

Ending Atrocity Crimes: The False Promise of Fatalism

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As the terrible siege of eastern Ghouta, Syria, entered its final stages in a crescendo of indiscriminate artillery fire, barrel bombs, and chemical weapons in early 2018, international attention turned once again to the question of what should be done. Commentators were especially animated by the limited U.S., French, and British strikes taken in response to the regime's use of chemical weapons against the enclave's civilians. Humanitarian organizations and the United Nations, meanwhile, demanded nonmilitary action to halt the violence and to permit humanitarian access. On February 24 the Security Council voted unanimously to demand that the parties permit the "unimpeded and safe access" of the organization's humanitarian convoys to the affected region (Resolution 2401). Others, however, argued that the best thing to do would be to encourage the rebel-held enclave to surrender to the Syrian government, thus introducing a rather fatalist perspective to the debate. For example, in a thoughtful essay Max Boot argued that Assad's ultimate victory was now inevitable, thanks in part to the fact that in 2012 the Obama administration had ignored calls by Boot and others to impose a no-fly zone over Syria. By 2018 serious military options had been moved off the table owing to Russia's 2015 intervention on behalf of the Syrian government. In that context, any Western attempt to launch decisive military strikes would risk a wider conflagration with Russia. Given all that, Boot reasoned, the best and most practical way of saving Syrian lives would be to let Assad win as quickly as possible.¹ In scenarios such as this, letting the state win and allowing the status quo power structure to persist could be seen as a viable alternative to other options, including military intervention, but its promise is false. In this brief essay, I will explain the logic behind the fatalist

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approach and show that problems of recurrence, precedence, and rights mean that such an approach cannot offer a plausible alternative.

LETTING THE STATE WIN

At first glance, this line of thinking seems to have merit that extends well beyond Syria. It echoes Edward Luttwak's famous call to "give war a chance" because, though a great evil, it provides a decisive way to resolve political disputes.² The approach also evinces a "tragic vision of politics" seemingly in keeping with the international community's dismal record when it comes to protecting people from atrocity crimes committed by their own states.³ (The international community's record when it comes to responding to atrocity crimes committed by nonstate armed groups has been somewhat better.) The fatalist idea of letting the state win resonates, I think, for three principal reasons.

First, experience suggests that when states prevail quickly over their domestic opponents, they tend to kill fewer civilians than when resistance is sharper. Since 1945 a majority of major atrocity crimes perpetrated by states against sections of their own population ended only after the perpetrators had achieved their goals. Generally speaking, the greater the level of resistance and the more drawn out the resulting violence, the more civilians died as a result of atrocity crimes. Episodes that ended with regime change (almost always caused by domestic armed actors, and very rarely by foreign intervention) have tended to be the most drawn out of all.⁴ In 1982, for example, Hafez al-Assad's Syrian forces killed fewer civilians during their brutal suppression of the Muslim Brotherhood than his son's forces have since 2011—not because they were more humane, but because they prevailed more rapidly. Likewise, it is their capacity to identify and extinguish threats before they arise that best explains why some of the world's most oppressive states, such as North Korea, rarely employ overt mass atrocities, and instead typically commit their crimes against humanity within the confines of their prison system.

Second, the historical record since 1945 suggests that when states determinedly turn their guns (and gasses) on sections of their own population, nonmilitary responses rarely have much effect in encouraging or coercing them to stop (whether these same measures are effective in prevention, used *before* the fact, is a separate question). Certainly, humanitarian action saves lives. Among the most effective was the massive relief effort launched during Darfur's civil war in

the 2000s. So, too, do local capacities to resolve disputes peacefully. But no amount of humanitarian aid or community resilience can protect populations against determined state-orchestrated violence, much less bring the killing to an early conclusion. Nor is there much to suggest that economic sanctions or criminal indictments persuade states to change course. What is more, once they have embarked on a campaign against sections of their own civilian population, states are rarely open to negotiated settlements, as recent experiences in Myanmar (Rohingya) and Sri Lanka (Tamils) attest. Negotiations in Kenya, for example, proved effective in part because the state's armed forces were not committed to perpetrating atrocity crimes. In other cases where diplomacy was used to good effect, as in Guinea and (arguably) Burundi, these effects were achieved before government forces were committed to atrocities. While some form of negotiation is common at the end of mass atrocities, they are rarely the cause of atrocity termination. When they are, it is usually only because governments are pushed to negotiate by other significant factors, such as imminent success, defeat, or a protracted and costly stalemate.⁵ The message here is that unless third parties are prepared to intervene militarily—and humanitarian intervention is debated much more than it is practiced—or to provide sufficient military aid to help rebels to prevail, harm to civilians can only be minimized by allowing the perpetrators to succeed as quickly as possible.

