was bleeding profusely from his ear, eyes and nose. He was shouting and calling for his mother and father for help. He fainted after being hit with a rifle butt on the head.” (CoI, 2011, 13).

Imprisonment, on a broader level, also serves to sustain obedience within the population and discourage dissent or refusal of claims to sovereignty. It is precisely this overt division into those who submit and those who resist that seeks to inflict terror on entire populations. The torture of those who defect from government forces or as a means to force compliance in occupied territory is a strategy in itself of governing through life, sustaining physical bodies while simultaneously implementing trauma and suffering onto those who deviate from their own subjugation. Combatants who refuse to fire on civilians or question the authority of orders being handed down are interrogated, accused of various transgressions, and tortured for indeterminate amounts of time (CoI, 2011, 13). In areas controlled by the IS, “severe physical and mental pain or suffering” of civilian populations is a technique of governance, administering public lashings and amputations, torture, cruel, inhuman and degrading treatment of the population, and torture committed against captured FSA and YPG fighters (CoI, 2015a, 12). In make-shift detention centers, the IS continues to treat those detained with brutality; subjecting some to beatings, lashings, whipping, and in some cases, summary executions, where the bodies of victims are routinely desecrated and put on public display (CoI, 2015b, 13). These facilities are reportedly over-crowded, insect-infested, and those detained do not receive adequate food or are allowed communication with anyone outside the facility (CoI, 2015a, 12).

4.3.5 Conclusion

The use of torture and ill-treatment leave permanent physical and psychological consequences on individuals that further the intent of state-claiming actors to debilitate and maim populations. The dehumanizing experience of imprisonment allows for these actors to govern through life while imposing extreme violence and brutality on physical bodies, as individuals are situated within “death’s position” as a method of extracting value from those that would otherwise be disposable. This value entails the overt spectacle of violence against the enemy, physically removing the opposition from the built environment, while also establishing the state-claiming actor as the sovereign in carrying out traditional state-associated judicial roles. The transformation of schools, hospitals, housing, and other spaces of “ordinary” life into military objects facilitates the production of permanent debilitation, creating an environment and

population that is utterly and systematically resource-deprived and surrounded by violence. On multiple fronts, these techniques of governance aim to locate, deprive, and collapse the potential for dissent and opposition of state-claiming actors in their pursuit of sovereignty. Not only do techniques of governing through life seek out military-aged males or those actively participating in dissent or protest of systems of governance, but the entire population. In the pursuit of sovereignty by state-claiming actors, both civilians and combatants are targeted not only for death, but for stunting, for physical, psychological, and cognitive injuries that aim to render impotent any capacity for future resistance (Puar, 2017, 152).

4.4 Consequences of Governing Through Life and Death

The long-term consequences of over a decade of conflict in Syria remains unknown, and will not be fully uncovered for many decades to come. The empirical material speaks directly to immediate consequences of armed conflict on populations and the lived environment, and occasionally speaks indirectly to more long-term effects, referencing mental health, collapse of civilian infrastructure, breakdown of social and family relations, violence against women and children, and ethnically- or religiously-motivated violence. As the conflict remains ongoing, the long-term consequences cannot be concretely determined, though this section will discuss the impact seen thus far as found in reporting. The delayed and attritional violence of conflict is an auxiliary objective of these techniques of governance, apparent in the temporal and spatial facets of sovereignty; this violence extends beyond direct physical contact between individuals to encompass the structural aspect of the consequences of conflict.

Further, this speaks to NGOs and IOs view of consequences as immediate and visible, rather than gradual and out of sight, less spectacular in nature but violent nonetheless. More broadly, this presentation attests to Nixon's (2011) conceptualization of slow violence as neither grandiose nor instantaneous, and thus rendered invisible through the assumption of violence as being highly visible and event-focused. As a result, the reports seldom reference the effects of armed conflict in the same manner as violence that is direct, brutal, and spectacular in nature, distorting the presentation of violence as having a start and end date, while underestimating the human and environmental costs. The aim of this section is to illustrate the violence inherent in the production of sovereignty, which has carved itself into physical bodies and the spatial dimensions of the country and will persist for generations.

4.4.1 Social, Cultural, and Religious Fragmentation

Across Syria, communities have been violently fragmented by frontlines, infighting, sieges, or checkpoints. One of the collateral damages of the war rarely commented on is the break-up of social and family relations, which are stressed due to political differences, economic tensions, changing behavioural patterns, and physical separation. When displaced by this violence, religious and ethnic communities have clustered together; in seeking safety, this has aligned geographic divisions with differences in real or perceived loyalties, of which could become entrenched as the conflict continues (CoI, 2016). While not directly stated within reporting, communities in Syria were not previously defined across religious, ethnic, political, or newly drawn territorial lines. Instead, individuals have been forced to flee their communities and livelihoods to avoid violent displacement by state-claiming actors. For example, ethnic differences between the Kurdish YPG and predominately Arab residents of areas captured from IS control has underpinned distrust and tension between the two groups, alongside forced displacement of Arab residents by the YPG (CoI, 2016). The conflation of ethnic or religious background and perceived political loyalties has proven lethal, as intentional targeting of various ethnic, religious, social and professional communities has exacerbated ethno-sectarian tensions. This violence is most visible when directed against minorities; this targeting, while more covert in the context of conflict, is clearly understood and felt by its victims.

