

Pandora's Box in Syria

Anticipating negative externalities
of a re-entrenching regime

CRU Report

Samar Batrawi



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Table of contents

Executive summary	1
Acknowledgement	3
Introduction	4
1 The nature of the Syrian regime	6
Security practices: state autonomy and networks of influence	8
Civil practices: exclusion and persecution	14
Economic practices: neoliberal resurgence and new cronyism	17
Zooming in on the political economy	20
2 Assessing six key negative externalities	25
Risk of conflict relapse due to economic pressures	25
The politics of refugees	26
Risks and instrumentalisation of terrorism	30
Regional instability	33
Humanitarian culpability	34
Deterioration of the international legal order	36
3 Identifying mitigating policy options	37

Executive summary

During 2019, the original Syrian conflict entered its closing phases, except for the battlefields of Idlib and in the north east. As a result, conflict dynamics have become somewhat easier to read, as the regime and its key allies have shifted towards a triumphalist 'post-war' narrative and corresponding governance styles, deal-making and decision making. These developments can be witnessed in three interlinked spheres: security, civil, and political economic practices. Together, they largely form the Assad regime's political economy, which – although poorly understood due to limited access – is crucial to understand to assess the negative externalities likely to result from its wartime survival.

The current security, civil and political economic practices of the Syrian regime are not informed by any serious consideration of international law, diplomatic pressure from countries other than its close allies, or human rights norms. Instead, survival, securitisation and coercive operating styles dominate. Hard power remains the regime's key currency. As a result, soft power – whether it be diplomatic, financial or economic – is largely ineffective in influencing the regime's calculations, incentives or intensity preferences.

This paper analyses six negative externalities that are likely to result from the re-entrenchment of the Syrian regime: 1) risk of conflict relapse due to economic pressures; 2) the politics of refugees; 3) risks and instrumentalisation of terrorism; 4) regional instability; 5) humanitarian culpability; and 6) deterioration of the international legal order. These externalities are interconnected and emerge from the political economy of the regime – the accumulation of its security, civil and political economic practices.

It is these externalities that will have an impact on EU policy priorities and interests – mostly via Turkey, which has evolved from buffer into conflict party. The EU's irrelevance in the realm of hard power presents it – and its member states – with the uncomfortable reality that it lacks leverage to influence the short- to medium-term future of the Syrian conflict. Without a willingness to mobilise political, military and financial pressure in a synchronised manner – based on a strategy of confrontation or, indirectly, through dialogue with and influence over those actors who have a significant degree of hard power capital and capabilities vis-à-vis the regime (primarily Russia and Iran) – the EU has few levers to pull. At present, the EU only has such tools available in the economic sphere – and only uses them to a limited extent.

However, even if the EU were to belatedly pursue a form of hard power strategy, it no longer offers a remedy for addressing the negative externalities mentioned above. This is because the positive alternatives to the Assad regime have been eliminated during the civil war. The regime's divide-and-conquer strategies, as well as the fragmentation and radicalisation of the opposition, have silenced the original, overwhelmingly progressive, demands of the protestors who took to Syria's streets in early 2011. No major remaining armed or political opposition group with significant influence in Syria represents these demands any longer.

Nevertheless, the EU is not without policy options to address the negative externalities discussed in this paper. In terms of interventions that directly influence regime interest, it could: expand its targeted sanctions by adjusting these more quickly to include new entities and individuals that spring up in the 'whack-a-mole' game of sanction evasion; demand much more stringent application of humanitarian principles in the provision of such aid (especially if it is further increased), thereby reducing resource flows to the regime; and creatively develop an accountability mechanism that can operate in a way that is linked with, but independent of, the United Nations (given Russia's veto).

In addition, it could provide much more support to Syrian refugees in the region, focused on providing them with greater rights and better protection. It could also engage in the long overdue repatriation of European 'foreign fighters' from the region in a controlled manner – so that they can face criminal justice in their home countries, rather than becoming a blackmail and fear factor that local actors can exploit.

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The paper reflects developments in Syria until March 2020.

Introduction

More than eight years since the Syrian regime's infamous slogan 'Assad, or we burn the country' was first heard during the initial months of protest in 2011, Syrians now find themselves left with both Bashar al-Assad's regime *and* a burnt country – in the collective psychological, physical and institutional sense.¹ In particular, Russia's military intervention on behalf of the Syrian regime in 2015 helped to bring this reality about by boosting the chances of a regime victory. Since then, the EU and its member states have been working to craft a suitable policy response. This soul-searching journey is far from over, although it has found a temporary landing stage in the form of 'no reconstruction support without a meaningful [and imagined, author's edit] political transition'. During the past year, the dynamics of the Syrian conflict have slowed and become easier to read as the regime and its key allies have shifted into a kind of 'post-war' decision-making modus infused with a 'totally and utterly triumphalist' mindset.² This presents a tremendous challenge to the EU and its member states as their already limited leverage is further reduced. And, as an otherwise helpful recent Crisis Group report failed to clarify, leverage to do what and why?³

Beyond the policy rhetoric surrounding reconstruction, this paper provides an analysis of key negative externalities likely to increasingly manifest themselves as a result of the re-entrenchment of the Syrian regime. Such analysis is essential to any deliberation on disengagement, engagement and re-engagement with the Assad regime.⁴

First, the paper sketches the contours of the current nature of the regime with a view to assessing, even if only approximately, what sort of interests it is likely to pursue over the next few years. Second, it assesses six types of negative externalities. Negative externalities are defined as indirect and costly consequences for the EU resulting from

1 Robin Yassin-Kassab and Leila Al-Shami (2018), *Burning Country: Syrians in Revolution and War*. London: Pluto Press.

2 Frederick Deknatel (2019), 'What Victory on Assad's Terms Looks Like in Syria', *World Politics Review*. Online: <https://www.worldpoliticsreview.com/articles/28365/what-victory-on-assad-s-terms-looks-like-in-syria> (Accessed 12 December 2019)

3 Crisis Group (2019), *Ways out of Europe's Syria Reconstruction Conundrum*. Online: <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/209-ways-out-europes-syria-reconstruction-conundrum> (Accessed 12 December 2019).

4 For such deliberations see: Van Veen, E. and O. Macharis (2020), 'Hope springs eternal: EU options for dealing with the Assad regime', Clingendael. Online: <https://www.clingendael.org/publication/eu-options-dealing-assad-regime> (Accessed 14 May 2020).

decisions taken by the Syrian regime and its main backers – Russia and Iran – that are currently insufficiently accounted for in EU policy because their effects typically manifest in a diffuse manner and in the longer term. They include the risk of conflict relapse due to economic pressures, the future of Syrian refugees in the region, terrorist networks, regional instability, the nature of humanitarian aid, and the deterioration of the international legal order. Finally, the paper outlines mitigating policy options for the Netherlands and other European countries.⁵

5 Interviews with 15 researchers and (I)NGO staff in Europe, Turkey, Jordan, Lebanon and north-eastern Syria were conducted for this paper in October and November 2019 (in person and via Skype). Most interviewees chose to remain anonymous, either by not being quoted at all or by being referred to only as 'analyst' (with or without mention of their location). The paper also benefited from a policy expert workshop in March 2019.

1 The nature of the Syrian regime

Crisis Group aptly describes the Syrian conflict as ‘a constellation of overlapping crises’, of which each global, regional and sub-national dimension requires a calculated response that is part of a coherent broader framework.⁶ This report articulates the Syrian conflict’s overlapping crises in terms of the most important negative consequences expected to develop or escalate as a result of the Syrian regime’s tacit victory in the conflict.

The regime’s military victory has been increasingly likely since Russia intervened on its behalf in 2015. However, it is important to understand that the regime’s victory will be a phase of the conflict’s evolution, not its ending. It may last for a year, a decade, or a generation, but it will not mark an end to the conflict unless old and new conflict dynamics are adequately resolved.

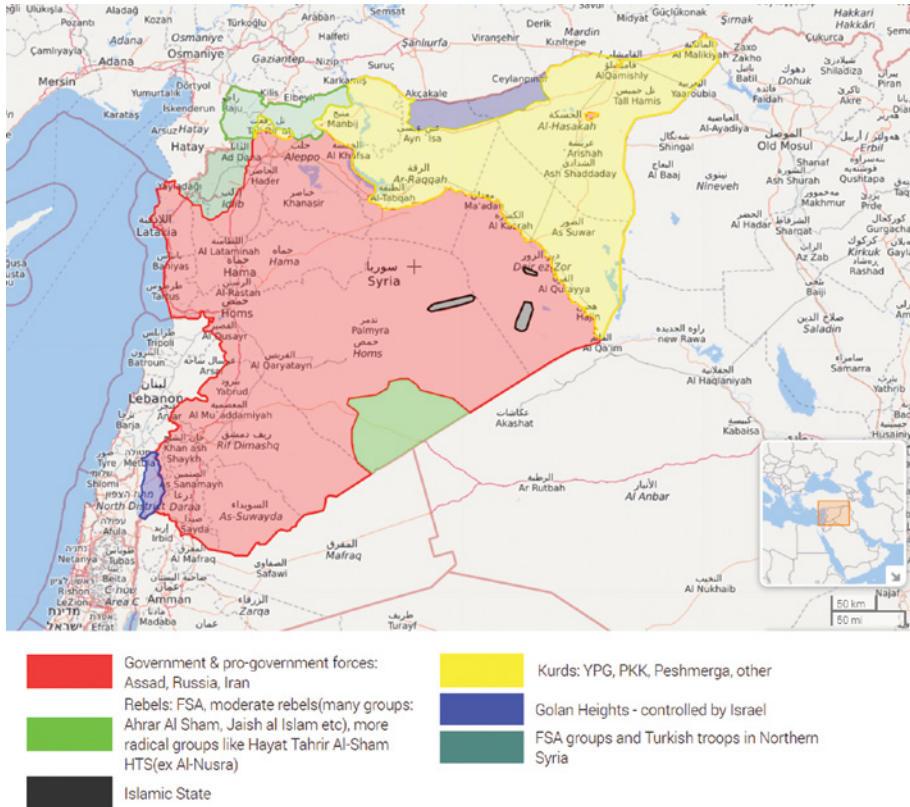
The precise nature and extent of the Syrian regime’s victory remains to be determined as it depends on regaining territorial control over Idlib and the north east, as well as on the outcomes of the political tracks and reconstruction processes the regime is currently pursuing on the international stage, with close assistance (and pressure) from Russia.

The two most likely scenarios for a regime victory are ‘frozen conflict’ and ‘reconquest’. In the ‘frozen conflict scenario’, several important areas of Syria maintain a degree of security, political and economic autonomy, while the Syrian regime re-entrenches itself more deeply in most of the country. For now, these regions would comprise the roughly 30 per cent of the country that the regime is yet to regain control over, namely Idlib (controlled mainly by Hay’at Tahrir al-Sham and Turkish forces/proxies), the Turkish-occupied areas in the border region, and what remains of the autonomous Kurdish areas in the north east of the country that are controlled by the Democratic Union Party (PYD), Syrian Democratic Council (SDC) and their armed forces. The future of these areas is largely dependent on Russian-Turkish relations and priorities. In the ‘reconquest scenario’, the Syrian regime re-entrenches itself over all of Syria, relying on various political and military deals to enforce its control.⁷

6 Crisis Group (2019), *Syria*. Online: <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria> (Accessed 12 December 2019).