Third, when it comes to civil wars, it is commonly argued that decisive victories for one side or the other appear to provide the best chances for a durable peace,⁶ and clearly the most decisive victories are those in which the state perpetrators crush their opponents quickly. We might call this the Carthaginian peace, and Sri Lanka's 2009 victory over the Liberation Tigers of Tamil Eelam (LTTE) provides a good example of a crushing victory aided by indiscriminate force leading to a sustained peace. Terminations that are less decisive (such as negotiated settlements) are commonly reckoned to provide shakier foundations for future peace. Consider here the multiple failed peace plans pursued in the Central African Republic, the Democratic Republic of the Congo, South Sudan, and Yemen.

These arguments are underpinned by the fatalist, but most often correct, assumption that third parties will not intervene militarily to end mass atrocities. Foreign armed intervention is among the rarest of outcomes when states commit atrocities against sections of their own population. The arguments also reflect an Augustinian view of politics, in that order is seen as an essential prerequisite for other social and moral goods. From this flows advocacy for policies aimed at

promoting the state's capacity to maintain order and a denunciation of policies, coercive and noncoercive, that might undermine it. These are also, incidentally, precisely the sorts of arguments used by some states to oppose the application of nonmilitary measures to stem anti-civilian violence in Syria. In July 2012, for example, Russia and China vetoed a draft Security Council resolution critical of Assad's failure to comply with Kofi Annan's peace plan and threatening sanctions should the Syrian government continue to escalate the violence. Explaining its vote, China argued that the threat of sanctions "would not help resolve the Syrian issue, but would only derail the matter from the political track. It would not only further aggravate the turmoil but also cause it to spread to other countries of the region, undermine regional peace and stability, and ultimately harm the interests of the people of Syria."⁷ Elsewhere, China has argued that the restoration of order and the government's authority across its whole territory was a necessary prerequisite for the sorts of political reforms that even it has acknowledged may be necessary.⁸ That is, by potentially weakening the state perpetrators of atrocity crimes, sanctions would create more disorder and harm. China also argued that the threat of sanctions would "erode international trust and cooperation on the issue of Syria," jeopardize the unity of the Security Council, and thus make it more difficult for world powers to find common ground.

PROBLEMS OF RECURRENCE, PRECEDENCE, AND RIGHTS

But how compelling is the case for thinking that the maintenance and quick restoration of order ought to be privileged when states commit atrocities against sections of their own population? While this approach no doubt resonates with the fatalism we feel when contemplating situations such as those in Syria and Myanmar, it cannot offer a plausible alternative to military or other nonmilitary forms of intervention. That is because the position confronts three significant challenges, which I label problems of *recurrence*, *precedence*, and *rights*.

Drawing from past experience, the problem of recurrence points to the fact that state actors who find success employing atrocities against sections of their own population are encouraged to repeat such behavior. Over the long run, therefore, this equates to more, not fewer, atrocities as the commission of these crimes recommends itself as an instrument of national policy. There are countless examples of repeat offenders. As mentioned above, Hafez al-Assad's Syrian regime used indiscriminate artillery and airpower as well as systematic detention, torture,

sexual violence, and arbitrary killings to repress the Muslim Brotherhood in the 1980s; Bashar al-Assad's regime used the same tactics after 2011. Vladimir Putin came to power in Russia by employing indiscriminate violence against Chechnya to good effect in the Second Chechen War, and went on to support similar tactics in Syria. Omar al-Bashir's Sudanese government employed indiscriminate force to suppress an uprising in Darfur, and repeated the tactics in South Kordofan. Myanmar's *Tatmadaw* military has a long history of targeting civilians in ethnic minority areas and of opening fire on protestors.

Thus, while decisive victories by state perpetrators of atrocities can sometimes create the appearance of order in the immediate term, it is a decidedly unstable type of order—and one that is likely to give rise to renewed bouts of killing. On the one hand, successful perpetrators learn that atrocity crimes can be an effective means by which to achieve difficult political goals. In such circumstances, not only do leaders learn that atrocities can pay but military and security institutions also build atrocities into their operational methods and tactics, creating a degree of path dependency. There are striking similarities between the tactics employed by Syrian forces against Hama in 1982 and Deraa in 2011 (and subsequently in Homs, Aleppo, and Douma) that demonstrate how institutions learn from past experience and repeat proven tactics.