The harms of existing in a death world are displayed in landscapes, architecture, and on physical bodies forced to survive in these spaces. Necropower overtly seeps into both public and private spaces, infringing on the previous safety of these areas; individuals living within occupied territories must operate under new conditions, altering daily routines, encountering checkpoints, adhering to new systems of governance, and experiencing restrictions on movement within their own city. Previously established social networks are significantly disrupted, if not replaced altogether, hindering participation in public space and activities. Civic resources are depleted as occupation and violence discourages trust in the state and participation in public life. Besiegement and occupation by state-claiming actors create a climate of fear that alters and restricts the movement of bodies, both internally and externally, negatively impacting their overall well-being by placing their lived environment at a significantly increased risk of attack. Soldiers at checkpoints regularly conduct arbitrary arrests, confiscate food and other basic supplies, and prevent sick and wounded persons from seeking medical attention (CoI, 2014b,

19). Residents report empty streets past a certain time of day, creating an apocalyptic atmosphere among collapsed buildings;

“The strange thing is, when you go there [*Aleppo*], that when it starts to get dark you don’t see any human beings any more in the streets. Only cats and dogs, and also rats wandering in and out of the ruins. At that time of day even the armed combatants disappear.” (MSF, 2015b, 18).

In Aleppo and Ar Raqqa governorates, residents report restrictions on basic rights and freedoms, including movement and assembly, via the imposition of a strict interpretation of sharia law previously unseen in the Syrian Arab Republic regulating all aspects of life from food to movement, employment and religious observance, and has restricted basic freedoms, particularly for women (CoI, 2014b, 21).

4.4.2 Refugees and Internally Displaced Persons

The Syrian conflict has produced a vast population of refugees and internally displaced persons driven from their homes and places of belonging in exchange for military objectives. As the conflict intensified, Syrians fled to the neighbouring countries of Lebanon, Jordan, Turkey, Iraq, and Egypt, and later to Europe and North America. Given the volume of individuals seeking refugee status, in 2014, Iraq, Jordan, Turkey and Lebanon implemented measures to restrict the number of refugees entering their countries, and later denied Syrians secure legal status, making their existence in these spaces precarious (HRW, 2014, 4). As hostilities continued to cause massive refugee outflows, authorities limiting the number of refugees entering from Syria exposed these individuals waiting in border areas to further attacks and deprivation, rendering them especially vulnerable (AI, 2015, 5). Attempting to cross from Egypt or Libya to Italy, hundreds of refugees have perished at sea or during long journeys in dire conditions (CoI, 2014a, 30). Further, violence within refugee camps isolate these populations under intense strain. Child marriages and sexual violence emerged as prominent issues in refugee camps, along with heightened tensions between Syrians and their host countries that threatens their security (CoI, 2014b, 30). Millions of Syrians remain internally displaced, forced from their homes or trapped in besieged locations. As noted above, the provision of assistance to these populations is scarce, as state-claiming actors obstruct humanitarian assistance as a method of “asphyxiatory” control. Areas considered to be safe havens by families forced into repeated displacements have also come under attack and resulted in dozens of casualties, creating more instability and insecurity for these populations.

Nixon (2011, 19) proposes a more radical notion of displacement in relation to those who must live inside the ecological aftermath of environmental degradation that is stripped of resources and often uninhabitable, in addition to the movement of people from their places of belonging. The auxiliary degradation and continued exposure to harmful living conditions that await these populations post-conflict and beyond have not yet been factored in to the consequences of over a decade of civil war. The fear of returning to places where grave violence forced residents to flee their homes, where their belongings had been pillaged, if not completely destroyed, occupied by fighters and their families, or appropriated by state-claiming actors for military purposes (CoI, 2018, 12). This is accompanied by the widespread use of cluster munitions, chemical weapons, airstrikes, and indiscriminate attacks by state-claiming actors who leave in their wake hostile landscapes that will continue to wage indiscriminate warfare for generations. As part of its withdrawal strategy, the IS has littered areas previously occupied territory with mines, improvised explosive devices, and “booby traps”, including in houses and vehicles (CoI, 2016, 14). In various towns and villages where residents have returned, civilian deaths due to undiscovered explosive devices and the detonation of car and motorcycle bombs in civilian areas continues to be documented (CoI, 2016). The conflict has leveled entire cities and governorates in pursuit of territorial gains and fragile claims to power and autonomy, with little regard for the significant human and environmental cost. Entire communities will be forced to inhabit a landscape in which everyday life is militarized by slow violence, and where the “earth must be treated with permanent suspicion, as armed and dangerous” owing to the violent production of sovereignty by state-claiming actors (Nixon, 2011, 227).

4.4.3 Use of Chemical Weapons

Continuing Nixon’s (2011) notion of displacement within the ecological aftermath of environmental degradation, the use of chemical weapons in Syria illustrates the sinister nature of techniques of governance by state-claiming actors. Government forces have carried out dozens of suspected chlorine gas attacks in areas controlled by non-state armed groups, particularly Idlib governorate, that have resulted in civilian casualties (AI, 2015). While the Islamic State was also deemed responsible for the use of sulfur mustard at Umm Hawsh on 15 and 16 September 2016, the Syrian government was found responsible for the majority of instances of chemical weapons use in a number of provinces outside its control, despite the alleged destruction of its chemical weapons program (JIM, S/2017/904). The deadliest use of chemical weapons perpetrated by the

Syrian government involve the sarin attacks in Ghouta in August of 2013 (CoI, 2014, 19), and in Khan Shaykhun on 4 April 2017.

The indisputable objective of the use of chemical weapons, specifically sarin, chlorine, and sulfur mustard gas used in Syria, is to cause the death and destruction of intended targets. The effects of long-term exposure can be seen on physical bodies and compounded by the lived environment, where individuals exposed to these chemical agents may develop memory impairment, pulmonary edema, and other serious health problems, while “severely exposed” individuals have a lower chance of survival. Mustard sulfur is corrosive to the skin, eyes, and respiratory tract, and extensive exposure can affect other organ systems, cause chronic respiratory disease or infection, and death. Those lacking resources are often the primary casualties of slow violence; their concealed destitution is compounded by the obscure nature of slow violence that engulfs their living conditions. Individuals exposed to chemical weapons in lived environments that are severely resource-deprived are less likely to receive proper and timely medical assistance. In addition to the pervasive war-related injuries affecting civilians and combatants, the use of chemical weapons in Syria presents new challenges for the provision of healthcare. As outlined in the above section on health, the inability of the Syrian medical and humanitarian assistance framework to provide adequate treatment, given the circumstances of collapsed infrastructure and virtually no supplies, is compounded by the use of chemical weapons that expose individuals and healthcare workers. The suffering inflicted by such weaponry is devastating not only to those directly targeted, but to those who treat them and may be exposed to these substances themselves (MSF, 2016a, 11).