7 The Golan Heights remain occupied by Israel in both scenarios, as they were prior to 2011.

Figure 1 Map of territorial control in Syria (13 January 2020) – Syria Live Map



In both scenarios, the Syrian regime remains dependent on Russian, Iranian and Hezbollah’s political and military support, and will require vast amounts of investment and assistance – roughly four times its annual GDP – to conduct the extensive reconstruction needed in the country, where roughly one-third of infrastructure has been completely destroyed or severely damaged.⁸ Without such reconstruction and structural humanitarian and development assistance, the living conditions of Syrians will deteriorate and come to constitute a protracted and extreme humanitarian disaster. The chance of conflict relapse and refugee flows will increase in the near future, due

⁸ Crisis Group (2019), *Ways out of Europe's Syria Reconstruction Conundrum*. Online: <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/209-ways-out-europes-syria-reconstruction-conundrum> (Accessed 12 December 2019).

to mounting socioeconomic pressures.⁹ Additionally, in neither scenario is the US likely to re-engage with the Syrian conflict in a way that gives it direct leverage over the decision-making of the regime. Faced with this reality, the EU and its member states will need to establish strategic policy objectives and put concrete mechanisms in place to deal with the Syrian conflict as a matter of urgency, if only to mitigate several of its negative externalities.¹⁰

In order to set meaningful objectives, it is crucial to understand the political economy of the regime that will drive these externalities. Establishing this is largely a matter of logical induction: with little access to the black box of the regime's operating procedures and internal decision-making, the material realities of its day-to-day governance are the key evidential base from which the regime's internal order can be reconstructed. Nonetheless, there is a growing pool of research that helps us to understand the regime's operational priorities and practices, which largely fall into three realms: security, civilian affairs and political economy.

The regime's dynamics in the realm of security have shifted significantly as a result of the conflict, as the nature of intervention by international actors supporting the Syrian government created major discontinuities in how the Syrian state exercises power that will continue to influence its short- to medium-term practices. This is unlike the realms of civilian affairs and political economy, where conflict dynamics since 2011 rather constitute an extreme amplification – and not a rupture – of pre-conflict dynamics in Syria. The following sections expand on the dynamics in each of these realms.

Security practices: state autonomy and networks of influence

Since 2011, the Syrian regime's practices of political and military authority through its security services and armed forces have transformed significantly, mirroring the erosion of the regime's autonomy and territorial sovereignty. This is evident in its reliance on Russia and Iran's military, economic and political support, but also in its foreign policy orientations.¹¹

9 Tamara Cofman Wittes and Brian Reeves (2018), 'The Fire Next Time: Stabilization in the Middle East and North Africa', *Brookings*. Online: https://www.brookings.edu/wp-content/uploads/2018/03/fp_20180323_fire_next_time.pdf (Accessed 12 December 2019).

10 See Van Veen and Macharis (2020), *op.cit.*

11 Prior to 2011, for example, the regime was seeking economic rapprochement with the Gulf and the West. In 2011, before the first civil protests, Syria supported the Gulf Cooperation Council intervention in Bahrain, despite Iran's objections to it. Today, this autonomy of foreign policy decision making is severely weakened.

The Russian, Iranian and Hezbollah interventions on behalf of the Syrian regime have been the most important source of autonomy and sovereignty erosion since 2011. While they helped overcome the Syrian armed forces' existing organisational fragmentation and operational weaknesses in the short-term, they simultaneously undermined its central command structures. However, these interventions were critical for the Syrian regime's survival and continue to be critical for its maintenance / re-establishment of territorial control, including in Idlib and the north east.

Whereas Syria was previously a prime example of a 'shadow state' – where power practices were dominated by security services and fear constituted a major incentive for compliance – it is now also a 'transactional state', in the sense that regime power practices are contingent upon transactional alignment with influential domestic factions (war profiteers and entrepreneurs of violence) that often benefit from support from external players, primarily Russia and Iran.¹² In the context of this dependency, governance is approached by the Syrian regime as an expression of an existential struggle in which force serves to defend existing institutional set-ups.¹³ This has two implications: first, the transactional nature of the regime's stability makes it fundamentally unstable in the sense that its longevity depends on its ability to continue to successfully leverage transactional relations and compromises with Russia, Iran and Hezbollah in a context of domestic power networks that mix competition with cooperation. Second, this means that should the transaction-based façade of stability falter, the regime is likely to fall back on its *modus operandi* of using force to defend its institutions. In the latter scenario, the only thing that would hold the regime back from using excessive force is a lack of capacity, not a lack of willingness to use violence.

Russia's influence on the Syrian regime is primarily seen on the level of state institution-building, whereas Iran also practices influence outside of the state's institutions. What complicates this further is that Russia and Iran have a Janus-faced relationship of collaboration and competition, each pushing for its own political, security and economic

12 Lina Khatib and Lina Sinjab (2018), 'Syria's Transactional State: How the Conflict Changed the Syrian State's Exercise of Power', *Chatham House*. Online: <https://www.chathamhouse.org/sites/default/files/publications/research/2018-10-10-syrias-transactional-state-khatib-sinjab.pdf> (Accessed 12 December 2019).

13 Steven Heydemann (2018), 'Beyond Fragility: Syria and the Challenge of Reconstruction in Fierce States', *Brookings*. Online: <https://www.brookings.edu/research/beyond-fragility-syria-and-the-challenges-of-reconstruction-in-fierce-states/> (Accessed 12 December 2019).

priorities. In order to understand the direction these transactions might take, an understanding of Russia and Iran's interests in Syria is paramount.¹⁴

From the Russian perspective, Syria is one of the key arenas in and from which it poses a challenge to the traditional geopolitical dominance of the US in the Middle East. Russia wishes to promote its international image as a great power, able to manage and resolve the Syrian war, something the US has been unable or unwilling to do. Russia also portrays itself as being in a more legitimate position than the US since the Syrian state 'invited' Russian assistance in the first place. In this, Russia has also sought to directly undermine the UN-led political processes by creating parallel tracks such as the Astana process, which ultimately aim to present the UN with a *fait accompli*.

With regards to the domestic make-up of Syria in the short- to medium-term, Russia seeks to uphold the principle of the supremacy of state sovereignty by supporting the Syrian state over informal power structures linked with, but not part of, the state. Apart from its general support for the regime, this is evidenced most clearly in its specific efforts to re-establish central authority over the Syrian armed forces and other institution-building activities it has engaged with.

On the Iranian side of the equation, political interests also revolve around the projection of influence in Syria and the wider region in both soft-power terms (as leader of the resistance against the US and Israel) and in terms of real on-the-ground influence. Syria has been an important strategic partner for Iran against Israel, as well as against US influence in the region, which they view as ultimately aimed at regime change in Iran. Within this, protecting and expanding its access to proxies (most importantly Hezbollah in Lebanon) by securing and expanding friendly land and air territory, has been critical in Iran's Syria approach. Since the 1980s it has sought to build bottom-up legitimacy through the infiltration of state institutions and Shi'a religious shrines, as well as establishing a lasting presence of sub-state armed groups that could outlive the Syrian regime in case of its collapse. Iran's model of influence in Syria fundamentally relies on infiltrating the state, both by developing parallel institutions and by cultivating deep grassroots support (a strategy of questionable viability in a Sunni Muslim-majority country). For both Russia and Iran, war profiteering in terms of testing capabilities and weaponry have also played a role, although this is less relevant to the higher political dynamics of the conflict.

14 Samar Batrawi and Nick Grinstead (2019), 'Six Scenarios for Pro-Regime Militias in "Post-War" Syria', *Clingendael*. Online: https://www.clingendael.org/sites/default/files/2012/CRU_PB_Militias_25March19_final.pdf (Accessed 12 December 2019).

The Syrian military landscape

Throughout the war, the structure of the Syrian armed forces has been profoundly altered by two interlinked developments that emerged as a response to the severe gap in the regime's military capacity to confront the opposition: a) interventions by foreign states on behalf of the Syrian regime, and b) the creation of so-called pro-regime militias – non-state actors beyond the official command structure of the Syrian armed forces – which can be Syrian or foreign (such as Hezbollah, or various Iran-linked units).

The rise of pro-regime militias has led to much concern and speculation among Western policy makers about the future of their relationship with the regime. Thus far, the regime has partially integrated select militias into its forces while allowing others to maintain operational autonomy (although not strategic autonomy). Pro-regime militias broadly align with the regime's objectives within Syria. The regime's ability to curb and/or instrumentalize militia profiteering and abuse of power will clarify their future power relation and (inter)dependency over the months/years to come.

Russia, Iran and Hezbollah¹⁵ are playing a long game in Syria, with the regime trying to act as a referee that plays each side off against the other as much as possible. Even though Russia's push for a strong, central state and Iran's push for maintaining sub-state armed groups seem in conflict, from the perspective of the Syrian regime they are not necessarily mutually exclusive options. While the regime wants to restructure its army into a coherent force, it does not wish to disband pro-regime militias altogether because these do not (as yet) interfere with the work of the Syrian army and provide a useful force multiplier – coercive mechanisms with a degree of plausible deniability. As such, Hezbollah's current expansion in Syria does not appear to be an issue for the regime. Moreover, the Syrian regime does not appear to be concerned about the projection of autonomy. Rather, it knows that, given its manpower shortages, it needs the support of Hezbollah and other pro-regime forces to maintain local security in the short- to medium-term. Ultimately, the geopolitical and strategic environment in which the Syrian regime operates is very volatile, so antagonizing any of the forces sympathetic to it is very risky.

15 Although Hezbollah largely follows the political ideology and direction set by Iran, it is an operationally independent actor that has carved out its own set of immediate priorities in the Syrian conflict.

Within the Syrian armed forces, corruption, profiteering and sectarianization are the three key dynamics that feed into negative externalities in the short- to medium-term. Corruption and profiteering are largely condoned by the Syrian regime since they fill a resource gap; as a result of mounting economic pressures, the salaries of members of the Syrian armed forces are low. Through corruption and profiteering, for example by Hezbollah-led arms and drugs smuggling networks, various local branches of the Syrian armed forces are able to supplement their meagre government salary with additional income, often merely through condoning the presence of smuggling routes or securing vehicles' transition through certain areas. The sectarianisation or tribalisation of the Syrian armed forces manifests itself mainly in the presence of more Alawis than ever in army ranks. In practical terms, this is largely because Syrian law dictates that priority is given to the families of martyrs in filling government vacancies. But sectarian and tribal aspects, which also existed prior to the conflict, have been reinforced and today provide a strong identity marker for both inclusion and mobilisation. Depending on the geographical region within Syria, the regime plays on religious, ethnic or economic identities to play various local groups off against each other, while also claiming to represent all Syrians.

Syria's security services have always been critical to regime survival, including under Assad Senior.¹⁶ Recently, the Syrian regime has been overhauling its security services by appointing new loyalists to senior security positions. These are previously unknown individuals (such as the new head of military intelligence Kifah Moulhem and the head of the political security directorate Nasser al-Ali¹⁷) who became infamous through their role in escalating violence after 2011, and over whom the regime holds significant leverage in the form of corruption files. Thus, within the broader dynamic of Russian-Iranian competition over the design of Syria's security landscape, to a degree the Syrian regime is asserting its own direction.

The initial purpose of Hezbollah's intervention in Syria was to avert a crisis; if Assad fell, its ability to secure weapons and funding via/from Syria would be severely threatened. After the Russian intervention in 2015, Hezbollah's involvement shifted from serving as offensive forward units for urban warfare to consolidating its positions in the south and south west of Syria. Having Assad run Syria is much more beneficial to Hezbollah than having to secure areas by themselves.

16 Abdullah Al-Ghadhawi (2019), 'New Configuration in the Syrian Regime's Security Structure', *Chatham House*. Online: <https://syria.chathamhouse.org/research/new-configuration-in-the-syrian-regimes-security-structure> (Accessed 12 December 2019).

17 Abdullah Al-Ghadhawi (2019), *Ibid*.

Hezbollah is currently pursuing three efforts in Syria.¹⁸ First, it is securing smuggling networks and routes from southern Lebanon into rural Damascus, Dar'a and Sweida, and into Jordan and the Gulf. Its positions are largely along the Lebanese border, stretching from Western Homs and Quseyr to the Golan Heights. They maintain no visible presence here in the form of checkpoints or bases with Hezbollah flags but maintain small units that conduct monitoring and intelligence gathering and are on standby.¹⁹ They do not interfere much with civilian life. In northern rural Damascus, Hezbollah is establishing entrenched positions similar to those it maintains in southern Lebanon. Secondly, it is working with Syrian regime security forces, such as the 7th division. This enables Hezbollah to maintain relatively low-level visibility as it is these regime forces that typically run checkpoints. In return for financial rewards, they allow Hezbollah personnel and goods to pass through the checkpoints unhindered. This enables Hezbollah to focus on its third effort, which is to set up positions to open up an eastern front against Israel. This would enable them, at some point, to draw pressure away from the Lebanese-Israeli border and towards the Golan Heights when needed.