On the other hand, when state perpetrators succeed, the societies they govern remain riven with the very tensions that gave rise to atrocity crimes in the first place (unless the state has succeeded in exterminating or displacing a significant part of the opposition, as in the case of ancient Rome's devastation of Carthage and Mao's destruction of Chinese landowners). Governments tend to find that over the long term, abusing parts of their population stores up future trouble. Syria is again a case in point. A 1982 crackdown targeting conservative Sunnis killed between 10,000 and 30,000 people in Hama and subsequently rounded up, imprisoned, tortured, raped, beat, and killed thousands more. Memory of these crimes may not have been openly talked about, but they stalked the country nonetheless. "Hama's ghosts walked unavenged among the living, a vivid warning of the price of dissent," notes Rania Abouzeid. A generation of young Sunnis grew up "witnessing or hearing about the humiliation of their elders."⁹ From 2011 onward this generation formed the backbone of the Islamist opposition to Assad, their desire for vengeance and commitment to radical politics inflamed—not extinguished—by the Syrian government's past success with using atrocity crimes. More broadly, the wars of the Arab Spring were not the first bloody revolts

against the region's authoritarian governments, and unless governments reform they will not be the last. Governments that hang on to power only with the help of atrocity crimes tend to find themselves periodically subjected to armed resistance, and they resort, again and again, to atrocities.¹⁰ The peace brought about by state atrocities is anything but durable or sustainable. It is more likely merely the prelude to future bouts of violence. By facilitating or permitting such a peace, the international community simply postpones trouble to some future date.

The second problem is one of precedence. Rule-consequentialists ask that we consider the implications of moral norms across all likely cases. Does the "rule"—in this case the notion that state perpetrators of atrocities be allowed to get on with their terrible business and thus conclude it as quickly as possible—produce the best possible outcome? While there are grounds for thinking that such a notion may save lives in individual cases, as a general rule it would result in significant additional harm. States would come to expect the international community to stand aside as they commit atrocities, reducing the anticipated (material and reputational) costs and thus recommending atrocities as an efficient and effective tool. There is some evidence that perpetrators sometimes test the waters with limited violence to see what the international response will be before engaging in more widespread violence. The Rwandan genocide began with the targeted killing of key actors and foreigners, and the Bosnian Serb Army tested international resolve before committing genocide at Srebrenica. Toward the start of its 2009 campaign against the LTTE, the Sri Lankan government warned international humanitarian workers that their safety could not be guaranteed, testing the likely response. When no response of consequence was forthcoming, it pressed on. In 2011 and early 2012 the Syrian government combined geographically limited spasms of violence with more discrete arrests, torture, prison killings, and a show of political concessions. Overall, violence remained at a relatively low level for the first twelve months of the crisis as the government pursued multiple strategies and remained uncertain about the likely international response. That uncertainty was eliminated once Russia and China vetoed the draft resolution criticizing Syria's failure to comply with the Annan agreement. Meanwhile, the killing of civilians (measured by monthly totals) quadrupled. State perpetrators of atrocity crimes are clearly sensitive to potential costs. Thus, lowering the costs of atrocity crimes would only further encourage their use.

One may argue that cases are individual and distinct and that each should be treated separately; that allowing Syrian government forces to prevail now would not necessarily create a general principle that would affect wider behavior. In practice, however, precedents do carry across different contexts irrespective of the intent of those who create them. The most tangible evidence can be seen in the way that perpetrators learn from one another. Sometimes that learning is indirect. For example, there were striking similarities between Sri Lanka's successful "clearance operations" against the LTTE in 2009 and Myanmar's operations against the Rohingya in 2017. Both ratcheted up rhetoric beforehand; both flooded the airwaves with misinformation designed to encourage outsiders to blame the victims and create uncertainty about what was happening; both placed blanket restrictions on media and humanitarian access; both employed heavy, indiscriminate force aimed at destroying or at least severely weakening not just the armed opposition but the civilian population as well; and both moved quickly, seemingly intent on weathering a time-limited storm of international criticism in the expectation that once the violence was over and their objectives were secured, international actors would gradually reengage once more. Employing these tactics, the Sri Lankan government achieved a significant strategic victory. The striking similarities in the political and military tactics employed by Myanmar's *Tatmadaw* suggest that they intended to replicate Sri Lanka's success. In other cases the learning is even more direct, such as the aforementioned adoption by Syrian government forces of tactics perfected by Russia during the Second Chechen War. What this indicates is that even if lives might be saved by allowing state perpetrators to achieve their goals more quickly, its negative impact on future cases cannot be contained.

The third problem turns to the question of human rights. When states perpetrate atrocity crimes against sections of their own population, they violate many of the most fundamental human rights, including the right to life, the right of noncombatants not to be targeted, the right not to be tortured, and the right not to be subjected to sexual and gender-based violence. Reaffirming faith in such fundamental rights and "in the dignity and worth of the human person" is among the founding principles of the UN Charter as enunciated in its preamble. Article 1 of the Charter goes on to identify the promotion of "human rights and . . . fundamental freedoms for all" as one of the primary purposes of the organization. Privileging order by standing aside as grave violations of these rights are committed is patently inconsistent not only with the obligations of international human rights and humanitarian law but also with the principles and purposes of the United Nations itself. Over time,

such practices would erode the legitimacy of those principles and purposes, encouraging further violations and prompting populations to find alternative (usually more radical) means of redressing injustices.