Ecologies of the aftermath and the notion of “precision” warfare provide further illustration of the impact of chemical weapons use, where this narrative presents collateral damage as immediate and painless, despite the unrelenting ramifications of hostilities for populations and the lived environment. The metaphor of the “unselective bludgeon” is instead more fitting, highlighting how often the term “precision” relies on false promises of “merciful selectivity” (Carson, 1962). Regardless of branding or intent of the weapons of contemporary warfare, the assault on human life is unevenly universal with very real and devastating impacts. The constant threat of indiscriminate violence, which is a reality for most Syrians, whether civilian or combatant, requires “preparing yourself for any eventuality and living every moment as if it were your last” (MSF, 2015b, 7). Not only does the use of chemical weapons create hostile

landscapes, it furthers the pursuit of sovereignty for those employing them given their unlawful status. The suspension of the rule of law and friend-enemy distinction intersect in the spectacle of chemical weapons use, not only in the capacity to acquire these weapons, but in the prohibited nature of the weapon itself. The Syrian government and the IS clearly divide populations into friends and enemies, and entrench this distinction through the use of prohibited weaponry. The form of sovereignty carved out in times of war is one facilitated by imprecision and unlawful conduct, by excessively violent acts that allow state-claiming actors to take away life from those it deems disposable; in neither time nor space can these weapons differentiate between civilian and combatant.

4.4.4 Economic Interests of War

Wars of the globalization era have fostered conditions for “war machines” to develop, made up of segments of armed groups that split or merge with one another depending on task and circumstance (Mbembe, 2003). They are characterized by their capacity for metamorphosis, borrowing from military structure and strategy while incorporating elements well-adapted to modern warfare. They are simultaneously political and commercial entities, driven by the collapse of formal political institutions under the strain of violence where the formation of “militia economies” and the commodification of violence often fill these power vacuums. These groups also constitute highly organized mechanisms of predation, taxing territories and the populations they occupy, and drawing on a range of transnational networks or diasporas to provide material and financial support.

In occupied territory within eastern Syria and northern Iraq, the IS smuggled crude oil in exchange for cash or refined petroleum, and targeted strategic infrastructure, including factories and power plants, as a source of funding, alongside extortion, bank looting, taxation, and kidnapping for ransom (Counter Extremism Project, 2020). IS fighters enforce a *jiza* – a tax imposed on non-Muslims living in an Islamic caliphate – and threaten to kill those who do not comply (CoI, 2015b, 17). As “people of the book”, Christians are allowed to exist within the caliphate under strict conditions, including the removal of crosses, destruction of statues and shrines, and payment of the *jiza* (CoI, 2016, 16). The IS has also profited off the sale of women and children, illegally exporting valuable antiquities from captured territory, exploited the anonymity of digital cryptocurrencies to raise and transfer funds, and enlisted private donors from the Gulf region (CISAC, 2021). Similarly, Jabhat al-Nusra/HTS is reliant on external

funding from traditional al-Qaeda facilitation networks, the control of oilfields in eastern and northeastern Syria, and from the taxation of populations, tariffs, fines, ransom, looting, smuggling, and private donors (Lister, 2016; Counter Extremism Project, 2020).

Wherever sieges are employed, a “black-market” is created for goods that are smuggled in or ushered through checkpoints following the payment of bribes. While reporting does not discuss the financial aspect of the conflict or financial-standing of state-claiming actors, external reports highlight how military operations are funded through less than legitimate means. States of siege are a promising business for those enforcing them and for well-connected individuals living inside (CoI, 2015b, 15). People under occupation are a “captive market”; residents rely on an elaborate network of tunnels to smuggle in basic commodities, while soldiers demand bribes to grant entry of food and medicine (CoI, 2016; Weizman, 2007). Government forces prevent residents from travelling outside of areas under their control, requiring submitted applications involving a medical imperative in order to leave, and bribes are often paid to officials to facilitate their exit (CoI, 2016). Enforced disappearances also foster a lucrative business of extortion, where families will pay large sums of money as bribes in exchange for information on their loved ones, which often turns out to be fabricated (CoI, 2015a, 40). The conflict has cultivated a “militia economy” where state-claiming actors profit off the continuation of violence and infighting, as the cessation of hostilities inevitably means the end of capitalizing on various legal and illegal revenue streams. In the current climate, any permanent or temporary armistice will disrupt the “warlordism” operating in Syria that may prove difficult to contain; state-claiming actors that occupy territory and populations may block peace efforts in favour of maintaining temporary control and autonomy.