While it is safe to assume that Hezbollah will maintain a permanent presence in Syria, albeit likely on a rotating basis, it is unclear to what extent Hezbollah will succeed in leveraging local support. For instance, despite a degree of reconciliation, several former rebel groups oppose Hezbollah's expansion and have allegedly been involved in the overt obstruction of convoy movements and several targeted assassinations of Hezbollah personnel. In addition, the pool of recruits it can tap into remains small since Hezbollah is Shi'a and is not deeply embedded in local Syrian communities.²⁰ As a result, it is more likely that Hezbollah's local support base will remain transactional and tacit, contingent upon the profits these supporters can earn.

Furthermore, its forces in Syria are unlikely to be brought into the central command structure of the Syrian army for several reasons. First, Hezbollah's presence has always been independent of the Syrian armed forces and its forces are ideologically separate from the Syrian regime. For Hezbollah, Syria is a vehicle towards a greater end; a piece in the larger puzzle of its broader resistance struggle. Second, Hezbollah usually relies on a strictly horizontal command structure. In the Syrian case, there has been a higher command, but this has mostly been in charge of strategic decisions and weaponry such

18 Mohanad Hage Ali (2019), 'Power Points Defining the Syria-Hezbollah Relationship', *Carnegie Middle East Center*. Online: <https://carnegie-mec.org/2019/03/29/power-points-defining-syria-hezbollah-relationship-pub-78730> (Accessed 12 December 2019) and Mona Alami (2017), 'Hezbollah's Strategy: Capture, Consolidate, and Combat Preparation', *Atlantic Council*. Online: <https://www.atlanticcouncil.org/blogs/syriasource/hezbollah-s-strategy-capture-consolidate-and-combat-preparation/> (Accessed 12 December 2019).

19 Interview with Beirut-based analyst in November 2019.

20 Interview with Beirut-based analyst in November 2019.

as long-range missiles. Local commanders receive general instructions, but they are allowed room for manoeuvre within these. Small units within Syria (typically consisting of 40–50 people) are assigned a local commander who is himself supervised by a Lebanese commander. This means that the existing operational command structures are antithetical to any central command structures in the Syrian armed forces. Third, Hezbollah is financially independent of the Syrian regime, meaning that even if the regime wanted to integrate Hezbollah, it has no leverage over the group. In the long-term, pro-regime militias are likely to either attain legal status as paramilitary forces or be integrated into the Syrian army.²¹ As one analyst suggested, for Hezbollah forces in Syria this could amount to a Hashd al-Sha'bi style Iraq solution.²²

In summary, the Syrian regime's security practices will continue to revolve around force and the arbitration of uses of force, through which its institutional power is protected. As a result, national autonomy and sovereignty are likely to be partially conceded as long as operational support from Russia, Iran and Hezbollah is required and can be maintained. Within this space, the regime is likely to continue to enable profiteering dynamics between factions of the Syrian armed forces and non-state armed groups. Both constitute a deeply pragmatic approach to the maintenance of power in Syria.

Civil practices: exclusion and persecution

The second realm in which the Syrian regime asserts power is that of civil practices. Since October 2018, the Syrian Constitutional Committee has come to the forefront of political reform efforts. Despite the regime's opposition to opening dialogue on its constitution, Russian pressure eventually brought it to the table. This dialogue is a critical component (together with packaging the regime's stance on refugees) of Russia's strategy for re-establishing Syria's international legitimacy and its bidding for reconstruction funds. The first round of the process elicited few notable outcomes as trust in the regime among other participants remained low, and Assad himself maintained a non-committal stance to the process, commenting that 'the Syrian government is not part of these negotiations nor of these discussions,' and that its delegation 'represents the viewpoint of the Syrian government' but cannot bind it to any decisions.²³

21 Samar Batrawi and Nick Grinstead (2019), "Six Scenarios for Pro-Regime Militias in 'Post-War' Syria", *Clingendael*. Online: https://www.clingendael.org/sites/default/files/2012/CRU_PB_Militias_25March19_final.pdf (Accessed 12 December 2019).

22 Interview with Beirut-based analyst in November 2019.

23 Foreign Policy (2019), <https://foreignpolicy.com/2019/11/12/as-assad-gains-ground-new-syria-talks-offer-little-hope-of-peace/>

Although officially convened under the auspices of UN Security Council Resolution No. 2254, the constitutional reform process has thus far neglected to integrate or even initiate other requirements of 2254, including a permanent ceasefire, an end to targeting civilians, unimpeded humanitarian access, free elections, safe and voluntary refugee return, and genuine political transition. The neglect of these other elements, many of which constitute the root grievances that brought Syrians to the streets eight years ago, is a source of great frustration for Syrians.²⁴

Regardless of the degree of success of the constitutional reform work, it represents only one part of the larger political resolution required to generate lasting conflict resolution. That larger process, which at a minimum would include planning for elections and transitional rule, is absent – not least because achieving any meaningful political progress is likely to mark the beginning of the end of the Syrian regime, at least in its current form.

This is not to say that genuine constitutional reform is an unworthy pursuit. As a Syrian lawyer has argued, the country's constitution weighs in extreme favour of centralised presidential power over any other branch of government, even the legislative and judicial branches.²⁵ This was for instance aptly underlined in March of this year when a large portrait of Bashar al-Assad appeared on the main court of Tartous with the caption 'First Judge'. Moreover, the Muslim-Arab patriarchal nature of the Syrian state is manifested in the constitutional requirement to have a male Muslim president.²⁶ Political life remains heavily in the hands of the Ba'ath Party and its loyalists despite, for example, some wartime concessions to the Syrian Social Nationalist Party.²⁷

24 Jomana Qaddour (2019), 'The Constitutional Committee must be part of a Holistic Syrian Peace Process', *Middle East Institute*. Online: https://www.mei.edu/publications/constitutional-committee-must-be-part-holistic-syrian-peace-process?fbclid=IwAR2_uqzDhV0ZR3vk6VQlb4PMVcZEC0legzszwAjOxC9qG3u7l6qCrEM3c (Accessed 12 December 2019).

25 Jomana Qaddour (2019), *Ibid*.

26 The issue of patriarchal dominance is constitutionally, politically and socially significant and deserves more than mere lip service. Violent conflict tends to exacerbate pre-existing gendered social norms. This manifests in the level of changing role expectations in light of economic stress. We also know from various human rights accounts that sexual violence has been practised regularly by the Syrian regime and various opposition groups as a weapon of war. As well as individual trauma, these war crimes create collective trauma, which affects how societies rebuild themselves after the war.

27 Jomana Qaddour (2019), 'The Constitutional Committee must be part of a Holistic Syrian Peace Process', *Middle East Institute*. Online: https://www.mei.edu/publications/constitutional-committee-must-be-part-holistic-syrian-peace-process?fbclid=IwAR2_uqzDhV0ZR3vk6VQlb4PMVcZEC0legzszwAjOxC9qG3u7l6qCrEM3c (Accessed 12 December 2019); Chris Solomon, Jesse McDonald and Nick Grinstead (2019), 'Eagles Riding the Storm of War: The Role of the Syrian Social Nationalist Party', *Clingendael*. Online: https://www.clingendael.org/sites/default/files/2019-01/PB_Eagles_riding_the_storm_of_war.pdf (Accessed 12 December 2019.)

Ideally, therefore, the work of a constitutional committee would feed into a critical element of the political process Syria needs: building a new social contract. However, the reality of the regime's civil practices suggests a grim reality in the short- to medium-term. Exclusion and persecution were key regime mechanisms in countering dissent, and there is no evidence that it plans to scale down these mechanisms.

One of the most acute matters affecting Syrians living inside Syria and refugees looking to return, is fear of persecution for avoiding military service. The Syrian regime continues to need emergency conscripts, for which it appeals to the military service law. In 2018, 400,000 names (including some that had allegedly been listed for amnesty) were called upon to serve.²⁸ There have also been reports that reconciliation agreements have included agreement to forcible conscription.²⁹

A recent report on Sednaya prison sheds light on how detention and torture undermine the very fabric of Syrian society. The report found that detainees were overwhelmingly young, educated Sunni men, more than 90 per cent of whom reported having been tortured while in prison.³⁰ Only 5.5 per cent of detainees interviewed were tried according to the Syrian Penal Code (compared with more than 60 per cent before 2011). Individuals were prosecuted on a limited and specific set of articles from the Syrian Penal Code: membership of prohibited parties or associations (37.9%), weakening national sentiment or inciting racial or sectarian strife (21.2%), and broadcasting false news abroad (12.1%). Since 2011, trials based on the counter-terrorism law of 2012 have been extremely common. It was also found that detention had negatively affected the future employment of 67.8 per cent of detainees due to the associated stigma and the large role of the public sector in offering employment opportunities.

Pre-uprising Syria was a place of grim political repression, but it also featured a modicum of religious and ethnic pluralism, albeit discriminatory. More specifically, different rights and duties existed according to a person's religious identity and ethnicity based on relations with the regime and its perception of a particular socio-ethnic group. The same remains true after years of war. According to the constitution, the supreme ethnic identity in Syria is Arab. Others are tolerated to varying degrees, or almost totally forbidden, such as the Kurdish identity.

28 Hosam al-Jablawa (2019), 'Forced Conscription Continues Despite Amnesty by Syrian Government', *Atlantic Council*. Online: <https://www.atlanticcouncil.org/blogs/syriasource/forced-conscription-continues-despite-amnesty-by-syrian-government/> (Accessed 12 December 2019).

29 Tahrir Institute for Middle East Policy (2019), *TIMEP Brief: Conscription Law*. Online: <https://timep.org/reports-briefings/timep-brief-conscription-law/> (Accessed 12 December 2019).

30 Association of Detainees & The Missing in Sednaya Prison (2019), *Detention in Sednaya: Report on the Procedures and Consequences of Political Imprisonment*. Online: <https://admisp.org/wp-content/uploads/2019/11/sydnaya-en-final-november-s-11-07-2019.pdf> (Accessed 12 December 2019).

Syria's mainstream opposition parties have failed to articulate an inclusive definition of citizenship and an inclusive governing alternative that could mitigate the fears of minorities, secularists, and other marginalised segments of society – including Sunnis who opposed the Assad regime but felt excluded from the Syrian future envisioned by the organised opposition.³¹ For this reason, Syria's mainstream opposition parties have never gained the inclusive appeal of the initial protest movement, which gathered large sectors of the Syrian population from various backgrounds, and whose ideas represent a progressive and positive vision for Syria.

The Syrian regime's practices of exclusion and persecution underline the fact that Syrian society is now more socially, politically and geographically fragmented than ever before.³² None of the social problems that caused the 2011 protests have been resolved.

Economic practices: neoliberal resurgence and new cronyism

The above mentioned developments and issues are linked with the regime's growing patrimonialism in terms of both citizenship and the economy, including flourishing, regime-linked smuggling networks. Patrimonial practices include loyalty demands from the regime's cronies in return for economic privileges such as: the allocation of import rights, selective privatisation and private investment;³³ illicit drug and oil trade; and the smuggling of goods and people – in other words a 'free-for-all' in which the Syrian state does not engage in structural economic policies, but thrives on economic informality and illicitness.³⁴ As a result, wealth inequality is greater than before 2011.

According to one analyst, these economic patterns demonstrate that the regime is 'shifting its nihilistic campaign of self-preservation from the military arena to the economic one'.³⁵ In other words, its basic instincts for survival at any and all costs are being ingrained in the country's economic institutional infrastructure. This has led to a number of dynamics, including sanction-evasion mechanisms; dependency on external investment and supplies; the decline of value-creating sectors such as manufacturing and agriculture; new cronyism; and general neoliberal resurgence.