But it is not just international legal obligations that are brought into question. It is the national legality and legitimacy of the government, indeed the state itself, that is called into doubt. If Thomas Hobbes and John Locke were right, then the internal order established by states rests on a contract between the government and the governed. For many (if not most) states, this is more than a matter of political theory. It is a relationship embedded in constitutional law. Take, for example, the Constitution of India. The preamble signals that the state is constituted by “the people of India” for the purpose of securing justice, liberty, equality, and fraternity for all its citizens. Turning to the specific purpose of the state, Article 38 declares it as being “to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.” The Brazilian state was likewise formed for the purpose of “ensuring the exercise of social and individual rights, liberty, security, well-being, development, equality, and justice.” Notably, Syria’s 1973 Constitution was also remarkably blunt on the rights of the citizen and obligations of the state. Article 12 stipulates in unqualified terms that “the state is at the people’s service. Its establishment seeks to protect the fundamental rights of the citizens and develop their lives.” This list could continue at great length.

The idea that the protection of individuals from the systematic and widespread violation of their fundamental human rights—an idea central to the social contract—is the primary purpose of the state and the source of its claim to the allegiance of its population cannot therefore be written off as a Western liberal fiction. In the examples above, we see constitutions enshrine the principle that the rights of individuals precede the state and that the state is *obligated* to protect the rights and freedoms of its citizens. One cannot, therefore, simply permit such violations in the name of political expediency without also doing great harm to the legitimacy of both the international legal order itself, including its primary institution, the United Nations, and the compact between states and peoples.

CONCLUSION

Appealing as it might be as a way of ending atrocity crimes quickly, privileging order over the abuse of a population creates significant practical, moral, and

legal problems. On closer reflection, it should be obvious why one cannot make a general rule out of such an approach, since it would only encourage the further use of atrocity crimes. It should also be clear that the effects of the occasional exceptional use of this strategy cannot be contained, since it creates precedents and opportunities for repetition, and it erodes the legitimacy not just of international law and its core institutions but of states themselves. Instead of a politics of fatal resignation to atrocity crimes, we need a politics of stubborn resistance, one that employs every means possible to increase the costs of committing atrocities, lower the chances of success, and place as many civilians as possible out of harm's way.

NOTES

- ¹ Max Boot, "To Save Syrians, Let Assad Win," *Washington Post*, March 8, 2018.
- ² Edward Luttwak, "Give War a Chance," *Foreign Affairs* 78, no. 4 (1999).
- ³ Phrasing taken from Richard Ned Lebow, *The Tragic Vision of Politics* (Cambridge: Cambridge University Press, 2009).
- ⁴ Drawing on the data I presented in Alex J. Bellamy, "When States Go Bad: The Termination of State Perpetrated Mass Killing," *Journal of Peace Research* 52, no. 5 (2015), pp. 565–76.
- ⁵ Bellamy, "When States Go Bad," pp. 570–72.
- ⁶ Monica D. Toft, *Securing the Peace: The Durable Settlement of Civil Wars* (Princeton, N.J.: Princeton University Press, 2009).
- ⁷ United Nations Security Council, 6810th meeting, July 19, 2012, UN doc. S/PV.6810, p. 13.
- ⁸ Sarah Teitt, "China and the Failure of the UN in Syria," International Political Science Association, 2018, forthcoming. A Chinese language version of this paper has been published.
- ⁹ Rania Abouzeid, *No Turning Back: Life, Loss, and Hope in Wartime Syria* (New York: W. W. Norton, 2018), pp. 20–23.
- ¹⁰ A point made with respect to the Arab Spring by Marc Lynch, *The New Arab Wars: Uprisings and Anarchy in the Middle East* (New York: PublicAffairs, 2016), p. xviii.

Abstract: How should the international community respond when states commit atrocity crimes against sections of their own population? In practice, international responses are rarely timely or decisive. To make matters worse, half-hearted or self-interested interventions can prolong crises and contribute to the growing toll of casualties. Recognizing these brutal realities, it is tempting to adopt the fatalist view that the best that can be done is to minimize harm by letting the state win, allowing the status quo power structure to persist. Indeed, this is how many commentators and states have responded to the tide of human misery in Syria. Could a policy of letting the state perpetrator prevail be a viable alternative to other options, including military intervention? This essay suggests not. It explains the logic behind the fatalist approach and shows that problems of recurrence, precedence, and rights mean that such an approach cannot offer a plausible alternative to measures designed to resist and increase the costs of committing atrocity crimes.

Keywords: atrocities, diplomacy, humanitarian, war, victory, Syria, states, protection