Since 2011, countrywide insecurity, imposition of sieges, economic sanctions, and all-out warfare have significantly hindered the capacity for Syrian civilians to earn a living; the protracted nature of the conflict has created a devastating wave of unemployment and a population struggling to survive in conditions of poverty (CoI, 2016). As a result, a host of parallel economies rooted in opportunism constituted by violence, extortion, and a denial of human rights. Influence over territory dictates who controls natural resources available, allowing state-claiming actors to profit off the instability caused by ongoing conflict. Agreements over the control of natural resources has strengthened the hold IS has over territory; developing crude oil operations, the IS benefits from sales to local clients that refine the oil and sell it across front

lines and borders (CoI, 2016, 19). The IS has also engaged in theft and trafficking in cultural property, smuggling artefacts out of the country and selling them on the black market, taxing smugglers who transport items through controlled territory (CoI, 2016, 19). State-claiming actors comprise the content of “war machines”, and it is this content and commodification of violence that furthers their claim to legitimacy as the sovereign. Further, this characterization as war machines sees state-claiming actors taking on traditional state functions in the absence of solid governance structures. Capitalizing on the power vacuum created by the conflict, state-claiming actors are mobilizing under new and irregular state-forms and the violence accompanied by this role, relying on the lucrative economic opportunities created by warfare.

4.4.5 Violence Against Children

While a select few exploit the civil war, the remaining civilian population are forced to live under shocking and inhumane conditions, suffering from disease, starvation, and the ensuing psychological and physical trauma that follows the constant threat of violent attack (CoI, 2015b, 15). Children have been killed, injured, maimed, and suffer direct consequences of the continued indiscriminate violence. State-claiming actors have recruited and used children as messengers, guards, spies, and informants, despite international humanitarian and human rights laws prohibiting the use of children in combat and support roles, as well as conscripting or enlisting children under 15 (CoI, 2014b, 13). Specifically, the People’s Protection Units (YPG) have consistently conscripted children and directly involved them in military operations against the Islamic State in Ayn al-Arab (Kobane), and in Aleppo and Al Hasakah (CoI, 2015a, 53). The existence of training camps in IS-controlled territory indicates that weapons training is provided to children, in addition to deploying children in active combat and suicide-bombing missions (CoI, 2014b, 15). Further, schools are converted to shelters for internally displaced persons or military purposes, and have increasingly come under fire during aerial bombardment campaigns.

Children are less likely to attend school in areas where there has been sustained conflict, and schools in these areas regularly suspend operations (CoI, 2016). Many qualified teachers have fled, and schooling is often carried out by local volunteers where informal teaching is conducted in whatever small and safe space can be found (MSF, 2015b). Malnutrition and lack of food have led to chronic absenteeism, and displaced children are even less likely to attend school (CoI, 2016). As a result, more than half of Syrian school-aged children are not receiving education as a consequence of occupation, destruction, and the insecurity of civilian infrastructure (CoI, 2014b,

14). Many of these children may never complete their education, and the consequences of this are immense, affecting not only the future prospects of Syrian children but of the country and the region. Some children who have been displaced or sought refuge in neighbouring countries have been out of school for years, increasing their risk of radicalization as opposition groups continue to instrumentalize children. Armed groups take advantage of children who are displaced and detached from their communities, preying on the breakdown of their social and familial relations, lack of education, and scarce employment opportunities (CoI, 2015a).

The trauma of witnessing acts of violence has left an enduring mark on children, with parents describing how their children will “start shouting and hiding when they see an airplane”, were distressed by loud noises, and experienced anxiety and panic attacks (CoI, 2014b, 14).

“In Kilis, Turkey, psychologists and community health workers in a mental health programme supported by MSF visit children who have been injured. The children can be distracted with games and toys, but their discourse often returns to the war. Some of them attend classes but are quite despondent and lack energy levels. The drawings they were asked by psychologists to draw of their family ended up being pictures of barrel bombs on their houses ... They play games related to the war and talk of fighting. Their families talk incessantly of the war and it seems that the war context is constantly present – they never manage to escape it.” (MSF, 2015b, 16).

Children from areas in Damascus controlled by opposition groups exhibited nervousness, anxiety, and clear signs of distress and trauma while playing in schoolyards, due to their repeated targeting (CoI, 2014b). As a result of continued exposure to violence and insecurity, children throughout the Syrian Arab Republic are exhibiting symptoms of trauma, including psychological and behavioural disorders, as well as post-traumatic stress, where the protracted duration of the conflict has weakened their resilience (CoI, 2015b, 11). The targeting of children for debilitation is a strategy employed by state-claiming actors to “render impotent any future resistance”, gradually decaying bodies and minds of the population that would threaten potential claims to sovereignty or challenge imposed regimes of governance in the future (Puar, 2017, 152). This serves to locate the root of opposition to state-claiming actors and repress this capacity before it is granted the space to develop.

4.4.6 Gendered Violence

Many women and girls have been subjected to sexual violence, rape, and other torture at the hands of government and opposition forces. Women and girls caught trying to escape were gang-raped or otherwise tortured or harshly punished; one woman said that the fighter who had bought

her killed several of her children and repeatedly raped her after she had tried to flee (AI, 2016, 6). The IS specifically targeted Yazidi women due to their community's religious identity, subjecting them to horrific abuse. Women and girls have been sold or gifted (and resold and re-gifted) to IS fighters and tribal leaders in IS-controlled territory, others are imprisoned and held in sexual slavery (CoI, 2015b, 15). De facto slave markets have been documented in cities in Ar Raqqa, Dayr az-Zawr, and Aleppo, where IS sells Yazidi women and girls to fighters and civilian supporters like livestock (CoI, 2016, 20). Without exception, all interviewees described multiple rapes by several men, including incidents of gang rape, in addition to severe beatings and forced conversions to Sunni Islam (CoI, 2015b, 16). In areas under control of the Islamic State, women have been executed for crimes such as adultery, used to instill fear among women for disobeying the "social edicts" imposed by the group (CoI, 2015a, 49). Syrian women and girls continue to live under unbearable restrictions, as IS severely limits their access to education, work and freedom of movement under rigidly defined gender rules that remove women and girls from public life (CoI, 2016). Jabhat al-Nusra have also targeted women and children on the basis of their gender, to be taken as hostages for use in prisoner exchanges (CoI, 2015a, 10). While in government detention facilities and custody, women have been victims of the deliberate use of sexual humiliation, sexual torture, and rape (CoI, 2015a, 48).