31 Interview with Joseph Daher in November 2019.

32 See for instance: https://www.cartercenter.org/news/features/p/conflict_resolution/syria-mapping-shifts-in-territorial-control.html (accessed 14 May 2020).

33 The Syria Report (6 November 2019), *Government Seeking Investors for its Loss-making and Destroyed Food Companies*. Online: <https://www.syria-report.com/news/food-agriculture/government-seeking-investors-its-loss-making-and-destroyed-food-companies> (Accessed 12 December 2019).

34 SYNAPS (2019), *War by Other Means: Syria's Economic Struggle*. Online: <http://www.synaps.network/syria-economic-battleground> (Accessed 12 December 2019).

35 SYNAPS (2019), *War by Other Means: Syria's Economic Struggle*. Online: <http://www.synaps.network/syria-economic-battleground> (Accessed 12 December 2019).

The Syrian regime is able to partially circumvent international sanctions by 'creating new institutions and companies and relying on individuals to carry out economic transactions on the international market'.³⁶ In other words, important economic activities that would suffer under sanctions are delegated to individuals and companies that fall beyond the remit of sanctions. For this reason, a well-resourced mechanism with adequate intelligence that can be rapidly adjusted and updated, is paramount for the enforcement of sanctions. These regime-linked figures also engage in circular loans systems (via Russia) to circumvent sanctions.³⁷ In a recent interview, Bashar al-Assad appeared to boast about this situation, claiming that 'most recently, in the past six months, some companies have started to come to invest in Syria. Of course, foreign investment remains slow in these circumstances, but there are ways to circumvent the sanctions, and we have started to engage with these companies, and they will come soon to invest.' He added: 'But this doesn't mean that the investment and reconstruction process is going to be quick, I am realistic about this.'³⁸

This circumvention of sanctions is marginal compared with the economic benefit the Syrian regime would enjoy were sanctions completely lifted. In other words, despite such measures, sanctions still exert significant pressure on the economic manoeuvring abilities of the Syrian regime. Reliance on investment is increased by the decline of value-producing domestic sectors, primarily manufacturing and agriculture. Joseph Daher notes that many manufacturing tycoons left for political and/or financial reasons between 2012 and 2015 and have since set up successful businesses in other countries. For example, the textile baron Mohamad Sharabati from Aleppo has re-established his business in Egypt.³⁹

Moreover, since 2016, the Syrian regime's political-economic strategy has been based on public-private partnerships, with the privatisation of economic sectors previously controlled by the state. Although liberal-sounding, privatisation is bound to benefit the private business networks of the regime since Syria is a cronyist economic marketplace, not a free one. This situation exacerbates the Syrian regime's direct financial dependency on Iran and Russia, be it in the form of direct cash transfers or investments from private Iranian and Russian businesses.

36 Rohan Advani and Walid Al Nofal (2019), 'Economic Crisis Looms as the Syrian Pound Plummets to an All-Time Low', *Syria Direct*. Online: <https://syriadirect.org/news/economic-crisis-looms-as-the-syrian-pound-plummets-to-an-all-time-low-4> (Accessed 12 December 2019).

37 Global Witness (2019), *Assad Henchmen's Russian Refuge*. Online: <https://www.globalwitness.org/en-gb/campaigns/corruption-and-money-laundering/assad-henchmens-russian-refuge/> (Accessed 12 December 2019).

38 Syrian Arab News Agency (2019), *President al-Assad in an Interview Given to French Paris Match Magazine*. Online: <https://sana.sy/en/?p=179399> (Accessed 12 December 2019).

39 The decline of value-producing sectors is no war-time malaise; it is an extreme continuation of the neoliberal economic reforms that put these same sectors under pressure between 2008 and 2011.

Cronyism has become even more entrenched in Syria's political economic dynamic. Prior to 2011, a degree of tacit or implied loyalty was expected in return for economic privileges from the regime. Since 2011, the expectation has been proven loyalism. According to Joseph Daher, the regime's patrimonial nature was reinforced as its popular legitimacy diminished. Before 2011, those who were politically neutral or belonged to the liberal middle class were also included in regime networks. This is no longer the case. As a result, the network of businessmen linked to the regime has shrunk and demands for political allegiance have become much more aggressive.

In sum, the Syrian regime's practices are informed by its own priorities as well as three pressure points, all of which are classic manifestations of hard power: internal security (for which it relies on Russia, Iran and Hezbollah); international alienation (which it seeks to remedy through normalisation with the help of Russian guidance in various diplomatic tracks); and financial (international sanctions it seeks to lift and contributions from key cronies it seeks to keep in line). The regime's practices are not informed by soft power practices such as negotiation or diplomacy. Instead, it broadcasts propaganda through the channels it controls to assert its identity on its own terms.

Regime practices are also not informed by any serious consideration of international legal pressure or pursuit of international human rights norms. As a result, it has become virtually impossible to hold the Syrian regime to account or push it towards compromise based on soft power. In the security, civil and political economic practices that are at the heart of the six negative externalities discussed below, hard power plays a dominant role. This presents the EU and its member states with the uncomfortable reality that influencing the short- to medium-term future of the Syrian people can only be achieved through the practice of hard power, either directly through avenues of political, military and financial pressure, or indirectly through dialogue with and influence over those actors that already hold a significant degree of hard power-driven influence over the Syrian regime (primarily Russia and Iran). At present, this toolbox is only available to the EU in the economic sphere – and only to a limited extent.

Finally, and most importantly, the Syrian regime's tacit victory as neither a 'benign belligerent' nor a legitimate post-conflict arbiter poses unprecedented challenges to the EU and its member states. As such, the focus of any 'post-conflict' stabilisation or development efforts in Syria cannot take the traditional route of state-centrism, either in the form of stabilisation or state-building.⁴⁰

40 Emma Beals (2017), 'The Awkward Space for Syria's Post-Conflict Reconstruction', *Atlantic Council*.
Online: <https://www.atlanticcouncil.org/blogs/syriasource/the-awkward-space-for-syria-s-post-conflict-reconstruction/> (Accessed 12 December 2019).

Zooming in on the political economy

The sheer magnitude of the cost of Syria's war in economic terms has been clear for a number of years, although precise figures remain difficult to come by. The World Bank has estimated that the country experienced a cumulative GDP loss of 63 per cent between 2011 and 2016, and that reconstruction costs constitute a minimum of EUR 200 billion.⁴¹ An estimated 11.7 million people within Syria are in need of assistance.⁴² The Syrian pound has collapsed and is at its weakest point in history.⁴³ Among the problems related to this economic deterioration are public health crises, unemployment, and dependency on food aid.

Syria's pre-war structural economic inequality has become even more entrenched in the country's institutions and practices, such as the new cronyism, sanction evasion mechanisms and selective reconstruction efforts.

These dynamics are encouraged by the regime's key allies and investors, who are likely to profit from the fractured economy both in the short-term (through the supply of labour and goods) and in the medium to long-term (through appropriating shares in Syrian state assets – for example as Russia has done in the country's oil and gas resources and planned Russian and Iranian leases of a commercial sea port in Tartous and Latakia).⁴⁴ Short-term measures by its allies, such as the reported doubling of Iranian oil shipments to Syria between April and September 2019, have helped the Syrian regime avoid further deterioration in some sectors.⁴⁵ Nonetheless, severe fuel shortages in government areas have paralysed economic activity.⁴⁶ Now that the conflict has drawn to a slow close of sorts, it is in the economic arena that the nature of the Syrian regime manifests itself, and it is from this arena that many of the

41 Samar Batrawi (2018), 'Drivers of Urban Reconstruction in Syria', *Clingendael*. Online: https://www.clingendael.org/sites/default/files/2018-01/PB_Drivers_Urban_Reconstruction_Syria.pdf (Accessed 12 December 2019).

42 Norwegian Refugee Council (2019), *NRC's Operations in Syria*. Online: https://www.nrc.no/globalassets/pdf/fact-sheets/2019/q3/updated/factsheet_syria_sep2019.pdf (Accessed 12 December 2019).

43 The Syria Report (2019), *Chaotic Economic Situation in Syria as Currency Continues its Freefall*. Online: <https://www.syria-report.com/news/economy/chaotic-economic-situation-syria-currency-continues-its-freefall> (Accessed 12 December 2019).

44 SYNAPS (2019), *War by Other Means: Syria's Economic Struggle*. Online: <http://www.synaps.network/syria-economic-battleground> (Accessed 12 December 2019).

45 The Syria Report (2019), *Oil Inventories Relatively High Before Winter Season*. Online: <https://www.syria-report.com/news/oil-gas-mining/oil-inventories-relatively-high-winter-season> (Accessed 12 December 2019).

46 Rohan Advani and Walid Al Nofal (2019), "Economic Crisis Looms as the Syrian Pound Plummets to an All-Time Low", *Syria Direct*. Online: <https://syriadirect.org/news/economic-crisis-looms-as-the-syrian-pound-plummets-to-an-all-time-low-4> (Accessed 12 December 2019).

negative externalities discussed below emerge. Concretely, economic deterioration and fragmentation have had four significant consequences.

- First and foremost is the increased wealth inequality in Syria, even when compared to pre-2011.
- Second is the rapid urbanisation and settlement in informal slums of segments of the Syrian population within Syria. Following the restoration of several economic activities, population settlement in informal neighbourhoods or slums on the outskirts of urban areas is once again arising. These slums were a critical manifestation of the socioeconomic malaises that led to the 2011 protests, with rapid urbanisation and wealth inequality causing mounting frustration among slum populations. Several of Damascus's slums were heavily involved in protests and later (armed) opposition activities. Since 2015, the pre-2011 slums have largely been 'evacuated' during various ceasefire deals with the regime. Several of these areas on the outskirts of Damascus have been redeveloped by the regime with modern homes that the previous inhabitants cannot afford and therefore new slums are beginning to appear.
- Third is the rise in cross-border smuggling networks, for both goods and people. The supply of materials such as cement for reconstruction in Damascus makes up a significant amount of illegal smuggling, including through Hezbollah-controlled networks. Often these materials are sold to residents who are rebuilding their own dwellings in the absence of a comprehensive government reconstruction effort. One analyst explained how the links between these Hezbollah-controlled smuggling networks help the Syrian armed forces extract bribes from local residents who pay a 'corruption premium' for the materials they have acquired illegally.⁴⁷ For example, the Fourth Division (which coordinates several illegal trade routes with Hezbollah) will be informed about individuals who have bought illegal materials and force them to pay a bribe to avoid having their properties demolished or being reported to the local authorities.
- Fourth is the demise of value-generating sectors, most significantly the agricultural sector. The manufacturing, mining, oil and agricultural sectors were already suffering 'significant losses' before 2011 as a result of the 'liberalization of the economy and the rise of trade and services sectors'.⁴⁸ Few Syrian sectors have been as badly hit by the war as the agricultural sector. And, while resource-mining and service

47 Interview with Beirut-based analyst in November 2019.

48 Joseph Daher interviewed by Rohan Advani and Walid Al Nofal (2019), 'Economic Crisis Looms as the Syrian Pound Plummets to an All-Time Low', *Syria Direct*. Online: <https://syriadirect.org/news/economic-crisis-looms-as-the-syrian-pound-plummets-to-an-all-time-low-4> (Accessed 12 December 2019).

sectors need capital investment to recover from the war, the agricultural sector needs human capital, of which there is a shortage (both in terms of unskilled labour and professional expertise). The humanitarian and development sectors unwittingly underscore this shortage by drawing human capital towards better-paid and generally more stable employment with international organisations.