Further, women whose husbands or fathers had been killed or gone missing during the conflict faced serious obstacles in claiming their property as the deeds were often in the name of their male relatives, compromising their access to housing (AI, 2018, 6). Additionally, lack of access to medical care has affected the pre- and post-natal health of women and their children, forced to give birth in dangerous circumstances, unsterile conditions, without pain medication or the supervision of qualified medical personnel (CoI, 2014b, 13; MSF, 2015b, 4). Cultural disincentives, social stigma, alienation and feelings of guilt or shame inhibit victims of sexual violence from speaking out; some female victims have been rejected or killed by their own families (CoI, 2016). As it often remains unspoken, trauma of this type can be an obstacle to healing for survivors, families, and the wider community. While reporting may focus on immediate violent events, the "spectacle-deficient" consequences of hostilities remain prevalent among populations whose living conditions render them most vulnerable, such as women and girls in Syria.

4.5 Techniques of Governance and the Production of Sovereignty

As illustrated throughout the empirical material, state-claiming actors wield fear, the threat of violence, and death over inhabitants of occupied territory and perceived “enemies” to gain legitimacy as sovereign entities. It appears as though governing through life and death inherently requires acts that simultaneously shield and massacre, just as the sovereign requires violence to come into existence. There exists a balance between protecting the inhabitants of occupied territories from external threats and killing them when it serves the state-claiming actor. To this point, the IS commits summary executions of residents in areas under its control to enforce the legitimacy of its dominion, reportedly executing individuals in public places where the victims were shot, beheaded, crucified, or stoned to death (HRW, 2015, 3). This operates as public spectacle in coercing residents to follow the ISs strict and discriminatory rules or be subject to the threat of violence, actual violence, or death. Simultaneously, the IS must continually secure its occupied territory from other state-claiming actors, such as the People’s Defence Units (YPG) and Syrian government forces. In doing so, the indiscriminate use of weapons jeopardizes the lives of residents and infrastructure of occupied territory and furthers the exploitation of bodies and environments. It is this dual nature of obtaining sovereignty where state-claiming actors must protect its territory and populations from external threats while also instilling fear within these populations to subdue resistance. State-claiming actors must offer some form of protection to those residing within controlled territory, in order to fulfill its end of the social contract and persuade subjects to acquiesce to its sovereign power.

Sovereignty materializes from creating an exception that suspends the rule of law in order to perpetrate war crimes and crimes against humanity against the opposition and civilian populations. Syrian government forces and its allies have attacked medical facilities with brutal regularity, authorized direct attacks on civilians and civilian objects, and carried out dozens of suspected chlorine gas attacks in areas controlled by opposition groups (MSF, 2016a; AI, 2016). As the previously recognized sovereign entity, party to various rules and conventions of conduct in warfare, the Syrian government has effectively suspended domestic and international law in an attempt to regain sole authority over the country. For the remaining state-claiming actors, who arose out of opposition to the government’s regime, the exception must be created in spaces where they control territory and populations, as this is enacted through conduct and strategies traditionally associated with the state. The “legitimate” use of physical and violent force is part

of this conduct, and the empirical material demonstrates that state-claiming actors commit war crimes and crimes against humanity to attain the characteristics of sovereign entities as understood by Schmitt.

Wartime provides fertile ground for techniques of governance that support and reinforce sovereignty achieved through acts of violence against a perceived “enemy”. In Syria, enduring conflict between competing groups is used by state-claiming actors to justify the need for a singular sovereign power with a monopoly on violence and death to “protect” the population. Assertions of a singular sovereign entity post-conflict are fragile, built upon unsteady foundations of peace and security where the victor is sometimes, though not always, the lesser of many evils. This perceived need for protection from external threats is then exploited and depicted as hindering their imagined future for Syria; for example, the Democratic Union Party (PYD) have employed a narrative of securing the “Rojava” as autonomous territory for the Kurdish population post-conflict, of which is inherently threatened by the IS, Syrian government forces, and Turkey, along with Arab residents in northeastern Syria.

The methods and manners of warfare engaged to reach these objectives have involved the widespread and systematic perpetration of war crimes and crimes against humanity against combatants and civilian populations. Operating outside legal frameworks without checks and balances epitomizes the notion of sovereignty envisioned by Schmitt, as state-claiming actors comprise the domain of authority in making decisions that are singular, absolute, and final, rather than supra-national systems. Numerous diplomatic resolutions, coalitions, and ceasefires have been implemented in Syria to no avail, as hostilities continue between warring parties⁴⁸. This is furthered by the breakdown of previous governance structures within Syria, placing state-claiming actors outside the realm of domestic and international law as of present. It is because they are suspending the law and enacting the friend-enemy distinction through the commission of war crimes and crimes against humanity that state-claiming actors are producing sovereignty.

4.5.1 Friend-Enemy Distinction

The friend-enemy distinction becomes more complex during conflict, as the overtly violent nature of governance is laid bare in the breakdown of civil society. In Schmitt’s conceptualization, sovereignty is expressed and legitimized through the exception, suspension of

⁴⁸ The Independent International Commission of Inquiry reports on Syria provide domestic and international political context sections that speak to this point.

the rule of law, and the friend-enemy distinction, though the above examples of governing through life and death indicate that the friend-enemy distinction has additional layers that can be enacted by the state-claiming actor. These layers involve transforming populations into visible and invisible, inhabitant and un-inhabitant, counted and uncounted, imagined and unimagined, selective and unselective; each with corresponding consequences for those living under occupation of the state-claiming actor.

The empirical material found in reporting illustrates how the actors involved take the shape of the “state” precisely through the enactment of these distinctions over populations they govern, in addition to the exception and suspension of rule of law. Therefore, the most significant aspect of sovereignty produced during conflict appears to be located in the capacity of the state-claiming actor to implement the friend-enemy distinction and additional dichotomies over subjugated populations and territory. The commission of war crimes and crimes against humanity by state-claiming actors as a technique of governance enacts a specific conceptualization of sovereignty which affords them a level of legitimacy while simultaneously reinforcing sovereignty as a matter of life, death, and the exception. The enactment of these dichotomies serve to highlight how state-claiming actors operate outside the rule of law in times of war and peace, but it is most evidently displayed during hostilities. The built environment in Syria has become the physical manifestation of occupation and sovereignty by the state-claiming actor; the landscape is more than just a backdrop to conflict, but rather the means by which domination takes shape (Weizman, 2007). The following section will discuss each additional dichotomy and how it manifests itself within the Syrian conflict.

While the friend-enemy distinction has been discussed in a previous chapter, the additional distinctions found in reporting aid in demonstrating how governance during conflict manifests in the life and death of governed bodies. Those killed as a consequence of direct violence are counted in official statistics and discussed in reporting of events, while individuals killed as a result of indirect violence, such as restrictions on the incoming flow of life-sustaining provisions or remnants of unexploded munitions, are not statistically considered. The ability for state-claiming actors to create states of siege through “asphyxiatory” control or isolation of populations is indicative of sovereign power and the capacity to determine who becomes “uncounted”. Dying as a result of untreated injuries and disease, malnourishment, or tainted water sources are perceived differently than the stacking of bodies after an attack on an urban

enclave. Techniques of governance that lead to the eventual death of populations are a calculated strategy on behalf of state-claiming actors, as these are often “spectacle deficient” and garner less public attention but achieve the same objective of controlling physical bodies.

The transformation from inhabitant to un-inhabitant is displayed in the violent displacement of populations as a result of fighting between state-claiming actors, where there exists a gap between those affected by displacement and those responsible for physical eviction and environmental consequences. The Syrian conflict has produced millions of internally displaced persons and refugees who are rendered “un-inhabitants” by the sovereign and subjected to the power of death more readily. Forced to flee their homes, these “un-inhabitants” are then faced with homelessness, unemployment, lack of access to medical services, isolation from previous social networks, and the well-documented torment that is refugee camps. This conversion permits the state-claiming actor to control, let live or make die populations through the medium of death worlds that envelop their lived realities, constituting the domination of inhabitants both within and external to occupied territory.

The “unimagined” condition of certain populations becomes fundamental to maintaining specific narratives of national development and keeping hidden those that inconvenience the state’s trajectory. Given Syria’s political history and the decades-long reign of the al-Assad regime, anti-government protests in the context of the Arab Spring threatened the status-quo and were met with indiscriminate violence in pursuit of upholding the “unimagined” status of those calling for reform. Wounds sustained by protestors in the head, neck, and chest indicate the excessive force used by military and security forces was deliberate and pre-meditated, conveying the capacity of the sovereign to put citizens to death. This direct violence also preserves the conditions necessary for invisibility, achieved by physically and imaginatively removing communities from space and time. Peaceful protestors were removed from spaces of activism by force, whether that be dispersal of demonstrations, lethal violence against individuals, or arbitrary arrest, detention, and enforced disappearances. This transition from visible to invisible was justified by the branding of the opposition as “armed conspirators” and “terrorists attacking civilians and burning government buildings” (CoI, 2011, 11). Those opposing the state-claiming actor are considered “enemy entities”, a designation that allows individuals to be attacked and starved as an enemy state but without the sovereign rights or visibility that accompanies statehood (Weizman, 2007).

Across all occupied territories in Syria, the detention and enforced disappearances of those that disturb the development of state-claiming actors serve to designate these individuals as invisible. Lost in an extensive network of detention facilities throughout Syria, information is rarely disclosed about the locations or conditions of individuals who have been detained. The practice of disappearing physical bodies or imprisoning them in undisclosed locations with restricted access places these bodies external to systems of law and serves as a gateway to the commission of further violent offences such as torture, ill-treatment, or violating their right to be recognized as a person before structures of governance. Further, detention without trial, unfair trials, and the implementation of different laws subjects populations to the power of the state-claiming actor in denying the right to due process and rendering these bodies invisible to domestic and international law.

The use of prohibited weapons throughout the conflict demonstrates the division, or lack thereof, between selected and un-selected bodies and the fallacy of “precision” warfare. The idea of the “unselective bludgeon” allows us to grasp how military euphemisms such as “smart” wars or “surgical” strikes legitimize the indiscriminate use of weaponry that universally affects populations and environments. Regardless of intent, the assault on human life is undeniably universal. The capacity of the state-claiming actor to deploy these weapons despite strict limitations in international law confirms that these actors are operating outside the rule of law. While the Syrian state would be considered the only signatory to these conventions and treaties, state-claiming actors who are establishing sovereignty in occupied territory are held to the same standards given their participation in hostilities. The metaphor of the “unselective bludgeon” further manifests in the consequences of the use of prohibited weapons, as the environmental toll continues to wage war on the landscape for generations to come, regardless of whether civilians and armed groups were selected or unselected. The built environment post-conflict will suspend entire cities and governorates as militarized zones long after hostilities have ceased, transformed into uninhabitable badlands that are permanently armed.

4.6 Conclusion

Reports produced by non-governmental and international organizations on the purported war crimes and crimes against humanity committed in the Syrian Arab Republic demonstrate the violent and nefarious workings of techniques of governance in the production of sovereignty during conflict. These reports allow the reader to grasp the gravity of the situation unfolding in

Syria, the brutality and erosion of humanity inherent to armed conflict where multiple incarnations of the sovereign are competing for power at the expense of the population and transforming lived environments into “death worlds”. The mechanisms of necropolitics, debilitation, and slow violence indicate the limits of sovereignty; to kill or to allow to live, to divide populations into categories of alive or dead. These techniques are military and political strategy that aim to kill and destroy, and while this is by no means a novel concept, the violence intrinsic to sovereignty and the methods of warfare deployed by those competing for it have evolved to cause death in the most efficient ways.