Looking ahead, the Syrian regime's economic practices are the most important determinant of the degree of economic deterioration and fragmentation facing the country.⁴⁹ External factors such as sanctions and Lebanon's economic health also play a role (since Lebanon is the source of the dollars used to buy imports).⁵⁰

The current state of reconstruction is an important factor in Syria's economic deterioration. On the one hand, without equitably distributed, socioeconomically responsible and politically sensitive reconstruction efforts, sustainable economic development is doomed to fail. On the other hand, however, reconstruction as it stands – regime-led, selective and lacking any external oversight or enforcement mechanisms – is doomed to exacerbate the exact tensions that sparked protest in 2011. This is especially the case since the areas worst affected by war are those urban areas – such as Aleppo, Douma, Deraa, Deir al-Zour and Raqqa – that were in the crossfire between various groups.⁵¹ The political and socioeconomic security and stability of these areas is paramount to the security and stability of Syria as a whole. In order to achieve this, the wartime damages that reconstruction should address are threefold: physical infrastructure, human capital, and economic activity. At present, there are no serious efforts in pursuit of this.

Much of this has to do with the Syrian regime's limited opportunities for financing reconstruction. With Russia and Iran unwilling and unable to foot the bill for the country's reconstruction, the Syrian regime has come to rely on public-private partnerships from non-Western investors. Together with Law 10, these partnerships

49 Joseph Daher (2019), *Syria After the Uprisings: The Political Economy of State Resilience*, London: Pluto Press.

50 Rohan Advani and Walid Al Nofal (2019), "Economic Crisis Looms as the Syrian Pound Plummets to an All-Time Low", *Syria Direct*. Online: <https://syriadirect.org/news/economic-crisis-looms-as-the-syrian-pound-plummets-to-an-all-time-low-4> (Accessed 12 December 2019).

51 Crisis Group (2019), *Ways out of Europe's Syria Reconstruction Conundrum*, p. 3. Online: <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/209-ways-out-europes-syria-reconstruction-conundrum> (Accessed 12 December 2019).

have created space for lucrative real estate contracts with large companies and projects that mainly build houses for the middle- to upper-class residents in selected areas.⁵²

Looking ahead, due to prevailing warfighting conditions, there is little incentive for the Syrian regime to decrease either the elevated patrimonial demands of its cronies or its tolerance of illicit economic networks, since it derives political power and financial dividends from both. It is likely that the regime will deepen its connections with loyalist cronies, solidifying a small but potent domestic legitimacy base. This will make the Syrian state structures even less flexible towards political dissidence or dialogue, and will deepen the pre-war practices of economic inequality to the benefit of regime allies. As a result, both in political dialogue and representation and in economic influence and means, Syria will become significantly less diverse. This draws into serious question the degree to which, if a settlement were reached in the first place, any constitutional reform or political reconciliation efforts are likely to translate into improved material realities in Syria.

Moreover, there cannot be any stability in Syria unless refugees and internally displaced people (IDPs) are able to return in a voluntary, safe and dignified manner. This cannot be guaranteed unless there is a safe domestic environment, achieved through a robust political process with clear goals and mechanisms of enforcement and evaluation. Creating the opportunities for refugees and IDPs to return is a technical and economic necessity for reconstruction, since there are far too few young Syrians in the country to meet the labour demands of reconstruction. Even if temporary labour from abroad is used to fill this gap in supply, reconstruction is a long game and requires decades of investment by individuals committed to remaining in the country and building its future.

Additionally, since the new wave of urbanisation is occurring in the context of extreme socioeconomic inequality and social fragmentation, segregation is likely to become institutionalised in the gated communities, heightened security, surveillance systems and private security mechanisms that exist in many of the world's most unequal cities on the one hand, and the aforementioned slums on the other.⁵³ The emergence of these types of infrastructure will magnify divisions in Syrian society and increase the pressure-

52 Batrawi, S. (2018), Drivers of urban reconstruction in Syria: power, privilege and profit extraction, The Hague: Clingendael; Van Veen, E. (2018), *Creating a new Syria: Property, dispossession and regime survival*, Syria Comment, [online](#); Crisis Group (2019), *Ways out of Europe's Syria Reconstruction Conundrum*, p. 8. Online: <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/209-ways-out-europes-syria-reconstruction-conundrum> (Accessed 12 December 2019).

53 SYNAPS (2019), *War by Other Means: Syria's Economic Struggle*. Online: <http://www.synaps.network/syria-economic-battleground> (Accessed 12 December 2019); The Syria Report (2009), *The Future of Damascus: Economic Liberalization and Urban Reorganization*. Online: <https://www.syria-report.com/news/features/future-damascus-economic-liberalization-and-urban-reorganization> (Accessed 12 December 2019).

cooker effect. The same mounting inequalities and tensions led to the 2011 protests in the first place and, as long as they continue to exist, can only be subdued through continuous suppression.

An informal regime adviser told Crisis Group that there is 'no clear thinking in Damascus about the way forward. The problem is that the war cost the regime its brightest people, and if you think that current decision-makers are dogmatic, wait until you see those who will come after them.'⁵⁴

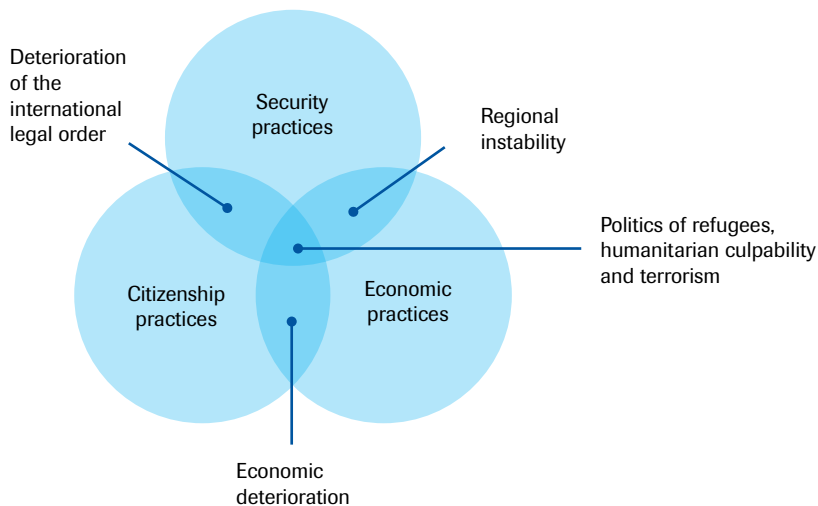
In short, a combination of factors – including: the patrimonial, security-focused and identity-conscious nature of the Syrian regime; the reduced autonomy of the Syrian state; the conflicted situation on the ground; Iran's potential to act as a spoiler *vis-à-vis* Russia's stabilisation plans; rising international pressure on Iran; and popular resentment of Iran among Syria's Sunnis and Alawites – means that Syria is likely to enter a lengthy and precarious post-conflict period in which all pro-regime stakeholders will vie for advantage through regime-linked networks while the priorities and needs of the Syrian population – at home and abroad – are largely ignored.

54 Crisis Group (2019), *Ways out of Europe's Syria Reconstruction Conundrum*, p. 6. Online: <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/209-ways-out-europes-syria-reconstruction-conundrum> (Accessed 12 December 2019).

2 Assessing six key negative externalities

The sections below explore six negative externalities that are currently unfolding and/or likely to unfold in the short- to medium-term as a consequence of the Syrian regime's retrenchment and practices in the areas of security, civilian affairs and the political economy. These negative externalities are largely produced, or escalated, by the regime's security, civil and economic hard power practices (Figure 2 below). They all influence each other. Realistically, therefore, isolating externalities is possible in theory but less so in practice.

Figure 2 Syrian regime practices and negative externalities



Risk of conflict relapse due to economic pressures

The aforementioned economic deterioration and fragmentation are likely to be characterised, in the short- to medium-term, by widespread wealth inequality, rapid urbanisation (including a resurgence of urban slums), illicit economic networks,

and the further demise of value-generating sectors – many of the conditions that caused conflict to break out in the first place, only even more extreme.⁵⁵

This means there is a significant risk that economic conditions will cause a relapse into conflict. This risk has two sides. First, it makes a repeat of the 2011 civil unrest likely in theory, although not in practice as the heightened degree of state repression and widespread climate of fear make it far less likely that people will take to the streets once again in the short-term. Second, and more probable, at a certain point Syria might no longer have resources to divide among the regime's cronies. This could lead to a different type of conflict, among the country's elite rather than between the elite and the rest of the population. This, in turn, would accelerate and multiply other negative spill-over effects discussed below.

The politics of refugees

Syrians have become the world's largest refugee and IDP community. An estimated 6.2 million Syrians are internally displaced within Syria, while an estimated 6 million are refugees in neighbouring countries, mainly Jordan (670,000), Lebanon (1 million) and Turkey (3.6 million).⁵⁶

In Jordan, Syrian refugees constitute 10 per cent of the population, with more than 80 per cent living in urban areas. Only a limited number of these refugees have work permits, meaning that most either work illegally or live in poverty (often both), and rely on humanitarian assistance. In Rukban, in the north east of Jordan along the border with Syria where humanitarian access is limited, 40,000 Syrian refugees are currently stranded. Half of all Syrian refugees in Jordan are children, creating a great need for education services. Humanitarian assistance to Syrian refugees in Jordan is deeply political, since Jordan is struggling with its own economic problems – mainly in the housing sector – which have deepened with the high numbers of refugees in the country. Few Syrians have been returning from Jordan to Syria, citing fear and insecurity among the top reasons.⁵⁷

55 Kara Ross Camarena and Nils Hägerdal (2019), *Will Displaced Syrians Ever Return? History Says No*. Online: <https://warontherocks.com/2019/10/will-displaced-syrians-ever-return-history-says-no/> (Accessed 12 December 2019).

56 Norwegian Refugee Council (2019), *NRC's Operations in Syria*. Online: https://www.nrc.no/globalassets/pdf/fact-sheets/2019/q3/updated/factsheet_syria_sep2019.pdf (Accessed 12 December 2019).

57 Khaled al-Khateb (2019), 'Why Syrians in Jordan Refuse to Return Home', *Al-Monitor*. Online: <https://www.al-monitor.com/pulse/originals/2019/10/syria-nassib-jaber-crossing-jordan-border-refugees-return.html> (Accessed 12 December 2019).

In Lebanon, Syrian refugees live in the worst conditions in the region. Lebanon is not a signatory to the UN Convention Relating to the Status of Refugees and does not consider Syrian (or, for that matter, Palestinian) refugees as more than guests. Its government sets severely restrictive criteria about where refugees can work and live. In the informal camps, refugees are not allowed to erect permanent structures. This treatment dates back to the complex history of Palestinian refugees in Lebanon. Contrary to its policies towards its Palestinian refugee population, Lebanon has actively worked to send Syrian refugees back across the border regardless of the safety conditions in Syria. According to one analyst, some members of the Lebanese political establishment (especially Sunni representatives close to the Gulf states) are nominally against the repatriation of Syrian refugees – due to the insecurity as well as the fact that refugees bring substantial sums of humanitarian money to the country.⁵⁸

Another section of the Lebanese political establishment seeks to normalise relations with the Syrian regime, which, according to one analyst, itself wants refugees to return 'to protect the image that the conflict is over and that Syria is a "normal" country'.⁵⁹ This is only partially true, however. While the Syrian regime pays some lip service to refugee return and has indeed allowed some Syrians to return into territories under its control, it has also implemented an array of administrative, legal and infrastructural measures that make refugee return more difficult – even dangerous. These include the persecution of conscription evaders, obscure terrorism legislation and selective urban reconstruction efforts – not to mention the general climate of absolutism and fear to which it continues to contribute.⁶⁰ Despite concerns over safety, between December 2017 and March 2019, more than 170,000 Syrian refugees returned from Lebanon to Syria.⁶¹

58 Interview with Beirut-based analyst in November 2019.

59 Interview with Beirut-based analyst in November 2019.

60 Samar Batrawi and Ana Uzelac (2018), 'How the Syrian Regime Controls Refugee Return', *Clingendael*.
Online: <https://www.clingendael.org/publication/how-syrian-regime-controls-refugee-return-four-tools>
(12 December 2019).

61 Amnesty International (2019), *Lebanon: Why Are Returns of Refugees from Lebanon to Syria Premature?*
Online: <https://www.amnesty.org/en/documents/mde18/0481/2019/en/> (Accessed 12 December 2019).

Internally Displaced Persons

UNHCR estimates that there are 6.2 million IDPs within Syria, with the pace of displacement remaining high and many people having been displaced multiple times. The situation in the non-government-controlled areas in north-western Syria contributes greatly to this repeated displacement, with more than 300,000 people having been displaced in the region since December 2019.

A great amount of European-funded humanitarian assistance is allocated to supporting IDPs in north-western Syria. Politically, the IDP question is as intricately linked to the regime's practices, the political economic situation and the other negative externalities as the refugee question. Little can be done to enable a safe and humane return of IDPs to their places of origin, or indeed to prevent their repeated displacement, without having serious leverage over the Syrian regime – leverage that at present the EU does not hold.

In Turkey, the vast majority of Syrian refugees live in urban areas, with less than 3 per cent living in camps.⁶² Around one-third of Syrian refugees in Turkey work informally and, as with Jordan, almost half are children, for whom education is paramount. Adult Syrian refugees depend on humanitarian assistance to meet their basic needs. Unlike Jordan and Lebanon, Turkey's recent military policies are intertwined with its stance towards refugees. Although in general living conditions have been better than in Lebanon, Turkey is the regional host country most involved in directly altering the politico-territorial future of Syria. It has never met the EU's safe third country criteria,⁶³ despite agreements around refugees. Its recent military operation in northern Syria is as much about weakening the Kurdish presence in the territory as it is about creating the preconditions for the resettlement of Syrian refugees in the area.⁶⁴ Human Rights Watch has denounced Turkey's forcible return of Syrian refugees, noting that its

62 Omer Karasapan (2019), 'Turkey's Syrian Refugees – the Welcome Fades', *Brookings*. Online: <https://www.brookings.edu/blog/future-development/2019/11/25/turkeys-syrian-refugees-the-welcome-fades/> (Accessed 12 December 2019).

63 Human Rights Watch (2016), *EU: Don't Send Syrians Back to Turkey*. Online: <https://www.hrw.org/news/2016/06/20/eu-dont-send-syrians-back-turkey> (Accessed 12 December 2019); Erwin van Veen and Engin Yüksel (2019), 'Turkey in Northwestern Syria', *Clingendael*. Online: <https://www.clingendael.org/publication/turkey-northwestern-syria> (Accessed 15 January 2020); Engin Yüksel (2019), 'Turkish Proxy Warfare in Northern Syria', *Clingendael*. Online: <https://www.clingendael.org/publication/turkish-proxy-warfare-northern-syria> (Accessed 15 January 2020).

64 Shelley Inglis (2019), 'Syrian Refugees in Turkey are There to Stay, at Least for Now', *The Conversation*. Online: <http://theconversation.com/syrian-refugees-in-turkey-are-there-to-stay-at-least-for-now-125176> (Accessed 12 December 2019).

authorities implement measures such as arbitrary detention in removal centres, forcible signing of voluntary repatriation forms and violence towards refugees who refuse to cooperate.⁶⁵ Domestically, this aligns with what seems to be a widespread Turkish desire to see Syrian refugees leave the country, with 85 per cent of respondents to a recent poll of Turkish nationals in favour of refugee return.⁶⁶ Various human rights organisations have criticised Turkish authorities for forcibly returning Syrian refugees to Idlib, which is under continued assault by the Syrian regime and Russia, a violation of international law.⁶⁷

The increasing incidence of forcible and voluntary returns, in addition to continuous forcible displacement due to hostilities, is a reminder that the Syrian refugee question is not only a humanitarian but also political matter. Since demographic engineering and sectarianisation have come to characterise the Syrian conflict, refugee and IDP return are processes with significant political consequences. This presents humanitarian actors with a gordian knot: the refugee and IDP question can only be resolved through political action that will, at the same time, exhibit strong preferences in respect of who returns, where to and under what conditions.

The timeline along which a safe and stable environment within Syria can be achieved is long. In the meantime, many Syrian refugees outside the region will have been granted some form of asylum or permanent status. Historically, migrants and refugees granted asylum and who subsequently receive permanent residency or citizenship 'never return to their country of origin'.⁶⁸ Many Syrians who have been granted or have been awarded such status in Western countries are young and educated (often in western academic institutions). It is questionable whether they will be willing to risk everything to return to Syria, be it to mitigate the country's brain drain or for emotional reasons.

The likely trajectory of voluntary refugee return therefore also depends on what refugees themselves choose, if given the option of return. Several reports have indicated that Syrian refugees in the region are hesitant to return home based on a number of fears,

65 Gerry Simpson (2019), 'Repatriation of Syrians in Turkey Needs EU Action', *EU Observer*. Online: <https://euobserver.com/opinion/146507> (Accessed 12 December 2019).

66 Istanbul Bilgi Üniversitesi (2018), *Türkiye'de Kutuplaşmanın Boyutları Arastırması*. Online: <https://goc.bilgi.edu.tr/media/uploads/2018/02/05/bilgi-goc-merkezi-kutuplasmanin-boyutlari-2017-sunum.pdf> (Accessed 12 December 2019).

67 Eric Reidy (2019), 'Briefing: Behind the New Refugee Surge to the Greek Islands', *The New Humanitarian*. Online: <https://www.thenewhumanitarian.org/news/2019/10/30/refugee-surge-Greek-islands> (Accessed 12 December 2019).

68 Kara Ross Camarena and Nils Hägerdal (2019), *Will Displaced Syrians Ever Return? History Says No*. Online: <https://warontherocks.com/2019/10/will-displaced-syrians-ever-return-history-says-no/> (Accessed 12 December 2019).

including persecution by the regime for political activities and prosecution for evading military conscription.⁶⁹ It is widely believed that the Syrian regime maintains lists of political dissidents and that they know who is not in Syria and who might want to return. One analyst suspected that they have a way of getting information from humanitarian organisations working in Jordan, Lebanon and Turkey. The question of return is therefore contingent upon the Syrian regime's policies and on refugees' and IDPs' perceptions of the regime, not just about their legal status in host countries or even within Syria.

Another geopolitical factor influencing the status of Syrian refugees is Turkey's leveraging of the refugee question and its military campaigns in Syria. In 2019, Turkish President Recep Tayyip Erdogan threatened to 'open the gates' of migration to try to put pressure on the EU to support its political-military plans in northern Syria.

Risks and instrumentalisation of terrorism

Terrorism became part of the Syrian conflict almost immediately after the escalation of protests against the regime in late 2011 and early 2012. What began with the regime's release of several high-profile Islamist prisoners and the ensuing rise of Islamist and jihadist armed opposition groups eventually resulted in a deeply fractured landscape of armed opposition groups battling against one another, and eventually the cataclysmic rise of IS in Syria and Iraq. Terrorism has affected the Syrian conflict in four ways, each of which create different negative externalities for the foreseeable future.

First, it crippled an effective (armed) opposition against the Syrian regime by encouraging internal fighting. This, alongside the Russian military intervention on behalf of the regime, was a key factor in enabling the regime to survive the protests and armed uprising. The infighting among opposition forces escalated to the extent that the original demands of the protestors who took to the streets in early 2011, which were overwhelmingly progressive, were no longer represented by any of the major remaining armed or indeed political opposition groups in Syria itself. As a result, while the EU and its member states should uphold and support the progressive popular demands for change in Syria, there is no realistic armed or political group that embodies these. However, there are Syrian individuals, social initiatives and political platforms that continue to defend and pursue such demands, which should be supported and protected.

69 Murat Yildiz (2019), 'Some Syrian Refugees Say They Would Rather Remain in Turkey', *The National*. Online: <https://www.thenational.ae/world/mena/some-syrian-refugees-say-they-would-rather-remain-in-turkey-1.935293> (Accessed 12 December 2019).

Second, the rise of jihadist terrorism in Syria went hand-in-hand with the large-scale presence of external elements among opposition ranks in the form of foreign fighters. More than 40,000 foreign fighters from across the world travelled to Syria to join the ranks of ISIS alone, with around 5,000 estimated to have travelled from Europe.⁷⁰ Many of these foreign nationals remain in Syria, either in custody or free. Incidentally, the foreign fighter phenomenon alienated many Syrians from their own struggle and played an enormous role in the erosion of progressive voices among the Syrian opposition. The social discontent embodied by the foreign fighters – in particular those travelling from Europe to Syria – can be read more as an expression of European, Western and global social malaise than as one of Syrian social problems. As an officer of one of Syria's ISIS prisons exclaimed to the Washington Post, 'How can the world leave us with this place? All its citizens are here and we are shouldering the burden for all humanity.'⁷¹

Although many foreign fighters travelled to Syria from the West, many more travelled there from other Middle Eastern and North African countries. It is reported that foreign fighters are attempting to return to unstable or at-risk countries such as Tunisia and Libya, creating a protracted geopolitical risk factor for the EU. As well as increasing regional instability, it confronts Europe with the – legal, social and symbolic – problem of its own foreign fighters and their children.

The third negative impact of terrorism in the Syrian conflict is that it enabled the Syrian regime to ramp up its 'war on terror' rhetoric to justify its far-reaching violence against opposition groups and individuals. It frames the Syrian conflict in existential terms that mirror much of the neoconservative rhetoric emerging from the United States in the wake of the wars on Iraq and Afghanistan in the 2000s. In the current phase of the conflict, this remains significant since the regime is now applying domestic counter-terror legislation to opposition activities. Bashar al-Assad recently stated that 'every terrorist in the areas controlled by the Syrian state will be subject to Syrian law, and Syrian law is clear concerning terrorism. We have courts specialized in terrorism and

70 Radicalisation Awareness Network (2017), *Responses to Returnees: Foreign Terrorist Fighters and Their Families*. Online: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/ran_br_a4_m10_en.pdf (Accessed 12 December 2019) and Richard Barrett (2017), 'Beyond the Caliphate: Foreign Fighters and the Threat of Returnees', *The Soufan Center*. Online: <https://thesoufancenter.org/wp-content/uploads/2017/11/Beyond-the-Caliphate-Foreign-Fighters-and-the-Threat-of-Returnees-TSC-Report-October-2017-v3.pdf> (Accessed 12 December 2019).

71 Louisa Loveluck (2019), 'Inside Syria's Teeming ISIS Prisons: Broken Men, Child Inmates and Orders to Break Free', *The Washington Post*. Online: https://www.washingtonpost.com/world/middle-east/inside-syrias-teeming-isis-prisons-broken-men-child-inmates-and-orders-to-break-free/2019/11/01/25219bda-fb39-11e9-9e02-1d45cb3dfa8f_story.html (Accessed 12 December 2019).

they will be prosecuted.⁷² This puts individuals who have engaged in any opposition activity – which the regime refers to under the catchall term ‘terrorism’ – at risk of persecution. Additionally, several laws are in place that, combined with the regime’s terrorism rhetoric, put opposition activists at risk of asset seizure.⁷³ The Syrian regime’s terrorism rhetoric puts Syrians within the country at risk, but also constitutes a significant deterrent for any Syrian refugees considering voluntary return to the country or IDPs considering returning to regime-held areas.

Fourth, the connections between Syria and the West through various ISIS-led or -inspired terrorist attacks in the United States and Europe have dislodged the Syrian conflict from what was initially a domestic conflict and have helped transform it into an international issue. Since terrorism was key in transforming the Syrian conflict’s key issues from primarily domestic to also regional and international, how the negative externalities that emerge in this area are handled by the international community is of great importance. A focus on terrorism solely from an external perspective will increase the risk of a relapse into conflict in Syria, since it will allow for the continued existence of the conditions and organisational infrastructures that helped terrorism groups flourish and expand throughout the conflict.

The risk of an ISIS resurgence is, understandably, a key concern for Western policy makers. Hassan Hassan views Turkey’s incursion into northern Syria as the second lifeline the country has handed to ISIS, since it distracts groups working to secure former ISIS territory in the rest of Syria and draws them to the reopened northern battlefield.⁷⁴ In addition, the political instability in Iraq and the potential ramifications of continued US-Iranian tensions are risk factors for an ISIS resurgence. As Crisis Group put it, ‘ISIS is down but not out.’⁷⁵ ISIS’s potential resurgence is not only of concern to Western countries. Countless Syrians and Iraqis lost their lives or continue to be marked by the group’s large-scale and brutal violence against them.