This constitutes the insidious nature of claims to sovereignty, as each state-claiming actor uses violence to achieve their own objectives as sovereign entities when the breakdown of alternative avenues for replacing structures of governance have failed. It is a double-edged sword; these actors are massacring the population they intend to govern in the future, actively converting claimed territory into a militarized weapon that mercilessly threatens its inhabitants. The continued assault on civilian life and infrastructure is relentless, but also demonstrates the intricate and complex connection between the commission of war crimes and crimes against humanity as techniques of governance and the production of sovereignty. As state-claiming actors wield techniques of governance to gain legitimacy as the sovereign, this indicates a relationship between the commission of violence and the capacity to produce and reproduce sovereignty over populations and territory.

CONCLUSION

This research explored the production of sovereignty in situations where multiple irregular state-forms exist simultaneously, each competing for control over territory and populations through violent techniques of governance. I argue that when the embodiment of traditional notions of sovereignty, in this case, the state, are challenged by entities wanting to replace it, governance is achieved through warfare; specifically, methods of warfare that differentiate between bodies that are alive and dead. State-claiming actors further this dichotomy through techniques of governance that render populations visible and invisible, alongside additional dichotomies, in determining who lives and dies. Further, I demonstrate that it is precisely this violent distinction that facilitates sovereignty during conflict.

To make this argument, I engage with the concepts of necropolitics, debilitation, and slow violence, in addition to Carl Schmitt's understanding of sovereignty, the political, and the partisan. As the Syrian conflict contains a myriad of state-forms pursuing claims to sovereignty, this competition introduces additional considerations to discussions of state violence when there are multiple embodiments of the sovereign exercising control over fragmented territory and populations. For this reason, Schmitt's work on sovereignty and the political allows this research to engage with these state-forms as political entities, as they undertake traditional state functions such as providing governance structures and security to their "constituents", while also putting these populations to death when their legitimacy as sovereign is questioned. The concepts of necropolitics, debilitation, and slow violence aid in making sense of the techniques of governance deployed by state-claiming actors in controlling life and death, and how this control feeds into perceptions of legitimacy of the sovereign.

These mechanisms illustrate the limits of sovereignty in the life and death of populations they govern. Fear is the currency of the modern state, as state-claiming actors constantly reproduce the fear of physical violence and death amongst their populations. The violence inherent to the production of sovereignty is then undertaken through the suspension of the rule of law, the exception, and the friend-enemy distinction, furthered during armed conflict to involve additional dichotomies of visible and invisible, imagined and unimagined, inhabitant and uninhabitant, counted or uncounted, selected or un-selected. This indicates the existence of a relationship between the commission of violence, specifically war crimes and crimes against humanity, and the capacity to produce and reproduce sovereignty over populations and territory.

As a result, this thesis explores the link between sovereignty and techniques of governance in conditions where multiple state-claiming actors exist through the conceptual framework of necropolitics and debilitation as techniques of governance. These concepts, in conjunction with Schmitt's writings on sovereignty and the state, speak directly to immediate violence and less to the long-term and spectacle-deficient violence that is bred from armed conflict. The theoretical contribution of this thesis, then, is the incorporation of slow violence as a critique of the presentation of violence as instantaneous and ceasing to cause human and environmental harm after its initial manifestation. This thesis also seeks to challenge our understanding of violence within situations of armed conflict as containing more than immediate and spectacular acts of violence commissioned by state-claiming actors, but also the continued violence of destroyed infrastructure, built environments, breakdown of families and communities, psychological trauma, environmental catastrophes, and countless other enduring consequences.

Further, racialized and gendered violence is sporadically discussed throughout reporting, seldom within the theoretical framework and concepts used in this thesis, and is often hidden within the formation of nation-states despite the production of sovereignty depending upon this violence. Post-colonial racism is "the ground upon which national homelands are built"; in a world of nation-states, national sovereigns have the "right" to determine who their members are in a process that has both produced and normalized a racism in which political separations and segregations are seen as the natural spatial order of the sovereign (Sharma, 2020, 4). The practice of sorting which people are the "people of a place" and the imposition of borders act not only as barriers, but as conduits for the realization of sovereign power (Sharma, 2020, 6). This racialized and gendered violence, while highlighted in the context of Syria for this research, is not endemic to the Middle East. Rather, the violence inherent to the production of sovereignty is endemic within its pursuit across the globe, commissioned in the building of every nation-state. This thesis does not intend to promote dichotomies of "us" and "them" in its presentation of the Syrian conflict as a case study, but instead seeks to highlight how violent techniques of governance, of which involve racialized and gendered violence, are deployed in the construction of sovereign entities, using Syria as a starting point for future research.

Each state-claiming actor has a distinct vision for a post-conflict Syria, whether that entails dismantling and replacing current governance structures of the al-Assad regime, establishing a caliphate or an Islamic emirate, or creating an autonomous administration independent from the

Syrian state. The conflict remains ongoing at the time of writing, with no foreseeable end in sight as opposing groups are entrenched in several battlefronts and external intervention continues to both complicate and sustain hostilities. Given this uncertainty in Syria, there are various areas of research that require further exploration. This involves how current literature on the production of sovereignty does not sufficiently take into account the gendered and racialized aspect of these practices, which was demonstrated consistently throughout reporting on the conflict but could not be adequately addressed in this research. Further, the concepts of necropolitics, slow violence, and debilitation do not engage with the production of sovereignty but are significant in how the sovereign is operationalized. Future research could apply this conceptual framework to other situations of non-international armed conflict in further exploring the relationship between the commission of war crimes and crimes against humanity and the production of sovereignty.