72 The Syria Report (2018), *Counter-Terrorism Court Establishment Law*. Online: <https://www.syria-report.com/counter-terrorism-court-establishment-law> (Accessed 12 December 2019).

73 The Syria Report (2018), *Seizure of Assets of People Deemed a Threat to the State’s Security*. Online: <https://www.syria-report.com/seizure-assets-people-deemed-threat-states-security> (Accessed 12 December 2019).

74 Hassan Hassan (2019), ‘Trump and Erdogan Risk a Resurgent ISIS Thanks to Their Recklessness in Syria’, *The Guardian*. Online: <https://www.theguardian.com/commentisfree/2019/oct/13/trump-and-erdogan-risk-a-resurgent-isis-thanks-to-their-recklessness-in-syria> (Accessed 12 December 2019).

75 Crisis Group (2019), *Averting an ISIS Resurgence in Iraq and Syria*. Online: <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/207-averting-isis-resurgence-iraq-and-syria> (Accessed 12 December 2019).

Regional instability

The Syrian civil war enabled and accelerated a process of regional power recalibration. Once-dominant states now find themselves either less interested (the US) or decreasingly powerful (Saudi Arabia), while once-minor states are asserting their own foreign policy directions in the region (the UAE). The US experiences greater competition in the region from Russia (politically) and China (economically).

Although the Syrian conflict has had an enormous impact on regional stability in terms of refugee flows, threats of spill-over violence and intra-community tensions, today's key regional instabilities are as much influencers as they are consequences of the Syrian conflict. These key instabilities are: Iranian influence; Lebanese and Iraqi domestic developments; Hezbollah's politico-military manoeuvres; Israel's deterrence strategy; and the rise of the UAE as an assertive regional player.

Realistically, Iranian, Hezbollah and Russian influence in Syria is unlikely to be much reduced in the near future. Simply put, Iran is working to secure its long-term geographical and demographical influence in Syria as a safeguard for its power in the region. As demonstrated in Lebanon and Iraq, Iran plays a long game. Moreover, there has been a degree of regional normalisation with Iran in light of Saudi Arabia's shifting regional position. For example, as one analyst noted, the UAE had meetings with Iran in the summer of 2019 (for the first time in seven years) about maritime agreements and the possibility of lifting sanctions against Iranians in Dubai.⁷⁶

Regional dynamics have always influenced how Lebanon fares, as all major internal Lebanese issues are intricately linked to the regional power equation. However, potentially Lebanon also has a great deal of impact on Syria, since any unrest there will deeply affect the Syrian economy because of the cross-border economic links between the two countries.⁷⁷ These cross-border links are intricately connected to Hezbollah's political objectives in the region. It has established a strong presence in cross-border smuggling networks. The official border crossings between Syria and Lebanon are used primarily by NGOs, international workers and Lebanese visitors to Syria. One analyst notes how both the Syrian regime and parts of the Lebanese government are trying to make it easier to cross through these official border crossings to promote tourism and normalise relations between the two countries.

In addition, there are a plethora of illegal border crossings that are used for smuggling goods and people – including refugees. Passing through an official border crossing

⁷⁶ Interview with Syria-based analyst in November 2019.

⁷⁷ Financial Times (2019), *Turmoil in Lebanon is Hurting Syria*. Online: <https://www.ft.com/content/532c223c-1062-11ea-a7e6-62bf4f9e548a> (Accessed 12 December 2019).

as a refugee can be dangerous because it can lead to detention by Syrian forces. One of the goods smuggled through these routes is marijuana (from eastern Lebanon). Through arrangements with local families and forces, Hezbollah can move large shipments by truck through Syrian towns to reach its main export markets in the Gulf and Syria. There is also a significant weapons smuggling market from Lebanon into Syria. According to one analyst, at many of the illegal border crossings – with help from Syrian armed forces such as the Fourth Division and Airforce Intelligence – Hezbollah facilitates the crossing of people from Syria into Lebanon (allegedly for a fee of US\$1,000 per person) and from Lebanon into Syria (to visit family). For the Syrian forces, this is a good source of revenue, which compensates for their poor government salaries. Their participation appears to have the tacit approval of the Syrian regime, presumably since it deems it best to appease its soldiers by allowing them extra income.

Hezbollah uses cross-border smuggling with Syria to cultivate relationships with otherwise politically divergent groups or individuals. Financial rewards are used to build relationships that Hezbollah can, in time, turn into more solid partnerships. One analyst gave examples of such transactional relationship-building occurring across Syria, from Suweida to Dar'a and northern Quneitra near the border with the Golan Heights. Although Hezbollah does not appear to be building direct military capacity here, its presence in Syria as a whole continues to unnerve Israel. While it continues to implement varieties of its historical deterrence doctrine, Hezbollah's (and Iran's) widespread presence in Syria makes Israel's targeted strikes of limited value. Instead, Israel has relied on Russia to safeguard its interests and negotiate a withdrawal of Iranian and Hezbollah forces away from the border areas. However, the trade networks that Hezbollah maintains make for a risk factor that Israel is likely to want to suppress in the short-term. Iran's and Hezbollah's military influence in Syria is likely to remain stable or even increase, including their offensive capacities, since pro-regime militias retain an appreciable margin of autonomy from the Syrian armed forces. As a result, Israel is likely to maintain and potentially escalate its deterrence strategy.⁷⁸

Humanitarian culpability

Among the more painfully complex questions in the Syrian conflict has been the role of humanitarian aid efforts in the regime's divide-and-conquer strategies and, ultimately, its military victory. In particular, the UN-led humanitarian assistance in Syria has been

78 Gil Murciano (2018), 'Preventing a Spillover of the Iran Israel Conflict in Syria', *SWP*. Online: <https://www.swp-berlin.org/en/publication/preventing-a-spillover-of-the-iran-israel-conflict-in-syria/> (Accessed 12 December 2019).

accused of enabling the regime's deprivation and repression strategies.⁷⁹ Millions of dollars in UN assistance were given to close allies of the regime, in some cases organisations led by sanctioned individuals such as Bashar al-Assad's cousin Rami Makhlof. Moreover, the UN accepted to work with regime supporters on the ground and even employed them within its agencies, including 'individuals known for their ties to the Syrian secret police (mukhabarat) and relatives of senior regime incumbents'.⁸⁰

Reinoud Leenders and Kholoud Mansour rightly point to a secondary consequence of this humanitarian culpability, which is that it was a 'key vehicle by which the Syrian regime has effectively projected and reaffirmed its claims on state sovereignty'.⁸¹ The Syrian regime knowingly used humanitarian assistance to amplify its claims over the country, a process that is likely to recur as the regime attempts to re-establish its legitimacy and authority in the time to come.⁸² The Syrian case is not an outlier in this; the regime's manipulation of humanitarian aid mirrors Darfur and Sri Lanka – only in those cases humanitarian agencies were pushed so far by the incumbent government that they eventually left.

This is all the truer since humanitarian needs in Syria continue to grow. In the north east, just under half a million people, including 90,000 IDPs, require humanitarian assistance and are vulnerable to the military decisions Turkey makes.⁸³ In regime-held territories, circumstances are equally dire for those who fall beyond the selective remit of regime patronage. There is no question as to whether these needs are deserving of humanitarian assistance. However, transferring insufficiently conditioned humanitarian funds to regime-held areas, or transferring conditioned funds whose conditions cannot be adequately monitored, are likely to be harmful to the EU's strategic long-term interest in stability in Syria, especially if they directly or indirectly support regime-centred reconstruction efforts. After all, reconstruction and humanitarian or development assistance cannot be artificially separated; they are part of the same equation.

79 Reinoud Leenders and Kholoud Mansour (2018), 'Humanitarianism, State Sovereignty, and Authoritarian Regime Maintenance in the Syrian War', *Political Science Quarterly*, 133, 2, pp. 225-257.

80 Reinoud Leenders and Kholoud Mansour (2018), *Ibid.*

81 Reinoud Leenders and Kholoud Mansour (2018), *Ibid.*

82 In 2014, UNSC Resolution 2165 authorised humanitarian aid to be supplied via four border crossings not controlled by the Syrian government. This sets a precedent with which agencies can continue to work to provide assistance while circumventing the Syrian regime. However, the more Syrian territory the regime regains, the less useful these circumventory measures will become and the more the real question needs to be answered: how should humanitarian efforts engage with regime-held territories?

83 Reliefweb (2019), *15 Aid Agencies Warn of Humanitarian Crisis in North-Eastern Syria*. Online: <https://reliefweb.int/report/syrian-arab-republic/15-aid-agencies-warn-humanitarian-crisis-north-east-syria-civilians-risk> (Accessed 12 December 2019).

How to properly channel money or assistance sent by the EU is a matter of fierce debate. At the end of the day, the Syrian government has a great deal of control over where the money goes when it comes to its distribution in regime-held areas since, to receive these kinds of funds, organisations have to be registered (and approved) at the Syrian Ministry of Social Affairs. Not all of the organisations registered there are necessarily pro-regime, but it is necessary to keep a low political profile as a registered organisation. There is no way to fully circumvent the regime's patrimonialism.

Conflict-enabling and -prolonging humanitarian practices were normalised long before the Syrian crisis began, and the desire or pressure to engage in basic relief efforts has frequently undermined durable and positive change. In some cases, such as Palestine, humanitarian assistance even comes to substitute genuine, more controversial political engagement and serves almost as an apology for external actors' inability to support more meaningful change. The humanitarian culpability in the Syrian crisis is likely to have great repercussions for humanitarian practices elsewhere, since the conflict – and the humanitarian failure – has been one of the most well-documented in recent history.

Deterioration of the international legal order

Previous sections covered the international legal limitations regarding the foreign fighter problematic in Syria. However, preceding these issues has been the overall lack of accountability and the difficulty in achieving prosecution for any war crimes committed by the regime, its allies, and several armed opposition groups and their allies.

This failure has ranged from the systematic violation by pro-regime and regime forces of ceasefire deals to the repeated crossing of 'red lines' around the use of chemical weapons by the Syrian regime, neither of which has had meaningful consequences. As a result of years of impunity, the credibility of calls for ceasefires is undermined and the feasibility of establishing an international tribunal has diminished.⁸⁴ Additionally, Russia's diplomatic protection of the regime, as a UN Security Council veto country, makes it unlikely that meaningful prosecution for crimes committed by the Syrian regime and its allies will occur. Selective justice – for example in the form of an ISIS-only tribunal – is a more likely scenario. Although prosecuting those responsible for ISIS violence in Syria and Iraq is desirable, it would be more desirable to do so as part of a conflict-wide effort for justice. Setting the precedent of no justice at all seems only slightly less desirable than pursuing selective justice.