Overall, this research considers the capacity for state-claiming actors to exercise sovereignty over territory and populations through the sanctioning of illegal violent acts. These actors seek to take the rights of populations away and provisionally give them back on the conditions of conforming and complying with their specific forms of governance, at the threat of life and death. From this, we see that there is no difference between traditional state-forms and irregular state-claiming actors except for size and length of establishment, as both wield life and death of populations as proof of their legitimacy.

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APPENDIX A: Rome Statute Articles on War Crimes and Crimes Against Humanity

C. 1 Crimes Against Humanity

According to Article 7 of the Rome Statute of the International Criminal Court:

1. For the purpose of this Statute, “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
 - a. Murder;
 - b. Extermination;
 - c. Enslavement;
 - d. Deportation or forcible transfer of population;
 - e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
 - f. Torture;
 - g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
 - h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
 - i. Enforced disappearance of persons;
 - j. The crime of apartheid;
 - k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:
 - a. ‘Attack directed against any civilian population’ means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
 - b. "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
 - c. "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
 - d. "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
 - e. "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
 - f. "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or

carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

- g. "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
 - h. "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
 - i. "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
3. For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

According to Article 7 (1) of the Rome Statute, crimes against humanity do not need to be linked to an armed conflict and can also occur in peacetime, similar to the crime of genocide. That same Article provides a definition of the crime that contains the following main elements:

- 1. A physical element, which includes the commission of "any of the following acts":
 - a. Murder;
 - b. Extermination;
 - c. Enslavement;
 - d. Deportation or forcible transfer of population;
 - e. Imprisonment;
 - f. Torture;
 - g. Grave forms of sexual violence;
 - h. Persecution;
 - i. Enforced disappearance of persons;
 - j. The crime of apartheid;
 - k. Other inhumane acts.
- 2. A contextual element: "when committed as part of a widespread or systematic attack directed against any civilian population"; and
- 3. A mental element: "with knowledge of the attack".

The contextual element determines that crimes against humanity involve either large-scale violence in relation to the number of victims or its extension over a broad geographic area (widespread), or a methodical type of violence (systematic). This excludes random, accidental or isolated acts of violence. In addition, Article 7(2)(a) of the Rome Statute determines that crimes against humanity must be committed in furtherance of a State or organizational policy to commit an attack. The plan or policy does not need to be explicitly stipulated or formally adopted and can, therefore, be inferred from the totality of the circumstances.

In contrast with genocide, crimes against humanity do not need to target a specific group. Instead, the victim of the attack can be any civilian population, regardless of its affiliation or identity. Another important distinction is that in the case of crimes against humanity, it is not necessary to prove that there is an overall specific intent. It suffices for there to be a simple intent to commit any of the acts listed, with the exception of the act of persecution, which requires additional discriminatory intent. The perpetrator must also act with knowledge of the attack against the civilian population and that his/her action is part of that attack.

C. 2 War Crimes

According to Article 8 of the Rome Statute of the International Criminal Court;

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.
2. For the purpose of this Statute, “war crimes” means;
 - a. Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
 - i. Willful killing;
 - ii. Torture of inhuman treatment, including biological experiments;
 - iii. Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
 - iv. Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
 - v. Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - vi. Unlawful deportation or transfer or unlawful confinement;
 - vii. Taking of hostages.
 - b. Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely the following acts;
 - i. Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - ii. Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - iii. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
 - iv. Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
 - v. Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;

- vi. Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
- vii. Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- viii. The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- ix. Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- x. Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- xi. Killing or wounding treacherously individuals belonging to the hostile nation or army;
- xii. Declaring that no quarter will be given;
- xiii. Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
- xiv. Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- xv. Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
- xvi. Pillaging a town or place, even when taken by assault;
- xvii. Employing poison or poisoned weapons;
- xviii. Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- xix. Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- xx. Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
- xxi. Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

- xxii. Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
 - xxiii. Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
 - xxiv. Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
 - xxv. Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
 - xxvi. Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.
- c. In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
- i. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - ii. Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - iii. Taking of hostages;
 - iv. The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
- d. Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.
- e. Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:
- i. Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - ii. Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
 - iii. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

- iv. Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
 - v. Pillaging a town or place, even when taken by assault;
 - vi. Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
 - vii. Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
 - viii. Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - ix. Killing or wounding treacherously a combatant adversary;
 - x. Declaring that no quarter will be given;
 - xi. Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
 - xii. Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
 - xiii. Employing poison or poisoned weapons;
 - xiv. Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
 - xv. Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.
- f. Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.
3. Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

War crimes are those violations of international humanitarian law (treaty or customary law) that incur individual criminal responsibility under international law. As a result, and in contrast to the crimes of genocide and crimes against humanity, war crimes must always take place in the context of an armed conflict, either international or non-international. What constitutes a war crime may differ, depending on whether an armed conflict is international or non-international.

From a more substantive perspective, war crimes could be divided into: a) war crimes against persons requiring particular protection; b) war crimes against those providing humanitarian assistance and peacekeeping operations; c) war crimes against property and other rights; d) prohibited methods of warfare; and e) prohibited means of warfare.

War crimes contain two elements;

- a. A contextual element – where the conduct took place in the context of and was associated with an international or non-international armed conflict;
- b. A mental element – intent and knowledge both with regards to the individual act and the contextual element.

In contrast to genocide and crimes against humanity, war crimes can be committed against a diversity of victims, either combatants or non-combatants, depending on the type of crime. In international armed conflicts, victims include wounded and sick members of armed forces in the field and at sea, prisoners of war and civilian persons. In the case of non-international armed conflicts, protection is afforded to persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause. In both types of conflicts protection is also afforded to medical and religious personnel, humanitarian workers and civil defense staff.