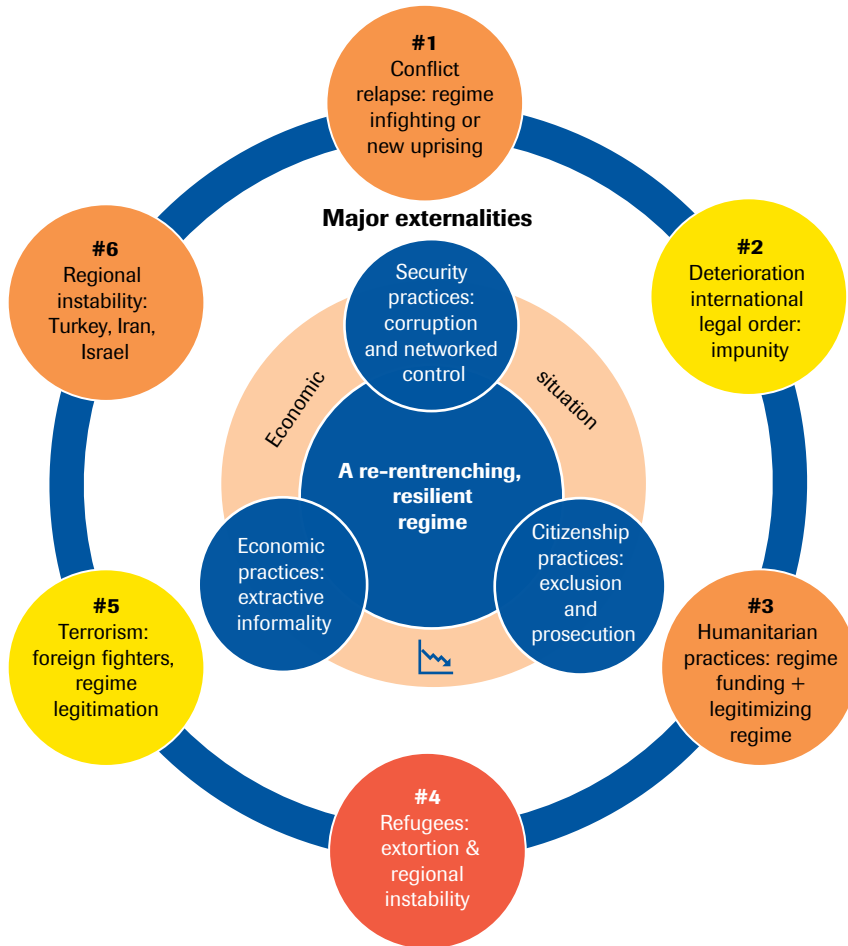
84 Jennifer Cafarella and Jason Zhou (2019), 'Russia's Dead-End Diplomacy in Syria', *Institute for the Study of War*. Online: <http://www.understandingwar.org/sites/default/files/ISW%20Report%20-%20Russia's%20Dead-End%20Diplomacy%20in%20Syria%20-%20November%202019.pdf> (Accessed 12 December 2019).

3 Identifying mitigating policy options

Taking stock of the main findings of this paper, Figure 3 below reflects the nature of the re-entrenching Syrian regime, the deteriorating domestic economic situation it produces, and the negative externalities that ensue. A number of such externalities interact with one another. For example:

- Any conflict relapse is likely to turbocharge all other existing negative externalities in the sense of producing more of each of them.
- Refugees and regional instability are intimately linked once the refugee situation becomes fully politicised in the domestic and regional politics of the main host countries – Turkey, Jordan and Lebanon.
- International impunity, refugees and terrorism are also easily linked once the Assad regime starts using the latter two issues as bargaining chips to thwart any accountability initiatives.

Figure 3 Regime characteristics, economic consequences and negative externalities



Note: The colour coding reflects ‘impact’ x ‘likelihood’ with red representing high risk, high likelihood; orange medium-high risk, medium-high likelihood and; yellow medium risk, medium likelihood (the short-term is weighted more heavily than the long-term).

The one-million-dollar question is how to deal with these negative externalities. Several factors matter here in terms of the possible policy options. These include:

EU policy objectives: EU policy as currently expressed aspires to bring about regime change given its emphasis on ‘a meaningful political transition’. It is unlikely, however,

that a regime that just fought – and in the military sense, won – a brutal, nine-year civil war will now open the gates for meaningful political participation and human rights while it remains supported by Russia and Iran, retains strategic control over its armed forces and associated militia, and generates sufficient resources through the illicit and informal economy to satisfy key regime factions and supporters.

The estimated impact of sanctions: The sanctions the EU has imposed on Syria (general and targeted; technically: 'restrictive measures') are an echo of their more sweeping US cousins. Both rely on the economic logic of forcing the regime to its knees despite its military victory. While both sets of sanctions undeniably limit the resources available to the regime, they also have side effects that harm the Syrian population.⁸⁵ This is particularly true in the case of US sanctions. The problem is that authoritarian regimes – those with no qualms – are able and creative in ensuring their own economic survival while their citizens suffer.⁸⁶

Likelihood of regime concessions / effectiveness of reconstruction support: While concessions that fundamentally change the nature of authoritarian governance in Syria are unlikely to be forthcoming, opinions differ on many other issues.⁸⁷ The common denominator appears to be that the regime might be open to mutually beneficial concessions of the same weight ('win-wins between equals'), if these are framed in language that respects regime sovereignty and authority. For example, European provision of reconstruction support could be exchanged for the local lifting of restrictions such as informal taxes, checkpoint harassment or having to work with partners designated by Damascus – in effect enabling such support to make a positive difference. It is not clear, however, that the 'concessions' Damascus might offer are of sufficient interest to European countries to engage on this basis alone.

The growth rate of negative externalities: The real effect of sanctions, path dependencies of wartime destruction and economic mismanagement, revenues from illicit / informal activities, foreign policies of neighbouring states, levels of factional loyalty and levels of foreign support will influence whether the regime will be, in political-economic

85 See for example: Lund, A., *Just how 'smart' are sanctions on Syria?*, The New Humanitarian, [online](#), 2019; Lund, A., *The blame game over Syria's winter fuel crisis*, The New Humanitarian, [online](#), 2019.

86 North Korea offers the most poignant case in point, but so does Iran, and as did Saddam Hussein's regime. In these cases, the humanitarian consequences of sanctions have been dire, the regime has grown or grew stronger, and the geopolitical aims were not achieved.

87 For different points of view: Samaha, N., *Can Assad win the peace?*, ECFR, [online](#), 2019; Crisis Group, *Ways out of Europe's reconstruction conundrum*, Brussels/Amman/Beirut: ICG, 2019; Hadidi, S., Z. Majed and F. Mardam-Bey, *Dans la tête de Bachar al-Assad*, Paris : Solin/Actes Sud, 2018 ; Dagher, S., *Assad or we burn the country*, New York: Little Brown and Company, 2019; Seurat, M., *Syrie l'état de barbarie*, Paris: Presses universitaires de France, 2012.

terms, relatively well off or struggling to get by. In the first scenario it has an incentive to optimise negative externalities to the point where it can still manage them while obtaining a good return from European countries. In the second scenario it has an incentive to maximise negative externalities just to survive.

There are several policy options that can address the factors above while also taking into account the level of EU risk tolerance to negative externalities that will emerge from Syria and affect European cities, borders and people (refugees, extremists, crime and the like). These are discussed in the companion brief of this research report that is more policy focused.⁸⁸ This paper concludes by laying out a range of initiatives that could feed into such policy options.

1. **Tighten sanctions?** Tightening *targeted* sanctions against key individuals and organisations that are part of, or linked to, the Syrian regime would aim to deter the regime from playing political games with refugees, terrorism and regional instability, as well as to develop leverage to negotiate measures to reduce such negative externalities in the future. Such a policy would require a significant upfront investment to increase analytical and intelligence capabilities to close the gap between the speed of the sanction-evasive measures undertaken by the regime and the speed with which these are detected. A challenge with this policy option is to ensure that sanction leverage is maintained via a carefully designed and transparently operating mechanism that lifts sanctions in exchange for concessions and can put sanctions back in place just as easily on the basis of regression.
2. **More support for refugees?** There will be no large-scale, voluntary refugee return to Syria anytime soon since a re-entrenching regime that places a premium on proven loyalty is not a safe space to return to. As a result, most Syrian refugees in Europe are likely to stay, while refugees in the region will come under increasing pressure from their host countries to leave due to domestic unrest and crisis in those countries. Alternatively, host countries in the region are likely to use the expulsion of refugees towards Europe as leverage in bargaining for funds and other concessions. In short, mitigating the risk of greater refugee movement, regional instability and even criminal/terrorist recruitment requires a more forward-looking refugee policy based on two elements. First, there needs to be greater diplomatic and financial support for the registration and protection of Syrian refugees in Turkey, Jordan and Lebanon focused on their gradual socioeconomic integration into these societies. Second, the EU needs to develop a clearer and more generous policy that welcomes a greater number of Syrian refugees to Europe through a well-thought-out resettlement, education and professional development scheme, with greater support for member states such as Italy and, particularly, Greece.

88 Van Veen and Macharis (2020), *op.cit.*

- 3. Increase and improve humanitarian assistance?** Given the noted difficulties associated with reconstruction efforts, the continued provision of large-scale humanitarian aid might provide a minimal safety net for the most destitute Syrians over the next decade. However, this is only likely to be effective if the major donors put much greater pressure on the providers of humanitarian aid and the Syrian regime to relax some of the conditions that currently ensure a part of such aid actually benefits the regime. These include, for example, the requirement to work with a (regime-linked) Syrian NGO, submission of plans and provisions to the regime for approval, and regular checkpoints with their associated corruption and appropriation. Success is more likely in the humanitarian than in the reconstruction arena, since the former has less political relevance in terms of the geography of identity, the accumulation of wealth and the social recovery of communities than the latter. Such a policy does require the willingness to reduce or re-channel existing humanitarian aid flows, as well the investment of substantial diplomatic capital for international lobbying and advocacy, especially in the UN system.
- 4. Repatriate foreign fighters?** Preventing terrorism from emerging as an uncontrolled negative externality in part requires pre-empting it. If and when possible, the relevant authorities should allow imprisoned foreign fighters to return to their place of residence before joining the Syrian civil war. Only this will allow for a measure of controlled return that can be managed from both a criminal and a social perspective. Keeping imprisoned nationals (foreign fighters) in the region will invite further radicalisation, escape, greater grievances and a desire for revenge that is likely to find its way back to countries of origin in some shape or form.
- 5. Invest in analytical and intelligence capabilities?** Irrespective of the level of pressure on or re-engagement with the Syrian regime – including any humanitarian or reconstruction support – it is likely to produce negative externalities based on its *modus operandi*, the interests of its foreign sponsors, and the fact that none of the original causes of conflict have been addressed. In short, much greater situational awareness will be required in all cases and this will require investment in long-term research programmes and enhanced intelligence efforts to redevelop an understanding of how the Syrian regime works, how such externalities take shape and how they can be tackled.
- 6. Pursue accountability initiatives?** In addition to sanctions, another way to increase pressure on the Syrian regime to limit the production of negative externalities is to generously sponsor accountability initiatives. Here, the focus should be incremental, i.e. on prosecuting feasible cases and practical legal steps, rather than waiting for the elusive grand legal process or international court to materialise. Achieving meaningful progress on sub-issues (such as the criminalisation of delivering medical aid to enemies of the regime) can help reverse some of the negative precedents set over the past eight years and articulate

boundaries for any form of engagement in regime-held areas. However, to serve as a pressure point, the sponsoring of such accountability initiatives would need to be negotiable, which creates a significant moral dilemma that requires further discussion beyond the scope of this paper.

In addition to the six mitigating policies outlined above, the fluidity of the Syrian civil war, regime re-entrenchment and the certainty of negative externalities make it advisable to design a structured and regular form of scenario planning to underpin and recalibrate policy development. This can be done inhouse within European foreign affairs ministries, outsourced, or in hybrid form. It could easily be connected with policy option (5) 'invest in analytical and intelligence capabilities' and can help ensure that policies stay as close to Syrian and regional realities as possible, instead of remaining stuck in moral positions or unrealistic expectations.

What will be inevitable in almost any policy scenario is the re-establishment of some form of communication with the Assad regime. Not because of any belief in its civility or potential for redemption, but simply because it runs the Syrian state in a world organised on the basis of state sovereignty and international relations between states. Such communication can take many forms, ranging from envoys based in Beirut or Amman, re-opening embassies, or collectively working through an EU representative office. What is appropriate will depend on national and EU policy lines and the price the Assad regime tries to extract. Care must be taken to avoid bolstering the legitimacy of the Syrian regime. In other words, there is a need for a parallel public diplomacy effort underlining that such communication is based on the legality of the Syrian regime under international law, but does not signify either agreement with its policies and practices, or that it views it as the legitimate representative of the Syrian people. However, after eight years of war and atrocities, words will not be sufficiently convincing. Firm parallel policies will need to be pursued to make such statements convincing, for example via the pursuit of meaningful accountability initiatives.